UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FACEBOOK, INC., INSTAGRAM, LLC, and WHATSAPP INC.,
Petitioners,

v.

BLACKBERRY LIMITED,
Patent Owner

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IPR2019-00706
U.S. Patent No. 9,349,120

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PATENT OWNER'S SUR-REPLY

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Cases

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PATENT OWNER'S LIST OF EXHIBITS

Exhibit #	Description
Ex. 2001	Excerpts from the Prosecution History of the '120 Patent
Ex. 2002	Deposition Transcript of Dr. S. Chatterjee
Ex. 2003	Expert Declaration of Dr. Hugh Smith
Ex. 2004	*BlackBerry v. Facebook, Inc., et al.*, 2:18-cv-01844-GW-(KSx), Dkt. 157, Corrected Final Ruling on Claim Construction/*Markman* Hearing ("Markman Order")
Ex. 2005	*BlackBerry v. Facebook, Inc., et al.*, 2:18-cv-01844-GW-(KSx), Dkt. 117, Facebook Defendants' Opening Claim Construction Brief

I.   INTRODUCTION

The Board correctly adopted the district court's conclusion that a "notification" is "some form of visual, auditory, or physical cue to draw attention to an incoming message *that would not otherwise have been noticed, at the time of the incoming message*." The Board's construction recognizes the express distinction made by the '120 patent between a "notification" and a message's "manner of display." Indeed, "notifications" are ordinarily understood to be the kinds of "alarms" or "alerts" discussed in the claims and specification—such as vibrations, ring tones, and pop-ups—that are used to "draw attention to an incoming message." These notifications prevent incoming messages from blending in with other unread messages in the inbox, where the new message "would not otherwise have been noticed." This is in contrast to a message's manner of display for read versus unread messages, which is employed to distinguish one message's status from the other.

Petitioners respond by encouraging the Board to abandon its construction in favor of encompassing any display characteristic "that *increases the likelihood* of a user noticing a new message." But this construction is so broad that it is unclear what, if anything, is *not* encompassed by Petitioners' definition—a time stamp, file

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