

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOOGLE INC.,  
SAMSUNG ELECTRONICS AMERICA, INC. AND SAMSUNG  
ELECTRONICS CO., LTD.  
Petitioners

v.

MICROGRAFX, LLC  
Patent Owner

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Case IPR2014-00532  
Patent 5,959,633

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**PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION TO AMEND**

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## EXHIBIT LIST

- GOOGLE1001 U.S. Patent No. 5,959,633 to McFarland et al. (“the ’633 patent”)
- GOOGLE1002 Prosecution History of the ’633 patent (Serial No. 08/726,091)
- GOOGLE1003 Declaration of Dr. Anselmo Lastra
- GOOGLE1004 U.S. Patent No. 5,883,639 to Walton et al. (“Walton”)
- GOOGLE1005 U.S. Patent No. 5,564,048 to Eick et al. (“Eick”)
- GOOGLE1006 Select portions of *Inside Visual C++, Second Edition: Version 1.5* by David J. Kruglinski, September 1, 1994 (“Kruglinski”)
- GOOGLE1007 Select portions of *The American Heritage Dictionary of the English Language* (3<sup>rd</sup> ed. 1992)
- GOOGLE1008 *Micrografx, LLC, v. Google, Inc. and Motorola Mobility, LLC*, Civil Action No. 3:13-cv-03595-N, Plaintiff Micrografx, LLC’s Preliminary Disclosure of Asserted Claims and Infringement Contentions dated January 6, 2014
- GOOGLE1009 Almeling Declaration In Support of Google’s Motion for *Pro Hac Vice* Admission
- GOOGLE1010 Second Declaration of David S. Almeling in Support of Petitioners’ Motion for *Pro Hac Vice* Admission
- GOOGLE1011 Second Declaration of Dr. Anselmo Lastra
- GOOGLE1012 Transcript of the Deposition of Mr. Garry Kitchen

Case IPR2014-00532  
U.S. Patent No. 5,959,633  
Our Ref. 19473-0309IP1

GOOGLE1013	Assignment history of the '633 patent
GOOGLE1014	Select portions of <i>The C++ Programming Language, Second Edition</i> by Bjarne Stroustrup, June 1993 ("Stroustrup")
GOOGLE1015	U.S. Patent No. 5,999,987 to O'Farrell et al. ("O'Farrell")
GOOGLE1016	U.S. Patent No. 5,923,877 to Berner et al. ("Berner")
GOOGLE1017	PCT Pub. No. WO/1996/008765 to Foody et al. ("Foody")
GOOGLE1018	U.S. Patent No. 4,622,633 to Ceccon et al. ("Ceccon")
GOOGLE1019	U.S. Patent No. 5,475,817 to Waldo et al. ("Waldo")
GOOGLE1020	European Patent Pub. No. EP0567699 A1 to Barman ("Barman")
GOOGLE1021	U.S. Patent No. 5,726,979 to Henderson et al. ("Henderson")
GOOGLE1022	Reserved
GOOGLE1023	Patent Owner's Response for IPR2014-00532 (NOT FILED)

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Micrografx's Motion to Amend under 37 CFR §42.121 is defective and should be denied for multiple reasons. First, Micorgrafx failed to follow each of the Board's clear guidelines for submitting a motion to amend. Second, the additional recitations of the proposed new claims 29-30 are taught by the prior art references at issue in the current IPR proceeding. Third, the additional recitations of the proposed new claims 29-30 are taught by other prior art references (including predictable and ordinary textbooks) which, when viewed in light of the prior art references at issue in the current IPR proceeding, would render the proposed new claims obvious. When Micrografx's Motion to Amend is read in the context of Micrografx's Response (objecting to the broadest reasonable interpretation (BRI) standard), it becomes clear that Micrografx is essentially inviting a denial of its motion to amend as part of an (insincere) attempt to preserve its objection to the BRI standard. Such a motion should be scrutinized, not authorized.

**I. The Board dedicated meaningful time to explain to Micrografx the requirements for a Motion to Amend**

In a motion to amend, "[t]he burden is not on the petitioner to show unpatentability, but on the patent owner to show patentable distinction over the prior art of record and also prior art known to the patent owner." IPR2012-00027, Paper 26 at 7; see also 37 C.F.R. §42.20(c). The Board in the present case emphasized that "Patent Owner must show patentability over the prior art that is relevant to the substitute claims, and not just over the references applied by Petitioner against the original patent claims." IPR2014-00532, Paper

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