

EXHIBIT 7

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

Trial No.: IPR 2014-00058
In re: U.S. Patent No. 8,099,420
Patent Owners: PersonalWeb Technologies, LLC & Level 3 Communications
Petitioner: Rackspace US, Inc. and Rackspace Hosting, Inc.
Inventors: David A. Farber and Ronald D. Lachman
For: ACCESSING DATA IN A DATA PROCESSING SYSTEM

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January 18, 2014

PATENT OWNER'S PRELIMINARY RESPONSE

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I. BACKGROUND

Pursuant to 37 C.F.R. § 42.107, Patent Owner PersonalWeb (PO) submits this Preliminary Response to the petition seeking *inter partes* review in this matter. U.S. Patent No. 8,099,420 (“the ‘420 patent”) has an effective filing date of April 11, 1995 given its continuity. (Ex. 1001.) While PO reserves the right to establish an earlier date of invention, PO assumes an effective filing date of April 11, 1995 for purposes of this Preliminary Response (i.e., the “critical date” is no later than April 11, 1995 for purposes of this submission).

Petitioner alleges that the challenged claim is not entitled to the claimed April 11, 1995 priority date. PO disagrees, and responds to petitioner’s arguments under 35 U.S.C. §§ 112 and 120 in connection with Grounds 1-3. Moreover, petitioner’s arguments under 35 U.S.C. §§ 112 and 120 (Grounds 1-3) are improper as they are contrary to 35 U.S.C. § 311(b) which states that an IPR can be based “*only* on a ground that could be raised under section 102 or 103” (emphasis added). The statute precludes grounds, such as Grounds 1-3 here, which are based on § 112 written description arguments.

II. ALLEGED GROUNDS

Petitioner has challenged claim 166 of the ‘420 patent based on only, and limited to, the following alleged “Grounds:”

1. Claim 166 is allegedly obvious under 35 U.S.C. §103 over Kinetech [a/k/a Farber; WO 96/32685 at Ex. 1005 which is

allegedly a publication of the priority application of the '420 patent].

2. Claim 166 is allegedly obvious under 35 U.S.C. §103 over Kinetech (Ex. 1005) in view of Brunk (Ex. 1006).
3. Claim 166 is allegedly obvious under 35 U.S.C. §103 over Kinetech (Ex. 1005) in view of Francisco (Ex. 1004) and Brunk (Ex. 1006).
4. Claim 166 allegedly obvious under 35 U.S.C. §103 over Woodhill (Ex. 1003) in view of Francisco (Ex. 1004).

III. CLAIM CONSTRUCTIONS

Claim terms are presumed to be given their ordinary and customary meaning as would be understood by one of ordinary skill in the art at the time of the invention. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (en banc). However, the inventor may rebut that presumption by providing a definition of the term in the specification with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

The specification of the '420 patent provides a definition for at least the following term in the chart below with reasonable clarity, deliberateness, and precision (i.e., the inventors were their own lexicographer):

Claim Term	Correct Construction
"data item" (claims 1, 2, 7, 8, 10)	<i>Sequence of bits.</i> ('420 patent, col. 2:16-17.) As the Board explained in its June 5, 2013 Decision in IPR

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