

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,

Petitioner,

v.

BRADIUM TECHNOLOGIES LLC,

Patent Owner.

Case IPR2016-00449
Patent No. 8,924,506 B2

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

Paper No. 45

Petitioner Microsoft timely files this response to Patent Owner's Motion for Observations on Cross-Examination of Dr. William Michalson (Paper 41). Patent Owner's Observation Nos. 3-4, 7-8, 11-13, and 20-28 are beyond the permissible scope of Motions for Observations because these Observations do not identify any
5 relevance to Dr. Michalson's Reply Declaration (Ex. 1016). *See* 37 C.F.R. 42.53(d)(5)(ii) (cross-examination limited to scope of direct testimony); Office Patent Trial Practice Guide, 77 Fed. Reg. 48768 (Aug. 14, 2012) (“[a]n observation (or response) is not an opportunity to raise new issues, re-argue issues, or pursue objections”). Further responses are contained below.

10 **I. RESPONSE TO OBSERVATION 1**

PO's Observation No.1 is misleading and incomplete. The cited document (Ex. 1030) itself states on its face that it was published June 1999 and revised February 2000, which is consistent with Dr. Michalson's testimony that TerraServer was “introduced in June 1998 and later described in a Microsoft
15 technical report in 1999.” Dr. Michalson further testified that he was “personally familiar” with the TerraServer system in the late 1990s, and that Ex. 1030 is consistent with his personal recollection of the introduction date and operation of the TerraServer system in the late 1990s. Ex. 2078 at 76:11-78:5. Dr. Michalson further testified that Ex. 1030 states that TerraServer was operational for 18
20 months prior to Ex. 1030, which is consistent with his personal recollection. Ex.

2078 at 77:14-78:5, citing Ex. 1030 at 5. PO's Observation No. 1 is also irrelevant to PO's stated purpose that "it shows Dr. Michalson and Petitioner's argument is based on a non-prior-art reference" because the earliest claimed priority date of the '343 Patent (December 27, 2000) is after all dates listed on Ex. 1030, and Dr.

5 Michalson opined on Ex. 1030 only to rebut Bradium's arguments about the state of the art prior to the alleged inventions in general, but Ex. 1030 is not part of the instituted grounds of obviousness at issue in this IPR.¹ Ex. 1016, ¶¶ 74-75, 93.

II. RESPONSE TO OBSERVATION 2

PO's Observation No. 2 is misleading, incomplete, and irrelevant for
10 substantially the same reasons discussed regarding PO's Observation No. 1.

III. RESPONSE TO OBSERVATION 3

PO's Observation No. 3 is irrelevant for the cited purpose because the cited portion of Exhibit 1030 does not refer to VRML.

IV. RESPONSE TO OBSERVATION 4

15 PO's Observation No. 4 is misleading and incomplete. Bradium's citation to Ex. 2078 omits a portion of Dr. Michalson's response, which further states that "the last sentence where it discusses military planning, battle damage assessment, emergency relief efforts is implicitly discussing situations where you would not expect to have high bandwidth communications available." Ex. 2078 at 13:3-9.

¹ TerraServer, discussed in Ex. 1030, should not be confused with TerraVision, discussed in Ex. 1004.

Dr. Michalson further testified at length in his opening and reply declarations and his deposition why limited bandwidth communications channels would be obvious to a POSITA in view of teachings of Reddy. *See generally* Ex. 1005 ¶¶ 131-33; Ex. 1016 ¶¶ 43-45; Ex. 2078 at 13:10-15:7.

5 **V. RESPONSE TO OBSERVATION 5**

PO's Observation No. 5 is misleading and incomplete. Dr. Michalson further testified in Ex. 1016 that "teachings in Reddy are not dependent on specific software" and that "adding the same features found in TerraVision to a VRML browser ... would be well within the ability of a person of ordinary skill in the art, using known methods with predictable results." Ex. 1016, ¶ 55.

10 **VI. RESPONSE TO OBSERVATION 6**

PO's Observation No. 6 is misleading and incomplete for the same reasons discussed in regard to PO's Observation No. 5. Additionally, Dr. Michalson further testified in Ex. 1016, ¶¶ 52-54 that PC software "could be easily 'ported' to a mobile computing device using techniques that would have been well-known to a person of ordinary skill in the art." Dr. Michalson further testified that Ex. 2066 shows that TerraVision was "portable" to platforms such as Windows NT" (*Id.*, ¶ 54; Ex. 2066 at 2), that "there was also NT embedded that was targeted at personal digital assistants," that "Windows NT existed in a variety of forms" including PCs, handheld portable devices, and laptop computers, that "I personally

have installed Windows NT on laptop computers of the day in the mid-1990s,” and that Windows NT “basically would run on pretty much any PC-compatible platform” including “embedded versions,” “handheld devices,” “lower performance laptops and portable devices.” Ex. 2078 at 35:24-36:8, 38:1-40:10.

5 Accordingly, the cited testimony does not “support[] Patent Owner’s argument that the laptop disclosed by Reddy views VRML data with a standard VRML browser and not with TerraVision II.”

VII. RESPONSE TO OBSERVATION 7

PO’s Observation No. 7 is incomplete for the reasons discussed above in
10 regard to PO’s Observation Nos. 5 and 6.

VIII. RESPONSE TO OBSERVATION 8

PO’s Observation No. 8 is misleading and incomplete because it omits the testimony discussed above in regard to PO’s Observation No. 5.

IX. RESPONSE TO OBSERVATION 9

15 PO’s Observation No. 9 is misleading and incomplete because it ignores Dr. Michalson’s testimony in Ex. 1016, ¶ 56 that “Ex. 2066 makes it clear that it is ‘feasible’ that some of the features identified as additions to TerraVision compared to a ‘standard browser’ (many of which are unrelated to the claims) ‘be implemented for a standard VRML browser through the use of various Java scripts
20 embedded in the scene, or running externally to the browser.’” PO’s Observation

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