UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Rocket Media, LLC d/b/a Launch Labs,

Petitioner,

v.

Fullthrottle Technologies, LLC,

Patent Owner.

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Case No. 2025-00148

U.S. Patent No. 11,556,947

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Before KEVIN W. CHERRY, ARTHUR M. PESLAK, and SEAN P. O'HANLON, Administrative Patent Judges.

**PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE**

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Cases — Page

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*Schering Corp. v. Geneva Pharmaceuticals*,
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## TABLE OF ABBREVIATIONS

| Abbreviation | Full Name |
|---|---|
| ’947 Patent | U.S. Patent No. 11,556,947 |
| Challenged Claims | Claims 1-20 of the ’947 Patent |
| Patent Owner | Patent Owner Fullthrottle Technologies, LLC |
| Petitioner | Petitioner Rocket Media, LLC d/b/a Launch Labs |
| POSITA | Person of Ordinary Skill In The Art |
| Petition | Rocket Media, LLC d/b/a Launch Labs v. Fullthrottle Technologies, LLC et al., IPR2025-00148, Paper No. 2 |
| POPR | Rocket Media, LLC d/b/a Launch Labs v. Fullthrottle Technologies, LLC et al., IPR2025-00148, Paper No. 6 |
| ID | Rocket Media, LLC d/b/a Launch Labs v. Fullthrottle Technologies, LLC et al., IPR2025-00148, Paper No. 7 |
| POR | Rocket Media, LLC d/b/a Launch Labs v. Fullthrottle Technologies, LLC et al., IPR2025-00148, Paper No. 12 |

# EXHIBIT LIST

| Exhibit No. | Document |
|---|---|
| 1001 | U.S. Patent No. 11,556,947 ("the '947 patent") |
| 1002 | File History of the '947 patent |
| 1003 | U.S. Patent No. 11,823,219 ("the '219 patent") |
| 1004 | File History of the '219 patent |
| 1005 | U.S. Patent No. 12,051,083 ("the '083 patent") |
| 1006 | File History of the '083 patent |
| 1007 | Declaration of Mr. David Williams |
| 1008 | U.S. Patent No. 8,898,074 to Doughty et al. ("Doughty") |
| 1009 | European Patent Pub. No. 2,938,045 to Van Boucq ("Van Boucq") |
| 1010 | U.S. Patent No. 10,311,465 to Maginnis ("Maginnis") |
| 1011 | The History of Web Browsers, https://www.mozilla.org/en-US/firefox/browsers/browser-history/ (last visited September 17, 2024) |
| 1012 | Web Tracking: Mechanisms, Implications, and Defenses by Bujlow et al., July 28, 2015 ("Bujlow") |
| 1013 | RFC 2109: HTTP State Management Mechanism, February 1997 ("RFC 2109") |
| 1014 | Apple to ad industry: Tough luck, privacy comes first, by S. Shankland, September 15, 2017 |
| 1015 | HIGH BROWSE Apple introduces update to Safari browser which could change the internet FOREVER, by J. Hamill, September 19, 2017 |
| 1016 | U.S. Patent No. 6,757,740 |

| Exhibit No. | Document |
|---|---|
| 1017 | RFC 2782: A DNS RR for specifying the location of services (DNS SRV), February 2000 |
| 1018 | The world is your JavaScript-enabled Oyster, by B. Taylor et al., June 29, 2005 (last visited September 10, 2024) |
| 1019 | Apple at WWDC 2012: iOS 6, new MacBook Air and Pro models, Mountain Lion, and more, by T. Houston, June 12, 2012 (last visited September 10, 2024) |
| 1020 | Python code for reverse Geo-coding using Google API, https://stackoverflow.com/questions/54320931/python-code-for-reverse-geo-coding-using-google-api, January 23, 2019 (last visited September 19, 2024) |
| 1021 | Can I use Google Maps API to reverse geocode a lat/long value in a Service?, https://community.ptc.com/t5/ThingWorx-Developers/Can-I-use-Google-Maps-API-to-reverse-geocode-a-lat-long-value-in/td-p/521908, April 3, 2017 (last visited September 19, 2024) |
| 1022 | API Keys for Map and Geocoding Vendors, https://www.photools.com/imatch-retired/api-keys-explained/, 2020 (last visited September 19, 2024) |
| 1023 | Geocoding and Rouging Improvements Added to Bing Maps, https://www.microsoft.com/en-us/maps/news/geocoding-and-routing-improvements-added-to-bing-maps, January 3, 2018 (last visited September 19, 2024) |
| 1024 | Announcing Azure Location Based Services public preview, https://azure.microsoft.com/en-us/blog/announcing-azure-location-based-services-public-preview/, November 28, 2017 (last visited September 19, 2024) |
| 1025 | HERE SDK for iOS, Developer's Guide, Version 4.0.0.0, 2019 |
| 1026 | *Fullthrottle Technologies, LLC v. Rocket Media, LLC (d/b/a Launch Labs)*, No. 1:24-cv-00314 (M.D.N.C.), Dkt. 24 ("FAC") |

| Exhibit No. | Document |
|---|---|
| 1027 | Federal Court Management Statistics – Comparison Within Circuit (Mar. 31, 2022), *available at* https://www.uscourts.gov/statistics/table/na/federal-court-management-statistics/2022/03/31-3. |
| 1028 | *Fullthrottle Technologies, LLC v. Rocket Media, LLC (d/b/a Launch Labs)*, No. 1:24-cv-00314 (M.D.N.C.), Dkt. Report as of November 7, 2024. |
| 1029 | U.S. Patent Pub. No. 2007/0185978 to Montulli ("Montulli") |
| 1030 | *Fullthrottle Technologies, LLC v. Rocket Media, LLC (d/b/a Launch Labs)*, No. 1:24-cv-00314 (M.D.N.C.), Dkt. 25 ("MTD") |
| 1031 | *Fullthrottle Technologies, LLC v. Rocket Media, LLC (d/b/a Launch Labs)*, No. 1:24-cv-00314 (M.D.N.C.), Dkt. 28 ("Opposition") |
| 1032 | U.S. Patent No. 8,682,714 to Smith et al. ("Smith") |
| 1033 | *History of the Web*, available at https://webfoundation.org/about/vision/history-of-the-web (last visited Oct. 14, 2024). |
| 1034 | *History of Web Browsers*, GeeksforGeeks, available at https://www.geeksforgeeks.org/history-of-web-browsers/ (last visited Oct. 14, 2024). |
| 1035 | *30 Years of Browsers: A Quick History*, by C. Steele, available at https://www.pcmag.com/news/30-years-of-browsers-a-quick-history 1/10 (last visited Oct. 14, 2024). |
| 1036 | *What are Browser Cookies? The History of Cookies in Digital Advertising*, by M. Bober, available at https://zeropark.com/blog/what-are-browser-cookies-in-digital-advertising/ (last visited Oct. 14, 2024). |

