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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91193335
Party	Plaintiff Embarcadero Technologies, Inc.
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Signature	/Leah Z Halpert/
Date	05/30/2011
Attachments	RSTUDIO-91193335-Embarcadero Notice of Reliance-Rebuttal Period.pdf (3 pages)(44060 bytes) Exhibit G.pdf (11 pages)(554038 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EMBARCADERO TECHNOLOGIES, INC.

Opposer

v.

RSTUDIO, INC.

Applicant.

Opposition No.: 91-193,335

Trademarks: RSTUDIO

Serial Nos.: 77/691,980

77/691,984

77/691,987

OPPOSER'S NOTICE OF RELIANCE - REBUTTAL

Pursuant to Trademark Rule 2.122(e) Opposer, EMBARCADERO TECHNOLOGIES, INC., (“Embarcadero”, or “Opposer”), by its attorneys, hereby gives notice that it will or may rely on the following materials relevant to the issues in the captioned proceeding, copies of which are attached to the Notice. All of the following materials are specifically entered into the record in order to rebut testimony and evidence submitted by Applicant during their testimony period.

The Notice of Reliance is being submitted prior to the close of Opposer’s Rebuttal Testimony Period, pursuant to the Trademark Trial and Appeal Board Manual of Procedure (TBMP) § 702.02, *See Sports Authority Michigan Inc. v. PC Authority Inc.*, 63 USPQ2d 1782, 1786 n.4 (TTAB 2001) (notices of reliance must be filed before closing date of party's testimony period).

1. RStudio Inc.’s current website as of May 25 2011, attached hereto as Exhibit A to show the manner in which Applicant has altered the site since their testimony period, and to show the manner in which Application is currently using and/or referencing to its RSTUDIO marks.
2. Working Paper No. 15 from the Meeting of the Management of Statistical Information Systems titled “R: An Open Source Statistical Environment Invited Paper” prepared by Valentin Todorov, UNIDO, dated March 28, 2008, available at:

- <http://www.unece.org/stats/documents/ece/ces/ge.50/2008/wp.15.e.pdf>, attached hereto as Exhibit B. The Working Paper shows the connectivity between the R computing language and relational databases as well as shows that statistical systems are never used in isolation, but rather must communicate with other systems.
3. The online book “Using R for Actuarial Science” by Shyamal Kumar, dated March 5, 2007, available at: www.soa.org/files/pdf/UsingRforActuarialScience.pdf, attached hereto as Exhibit C. The online book shows the connectivity between the R computing language and relational databases.
 4. The online article “Scenarios for Using R within a Relational Database Management System Server” by Duncan Temple Lang, dated April 12, 2001, available at: www.omegahat.org/RSPostgres/Scenarios.pdf, attached hereto as Exhibit D. The article shows the connectivity between the R computing language and relational databases.
 5. Excerpts from the online manual “R Data Import/Export” edited by the R Development Core Team at the Comprehensive R Archive Network (CRAN), Version 2.13.0, dated April 13, 2011, available at: <http://cran.r-project.org/doc/manuals/R-data.pdf>, attached hereto as Exhibit E. This manual shows how the R language is well adapted to work with relational databases, such as ER/Studio.
 6. The article “Improving the analysis, storage and sharing of neuroimaging data using relational databases and distributing computing”, by Uri Hasson, et al, published in *NeuroImage*, a Journal of Brain Function, Volume 39, Issue 2, 15 January 2008, Pages 693-706, available at: http://www.behaviormetrix.com/public_html/Hasson07.distrib.analysis.pdf, attached hereto as Exhibit F. This article shows how the R language is well suited to conduct analysis on relational databases

7. Portions of Embarcadero's current website as of May 6, 2011, as well as excerpts from various ER/Studio user guides, attached hereto as Exhibit G to show the relationship, interface, and/or interoperability between the ER/Studio product line and flat file or non-relational databases.

