

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TWITTER, INC.

Petitioner

v.

VIDSTREAM, LLC

Patent Owner

Case IPR2017-01133
U.S. Patent No. 8,601,506
(Claims 1, 4-8, 11, 13-15, 23-26, and 29-30)

PATENT OWNER VIDSTREAM LLC'S SUR-REPLY

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37 CFR § 42.6(a)(3)	11, 12
37 CFR § 42.23(b)	1, 2, 3, 12, 26
37 CFR § 42.123(b)	1, 2, 3, 26

TABLE OF EXHIBITS

No.	Description
2001	Official Notice of Bankruptcy Case Filing, U.S. Bankruptcy Court for the Western District of Oklahoma, Case No., 17-14849 (filed November 30, 2017)
2002	Declaration of James Olivier, Ph.D.
2003	Webpage entitled “Review GSM phone Nokia 6270” that was archived by the Wayback Machine at web.archive.org on February 5, 2006
2004	Webpage entitled “Nokia E50 Hands-on Preview” that was archived by the Wayback Machine at web.archive.org on May 30, 2006
2005	Nokia webpage listing specifications of the Nokia 6630 that was archived by the Wayback Machine at web.archive.org on December 29, 2004
2006	Webpage entitled “Nokia 6630 (Nokia Charlie) Detailed Tech Specs”
2007	CNET webpage entitled “Nokia 6630 – smartphone – GSM / UMTS Series Specs”
2008	Transcript of June 20, 2018 Deposition of Henry Houh, Ph.D.
2009	Affidavit of Christopher Butler – NOT FILED
2010	Transcript of September 6, 2018 Deposition of Henry Houh, Ph.D.

I. INTRODUCTION

Petitioner's Reply improperly adds new arguments and evidence that should be disregarded. Petitioner did not seek leave under 37 CFR § 42.123(b) for a late submission of supplemental information, but nevertheless submits new exhibits and theories with its Reply in order to: (1) contend Lahti discloses capturing video according to predetermined constraints via a software development kit ("SDK"); (2) substantially increase a POSITA's purported knowledge to include a detailed understanding of mobile operating systems and SDKs; and (3) add an invalidity theory premised upon Lahti paired with a POSITA's alleged additional knowledge. But, Petitioner's expert was clear in his first deposition: despite being "a person with at least ordinary skill in the art" (Ex. 1003 at ¶42), he was unaware of *any* camera phone SDK that allowed external control of parameters such as frame rate. *See* Ex. 2008 at 79:18-18:7. Petitioner's new arguments and evidence are improper under 37 CFR § 42.23(b) and should be disregarded.

Patent Owner's ("PO") Response describes why Lahti (Ex. 1006), Petitioner's primary reference for all grounds, fails to supply features of each of independent claims 1, 23, and 26, including a server providing instructions to a client computing device to cause video data to be captured according to predetermined constraint(s) defined by the instructions. Paper 47 ("POR") at 49-51. Despite impermissibly

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