UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Zynga Inc.
Petitioner

v.

Personalized Media Communications, LLC
Patent Owner

Case IPR2013-00171
U.S. Patent No. 7,734,251

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

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I. Introduction

Petitioner requests cancellation of claims 17-19, 22-24, and 28 of U.S. Patent No. 7,734,251 ("the '251 patent") as unpatentable under 35 U.S.C. §§ 102 and 103. In initiating the trial, the Board correctly found that, unless rebutted by the Patent Owner, Personalized Media Communications, LLC ("PMC"), these claims of the '251 patent are unpatentable over the applied references. In response, PMC filed a Patent Owner Response but did not seek to amend the claims of the '251 patent.

Throughout the Patent Owner Response, PMC repeatedly argues for overly narrow claim constructions that are inconsistent with the broadest reasonable interpretation standard to be applied in this *inter partes* review proceeding. In effect, PMC asks the Board to treat the claims as if they had been amended without PMC having done so itself. But if PMC had wanted the claims to be construed more narrowly, then it should have taken the opportunity afforded by this Office proceeding and filed a motion to amend to restrict their scope. As explained by the Federal Circuit, a patent owner's ability to amend claims to avoid prior art – which exists in these proceedings – distinguishes Office proceedings from district court proceedings and justifies the broadest reasonable interpretation standard.

The Board should reject PMC's requests to improperly import limitations into the claims via its proposed overly-narrow claim constructions. Accordingly, because PMC has failed to distinguish the claims, as written, from the cited prior art, the Board's

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institution decision was correct, and claims 17-19, 22-24, and 28 of the '251 patent should be found unpatentable.

II. Claims 18, 19, 22-24 and 28 Are Anticipated by Bakula

A. Bakula Discloses Outputting a Video Presentation to a User That Includes Firstly, a Video Image and, Secondly, a Coordinated Display

In Bakula, a dual screen mode is used to simultaneously output a news story being edited by a user (*i.e.*, a generated image) and a second news story (*i.e.*, a video image). (Petition at pp. 47-54.) The display of both stories provides a coordinated display, such that Bakula's dual screen mode discloses the outputting step of claim 18.

PMC argues that the sequence of a video image followed by a coordinated display is not disclosed in Bakula and that Bakula therefore does not disclose the "outputting" step of claim 18. (Response at pp. 7-15.) Specifically, PMC argues that the limitation "requires a temporal sequence of displays where first, a video image is displayed; and subsequent in time to the display of the video image, a coordinated display is presented that includes the video image and [generated image]." (*Id.* at p. 7.)

But PMC's argument – that the only reasonable interpretation of this claim element requires a temporal sequence – is without merit. The meaning of claim 18 is ambiguous. Contrary to PMC's argument, the terms "firstly" and "secondly" in the context of claim 18 are not explicitly temporal in character. Petitioner's interpretation of the terms "firstly" and "secondly" as meaning "a first portion of a display" and a "second portion of the display" is equally valid. Such ambiguity in the claim should

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