

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FOURSQUARE LABS, INC.,

Petitioner,

v.

BOARDACTIVE CORPORATION,

Patent Owner.

U.S. PATENT NO. 10,692,108 B1

**Title: PLATFORM FOR LOCATION AND
TIME BASED ADVERTISING**

IPR2023-00919

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S REPLY AND
SUPPLEMENTAL DECLARATION OF DR. STEVEN GOLDBERG
UNDER 35 U.S.C. § 42.107**

Petitioner Foursquare Labs, Inc. (“Foursquare” or “Petitioner”) filed a Petitioner’s Reply on May 16, 2024 along with a Supplemental Declaration of Dr. Steven Goldberg (Exhibit 1009). Patent Owner objects to the Petitioner’s Reply and Exhibit 1009 under 35 U.S.C. § 42.64(b)(1).

Patent Owner Objects to the Reply for failing to meet the particularity requirement of 35 U.S.C. § 312(a)(3) and 37 C.F.R. § 42.104(b)(4). The Reply utilizes confusing conjunctive and alternative combinations of the references in the asserted Grounds. This lack of particularity adversely affects the ability of the Patent Owner to respond to the issues raised by the Petitioner. For these reasons, the Petition also fails to meet the requirement of the PTAB’s Trial Practice Guide, which advises to “avoid submitting a repository of all the information that a judge could possibly consider, and instead focus on concise, well-organized, easy-to-follow arguments supported by readily identifiable evidence of record.” PTAB’s Consolidated Trial Practice Guide, p. 39 (Nov. 2019).

Patent Owner Objects to Petitioner’s Reply, under Federal Rules of Evidence 402 and 403, as to the relevance of the different Ground discussions as being irrelevant as not address the argument in the Patent Owner’s Response, confusing, and prejudicial. Further, the Patent Owner Objects to the Petitioner’s Reply under Federal Rules of Evidence 402 and 403, as to the relevance, prejudicial, and

confusing because sections of the Reply rely on Exhibit 1009, which Patent Owner raised objections.

Patent Owner Objects to the Petitioner's Supplemental Declaration of Dr. Steven Goldberg (Exhibit 1009) under Federal Rules of Evidence 402 and 403. Paragraph 3 of The Declaration draw a legal conclusion as to the sufficiency of the reference to be relied on, and paragraphs 4-13 be irrelevant and prejudicial, confusing the issues, and wasting time.

Date: May 23, 2024

By: /s/ Meredith Martin Addy
Meredith Martin Addy

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies service of Patent Owner BoardActive served this PATENT OWNER'S OBJECTIONS TO PETITIONER'S REPLY AND SUPPLEMENTAL DECLARATION OF DR. STEVEN GOLDBERG on the counsel of record for Petitioner Foursquare, Inc. by filing this document through the P-TRACTS, as well as delivering a copy via electronic mail to the following:

Michael.Carrillo@btlaw.com

Steven.Shipe@btlaw.com

Date: May 23, 2024

By: /s/ *Meredith Martin Addy*
Meredith Martin Addy