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 YURI KOLESNIKOV

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 Yuri Kolesnikov.

RESPONSES TO PATENT OWNER'S OBSERVATIONS

A.   Response to Observations 1 and 2

In response to Patent Owner's Observations 1 and 2 and specifically that "Declarant Yuri Kolesnikov Testified That His Declaration Only Refers to a Digital Copy of WINS and Not Exhibit 1004", and "Mr. Kolesnikov Testified That He Does Not Know the Origin of Exhibit 1004, the WINS Manual," Petitioner respectfully notes that in Exhibit 2043, on Page 24, Lines 14-25; and Page 21, Line 23 through Page 23, Line 3, Mr. Kolesnikov testified that:

Ex. 2043, Page 24, Lines 14-25:

14   Q. Okay. So you looked at --

15   At the time, when you went to do a

16   comparison, you compared the CD-ROM with another

17   document that may not have been what is in Exhibit

18   1004?

19   A. I compared -- I compared this document,

20   which looked exactly the same, and I looked at the

21   content. I didn't look at any headers or anything.

22   So I looked at the content related to Microsoft

23   TCP/IP manual. I don't recall anything saying

24   "Exhibit 1004" or anything else. I cannot say it

25   was not there. I cannot remember.

Ex. 2043, Page 21, Line 23 through Page 23, Line 3:

23   Q. All right. In Paragraph 11 of your

24   declaration, you state that, "I compared the

25   digital copy of the Windows NT Server retail TCP/IP

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 1   Guide on the CD-ROM to Exhibit 1004 in the

 2   above-referenced case. The two documents are

 3   substantially identical."

 4   You wrote that?

 5   A. Yes.

 6   Q. So talk me through what exactly you did.

 7   A. So what I did, one of the question that

8   came from Julia was if I remember the TCP/IP guide

9   that came with Windows manual. And it was not in

10   my copy, and as far as I remember, they never

11   distributed it with a standard -- Microsoft never

12   distributed this manual with a copy of Windows NT.

13   However, they distributed with new computer. There

14   were some computers from some manufacturers which I

15   don't remember, but they had more manuals included

16   with Windows NT box.

17   So obviously I looked at Google for this

18   manual and found a PDF copy, scanned PDF copy of

19   this manual. And I looked through this manual and

20   I looked at the help file on CD-ROM, and, yes, they

21   look the same.

22   And I remember that, what I recall, from

23   my experience in '94, that they have pretty much

24   the same content that they have in the manual, just

25   in a different format. PDF didn't exist at that

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1   time, so they used Microsoft Help format. And

2   content was the same. Obviously formatting is

3   different, but all the words are the same.

The above testimony is relevant to (1) Exhibit 1017, the Kolesnikov

Declaration; (2) Exhibit 1019, the Yuri Guide; and (3) Exhibit 1004, the WINS.

The above testimony is relevant because it clearly establishes the similarity

between WINS (Exhibit 1004) and Windows NT TCP/IP Guide, 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 3

In response to Patent Owner's Observation 3 and specifically that "Declarant

Mr. Kolesnikov Testified That He Could Not Verify the Year He Installed the

Windows NT 3.5 Server," Petitioner respectfully notes that in Exhibit 2043, on

Page 26, Lines 7-18, Mr. Kolesnikov testified that:

Ex. 2043, Page 26, Lines 7-18

7   Q. So I wanted to go back to I guess it's

8   Paragraph 6 in your declaration which says --

9   sorry, not Paragraph 6.

10   Paragraph 7 in your declaration. You say

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