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Paper 27
Entered: March 13, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FACEBOOK, INC.,
Petitioner,

v.

REMBRANDT SOCIAL MEDIA, L.P.,
Patent Owner.

Case IPR2014-00415
Patent 6,415,316

Before PHILLIP J. KAUFFMAN, JENNIFER S. BISK, and MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

CLEMENTS, *Administrative Patent Judge*.

ORDER
Conduct of the Proceedings
37 C.F.R. § 42.5

On March 12, 2015, Patent Owner requested a conference call to obtain the Board's guidance on how to address new arguments in Petitioner's Reply and supporting declaration. Patent Owner alleges that Petitioner argues for the first time that those of skill in the art would recognize that the client-side "file system" necessarily enforces the "can view" and "can edit" restrictions disclosed in Salas. Patent Owner requests that the Board strike this argument as untimely or, in the alternative, grant Patent Owner permission to submit a supplemental expert declaration with an accompanying short explanatory statement.

The Board will determine whether the new evidence is outside the proper scope of a reply when writing the final written decision. To preserve the issue in the words of the parties, Patent Owner is authorized to file a brief statement, limited to two pages, that identifies the new argument and evidence introduced in Petitioner's Reply. Petitioner is authorized to file a brief response, limited to two pages, that identifies the portion of the Patent Owner Response to which the new evidence identified by Patent Owner is a proper response. Also, either party may bring up the subject at the time of oral hearing. If, while preparing the final written decision, we agree with the Patent Owner that the references are beyond the proper scope of a reply, then the Petitioner's new arguments will not be considered. If, on the other hand, the arguments and evidence are merely responsive to positions taken by the Patent Owner in its Patent Owner Response, then they are proper and will be considered.

ORDER

It is

ORDERED that:

(1) no later than five (5) days after entry of this Order, Patent Owner is authorized to file a paper not exceeding two (2) pages to identify the new evidence relied upon in Petitioner's Reply that it believes to be beyond the proper scope of a reply;

(2) no later than five (5) days after the filing of the above paper by Patent Owner, Petitioner is authorized to file a paper not exceeding two (2) pages to identify the portion of the Patent Owner Response to which the new evidence identified by Patent Owner is a proper response.

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