Dated: May 30, 2011

Respectfully Submitted,

EMBARCADERO TECHNOLOGIES, INC.
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **OPPOSER'S NOTICE OF RELIANCE - REBUTTAL** is being served on May 30, 2011, by first class mail, postage prepaid on Applicant's Attorney of Record at his address below:

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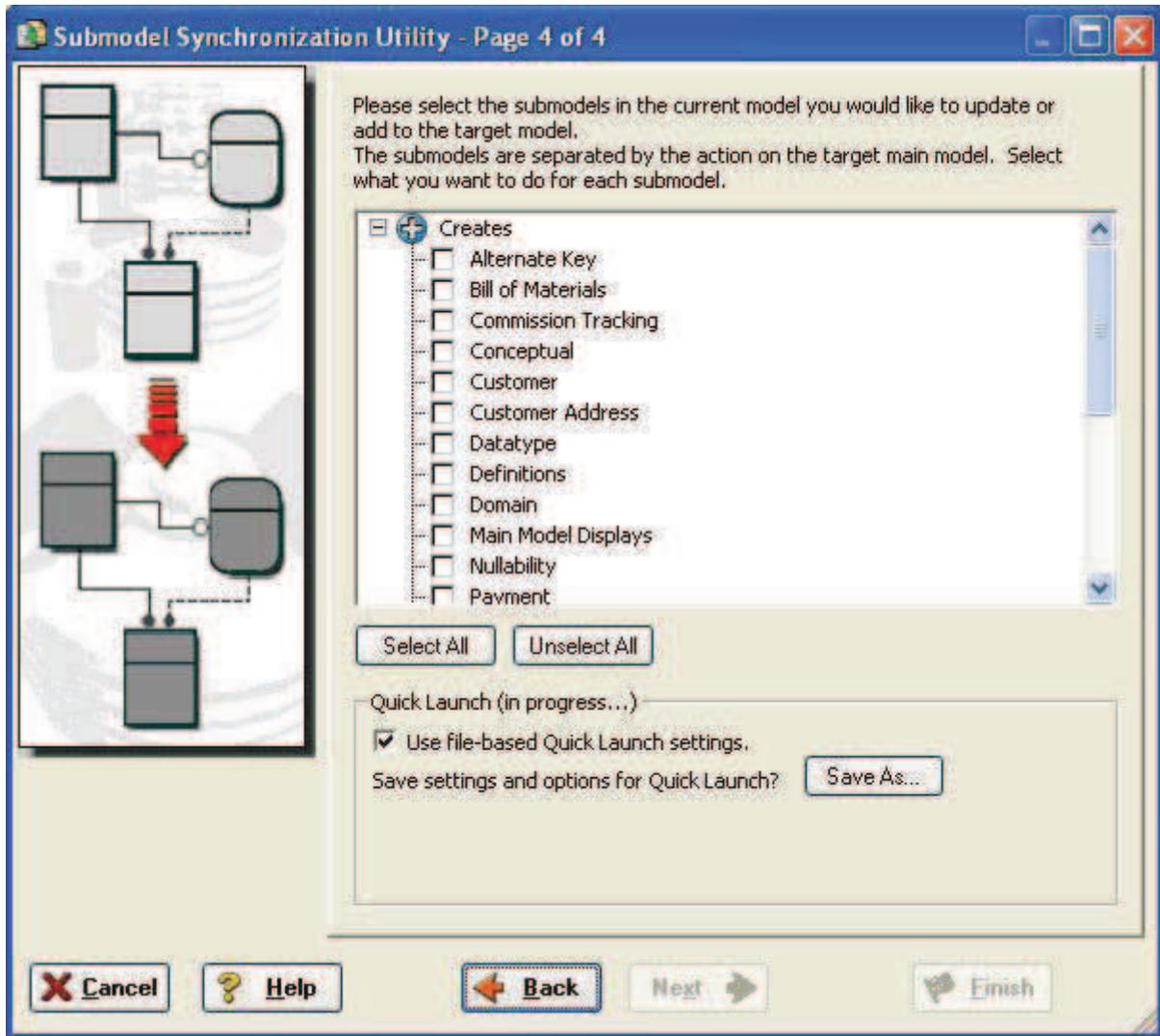
/Leah Z Halpert/
Leah Z Halpert

Exhibit G



ER/Studio 7.0 New Features Guide

Published: October 20, 2005



Options while synchronizing disparate submodels with a target model

To launch the Submodel Synchronization Utility:

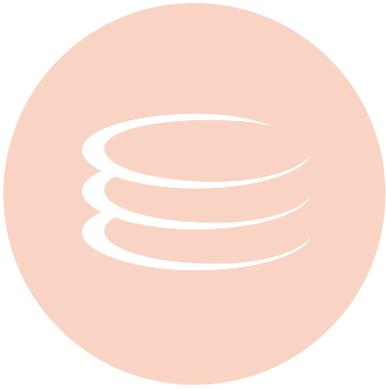
1. From the Menu, Select Model > Submodel Synch,