| Exhibit No. | Document |
|---|---|
| 1037 | *Stephen Lawson, Worker tracking service coming to Nextel phones, IDG News Service (Mar. 4, 2003)*, https://www.networkworld.com/article/2340456/worker-tracking-service-coming-to-nextel-phones.html (last visited Oct. 14, 2024). |
| 1038 | *Gary Krakow, Two new cellular phones built for abuse, NBC News* (Apr. 14, 2004), http://www.nbcnews.com/id/4324939/ns/technology_and_science-tech_and_gadgets/t/two-new-cellular-phones-built-abuse/ (last visited Oct. 14, 2024). |
| 1039 | *Nicole Lee, Verizon launches Chaperone child-monitoring service, CNET* (June 12, 2006), https://www.cnet.com/news/verizon-launches-chaperone-child-monitoring-service/ (last visited Oct. 14, 2024). |
| 1040 | *AT&T launches AT&T Navigator, PhoneArena Team* (Apr. 3, 2008), https://www.phonearena.com/news/AT-T-launches-AT-T-Navigator_id2643 (last visited Oct. 14, 2024). |
| 1041 | *Sprint Launches GPS-Based Child-Locator Service (Apr. 13, 2006)*, https://www.cio.com/article/257110/mobile-sprint-launches-gps-based-child-locator-service.html (last visited Oct. 24, 2024) |
| 1042 | *What Are Push Notifications?* (Sep. 13, 2021), https://www.howtogeek.com/751954/what-are-push-notifications/#:~:text=There%20are%20several%20different%20types%20of%20%22push (last visited Oct. 24, 2024). |
| 1043 | *Now websites can send push notifications—not just apps* (June 10, 2013), https://www.niemanlab.org/2013/06/now-websites-can-send-push-notifications-not-just-apps/ (last visited Oct. 24, 2024). |
| 1044 | *Apple Push Notification Service* (July 24, 2024), https://theapplewiki.com/wiki/Apple_Push_Notification_Service (last visited Oct. 24, 2024). |

| Exhibit No. | Document |
|---|---|
| 1045 | Excerpts from *This But in Your PC is a Smart Cookie* (Feb. 12, 1996), Financial Times (London), by T. Jackson, available at https://www.cyberrights.cyberjournal.org/cr-18feb96-tidbits/ (last visited Sept. 18, 2024). |
| 1046 | U.S. Patent Pub. No. 2007/0006077 to Grubbs ("Grubbs") |
| 1047 | *What is Targeted Advertising, and How Does It Work?*, RGB House Editorial Team (May 13, 2024), available at https://blog.rtbhouse.com/what-is-targeted-advertising-and-how-does-it-work/ (last visited Nov. 4, 2024). |
| 1048 | *What are cookies? What are the differences between them (session vs. persistent)?* (July 17, 2018), available at https://www.cisco.com/c/en/us/support/docs/security/web-security-appliance/117925-technote-csc-00.html (last visited Nov. 6, 2024). |
| 1049 | *Are cookies crumbling our privacy? We asked an expert to find out* (Mar. 29, 2015), available at https://www.digitaltrends.com/computing/history-of-cookies-and-effect-on-privacy/ (last visited Nov. 6, 2024). |
| 1050 | *The evolution of pixel tracking in digital marketing* (Feb. 2, 2023) available at https://www.adlucent.com/resources/blog/the-history-and-evolution-of-pixel-tracking-in-digital-marketing/ (last visited Nov. 6, 2024). |
| 1051 | Tanya Kant, *A History of the Data-Tracked User* (Oct. 8, 2021), available at https://thereader.mitpress.mit.edu/a-history-of-the-data-tracked-user/#_edn2 (last visited Nov. 6, 2024). |
| 1052 | Catalin Cimpanu, *Apple blocks third-party cookies in Safari* (Mar. 24, 2020), available at https://www.zdnet.com/article/apple-blocks-third-party-cookies-in-safari/ (last visited Nov. 6, 2024). |

| Exhibit No. | Document |
|---|---|
| 1053 | Aimee Picchi, *Google reneges on plan to remove third-party cookies in Chrome* (July 22, 2024), available at https://www.cbsnews.com/news/google-third-party-cookies-chrome/ (last visited Nov. 6, 2024). |
| 1054 | *History of APIs – Google Maps API* (Jan. 30, 2011), available at https://apievangelist.com/2011/01/30/history-of-apis-google-maps-api/ (last visited Nov. 6, 2024). |
| 1055 | *Nautical Flags: Origins, Meanings, and Resources*, available at https://asa.com/news/2023/06/14/nautical-flags-origins-uses-meanings/#:~:text=Nautical%20Flag%20Origins%20and%20History&text=The%20use%20of%20flags%20for,actions%20to%20other%20fleet%20members (last visited Nov. 6, 2024). |
| 1056 | Codrut Neagu, *What is the MAC address, and how is it used?* (Feb. 20, 2019), available at https://www.digitalcitizen.life/simple-questions-what-mac-address-how-change-it-windows/ (last visited Nov. 6, 2024). |
| 1057 | Kinza Yasar, *What is a MAC address and how do I find it?* https://www.techtarget.com/searchnetworking/definition/MAC-address (last visited Nov. 6, 2024). |
| 1058 | CloudFlare, *What is an autonomous system? \| What are ASNs?*, available at https://www.cloudflare.com/learning/network-layer/what-is-an-autonomous-system/ (last visited Nov. 6, 2024). |
| 1059 | Glossary, *Universally unique identifier (UUID)*, available at https://amplitude.com/glossary/terms/universally-unique-identifier-uuid (last visited Nov. 6, 2024). |
| 1060 | Kinza Yasar, *device ID (device identification)*, available at https://www.techtarget.com/searchcio/definition/device-ID-device-identification (last visited Nov. 6, 2024). |
| 1061 | ReasonLabs, *What is Hash Value?*, available at https://cyberpedia.reasonlabs.com/EN/hash%20value.html (last visited Nov. 6, 2024). |

| Exhibit No. | Document |
|---|---|
| 1062 | Robert Sheldon, *session ID*, available at https://www.techtarget.com/searchsoftwarequality/definition/session-ID (last visited Nov. 6, 2024). |
| 1063 | *What is an Instance*, Lenovo US, available at https://www.lenovo.com/us/en/glossary/what-is-instance/?orgRef=https%253A%252F%252Fwww.google.com%252F&srsltid=AfmBOooi6PnP-Pci7VF4p71hXGcKiOXpz6vFjcXD89yz7A1rms_FWIAw (last visited Nov. 6, 2024). |
| 1064 | Katie Terrell Hanna, *applet*, available at https://www.techtarget.com/whatis/definition/applet (last visited Nov. 6, 2024). |
| 1065 | *Clear Channel Outdoor Launches Its First Indoor Digital Billboard Network* (Feb. 8, 2007), available at https://investor.clearchannel.com/news/detail/465/clear-channel-outdoor-launches-its-first-indoor-digital-billboard-network (last visited Nov. 6, 2024). |
| 1066 | Rebuttal Declaration of Mr. David Hilliard Williams |
| 1067 | Transcript of the Deposition of Dr. Oded Gottesman (November 14, 2025) |

# I. INTRODUCTION

The Petition set forth a combination of two prior art references (Doughty and Van Boucq) that render obvious the Challenged Claims. The Board determined that there was a reasonable likelihood Petitioner would prevail in establishing unpatentability of at least claim 1. ID, 2. In the ID, the Board largely rejected all of Petitioner's arguments in its preliminary response.

