

Tapper

IPR2013-00478 POR at 40-49.

EXHIBIT 2117

Facebook, Inc. et al. v. Software Rights Archive, LLC
CASES IPR2013-00478
IPR2013-00479
IPR2013-00480
IPR2013-00481

Claim 26 of the ‘352 Patent Requires Analyzing “For Indirect Relationships Existing Between or Among Objects in the Database”

Claim 26 of the ‘352 patent reads:

A non-semantic method for numerically representing objects in a computer database and for computerized searching of the numerically represented objects in the database, wherein direct and indirect relationships exist between objects in the database, comprising:

marking objects in the database so that each marked object may be individually identified by a computerized search;

generating a first numerical representation for each identified object in the database based upon the object's direct relationship with other objects in the database;

storing the first numerical representations for use in computerized searching;

analyzing the first numerical representations for indirect relationships existing between or among objects in the database;

generating a second numerical representation of each object based on the analysis of the first numerical representation;

storing the second numerical representation for use in computerized searching; and

searching the objects in the database using a computer and the stored second numerical representations, wherein the search identified one or more of the objects in the database.”

Patent at 35:28-53 (emphasis added); *see also* IPR2013-00478 POR at 44.

Petitioners Set Forth this Construction in Their Petition

In the previous Google litigation, the District Court construed “analyzing the first numerical representation **for** indirect relationships” as “using the first numerical representation to **at least locate and identify** the indirect relationships.”

The basis of this construction is set forth in the record cited below.

Claim Construction Order, IPR2013-00478 Exhibit 2022, Pet. at 7; IPR2013-00478 POR at 12 (citing ‘352 Jacobs Dec. at ¶ 81).

The Board Must Apply the Same Phillips Standard to Claim Construction as the District Court

Broadest reasonable interpretation does not apply:

Since the Patents at Issue are expired, the Board must, in applying the Phillips standard to expired claims, **construe the claims so as to sustain their validity**, if possible.”

Ex Parte Katz, Appeal 2008-005127, Reexamination Control Nos. 90/006,978 and 90/007,074 (merged) (Mar. 15, 2010).

As the Board held in *Ex Parte Papst-Motoren*, when it has the interpretation of claims of an expired patent before it:

“[A] policy of liberal construction may properly and should be applied. Such a policy favors a construction of a patent claim that will render it valid, *i.e.*, a narrow construction, over a broad construction that would render it invalid.”

Ex parte Papst-Motoren, 1 USPQ2d 1655, 1986 WL 83328 (BPAI 1986) (emphasis added). This standard is also reflected in the MPEP. See MPEP § 2258; IPR2013-00478 POR at 8-9.

Dr. Jacobs testified that a “hit” is “not analyzed for indirect relationships”:

“To the extent that “hits” could be based on the references in a citation vector, this possibility is irrelevant with respect to the claims because[] “hits” can be direct as citation vectors and invariably include self-reference.”

Jacobs ‘352 Decl., IPR 2013-00478 Exhibit 2113 at ¶ 407, 409; *see also* IPR2013-00478 POR at 44.

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