# UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EBAY INC. AND GSI COMMERCE SOLUTIONS, INC. Petitioner

v.

# LANDMARK TECHNOLOGIES LLC Patent Owner

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Case CBM2014-00026 U.S. Patent No. 5,576,951

LANDMARK'S PATENT OWNER PRELIMINARY RESPONSE

Mail Stop PATENT BOARD Patent Trial and Appeal Board U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450



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	C.	Proper consideration of the state-of-the-art in the early 1980s shows that the '951 Patent falls into the technological invention exception.				
IV.	The Petition failed to show that the applied references qualify as prior art.					
	A.	The effective filing date of the claims is May 24, 1984, and Mr. Lockwood's § 131 evidence and declaration establish a date of invention as early as the Summer of 1982				
		1.	The Petition ignored the evidence Mr. Lockwood provided during original prosecution that established benefit to May 24, 1984.	20		
		2.	The Petition ignored Mr. Lockwood's § 131 evidence and declaration that establish a date of invention as early as the Summer of 1982.	23		
	B.	The Reed and Johnson references have been antedated		24		
	C.	Even if Reed qualified under §102(e), it is not eligible under the CBM rules.				
	D.	The Petition did not establish that Shortliffe, Johnson, Gordon, and EMYCIN are prior art references				
V.	The Petition failed to present proper claim construction as statutorily required.					
	A.	The Petition failed to properly define a person having ordinary skill at the time of the invention (POSA).				



	В.	even	though	incorrectly construed the claims under BRI the '951 Patent expired two weeks after the filed.	38		
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VI.	The claims of the '951 Patent satisfy the definiteness requirement and are nonobvious.						
	A.	The Petition failed to meet the minimal showing required to institute trial of the challenged claims for indefiniteness under the "more likely than not" standard					
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		2.	for "in access mean entry	951 Patent provided a POSA extensive support indicating means for indicating a pathway that sees information related in one of said entry path is to information accessible in another one of said path means," which is not "insolubly guous."	49		
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			(c)	The Petition failed to consider the objective indicia of nonobviousness, failing to satisfy the	5 A		



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			<ul><li>(a)</li><li>(b)</li><li>(c)</li></ul>	The Petition failed to provide a showing that the references are analogous		
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	В.	The Petition failed to identify all related matters, including matters Petitioners themselves filed violating 37 C.F.R. § 42.8(b)(2)				
VIII	Conc	Conclusion and Relief Requested				



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