UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOOGLE INC.
Petitioner

v.

AT HOME BONDHOLDERS' LIQUIDATING TRUST

Patent Owner.

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Case IPR2015-00657[1]
Patent 6,286,045 B1

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

*Mail Stop **"PATENT BOARD"***
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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[1] Case IPR2015-00660 has been consolidated with this proceeding.

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In its Institution Decision, the Board deemed 22 claims to be, with reasonable likelihood, unpatentable. That initial assessment should stand because the '045 patent claims nothing more than a well-known method of distributing a banner advertisement over a network. This involves sending a first request (intended to be non-blockable) from a user's computer to a server. Rather than responding to the first request with the banner itself, the server counts the first request and redirects the first request to the desired advertiser's web site. The redirected address is sent to the user's computer, and a second request from the user's computer is then sent to the selected advertising web site for the banner.

In short, because the claimed methods involve nothing more than the predictable use of known techniques, they were obvious, and Patent Owner's ("PO's") arguments to the contrary are based on incorrect statements and incomplete facts. For example, PO relies heavily on an AdvertisingAge article to support its non-obviousness arguments. But that article relates to TrueCount, which PO's expert did not opine as implementing any of the challenged claims of the '045 patent. And, in a follow-up post (known to PO but not disclosed to PO's declarants or the Board), the same author notes that the TrueCount cache-counting methodology was not new after all. As another example, PO's arguments largely rest on certain signals being POST requests instead of GET requests; however, the reference in question and the inventor himself acknowledge that such signals were, in fact, GET requests, negating PO's position.

As set forth in detail in the Petition, the claimed methods are obvious in light of the combination of Angles, Merriman, and HTTP1.0. Angles discloses the ma-

jority of the independent claim limitations, leaving only minor modifications that would have been obvious to a person of ordinary skill in the art ("POSA"): (1) replacing Angles' location signal identifying an ad's location on a local resource with a redirect signal identifying an ad's location on a remote resource, and (2) checking the cache before sending the second request (in response to the redirect). With respect to the first of those limitations, Merriman demonstrates that redirect signals to remote resources after counting were commonly used in the advertising context. As for the second of those limitations, HTTP1.0 demonstrates that caching files and checking cache were basic functions of browsers and the Internet.

PO resorts to a series of flawed arguments in response:

- PO contends that implementing Angles would require POST requests, when Angles itself explicitly discloses using HTTP GET requests;

- PO argues against Merriman individually, but does not address Merriman's teachings in combination with Angles;

- PO argues that CGI scripts are not "unblockable," which is both incorrect and inconsistent with the specification, prosecution history, and inventor testimony; and

- PO argues that the proposed combination does not disclose using "cgi-bin" + "?", when none of the challenged claims even require that feature.

PO also attempts to highlight all the benefits achieved by its alleged invention, which merely underscore Petitioner's argument that a POSA would have been motivated to combine the prior art in the manner proposed—particularly since those benefits are the predictable results of such a combination. Moreover, while

PO asserts the relevance of secondary considerations, each is insufficient to over-
come the strong showing of obviousness advanced in the Petitions.

I.   A POSA would have combined Angles, Merriman, and HTTP1.0 as proposed by the Petitions

PO's arguments against the obviousness of independent claims 49, 59, 64,
and 72 are faulty. First, PO contends that the combination would require a POST
request instead of a GET or HEAD request, and therefore also require user confir-
mation for accepting each advertisement. (Paper 24, 9-11.) PO then alleges that
such user intervention is unacceptable, and "therefore teaches away from the sub-
stitution of the Merriman redirect for the Angles advertising command." (*Id.*, 11.)
PO's argument is at best misdirected, technically incorrect, and ignores the envi-
ronment in which both Angles and Merriman operate.[2]

Second, PO argues that substituting Merriman's redirect for Angles' adver-

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[2] It is unclear how much weight should be given to the portions of Dr. Almeroth's
declaration regarding Angles. At deposition, he stated "I haven't undertaken an in-
dependent analysis to determine whether I believe Angles is sufficient to disclose
certain limitations, and so I – to the extent that I don't have opinions that a limita-
tion is missing within the declaration, I'm not arguing one way or the other whether
it's there or not." (GOOG 1034, 50:11-17.) He also admitted he did not understand
what a "variable component in a link on a Web page" was. (*Id.*, 162:8-25.) Further,
Dr. Almeroth's declaration adds nothing beyond PO's response; the declaration is
largely a word-for-word recitation of the response's arguments.

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