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

Trial No.: IPR 2014-00059

In re: U.S. Patent No. 6,415,280

Patent Owners: PersonalWeb Technologies, LLC & Level 3 Communications

Petitioner: Rackspace US, Inc. and Rackspace Hosting, Inc.

Inventors: David A. Farber and Ronald D. Lachman

For: IDENTIFYING AND REQUESTING DATA IN NETWORK USING IDENTIFIERS WHICH ARE BASED ON CONTENTS OF DATA

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April 29, 2014

PATENT OWNER'S OBJECTIONS TO DOCUMENTS SUBMITTED DURING A PRELIMINARY PROCEEDING PURSUANT TO 37 C.F.R. § 42.64(b)(1)

Pursuant to 37 C.F.R. § 42.64(b)(1), patent owner PersonalWeb Technologies, LLC objects to the admissibility of the documents identified below that were submitted by petitioner(s) during the preliminary proceedings, for the following reasons:

1. Petitioner's Exhibits 1004 (Langer), 1009 (Reid), and 1010 (Reid) are all objected to because they have not been authenticated as required by Federal Rule of Evidence (FRE) 901. And these documents are not self-

authenticating. See also the reasons regarding non-authentication discussed in *Novak v. Tucows, Inc.*, No. 06-CV-1909 (JFB) (ARL), 2007 U.S. Dist. LEXIS 21269, *17-18 (E.D.N.Y. Mar. 26, 2007).

2. The entire documents of Petitioner's Exhibits 1004 (Langer), 1009 (Reid), 1010 (Reid), 1011 (Quarterman), and 1012 (Todino), including but not limited to information relating to dates and alleged posting information if any, are hearsay under FRE 801 and inadmissible under FRE 802-807. See also the reasons discussed in *St. Clair v. Johnny's Oyster & Shrimp, Inc.*, 76 F.Supp.2d 773 (S.D. Tex. 1999); and *Novak v. Tucows, Inc.*, No. 06-CV-1909 (JFB) (ARL), 2007 U.S. Dist. LEXIS 21269, *15-16 (E.D.N.Y. Mar. 26, 2007).

3. There is no admissible evidence establishing that any of Exhibits 1004 (Langer), 1009 (Reid), and 1010 (Reid) was/were sufficiently publicly accessible prior to April 11, 1995 to qualify as printed publications, and therefore these documents do not constitute prior art. Petitioner(s) has/have failed to establish that the printouts at Petitioner's Exhibits 1004 (Langer), 1009 (Reid), and 1010 (Reid) accurately depict any alleged publications/posts allegedly made at any time prior to April 11, 1995. See also the reasons on pages 18-21 of patent owner's Preliminary Response in this IPR.

4. The claims (including the "name" language in the claims) of Woodhill (Ex. 1003), and all statements submitted by petitioner citing to or relying upon the same, are objected to and should be excluded as irrelevant, prejudicial, confusing, lacking foundation, and beyond the scope of this IPR. The relied-upon "name" subject matter in the claims of Woodhill is not "prior art" to the '280 patent and has not been shown to be "prior art" to the '280 patent. *See e.g.*, Federal Rules of Evidence (FRE) 401, 402, 403, 702, 703. Woodhill was "filed" before April 11, 1995 (the effective filing date of the '280 patent), but was not published until after April 11, 1995. Any material added to Woodhill after April 11, 1995 (e.g., including the information in the claims of Woodhill, such as the "name" recitations in the claims of Woodhill in connection with binary object identifier(s)) cannot be relied upon in this IPR and is not prior art. This subject matter was added to the claims in Woodhill after April 11, 1995 and is *not* described in Woodhill's originally filed specification, and thus is not prior art to the '280 patent.

5. Exhibit 1007 (Mercer Declaration) and Exhibit 1008 (Reddy Declaration) statements regarding alleged dates, alleged publication, and alleged postings of Exs. 1004, 1009 and 1010 are objected to as lacking

foundation, assuming facts not in evidence, containing testimony on matters as to which the witness lacks personal knowledge, conclusory, and containing testimony concerning documents for which authentication required by FRE 901 is lacking. For example and without limitation, these witnesses have no personal knowledge regarding whether any of Exhibits 1004 (Langer), 1009 (Reid), and 1010 (Reid) are authentic or existed prior to the critical date, and have no personal knowledge regarding whether any of these documents qualify as printed publications; and these documents have not been established as printed publications and have not been authenticated as required by FRE 901, and thus all statements and testimony by these witnesses concerning alleged dates, alleged publication, and alleged postings of these documents lack foundation, assume facts not in evidence, are conclusory, are not based on personal knowledge, and represent improper testimony under FRE 702. No witness has personal knowledge of these exhibits having existed prior to the critical date. All statements by these witnesses regarding alleged dates and alleged postings of Exhibits 1004 (Langer), 1009 (Reid), and 1010 (Reid), and whether these documents are printed publications and/or qualify as prior art, are objected to as hearsay under FRE 801 and are inadmissible under FRE 802-807, lack foundation, and represent improper testimony under FRE

702. For example, paragraphs 11 and 13-18 of Exhibit 1008 (Reddy Declaration), and all testimony by Reddy regarding dates and alleged publications and document existence, are objected to as not being based on personal knowledge, constituting inadmissible hearsay, improper opinion testimony, improper under FRE 702, conclusory, and lacking foundation.

These objections have been made within 10 business days from the April 15, 2014 institution of trial.

Respectfully submitted,

NIXON & VANDERHYE P.C.

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