Faced with the likely invalidation of its patent, Patent Owner created brand-new arguments to distinguish the prior art in its response. These new arguments rely upon implicit claim constructions that contradict the positions Patent Owner took in the corresponding district court litigation to allege infringement. That cannot be allowed. "It is axiomatic that claims are construed the same way for both invalidity and infringement." *Amgen Inc. v. Hoechst Marion Roussel, Inc.*, 314 F.3d 1313, 1330 (Fed. Cir. 2003).

Even under Patent Owner's new claim constructions, however, Doughty and Van Boucq still render obvious the Challenged Claims as discussed below.

Petitioner therefore requests the Board reject Patent Owner's desperate gambit to salvage its patent and cancel the Challenged Claims.

## II. DOUGHTY DOES NOT DISCLSOE INCOMPATIBLE EMBODIMENTS

Several of Patent Owner's arguments are premised upon its contention that Doughty discloses two separate and incompatible embodiments: the "Profile-ID Embodiment" and the "MKP Embodiment."[1] Not so. Doughty explicitly contemplates combining the various methods described therein. EX1008, 26:51-54 ("[I]t is to be understood that the present invention contemplates that, to the extent possible, ***one or more features of any embodiment can be combined with one or more features of any other embodiment***."); 24:47-49 ("[E]ach method described above and combinations thereof may be embodied in computer executable code.").

And, there is nothing incompatible about the two allegedly separate embodiments. To the contrary, a POSITA reading Doughty would have understood that the "MKP Embodiment" is an exemplary implementation of the "Profile-ID Embodiment." For example, both embodiments disclose assigning a unique identifier to a user and creating a profile for the user linked to that unique identifier. And, in both embodiments, the system will attempt to create a universal profile for the user that is consolidated across the user's different devices. EX1008, 15:14-17, 16:38-42.

[1] For readability purposes, Petitioner uses Patent Owner's terminology but does not agree that the names are representative or that these are separate embodiments.

| Functionality | Profile-ID Embodiment | MKP Embodiment |
|---|---|---|
| Unique identifier for the user | "assigns a ***unique identifier***, which could be alphabetical, numerical, alphanumerical, or symbols" (EX1008, 10:46-48) | "***uniquely identify a user*** by creating a hashed (e.g., anonymized) email address upon noticing the user the first time" (EX1008, 17:27-29) |
| Universal profile | "a ***universal profile*** that includes both first device 101 and second device 102" (EX1008, 15:16-17) | "create a ***universal profile***" "for the same user across wired web, mobile web, and mobile application traffic" (EX1008, 16:40-42) |

A POSITA would have recognized that creating the hashed email address is an exemplary implementation of assigning a unique identifier. The "Profile-ID Embodiment" discloses that the unique identifier can be numerical, and a POSITA would have understood that a hash is designed to map different values to a unique number. EX1066, ¶13. Doughty then discloses storing that unique identifier—e.g., the hashed email address—in the cookie or pixel tag. EX1008, 16:59-17:31; EX1066, ¶13.

Similarly, a POSITA also would have understood that the MatchKey Provider/Publisher and Data Suppliers are a specific implementation of the server **104** and sponsor database **108**. EX1066, ¶14; POR, 13 (admitting that the Profile-ID embodiment includes a backend server that stores the universal profile). Indeed, Doughty explicitly discloses that the system may "seek to gain access to match keys and make additional links" as part of Figures 1 and 2, which Patent Owner admits are part of the "Profile-ID Embodiment." POR, 12-13; EX1008,

12:9-29. To the extent Patent Owner argues that the "MKP Embodiment" requires the user to log into a publisher or application, Doughty also discloses a user log-in in connection with Figures 1 and 2, which Patent Owner admits are part of the "Profile-ID Embodiment." POR, 12-13; EX1008, 12:9-29.

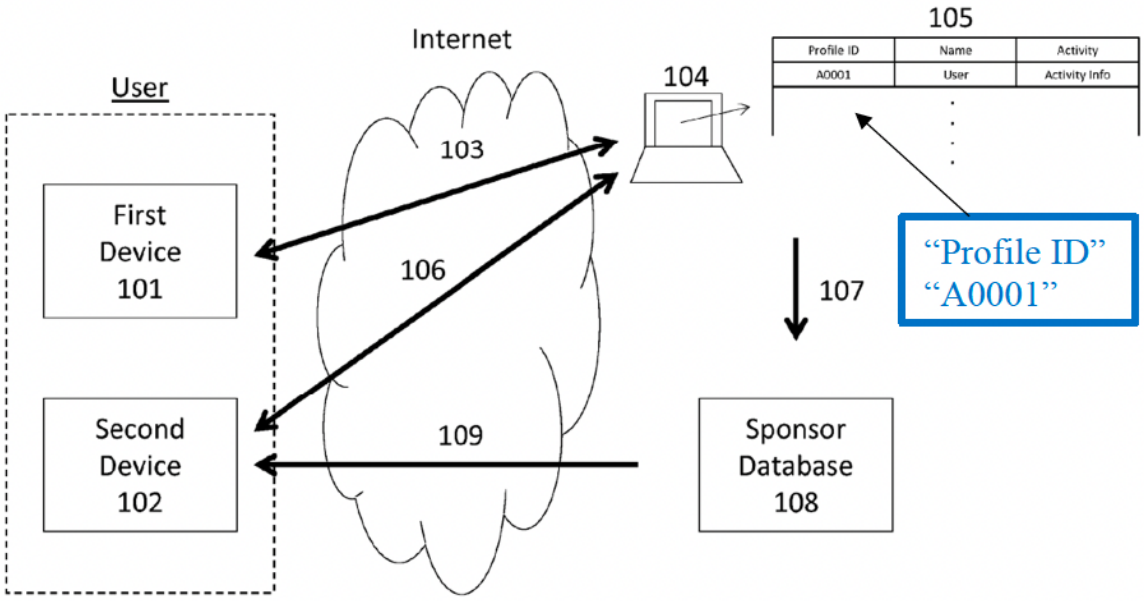
In other words, it would have been readily apparent to a POSITA that the "Profile-ID Embodiment" and "MKP Embodiment" are not actually incompatible embodiments. *Id.*

*******

Patent Owner's other statements about Doughty are incorrect. For example, Patent Owner asserts that Profile IDs in table **105** "are assigned based on user activity information, which may be a 'behavioral pattern, viewing habits, usage information, duration on each application, geographic location information, proximity to other locations.'" POR, 29 (citing EX1008, 10:36-39). This is wrong. As depicted in in Figure 1 excerpted below, the Profile ID is a "unique identifier, which could be alphabetical, numerical, alphanumerical, or symbols," in Figure 1, that is "A0001." EX1008, 10:46-48; POR, 13 (admitting that the Profile ID for the Profile-ID embodiment is A0001). In sum, contrary to Patent Owner's assertions, the Profile ID can be any alphanumerical symbol and does not have to be based upon user activity information.

