

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SIPNET EU S.R.O.
Petitioner

v.

Straight Path IP Group, Inc.
Patent Owner

Case No. IPR2013-00246
U.S. Patent No. 6,108,704

Before KLAYAN K. DESHPANDE, THOMAS L. GIANNETTI, and
TRENTON A. WARD, Administrative Patent Judges.

**PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE PURSUANT
TO 37 CFR 42.23**

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Table of Authorities

Cases

In re Guan Inter Partes Reexamination Proceeding,
Control No. 95/001,045, “Decision Vacating
File Date,” (Aug. 25, 2008)

In re Schlecht Inter Partes Reexamination Proceeding,
Control No. 95/001,206, *Petition at 6-7*, (June 10, 2010)

ResQNet.com, Inc. v. Lansa, Inc.,
533 F. Supp. 2d 397 (S.D.N.Y. 2008)

ResQNet.com, Inc. v. Lansa, Inc.,
594 F.3d 860 (Fed. Cir. 2010)

Regulations

Practice Guide for Proposed Trial Rules,
77 Fed. Reg. 6868, 6870 (February 9, 2012)
(citing *Taylor v. Sturgell*, 553 U.S. 880, 895 (2008))

Other

Explanation of Real Party in Interest Requirement
provided by Chief Judge James Donald Smith, Board of
Patent and Appeals and interferences (“BPAI”). Available
at http://www.uspto.gov/aia_implementation/smith-blog-extravaganza.jsp#heading-2

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List of Exhibits

Exhibit 1017: Declaration of Yuri Kolesnikov RE WINDOWS NT 3.5
USER GUIDE.

Exhibit 1018: Declaration of Leslie Ehrlich re contents of Windows NT 3.5
Server package referred to in Yuri Kolesnikov declaration.

Exhibit 1019: Print out of help screen shots from CD ROM with
WINDOWS NT 3.5 USER GUIDE referred to in Yuri Kolesnikov declaration
[Exhibit 1017].

Exhibit 1020: “Beyond NetWare 3.12,” Elizabeth Eva , Mauri Laitinen and
Rob Ward, InfoWorld. 16.51 (Dec. 19, 1994) [Page 15 of exhibit refers to
documentation included with Windows NT 3.5]

Exhibit 1021: “Microsoft Offers Solution Server Program,” Newsbytes
News Network (Oct 11, 1994) [refers to documentation included with Windows
NT 3.5].

Exhibit 1022: Transcript of deposition of Ketan Mayer-Patel.

Exhibit 1023: Declaration of Vadim Antonov.

I. BACKGROUND & FACTS IN DISPUTE

Petitioner disputes Patent Owner's allegations that (a) Stalker Software is a real party in interest; (b) the Prior Art does not teach a determination as to the on-line status of a process; (c) NetBIOS is incompatible with dynamic address allocation; (d) the Microsoft TCP (WINS) Guide is not established as a Prior art.

II. ARGUMENT

A. Stalker Software ("Stalker") is not a Real Party-in-Interest

Patent Owner's argument that Stalker is a real party in interest because petitioner obtained a copy of WINS from them would make a library a real party in interest. Petitioner discovered a reference to the WINS reference in the public litigation record and asked Stalker for a copy. This is not evidence of control by Stalker – they did not initiate the contact regarding the copy, Sipnet did.¹

Patent Owner quotes one of 3 factors listed in *In re Guan*², and suggests it is controlling)." *In re Guan* involved a company named "Troll Busters" that advertised itself as a strawman for Patent Office challenges. In fact, the Patent Office has declined to adopt *In re Guan* as controlling and instead said that the degree of control exercised by a non-party over a party's participation in the

¹ See answer to Interrogatory No. 1, Exhibit 2026

² See *In re Guan* Inter Partes Reexamination Proceeding, Control No. 95/001,045, "Decision Vacating File Date," (Aug. 25, 2008)

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