UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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World Programming Limited
Petitioner

v.

SAS Institute Inc.
Patent Owner

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Case IPR2019-01460
Patent 7,447,686

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PATENT OWNER PRELIMINARY RESPONSE TO PETITION FOR *INTER PARTES* REVIEW PURSUANT TO 37 C.F.R. § 42.107

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I.   INTRODUCTION

World Programming Limited ("WPL") seeks review of claims 13-40, 43-45, and 50 of U.S. Patent No. 7,447,686 ("the '686 Patent") based on obviousness grounds.[1] WPL's petition is deficient and should not be instituted for a number of reasons, both procedural and substantive. For example, WPL intentionally omitted a real party-in-interest from its petition. Because WPL's omission is an attempt to game the system and was made in bad faith, the Board should decline to exercise its discretion in this case to give WPL a free pass to correct its petition without concomitantly receiving a new filing date. WPL also has failed to properly map the claims—as construed by WPL—to the alleged prior art. WPL failed to propose constructions for a number of claim terms in dispute, failed to alert to the Board to a number of conflicts between its proposed claim constructions and its positions in district court, and failed to abide by the requirements to properly construe means-plus-function terms. WPL has also failed to show that various features of the claims, such as "switching," a "first component software object . . . associated with a first logical piece," and "database functional language difference data" are taught by the

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[1] WPL seeks review of claims 1-12 and 46-48 of the '686 Patent in IPR2019-01459.

cited references. For these reasons, as explained herein, SAS Institute ("SAS") respectfully requests that the Board deny institution of this IPR.[2]

II.   THE '686 PATENT AND ITS PROSECUTION HISTORY

A.   Overview of the '686 Patent

The '686 Patent, titled "Computer-Implemented System and Method for Handling Database Statements," generally relates to the translation of an original database statement into a new database statement that is operational within a different (*e.g.*, second) database system. The '686 Patent issued on November 4, 2008 from an application filed on November 22, 2002.

The Background section of the '686 Patent recognizes that data access across different database platforms proves difficult due to the platforms using varying database commands. *See* Ex. 1001 (the '686 Patent) at 1:13-20. Although the

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[2] To the extent the United States Court of Appeals for the Federal Circuit and/or the United States Supreme Court find the remedy in *Arthrex, Inc. v. Smith & Nephew, Inc.*, No. 2018-2140 (Fed. Cir. Oct. 31, 2019) to be insufficient to cure the Constitutional Appointments Clause defect the Federal Circuit identified in that case, and to the extent making a record of the issue in this preliminary response is required to preserve that argument, then SAS reserves the right to raise such a challenge.

structured query language (SQL) is based on a well-documented ANSI standard, many database systems implement a superset of the ANSI standard. *See id.* Variations in the superset provide an obstacle in cross-platform database operations. *See id.*

Fig. 1 of the '686 Patent (reproduced below) shows an example computer-implemented system 30 that allows database statements 32 to be automatically converted from one database platform format to another. *See id.* at 1:13-20. Through their conversion, database statements 32 executable within one system 40 may be utilized in one or more different types of database systems (42, 44, 46). *See id.* at 1:13-20. This provides, among other things, the ability to transparently manipulate data from virtually any database system. Within the system 30, a textualization process 50 addresses the complexity of translating a native database statement 32 dialect into a variety of third party database dialects (34, 36, 38) by allowing the common parts of the default syntax of functionality to be shared between a native database and a third party database. *Id.* at 2:10-26. The textualization process 50 utilizes database specific textualizations 52 to translate the common parts to the third party database dialect. *Id.* at 2:10-26.

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