**Doughty Fig. 1 (Ex-1008)** (Annotated)

FIG. 1




## III. THE CHALLENGED LIMITATIONS

Because Patent Owner's arguments rely upon inconsistent interpretations and seek to cause confusion, Petitioner first highlights the different language in the challenged limitations:

**1[c]**: determining that the user has not been assigned ***a unique identifier*** based on ***a lack of stored location data*** for the user computing device;

**1[d]**: assigning ***the unique identifier*** to the user;

**1[e]**: determining whether the user opted-in to or out of ***location tracking***, based on whether ***a location tracker*** is installed on the user computing device;

**1[f]**: sending, upon determining that the user opted-out of ***location tracking***, ***the unique identifier*** to the user computing device for storage in a local browser cache;

**1[l]**; identifying a second visit to the URL during the second browser session using ***the unique identifier*** stored in the local browser cache;

In the Petition, Petitioner explained how the ***location tracker*** (connection cookie) from Van Boucq is stored in the local browser cache, and, it would have obviously included ***location data*** and the ***unique identifier*** of the user from Doughty. Petition, 24-33. Petitioner also explained that it would have been obvious to a POSITA to combine storage of this information to make an efficient system, including so the system could later identify the user. *Id.*, 33.

After institution, Patent Owner now argues that the Challenged Claims are directed to a system in which the ***stored location data*** is not stored with the ***location tracker*** or the ***unique identifier***.

Patent Owner contends that there are two different embodiments disclosed in the '947 patent: (1) "the ***unclaimed*** Unique Identifier/Tracker Embodiment" and (2) "the ***claimed*** Unique Identifier/Lack of Stored Location Data Embodiment." POR, 25. In the former, Patent Owner states that "'the computing device may determine whether there is a unique identifier' that is 'associated with the user ***based on presence of a location tracker (e.g., cookie) installed in the browser application*** on the user computing device.'" POR, 8-9. Patent Owner argues that all cookies are stored in the cookie store. POR, 42-48. In the latter, Patent Owner states that that "the computing device ***may access a database or other storage***

***location*** that maintains a mapping of unique identifier to a browser session, a user computing device, and/or ***location data***." POR, 8.

And, Patent Owner argues that cookies, like those described in Van Boucq and the patent, are stored in the cookie store. Patent Owner insists that the cookie store is not part of the local browser cache, which is where claims require that ***the unique identifier*** is stored. POR, 42-48.

Patent Owner has thus contended that the claimed system requires storage of this information in separate locations:

| Data | Storage Location |
|---|---|
| ***stored location data*** | Database or other storage location (POR, 8) |
| ***location tracker*** | Cookie store (POR, 8-9, 42-48) |
| ***unique identifier*** | Local browser cache (POR, 42-48) |

As explained more below, Patent Owner's interpretation of its own claims causes confusion and internal inconsistencies.

## IV. DOUGHTY OVER VAN BOUCQ RENDERS OBVIOUS THE CHALLENGED CLAIMS (GROUND 1)[2]

### A. 1[c] ("determining that the user has not been assigned a unique identifier based on *a lack of stored location data* for the user

[2] Given the focus of the ID, Petitioner focuses on the combination of the disclosures in both Doughty and Van Boucq, but stands by its positions set forth in the Petition.

**computing device") and**

**1[d] ("assigning the unique identifier to the user")**

Patent Owner's arguments for limitations 1[c] and 1[d] are premised upon a brand-new claim construction that contradicts its prior positions, including in the district court litigation. Patent Owner's blatant attempt to seek a narrow construction for invalidity in this proceeding, but a broad construction in district court for infringement purposes, must be rejected. *E.g.*, *Amgen*, 314 F.3d at 1330 ("It is axiomatic that claims are construed the same way for both invalidity and infringement.").

Notwithstanding Patent Owner's contradictory position, Doughty over Van Boucq still renders the claims obvious.

### 1. Patent Owner's Position Contradicts its Allegations in District Court

As mentioned above, for the first time in its Response, Patent Owner contended that there are two different embodiments disclosed in the '947 patent: (1) "the ***unclaimed*** Unique Identifier/Tracker Embodiment" and (2) "the ***claimed*** Unique Identifier/Lack of Stored Location Data Embodiment." POR, 25. According to Patent Owner, the former recites checking for a ***location tracker***, like a cookie, whereas the latter involves a backend query to a database or other storage location for ***stored location data***. Patent Owner now insists that the claims only encompass the latter. *Id.*

Patent Owner previously advanced the opposite position. In the corresponding district court litigation, Patent Owner argued that "[i]f the third-party cookie is not present (e.g., in the local browser cache), an assigned unique identifier is sent to the user's local browser cache." EX1031, 24. According to Patent Owner, "determining that the user has not been assigned a unique identifier" (limitation 1[c]) is met if the system checks to see if a cookie is not present and, if not, it assigns a unique identifier. *Id*. This is precisely what Patent Owner now contends is ***disclaimed***. Patent Owner cannot be allowed to seek a narrow construction here to avoid invalidity, but keep the claims broad for infringement purposes at the district court. *See Amgen*, 314 F.3d at 1330.

Even in its POPR, Patent Owner did not advance this argument, instead contending that Van Boucq disclosed "a first-party cookie, not a third-party cookie", and therefore did not meet the claim.[3] POPR, 22.

