

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION
Petitioner,

v.

SURFCAST, INC.
Patent Owner.

Case IPR2013-00292¹
Patent 6,724,403

Before MICHAEL P. TIERNEY, JONI Y. CHANG, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

TIERNEY, *Administrative Patent Judge*.

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

¹ Cases IPR2013-00293, IPR2013-00294, and IPR2013-00295 have been consolidated with the instant proceeding.

Cases IPR2013-00292, IPR2013-00293,
IPR2013-00294, and IPR2013-00295
Patent 6,724,403

A conference call in the above proceeding was held on August 26, 2014, between respective counsel for Petitioner and Patent Owner, and Judges Tierney, Chang and Clements. The purpose of the call was to discuss Patent Owner's request to redact the oral hearing transcript, Paper 90 ("Record of Oral Hearing").

Patent Owner seeks to antedate certain prior art based upon an earlier conception coupled with due diligence to a subsequent constructive reduction to practice. PO Resp., Paper 27. A hearing was held on July 10, 2014. The hearing was open to the public. During the hearing, statements were made regarding several exhibits and the dates identified on the exhibits. Patent Owner seeks to redact the specific dates discussed during the hearing. Specifically, Patent Owner seeks to redact the dates appearing in the hearing record at:

Page 29: line 13;

Page 34: lines 24 – 25;

Page 90: line 10;

Page 122: line 18;

Page 123: lines 3, 5, and 20; and

Page 125, line 10.

There is a strong public policy for making all information filed in a quasi-judicial administrative proceeding open to the public, especially in an *inter partes* review which determines the patentability of claims in an issued patent and therefore affects the rights of the public. Under 35 U.S.C. § 316(a)(1), the default standard is that all papers filed in an *inter partes* review are open and available for access by the public.

Cases IPR2013-00292, IPR2013-00293,
IPR2013-00294, and IPR2013-00295
Patent 6,724,403

Consistent with the statutory framework and public policy, we hold that the information identified during the public hearing shall remain in the public domain.

ORDER

It is

ORDERED that Patent Owner's request to redact the publicly available record is denied.

Cases IPR2013-00292, IPR2013-00293,
IPR2013-00294, and IPR2013-00295
Patent 6,724,403

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