UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE PATENT TRIAL AND APPEAL BOARD MICROSOFT CORPORATION, Petitioner, v. DAEDALUS BLUE, LLC, Patent Owner. Case IPR2021-00831 Patent No. 8,671,132

PATENT OWNER'S PRELIMINARY SUR-REPLY



IPR2021-00831 U.S. Patent No. 8,671,132

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EX2011	Microsoft Computer Dictionary, Fifth Edition, Definition for 'main frame,' 2002		
EX2012	IBM, Storage Tank, Initial Programming Functional Specifications, Version 1.1, dated April 26, 2001 PROTECTIVE ORDER MATERIAL		



0.5. 1 atcht 110. 6,071,132			
Patent Owner's Exhibit List			
EX2013	IBM, Storage Tank, Initial Programming Functional Specifications, Version 1.2, dated June 11, 2001		
	PROTECTIVE ORDER MATERIAL		
EX2014	IBM, IBM Storage Tank: Storage Tank Strategy, Product Positioning, dated September 17, 2001		
	PROTECTIVE ORDER MATERIAL		
EX2015	IBM, Storage Tank: Development Review, dated February 11, 2002		
	PROTECTIVE ORDER MATERIAL		
EX2016	IBM, "Storage Tank: Release 1: High Level Design," Version Draft 0," dated February 19, 2002		
	PROTECTIVE ORDER MATERIAL		
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	PROTECTIVE ORDER MATERIAL		
EX2018	Defendant's Revised Proposed Claim Constructions, Daedalus Blue, LLC v. Microsoft Corporation, Case No. 6:20-cv-1152-ADA, dated August 11, 2021		
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