

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE INC. AND APPLE INC.,
Petitioners,

v.

CONTENTGUARD HOLDINGS, INC.,
Patent Owner.

Case No. CBM2015-00040¹
U.S. Patent No. 7,774,280

PETITIONERS' RESPONSE TO MOTION TO AMEND

¹ Case No. CBM2015-00160

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EXHIBIT LIST

<i>Petitioners' Exhibit #</i>	<i>Description</i>
1032	Declaration of Benjamin Goldberg, Ph.D.
1033	Deposition Transcript of David Martin, Ph.D.

I. Introduction

Patent Owner ContentGuard's motion to amend should be denied for three reasons: (i) it does not demonstrate patentability over the Stefik '012 prior art reference cited in the Board's Institution Decision, (ii) it does not establish that the proposed substitute claim meets the written description requirement, and (iii) ContentGuard effectively admits the amendments are not prompted by any issue of patentability presented in this proceeding. ContentGuard does not present separate patentability arguments for claims 5 and 11, so the proposed amendment is futile for those claims as well.

II. The Amendment Is Not Properly Presented in this Proceeding

In its motion to amend, ContentGuard effectively admits the amendments are not responsive to any issue of patentability raised in this proceeding. First, ContentGuard admits the terms "content" and "usage rights" being added to claim 1 simply makes explicit what is already implicit in the claims. *See, e.g.*, Paper 16 at 3. Its proposed amendment that a "meta-right" specify "a usage right or another meta-right" likewise is admitted to simply make explicit the meaning of the generic term "right" in the claim. *Id.* ("The parties are in agreement that "right" would be understood as generic for usage right or meta-right."). And the last amendment it proposes, adding the phrase "wherein the meta-right is not itself a usage right because exercising the meta-right does not result in action to the

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