# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE \_\_\_\_\_\_ BEFORE THE PATENT TRIAL AND APPEAL BOARD \_\_\_\_\_ MICROSOFT CORPORATION Petitioner

CYPRESS LAKE SOFTWARE, INC.

Patent Owner.

v.

Case: PGR2017-\_\_\_\_

U.S. Patent No. 9,423,923

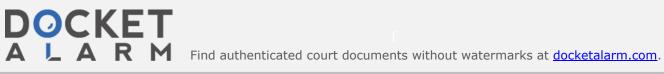
\_\_\_\_\_

PETITION FOR POST-GRANT REVIEW



### **TABLE OF CONTENTS**

				Page			
I.	Introduction						
II.	Mandatory Notices (37 C.F.R. § 42.8)						
	A.	Real Parties-in-Interest					
	B.	Related Matters					
	C.	Notic	ce of Counsel and Service Information	6			
III.	Eligi	bility f	oility for Post-Grant Review6				
IV.	Grou	nds fo	nds for Standing (37 C.F.R. § 42.204(a))				
V.		ification of Challenged Claims and Specific Statutory Grounds C.F.R. § 42.204(b)(1)-(2))9					
VI.	Background and Summary of the '923 Patent						
	A.	Summary of the '923 Patent Written Description					
	B.	Summary of Prosecution History					
	C.	Summary of Related Matters					
VII.	Claim Construction						
	A.	"Form of a first input" / "Form of a second input"					
	B.	"First" / "Second"					
VIII.	Grou	nds of	Unpatentability (37 C.F.R. § 42.204(b)(4)-(5))	29			
	A.	A. Ground 1: Claims 4-31 Are Invalid Under 35 U.S.C. § 112(a) For Lack Of Written Description					
		1.	Written Description Legal Standard	29			
		2.	Independent Claim 4 Lacks Written Description Support in the '923 Patent.	31			
			a. The '923 Patent Fails to Disclose Presenting a Menu in Different Locations in Response to Different "Forms" of User Input.	32			

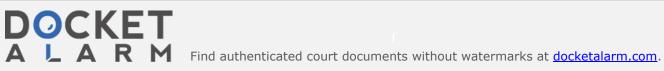


## TABLE OF CONTENTS

(continued)

P	ล	σ	e
_	а	×	·

			b.	Because the Written Description Must Support the Entire Scope of the Claim, Section 112 is Not Satisfied If the "Form" of User Input Is Interpreted to Include, But Not Be Limited To, The Input's Location.		
			c.	The Written Description Requirement is Not Satisfied If Cypress Lake's Claims Are Merely Obvious Over the Specification	40	
		3.	Dep	endent claims 5-31	42	
	В.	Ground 2: Claims 4-23 and 25-31 Are Invalid Under 35 U.S.C. § 103 In View Of the Public Use and Sale of Microsoft's Windows 10 Operating System and Devices Running Windows 10				
		1.		pendent Claim 4		
		2.		endent Claims 5-14 and 16-30		
		3.		endent Claim 15		
		4.	Dep	endent Claim 31	66	
IX.	Cond	clusior	1		68	



-ii-

## **EXHIBIT LIST**

Ex. 1001	U.S. Patent No. 9,423,923 ("the '923 patent")
Ex. 1002	Declaration of Loren Terveen, Ph.D. ("Terveen Dec.")
Ex. 1003	Bae Sys. Info. and Elec. Sys. Integration, Inc. v. Cheetah Omni, LLC, IPR2013-00175, Paper 15 (July 3, 2013)
Ex. 1004	Brinkmann Corp. v. A&J Mfg., LLC, IPR2015-00056, Paper 10 (March 23, 2015)
Ex. 1005	US Endodontics, LLC v. Gold Standard Instruments, LLC, PGR2015-00019, Paper 54 (Dec. 28, 2016)
Ex. 1006	Excerpts from File History of U.S. Patent No. 9,423,923
Ex. 1007	Excerpts from File History of U.S. Patent No. 9,423,938
Ex. 1008	U.S. Pat. No. 8,780,130 ("the '130 patent")
Ex. 1009	Declaration of Nils Sundelin ("Sundelin Dec.")
Ex. 1010	Excerpt from American Heritage Dictionary, Fifth Edition, 2011
Ex. 1011	Infringement Claim Chart for the '923 Patent served in <i>Cypress Lake Software</i> , <i>Inc. v. Acer America Corp.</i> , no. 6:16-cv-01246 (E.D. Tex.)
Ex. 1012	U.S. Pat. No. 9,358,454
Ex. 1013	U.S. Pat. No. 8,949,245
Ex. 1014	U.S. Pat. No. 5,625,814
Ex. 1015	Video file illustrating Windows 10 functionality accused in Ex. 1011, Cypress Lake's Infringement Claim Chart for the '923 Patent
Ex. 1016	[RESERVED]
Ex. 1016	U.S. Patent Application No. 12/956,008 (filed Nov. 30, 2010)
Ex. 1017	U.S. Patent Application No. 14/955,993 (filed Nov. 30, 2010)



- Ex. 1018 U.S. Patent Application No. 12/868,767 (filed Aug. 26, 2010)
- Ex. 1019 U.S. Patent Application No. 14/173,806 (filed Feb. 5, 2014)
- Ex. 1020 Microsoft Windows 1.0 Operating Environment User's Guide (1985)
- Ex. 1021 Microsoft Windows 7 Product Guide "Welcome to Windows 7" (2009)
- Ex. 1022 Microsoft Windows 8 Product Guide "Meet the new Windows" (2009)
- Ex. 1023 "Windows 8 Demo (All Things Digital, D9)" (June 1, 2011) PDF of website video page on YouTube.com
- Ex. 1024 "Windows 8 Demo (All Things Digital, D9)" (June 1, 2011) excerpt (3:08 to 3:47) of video from webpage in Ex. 1022.
- Ex. 1025 Microsoft Windows 8.1 Product Guide (2014)
- Ex. 1026 "Windows 8.1 Tips Using the Improved Split Screen Functions" PDF of website video page on YouTube.com
- Ex. 1027 "Windows 8.1 Tips Using the Improved Split Screen Functions" excerpt (3:08 to 3:39) of video from webpage in Ex. 1022
- Ex. 1028 Windows 10 Product Guide "Windows Technical Preview Quick Guide"
- Ex. 1029 PC World, "Hands-on with Microsoft's new Windows 10: UI changes that look great at first blush" (Sept. 30, 2014), available at <a href="http://www.pcworld.com/article/2689230/hands-on-with-microsofts-new-windows-10-ui-changes-that-look-great-at-first-blush.html">http://www.pcworld.com/article/2689230/hands-on-with-microsofts-new-windows-10-ui-changes-that-look-great-at-first-blush.html</a>
- Ex. 1030 Microsoft, "Announcing Windows 10 Insider Preview Build 10547" (September 18, 2015), available at <a href="https://blogs.windows.com/windowsexperience/2015/09/18/announcing-windows-10-insider-preview-build-10547/#MpR8wMDm5kWXTq2v.97">https://blogs.windows.com/windowsexperience/2015/09/18/announcing-windows-10-insider-preview-build-10547/#MpR8wMDm5kWXTq2v.97</a>



# DOCKET

# Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

# **Real-Time Litigation Alerts**



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

### **Advanced Docket Research**



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

# **Analytics At Your Fingertips**



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

### API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

### **LAW FIRMS**

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

### **FINANCIAL INSTITUTIONS**

Litigation and bankruptcy checks for companies and debtors.

### **E-DISCOVERY AND LEGAL VENDORS**

Sync your system to PACER to automate legal marketing.

