Filed on behalf of EMC Corporation and VMware, Inc.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EMC CORPORATION and VMWARE, INC.,
Petitioners

v.

Patent Owner of
U.S. Patent No. 6,415,280 to Farber et al.

IPR Case No. IPR2013-00083

PETITIONERS' RESPONSE TO PATENT OWNER'S OBSERVATIONS ON TESTIMONY OF DR. DOUGLAS CLARK

EMC Corporation and VMware, Inc. ("Petitioners") present the following response to the observations on the testimony of Dr. Douglas Clark ("Observations") submitted by the Patent Owner of U.S. Patent No. 6,415,280 to Farber et al. ("Patent Owner").

Response to Observation # 1

Petitioners respond that the cited testimony does not support Patent Owner's statement of relevance. In Ex. 2016, on page 112, lines 14–19 (cited in the observation), the complete questions and answers were as follows:

Q. Woodhill describes a granularization procedure, right?

A. Yes.

Q. Is Woodhill's granularization procedure used for large database files with multiple binary objects?

A. Yes.

This testimony is relevant to PersonalWeb's mischaracterization of what Dr. Clark's testimony demonstrates in Observation # 1, to Dr. Clark's prior testimony in Ex. 1078 at paragraphs 8-9 and 15, to Patent Owner's arguments on page 10, lines 10-20 of its Response, and to Petitioners' arguments on page 3, line 5 to page 4, line 1 of its Reply. This testimony is relevant because it demonstrates (1) that Dr. Clark was never asked whether Woodhill's granularization procedure is limited to use with large database files having multiple binary objects, (2) that Dr. Clark

was never asked whether Woodhill's use of multiple Binary Object Identification Records 58 in the "update request" procedure is sufficient to meet the "hash of the contents of the data file" limitation, and (3) that Dr. Clark's prior testimony regarding Woodhill's "update request" procedure meeting the required limitations remains unrebutted.

Response to Observation # 2

Petitioners respond that the cited testimony does not support Patent Owner's statement of relevance. In Ex. 2016, on page 115, line 15 to page 116, line 7, Dr. Clark asked Mr. Rhoa to clarify that when he was asked questions regarding applying a hash that he meant applying "a single hash" (*e.g.*, to multiple granules), to which Mr. Rhoa clarified that this was the interpretation he meant, and then Dr. Clark answered questions regarding Woodhill using this assumption. This testimony is relevant to PersonalWeb's mischaracterization of what Dr. Clark's testimony demonstrates in Observation # 2, to Dr. Clark's prior testimony in Ex. 1078 at paragraphs 8-9 and 15, to Patent Owner's arguments on page 10, lines 10-20 of its Response, and to Petitioners' arguments on pages 3, line 5 to page 4, line 1 of its Reply. This testimony is relevant because it demonstrates (1) that Dr. Clark's testimony was given under the assumption that applying a hash means applying "a single hash" (*e.g.*, applying a single hash function to multiple binary objects), (2) that Dr. Clark was never asked whether applying separate hashes to

multiple binary objects of a data file is sufficient to sufficient to meet the "hash of the contents of the data file" limitation, and," and (3) that Dr. Clark's prior written testimony regarding the "update request" procedure remains unrebutted.

Response to Observation # 3

Petitioners responds that this testimony is not relevant because Petitioners have never contended that granules are "data files" and Patent Owner has never before asserted that Woodhill's treatment of granules has a bearing on whether binary objects are "data files."

Response to Observation # 4

Petitioners respond that Dr. Clark's testimony does not contradict Woodhill. In Ex. 2016, on page 107, line 2 to page 108, line 10, and on page 119, line 15 to page 125, line 10, Dr. Clark testified that a person of ordinary skill in the art would understand that "a collection of data streams" as recited in Woodhill at 4:14-15 encompasses one or more data streams, that Woodhill is capable of storing files comprised of one data stream and one binary object, that Woodhill expressly refers at 1:66-2:3 to files comprising one or more binary objects, and that files comprised of one binary object are not treated differently from files comprised of more than one binary object. This testimony is relevant to PersonalWeb's mischaracterization of what Dr. Clark's testimony demonstrates in Observation # 4, to Dr. Clark's prior

testimony in Ex. 1078 at paragraphs 5 and 6, to Patent Owner's arguments on page 9, lines 6-20 of its Response, and to Petitioners' arguments on page 10, line 17 to page 11, line 19 of its Reply. This testimony is relevant because it demonstrates that Woodhill's backup procedure backs up files divided into one or more data streams (and thus one or more binary objects) and that Dr. Clark's opinions thus do not contradict Woodhill.

Response to Observation # 5

Petitioners respond that the cited testimony is not relevant to this proceeding. In Ex. 2016, on page 84, lines 1–17, Dr. Clark testified that Woodhill provides a reason why File Database 25 is stored at the local computers 20, not the remote backup file server 12, and on page 88, lines 9-15 (cited in the observation), Dr. Clark testified that, although it is "possible" that remote backup file server 12 also stores a File Database 25, this is "unlikely." Although this testimony demonstrates that a person of ordinary skill in the art would interpret Woodhill to disclose storing File Database 25 at local computers 20 and not at remote backup file server 12, it is not relevant because Patent Owner has never before asserted that Woodhill's File Database 25 is stored at remote backup file server 12.

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