

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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MICROSOFT CORPORATION.

Petitioner,

v.

WINDY CITY INNOVATIONS LLC

Patent Owner

Patent No. 8,694,657

Issued: April 8, 2014

Filed: September 20, 1999

Inventor: Daniel L. Marks

Title: REAL TIME COMMUNICATIONS SYSTEM

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*Inter Partes* Review No. IPR2017-00606

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**PETITION FOR *INTER PARTES* REVIEW**

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## I. INTRODUCTION

Petitioner Microsoft Corporation (“Petitioner”) filed a petition for *inter partes* review of U.S. Patent No. 8,694,657 (“657 Patent”), in IPR2016-01155 (the “Earlier IPR”), challenging over 150 of the 657 Patent’s 671 claims. The Earlier IPR was instituted on December 8, 2016 as to all challenged claims. On October 20, 2016, more than four months after Petitioner’s § 315(b) bar date passed, Patent Owner served its infringement contentions on Microsoft in the 1:15-cv-103 case, identifying for the first time which of the 671 claims of the 657 Patent it accused Microsoft of infringing. In its infringement contentions, Patent Owner asserted independent claims 189 and 465 as well as dependent claims 203, 209, 215, 221, 477, 482, 487, and 492 of the 657 Patent. Petitioner now submits this Petition for *inter partes* review of these dependent claims 203, 209, 215, 221, 477, 482, 487, and 492 (the “Petition Claims”), and concurrently moves to join this Petition with the Earlier IPR. *See* Paper 2. The additional eight claims challenged in this Petition directly depend from claims on which trial is already instituted, and contain a single limitation that is *identical* to one found in claims for which trial is already instituted in the Earlier IPR. The analysis of the Petition Claims with respect to this limitation may be found in the present petition in Section V.E

starting on page 38. That analysis is the same analysis set forth in the Earlier IPR in Section V.D.17 on pages 60-62.<sup>1</sup>

## **II. COMPLIANCE WITH REQUIREMENTS FOR A PETITION FOR INTER PARTES REVIEW**

### **A. Certification the 657 Patent May Be Contested by Petitioner**

Petitioner certifies that the 657 Patent is available for *inter partes* review.

On June 2, 2015, the Patent Owner filed a complaint alleging infringement of the 657 Patent by the Petitioner. *Windy City Innovations, LLC v. Microsoft Corporation*, 1:15-cv-103 (W.D.N.C.). This case was transferred to the Northern District of California (No. 3:16-cv-01729-RS). On June 3, 2016, the Petitioner filed IPR2016-01155 for *inter partes* review of the 657 Patent. While the Petitioner was served with a complaint alleging infringement of the 657 Patent

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<sup>1</sup> The present petition also addresses claims 189, 202, 208, 214, 220, 465, 476, 481, 486, and 492 but only because the Petition Claims depend from these claims. The present petition also addresses claim 1, but only to make it clear that the analysis here is the same as in the Earlier IPR—the Earlier IPR analyzed claims 189 and 465 with reference to claim 1. The analysis of claims 1, 189, 202, 208, 214, 220, 465, 476, 481, 486, and 492 presented in this petition is the same analysis set forth in the Earlier IPR. Trial has already been instituted with respect to claims 1, 189, 202, 208, 214, 220, 465, 476, 481, 486, and 492 in the Earlier IPR proceeding.

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