BEFORE THE PATENT TRIAL AND APPEAL BOARD IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Trial No.: IPR 2013-00596

In re: U.S. Patent No. 7,802,310

Patent Owners: PersonalWeb Technologies, LLC & Level 3 Communications

Petitioner: Apple, Inc.

Inventors: David A. Farber and Ronald D. Lachman

For: CONTROLLING ACCESS TO DATA IN A DATA PROCESSING SYSTEM

* * * * * * * * * * *

June 16, 2014

PATENT OWNER'S RESPONSE PURSUANT TO 37 C.F.R. § 42.120

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PATENT OWNER'S EXHIBIT LIST

CERTIFICATE OF SERVICE

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PersonalWeb Technologies, LLC ("patent owner" or "PO") submits this response to the petition. Petitioner has the burden of proving unpatentability by a preponderance of the evidence. 35 U.S.C. § 316(e). Petitioner has not met its burden for the reasons explained below. *See also* Dewar Decl. at ¶¶ 18-62 [Ex. 2020].)

U.S. Patent No. 7,802,310 ("the '310 patent") has an effective filing date of April 11, 1995 given its continuity. (Ex. 1001.) While patent owner (PO) reserves the right to establish an earlier date of invention, an effective filing date of April 11, 1995 is assumed for purposes of this Response (i.e., the "critical date" is no later than April 11, 1995 for purposes of this submission). Petitioner does NOT allege a later effective filing date in connection with the instituted ground, and the Board rejected petitioner's Section 112 arguments in connection with a non-instituted ground in Paper 9. Thus, the April 11, 1995 effective filing date is applicable in this proceeding.

PO notes that another IPR is also pending regarding the '310 patent. (*See* IPR 2014-00062.)

I. SOLE INSTITUTED GROUND

The Board, on March 26, 2014, construed certain claim terms and instituted a trial in this proceeding regarding the '310 patent for only the following:

1. Whether claims 24, 32, 70, 81, 82 and 86 are unpatentable as obvious under 35 U.S.C. §103(a) over Woodhill (Ex. 1014 – U.S.

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Patent No. 5,649,196) and Stefik (Ex. 1013 – U.S. Patent No. 7,359,881).

The Board ordered that no other grounds of alleged unpatentability were authorized regarding the '310 patent. (Paper 9.) Thus, petitioner is not permitted to argue unpatentability in this proceeding regarding any other ground(s) even if such other ground(s) may have been in the petition.

II. CLAIM CONSTRUCTIONS

Claim terms are presumed to be given their ordinary and customary meaning as would be understood by one of ordinary skill in the art at the time of the invention. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (en banc). However, the inventor may rebut that presumption by providing a definition of the term in the specification with reasonable clarity, deliberateness, and precision.

A. "data item".

The specification of the '310 patent provides a definition for at least the following term in the chart below with reasonable clarity, deliberateness, and precision (i.e., the inventors were their own lexicographer):

Claim Term	Correct Construction
"data item" (This term appears expressly in claims 24, 32 and 70. This term is also contained in the below-constructions of "digital identifier", "content-based	*Sequence of bits*. ('310 patent, col. 2:16-17.) As the Board explained in its June 5, 2013 Decision in IPR 2013-00082, the "sequence of bits" may include any of the following which represent examples in a *non-exhaustive list*: (1) the contents of a file; (2) a portion of a file; (3) a page in memory; (4) an object in an object-

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