UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SkyHawke Technologies, LLC
Petitioner

v.

L&H Concepts, LLC
Patent Owner

Case IPR2014-00437
Patent 5,779,566

PATENT OWNER L&H CONCEPTS, LLC'S PRELIMINARY RESPONSE

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LIST OF EXHIBITS[1]

Exhibit No.	Description
2001	*Berk-Tek LLC v. Belden Technologies Inc.*, IPR2013-00057 (Paper 21, May 14, 2013)
2002	*In re Morris*, 127 F.3d 1048 (Fed. Cir. 1997)
2003	*NTP, Inc. v. Research In Motion, Ltd*., 418 F.3d 1282 (Fed. Cir. 2005)
2004	*Catalina Mktg. Int'l, Inc. v. Coolsavings.com, Inc*., 289 F.3d 801 (Fed. Cir. 2002)
2005	*Novatek, Inc. v. Sollami Co*., No. 2013-1389, 2014 U.S. App. LEXIS 5512 (Fed. Cir. Mar. 26, 2014)
2006	'566 patent prosecution history, May 27, 1997 Office Action Response
2007	*Sony Corp v. Yissum Research Development Co. of the Hebrew Univ. of Jerusalem*, IPR2013-00219 (Paper 33, Nov. 21, 2013)
2008	*Liberty Mutual Ins. Co. v. Progressive Casualty Co.*, CBM2012-00003 (Paper 7, Oct. 25, 2012)
2009	*Oracle Corp. v. Patent of Clouding IP*, LLC, IPR2013-00075 (Paper 15, June 13, 2013)

[1] Consistent with 37 C.F.R. §§ 42.6(c)-(d), none of these cited exhibits are already in the record.

Pursuant to 37 C.F.R. § 42.107(a), the patent owner, L&H Concepts, LLC ("L&H" or "Patent Owner"), hereby submits the following Preliminary Response in response to the Petition for Inter Partes Review ("IPR") of U.S. Patent No. 5,779,566 ("the '566 patent") numbered IPR2014-00437 (the "00437 Petition"), filed by SkyHawke Technologies, LLC ("SkyHawke" or "Petitioner").

I. INTRODUCTION

Inter partes review is a forum—much like the original examination—where the PTO can consider the best and most comprehensive prior art and determine whether or not the claims are allowable. Instituting *inter partes* review on "multiple grounds without meaningful distinction by the petitioner is contrary to the legislative intent [of the AIA]." *Berk-Tek LLC v. Belden Technologies Inc.*, IPR2013-00057 (Paper 21, May 14, 2013), Ex. 2001 at 5.

Petitioner is seeking (at least) a double review of the claims of the '566 patent, with only conclusory language to support its assertion of non-redundancy. Petitioner reasonably could have limited its challenge of the claims of the '566 patent to a single petition[2] but chose not to, instead using twice the pages and twice (and, for one claim, thrice) the reference combinations in hopes of invalidating

[2] IPR2014-00438 also addresses claims of the '566 patent based on the same references.

claims which have already been recognized as valid through *ex parte* reexamination.

L&H is confident in the validity of the challenged claims of the '566 patent and believes the Board will reaffirm the prior decisions of the Patent Office. However, in keeping with the stated purpose of the IPR procedure—*i.e.*, the congressional mandate of "just, speedy, and inexpensive resolution"—L&H requests that any additional review of the '566 patent by the Board be conducted efficiently, if at all. Accordingly, L&H files this preliminary response to demonstrate to the Board the redundancy of the grounds asserted in the 00437 Petition, and to suggest a more appropriate review of the challenged claims.[3]

In particular, Petitioner's reliance on the combination of the Palmer and Vanden Heuvel references is misplaced. As described further below, even Petitioner concedes that the combination of Palmer and Vanden Heuvel is less complete (and thus inferior) to Petitioner's assertions based on the Ultra Golf reference. Accordingly, to the extent that *inter partes* review should be considered

[3] No adverse inference should be drawn from Patent Owner's discussion of the comparative strength of the base references with regard to institution of this IPR. *See Office Patent Trial Practice Guide*, 77 Fed. Reg. 48756, 48764, § II-C (Aug. 14, 2012).

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