

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON.COM, INC., AMAZON WEB SERVICES, INC.,
AND AMAZON.COM SERVICES LLC.,

Petitioners

v.

WAG ACQUISITION, LLC

Patent Owner

U.S. Pat. No. 9,762,636

Inter Partes Review Case No. IPR2022-01433

PATENT OWNER'S SUR-REPLY

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LIST OF PATENT OWNER'S EXHIBITS

Exhibit	Description
2001	<i>WAG Acquisition, LLC v. WebPower, Inc.</i> , 781 F. App'x 1007 (Fed. Cir. 2019)
2002	IETF RFC 1945
2003	CV of Kevin Jeffay, Ph.D.
2004	<i>Longhorn HD LLC v. Netscout Systems, Inc.</i> , Case No. 2:20-CV-00349, Memorandum Opinion (E.D. Tex., March 31, 2022)
2005	<i>3G Licensing, S.A. v. HTC Corp.</i> , Case No. 17-83, Memorandum Order (D. Del. March 30, 2022)
2006	<i>SEVEN Networks, LLC v. Google LLC</i> , Case No. 2:17-cv-442, Pretrial Conference (E.D. Tex., Dec. 12, 2018)
2007	Declaration of W. Leo Hoarty
2008	Declaration of Henry Houh (Ex. 1002 of IPR2022-01228)
2009	Redline comparing declaration of Kevin Jeffay (Ex. 2824) with Declaration of Henry Houh (Ex. 2008)
2010	May 23, 2023, Deposition of Dr. Kevin Jeffay
2011	May 25, 2023, Deposition of Dr. Nathaniel Polish
2012	<i>In re Certain Fitness Devices, Streaming Components Thereof, and System Containing Same</i> , Inv. No. 337-TA-1265, Initial Determination (ITC, Sept. 9, 2022) (CALJ Clark S. Cheney)
2013	<i>In re Certain Fitness Devices, Streaming Components Thereof, and System Containing Same</i> , Inv. No. 337-TA-1265, Evidentiary Hearing – Volume III (ITC, March 14, 2022)

2014	<i>In re Certain Fitness Devices, Streaming Components Thereof, and System Containing Same</i> , Inv. No. 337-TA-1265, Document Filing Report
2015	Redline comparison of claims of '824 and '636 patents
2016	Final Written Decision, <i>WebPower v. WAG Acquisition, LLC</i> , IPR2016-01238, Paper No. 22 (Dec. 26, 2017)
2017	Final Written Decision on Remand, <i>WebPower v. WAG Acquisition, LLC</i> , IPR2016-01238, Paper No. 28 (July 16, 2020)
2018	IETF RFC 2068
2019	Microsoft Computer Dictionary, Fifth ed. (excerpts)
2020	<i>Avi Networks, Inc. v. Citrix Systems, Inc.</i> , IPR2019-00845, Ex. 1007
2021	April 10, 2023 Deposition of Dr. Henry Houh
2636	Declaration of Kevin Jeffay (Ex. 1002 of IPR2022-01433)
2824	Declaration of Kevin Jeffay (Ex. 1002 of IPR2022-01430)

I. INTRODUCTION

Amazon did not even submit a Reply declaration from its expert, Dr. Kevin Jeffay, who, as it developed during his deposition, had given prior inconsistent testimony with regard to Amazon's primary reference, Carmel, which he did not disclose in his declaration.

Instead, while going through the motions of trying to salvage its position on Carmel, Amazon now seeks at every turn to pivot to principal reliance on another reference, Feig, instead of Carmel.

However, the Petition failed to point to Feig in the first instance to support five of the twelve limitations at issue, limitations a, b, c, e, and l. Amazon asserts nothing as to any of those points with regards to Feig, and it would have been too late to have done so in its Reply.

The Petition was based on Carmel in view of Feig, not on Feig alone, or Feig in view of Carmel. Even if read as the reverse of how it was presented, the Petition did not provide evidence to support such a reversed § 103 position as to all limitations.

The Petition also provided the most cursory alleged motivations to combine, which, as the POR and Patent Owner's ("PO's") expert, W. Leo Hoarty (EX2007), pointed out, were all inadequate. Amazon tries to reword and reargue these alleged

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