**2. Patent Owner's Position is Internally Inconsistent**

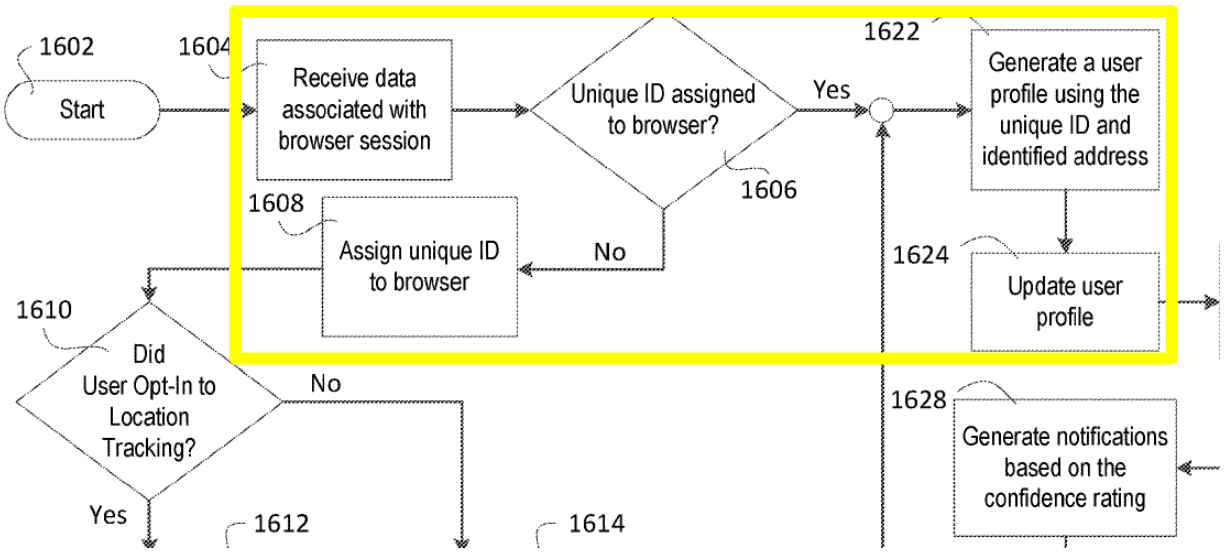
Tellingly, Patent Owner's own description of the so-called "claimed Unique Identifier/Lack of Stored Location Data Embodiment" is contrary to the specification and inconsistently described in its Response.

[3] Patent Owner no longer seems to be making this argument.

**Contrary to the specification**. In its overview section, Patent Owner describes this embodiment by relying primarily on Figure 16:

> ***At 1608***, if the computing device determines that no unique identifier has been assigned based on a lack of stored location data, the computing device generates a unique identifier for that user (Ex-1001, 44:5-8; Ex-2012, ¶76). When the computing device determines (***1606***) that a unique ID was previously assigned to the browser, the user is no longer anonymous and the system updates the user profile (1622-1632) (Ex-1001, 44:1-4; Ex-2012, ¶76).

POR, 9. This cannot be reconciled with the language of the patent.




EX1001, Fig. 16 (excerpted). As shown above, the determination step is at **1606**: "Unique ID assigned to browser?" If "No," the patent discloses assigning a unique ID at **1608**. ***The determination does not happen at step 1608 as implied by Patent Owner***. And, the patent itself states that the determination step **1606** happens by determining "whether there is a ***unique identifier*** that is associated with the user … ***stored on the computing device***." EX1001, 43:49-52. Figure 16 therefore

discloses checking for a unique identifier on the user's device, not checking for the lack of stored location data in a database. Thus, Patent Owner mischaracterizes Figure 16 by contending it depicts the so-called "claimed Unique Identifier/Lack of Stored Location Data Embodiment." EX1066, ¶33.

**Internal Inconsistencies**. According to Patent Owner, after a unique identifier is associated with the user, "the computing device stores the generated unique identifier in the user's local browser cache." POR, 10. The Patent Owner explains: "***Because the assigned unique identifier is stored in the local browser cache***, the computing device can recognize return visits by the user when there is no 'tracker (e.g., cookie)' and when using the same browsing application." *Id*. Patent Owner therefore admits that the claimed system does not check for a lack of stored location data to determine if the user has been assigned a unique identifier. Instead, it checks for the unique identifier stored on the computer. EX1066, ¶34.

### 3. Doughty over Van Boucq Renders Obvious The Claims Under Either Construction

Under Patent Owner's prior construction, the Doughty-Van Boucq combination renders these limitations obvious by checking for a cookie with the location information and the unique identifier for the reasons set forth in the Petition. Petition, 23-28.

Under Patent Owner's new construction, Doughty over Van Boucq still renders obvious this limitation. Although Patent Owner characterizes the claimed

and unclaimed embodiments as mutually exclusive, that is contrary to the language of the patent. The '947 patent discloses that "the computing device may access a database or other storage location that maintains a mapping of unique identifier to a browser session, a user computing device, and/or location data. ***Additionally or alternatively***, the computing device may determine whether there is a unique identifier for associated with the user based on presence of a location tracker (e.g., cookie) installed in the browser application on the user computing device." EX1001, 9:52-59.

The patent itself therefore contemplates checking ***both*** in a database and for a cookie. It is also contrary to Patent Owner's own description of this embodiment as discussed above where the device checks for the unique identifier in a "cookie" on the computer. POR, 10. As such, Patent Owner's new construction does not preclude also checking for a cookie, which Patent Owner admits is disclosed by the Doughty-Van Boucq combination. POR, 27, 31.

Furthermore, it would have been obvious to a POSITA that, instead of or in addition to checking for a connection cookie on the device, the system should query the table to determine if the user already has been assigned a unique ID. EX1066, ¶38. For example, Doughty discloses storing, *inter alia*, location information in a table **105** on a server **104**. EX1008, 10:34-50. And, a POSITA would have been motivated to make that query because a POSITA would have

understood that cookies are sometimes cleared or deleted after a certain period of time. EX1066, ¶38; EX2012, ¶69. Because Doughty discloses creating a universal profile, a POSITA would have been motivated to query the table **105** to see if the user already has a unique ID and avoid creating a redundant profile, even if the cookie or cache is cleared in the interim. EX1066, ¶38.

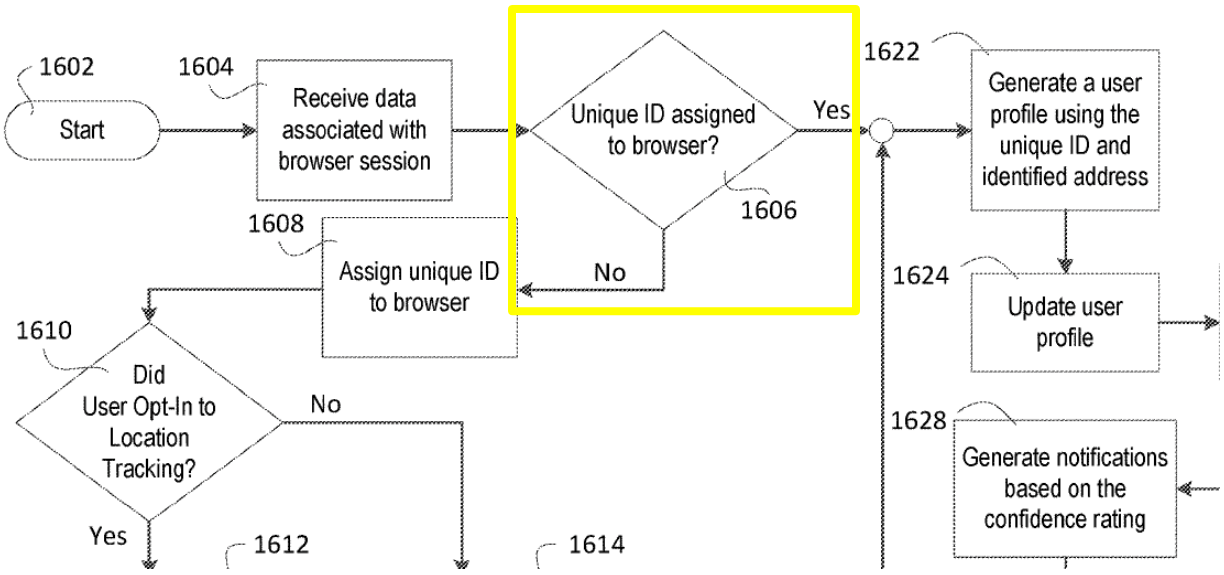
**4. The Cookie Check Meets The Claimed Limitations**