Or

1. Right-Click on any Entity /Table in the Diagram Explorer.

Data Warehousing Updates

Data Architects must often document the preliminary requirements for data movement throughout their organization. The process of moving data from point A to point B, and through any intermediate steps, is referred to as “Extraction, Transformation and Load” (ETL). Points A and B can be anything from flat files, databases, XML, Access or Excel, and others. New source and target data movement interfaces help data architects communicate ETL plans to developers before coding their projects. ER/Studio gives you the Data Lineage and Data Movement Rules utilities described below for the job.



ER/Studio® 8.0 Evaluation Guide

Documenting Data Lineage

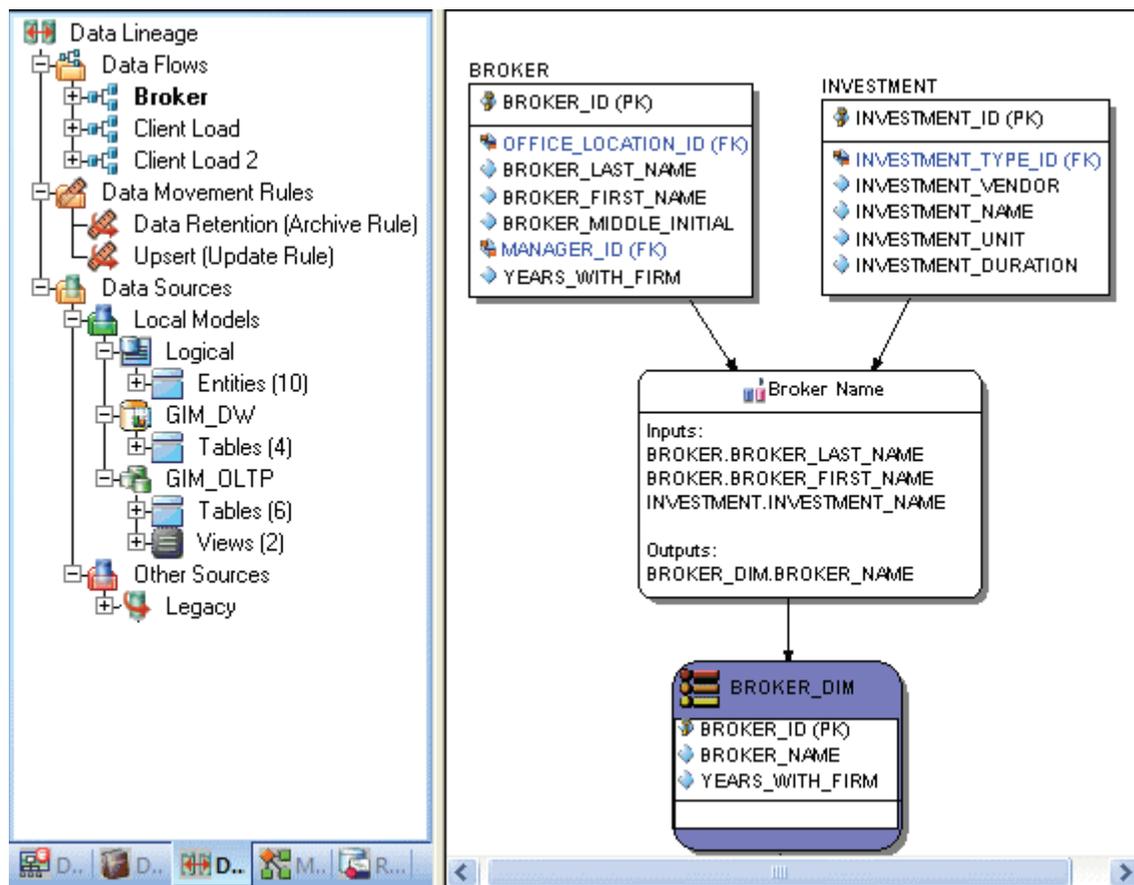
The Data Lineage features of ER/Studio enables you to document the movement of data from point A to point B (and any intermediate steps in between) is sometimes referred to as ETL (Extraction, Transformation and Load). Points A and B can be anything from flat files, databases, XML, Access, Excel, etc.. This is sometimes referred to as source and target mapping. A model produced in ERStudio can represent any point along the way. Data Architects need to ability to specify the *source* or *target* of data down to the column-level. Along with the metadata that defines the source and target mapping are rules for how the data is manipulated along the way.

