UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT TRIAL AND APPEAL BOARD

Capital One, National Association,
Petitioner

v.

Implicit, LLC,
Patent Owner

CASE: IPR2024-00878
U.S. PATENT NO. 7,774,740

UNOPPOSED MOTION TO TREAT SETTLEMENT AGREEMENT AS BUSINESS CONFIDENTIAL INFORMATION

PETITIONER'S UPDATED LIST OF EXHIBITS

Exhibit No.	Description
1001	U.S. Patent No. 7,774,740 (the "'740 patent")
1002	Declaration of Erez Zadok, Ph.D.
1003	Curriculum Vitae of Erez Zadok, Ph.D.
1004	Prosecution History of U.S. Patent Application No. 11/241,985
1005	PCT App. No. WO 1998/006033 to Agranat et al. ("Agranat")
1006	Michael Franz & Thomas Kistler, Slim Binaries, Communications of the ACM, Dec. 1997 ("Franz")
1007	U.S. Pat. No. 6,347,398 to Parthasarathy et al. ("Parthasarathy")
1008	Emin Gün Sirer & Sean McDirmid & Brian Bershad, Kimera: A System Architecture for Networked Computers, Univ. of Wash., 1997 ("Kimera")
1009	U.S. Patent No. 6,260,078 to Fowlow ("Fowlow")
1010	U.S. Patent No. 5,933,811 to Angles et al. ("Angles")
1011	*Reserved*
1012	Affidavit of Nathanial E. Frank-White, dated 2/9/2024
1013	*Reserved*
1014	Microsoft Computer Dictionary, 3rd ed., 1997
1015	Hypertext Transfer Protocol – HTTP/1.1, RFC 2068, The Internet Engineering Task Force (IETF), January 1997. [Download from https://www.rfc-editor.org/rfc/pdfrfc/rfc2068.txt.pdf]

Exhibit No.	Description
1016	HTML 4.0 Specification, The World Wide Web Consortium (W3C) Recommendation, December 18, 1997. [Download from https://www.w3.org/TR/REC-html40-971218/html40.pdf]
1017	HTTP State Management Mechanism, RFC 2109, The Internet Engineering Task Force (IETF), February 1997. [Download from https://www.rfc-editor.org/rfc/pdfrfc/rfc2109.txt.pdf]
1018	Abraham Silberschatz and Peter B. Galvin, Operating Systems Concepts, 4th Edition, 1994, Addison-Wesley Publishing
1019	Application of Internet Cache Protocol (ICP), version 2. RFC-2187. September 1997. [https://www.rfc-editor.org/rfc/pdfrfc/rfc2187.txt.pdf]
1020	GNU C Manual Page documentation, 1993
1021	Persistent Client State HTTP Cookies, October 1996
1022	*Reserved*
1023	*Reserved*
1024	*Reserved*
1025	*Implicit, LLC v. Trend Micro, Inc.*, No. 6:16-cv-00080-JRG, Dkt. No. 115, Markman Order (Mar. 29, 2017)
1026	Declaration of Devon Beane in support of Motion for *Pro Hac Vice* Admission
1027	Declaration of Jonah Heemstra in support of Motion for *Pro Hac Vice* Admission
1028 **New**	Confidential Settlement Agreement Between Capital One, National Association and Implicit, LLC [FILED UNDER SEAL]

Pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74, and the authorization provided in the Board's email of August 1, 2024, Petitioner Capital One, National Association moves to terminate the above-captioned proceeding. Patent Owner has not appeared in the above-captioned proceeding and is therefore not expected to oppose. As permitted by statute, Petitioner Capital One, National Association requests that the Board treat as business confidential information, the true and complete copy of the settlement agreement between Capital One, National Association and Implicit, LLC (Confidential Exhibit 1028), filed concurrently herewith.

35 U.S.C. § 317(b) provides in relevant part that:

> [a]t the request of a party to the proceeding, the agreement or understanding shall be treated as business confidential information, shall be kept separate from the file of the involved patents, and shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause.

Similarly, 37 C.F.R. § 42.74(c) provides that:

> A party to a settlement may request that the settlement be treated as business confidential information and be kept separate from the files of an involved patent or application. The request must be filed with the settlement. If a timely request is filed, the settlement shall only be available:

(1) To a Government agency on written request to the Board; or

(2) To any other person upon written request to the Board to make the settlement agreement available, along with the fee specified in § 42.15(d) and on a showing of good cause.

The present request, which is being filed contemporaneously with the confidential settlement agreement, is timely and complies with the foregoing authority. Capital One, National Association therefore respectfully requests that the settlement agreement (Confidential Exhibit 1028):

(i) be treated as business confidential information,

(ii) be maintained separate from the publicly available file of the involved patent as available to the Board only, and

(iii) be made available only to Federal Government agencies on written request, or to persons showing good cause on written request, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c).

Date: August 8, 2024

Respectfully submitted,

K&L GATES LLP,

By: /Jason A. Engel/
Jason A. Engel
Reg. No. 51,654

Certification of Service Under 37 C.F.R. §42.6(e)(4)

A copy of this Unopposed Motion to Treat Settlement Agreement as Business Confidential Information has been served at the following correspondence address of record for the subject patent via Federal Express Priority Overnight® on this 8th day of August, 2024:

Kowert, Hood, Munyon, Rankin, & Goetzel, PC
Jeffrey Hood
1120 South Capital of Texas Highway
Building 2, Suite 300
Austin, Texas 78746

By: /Jason A. Engel/
Jason A. Engel
Reg. No. 51,654
Customer No. 24573
K&L GATES LLP
Jason.Engel.PTAB@klgates.com
Telephone number: (312) 807-4236
Fax number: (312) 827-8145
70 W. Madison Street, Suite 3300
Chicago, IL 60602