As detailed in the Petition, the Doughty-Van Boucq combination determines if there is a geolocation cookie with location data on the user's computer. Petition, 25-26. If there is no cookie, the system will thus determine the user has not been assigned a unique identifier based on a lack of stored location data. *See id*.

Patent Owner makes three arguments regarding the cookie check.

**First**, Patent Owner contends that determining that a unique identifier has been assigned by finding the cookie "is not determining that a unique identifier was not assigned" because "[a] positive determination is not a negative determination." POR, 31. This is, at best, confusing. As a matter of common sense, if the system determines the user has been assigned a unique identifier by searching for a cookie with location data, it also determines that the user has not been assigned a unique identifier when no location data is found. EX1066, ¶40. This is confirmed by Figure 16 (which Patent Owner admits is relevant to this

limitation (POR, 9-10)) that depicts that this determination results in a "Yes" (positive) or a "No" (negative):




EX1001, Fig. 16 (excerpted). It is also contrary to Patent Owner's description of this embodiment as discussed above because the device checks for the unique identifier stored in a "cookie" on the computer. POR, 10.

**Second**, Patent Owner argues that the determination may be incorrect if cookies are cleared, but nothing in the claims requires the determination to be perfect. POR, 32; EX1066, ¶53; *Schering Corp. v. Geneva Pharmaceuticals*, 339 F. 3d 1373, 1381 (Fed. Cir. 2003) ("An anticipatory reference need only enable subject matter that falls within the scope of the claims at issue, nothing more."). A POSITA would have understood that this limitation is met whenever cookies are not cleared, which would be the normal case. *Id*.

**Third**, Patent Owner argues that Van Boucq discloses creating a connection cookie regardless of whether the user opts into or out of location tracking. POR, 33. This is irrelevant because the claim recites making the determination based on a lack of stored location data, not whether the user opted into or out of location tracking. EX1066, ¶43.

### 5. A POSITA Would Have Been Motivated to Combine Doughty and Van Boucq

Patent Owner argues that there is a lack of motivation to combine because the connection cookie "has neither Doughty's unique identifier from table **105** nor Doughty's hashed email address." POR, 33. This is both irrelevant and wrong. It is irrelevant because nothing in the claims requires that the unique ID be stored with the location tracker. EX1001, cl. 1 ("determining whether the user opted-in to or out of location tracking, based on whether a location tracker is installed on the user computing device"); EX1066, ¶44. As discussed above, Patent Owner's position requires that the location tracker be stored in a different location from the unique identifier.

It is wrong because it would have been obvious to send the unique ID in Doughty as part of the cookie or other tracking device for the reasons in the Petition. Petition, 32-33. As Patent Owner's expert admits, cookies stored on the user's system are typically tied to a "back-end database." EX2012, ¶56. And the cookie would thus normally store a unique identifier (or primary key) to be able to

look up the user in that database. EX1066, ¶45. In other words, a POSITA would have understood (or it would have at least been obvious) that the unique identifier from Doughty is stored in the connection cookie. EX1066, ¶45.[4]

And, there is no distinction between the unique ID in the allegedly different embodiments of Doughty as discussed above. *See* Section **Error! Reference source not found.**, *supra*.

### B. 1[e] ("determining whether the user opted-in to or out of location tracking, based on whether a location tracker is installed on the user computing device")

Patent Owner's arguments for 1[e] are again premised upon positions that contradict its previous positions. Yet again, the claims are invalid either way.

#### 1. The Doughty-Van Boucq System Discloses 1[c] and 1[e] Separately

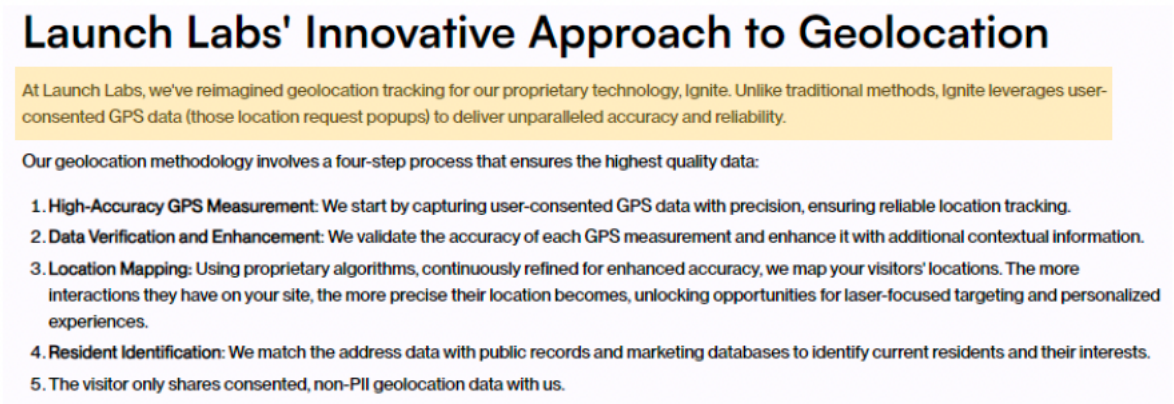
Patent Owner first insists that the Doughty-Van Boucq combination makes the same check for the connection cookie to determine if the user has a unique ID (1[c]) and to determine whether she opted into location tracking (1[e]). POR, 37-38. This argument is both contrary to Patent Owner's position at the district court and wrong.

[4] Patent Owner also contends that the Petition is not consistent with Petitioner's expert. POR, 25. Not so. Ground 1 is that Doughty over Van Boucq renders obvious the claim, meaning that a POSITA would have found the claim obvious in light of the disclosure in Doughty and Van Boucq. Both statements are therefore accurate.

