

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUALTRICS, LLC
Petitioner

v.

OPINIONLAB, INC.
Patent Owner

Case IPR2014-00366
U.S. Patent 8,041,805

**PETITIONER QUALTRICS, LLC'S REPLY IN SUPPORT OF PETITION
FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 8,041,805**

FILED VIA PRPS

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I. INTRODUCTION

OpinionLab’s Response (“Resp.”) misstates dispositive disclosure from the cited prior art, misconstrues the challenged claims, and even misrepresents the ‘805 prosecution history. Moreover, while OpinionLab argues that the cited references, *viewed in isolation*, do not explicitly disclose certain claim limitations, OpinionLab fails to address the relevant issue: whether the claims would have been *obvious* to a person of ordinary skill in the art (“POSITA”). To the extent OpinionLab attempts to address obviousness, it does so based on an erroneous legal standard regarding POSITAs, which fatally undermines both OpinionLab’s Response and its proffered expert Dr. Shamos’ testimony on this issue.

II. DISPUTED CLAIM LIMITATIONS

OpinionLab argues that only two claim limitations would not have been obvious to a POSITA in light of the cited prior art: (1) feedback being “provided by a user while the user remained at the particular web page”; and (2) “allowing the interested party . . . to identify . . . particular web pages for which the page-specific user feedback is notable” relative to others. (*See Resp.*, at 1-2.)

A. Feedback being “provided by a user while the user remained at the particular web page”

1. CustomerSat expressly discloses the display of a “questionnaire” in a pop-up window.

OpinionLab now concedes that providing a survey or questionnaire in a pop-up window satisfies this limitation. (*See Resp.*, at 48-49; Ex. 1028 (“Shamos

Dep.”), at 408:4-7; *id.* at 120:1-24; 122:2-15.) OpinionLab further concedes that Ex. 1003 (“CustomerSat”) “discloses a ‘pop-up window’ on the particular web page that presents an *invitation* to take a survey.” (Resp., at 18.) Nonetheless, OpinionLab argues that CustomerSat does not disclose “the resulting *survey* is also presented via a ‘pop-up window.’” (*Id.*) This is demonstrably false. CustomerSat discloses the use of both a “**Pop!Up survey invitation**,” (“By the time you have read this far, a Pop!Up survey invitation should have appeared on your screen. Give it a try!”), and a “**Pop!Up questionnaire**,” (“Pop!Up questionnaires can include one or more questions about . . .”). (CustomerSat, at 7.)

Neither OpinionLab’s Response nor Dr. Shamos’ declaration discusses – or even acknowledges – this explicit disclosure of a “Pop!Up questionnaire.” At his deposition, Dr. Shamos conceded: “I think the ‘Pop!Up questionnaire’ is the questionnaire that results from the user accepting the invitation to take the survey.” (Shamos Dep., at 126:25-127:2.) He later claimed that due to its different spelling, “Pop!Up ... [is] not the ordinary technical term ‘popup,’” and “the questionnaire itself is not a popup because of the word ‘Pop!Up,’” (*id.* at 129:4-8,18-19). But this ignores the fact that (1) the “Pop!Up survey invitation” – which OpinionLab concedes is displayed in a pop-up window – uses precisely the same spelling; and (2) the CustomerSat reference itself uses these terms interchangeably. (CustomerSat, at 7 (“**Pop!Up**TM Lets you Survey Web site Visitors Instantly!

For more information about *pop-up*, please email us”) (emphases added).)

OpinionLab makes the puzzling argument that because Pop!Up users ““can be taken to the survey immediately’ . . . this makes clear that the survey is provided on an entirely separate web page.” (Resp., at 19.) But the cited disclosure says nothing about *how* the resulting survey is displayed; it simply says that a user can be taken from the “Pop!Up survey invitation” to the “Pop!Up questionnaire” *immediately*. (CustomerSat, at 7.) (Ex. 1027 (“Chisholm Decl.”), ¶¶ 14-17.)

Finally, OpinionLab argues that because the “target” of the survey invitation disclosed in the Pop!Up web page’s source code is “cssurvey.htm,” the survey could not have been displayed in a pop-up window. (Resp., at 19-20.) But OpinionLab’s own expert concedes this is untrue. (Chisholm Decl., ¶¶ 18-22 (citing Shamos Dep., at 157:12-172:4).) Indeed, the *unrefuted* testimony of Mr. Chisholm is that Pop!Up questionnaires could be – and, in fact, were – displayed in a pop-up window. (*Id.*)

2. Medinets and HTML Spec also disclose this limitation.

Besides, this limitation was obvious in light of both Ex. 1004 (“Medinets”) and Ex. 1014 (“HTML Spec”), which the Board found “instruct a skilled artisan on the ability to view a smaller window within a larger window of a webpage.” (Institution Decision, at 8.) OpinionLab does not dispute that Medinets discloses “[y]ou can have more than one form per HTML document.” (Medinets, at 53.)

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