

In The Matter Of:

AMERICAN EXPRESS COMPANY, et al.

v.

METASEARCH SYSTEMS, LLC

GARY LIAO - Vol. 1

September 26, 2014

MERRILL CORPORATION

Legalink, Inc.

27 Maiden Lane, Suite 300
San Francisco, CA 94108
Phone: 415.357.4300
Fax: 415.657.4301

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMERICAN EXPRESS COMPANY, AMERICAN EXPRESS TRAVEL
RELATED SERVICES COMPANY, INC., EXPEDIA, INC.;
HOTELS.COM LP, HOTELS.COM GP, LLC, HOTWIRE, INC.,
ORBITZ WORLDWIDE, INC., PRICELINE.COM INC.,
TRAVELOCITY.COM LP, and YAHOO! INC.
Petitioners

v.

METASEARCH SYSTEMS, LLC.
Patent Owner

Case No. CB2014-00001
Patent Number 8,326,924 B1

DEPOSITION OF GARY LIAO
Taken on Behalf of Patent Owner
Friday, September 26, 2014

* * *

SF-008547

BE IT REMEMBERED That the deposition of GARY LIAO was taken before Heather Ashton, RPR, CSR, on Friday, September 26, 2014, commencing at the hour of 11:25 a.m., the proceedings being reported in the law offices of Klarquist Sparkman, LLP, One World Trade Center, 121 SW Salmon Street, Suite 1600, Portland, Oregon.

* * *

APPEARANCES

KLARQUIST SPARKMAN, LLP

By Ms. Kristen P. Lantz Reichenbach, Ph.D.

By Mr. John D. Vandenberg

One World Trade Center

121 SW Salmon Street, Suite 1600

Portland, Oregon 97204

(503) 595-5300

kristen.reichenbach@klarquist.com

john.vandenberg@klarquist.com

Appearing on behalf of the Petitioners

ROBINS, KAPLAN, MILLER & CIRESI, LLP

By Mr. Ryan M. Schultz

2800 LaSalle Plaza

800 LaSalle Avenue

Minneapolis, Minnesota 55402-2015

(612) 349-8500

rmschultz@rkmc.com

Appearing on behalf of the Patent Owner

INDEX

EXAMINATION BY: PAGE NO.

Examination by Mr. Schultz 4

Examination by Ms. Reichenbach 76

* * *

EXHIBITS

EXHIBIT NO. ITEM PAGE NO.

Exhibit 2042 Petition Filed October 1, 7

2013, Filed Electronically

PER 37 C.F.R. 42.6(B)(1)

(Exhibit attached hereto.)

GARY LIAO

having first been sworn to tell the truth by the reporter, testified under oath as follows:

EXAMINATION

BY MR. SCHULTZ:

Q Can you state your name for the record.

A Gary Liao.

Q And can you provide your address.

A 33709 Tarbell Road, Scappoose, Oregon.

Q And Liao?

A Liao, yes.

Q I will do my best to pronounce it correctly. I was saying Liao all the time, so it will take me a little bit to get over that, but I will do what I can.

Mr. Liao, have you ever been deposed before?

A As a fact witness, yes.

Q So you've never been deposed as an expert witness?

A No.

Q How long ago was the deposition that you were a fact witness in?

A It was about nine or ten years ago.

Q I'm going to go over just a few basics ground rules to hopefully speed this process up so we can get done in a timely and efficient manner. As you can see,

the court reporter is typing down everything that we say to create a transcript that will be used later on. In light of that, it's important to keep in mind, as great and wonderful as she is, she can only type down what one of us is saying at any one time. So it is important that we wait for each other to respond. So I would ask that you wait for myself to finish the question, and I will do my best to wait until you are done answering before I ask my next question. Okay?

A (Witness nodding.)

Q Is that understood?

A Yes.

Q That leads me right into my next rule. She has to type down things that you say. So if you nod your head or say "uh-huh" or "huh-uh," it won't come out clean in the transcript of what was happening, if you were saying yes or no. So I would ask, to the extent that the answer to the question is yes or no, affirmatively use the words "yes" or "no." Okay?

A Okay.

