

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner,

v.

EVOLUTIONARY INTELLIGENCE, LLC,
Patent Owner

Patent No. 7,702,682

Issued: April 20, 2010

Filed: November 14, 2005

Inventor: Michael De Angelo

Title: SYSTEM AND METHOD FOR CREATING AND MANIPULATING
INFORMATION CONTAINERS WITH DYNAMIC REGISTERS

Inter Partes Reviews Nos. IPR2014-00080

PRELIMINARY RESPONSE BY PATENT OWNER

UNDER 37 C.F.R. § 42.107

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**PRELIMINARY RESPONSE BY PATENT
OWNER UNDER 37 C.F.R. § 42.107**

Patent Owner Evolutionary Intelligence LLC hereby respectfully submits this Preliminary Response to the Petition seeking *inter partes* review of U.S. Patent No. 7,702,682.

The Petition is deficient and relies on prior art references that are entirely distinct from the '682 patent. The Petition should be rejected for three independent reasons. First, the Petition fails to explain the relevance of the prior art to the claims as required by 37 C.F.R. § 104(b)(5), including failing to establish that the prior art discloses all elements “arranged as in the claims.” Second, the Petition is deficient because it violates 37 C.F.R. 42.6(a)(3)’s strict prohibition against incorporating other arguments by reference. Third, even setting aside these critical defects, the Petition should be rejected on the merits, because it fails to demonstrate a reasonable likelihood of any claims being invalid—particularly because it relies on unreasonably broad constructions for and fails to construe terms that are material to all of the claims at issue. For at least these reasons, the Petition does not show a reasonable likelihood of prevailing with respect to any of the challenged claims, and *inter partes* review should not be instituted.

This filing is timely under 35 U.S.C. § 313 and 37 C.F.R. § 42.107, as it is being filed within three months of the October 28, 2013 mailing date of the Notice granting the Petition a filing date of October 23, 2013.

I. Technology Background

The '682 patent describes a “System and Method for Creating and Manipulating Information Containers With Dynamic Registers.” The invention is directed at improving searches for information in “information containers” (e.g., web pages or documents stored on various computers). At the time of the invention, searching information resources on a computer network (e.g., the internet) was “accomplished by individuals directing a search effort by submitting key words or phrases to be compared to those key words or phrases contained in the content or description of that information resource, with indices and contents residing in a fixed location unchanging except by human input.” Ex. 1001 at 1:30-37. As the '682 patent notes, this “static” information model was limited, because, *inter alia*, the information being searched did not evolve to reflect its actual utility to the people using it, and successful search strategies were not available to others. Ex. 1001 at 1:63-2:58. At most, the prior art allowed “hits” for a given web page to be tracked, without any record of the page’s utility. *See* Ex. 1001, 2:30-3:6.

The invention solved this problem through the use of “dynamic” information containers. The dynamic information containers include dynamic registers that

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