

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FACEBOOK, INC.,  
Petitioner,

v.

EVERYMD.COM LLC,  
Patent Owner.

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Case IPR2018-00050  
Patent 8,504,631 B2

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Before KRISTEN L. DROESCH, MICHAEL R. ZECHER, and  
PATRICK M. BOUCHER, *Administrative Patent Judges*.

ZECHER, *Administrative Patent Judge*.

ORDER  
Conduct of the Proceeding  
*37 C.F.R. § 42.5(a)*

## I. DISCUSSION

A conference call in this proceeding was held on June 26, 2018, between respective counsel for Petitioner and Patent Owner, and Judges Droesch, Zecher, and Boucher. Patent Owner, EveryMD.com LLC (“EveryMD.com”), requested the conference call to discuss its intention to file a motion to amend.

During the conference call, EveryMD.com represented that it does not intend to file a Patent Owner Response, but rather only intends to file a motion to amend that proposes a substitute claim for each of claims 1, 3, 5, and 7–9 of U.S. Patent No. 8,504,631 B2. In particular, EveryMD.com represented that it would be proposing amendments narrowing these claim so they are directed to the purpose of solving a problem unique to the Internet that would purportedly overcome the prior art of record and support a patentability determination under 35 U.S.C. § 101. For further information and guidance on filing a motion to amend, we refer to the parties to *Western Digital Corp. v. SPEX Technologies, Inc.*, Case IPR2018-00082 (PTAB Apr. 25, 2018) (Paper 13) (informative).<sup>1</sup>

## II. ORDER

In consideration of the foregoing, it is hereby ORDERED that EveryMD.com has satisfied the conference requirement of 37 C.F.R. § 42.121(a) for this proceeding.

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<sup>1</sup> During the conference call, EveryMD.com also represented that, on May 4, 2018, the U.S. Court of Appeals for the Federal Circuit denied its request for rehearing with respect to the “Rule 36 Judgment” entered in *EveryMD.com LLC v. Facebook, Inc.*, No. 2017-2105. Ex. 3001. EveryMD.com explained that it was contemplating whether to file a petition for writ of certiorari with the Supreme Court. We instructed EveryMD.com to email us at [Trials@uspto.gov](mailto:Trials@uspto.gov) as soon as it decides whether to pursue this course of action.

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