**Contrary to Patent Owner's arguments in district court**. According to Patent Owner, "determining that the user has not been assigned a unique identifier" (limitation 1[c]) "is properly construed to mean a 'unique identifier' that was not previously assigned ***when it was previously determined that the user had opted out of location tracking***." EX1031, 24. In other words, Patent Owner contended in district court that determining the user has not been assigned a unique identifier (1[c]) uses the determination that the user opted out of location tracking (1[e]). EX1066, ¶49.

Patent Owner also contends that the system uses the pop-up to determine whether the user opted into or out of location tracking, not the presence of a location tracker. POR, 38-39. Notably, however, Patent Owner's infringement allegations rely upon the exact same pop-ups disclosed in Van Boucq:

**Annotated Excerpt from Launch Labs' Marketing Materials (Ex. M)**



Launch Labs' Innovative Approach to Geolocation

At Launch Labs, we've reimagined geolocation tracking for our proprietary technology, Ignite. Unlike traditional methods, Ignite leverages user-consented GPS data (those location request popups) to deliver unparalleled accuracy and reliability.

Our geolocation methodology involves a four-step process that ensures the highest quality data:

1. **High-Accuracy GPS Measurement**: We start by capturing user-consented GPS data with precision, ensuring reliable location tracking.
2. **Data Verification and Enhancement**: We validate the accuracy of each GPS measurement and enhance it with additional contextual information.
3. **Location Mapping**: Using proprietary algorithms, continuously refined for enhanced accuracy, we map your visitors' locations. The more interactions they have on your site, the more precise their location becomes, unlocking opportunities for laser-focused targeting and personalized experiences.
4. **Resident Identification**: We match the address data with public records and marketing databases to identify current residents and their interests.
5. The visitor only shares consented, non-PII geolocation data with us.

EX1026, 37.

Patent Owner cannot rely upon inconsistent allegations for validity and infringement. *See Amgen*, 314 F.3d at 1330.

**Patent Owner's argument is wrong**. In any event, the Doughty-Van Boucq system discloses separate checks for 1[c] and 1[e]. As explained in the Petition, the system may prompt the user with a pop-up to ask the user to be geolocated. If the user opts in, Van Boucq discloses creating a connection cookie. Petition, 29-30. But, the user may also opt out or ignore the pop-up. Under those situations and right after that, the system determines whether the user refused to be geolocated by checking whether the web browser has a connection cookie. *Id*. This is separate from the cookie check described in 1[c]. EX1066, ¶52. This separate check happens after the user is prompted with the pop-up to check if they opted in. If the user opted out or ignored the pop-up, the cookie will not be there. And, there is nothing in the claims that requires this step be performed more than once. EX1066, ¶52; *Schering*, 339 F. 3d at 1381.

Additionally or alternatively, Van Boucq discloses that, when a cookie is created when the user opts out of location tracking, the cookie may have a limited lifespan, especially for mobile browsing devices. EX1009, ¶63. Once that lifespan expires, the cookie will be removed or deprecated and, on subsequent checks, the system will determine the user opted out of location tracking based upon whether the connection cookie (location tracker) is installed on the computing device. As

such, when the user opts out, the creation of the cookie is only temporary. A POSITA would have therefore understood that subsequent checks when the cookie is removed will meet this limitation. EX1066, ¶53. Again, there is nothing in the claims that requires this step be perfect. *Id*.; *Schering*, 339 F. 3d at 1381. A POSITA would have therefore understood that this limitation would be met whenever the cookie is cleared—e.g., when the temporary cookie expires. *Id*.

### 2. The Doughty-Van Boucq System Discloses Dynamic Location Trackers

Patent Owner next argues that the connection cookies are not a "location tracker" because they only store "a static location." POR, 38 Nothing in the claims explicitly requires the location tracker to dynamically update itself. Instead, this is again a brand-new claim construction that is contrary to the Patent Owner's previous positions.

**District Court Position**. In district court, Patent Owner argued that "The 'location tracker' is properly construed as the third-party tracking ***cookie*** described in the patent specification ('tracker (e.g., cookie).'" EX1031, 23-24. And, as explained by Patent Owner's expert, cookies are static strings of data. Cookies are "small pieces of data (each limited to 4 KB) placed in a browser storage by the web server." EX2012, ¶55; POR, 4 (admitting that cookies are "small 'strings of data'" or "text files comprising data bits"). Indeed, at his deposition, Patent Owner's expert confirmed that cookies do not execute code. EX1067, 29:3-7 ("Q.

So cookies can't execute code on their own; right? A. I'm not sure what you are saying. Cookies are files. They don't execute anything. Just piece of data."). As such, the cookies Patent Owner alleged to be a location tracker in district court do not meet this new requirement that the location tracker dynamically update the location. EX1066, ¶55. Yet again, Patent Owner cannot rely upon inconsistent allegations for validity and infringement. *See Amgen*, 314 F.3d at 1330.

**New Construction**. Even if the term "location tracker" requires something more than a static location, it would have been obvious to a POSITA that Van Boucq discloses updating the user's location in the connection cookie. For example, Van Boucq discloses that, when a cookie is created when the user opts out of location tracking, the cookie has limited lifespan. EX1009, ¶63; EX1066, ¶53. Because Van Boucq discloses a lifespan, a POSITA would have understood that the cookie would be updated or re-created after that lifespan expires, making the location stored in the connection cookie a dynamic (changing) location. EX1066, ¶54.

And, because Van Boucq does not disclose a limited lifespan when the user opts into location tracking, a POSITA would have understood that the browser updates the cookie on subsequent uses because the user opted in. EX1066, ¶60.

### 3. The Doughty-Van Boucq System Renders Obvious 1[e]

Patent Owner argues that the determination of whether the user opted to allow location tracking is based upon the pop-up, not the presence of a location tracker because the connection cookie is installed either way. Not true. As explained above in Section IV.B.1, *supra*, there is a separate check for 1[c] and 1[e] to see if a connection cookie has already been created, which determines whether a user opted into or out of location tracking. EX1066, ¶60. This separate check is based upon whether there is a location tracker (cookie) installed on the device for the reasons described above. *Id*. And, this limitation also would have been obvious based upon the fact that Van Boucq discloses that the cookie is only temporary when the user opts out of location tracking for the reasons explained above. *Id*.

### 4. A POSITA Would Have Been Motivated to Combine Doughty and Van Boucq

As previously explained, it would have been obvious to combine Doughty and Van Boucq for many reasons, including because Doughty discloses the importance of determining the user's location and Van Boucq teaches specific methods of determining and tracking the user's location. Petition, 19-21, 25-26. Patent Owner mischaracterizes Petitioner's argument by selectively quoting a section of the Petition addressing only Doughty, not Doughty and Van Boucq together. POR, 40 (citing Petition, 28-29). Although Doughty and POSITAs at the

time recognized that ***third-party*** cookies were becoming a concern, use of ***first-party*** cookies was a common alternative. EX1066, ¶61. And, according to Patent Owner, "Van Boucq's 'connection cookie' is a first-party cookie." POPR, 28. It therefore would have been obvious to a POSITA to use those first-party cookies from Van Boucq with the system in Doughty as set forth in the Petition. *Id*.

