

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.

Petitioner,

v.

STERLING COMPUTERS CORPORATION

Patent Owner.

Case IPR2025-00430

U.S. Patent No. 7,716,217

**PATENT OWNER'S REPLY IN SUPPORT OF ITS
MOTION TO EXCLUDE**

TABLE OF AUTHORITIES

<u>Cases</u>	<u>Page(s)</u>
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EXHIBIT LIST

Patent Owner's Exhibit No.	Exhibit Description
2001	Declaration of Latifur Khan (March 12, 2025)
2002	Curriculum vitae of Latifur Khan
2003	Declaration of Justin Marston (March 12, 2025)
2004	"BlueSpace Mail Search" Document, Sept. 2, 2004
2005	"The Development of the Mathematical Algorithms," May 12, 2005
2006	"BlueSpace Mail Relevance," June 7, 2005
2007	"BlueSpace Mail Relevance," Aug. 16, 2005
2008	"BlueSpace Mail Relevance," Aug. 17, 2005
2009	"Importance," Sept. 18, 2004
2010	"BlueSpace Mail Relevance," Oct. 6, 2005
2011	"BlueSpace Mail Relevance," Oct. 7, 2005
2012	"BlueSpace Mail Relevance," Oct. 7, 2005
2013	"There are many cognate relevance values that must be calculated," Nov. 9, 2004
2014	Claim Chart for BlueSpace Mail Documents
2015	Supplemental Declaration of Justin Marston (July 8, 2025)
2016	<i>listing of NATURE article:</i> Marston, Justin, "Chaos in the Classroom," Jan. 25, 1996, NATURE, <i>available at</i> https://www.nature.com/articles/379306b0

Patent Owner's Exhibit No.	Exhibit Description
2017	<i>excerpt from:</i> 32nd European Union Contest for Young Scientists (2020-2021) ("Winners 1989-2019")
2018	LinkedIn profile: Justin Marston
2019	Metadata extracted from native of EX2004
2020	Metadata extracted from native of EX2005
2021	Metadata extracted from native of EX2006
2022	Metadata extracted from native of EX2007
2023	Metadata extracted from native of EX2008
2024	Metadata extracted from native of EX2009
2025	Metadata extracted from native of EX2010
2026	Metadata extracted from native of EX2011
2027	Metadata extracted from native of EX2012
2028	Metadata extracted from native of EX2013
2029	Declaration of Latifur Khan (September 10, 2025)
2030	Declaration of Justin Marston (September 9, 2025)
2031	Declaration of Paul Marston (September 9, 2025)
2032	"BlueSpace Mail Relevance," September 21, 2005
2033	"BlueSpace Mail Relevance," October 2, 2005
2034	"BlueSpace Mail Relevance," November 8, 2005
2035	"BlueSpace Mail Relevance," November 12, 2005
2036	"BlueSpace Mail Relevance," November 13, 2005

Patent Owner's Exhibit No.	Exhibit Description
2037	"Frequency analysis stats," August 21, 2005
2038	"Relevance typology 2.bmp," November 13, 2005
2039	"Relevance process flow 2.bmp," November 13, 2005
2040	<i>intentionally omitted (duplicate)</i>
2041	Log of BlueSpace documents showing BlueSpace work from June 28, 2005, until January 13, 2006
2042	Log of J. Marston privileged communications with BlueSpace counsel regarding BlueSpace work from June 28, 2005, until January 13, 2006
2043	Version of EX2010/EX1044 showing tracked changes and comments by Justin Marston
2044	Version of EX2010/EX1044 showing tracked changes and comments by Paul Marston
2045	Version of EX2010/EX1044 showing tracked changes and comments by Jon Fernyhough
2046	Redacted (for privilege) correspondence from J. Marston to B. Hoffman, January 12, 2006
2047	"Transmail Relevance Formulae," September 9, 2004
2048	"Notes on Search Document," September 13, 2004
2049	"Pauls Formula Section Sept 17.doc," September 20, 2004
2050	"General Comments," May 17, 2005
2051	"Some Thoughts on the TransMail Relevance/Importance Algorithm," May 17, 2005

Patent Owner's Exhibit No.	Exhibit Description
2052	"2004-09-10 notes on search document.doc," September 10, 2004
2053	"Changes to document_.doc," September 15, 2004
2054	"BlueSpaceMailSearchfor JamesB.doc," September 15, 2004
2055	"Importance 1.1.1.doc," September 18, 2004
2056	"formula.doc," August 17, 2005
2057	"SoftwareImplementation.doc," August 18, 2005
2058	"SoftwareImplementationComment.doc," August 19, 2005
2059	"BlueSpaceRelevancePM250805.doc," August 25, 2005
2060	"BlueSpaceMailRelevancePM250905.doc," September 25, 2005
2061	"BlueSpaceMailRelevancePM270905c.doc," September 28, 2005
2062	"BlueSpaceMailRelevancePM280905.doc," September 28, 2005
2063	"Comments to Jon and Justin 07.doc," October 8, 2005
2064	"Alterations to document.doc," October 8, 2005
2065	"BSMR021005_jfpm2.doc," October 13, 2005
2066	"BSMR021005_jfpm3.doc," October 13, 2005
2067	"BSMR021005_jfpm4.doc," October 13, 2005
2068	"BSMR021005_jfpm5.doc," October 13, 2005

