

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICROSOFT CORPORATION,

Petitioner,

v.

BRADIUM TECHNOLOGIES LLC,

Patent Owner.

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Case IPR2015-01432  
Patent No. 7,139,794 B2

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**PETITIONER'S RESPONSE TO PATENT OWNER'S  
MOTION FOR OBSERVATIONS ON CROSS EXAMINATION**

**Paper No. 44**

Petitioner Microsoft timely files this response to Patent Owner's Motion for Observations on Cross-Examination of Dr. William Michalson (Paper 40).

**I. RESPONSE TO OBSERVATION 1**

Patent Owner's ("PO") Observation 1 is incomplete, and therefore  
5 misleading, because the cited exchange merely refers to Dr. Michalson reading the text of an inadmissible document presented for the first time at his deposition. Dr. Michalson had not seen this document before this deposition, he was not familiar with it (Ex. 2011, 9:17-10:8), and the exhibit was not previously cited by any party or expert. The cited testimony is further not relevant to any issue raised by  
10 Dr. Michalson's direct testimony in his rebuttal declaration Ex. 1015 or to Dr. Bajaj's failure to consider relevant GIS art in his Declaration (Ex. 2001), because there is no evidence in the record that Dr. Bajaj considered the cited exhibit. The Observation further mischaracterizes the cited portion of Petitioner's Reply (Paper 27 at 2) which actually states that "there is no suggestion in the record that Dr.  
15 Bajaj personally has any GIS experience."

**II. RESPONSE TO OBSERVATION 2**

PO's Observation 2 is incomplete and does not properly reflect Dr. Michalson's testimony because the cited exchange merely refers to Dr. Michalson reading the contents of an inadmissible document presented for the first time at his  
20 deposition. Dr. Michalson had not seen this document before this deposition, he

was not familiar with it (Ex. 2011, 9:17-10:8), and the exhibit was not previously cited by any party or expert. The cited testimony is further misleading and irrelevant for the reasons discussed regarding Observation No. 1.

### **III. RESPONSE TO OBSERVATION 3**

5 PO's Observation 3 is misleading and incomplete because the cited exchange merely refers to Dr. Michalson reading the contents of an inadmissible document presented for the first time at his deposition. Dr. Michalson had not seen this document before this deposition, he was not familiar with it, (Ex. 2011,13:18-14:8) and the exhibit was not previously cited by any party or expert. The cited  
10 testimony is further misleading and irrelevant for the reasons discussed regarding Observation No. 1.

### **IV. RESPONSE TO OBSERVATION 4**

PO's Observation 4 is misleading and incomplete. The cited testimony simply consists of a paraphrase of an inadmissible exhibit (Ex. 2005) first  
15 introduced at Dr. Michalson's deposition. (Ex. 2011, 25:1-27:17.) Dr. Michalson further testified, in response to the question "would computer science be a technical field related to GIS, or the transmission of data over a computer network?" that "Computer science is a very broad topic and it encompasses a lot of things, so there certainly would likely be a subset of people with computer science

degrees that would have some of the requisite knowledge, but not necessarily all.”

Ex. 2011, 9:6-16.

**V. RESPONSE TO OBSERVATION 5**

PO's Observation 5 is misleading and incomplete for the reasons discussed  
5 in regarding Observation No. 4, and further misleading and irrelevant for the  
reasons discussed regarding Observation No. 1.

**VI. RESPONSE TO OBSERVATION 6**

PO's Observation 6 is misleading and incomplete for the reasons discussed  
in regarding Observation No. 4, and further misleading and irrelevant for the  
10 reasons discussed regarding Observation No. 1.

**VII. RESPONSE TO OBSERVATION 7**

PO's Observation No. 7 is not relevant to any issue raised by Dr.  
Michalson's direct testimony in his rebuttal declaration Ex. 1015 or to any other  
issue, nor is any such relevance articulated by the Observation.

15 **VIII. RESPONSE TO OBSERVATION 8**

PO's Observation No. 8 is not relevant. Whether Dr. Michalson received a  
document from counsel or obtained it from some other source is not relevant to any  
issue in this proceeding, especially where the source of the document has no  
relationship to the statement in the Petitioner's Reply (Paper 27 at 2) that “there is  
20 no suggestion in the record that Dr. Bajaj personally has any GIS experience.” Nor

is this Observation relevant to any issue raised by Dr. Michalson's direct testimony in his rebuttal declaration Ex. 1015. The cited testimony is also misleading and incomplete. Dr. Michalson testified in his declaration in Ex. 1008, ¶ 33 that "I use certain references (including both patents and non-patent literature) as examples to illustrate the background knowledge of a person of ordinary skill in the art, but the knowledge of a person of ordinary skill in the art at the time regarding the claimed features would not have been limited to these specific references."

**IX. RESPONSE TO OBSERVATION 9**

PO's Observation No. 9 lacks relevance to this proceeding because the level of ordinary skill in the art in a patent not challenged in this proceeding is irrelevant to any issue in this proceeding. Further, there was no inconsistency between the general description of a person of ordinary skill in the art offered by Dr. Michalson in an unrelated matter and Dr. Michalson's direct testimony in his rebuttal declaration Ex. 1015.

**X. RESPONSE TO OBSERVATION 10**

PO's Observation No. 10 is not relevant to any issue raised by Dr. Michalson's direct testimony in his rebuttal declaration Ex. 1015 or any other issue. PO cites no reason why the proffered evidence is relevant to this proceeding.

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