Case CBM2015-00049
Patent 7,062,749

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Hewlett-Packard Company,

Petitioner,

v.

YYZ LLC,

Patent Owner.

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Case CBM2015-00050

Patent 7,603,674

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**PATENT OWNER YYZ LLC'S PRELIMINARY RESPONSE
PURSUANT TO 37 C.F.R. §42.107**

Case CBM2015-00049
Patent 7,062,749

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Exhibit List

Ex. 2001 - US Patent No. 7,003,781 issued to Blackwell et al.

I.   INTRODUCTION

Patent Owner, YYZ LLC, ("Patent Owner") submits the following preliminary response to the Petition for Covered Business Method Review under 35 U.S.C. § 321 filed on December 22, 2014 ("the Petition") by Hewlett Packard Company ("Petitioner") seeking CBM review and cancellation of claims 51-52 and 55-57 of U.S. Patent No. 7,603,674 ("the '674 patent" or "the Patent") owned by YYZ, LLC . This response is timely pursuant to the Board's Notice in Paper No. 3.

The Board should decline to institute a covered business method review for four reasons.

First, the Board should reject the Petition because, as discussed below, the Petitioner fails to carry its burden that the claims at issue are a covered business method. In fact, Petitioner fails to show any evidence at all in support of its argument.

Second, the Board should reject Petitioner's 35 U.S.C. § 101 attack. As discussed below, Petitioner's § 101 argument both: a) ignores the words of the claims of the '674 Patent; and, b) ignores statements in the prosecution history construing the claims, including both the original

prosecution and an *ex parte* Reexamination, Control No. 90/009,961 ("the

Reexamination.")

Third, the Board should reject the use of Petitioner's eSleuth product

as a prior art reference under 35 U.S.C. §§ 102 and 103, because as

discussed below, the Petition raises the same issues and features that the

Office had already thoroughly considered during the Reexamination.

Fourth, the Board should reject the 35 U.S.C. § 103 attack on the

Patent using a combination of the IBM MQSeries Integrator ("MQI") and

Linthicum references, as discussed below. The Linthicum references are

exactly the opposite of Petitioner's claim and neither reference supports the

combination.

Accordingly it is submitted, the Board should deny institution of

review of the '674 Patent.

A.   The '674 Patent

1.   Background of the Technological Problem

The '674 Patent relates to an apparatus and systems for measuring,

monitoring, tracking and simulating enterprise communications and

processes in an asynchronous messaging environment. (The '674 Patent,

Pet. Ex. 1001, 1:14-20.)

Communications in an enterprise used to be primarily synchronous, or connection oriented, in which a connection is established with prior coordination between communication end points with data then being transmitted over the connection. Enterprise communications have now become increasingly asynchronous, or connectionless, however, transmitting data without prior coordination between communication end points, such as through "event based" communications which use messages to move data instead of large files, permitting more flexibility in assembling and modifying enterprise communications. ('674 Patent, 1:48-57)

However, although the flexibility of an asynchronous messaging based environment is desirable, asynchronous or message based communications are problematic because of their loosely coupled nature; for example messages may be in transit and not instantly locatable so their stauts data isn't known, so that an enterprise that uses an asynchronous messaging environment for its operations or processes would have problems attempting to monitor the operations or processes. ('674 Patent, 2:14-25)

An enterprise or business, for example, may use a process known as Order To Cash.   Figure 1 of the patent shows such a business process, comprised of various sub processes: Receive Order Inquiry, Provide Customer Quotation, Create Customer Outline Agreement, Create Sales

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