UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Facebook, Inc.
Petitioner

v.

Rembrandt Social Media, L.P.,
Patent Owner

U.S. Patent No. 6,415,316 B1
Filing Date: September 1, 1998
Issue Date: July 2, 2002

Title: METHOD AND APPARATUS FOR IMPLEMENTING A WEB PAGE DIARY

PETITIONER'S RESPONSE TO PATENT OWNER'S STATEMENT CONCERNING PETITIONER'S ALLEGED "NEW ARGUMENT"

Inter Partes Review No. 2014-00415

The patent owner incorrectly argues that Paragraph 23 of Mr. Tittel's Reply Declaration (Ex. 1015) contained a new "inherency argument" that was improper. (Paper 29, at 1.) But Paragraph 23 and the arguments in Petitioner's Reply based on it were merely responsive to arguments made by the patent owner.

In particular, the patent owner presented various arguments why Salas allegedly does not disclose transmission of access information metadata to the client. But the patent owner went further by asserting that "there is no reason to send the access information metadata to the client workstations in Salas given that it is created, stored, modified and used at the server." (Patent Owner Response (Paper 17), at 39 (underlining added); Declaration of Mark T. Jones (Ex. 2011), ¶ 58 (same).) The Petitioner responded by identifying a straightforward reason that the server in Salas would in fact send this information to a client – to allow the client to differentiate between users that have "**can edit**" versus "**can view**" access privileges for a downloaded file. (Petitioner Reply (Paper 20), at 9-10.) This argument was supported by testimony from patent owner's own expert. (*Id.* (quoting (Jones Depo., Ex. 1016, at 12:24-14:18).)

This argument did not present any "radical change in theory," as argued by the patent owner. (Paper 29, at 2.) The Petitioner has always argued, and the Board preliminarily found, that Salas discloses transmission of access information

metadata to the client. The patent owner's argument that there is "no reason" to do so goes well beyond merely arguing about what Salas does and does not disclose, and Petitioner responded appropriately by identifying such a reason.

With respect to **Parker**, it is unclear what relief (if any) the patent owner seeks. The patent owner cites the bottom of page 11 of the Petitioner's Reply as citing to Paragraph 23 of Mr. Tittel's Reply Declaration, but the arguments about Parker in the Reply were based primarily on other evidence. In particular, patent owner's own expert conceded at his deposition that Figure 7 of Parker shows that access privilege information is transmitted from the server to the client. (Petitioner Reply (Paper 20), at 11 (citing Jones Depo., Ex. 1015, at 21:23-23:12; Tittel Reply Decl., Ex. 1015, ¶¶ 29, 30 (quoting Dr. Jones's testimony).) The patent owner properly chose not to object to any of those questions as being beyond the scope of Dr. Jones's Declaration. The patent owner does not seek to strike Paragraphs 29 or 30 of Mr. Tittel's Reply Declaration, or any arguments based on it, which merely agreed with and adopted the statements by the patent owner's own expert. Nor would the patent owner have had any basis to do so, as those arguments were properly responsive to the patent owner's argument that the combination of Salas and Parker do not disclose transmitting "privacy level information" to the user system. (Petitioner Response (Paper 17), at 46-48.)

Dated: March 23, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. Sections 42.6(e), that a complete copy of the attached **PETITIONER'S RESPONSE TO PATENT OWNER'S STATEMENT CONCERNING PETITIONER'S ALLEGED "NEW ARGUMENT"** is being served via electronic mail on the 23rd day of March, 2015, the same day as the filing of the above-identified document in the United States Patent and Trademark Office/Patent Trial and Appeal Board, upon counsel of record for the Patent Owner as follows:

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