This section will help you document the data lineage of your systems. It is comprised of the following tasks which correspond to the general ETL workflow:

- [Create a Data Flow](#)
- [Create a Data Movement Rule](#)
- [Define Legacy Source and Target Systems](#)
- [Create a Data Lineage and Transformation Visualization](#)

Create a Data Flow

The Data Flow organizes and encapsulates one data transformation and the source tables and columns used in the transformation to produce the target data. Multi-tiered mappings are possible and there can be multiple transformations involving different columns between two tables as illustrated below.



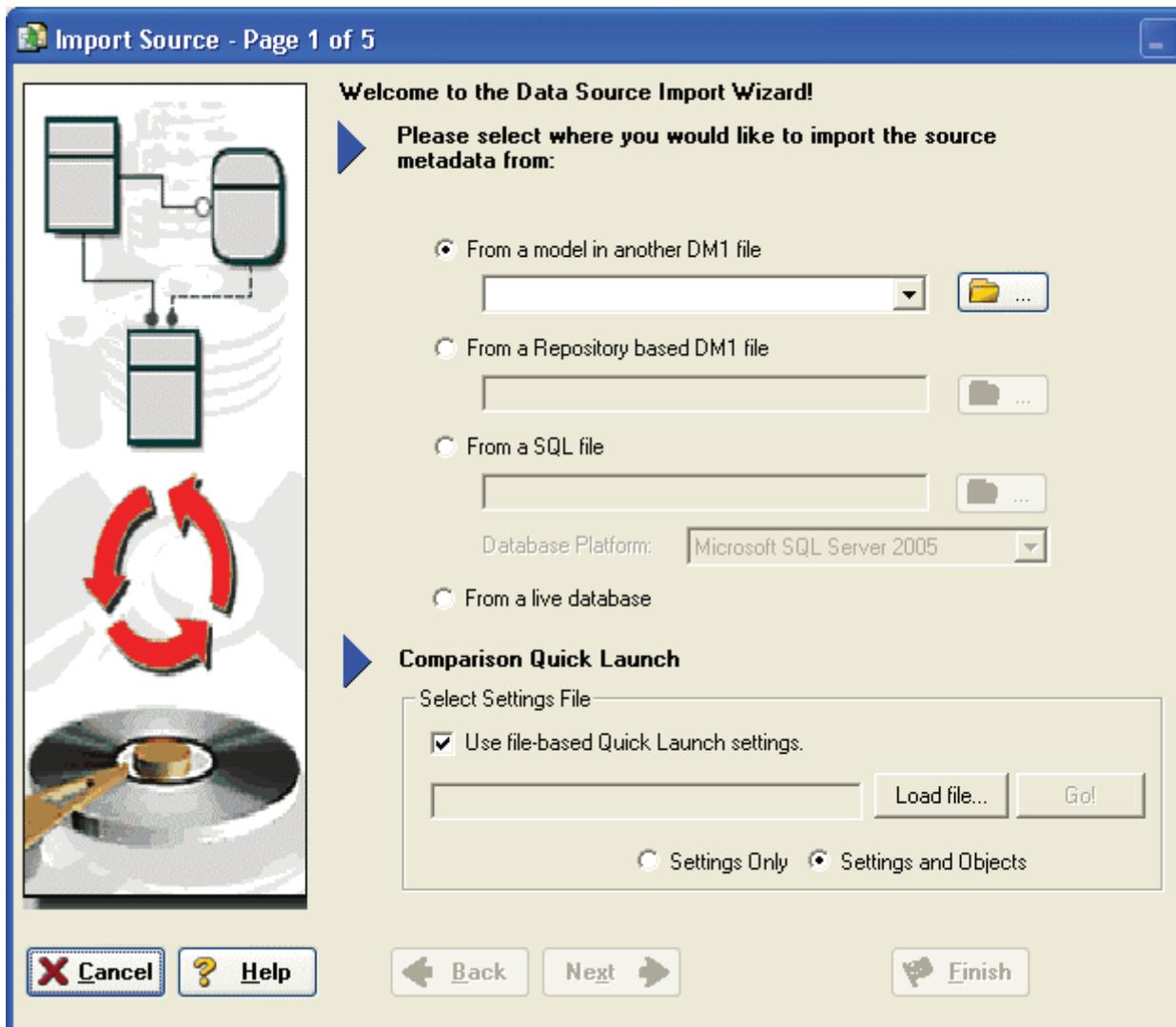
Define External Source and Target Systems

