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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/001,261	11/13/2009	INV001 7,139,761 B2	LTI0002-RXM	5286
74877	7590	03/18/2013	EXAMINER	
King and Spalding LLP 1700 Pennsylvania Ave, NW Suite 200 Washington, DC 20006			HUGHES, DEANDRA M	
			ART UNIT	PAPER NUMBER
			3992	
			MAIL DATE	DELIVERY MODE
			03/18/2013	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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BEFORE THE PATENT TRIAL AND APPEAL BOARD

FACEBOOK, INC.,
Requester, Appellant

v.

LEADER TECHNOLOGIES, INC.
Patent Owner, Respondent

Appeal 2012-009270
Reexamination Control No. 95/001,261
United States Patent 7,139,761 B2
Technology Center 3900

STEPHEN C. SIU, *Administrative Patent Judge*.

ORDER REMANDING INTER PARTES REEXAMINATION UNDER 37
C.F.R. § 41.77(d) TO THE EXAMINER

Patent Owner submits a Request to Reopen Prosecution Before the Examiner Under 37 C.F.R. § 41.77(b)(1) (dated November 16, 2012) (“Request”) in response to our Decision dated October 17, 2012 in which we designated new grounds of rejection as follows:

1) Claims 2, 3, 5, 6, 8, 10, 12, and 13 under 35 U.S.C. § 102(b) as anticipated by Hess;

2) Claims 2, 3, 5, 6, 8, 10, 12-15, 24, 26, 29, 33, and 34 under 35 U.S.C. § 103(a) as unpatentable over Hess and Dourish; and

3) Claims 10, 12-15, 24, 26, 33, and 34 under 35 U.S.C. § 103(a) as unpatentable over Hess and Microsoft.

(Decision 12).

The Request includes “either an amendment of the claims so rejected or new evidence relating to the claims so rejected, or both” pursuant to 37 C.F.R. § 41.77(b)(1). In particular, Patent Owner submits claim amendments to claims 2, 3, 5, 6, 8, 10, 12-15, 24, 26, 29, 33, and 34. Patent Owner’s request to reopen prosecution of claims 2, 3, 5, 6, 8, 10, 12-15, 24, 26, 29, 33, and 34 is GRANTED.

Patent Owner provides new evidence purportedly supporting the validity of claims 1, 4, 7, 9, 11, 16, 21, 23, 25, 31, and 32 (i.e., Disclosure of Expert Testimony for James Herbsleb, Ph.D. Pursuant to Fed. R. Civ. Pr. 26(A)(2)) and appears to restate previously provided arguments with respect to these claims (Request to Reopen Prosecution under 37 C.F.R. 41.77(b)(1), filed November 16, 2012, pp. 12-15). As we stated in our prior Decision, claims 1, 4, 7, 9, 11, 16, 21, 23, 25, 31, and 32 were held to be invalid in a final judgment of invalidity issued by the United States Court of Appeals for the Federal Circuit on May 8, 2012 (No. 2011-1366) (*see, e.g.*, Decision 5). We therefore did not consider Patent Owner’s arguments and evidence in our prior Decision regarding the validity of claims 1, 4, 7, 9, 11, 16, 21, 23, 25, 31, and 32. Patent Owner’s re-asserted arguments and/or evidence in the presently filed Request to Reopen Prosecution will likewise not be

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considered and will not be entered for at least the previously stated reasons. Patent Owner's request to reopen prosecution of claims 1, 4, 7, 9, 11, 16, 21, 23, 25, 31, and 32 is DENIED.

Requester has proposed additional rejections for the amended claims. (See Third Party Requester's Comments on the Patent Owner's Amendment and Request to Reopen Prosecution In *Inter Partes* Reexamination, filed December 17, 2012, 6-7.)

SUMMARY

Accordingly, Patent Owner's Request is GRANTED-IN-PART. This matter will be remanded to the Examiner for consideration of claims 2, 3, 5, 6, 8, 10, 12-15, 24, 26, 29, 33, and 34 in view of the newly submitted claim amendments pertaining to the new grounds of rejection as enumerated in our prior Decision dated October 17, 2012 and for consideration of Requester's proposed rejections.

Patent Owner's arguments and/or evidence pertaining to claims 1, 4, 7, 9, 11, 16, 21, 23, 25, 31, and 32 will not be entered and will not be considered.

GRANTED-IN-PART

PATENT OWNER:

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THIRD PARTY REQUESTER:

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