

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

ANGEL TECHNOLOGIES LLC,
Patent Owner.

Case IPR2023-00057
U.S. Patent 8,954,432

**PATENT OWNER'S SUR-REPLY IN SUPPORT OF ITS
PRELIMINARY RESPONSE UNDER 37 C.F.R. § 42.107**

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Patent Trial and Appeal Board

U.S. Patent and Trademark Office

P.O. Box 1450

Alexandria, Virginia 22313-1450

Submitted Electronically via the Patent Review Processing System

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PATENT OWNER'S EXHIBIT LIST

2001	Eliza Beeney Biography (previously submitted)
2002	Declaration of Eliza Beeney in Support of Motion for <i>Pro Hac Vice</i> (previously submitted)
2003	Kaylee Hoffner Biography (previously submitted)
2004	Declaration of Kaylee Hoffner in Support of Motion for <i>Pro Hac Vice</i> (previously submitted)
2005	Declaration of Mark Frigon Under 37 C.F.R. § 1.131 (previously submitted)
2006	Pict_inpt (previously submitted)
2007	Picture.mbd (previously submitted)
2008	Pict_upd (previously submitted)
2009	Picture.asp (previously submitted)
2010	Links.asp (previously submitted)
2011	Ex0006.log (previously submitted)
2012	Messages_post (previously submitted)
2013	Ex0007.log (previously submitted)
2014	American Express Statement (previously submitted)
2015	Emails (users populating profiles) (previously submitted)
2016	Declaration of Chris Malone Under 37 C.F.R. § 1.131 (previously submitted)
2017	Provisional File History Regarding Application 60/248994 of November 15, 2000 (previously submitted)
2018	Declaration of Lisa Larson Under 37 C.F.R. § 1.131 (previously submitted)

Pursuant to the Board's authorization (Ex. 1036), Patent Owner submits its sur-reply to Petitioner's Reply to Patent Owner's Preliminary Response ("Petitioner's Reply", Paper 14).

Petitioner's arguments focus on alleged failures to provide complete evidence of conception and reduction to practice of the Challenged Claims. But the law does not require the "perfect proof" sought by Petitioner. Rather, the law recognizes that circumstantial evidence is sufficient, particularly when a substantial amount of time has passed between the filing of a priority application and a patentability challenge.

Critically, as stated in the Patent Owner's Preliminary Response ("POPR"), the burden of persuasion that a cited reference is prior art remains with the Petitioner. POPR, 17 (citing *Dynamic Drinkware, LLC v. Nat'l Graphics, Inc.*, 800 F.3d 1375, 1379 (Fed. Cir. 2015)). Petitioner has failed to meet that burden, despite presumably recognizing that *the provisional application to which the '432 patent claims priority was signed by the inventor on August 15, 2000, more than one month prior to the September 26, 2000 priority date of its lead prior art reference in four related petitions for inter partes review*. Petitioner understood the risk it was taking when relying on Sharpe as prior art *and never even mentions the August 15, 2000 signing date of the Frigon provisional application in the Petition*. That August 15, 2000 signature in and of itself demonstrates that Sharpe is not prior art. More importantly, Petitioner *knew* this was an issue when it filed its Petition and *failed to provide any*

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