Data sources can originate from models in the active diagram (local models) or from an external source that are either imported into the active diagram or created on the Data Lineage tab. A data source can be imported from *.dm1 files, *.dt1 files, database or a SQL files, flat files, and other common application files. The following describes how to import metadata from an external source.

NOTE: Source data imported through the Data Lineage tab only includes information such as table and column name, datatype, nullability, primary key, and column definitions. To obtain more details, reverse engineer the database or import it into ER/Studio using the Metadata Wizard.

Import external source or target data

- 1 From the **Data Lineage** tab, expand the **Data Sources** node.
- 2 Right-click **Other Sources** and choose **New Source**.



- 3 Complete the **Data Source/Target Properties** dialog as required and then click **OK** to exit the editor.

The following describes options that are not self-explanatory:

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ER/Studio - Praise

"We switched from CA ERwin to ER/Studio, because the ER/Studio suite gave us the opportunity to move modeling from a task that needed to be completed to a strategic advantage that helps us drive the business."

- Fortune 50 Financial Institution, Data Warehouse Director

"ER/Studio is THE software solution that helps me quickly make sense out of today's database messes. Few software products can get you from overwhelmed to under control in so little time. ER/Studio does not compromise on technical sophistication either - you can maintain as many versions as you need and still keep everything at the logical level, well, logical. I LOVE your product."

- Steve Malley, DBA since 1988, JP Morgan, Pacificorp, Columbia Sportswear, Intel, Fort James Paper, WebTrends, WebCriteria, Microsoft, and other great companies.

With the onslaught of compliance regulations and the heightened need to understand and document data sources, the task of effectively tracing data lineages has never been more important. With its new Visual Data Lineage functionality, ER/Studio 8.0 simplifies the way we trace data movement among databases and flat files, which ultimately helps us better understand the data assets within our government customers' organizations. This benefits us across numerous domains - facilitating data consolidation, SOA migration, FISMA compliance, and DIACAP needs.

- Ron Lewis, Senior Security Analyst, CDO Technologies.

Embarcadero clearly offered the best data modeling solution to meet our requirements. ER/Studio matched our high-priority functional requirements including high-quality HTML, mapping functions, and good metadata repository capabilities.

Embarcadero ER/Studio does exactly what it says on the tin, and stood up against our high expectations

- Barclays

Embarcadero tools detected inconsistencies we didn't even know existed in our systems, saving us from problems down the road.

- U.S. Bancorp Piper Jaffray

ER/Studio has saved me many, many hours of time. I can rely on it. There is no competition.

- American Heart Association

To be honest, my first impression of ER/Studio was 'Oh, my god! I'll never get familiar enough with it for a review during a 14-day trial period. I was wrong. ER/Studio is very easy to use and offers many user-friendly features to help make your entry into the world of data modeling easier.

- SQL-Server-Performance.com

I used ERwin and TOAD. What I liked about Embarcadero ER/Studio modeling software is the nice automatic layout formats. I also liked the jpg output capability. I ended up doing my own so I could have a top-down diagram using diagonal lines instead of the 90° type provided by the tool. But it was fun to see the various auto-layout formats. Your software was very useful. I was just evaluating it in the context of whipping up a diagram for a review last week. I showed it to the team whose work I was reviewing. They were impressed.

- Lisa Tansey, Northrop Grumman IT - DG - EASI - DGTECH

My experiences with our Danish solution provider show me that Embarcadero is more attentive to the needs of their customers than other companies whose data products may not be as core to the business. I am sure that our full implementation of ER/Studio will have an enormous impact on our ability to serve the needs of our customers.

- 3F (United Federation of Danish Workers)

Embarcadero's tools have given me a quantum leap in productivity that helps me work faster, smarter, and without error in my finished products

- Adam Phillip Churvis, president Productivity Enhancement, Inc.