### C. 1[f] ("sending, upon determining that the user opted-out of location tracking, the unique identifier to the user computing device for storage in a local browser cache")

Patent Owner's arguments are yet again premised upon positions that contradict its previous positions. And, again, the claims are invalid either way.

**First**, Patent Owner's primary argument is that the connection cookies from Van Boucq are stored in the "cookie store," which is not part of the "local browser cache." POR, 42-48.

***District Court Position***. As an initial matter, this contradicts Patent Owner's infringement allegation. In its complaint, Patent Owner argued that the unique identifiers are stored in the local browser cache by setting a cookie:

**Annotated Excerpts from atmain2.js (Ex. L)**

```
getGuid: function() {
    fetch("https://kmdu238m3i.execute-api.us-east-1.amazonaws.com/prod/uuid").then(function(e) {
        var t = e.headers.get("ETag");
        t ? at.setCookie("atguid", t, 999) : at.setCookie("atguid", at.guid(), 999),
        at.registerSessionAndSetupEngagements(!0)
    })
},
```

EX1026, 39. This screenshot shows that Patent owner is relying upon a

"setCookie" command (which stores a cookie in the cookie store) to show sending the unique identifier to the user computing device for storage in a local browser cache. EX1066, ¶65; POR, 42-48. Thus, under Patent Owner's district court allegations, the connection cookies disclosed in Van Boucq are stored in the local browser cache. Petition, 31-33. This makes sense given the fact that Van Boucq discloses that the cookies are stored in connection with the browser's storage and may be only stored temporarily. EX1066, ¶65.

Yet again, Patent Owner cannot seek different constructions for invalidity and infringement. *See Amgen*, 314 F.3d at 1330.

***New Construction***. Even under Patent Owner's new construction, it would have been obvious to a POSITA to store the user's unique identifier in the browser cache instead of, or in addition to, the cookie store. For example, Doughty discloses using "pixel tags" to store information in the browser cache, including "previously set cookie values." EX1008, 17:11-19. Doughty explains that pixel tags can be used to pass along information to the website and it would have been obvious to a POSITA that the information (including the "previously set cookie values") would be associated with a user and a POSITA would therefore be motivated to store the unique identifier for the user as part of the pixel tag. EX1066, ¶66. It would have been obvious to a POSITA that the pixel tag would need the unique identifier so it could inform the website with which user to

associate the information the browser sends. *Id*.

Additionally or alternatively, it would have been obvious to a POSITA that the connection cookie in Van Boucq could have been stored in the browser cache in addition to or instead of the cookie store. A POSITA would have been motivated to alter the storage location for the cookie because a POSITA would have realized that users may clear cookies separately from clearing the cache in many browsers. POR, 45; EX1066, ¶67. A POSITA therefore would have been motivated to store the cookie in multiple places to increase the probability that the information in the cookie is not cleared. And, as Patent Owner's expert conceded, there are ways to make the browser store a cookie outside of the cookie store. EX1067, 80:7-9 ("Q. Are you aware of any way to force the browser to store the cookie outside of the cookie store? A. Yes, there are ways to do that."); EX1066, ¶67.

Alternatively, a POSITA would have been motivated to store the connection cookie in the browser cache if, for example, the user disabled all cookies on the device, causing the browser to prevent storage of information in the cookie store. EX1066, ¶68. A POSITA would have recognized the benefits of storing the connection cookies in the browser cache because maintaining state for multiple visits to a website is important functionality provided by cookies and thus a POSITA would have been motivated to look for other places to store the cookies if

the cookie store were disabled. *Id*.

**Second**, Patent Owner next argues that Doughty and Van Boucq do not disclose sending the unique identifier upon determining the user opted out of location tracking for the same reasons as 1[e]. POR, 48-49. This argument fails for the same reasons discussed above. Section IV.B, *supra*.

**Third**, Patent Owner's third contention relies upon the allegedly distinct embodiments in Doughty, such as the allegation that Doughty does not disclose a single, consistent unique identifier. This argument fails because Doughty discloses consistent, combinable embodiments for the reasons discussed above. POR, 49-51; Section **Error! Reference source not found.**, *supra*.

### D. 1[l] ("identifying a second visit to the URL during the second browser session using the unique identifier stored in the local browser cache")

Patent Owner's arguments for this limitation rely upon its arguments for the other limitations and fail for the same reasons. POR, 53-55. As explained for 1[f], Doughty over Van Boucq renders obvious sending the unique identifier for storage in the local browser cache. Section IV.C, *supra*. And, Patent Owner's allegations regarding the cited portions of Doughty fail because the allegedly distinct embodiments in Doughty are consistent. Section **Error! Reference source not found.**, *supra*.

Patent Owner also complains that there is no support for the notion that it would have been obvious to a POSITA that the unique ID of the user would be used to identify a user across separate browsing sessions. POR, 55. This is wrong. Petitioner explicitly said that it is "for the same reasons" already discussed, including that Doughty discloses tracking web pages and the order they are visited, and updating the user's profile to identify further correlations between the data. Petition, 39-40.

### E. Remaining Claims

Patent Owner's arguments regarding the remainder of the claims are dependent upon its arguments for claim 1. They fail for the same reasons.

## V. DOUGHTY OVER VAN BOUCQ AND MAGINNIS RENDERS OBVIOUS THE CHALLENGED CLAIMS (GROUND 2)

Patent Owner's arguments for Ground 2 depend upon its arguments for Ground 1 and fail for the same reasons.

## VI. CONCLUSION

For the foregoing reasons and those in the Petition, Petitioner requests that the Board cancel the Challenged Claims.

Respectfully Submitted,

Dated: December 9, 2025

*/s/Ryan Iwahashi*
Ryan Iwahashi (Reg. #63,378)

ATTORNEY FOR PETITIONER

**CERTIFICATE OF WORD COUNT UNDER 37 C.F.R. § 42.24(a)**

I, the undersigned, do hereby certify that the attached petition contains 5,376 words, as measured by the Word Count function of Microsoft Word. This is less than the limit of 5,600 words as specified by 37 C.F.R. § 42.24(a)(i).

Dated: December 9, 2025

*/s/ Ryan Iwahashi*
Ryan Iwahashi (Reg. # 63,378)

ATTORNEY FOR PETITIONER

**CERTIFICATION OF SERVICE**

The undersigned certifies service pursuant to 37 C.F.R. §§ 42.6(e) and 42.105 on the Patent Owner of a copy of this Reply to Patent Owner's Response to Patent Owner's counsel of record in this proceeding.

Dated: December 9, 2025

*/s/ Ryan Iwahashi*
Ryan Iwahashi (Reg. # 63,378)

ATTORNEY FOR PETITIONER