UNITED STATES PATENT AND TRADEMARK OFFICE

———————————————

BEFORE THE PATENT TRIAL AND APPEAL BOARD

———————————————

FACEBOOK, INC.
Petitioner

v.

WINDY CITY INNOVATIONS, LLC
Patent Owner

———————————————

Case No. IPR2016-01155
Case No. IPR2017-00622
Patent No. 8,694,657

———————————————

PETITIONER'S REPLY BRIEF

Table of Contents

TABLE OF AUTHORITIES

Atty Docket No. FABO-041/01US   IPR2016-01155
                                                    IPR2017-00622
(309101-2103)   Petitioner's Reply Brief

Trial was instituted in this matter as to several claims of the '657 patent. (*See* Paper 12 at 36-37.) Pursuant to the Board's granting of Petitioner Facebook's joinder motion, and dismissal of Petitioner Microsoft, only claims 189 and 465 remain at issue in this proceeding. (Paper 32 at 15-16.) Petitioner respectfully submits this Reply in support of *Inter Partes* Review of the '657 patent and addressing Patent Owner's Response (Paper 27 ("Response")). This Reply is supported by the Reply Declaration of Christopher Schmandt (Ex. 1100).

I.   CLAIM CONSTRUCTION

A.   "database"

Patent Owner proposes to construe "database" to mean "a collection of logically related data which is stored with persistence and associated with tools for interacting with the data such as a DBMS." (Response at 11-15.) The Board should reject this proposal.

First, Patent Owner never argues that construction of this claim term affects any disputed issue in the case. Though it disputes that the prior art discloses a database acting as a repository of tokens for "other programs" to access (Response at 20-22), those arguments do not turn on the construction of "database." Thus this term need not be construed in this case. *See Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999); *see also e.g.* PGR2015-00022, Paper 8 at 18 (declining to perform construction requested by Patent Owner

because no arguments were raised concerning disclosure of the limitation in the

prior art).

If the term is to be construed the Board should construe "database" as "a

collection of logically related data." (*See* Ex. 1100, ¶6-10.) As the Board

observed in a related proceeding, the shared patent specification uses the term

"database" consistent with this broad ordinary meaning. (IPR2016-01158, Paper 7

at 9-10; Ex. 1100, ¶8.)

1.   Patent Owner's Construction Lacks Intrinsic Support

The written description contains only a few sentences that mention

"database," and none of those sentences require that the database be implemented

in any particular way. ('657, 7:49-59.) The specification says nothing about data

in the database being "stored with persistence," or the database having "associated

tools for interacting with the data such as a DBMS," as the patent owner proposes.

The terms "DBMS" or "database management system" appear nowhere in the

written description or claims. There is no support in the intrinsic record for the

patent owner's proposed construction. (Ex. 1100 ¶7.)

The only intrinsic evidence the patent owner can muster is its own self-

serving arguments submitted to the PTO on an IDS filed on January 14, 2017

during prosecution of a related application (14/246,965). (Response at 12.) These

statements carry no weight in these proceedings for at least two reasons.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.

fastcase®
Smarter legal research.