UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SHOPIFY, INC.,
Petitioner

v.

DDR HOLDINGS, LLC,
Patent Owner

Case IPR2018-01008
U.S. Patent 9,639,876

PATENT OWNER'S SUR-REPLY

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Argument 2

I. Petitioner's Reply misconstrues "visual correspondence" of "overall appearance." 2

A. Petitioner misinterprets the Federal Circuit decision. 2

B. Petitioner's proposed construction of "overall appearance" is unnecessary and unhelpful. 7

II. Ground 1: Loshin does not teach "visual correspondence" of "overall appearance" between host and composite pages served by different parties. 8

A. There is no "visual correspondence" of "overall appearance" between Figures 7-1 and 7-2 of Loshin. 9

B. The Reply offers no reason to alter the Board's decision that Loshin does not teach Figures 7-1 and 7-2 being served by different parties. 14

C. The Reply overlooks deficiencies in the Petition's allegation of anticipation of certain dependent claims. 17

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III. Ground 2: InfoHaus does not teach "visual correspondence" of "overall appearance" between host and composite pages served by different parties. 19

IV. Ground 3: Moore does not teach "visual correspondence" of "overall appearance" between host and composite pages served by different parties. 20

V. Conclusion. 25

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Ex. No.	Description
2001	U.S. Patent 6,993,572
2002	U.S. Patent 7,818,399
2003	Decision denying motion to dismiss, June 5, 2018, 17-498 (D. Del.)
2004	File history of S.N. 12/906,979 (issued as U.S. Patent 8,515,825)
2005	File history of S.N. 13/970,515 (issued as U.S. Patent 9,043,228)
2006	File history of S.N. 14/719,009 (issued as U.S. Patent 9,639,876)
2007	[Reserved]
2008	[Reserved]
2009	[Reserved]
2010	Moore-related charts from IDSs
2011	[Reserved]
2012	Decision denying JMOL, June 20, 2013, 2:06-CV-00042-DF (E.D. Tex.)
2013	[Reserved]
2014	[Reserved]
2015	Claim construction order, Nov. 21, 2011, 2:06-CV-00042-DF (E.D. Tex.)
2016	[Reserved]
2017	Opinion denying Motion for Summary Judgment, Oct. 3, 2012, 2:06-CV-00042-DF (E.D. Tex.)
2018	[Reserved]
2019	[Reserved]
2020	[Reserved]
2021	[Reserved]
2022	[Reserved]
2023	Letter from Shopify counsel
2024	Crosby Declaration in Support of Motion for *Pro Hac Vice* Admission
2025	Declaration of Dr. Arthur M. Keller, Ph.D.
2026	Keller CV
2027	Shamos deposition
2028	Demonstrative exhibit illustrating Tobin prior art patent's figures
2029	Images from Digital River prior art system discussed at E.D. Tex. trial
2030	Demonstrative exhibit comparing Loshin Figures 7-1 and 7-2
2031	Images discussed at E.D. Tex. trial as infringing overall visual matching
2032	URL containing all information necessary to display Moore Fig. 16
2033	Definition of "commission"
2034	Notice of Allowance and claims of continuation App SN 15/582,105

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