

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WHATSAPP INC. and FACEBOOK, INC.

Petitioners

v.

TRIPLAY, INC.

Patent Owner

IPR2015-00740

Patent 8,332,475 B2

PATENT OWNER'S MOTION FOR OBSERVATIONS ON THE APRIL 13,
2016 CROSS-EXAMINATION OF MR. KLAUSNER

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U.S. Patent and Trademark Office
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Alexandria, VA 22313- 1450

Observations

The following are the Patent Owner's observations on the April 13, 2016 cross-examination of Petitioners' expert, Mr. Klausner, contained in his deposition transcript (Ex. 2010)

1. In Exhibit 2010, on page 23, line 15 to page 24, line 8, Mr. Klausner testified that the below statement from his Reply Declaration (Ex. 1013) was not made in his original declaration (Ex. 1002). The statement in Mr. Klausner's Reply Declaration, Ex. 1013 at ¶ 29 is as follows: Mr. Klausner states that Coulombe discloses a template because a person of ordinary skill in the art would have understood that the content shown in Fig. 2 of Coloumbe can be created using the visually displayed interface of the sending terminal or could be formatted as an HTML document having a layout defined using CSS. This testimony is relevant because it supports Patent Owner's position that the above statement in Mr. Klausner's Reply Declaration presents new evidence that is beyond the proper scope of a reply declaration.

2. In Exhibit 2010, on page 24, line 10 to page 25, line 18, Mr. Klausner testified that the below statement from his Reply Declaration (Ex. 1013) was not made in his original declaration (Ex. 1002). The statement in Mr. Klausner's Reply Declaration, Ex. 1013 at ¶ 30 is as follows: Mr. Klausner states that it was

well-known that a software program commonly referred to as a text editor could have been used to create CSS files. This testimony is relevant because it supports Patent Owner's position that the above statement in Mr. Klausner's Reply Declaration presents new evidence that is beyond the proper scope of a reply declaration.

3. In Exhibit 2010, on page 31, line 15 to page 32, line 16, Mr. Klausner testified that the below statement from his Reply Declaration (Ex. 1013) was not made in his original declaration (Ex. 1002). The statement in Mr. Klausner's Reply Declaration, Ex. 1013 at ¶ 38 is as follows: Mr. Klausner states that a person of ordinary skill in the art would have found no significance in the timing of the creation of a derivative style sheet in Druyan because Druyan could "cache" a previously-created style sheet. This testimony is relevant because it supports Patent Owner's position that the above statement in Mr. Klausner's Reply Declaration presents new evidence that is beyond the proper scope of a reply declaration.

4. In Exhibit 2010, on page 33, line 21 to page 35, line 5, Mr. Klausner testified that the below statement from his Reply Declaration (Ex. 1013) was not made in his original declaration (Ex. 1002) other than in ¶ 90. The statement in Mr. Klausner's Reply Declaration, Ex. 1013 at ¶ 47 is as follows: Mr. Klausner states that a person of ordinary skill in the art would have understood the

advantage of using a style sheet in light of the consistent formatting of input data. This testimony is relevant because it supports Patent Owner's position that the above statement in Mr. Klausner's Reply Declaration presents new evidence that is beyond the proper scope of a reply declaration because ¶ 90 does not support the statement.

5. In Exhibit 2010, on page 35, line 14 to page 38, line 5, Mr. Klausner testified that that the below statement from his Reply Declaration (Ex. 1013) was not made in his original declaration (Ex. 1002). The statement in Mr. Klausner's Reply Declaration, Ex. 1013 at ¶ 51 is as follows: Mr. Klausner states that the disclosure in Druyan is not limited to XML and XSLT and that a person of ordinary skill in the art would have understood that Druyan's reference to ".jsp style sheet files" can be used to generate output HTML pages for display and can include code written in CSS and that .jsp style sheet files can also be referenced by an HTML document using the same <LINK> tag technique for external style sheet described in Tittel. This testimony is relevant because it supports Patent Owner's position that the above statement in Mr. Klausner's Reply Declaration presents new evidence that is beyond the proper scope of a reply declaration.

6. In Exhibit 2010, on page 38, line 15 to page 40, line 14, Mr. Klausner testified that the that the below statement from his Reply Declaration (Ex. 1013) was not made in his original declaration (Ex. 1002) other than ¶¶ 109, 110 & 113.

The statement in Mr. Klausner's Reply Declaration, Ex. 1013 at ¶ 52 is as follows:
Mr. Klausner states that a person of ordinary skill in the art would have understood Duryan's style sheet formats are applicable in any context where a master style sheet could be used to create different HTML output and whether it uses XML/XSLT or HTML/CSS is a matter of design choice. This testimony is relevant because it supports Patent Owner's position that the above statement in Mr. Klausner's Reply Declaration presents new evidence that is beyond the proper scope of a reply declaration because ¶¶ 109, 110 & 113 do not support the statement.

Respectfully submitted,

Dated: April 20, 2016

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