

Filed on behalf of:

Patent Owner Sightsound

By: David R. Marsh, Ph.D.
Kristan L. Lansbery, Ph.D.
ARNOLD & PORTER LLP
555 12th Street, N.W.
Washington, DC 20004
Tel: (202) 942-5068
Fax: (202) 942-5999

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,

Petitioner,

v.

Patent of SIGHTSOUND TECHNOLOGIES, LLC,

Patent Owner.

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

I, Scott Sander, hereby declare as follows:

1. I am a member of the managing board of SightSound Technologies, LLC (“SightSound”). I provide this Declaration in support of SightSound’s Responses to Apple Inc.’s Petitions for Covered Business Method Patent Review of United States Patent Nos. 5,919,573 (“the ‘573 Patent”) and 5,966,440 (“the ‘440 Patent”) (collectively “the Patents”). I am over the age of eighteen, have personal knowledge of the facts set forth below unless otherwise stated, and if called to testify as a witness in this matter, I could and would testify competently thereto.

2. In 1995, together with Arthur Hair (the inventor of the Patents) I founded Parsec Sight/Sound, Inc. and Digital Sight/Sound, Inc., SightSound’s predecessors in interest, to commercialize Mr. Hair’s invention. Mr. Hair assigned all of his ownership rights in the ‘573 Patent, and every subsequent patent to issue from that same disclosure, to SightSound. Shortly after obtaining the ‘573 Patent,

exhibit 2311 is a true and correct copy of Mr. Hair's April 5, 1993 letter to Mr. Sculley. Page numbers and an exhibit label have been added to this document but no other alterations have been made.

3. In the late 1990s and early 2000s, SightSound developed an online commercial system for the sale of digital music and video files which was found at SightSound.com.

4. In 1995, SightSound became the first company to offer digital downloads of music through electronic sale over the Internet, when it offered the album (as well as individual songs) from the band The Gathering Field's debut album "The Gathering Field." Attached as exhibit 2312 is a true and correct copy of a screen shot from the SightSound.com website in 1995 offering the Gathering Field album for sale for \$6.00, as well as offering individual songs from the album for sale for \$1.00. Page numbers and an exhibit label have been added to this document but no other alterations have been made. SightSound.com offered free 30 second previews of the music being offered for sale. *Id.* ("Free Sample: 5.4 MB: 30 second clip"). SightSound.com also showed the cover art for music being offered for sale and provided reviews and press coverage regarding the album as

guidance I received from noted venture capitalist, L. John Doerr, who warned that selling the music of independent artists directly to consumers in this new way would be perceived by the major record labels as a threat to their current business model. I believe the music labels were not ready to adopt such a radical change in the mid to late 1990s, as the new model would have required them to migrate away from production of physical media (such as CDs) and transition to digital formats, as well as sell individual songs instead of entire albums which I understood they believed would be less profitable. I also understood that the music labels were reluctant to embrace the new model as they were concerned about unauthorized copying of their content. For these reasons, I understood that content holders were reluctant to license their content to SightSound for sale over the Internet.

6. SightSound.com initially offered individual songs for sale for \$1.00. By 1998, however, Sightsound began offering songs for \$0.99. The SightSound.com website presented a menu of music to select for purchase by showing the cover art of particular albums in a table format. Attached as exhibit 2313 hereto is a true and correct copy of a screen shot from SightSound.com from 1998-1999 reflecting music for sale at SightSound.com. Page numbers and an

7. SightSound.com received press and media coverage praising the innovative new method for selling digital content. Accurate information about the history of SightSound, the website and press coverage regarding the company and website can still be found at <http://www.sightsound.com/>. Some specific press articles and television coverage about Mr. Hair's invention and SightSound.com are under the drop down menu "In the News." As just a few examples of the press coverage SightSound received, attached as exhibit 2314 is a true and correct copy of a November 1998 article from the Pittsburgh Business Times entitled "Internet Firm Pioneers Downloadable Music Sales." Page numbers and an exhibit label have been added to this document, and text has been organized to fit on an 8 1/2" x 11" page, but no other alterations have been made. Further, the September 6, 1999 issue of Time magazine featured SightSound.com in an article entitled "Movies Hit the Net." Attached as exhibit 2315 is a true and correct copy of the September 1999 article. Page numbers and an exhibit label have been added to this document but no other alterations have been made. Further, in January 2000, Yahoo Internet Life magazine featured SightSound.com as the lead story in its article on the 100 best sites for 2000. Attached as exhibit 2316 is a true and correct copy of the January

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