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

Trial No.:   IPR 2013-00083

In re: U.S. Patent No. 6,415,280

Patent Owners: PersonalWeb Technologies, LLC & Level 3 Communications

Petitioner: EMC Corporation and VMware, Inc.

Inventors: David A. Farber and Ronald D. Lachman

For: IDENTIFYING AND REQUESTING DATA IN NETWORK USING
     IDENTIFIERS WHICH ARE BASED ON CONTENTS OF DATA

*   *   *   *   *   *   *   *   *   *   *

March 21, 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. 6,415,280 ("the '280 patent") has an effective filing date of April 11, 1995 given its continuity. (Ex. 1001.) Petitioner[1] does not dispute this, and acknowledges that the '280 patent is based on an application that was originally filed on April 11, 1995. (Pet. 13.) And petitioner's declarant, Mr. Clark, states that "the '280 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 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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[1] "Petitioner" herein refers to the petitioners 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 privy with EMC and/or VMware.

II. ASSERTED GROUNDS

Petitioner has challenged claims 36 and 38 of the '280 patent based on only, and limited to, the following alleged grounds:

1.   Claims 36 and 38 are allegedly anticipated under 35 U.S.C. §102(a) by Browne (Ex. 1002).

2.   Claims 36 and 38 are allegedly unpatentable as obvious under 35 U.S.C. §103 over Browne (Ex. 1002) in view of Langer (Ex. 1003).

3.   Claims 36 and 38 are allegedly anticipated under 35 U.S.C. §102(e) by Woodhill (Ex. 1005).

4.   Claims 36 and 38 are allegedly unpatentable as obvious under 35 U.S.C. §103 over Woodhill (Ex. 1005).

5.   Claims 36 and 38 are allegedly anticipated under 35 U.S.C. §102(b) by the ESM Manual (Ex. 1026).

6.   Claims 36 and 38 are allegedly unpatentable as obvious under 35 U.S.C. §103 over Satyanarayanan I (Ex. 1029) in view of Langer (Ex. 1003).

7.   Claims 36 and 38 are allegedly unpatentable as obvious under 35 U.S.C. §103 over Satyanarayanan I (Ex. 1029) in view of Kantor (Ex. 1004).

III. CLAIM CONSTRUCTIONS

In this proceeding, the claims of the unexpired '280 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.

Under the broadest reasonable construction standard, 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 patent provides definitions of at least the following terms in the challenged claims with reasonable clarity, deliberateness, and precision (i.e., the inventors were their own lexicographer):

Claim Term	Correct Construction
"data" and "data item"	*Sequence of bits.* ('280 patent at col. 1:53-55.) Petitioner and patent owner appear to agree on this construction. (Pet. 6.)
"file system"	*A collection of directories. A directory is a collection of named files.* ('280 patent at col. 5:46-48.) Petitioner and patent owner appear to agree on this construction. (Pet. 7.)
"data file"	*A named data item that appears in a directory and which*

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