

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WhatsApp Inc. and Facebook, Inc.
Petitioner

v.

TriPlay Communications Ltd.
Patent Owner

Case IPR2015-00740
U.S. Patent No. 8,332,475

PETITIONER'S LIST OF PROPOSED MOTIONS

Pursuant to the Patent Trial and Appeal Board instituting trial on August 21, 2015, and in advance of the initial conference call scheduled for September 18, 2015, WhatsApp Inc. and Facebook, Inc. (collectively "Petitioner") hereby disclose the following regarding proposed motions in the above-captioned IPR proceeding:

Pursuant to 37 C.F.R. § 42.123(a), Petitioner requests authorization to file a motion to submit supplemental information in response to Patent Owner's Objections to Evidence Submitted in the Petition (the "Objections"), which sets forth a *Daubert* evidentiary objection to a declaration submitted by Mr. David Klausner in support of the Petition for *Inter Partes* Review. In the Objections, the patent owner states that an expert must have particular qualifications to opine from the perspective of a person of ordinary skill in the art and as to the knowledge of ordinary skill in the art, and further asserts that Mr. Klausner's declaration does not establish that he has those qualifications. The patent owner's objections are without basis, and accordingly, the Petitioner seeks leave to file supplemental information pursuant to 37 C.F.R. § 42.123(a). The Petitioner will also serve on patent owner the supplemental information pursuant to 37 C.F.R. § 42.64(b)(2). The supplemental information will include a supplemental declaration showing that Mr. Klausner's qualifications satisfy the requirements of a person of ordinary skill in the art. This supplemental information will be limited

solely to factual information about Mr. Klausner's qualifications as raised by the objections, and will not affect any substantive opinion he has provided on the instituted grounds.

The Petitioner does not at this time request authorization to file any motions other than the above motion and the motions provided in the Scheduling Order and by the Rules. The Petitioner reserves its right to seek permission to file these or additional motions as appropriate, based on the evidence or other materials presented by the patent owner in this proceeding.

Dated: September 16, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. Section 42.6, that a complete copy of the attached **PETITIONER'S LIST OF PROPOSED MOTIONS** is being served via Federal Express on the 16th day of September, 2015, the same day as the filing of the above-identified document in the United States Patent and Trademark Office/Patent Trial and Appeal Board, upon

- (1) the Patent Owner by serving the correspondence address of record with the USPTO, and
- (2) upon counsel of record for the Patent Owner in the litigation pending before the U.S. District Court for the District of Delaware entitled *TriPlay, Inc. et al. v. WhatsApp Inc.*, Case No. 1:13-cv-01703-LPS (D. Del.):

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DATED: September 16, 2015

/ Heidi L. Keefe /
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