

**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

\* \* \* \* \*

December 26, 2013

**PATENT OWNER'S PRELIMINARY RESPONSE**

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PATENT OWNER’S EXHIBIT LIST

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## **I. BACKGROUND**

Pursuant to 37 C.F.R. § 42.107, PersonalWeb Technologies, LLC (“patent owner” or “PO”) submits this Preliminary Response to the petition seeking *inter partes* review in this matter.

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 Preliminary Response (i.e., the “critical date” is no later than April 11, 1995 for purposes of this submission).

Petitioner alleges that the challenged claims are not entitled to the claimed April 11, 1995 priority date because of the term “hash” recited in the claims. (Pet. 53-54.) PO disagrees with petitioner in this respect, and responds to petitioner’s priority date argument in connection with Ground 9. PO’s points regarding the April 11, 1995 effective filing date of the challenged claims apply to all Grounds alleged by petitioner.

PO notes that another petition for IPR is also pending regarding the ‘310 patent. (See IPR 2014-00062.)

## **II. ALLEGED GROUNDS**

Petitioner has challenged claims 24, 32, 70, 81, 82 and 86 of the ‘310 patent based on only, and limited to, the following alleged Grounds:

1. Claims 24, 32, 70, 81, 82, and 86 are allegedly anticipated under 35 U.S.C. §102(a) by Browne (Ex. 1009).
2. Claims 24, 32, 70, 81, 82, and 86 are allegedly unpatentable as obvious under 35 U.S.C. §103 over Browne (Ex. 1009).
3. Claims 24, 32, 70, 81, 82, and 86 are allegedly unpatentable as obvious under 35 U.S.C. §103 over Browne (Ex. 1009) in view of Stefik (Ex. 1013).
4. Claims 24, 32, 70, 81, 82, and 86 are allegedly anticipated under 35 U.S.C. §§ 102(b) and 102(e) by Woodhill (Ex. 1014).
5. Claims 24, 32, 70, 81, 82, and 86 are allegedly unpatentable as obvious under 35 U.S.C. §103 over Woodhill (Ex. 1014).
6. Claims 24, 32, 70, 81, 82, and 86 are allegedly unpatentable as obvious under 35 U.S.C. §103 over Woodhill (Ex. 1014) in view of Stefik (Ex. 1013).
7. Claims 24, 32, 70, 81, 82, and 86 are allegedly anticipated under 35 U.S.C. § 102(b) by Langer (Ex. 1015).
8. Claims 24, 32, 70, 81, 82, and 86 are allegedly unpatentable as obvious under 35 U.S.C. §103 over Langer (Ex. 1015) in view of Stefik (Ex. 1013).
9. Claims 24, 32, 70, 81, 82, and 86 are allegedly anticipated under 35 U.S.C. § 102(b) by Farber publication WO 96/32685 (Ex. 1033)

[note: the Farber publication is alleged by petitioner to be a publication of the priority application of the ‘310 patent].

**III. CLAIM CONSTRUCTIONS**

Currently, the claims of the unexpired ‘310 patent are to be given their “broadest reasonable construction in light of the specification.” 37 C.F.R. § 42.100(b). Patent Owner has applied that standard in this paper.

Under the broadest reasonable construction standard, 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. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

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” (claims 24, 32, 70)	<i>Sequence of bits.</i> (‘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 <i>non-exhaustive list</i> : (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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