Patent Owner's Exhibit No.	Exhibit Description
2069	"BSMR021005_jfpm6.doc," October 14, 2005
2070	"Jon & Justin 14.10.05.doc," October 14, 2005
2071	"Comments to Justin and Jon Oct 15th.doc," October 15, 2005
2072	"BlueSpaceMailRelevanceJM06,11,05.doc," November 10, 2005
2073	"BlueSpace Mail Relevance," August 21, 2005
2074	"BlueSpace Mail Relevance," November 12, 2005
2075	Paul Marston LinkedIn Profile
2076	Paul Marston employment history (1968-2024) (from teachers' pensions employment history)
2077	Article: "Farewell after almost 50 years: Paul Marston, Senior Lecturer in Mathematics."
2078	Letter appointing P. Marston as lecturer at Nazarene Theological College, July 25, 2005
2079	"Twitter's Recommendation Algorithm," X Blog, March 31, 2023
2080	"Twitter Revenue and Usage Statistics (2025)," Business of Apps, Sept. 2, 2025
2081	"Twitter Is Changing Your Timeline: What You Need to Know," ABC News, Feb. 10, 2016
2082	"News Feeds, Old Content: A Brief History of Algorithmically Curated Feeds on Facebook and Twitter," Medium, April 29, 2019

Patent Owner's Exhibit No.	Exhibit Description
2083	"You Can Finally Switch Your Instagram Feed to a Chronological Timeline. Here's How," Business Insider, Mar. 24, 2022
2084	Complaint, <i>Sterling v. X Corp.</i> , Case No. 1:24-cv-00552 (W.D. Texas)
2085	Complaint, <i>Sterling v. Meta</i> , Case No. 1:24-cv-00551 (W.D. Texas)
2086	"Our Approach to Facebook Feed Ranking," Meta, June 11, 2025
2087	"Facebook Feed AI System," Meta, June 4, 2025
2088	"Meta Reports Fourth Quarter and Full Year 2024 Results," Meta, Jan. 29, 2025

Patent Owner respectfully requests the Board grant its motion to exclude the cross-examination testimony at EX1044, 123-131:21.

Petitioner contends that Patent Owner did not preserve this objection (Opp., at 2) but Patent Owner repeatedly objected to this entire line of questioning as outside the scope of direct. *See* EX1044, 123:23-124:2, 126:8-9, 126:19, 128:1; *cf.* *Otis v. Demarasse*, 399 F. Supp. 3d 759, 768 (E.D. Wis. 2019) (“A continuing objection is used to avoid repeated interruptions when a series of questions concerning the same arguably inadmissible evidence is anticipated.”).

In responding to Patent Owner's outside-the-scope argument (*see* Mt.,2-3 (citing Fed.R.Evid. 611)), Petitioner argues that the “testimony did not relate to conception” and it is only using the testimony to show Dr. Khan's “understanding of the claims.” Opp.,3-5&8. But that is not what Petitioner is using the testimony for; it is using the testimony to argue what the Conception Documents disclose. *See* Reply, at 18-19 (arguing testimony shows passages do not show conception). Indeed, on the very next page, Petitioner argues the testimony is “relevant to conception.” Opp., at 4. But Dr. Khan did not review the Conception Documents or testify about conception on direct; thus, the cited testimony is outside the scope of direct.

Contradictorily, Petitioner also insists that Dr. Khan's testimony is relevant to “PO's Conception Evidence.” Opp., at 4. That would be true, however, only if Dr. Khan actually addressed “the conception evidence” – i.e., **the actual language** that

is in the seven passages from the Conception Documents. But he did not. Indeed, Petitioner only actually compared a single “tree structure” passage (i.e., one of the seven passages). Reply, 18-19. Petitioner has never presented a comparison of how each passage they asked Dr. Khan about is allegedly “similar” to each of the seven passages from the Conception Documents. Instead, Petitioner generically argues that the four “specification passages” they asked Dr. Khan about are “similar” to the seven Conception Documents passages. Reply, 18-19. As a result, his testimony cannot show that the seven passages fail to disclose the “*identify*” limitation.

Now, for the first time, Petitioner compares one sentence from the Conception Documents to one sentence they asked Dr. Khan about. Opp., at 7 (arguing that a Conception Document sentence is “word-for-word” the same as a sentence they asked Dr. Khan about). Petitioner acknowledges that it is taking “a closer look at the passages in PO’s conception documents” **for the first time** in response to this motion. Opp., at 5-6. But this is not the time for Petitioner to take “a closer look at the passages,” and the Board should reject Petitioner’s attempt to do that for the first time in response to this evidentiary motion. *Nichia Corp. v. Emcore Corp.*, No. IPR2012-00005, 2014 WL 574596, at *33 (P.T.A.B. Feb. 11, 2014) (a motion to exclude “is not an opportunity for submitting new arguments”). Moreover, even if this belated attorney argument were proper, which it is not, all it does is address a single sentence within one passage. This, of course, falls short of analyzing the

entirety of all seven passages from the Conception Documents. The passage at EX2004, pages 15-16, describes “*a recipient*,” and the other passages do, as well. *E.g.*, EX2004, at 15 (“actions of other users” on “received” content).

