

# EXHIBIT 10

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

**Trial No.:** IPR 2013-00084

**In re:** U.S. Patent No. 7,945,544

**Patent Owners:** PersonalWeb Technologies, LLC & Level 3 Communications

**Petitioner:** EMC Corporation

**Inventors:** David A. Farber and Ronald D. Lachman

For: SIMILARITY-BASED ACCESS CONTROL OF DATA IN A DATA PROCESSING SYSTEM

\* \* \* \* \*

March 20, 2013

**PATENT OWNER'S PRELIMINARY RESPONSE**

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## **I. BACKGROUND**

Pursuant to 37 C.F.R. § 42.107, PersonalWeb Technologies, LLC (“patent owner”) submits this Preliminary Response to the petition seeking *inter partes* review in this matter. This filing is timely, as it is being filed within three months of the December 21, 2012 “Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response.”

U.S. Patent No. 7,945,544 (“the ‘544 patent”) has an effective filing date of April 11, 1995 given its continuity. (Ex. 1001.) Petitioner<sup>1</sup> does not dispute this, and acknowledges that the ‘544 patent is based on an application that was originally filed on April 11, 1995. (Pet. 12.) And petitioner’s declarant, Mr. Clark, states that “the ‘544 patent is considered to have been filed on April 11, 1995 for the purposes of determining whether a reference will qualify as prior art.” (Ex. 1009 at 3-4.) Accordingly, while patent owner reserves the right to establish an earlier date of invention, an effective filing date of April 11, 1995 is assumed for purposes of this Preliminary Response (i.e., the “critical date” is no later than April 11, 1995 for purposes of this submission).

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<sup>1</sup> “Petitioner” herein refers to the petitioner expressly identified in the petition.

Patent owner reserves the right to establish that there are other real parties in interest and/or that other parties are in privity with the expressly identified petitioner.

## **II. ASSERTED GROUNDS**

Petitioner has challenged claim 1 of the '544 patent based on only, and limited to, the following alleged Grounds:

1. Claim 1 is allegedly anticipated under 35 U.S.C. §102(b) by Kantor (Ex. 1004).
2. Claim 1 is allegedly unpatentable as obvious under 35 U.S.C. §103 over Kantor (Ex. 1004) in view of Woodhill (Ex. 1005).
3. Claim 1 is allegedly anticipated under 35 U.S.C. §102(a) by Browne (Ex. 1002).
4. Claim 1 is allegedly unpatentable as obvious under 35 U.S.C. §103 over Browne (Ex. 1002) in view of Woodhill (Ex. 1005).
5. Claim 1 is allegedly anticipated under 35 U.S.C. §102(b) by Langer (Ex. 1003).
6. Claim 1 is allegedly unpatentable as obvious under 35 U.S.C. §103 over Langer (Ex. 1003) in view of Woodhill (Ex. 1005).
7. Claim 1 is allegedly anticipated under 35 U.S.C. §102(e) by Woodhill (Ex. 1005).

## **III. CLAIM CONSTRUCTIONS**

In this proceeding, the claims of the unexpired '544 patent are to be given their "broadest reasonable construction in light of the specification." 37 C.F.R. § 42.100(b). Patent Owner has applied that standard.

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