

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

PETITIONER'S RESPONSE TO PATENT OWNER'S OBSERVATION ON  
CROSS-EXAMINATION OF PETITIONER'S DECLARANT LESLIE  
EHRlich

## INTRODUCTION

Pursuant to the Board's authorization on June 4, 2014 and the Office Trial Practice Guide, 77 Fed. Reg. 48767-68 (Aug. 14, 2012), Petitioner Sipnet EU S.R.O. respectfully submits the following responses to the observations submitted by the Patent Owner regarding the May 29, 2014 cross-examination of Petitioner's declarant Leslie Ehrlich.

### RESPONSES TO PATENT OWNER'S OBSERVATIONS

#### A. Response to Observation 1

In response to Patent Owner's Observation 1 and specifically that "Ms. Ehrlich's Testimony Establishes that Her Declaration Is Not Credible," Petitioner respectfully notes that in Exhibit 2044, on Page 11, Line 15 through Page 12, Line 10; and Page 16, Lines 14-24; Ms. Ehrlich testified that:

#### **Ex. 2044, Page 11, Line 15 through Page 12, Line 10**

15 Q. Did you draft this declaration?

16 A. No.

17 Q. Who drafted the declaration?

18 A. Paul Haughey. And then I reviewed it and  
19 made some edits and then executed it.

20 Q. What edits did you make to it?

21 A. I remember that I made edits to say that

22 they were substantially identical except for the  
23 typo stuff and the section about the glossary.

24 Q. So the words "substantially identical,"  
25 does that come from Mr. Haughey?

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1 A. No, that came from me.

2 Q. Well, what did it say before?

3 A. I don't remember.

4 Q. So you authored the words "substantially  
5 identical"?

6 A. I believe I did, but I can't remember.

7 Q. And when you say substantially identical,  
8 you didn't actually mean the two documents were  
9 identical, correct?

10 A. No, then I would just say identical.

**Ex. 2044, Page 16, lines 14-24:**

14 Q. So your declaration is incorrect again  
15 with respect to your comparison of the similarities  
16 between the two documents, correct?

17       A. Yes, I believe that when I said the main  
18 differences between the different texts of the  
19 glossary are formatting type differences due to the  
20 help screen format on the CD-ROM. I realize now  
21 that doesn't read well, but that was my intent in  
22 the declaration to say that large differences in  
23 the text are due to the formatting from the CD-ROM  
24 versus the paper document.

The above testimony is relevant to (1) Exhibit 1018, the Ehrlich Declaration; (2) Exhibit 1017, the Kolesnikov Declaration; (3) Exhibit 1019, the Yuri Guide; and (4) Exhibit 1004, the WINS. The above testimony is relevant because it demonstrates that, contrary to Patent Owner's observation, Ms. Ehrlich clearly explained the reasons for the superficial differences between Exhibit 1004 (WINS) and Exhibit 1019 (Yuri Guide). It further establishes that the Ehrlich Declaration (Exhibit 1018) was candid and credible. It also corroborates the Kolesnikov Declaration (Exhibit 1017) and supports the conclusion that the Exhibit 1019, the Yuri Guide is substantially identical to the Exhibit 1004, the WINS and that the WINS was publicly available before the critical date.

B.       Response to Observation 2

In response to Patent Owner's Observation 2 and specifically that "Ms. Ehrlich Testified that Exhibit 1004 (WINS) and Exhibit 1019 (Yuri Guide) Are Not the Same," Petitioner respectfully notes that in Exhibit 2044, Page 19, Line 3, through Page 20, Line 10; and Page 21, Line 8, through Page 22, Line 24, Ms. Ehrlich testified that:

**Ex. 2044, Page 19, Line 3, through Page 20, Line 10:**

3 Q. So when you did this comparison of the two  
4 documents, in fact, you didn't compare at least ten  
5 pages of Exhibit 1004 and at least 16 pages of  
6 Exhibit 1018, correct?

7 A. Correct. Because the computer program  
8 does not contain references in the table of  
9 contents to page numbers. The computer programs  
10 don't have page numbers as the Exhibit 1004 does.

11 Q. I'm sorry, I don't understand your answer.

12 A. So Exhibit 1019, which is the printout of  
13 the computer program, has a table of contents but  
14 does not list page numbers for each section in the  
15 table of contents. Exhibit 1004 includes a table  
16 of contents with reference to page numbers.

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