UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

NOTICE OF ENTRY OF JUDGMENT ACCOMPANIED BY OPINION

OPINION FILED AND JUDGMENT ENTERED: 09/09/2016

The attached opinion announcing the judgment of the court in your case was filed and judgment was entered on the date indicated above. The mandate will be issued in due course.

Information is also provided about petitions for rehearing and suggestions for rehearing en banc. The questions and answers are those frequently asked and answered by the Clerk's Office.

Costs are taxed against the appellant in favor of the appellee under Rule 39. The party entitled to costs is provided a bill of costs form and an instruction sheet with this notice.

The parties are encouraged to stipulate to the costs. A bill of costs will be presumed correct in the absence of a timely filed objection.

Costs are payable to the party awarded costs. If costs are awarded to the government, they should be paid to the Treasurer of the United States. Where costs are awarded against the government, payment should be made to the person(s) designated under the governing statutes, the court's orders, and the parties' written settlement agreements. In cases between private parties, payment should be made to counsel for the party awarded costs or, if the party is not represented by counsel, to the party pro se. Payment of costs should not be sent to the court. Costs should be paid promptly.

If the court also imposed monetary sanctions, they are payable to the opposing party unless the court's opinion provides otherwise. Sanctions should be paid in the same way as costs.

Regarding exhibits and visual aids: Your attention is directed Fed. R. App. P. 34(g) which states that the clerk may destroy or dispose of the exhibits if counsel does not reclaim them within a reasonable time after the clerk gives notice to remove them. (The clerk deems a reasonable time to be 15 days from the date the final mandate is issued.)

FOR THE COURT

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

15-1649 - Software Rights Archive, LLC v. Facebook, Inc.
United States Patent and Trademark Office, Case No. IPR2013-00479

15-1650 - Software Rights Archive, LLC v. Facebook, Inc.
United States Patent and Trademark Office, Case No. IPR2013-00480

15-1651 - Software Rights Archive, LLC v. Facebook, Inc.
United States Patent and Trademark Office, Case No. IPR2013-00480

15-1652 - Software Rights Archive, LLC v. Facebook, Inc.
United States Patent and Trademark Office, Case No. IPR2013-00481

15-1653 - Software Rights Archive, LLC v. Facebook, Inc.
United States Patent and Trademark Office, Case No. IPR2013-00481

NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

SOFTWARE RIGHTS ARCHIVE, LLC,
Appellant

v.

FACEBOOK, INC., LINKEDIN CORPORATION, TWITTER, INC.,
Cross-Appellants

2015-1649, 2015-1650, 2015-1651

Appeals from the United States Patent and Trademark Office, Patent Trial and Appeal Board in Nos. IPR2013-00479, IPR2013-00480.

SOFTWARE RIGHTS ARCHIVE, LLC,
Appellant

v.

FACEBOOK, INC., LINKEDIN CORPORATION, TWITTER, INC.,
Cross-Appellants

2015-1652, 2015-1653

Appeals from the United States Patent and Trademark Office, Patent Trial and Appeal Board in No. IPR2013-00481.

Decided: September 9, 2016

VICTOR G. HARDY, DiNovo, Price, Ellwanger & Hardy LLP, Austin, TX, argued for appellant. Also represented by MINGHUI YANG; MARTIN MOSS ZOLTICK, SOUMYA PANDA, Rothwell, Figg, Ernst & Manbeck, P.C., Washington, DC.

HEIDI LYN KEEFE, Cooley LLP, Palo Alto, CA, argued for cross-appellant Facebook Inc. Also represented by LOWELL D. MEAD, CARRIE J. RICHEY, MARK R. WEINSTEIN.

DAVID SILBERT, Keker & Van Nest, LLP, San Francisco, CA, argued for cross-appellants LinkedIn Corporation, Twitter, Inc. Also represented by SHARIF E. JACOB, PHILIP J. TASSIN.

Before NEWMAN, MAYER, and CHEN, *Circuit Judges*.

Opinion for the court filed PER CURIAM.

Opinion dissenting-in-part filed by *Circuit Judge* CHEN.

