

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT TRIAL AND APPEAL BOARD

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FACEBOOK, INC.,  
Petitioner

v.

B. E. TECHNOLOGY LLC  
Patent Owner

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Case No. IPR2014-00053  
Patent No. 6,628,314

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**PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE**

## TABLE OF CONTENTS

	Page
I. INTRODUCTION.....	1
II. ANGLES DISCLOSES EVERY LIMITATION OF CLAIM 11. ....	2
A. Angles Discloses Recording Computer Usage Information.....	3
B. Angles Discloses Periodically Requesting Advertising Content.....	4
III. ALL CHALLENGED CLAIMS ARE OBVIOUS OVER ANGLES IN VIEW OF SHAW .....	5
A. Angles Does Not Require a Continuous Internet Connection.....	5
B. The Patent Owner Presents No Evidence Refuting the Strong Motivations to Combine Angles with Shaw Set Forth in the Petition .....	9
IV. THE PATENT OWNER’S “BROADEST REASONABLE INTERPRETATION” ARGUMENTS ARE NOT RELEVANT TO THIS PETITION.....	12
V. CONCLUSION .....	13

## TABLE OF AUTHORITIES

	Page(s)
<b>Cases</b>	
<i>KSR International Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007).....	12
<i>Perfect Web Techs., Inc. v. InfoUSA, Inc.</i> , 587 F.3d 1324 (Fed. Cir. 2009) .....	12
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005) (en banc) .....	13
<i>SAP America, Inc. v. Versata Develop. Group, Inc.</i> , CBM2012-00001, Paper 70 (June 11, 2013).....	13
<b>Statutes</b>	
35 U.S.C. § 103(a).....	1
<b>Other Authorities</b>	
37 C.F.R. § 42.23(a) .....	5
37 C.F.R. § 42.65(a) .....	11

## I. INTRODUCTION

The Board instituted *inter partes* review of claims 11-13, 15, 18 and 20 based on obviousness over Angles [Ex. 1003] in view of Shaw [Ex. 1004]. The patent owner's response ("Response") does not dispute key elements of the Petition. The patent owner does not dispute that Angles and Shaw qualify as prior art to the '314 patent and does not challenge any aspect of the Board's claim constructions as set forth in the Decision instituting *inter partes* review. The patent owner also does not dispute that Angles and Shaw disclose every limitation of claims 11-13, 15, 18 and 20.

The patent owner instead rests its entire response on the assertion that Angles cannot properly be combined with Shaw under 35 U.S.C. § 103(a). The patent owner, relying on a sparse and conclusory expert declaration lacking any analysis or citation to evidence, asserts that Angles and Shaw disclose "completely different types of systems" that operate in different ways. But this argument ignores key teachings of Angles, and is unaccompanied by any evidence or reasoned argument from the patent owner. Because the patent owner has offered no serious rebuttal to the obviousness of claims 11-13, 15, 18 and 20 over Angles in view of Shaw, the Board should find them unpatentable.

## II. ANGLES DISCLOSES EVERY LIMITATION OF CLAIM 11.

The patent owner's response begins from the inaccurate premise that the Petitioner conceded that Angles fails to disclose two limitations of claim 11 – software that “records computer usage information” and “periodically requests additional advertising content,” as recited in claims 11d(ii) and 11d(iii), respectively. (Response at 5-6, 9.)<sup>1</sup> But the Petitioner made no such concession. As demonstrated below, the Petitioner specifically argued that Angles discloses these two limitations – because it does.

The Response does not address these two limitations or provide any explanation as to why Angles allegedly fails to disclose them. In fact, the patent owner specifically instructed its expert, Mr. Goldstein, to “assume that [the disputed limitations] of claim 11 are not disclosed by Angles.” (Goldstein Decl., Ex. 2001, at 10 (¶ 24).) The Board should therefore accept Petitioner's

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<sup>1</sup> As noted in the text, the patent owner does not dispute that these two limitations are disclosed in Shaw, and does not dispute that the combination of Angles and Shaw disclose all limitations of claims 11-13, 15, 18 and 20. Accordingly, even if the Board were to conclude that these two limitations are missing from Angles, the challenged claims should still be found unpatentable.

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