ER/Studio has been an invaluable tool for putting standards in place for designing and maintaining databases.

- Beaumont Hospital

ER/Studio's big competitive advantage is its ease of use. Whether you want the product for data modeling per se, or you just want to document your existing system, this ease of use should be a major factor.

- Bloor Research



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Our clients' databases reside on multiple platforms in both local and remote locations, which present a challenge when managing consistency and redundancy in data modeling activities. Our long term goal is to help build clear, well documented data models that will enforce standards, enable reuse, and improve the efficiency and quality of modeling projects for their organizations. ER/Studio makes that a reality. The new naming standards utility allows us to deploy multiple standards to our various database platforms.

- *Christopher Robin, Database Administrator, Advanced System Design, Inc.*

The software is an update to ER/Studio 6, previously reviewed by the CRN Test Center. Version 6.5 adds valuable new tools and features, but retains its core competency as an application that works with DT/Studio to help developers and architects design and develop logical data models from hybrid data sources.

- *CRN*

Immediate benefit in productivity has been realized since using ER/Studio from Embarcadero, especially when leveraging domains that represent template data types. These domains can be created hierarchically so specific properties are inherited from the parent domains. These domains help to ensure that we accurately represent many similar data structures with ease as well as guarantee that we understand the data represented in every data model design we develop.

- *DM Review*

Embarcadero recently released a new version of their top-of-line ER/Studio. This new version is chock-full of improvements, enhancements, and changes from the previous version...

- *DM Review*

ER/Studio and Embarcadero Change Manager save us a full day's work for each and every production push.

- *eWork Exchange*

A Fortune 50 company needed to restate several years of financial data, which uncovered the company's metadata challenge. A project team was formed to correct the issues by delivering the basic metadata from all projects within 90 days or less. Using Embarcadero ER/Studio, the team achieved and exceeded its goals within the allotted timeframe and two years later, continues to record benefits derived from ER/Studio.

- *A Fortune 50 Financial Company*

Implementing the ER/Studio product line has saved me time and money by reducing the process complexity. . . Embarcadero continues to demonstrate its commitment to customers, delivering a solid and rapidly evolving data-modeling solution

- *Grant Fitchey, Lead Database Administrator, One of the world's largest commercial and industrial insurance companies*

By using ER/Studio, Idea Integration is able to better support the data management needs of its clients with increased visibility, consistency, and integration that address their database requirements via data lineage tracking and documentation with additional security management and capacity planning functionality. This solution provided a complete environment for helping build quality database design and clarifying complex data design problems through visually clear 'blueprints', for analyzing, creating, and maintaining database applications.

- *Idea Integration*

Despite what some people may think, data modeling is still the preferred method for creating database schemas. Unfortunately, modeling often gets pushed to the back burner in lieu of creating tables and relationships in the middle of coding the application. For those who would push data modeling to the front burner if only they had a better tool, there's Embarcadero's smooth and easy ER/Studio.

- *InfoWorld*

I cannot adequately emphasize the impact that ER/Studio will have on the success of your enterprise. The cost of the product is barely a concern compared to the money it will save your company and the modeling enhancements it will offer your development team.

- *InfoWorld*

ER/Studio represents a significant value-add in how we see and leverage our data models by giving us much greater interplay between our business intelligence applications, metadata repositories, and other major ETL environments.

- *John Prout, Senior Oracle DBA, Ambassadors*

Accurate, timely, and relevant data is at the heart of the marketing services we provide our customers. By standardizing on ER/Studio for enterprise model management, we are assured of the consistency we need. All systems, whether reverse engineered or built from scratch, are designed using ER/Studio. Its rich documentation and data lineage functionality allow us to track database schema changes and helps us meet Sarbanes Oxley requirements.

- *Mark Peterson, Senior Database Analyst, Valassis*

ER/Studio allowed us to quickly model, communicate and revise our data model and definitions. Without this tool we may not have attempted the project.

- *Rebuilding Together*

Embarcadero ER/Studio eases the challenges for database developers dealing with the tremendous overload of data captured from business processes and other sources, making it one of the best database development tools ever tested by the CRN Test Center.

- *CRN*

Without a doubt, the ability to make extensive use of automation was a key ER/Studio feature for us at Ambassadors. The combination of this functionality, the advanced reverse engineering, enterprise reporting, rich Oracle8.1.x and 9i support, all made ER/Studio a mainstay in our day-to-day operations.

