

Filed on behalf of Petitioners Agilysys, Inc., et al.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AGILYSYS, INC. ET AL.

Petitioners

V.

AMERANTH, INC.

Patent Owner

Case CBM2014-00015

Patent 6,384,850

PETITIONERS' NOTICE IN RESPONSE TO
IDENTIFICATION OF DEFECT

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Further to the Board's Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response (Paper No. 4), which identified a defect in the petition filed on October 15, 2013 (Paper No. 1), Petitioners hereby submit this Notice in response, which is intended to correct the identified defect.

The Board's Notice stated that the petition failed to provide a statement under 37 C.F.R. § 42.104(b)(3) identifying how the challenged claims are to be construed. It is assumed that the Board intended to reference 37 C.F.R. § 42.304(b)(3), which relates to petitions for Covered Business Method Review, rather than 37 C.F.R. § 42.104(b)(3), which relates to petitions for *Inter Partes* Review.

In response, Petitioners note that pages 38-40 of the petition contain a section entitled "Claim Construction (37 C.F.R. § 42.304(b)(3))," which was intended to provide the statement required by 37 C.F.R. § 42.304(b)(3). In that section, as allowed by the Office Patent Trial Practice Guide, petitioners provided a "simple statement" that the claim terms of U.S. Patent No. 6,384,850 ("850 Patent") should be given their broadest reasonable interpretation (BRI) for the

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purposes of this proceeding (but for the purposes of this proceeding only¹). See Exhibit 1030, p. 48764. Petitioners further stated that for each claim term in the '850 Patent, the BRI is the ordinary and customary meaning of the term.

To the extent the Board would like additional clarification regarding the ordinary and customary meaning of certain key terms in the challenged claims, Petitioners provide that information in the below table for insertion into section "Claim Construction (37 C.F.R. § 42.304(b)(3))" of the original petition, at page 40, line 3:

¹ As noted in the petition, Petitioners advocate the broadest reasonable interpretation (BRI) for the claim terms of the '850 Patent for the purposes of this CBM review only. Claim construction is analyzed under a different legal standard for the purposes of litigation. See, e.g., *In re Trans Texas Holdings Corp.*, 498 F.3d 1290, 1298-99 (Fed. Cir. 2007). As such, Petitioners reserve the right to advance different claim constructions in connection with litigation in federal court, including in connection with the currently pending litigation identified in the petition.

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Claim Term	Relevant Claims	Ordinary and Customary Meaning	Source
Web page	Claims 1, 12-16	a document on the World Wide Web	Microsoft Computer Dictionary at 479 (4th ed. 1999); Exhibit 1042 at ¶ 13.
Web server	Claims 12 & 16	server software that uses HTTP to serve up HTML documents and any associated files and scripts when requested by a client, such as a Web browser	Microsoft Computer Dictionary at 224 (4th ed. 1999); Exhibit 1042 at ¶ 14.
wherein [the] applications and data are synchronized	Claims 12 & 16	This is a method step having its plain and ordinary meaning under the BRI.	
parameters being selected from the modifier and submodifier menus	Claim 1	This is a method step having its plain and ordinary meaning under the BRI.	
central processing unit (CPU)	Claim 1	The computational and control unit of a computer.	Microsoft Computer Dictionary at 115 (4th ed. 1999)
operating system	Claim 1	The software that controls the allocation and usage of hardware resources such as memory, CPU time, disk space, and peripheral devices.	Microsoft Computer Dictionary at 321 (4th ed. 1999)

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Respectfully submitted,

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CERTIFICATE OF SERVICE UNDER 37 C.F.R. § 42.6(e)

I hereby certify that on October 30, 2013, I served the foregoing Petitioners' Notice in Response to Identification of Defect via FEDERAL EXPRESS on the patent owner at the following correspondence address record for the current subject patent (U.S. Patent No. 6,384,850):

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I also served the foregoing via FEDERAL EXPRESS on the patent owner at the following other addresses known to the petitioners as likely to effect service:

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