

# EXHIBIT 18

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20 UNITED STATES DISTRICT COURT  
21 NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

22 OPENTV, INC., NAGRAVISION S.A., and  
NAGRA FRANCE S.A.S.

23 Plaintiffs,

24 v.

25 APPLE INC.

26 Defendants.  
27

CASE NO. 5:15-cv-02008-EJD (NMC)

**SUPPLEMENTAL DECLARATION  
OF DR. KEVIN ALMEROOTH**

**Date:** May 12, 2016

**Time:** 1:30 p.m.

**Judge:** Honorable Edward J. Davila

**Courtroom:** 4, 5th Floor

1 I, Kevin Almeroth, declare as follows:

2 1. I have been retained by Plaintiffs OpenTV, Inc., NagraVision S.A., and Nagra France  
3 S.A.S. (“OpenTV”) to serve as a technical expert in the above-captioned case. On March 29, 2016, I  
4 submitted a declaration in this matter on behalf of OpenTV regarding the meanings of the following  
5 terms: “automatic and direct access” / “automatically and directly electronically accessing” as  
6 recited in claims 1, 8, and 9 of U.S. Patent No. 6,233,736; “means for extracting an address  
7 associated with an online information source from an information signal embedded in said electronic  
8 signal, and for automatically establishing, in response to a user initiated command, a direct link with  
9 the online information source” as recited in claim 9 of the ’736 patent; “directive” / “directives,  
10 wherein said directives are indicative of an audio, video and/or graphic presentation which requires a  
11 set of resources” / “directives which are indicative of an audio, video and/or graphic presentation  
12 requiring a set of resources” / “directives which are indicative of an audio, video and/or graphic  
13 presentation which requires a set of resources” as recited in claims 1, 2, 22, and 23 of U.S. Patent  
14 No. 7,055,169; “prerequisite directive” as recited in claims 1, 2, 22, and 23 of the ’169 patent;  
15 “subset of said set of resources” as recited in claims 1, 22, and 23 of the ’169 patent; “wherein said  
16 prohibiting is in further response to detecting a corresponding time for expiration has not yet  
17 expired, and wherein said method further comprises allowing the presenting of said presentation in  
18 response to detecting said time for expiration has expired” as recited in claim 12 of the ’169 patent;  
19 and “a processing unit coupled to said receiver, wherein said processing unit is configured to:  
20 determine whether said one or more directives includes a prerequisite directive which indicates that  
21 acquisition of a subset of said set of resources is a prerequisite for initiating the presentation; initiate  
22 said presentation, in response to determining the one or more directives do not include said  
23 prerequisite directive; and prohibit initiation of said presentation until said subset of resources are  
24 acquired, in response to determining the one or more directives include said prerequisite directive”  
25 as recited in claim 22 of the ’169 patent.

26 2. My qualifications and experience are set forth in my March 29, 2016, declaration.

27 3. I have reviewed declarations, dated April 12, 2016, submitted in this matter by  
28 Apple’s experts Mr. Scott Brudner and Dr. Stephen Malvin regarding the meanings of the same

1 claim terms in the '736 patent and '169 patents, respectively. Counsel for OpenTV has asked me to  
2 respond to certain opinions and statements presented in the declarations of Mr. Bradner and Dr.  
3 Melvin.

4 **I. The '736 Patent**

5 4. Apple and its expert Mr. Bradner opine that automatic and direct is indefinite. I  
6 disagree.

7 5. Apple argues that “automatic and direct” “did not add limitations beyond what one of  
8 ordinary skill already understood to exist in claim 8” and that a person of ordinary skill in the art  
9 “would have understood that when a user clicked on a link, the user’s computer would have  
10 ‘automatically’ made a ‘direct’ connection . . .” Dkt. No. 82 at 3. However, this is incorrect. In 1996,  
11 much earlier in the history of the Internet, when a user selected a link the system may have prompted  
12 a user if they wanted to continue, or the user may have been provided an address to enter into a  
13 different system. Each of these would be examples of connections that would not be automatic and  
14 direct, and would be similar to the prior art situation where television programs announced website  
15 addresses for users to put into their computers, or Throckmorton where the user had to dig in to a  
16 menu of links to find access to online information. The “automatic and direct” nature of the links to  
17 further information would have distinguished this invention from those prior art systems to one of  
18 skill in the art.

19 6. Apple and Mr. Bradner state that the “automatic” nature of the connection must be  
20 after the user initiated command. This is not true. One of ordinary skill in the art would have  
21 understood the establishing of the direct communication link to both be automatic in its presentation,  
22 and in response to a final user command to assent to the link. This automatic presentation of the  
23 links would be different to one of skill in the art from having to navigate a series of separate menus  
24 not provided with the video itself.

25 7. Mr. Bradner states that “direct from the user’s perspective” would not be reasonably  
26 certain to one of skill in the art. Dkt No. 83, Ex. 5 at 14. This is incorrect. One of skill in the art  
27 would have understood this term to be sufficiently clear. The connection will be direct from the

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user’s perspective. The user’s perspective was a clear concept to one of skill in the art; it is the

1 information that is presented to a user. If, for example, a connection is first directed to an ISP before  
2 being rerouted to a content server, this may be arguably not direct. However, the user is not  
3 presented with this information. From the user's perspective, the information is directly provided.  
4 Thus this use of direct is in the context of the user's interface experience. One of skill in the art  
5 would have clearly understood this term.

6 8. Apple further argues that there is a distinction between providing a link "in" a video,  
7 and a link "with" a video. Dkt. No. 82 at 4. However, one of ordinary skill in the art would have  
8 understood that whether the link is provided in the vertical blanking interval of an analog signal or in  
9 a digital stream of data in a digital signal, the link to content is presented "in" or "with" a video.

10 9. I have been informed that Apple argues that the structure for the "means for  
11 extracting" and "automatically extracting" is not disclosed by the specification. I disagree.

12 10. Apple points out that the specification does not contain a description of a web  
13 browser as an explicit example of an address extractor. Dkt. No. 82 at 8. A person of ordinary skill  
14 in the art would have understood that a web browser is just one example of a kind of well-known  
15 address extractor which could be implemented to store addresses from incoming web  
16 communications. The notion of writing code to extract addresses from a string or parsing a file is a  
17 basic computer science concept. The specification makes clear that an address extractor is disclosed.  
18 Although it does not contain a detailed description of a well-known process, that does not mean the  
19 specification disclosure is unclear to those of skill in the art.

20 11. Apple argues that a modem cannot be sufficient structure for "automatically  
21 establishing." First, Apple misconstrues the patent with regards to this element. Apple is correct that  
22 a modem may be used to "modulate and demodulate signals." Dkt. No. 82 at 9. However, a modem  
23 does not alone perform the connection described by the patent. The modem works together with  
24 hardware and software to establish a connection with an internet site. A person of ordinary skill in  
25 the art would have clearly understood how to use a modem to accomplish the function listed by the  
26 claim.

27 12. Apple also states that an "access controller" is not sufficiently disclosed. However, a  
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