

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner

v.

VOIP-PAL.COM, INC.
Patent Owner

Case No. IPR2016-01201
Patent 8,542,815

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

PURSUANT TO 37 C.F.R. § 42.120

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I. INTRODUCTION

Voip-Pal focuses its opposition almost exclusively on establishing an actual reduction to practice that it alleges occurred on June 6, 2005, nearly **17 months before the provisional patent application was actually filed**. Voip-Pal's swear-behind effort suffers from a common deficiency—it relies on witness testimony that Voip-Pal could not corroborate. Voip-Pal points to Exhibit 2014 as the source code that embodied its reduction to practice. Presenting source code is not enough, however. Voip-Pal must demonstrate that the source code (a) worked for its intended purpose and (b) was coextensive with the Challenged Claims. Voip-Pal has done neither. With respect to the first point, Voip-Pal relies exclusively on witness testimony that it cannot corroborate and that is extremely biased with witnesses with enormous personal stakes in this proceeding. Voip-Pal did not compile and execute the code, despite having the code in its possession. Voip-Pal did not present a single test log or other record of testing, despite having such records in its possession. Voip-Pal did not provide a single detail as to any call that was successfully connected using the source code version in Exhibit 2014. In fact, the documentary record shows only that the source code in Exhibit 2014 was an incomplete work as of June 6, 2005, a work that continued to be edited, modified, and added to for a lengthy period thereafter.

Similarly, Voip-Pal relies heavily on the Smart421 Report (Exhibit 2003) to

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