

Filed on behalf of Microsoft Corporation

By: John D. Vandenberg (Reg. No. 31,312)
john.vandenberg@klarquist.com
Stephen J. Joncus (Reg. No. 44,809)
stephen.joncus@klarquist.com
Klarquist Sparkman LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 595-5300
Facsimile: (503) 595-5301

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION
Petitioner

v.

PROXYCONN, INC.
Patent Owner

Patent 6,757,717 B1

**SECOND PETITION FOR *INTER PARTES* REVIEW OF
CLAIMS 6, 7, 9, 11, 12 and 14 OF U.S. PATENT NO. 6,757,717**

TABLE OF CONTENTS

	Page
I. INTRODUCTION	4
II. '717 PATENT (EX. 1002).....	5
III. CHALLENGED CLAIMS AND THEIR BROADEST REASONABLE INTERPRETATIONS	6
A. Summary Of Challenged Claims	6
B. Broadest Reasonable Interpretations.....	8
IV. PROPOSED UNPATENTABILITY GROUND NO. 1 (HTTP DRP ANTICIPATES CLAIMS 6, 7, 9, 11, 12 AND 14).....	13
V. PROPOSED UNPATENTABILITY GROUND NO. 2 (MATTIS ANTICIPATES CLAIMS 6, 7, AND 9).....	16
VI. PROPOSED UNPATENTABILITY GROUND NO. 3 (YOHE ANTICIPATES CLAIMS 6 AND 7).....	17
VII. PROPOSED GROUND FOR UNPATENTABILITY NO. 4 (ALL CLAIMS OBVIOUS OVER MATTIS AND HTTP DRP)	18
A. Obviousness: Level Of Skill In The Art	19
B. Obviousness: Arguable Differences From Some Claims	21
C. Obviousness: Objective Indicia.....	22
D. Obviousness: Reasons To Combine Mattis and HTTP DRP.....	23
E. This Combination Of HTTP DRP And Mattis Teaches Each Combination Claimed in Claims 6, 7, 9, 11, 12 and 14	26
VIII. PROPOSED GROUND FOR UNPATENTABILITY NO. 5 (CLAIMS 6, 7, AND 9 OBVIOUS OVER HTTP DRP, MATTIS, YOHE AND ADMITTED ART).....	27
IX. CONCLUSION.....	27

TABLE OF AUTHORITIES

Page

Cases

In re Epstein,
32 F.3d 1559 (Fed. Cir. 1994) 20, 26

In re Fox,
471 F.2d 1405 (CCPA 1973) 20, 26

In re Tiffin,
448 F.2d 791 (CCPA 1971) 22

In re Vamco Machine & Tool, Inc.,
752 F.2d 1564 (Fed. Cir. 1985) 23

Statutes

35 U.S.C. § 102 4

35 U.S.C. § 103 4

35 U.S.C. §§ 311 *et seq.* 1

Regulations

37 C.F.R. § 42.103 1

37 C.F.R. § 42.104 1

37 C.F.R. § 42.15 1

Fee: In accordance with 37 C.F.R. §§ 42.15, 42.103, please charge the fee for *Inter Partes* Review of \$27,200.00 to Deposit Account 02-4550.

Identification of Challenge: Pursuant to 35 U.S.C. §§ 311 *et seq.*, Petitioner Microsoft Corporation (“Microsoft”) requests *inter partes* review of claims 6, 7, 9, 11, 12 and 14 of U.S. Patent No. 6,757,717, issued to Proxyconn Inc. Sections I-VIII *infra* and Appendix A (Ex. 1001) provide the required statement of the precise relief requested for each claim challenged, per 37 C.F.R. § 42.104(b).

Standing: Microsoft certifies that this patent is available for *inter partes* review and that Microsoft is not barred or estopped from requesting an *inter partes* review challenging these claims on the grounds identified in this petition. Although Microsoft was served more than one year ago with a complaint asserting infringement of this patent, the normal statutory one-year bar under 35 U.S.C. § 315(b) does not apply here because (1) the Board has already instituted an *inter partes* review trial on this patent on a timely first petition filed by Microsoft (Case No. IPR2012-00026), (2) Microsoft accompanies this second petition with a motion for joinder under 35 U.S.C. § 315(c), and (3) Proxyconn, the patent owner of record, has consented to such joinder (Ex. 1012).

Real-Party-in-Interest: Microsoft is the sole real-party-in-interest.

Related Matters: Proxyconn is asserting the ’717 patent against Microsoft and three Microsoft customers (Dell, HP and Acer) in a suit first filed November 3,

2011, now styled, *Proxyconn Inc. v. Microsoft Corporation, et al.*, Case No. SA CV11-1681 DOC (JPRx) [consolidated with Case Nos. SA CV11-1682 DOC (JPRx), SA CV11-1683 DOC (JPRx), and SA CV11-1684 DOC (JPRx)], pending in the U.S. District Court for the Central District of California (“the ’717 Concurrent Litigation”). On September 18, 2012, Microsoft filed a Petition for *Inter Partes* Review requesting review of claims 1, 3, 10-12, 14 and 22-24 of U.S. Patent No. 6,757,717, now styled, *Microsoft Corporation v. Proxyconn, Inc.*, Case No. IPR2012-00026 (TLG).

Lead and Back-Up Counsel; Service Information:

John D. Vandenberg (Lead Counsel, PTO Reg. No. 31312)

john.vandenberg@klarquist.com

Direct: 503-273-2338

Stephen J. Joncus (Back-up Counsel, PTO Reg. No. 44,809)

stephen.joncus@klarquist.com

Direct: 503-473-0910

Klarquist Sparkman LLP

121 SW Salmon Street, Suite 1600

Portland, Oregon 97204

Tel.: 503-595-5300

Fax: 503-595-5301

Exhibits: An accompanying Appendix and List of Exhibits submits petitioner’s Exhibits 1001 –1014 in support of this petition, including the following:

Ex. 1001: Appendix A (which is a part of this Petition), claim chart mapping the claims to prior art references HTTP DRP, Mattis and Yohe.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.