

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FACEBOOK INC.
Petitioner
v.

WINDY CITY INNOVATIONS, LLC
Patent Owner

U.S. Pat. No. 8,694,657
Issue Date: April 8, 2014
Title: REAL TIME COMMUNICATIONS SYSTEM

**PATENT OWNER'S MOTION FOR OBSERVATIONS ON CROSS
EXAMINATION OF FACEBOOK'S REPLY WITNESS DR. LAVIAN**

Case No. IPR2016-01159¹

¹ Case No. IPR2017-00659 has been joined with this proceeding.

EXHIBIT LIST

Exhibit #	Exhibit Name
2001	Declaration of Chandrajit Bajaj, Ph.D.
2002	Merriam-Webster's Collegiate Dictionary, Tenth Edition (1994)
2003	Microsoft Press Computer Dictionary, Third Edition (1997)
2004	Macmillan Encyclopedia of Computers (Gary G. Bitter ed., Macmillan Publ. Co. 1992)
2005	Declaration of Jaime G. Carbonell, Ph.D.
2006	Deposition Transcript of Tal Lavian, Ph.D. dated March 8, 2017
2007	Errata Sheet to Deposition Transcript of Tal Lavian, Ph.D. March 8, 2017 deposition
2008	IDS filed Jan. 14, 2017 for U.S. Patent Application No. 14/246,965
2009	Bob Metcalfe, <i>Predicting the Internet's catastrophic collapse and ghost sites galore in 1996</i> , InfoWorld, p.61 (Dec. 4, 1995)
2010	<i>AOL could strike gold with IM patent</i> , CNN.com. (Dec. 19, 2002)
2011	U.S. Patent No. 6,449,344 to Yair Goldfiner et al.
2012	<i>Encyclopedic Dictionary of Information Technology and Systems</i> , A. E. Cawkell, De Gruyter Saur, (October 2013)
2013	7/20/17 Deposition Transcript of Dr. Tal Lavian, Ph.D.
2014	Exhibit 9 to the 7/20/17 Deposition of Dr. Lavian; S. Floyd & V. Paxson, <i>Why We Don't Know How to Simulate the Internet</i> , Dec. 1997, Proceedings of the 1997 Winter Simulation Conference.

I. Introduction

Pursuant to the Board's scheduling order² (Paper No. 8), Patent Owner Windy City Innovations LLC respectfully submits observations on the July 20, 2017 cross-examination of Petitioner Facebook Inc.'s ("Petitioner") reply witness, Tal Lavian, Ph.D.

II. Observations on the Cross-Examination of Tal Lavian, Ph.D.

Exhibit 2013 is a copy of the cross-examination transcript of Dr. Tal Lavian, Ph.D. Exhibits 1017, 108, 1019, 1020 and 2014 were referenced during the cross examination of Dr. Lavian on his Second Declaration (Exhibit 1021) filed in support of Petitioner's Reply.

a. Observations Relevant to any Association between Keys and Invitations in Roseman

In Exhibit 2013, on page 13, lines 11 through 23, Dr. Lavian testified that in the Roseman system a key does not necessarily need to be associated with an invitation. This testimony is relevant because in Facebook's original petition, it stated that keys (without any limitation) disclose the token of the '657 Patent. Petition at 11.

b. Observations Relevant to Bob Metcalfe being a Leading Figure with Respect to the Internet

² Due Date 4 remains unaffected by the filing of the parties' scheduling stipulations and the Board's revised scheduling order in this case.

In Exhibit 2013, on page 14, lines 16 through page 15, line 1 when questioned whether Bob Metcalfe was a leading expert in 1996 with respect to Internet traffic, Dr. Lavian testified that Dr. Metcalfe was in fact a respectable credentialed person. This testimony is relevant because it provides evidence that a person of ordinary skill in the art would have taken Metcalfe's prediction seriously in 1996.

c. Observations Relevant to Article entitled "Sage who warned of Net's Collapse eats his words."

In Exhibit 2013, on page 24, lines 11 through 19 Dr. Lavian testified with respect to Exhibit 1019. Dr. Lavian did not dispute Metcalfe's observations from 1997 with respect to significant network outages that had occurred in 1996. This testimony is relevant because it shows the degree that Metcalfe's prediction did come true.

d. Observations Relevant to Article entitled "Bob Metcalfe on What's Wrong with the Internet."

In Exhibit 2013, on page 27, lines 13 through page 28, line 2, Dr. Lavian testified with respect to Exhibit 1018. Dr. Lavian did not dispute that Metcalfe's offered a reasonable fear about the governance and management of the Internet in the 1997 timeframe. This testimony is relevant because it shows the part of the basis of Metcalfe's prediction was reasonable.

e. Observations Relevant to Books Authored by Loomis and Korth

In Exhibit 2013, on pages 38 line 3 to 18 and pages 39 lines 16 to 23, Dr. Lavian testified with respect to Exhibits 1017 and 1020 respectively. Exhibit 1017 is *Database System Concepts* authored by Henry Korth and Exhibit 1020 is *The Database Book* by Mary Loomis. Dr. Lavian testified that to the best of his knowledge the Korth book was published in 1991 and that he did not research if there were later editions. Similarly, Dr. Lavian testified that to the best of his knowledge the Loomis book was published in 1987 and that he did not research if there were later editions. This testimony is relevant because it casts doubt on whether more recent books during the relevant year of 1996 by these writers would provide the same information.

f. Observations Relevant to Video Traffic on the Internet in 1996

In Exhibit 2013, on page 40, lines 6 through 24, and page 49, lines 17 to page 51, line 9, Dr. Lavian testified regarding Exhibit 2014, an article entitled *Why We Don't Know How to Simulate the Internet*. Dr. Lavian testified that he recognized this article as one that was used as part of a networking examination in his Ph.D. program and is typically used at top universities. Dr. Lavian acknowledged that the article states that multicast video traffic appeared poised to explode a few years before 1997. Dr. Lavian did not dispute that such traffic had not exploded in that timeframe. This testimony is relevant because it provides added information to evaluate Dr. Lavian's reliance on Vetter to indicate that

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