PER CURIAM.

Software Rights Archive, LLC ("Software Rights") appeals *inter partes* review ("IPR") decisions of the Patent Trial and Appeal Board ("board") of the United States Patent and Trademark Office ("PTO") holding that claims 18 and 45 of U.S. Patent No. 5,832,494 (the "'494 patent")

and claims 12 and 22 of U.S. Patent No. 6,233,571 (the "'571 patent") are unpatentable over the prior art.[1] *See Facebook, Inc. v. Software Rights Archive, LLC*, IPR No. 2013-00479, 2015 WL 470598, at *7–13, *16–17 (PTAB Feb. 2, 2015) ("*Board Decision I*"); *Facebook, Inc. v. Software Rights Archive, LLC*, IPR No. 2013-00481, 2015 WL 429750, at *12–16, *18–20 (PTAB Jan. 29, 2015) ("*Board Decision II*"). Facebook, Inc., LinkedIn Corporation, and Twitter, Inc. (collectively "Facebook") cross-appeal, challenging the board's determinations that claims 1, 5, 15, and 16 of the '494 patent are not anticipated, *see Facebook, Inc. v. Software Rights Archive, LLC*, IPR No. 2013-00480, 2015 WL 456539, at *8–13 (PTAB Jan. 30, 2015) ("*Board Decision III*"), and that claim 21 of the '571 patent is not obvious over the prior art, *see Board Decision II*, 2015 WL 429750, at *16–18. For the reasons discussed below, we affirm in part and reverse in part.

BACKGROUND

The '494 and '571 patents are continuations-in-part of U.S. Patent No. 5,544,352 (the "'352 patent"). We recently affirmed the board's determination that claims 26, 28–30, 32, 34, and 39 of the '352 patent are unpatentable as obvious. *See Facebook, Inc. v. Software Rights Archive, LLC*, IPR No. 2013-00478, 2015 WL 470597 (PTAB Feb. 2, 2015), *aff'd without opinion*, 640 F. App'x 995 (Fed. Cir. 2016).

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[1] Software Rights also advances a cursory argument that the board erred in concluding that certain claims that depend from claims 18 and 45 of the '494 patent (i.e., claims 19, 20, 48, 49, 51, and 54) are unpatentable as obvious. It does not, however, identify any specific limitations in those dependent claims that would render them non-obvious if the board's determination that claims 18 and 45 are unpatentable as obvious is affirmed.

The '494 and '571 patents, which relate to computerized research on a database, are both entitled "Method and Apparatus for Indexing, Searching and Displaying Data." Joint Appendix ("J.A.") I 5057; J.A. II 5058.[2] The patents purport to improve upon traditional Boolean search methods by analyzing non-semantic relationships between documents. *See* J.A. I 5057–59; J.A. II 5058–60. They describe a process for organizing and searching for data using a technique called "proximity indexing." '494 patent, col. 3 l. 28; '571 patent, col. 3 l. 33. Proximity indexing is used to search for data, including textual objects, by "generat[ing] a quick-reference of the relations, patterns, and similarity found among the data in the database." '494 patent, col. 3 ll. 30–31; '571 patent, col. 3 ll. 34–36. The claimed inventions are designed to provide a "user friendly computerized research tool" which "emulates human methods of research." '494 patent, col. 3 ll. 11–14; '571 patent, col. 3 ll. 15–18.

I. The '494 Patent

The '494 patent describes using non-semantic relationships to search for objects in a database. J.A. I 5057–58. A citation relationship between two documents is non-semantic because it is not based on words (or "terms") common to both documents, but is instead based on one document's reference to the other document. *See* J.A. I 5058, 5063. Two documents have a direct citation relationship when one document cites to the other document. *See* J.A. I 5063. Two documents can also have an indirect citation relationship, such as when they both cite to a

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[2] The appendix related to the '494 patent and the appendix related to the '571 patent contain many of the same documents. For the sake of convenience, the appendix related to the '494 patent will be referred to as "J.A. I" and the appendix related to the '571 patent will be referred to as "J.A. II."

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