

Filed on Behalf of: Patent Owner John H. Stephenson

By: Daniel W. McDonald
Robert A. Kalinsky
Merchant & Gould P.C.
Counsel for Patent Owner
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
Telephone: (612) 332-5300
Email: dmcdonald@merchantgould.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GAME SHOW NETWORK, LLC AND WORLDWINNER.COM

Petitioners

v.

JOHN H. STEPHENSON

Patent Owner

Case IPR2013-00289

Patent 6,174,237

**JOHN H. STEPHENSON'S
PATENT OWNER'S RESPONSE
UNDER 35 USC §316(a)(8) AND 37 C.F.R. §42.120**

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Table of Authorities

Aerotel, Ltd. v. T-Mobile USA, Inc., 2010 U.S. App. LEXIS
25835, 4-8 (Fed. Cir. Dec. 20, 2010)..... 31

Ferguson Beauregard/Logic Controls v. Mega Systems,
350 F.3d 1327, 1338 (Fed. Cir. 2003) 22

Interactive Gift Express, Inc. v. Compuserve, Inc.,
256 F. 3d 1323 (Fed. Cir. 2001)..... 31

Phillips v. AWH Corp., 415 F.3d 1303, 1316 (Fed. Cir. 2005) 21, 31, 32

Other cites:

MPEP §21111.01(I) 21

EXHIBIT LIST

Exhibit	Description	Filed
Ex. 2001	Definitions from Merriam-Webster's Collegiate Dictionary (10 th ed. 1993)	<input checked="" type="checkbox"/>
Ex. 2002	U.S. Patent No. 6,174,237 B1	<input checked="" type="checkbox"/>
Ex. 2003	November 19, 2013 Decision re Institution of <i>Inter Partes</i> Review	<input checked="" type="checkbox"/>
Ex. 2004	Rules of Card Games: Double Solitaire	<input checked="" type="checkbox"/>
Ex. 2005	Web page Solitarie.com	<input checked="" type="checkbox"/>
Ex. 2006	CV of Jim Whitehead	<input checked="" type="checkbox"/>
Ex. 2007	Expert Declaration of Stacy A. Friedman and Attached Exhibits A and B	<input checked="" type="checkbox"/>
Ex. 2008	Deposition Transcript of E. James Whitehead, January 10, 2014	<input checked="" type="checkbox"/>
Ex. 2009	Definitions from Merriam-Webster's Collegiate Dictionary (10 th ed. 1993)	<input checked="" type="checkbox"/>

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