UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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ALARM.COM INC.,
Petitioner
v.

VIVINT, INC.
Patent Owner

_____

Case IPR2016-00116
Patent 6,147,601
_____

**PATENT OWNER'S MOTION FOR OBSERVATION
ON CROSS EXAMINATION OF REPLY WITNESS
ARTHUR ZATARAIN**

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EXHIBIT LIST

Exhibit No.	Description
2001	January 27, 2016 Conference Call Transcript
2002	Excerpts from *Microsoft Computer Dictionary*, 3rd ed. (1997)
2003	Request for Certificate of Correction and Filing Receipt[1]
2010	Declaration of Scott A. Denning
2011	CV of Scott A. Denning
2012	Deposition transcript of Arthur M. Zatarain, taken July 11, 2016
2013	Exhibit No. 1 for Deposition of Arthur M. Zatarain, taken July 11, 2016
2014	Excerpts from *Webster's New World Dictionary of Computer Terms*, 6th ed. (1997)
2015	Excerpts from Elmasri et al., *Fundamentals of Database Systems*, 3rd ed. (2000)
2016	Excerpts from Hewlett Packard, *Using HP-UX*, 1st ed. (1992)
2017	Excerpts from Leininger, *HP-UX Developer's Tool Kit* (1995)
2018	Deposition transcript of Arthur M. Zatarain for his Reply Declaration, taken December 13, 2016

Patent Owner respectfully requests the Board consider its Observations of
Petitioner's declarant Dr. Zatarain's Reply Declaration (Ex. 1130 or RD) and
deposition transcript (Ex. 2018 or DT).

I.   Background

Observation 1: Expert did not write final arguments in the Reply Declaration.

When asked about his process for preparing the Reply Declaration, Mr.
Zatarain replied that "the attorneys selected the arguments that they wanted to
make." (Ex. 2018, 7:2-15.) After claiming to have prepared some of the
declaration, Mr. Zatarain admitted that "the attorneys would wordsmith that to put
it into the precise language that they require," stating that "I think some of it is
their own preference." (Ex. 2018, 7:16-25.) This is relevant to the credibility of
Mr. Zatarain's opinions.

II.   Shetty's disclosure of accessing user profiles does not teach configuration of the profiles

Observation 2: Mr. Zatarain agrees that access can mean a system that only obtains data.

Mr. Zatarain admitted that "a system that only obtains data from storage and
does not write to storage access[es] data within the meaning of the definition" in
the IEEE dictionary (Ex. 1126) that he provided in his Reply Declaration. (Ex.
2018, 13:18-25, 42:16-43:5.) He also made similar admissions with respect to the
other dictionary definitions he cited in paragraph 56 of his Reply Declaration. (Ex.

2018, 16:4-9, 17:4-10, 18:5-14.) This is relevant because it shows that Shetty's

disclosure of accessing user profiles does not teach configuring the profiles, as

recited in claims 1 and 22.

**Observation 3: Mr. Zatarain acknowledged that only Alarm.com's counsel
and not Mr. Denning said that both reading "as well [a]s" writing are
required to access.**

When asked about how he characterized the deposition testimony from

Vivint's expert Mr. Denning (Ex. 1130, ¶55), Mr. Zatarain admitted that Mr.

Denning did not "repeat" the words "as well [a]s" used by Mr. Denning's

questioner – Alarm.com's counsel. (Ex. 2018, 20:11-19.) Mr. Zatarain further

admitted that Mr. Denning "is saying that [access] could only be one [of reading or

writing] but he doesn't say that it's excluded." (Ex. 2018, 21:3-15.) Mr. Zatarain

also admitted that Mr. Denning is "characterizing access as including the options to

read or write, not exclusively; that they both could be done under the definition of

access." (Ex. 2018, 21:15-19.) This statement is relevant because it clarifies, if not

contradicts, Mr. Zatarain's claim in his Reply Declaration that Mr. Denning had

testified that access involves reading "as well is" (sic) writing. (Ex. 1130, ¶ 55.)

**Observation 4: Mr. Zatarain acknowledged that the fleet and machine
database and user profile database are separate databases.**

When asked whether Figure 1 shows that "the fleet machine data, the user

profile data and event data are stored in the same database," Mr. Zatarain admitted,

"It shows them as separate, logical databases, whether in the same physical database is doesn't really say. From a logical standpoint it is disclosing them as three separate entities." (Ex. 2018, 28:6-16.) This is relevant because it undermines Mr. Zatarain's claim that somehow by allowing user to input into the fleet and machine database, Shetty discloses a user inputting data into the user profile database. (*See* Ex. 1130, ¶ 49.)

Observation 5: Mr. Zatarain admits that the purpose of the word "also" in a critical sentence in Shetty for Alarm.com's case is to make up for a shortcoming in Shetty's FIG. 1.

When asked whether the sentence in Shetty that "the user interface also allows the user to input information relating to the fleet or machine data" is there so that a POSA looking at Figure 1 would know that interface 110 can also be used to enter information into database 104, Mr. Zatarain admitted, "[T]hat sentence serves that purpose." (Ex. 2018, 29:3-30:25.) This is relevant because it shows another meaning for the word "also" other than describing the write capabilities of the user interface with respect to the user profile database, as argued in Mr. Zatarain's Reply Declaration and Petitioner's Reply. (*See* Ex. 1130, ¶ 69; Petitioner's Reply, p. 6.)

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