

U.S. Patent No. 7,356,482
Inter Parte- Review
Patent Owner's Response

Case Nos. IPR2015-01750
IPR2015-01751
IPR2015-01752

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RPX CORPORATION
Petitioner

v.

APPLICATIONS IN INTERNET TIME LLC,
Patent Owner

US Patent No. 7,356,482
Issue Date: July 9, 2013
Title: Integrated Change Management Unit

US Patent No. 8,484,111
Issue Date: July 9, 2013
Title: Integrated Change Management Unit

Inter Parte Review Nos. 2015-01750; 2015-01751; 2015-01752

PATENT OWNER'S RESPONSE TO THE PETITIONS¹

¹ This is a single Response addressed to all three cases and, therefore, the identical document is being filed in each case.

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CASES

In re Cuozzo Speed Technologies, LLC, 778 F. 3d 1271
(Fed. Cir. 2015)..... 8, 9, 10
In re Man Mach. Interface Techs. LLC, 2016 U.S. App. LEXIS 6992 (Fed. Cir.
Apr. 19, 2016)2, 9
In re NTP, Inc., 654 F.3d 1279 (Fed. Cir. 2011)9
Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005)9
Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628
(Fed. Cir. 1987).....22
Wellman, Inc. v. Eastman Chem. Co., 642 F.3d 1355 (Fed. Cir. 2011)2

STATUTES

35 U.S.C. § 103(a)5, 6
35 U.S.C. 102 4, 5, 6, 22

I. Introduction

Patent Owner Applications in Internet Time, LLC hereby files this combined Response in three related cases. Two of the cases are directed to Patent No. 7,356,482 (the '482 patent), and one is directed to its child, Patent No. 8,484, 111 (the '111 patent).² Because of the close relationship between the patents and the relevant issues, for efficiency and consistency Patent Owner presents a single Response which addresses all three cases.³

Patent Owner respectfully asks that the Board change its petition-stage decisions in these three and confirm patentability. At the petition stage, the only evidence of how a person of ordinary skill in the art would interpret the cited art was the Petitioner's expert. Patent Owner now submits the opinions of two, independent experts. These two experts agree that Petitioner's expert clearly erred

² Because the '111 patent is a continuation of the '482 patent, they have substantially identical specifications and drawings. Citations to the specification are to the '482 patent and documents in IPR2015-01751 unless otherwise expressly indicated.

³ Rather than file three Responses of up to 60 pages each – a total of 180 pages, this single Response is less than 60 pages.

in several determinative ways. Patent Owner's experts also provide useful and compelling evidence on how the claims must be interpreted.

The Board declined to construe any claim terms even though both Patent Owner and Petitioner RPX ("RPX") proposed claim constructions. Petitioner, on its part, proposed and relied upon an overly-broad construction of the term "change management layer" in the '482 patent and "fourth portion" in the '111 patent, and the associated term "change." Because construction of these terms is necessary to "resolve the controversy" they should be construed. *Wellman, Inc. v. Eastman Chem. Co.*, 642 F.3d 1355, 1361 (Fed. Cir. 2011).

The lack of construction of these terms led to the Board's determination that claims 1, 7, 8, 10–12, 19–21, 27–32, 39, and 40 of the '482 patent and claims 13–18 of the '111 patent are invalid. The Board relied upon a non-construction (IPR2015-01751, Ex. 62 at 19) which, by applying the art cited by the Petitioner, depended upon Petitioner's flawed proposed construction. Most basically, Petitioner's construction, relied upon by the Board, divorces the claims from the meaning imputed to them by the specification. In *In re Man Mach. Interface Techs. LLC*, 2016 U.S. App. LEXIS 6992 (Fed. Cir. Apr. 19, 2016), the court held that the broadest reasonable interpretation must *be reasonable in light of the claims and the specification.*"

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