- *DM Review*

Embarcadero tools are uniquely positioned to enable companies to manage [the] data explosion.

- *Tim Sloane, Sloane Consulting, in association with Valley View Ventures*

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Data modeling tool for designing and understanding your databases

ER/Studio helps data architects discover, document, and re-use data assets and gives you the power to easily reverse-engineer, analyze, and optimize existing databases.

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It's Time to Make the Switch!

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ER/Studio Data Architect

ER/Studio Data Architect is an industry-leading data modeling tool that enables companies to discover, document, and re-use data assets. With round-trip database support, data architects have the power to easily reverse-engineer, analyze, and optimize existing databases. ER/Studio Data Architect's strong reporting and communication capabilities help enforce organizational standards and achieve higher levels of productivity. Use ER/Studio for:

- Enterprise wide data lineage and traceability
- Automated model publication, communication and collaboration
- Round-trip engineering
- Multiplatform database lifecycle support

Ready to Upgrade to ER/Studio XE?

Combining process modeling, data modeling, UML modeling, a server-side repository, portal based search & reporting, metadata exchange and licensed tool management, upgrading to ER/Studio XE provides you all the tools you'll need to analyze, model and design your complex applications and databases. Learn more about [ER/Studio XE](#).

Stuck On an Outdated Modeling Tool?

Making the switch and upgrading to ER/Studio is simple and easy. Read more about upgrading from [ERwin](#) or [PowerDesigner](#).

"With the onslaught of compliance regulations and the heightened need to understand and document data sources, the task of effectively tracing data lineages has never been more important. With its new Visual Data Lineage functionality, ER/Studio simplifies the way we trace data movement among databases and flat files, which ultimately helps us better understand the data assets within our government customers' organizations. This benefits us across numerous domains - facilitating data consolidation, SOA migration, FISMA compliance, and DIACAP needs." - *Ron Lewis, Senior Security Analyst, CDO Technologies.*

BI/DW Resource Center

Learn best practices from industry experts like Bill Inmon, Claudia Imhoff and Embarcadero's Jason Tiret on data modeling for BI and data warehousing

Stuck on ERwin?

It's time to make the switch and it's easier than you think. Learn why so many companies have switched.

Try the Portal

Try our hosted web portal for free. It's like Google® for your metadata with centralized self-service reporting and searching of ER/Studio metadata.

Key Features:

- Complete database lifecycle support for forward and reverse engineering
- Advanced bi-directional compare and merge for models and database structures
- Data dictionary standardization with domain inheritance, reusable objects, and automatic updates
- Data lineage support with visual documentation of source/target mapping
- "Where Used" analysis and user-defined mappings
- Nested and attribute level submodel management
- Customized XML schema generation
- Advanced diagram and layout engines
- Available add-on products for industry standard models/patterns
- Centralized license management and tool deployment with Embarcadero ToolCloud



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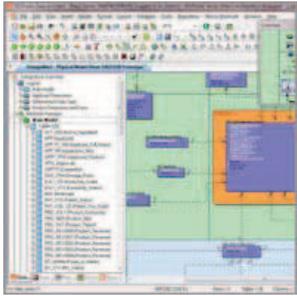
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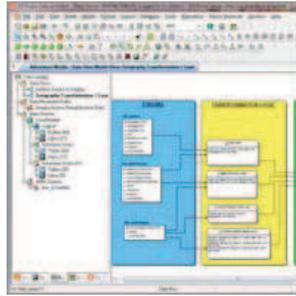
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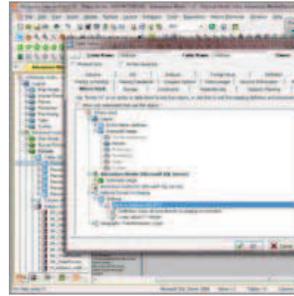
ER/Studio Data Architect 9.0



Document, design, and communicate data assets faster and easier



Improve data governance with visual data lineage



Impact Analysis through Where Used Technology

Community

Learn more about other tools like [Universal Data Models](#), [ER/Studio MetaWizard](#), [ER/Studio Viewer](#) and other complimentary tools.

Revision Information:

- Current Version: **9.0**
- Prior Version: **8.5.3**
- Current Release: **November 2010**

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