In any event, Petitioner's belated attempt to compare the two passages does not prove what Petitioner contends, for numerous reasons. **First**, Dr. Khan did **not** testify that the passage has nothing to do with “*identify[ing] ... a recipient*”: he testified that the “paragraph talks about the content relevancy” and that the “*identify*” limitation was not **the “focus”** of the example. EX1044, 126:21-128:12. He was not asked, and did not comment upon, whether the sentence discloses “*a recipient*.”

Second, Petitioner focuses on a single sentence, but the disclosure from the Conception Documents is a longer Section (EX2014, at 5 (citing EX2004, at 15-16)), and the sentence they asked Dr. Khan about also is part of a longer paragraph (EX1001, 12:28-13:4). Despite Petitioner's arguments that the Conception Documents do not “mak[e] sure that the user is also *a ‘recipient* of the same electronic message,” this Section of EX2004 does do that: it discloses looking to see what other “*recipients*” do with a given piece of content. EX2004, at 15-16. Dr. Khan testified that these examples **do** relate to the “*identify ... a recipient*” limitation:

The ‘217 Patent discusses **why** it imposes this “*identify ...*” requirement in every claim. **First**, the ‘217 Patent explains that “*identify[ing]*” other “*recipients*” is important because the actions of other “*recipients*” can help determine “the relevance of content in a given user's folders.” EX1001, 12:27-30. For example, if “**most of the recipients reply** to the electronic mail object, forward the electronic mail object, and/or copy the electronic mail object to

custom folders, the electronic mail object is **more likely to be generally or globally relevant** than if the recipients immediately deleted the electronic mail object.” EX1001, 12:35-41. In contrast, “**if most other recipients of an electronic mail object delete it** as soon as it arrives in their ‘inbox,’ then the recipient in question will probably not find the content particularly relevant.” EX1001, 12:41-44.

EX2029, ¶¶ 72-73. Therefore, there is no basis for Petitioner's assertion that Dr. Khan testified that the examples on Pages 15-16 of EX2004 fail to disclose the “*identify*” limitation and/or fail to “mak[e] sure that the user is also a ‘recipient of the same electronic message.’” See Opp., at 6-8.

Finally, even counsel challenging the ‘217 Patent recognized that disclosures relating to “people who work in particular departments” is “describ[ing] various clusters to identify cognate groups.” Compare EX1043, 143:1-4 (counsel describing the passage from the Patent discussing clusters of users “who work in particular departments” as “describ[ing] various clusters to identify cognate groups, including people who work in particular departments” (discussing EX1001, 44:45-50)) with EX2004, at 15-16 (disclosing that “other users’ actions” – including whether “the vast majority of users in a given department read a piece of content sent globally” – can help determine relevance). Justin Marston, too, agreed with this assessment that the Patent's disclosures regarding users that work in the same department describes the “*identify*” limitation. EX1043, 143:1-5.

In sum, Patent Owner's expert, Justin Marston, and opposing counsel all agree that the cited Conception Documents' disclosures relate to the “*identify*” limitation.

Petitioner argues that Patent Owner is moving to exclude this testimony not because it is unfairly prejudicial (Fed.R.Evid. 403) but instead because it contradicts Patent Owner's position on conception. Opp., 8 & 9. But there is nothing contradictory about Patent Owner's positions: the seven passages in the Conception Documents (which Dr. Khan was **not** asked about) disclose the "*identify*" limitation, and the prior art references do not. Indeed, the prior art references do not even touch upon (1) whether other users received the same content **that the first user received**; or (2) whether other users are "similar"/*cognate* **to the first user** for which a relevance score is being determined, let alone (3) whether another user falls into both categories. *See generally* Resp. & Sur-Reply. Moreover, Petitioner's use of the testimony **is** unfairly prejudicial, because (1) Petitioner argues the passages are "similar" but has never established that they are, making it impossible for Patent Owner to respond¹ and (2) Petitioner suggests that it asked Dr. Khan about all seven Conception Document passages (and that he testified that none of them disclose the "*identify*" limitation), but, at most, only a couple of the passages are "similar." On the latter point, Petitioner contends that the number of passages is "irrelevant," but it is certainly relevant that Patent Owner cites as evidence **seven** passages but that Petitioner has not addressed any "similar" passage for **at least five** of them.

¹ Patent Owner's evidence in response to Petitioner's belated attempt to compare a single sentence (*supra*, at 3-4) shows that Patent Owner could have responded had Petitioner attempted to make that timely showing in its Reply.

Respectfully submitted,

Dated: May 6, 2026

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. 42.6(e), I certify that on this 6th day of May, 2026, a true and correct copy of the foregoing **Patent Owner's Reply in Support of Its Motion to Exclude** was served by electronic mail on Petitioner's lead and backup counsel at the following addresses:

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