

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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FACEBOOK, INC.  
Petitioner

v.

WINDY CITY INNOVATIONS, LLC  
Patent Owner

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Case No. IPR2016-01155

Case No. IPR2017-00622

Patent No. 8,694,657

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**PETITIONER'S REPLY BRIEF**

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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.

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