

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SANDVINE CORPORATION and SANDVINE INCORPORATED ULC,

PETITIONERS,

V.

PACKET INTELLIGENCE, LLC,

PATENT OWNER.

Case No. IPR2017-00629
U.S. Patent No. 6,954,789

**PATENT OWNER'S PRELIMINARY RESPONSE
UNDER 35 U.S.C. § 313 AND 37 C.F.R. § 42.107**

TABLE OF CONTENTS

I.	STATEMENT OF MATERIAL FACTS IN DISPUTE.....	1
II.	INTRODUCTION.....	1
III.	OVERVIEW OF THE TECHNOLOGY AND STATE OF THE PRIOR ART	2
	A. The OSI Model.....	4
	B. Data Encapsulation.....	6
	C. Prior Art Methods.....	8
IV.	OVERVIEW OF THE ‘789 INVENTION	10
	A. Conversational Flow Classification Process Overview	12
	B. Benefits of Conversational Flows Over Prior Art Systems	18
V.	CLAIM CONSTRUCTION	20
	A. Level of Ordinary Skill in the Art	22
	B. “Conversational Flow” (all claims).....	23
	C. “State of the Flow” (claims 26, 29).....	25
	D. “State Operations” (claims 26-30, 32)	27
	E. “Parser Record” (claims 19, 42).....	30
VI.	THE PETITION DOES NOT SATISFY THE REQUIREMENTS FOR INSTITUTING <i>INTER PARTES</i> REVIEW.....	30
	A. Overview of Engel.....	31
	1. Dialog in Engel	32
	2. Engel’s “State” Disclosure.....	37
	B. Operation of Engel Compared to Operation of ‘789 Invention	39
	C. The Board Should Deny Institution Because Engel Fails To Disclose Conversational Flows	45
	1. Application Level Dialogs	48
	2. Application-Specific Server Statistics	52

3. The Petition Fails to Articulate a *Prima Facie* Case of Anticipation or
Obviousness53

VII. CONCLUSION55

TABLE OF AUTHORITIES

Cases

<i>Advanced Display Sys. Inc. v. Kent State Univ.</i> , 212 F.3d 1272 (Fed. Cir. 2000).....	21
<i>Anderson v. Eppstein</i> , 59 U.S.P.Q.2d 1280 (B.P.A.I. 2001).....	50
<i>Apple, Inc. v. Achates Reference Publishing, Inc.</i> , IPR2013-00080, Paper 22 (PTAB June 3, 2013).....	27
<i>Becton Dickinson & Co. v. C.R. Bard, Inc.</i> , 922 F.2d 792 (Fed. Cir. 1990).....	29
<i>Cisco Systems, Inc. v. C-Cation Techs., LLC</i> , IPR2014-00454, Paper 12 (PTAB Aug. 29, 2014)	49
<i>Cuozzo Speed Techs., LLC v. Lee</i> , No. 15-446, 136 S. Ct. 2131 (June 20, 2016)	20
<i>Cynosure, Inc. v. Cooltouch, Inc.</i> , 660 F. Supp. 2d 128 (D. Mass. 2009)	54
<i>DeSilva v. DiLeonardi</i> , 181 F.3d 865 (7th Cir. 1999).....	49
<i>Digital-Vending Services Int’l, LLC v. Univ. of Phoenix, Inc.</i> , 672 F.3d 1270 (Fed. Cir. 2012).....	29
<i>Douglas Dynamics, LLC v. Buyers Prods. Co.</i> , No. 09-cv-261, 2014 U.S. Dist., LEXIS 33812 (W.D. Wis. Mar. 13, 2014).....	55
<i>Ecolab, Inc. v. FMC Corp.</i> , 569 F.3d 1335 (Fed. Cir. 2009).....	29
<i>In re Translogic Tech., Inc.</i> , 504 F.3d 1249 (Fed. Cir. 2007).....	20
<i>Microsoft Corp. v. Proxyconn, Inc.</i> , 789 F.3d 1292 (Fed. Cir. 2015).....	21
<i>Microsoft Corp. v. Proxyconn, Inc.</i> , IPR2016-00026, Paper 17 (PTAB Dec. 21, 2012)	24
<i>Net MoneyIN, Inc. v. VeriSign, Inc.</i> , 545 F.3d 1359 (Fed. Cir. 2008).....	53

<i>Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.</i> , No. 2016-1900, 2017 U.S. App., LEXIS 4416 (Fed. Cir. Mar. 14, 2017).....	54
<i>NTP, Inc. v. Research In Motion, Ltd.</i> , 418 F.3d 1282 (Fed. Cir. 2005).....	22
<i>S.S. Steiner, Inc. v. John I Hass, Inc.</i> , IPR2014-01490, Paper 7 (PTAB March 16, 2015)	46, 49
<i>SimpleAir, Inc. v. Google Inc.</i> , No. 2:11-cv-416, 2014 U.S. Dist., LEXIS 138027 (E.D. Tex. Sept. 30, 2014).....	55
<i>Sys. Div., Inc. v. Teknek LLC</i> , 59 F. App'x 333 (Fed. Cir. 2003)	21
<i>Thorner v. Sony Comp. Entm't Am. LLC</i> , 669 F.3d 1362 (Fed. Cir. 2012).....	21
<i>U.S. Surgical Corp. v. Ethicon, Inc.</i> , 103 F.3d 1554 (Fed. Cir. 1997).....	54
<i>United States v. Dunkel</i> , 927 F.2d 955 (7th Cir. 1991).....	50
<i>Zetec, Inc. v. Westinghouse Electric Company, LLC</i> , IPR2014-00384, Paper 10 (PTAB July 23, 2014)	27
Statutes	
35 U.S.C. § 313	1
35 U.S.C. § 314(a)	1, 2
Rules	
37 C.F.R. § 42.100(b)	15
37 C.F.R. § 42.107(a).....	1, 28
37 C.F.R. § 42.108(b)	28
37 C.F.R. § 42.22(a)(2).....	50
37 C.F.R. § 42.23(a).....	1
37 C.F.R. § 42.6(a)(3).....	44, 49
37 C.F.R. 42.104(b)(3).....	20
37 CFR § 42.24(c)(1).....	1
37 CFR § 42.24(d)	1

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.