Q We will take some breaks throughout the deposition. I tend to take them about every hour. I may push that a little bit in order to try to get this deposition wrapped up in a timely fashion, but if at

1 any point in time you need a break, please just let
 2 me know and we will take a break at that time. The
 3 only thing that I ask is, if there is a question
 4 pending, that you answer the question pending, and
 5 then we will take a break after that. Okay?
 6 A Okay.
 7 **Q** Is there any reason that you cannot testify
 8 truthfully today?
 9 A No.
 10 **Q** Now, you have provided two declarations in the matter
 11 related to U.S. Patent 8,326,924. Do you recall
 12 that?
 13 A Yes.
 14 **Q** And if I refer to that patent as the '924 patent,
 15 you'll understand what I'm saying?
 16 A Yes.
 17 **Q** And I'm going to show you some documents as we go
 18 through here, but I'm going to ask you just a few
 19 questions before I do that.
 20 You provide consulting services right now,
 21 correct?
 22 A Yes.
 23 **Q** Have you provided, outside of your two declarations
 24 in this matter, any consulting services for any of
 25 the petitioners in this matter?

1 A I don't understand. Can you repeat that?
 2 **Q** Sure. You understand that there are petitioners in
 3 this matter who have filed a petition for a Covered
 4 Business Method Review of the '924 patent, correct?
 5 A Yes.
 6 **Q** And do you know what those entities are? Let me show
 7 you a document. Maybe that will help give some
 8 context. We will mark this as Exhibit 2042.
 9 (Exhibit No. 2042 was marked.)
 10 **Q** BY MR. SCHULTZ: If you can turn to page 1 of Exhibit
 11 2042. I think you flipped past it. There you go.
 12 A Oh.
 13 **Q** You see under the title "Real Party-In-Interest"
 14 there's a list of a variety of entities: American
 15 Express Company, et cetera. My question is, have you
 16 provided any consulting services for any of those
 17 entities outside of your work in this matter?
 18 A So I don't believe I provide non-litigation
 19 consulting for any of these petitioners. I may have
 20 provided some litigation consulting for subsidiaries
 21 of one of these, but I'm not sure.
 22 **Q** And the litigation consulting for one of the
 23 subsidiaries that you're referencing, what is the
 24 parent entity that you're thinking of?
 25 A It may have been American Express. I don't know for

1 sure the entire parentage. That's why I'm uncertain.
 2 **Q** So you may have provided some litigation consulting
 3 services for a subsidiary of American Express?
 4 A Yes.
 5 **Q** And when would that have been?
 6 A Several years ago.
 7 **Q** More than five?
 8 A I'm not certain, but probably less than five.
 9 **Q** And have you provided any litigation consulting for
 10 the Klarquist law firm before, outside of this
 11 matter?
 12 A Yeah, I've provided litigation support.
 13 **Q** How many times?
 14 A I don't have an exact count. I think if I provided a
 15 CV, I could get you the exact number.
 16 **Q** Do you think it's more than ten?
 17 A No, I don't think it's more than ten.
 18 **Q** You can set that aside. I'm going to hand you what
 19 has already been marked as Exhibit 1009, which is, I
 20 believe, your first declaration in these proceedings;
 21 is that correct?
 22 A Yeah, this looks like the first declaration.
 23 **Q** In this declaration you provide a few paragraphs on
 24 your background and experiences.
 25 A Yes.

1 **Q** I want to focus a little bit on some of your
 2 experiences. I understand you have a Bachelor of
 3 Science in Electrical Engineering; is that correct?
 4 A That's correct.
 5 **Q** And that's from the University of California?
 6 A San Diego, yes.
 7 **Q** And do you have a master's degree in electrical
 8 engineering?
 9 A No. I have a master's in business administration.
 10 **Q** Do you have any post undergraduate education in the
 11 field of electrical engineering?
 12 A No.
 13 **Q** Computer science?
 14 A No.
 15 **Q** I want to focus the next set of questions really on
 16 your experiences up through the year 2000. Okay?
 17 And I know it may be a little difficult to parse that
 18 out in your mind, but I'm going to try to focus on
 19 that, not what you're doing currently. Okay?
 20 A Okay.
 21 **Q** Prior to 2000, did you have any experiences
 22 professionally with metasearch engines?
 23 A Prior to 2000, I don't believe I had any professional
 24 experience with metasearch engines.
 25 **Q** And would it be fair to say that prior to 2000, then,

1 **you didn't have any experience in designing**
 2 **metasearch engines?**
 3 A Prior to 2000, that's right.
 4 **Q And would it be fair to say that prior to 2000 you**
 5 **didn't have any experience in the implementation of a**
 6 **metasearch engine?**
 7 A Prior to 2000, I had not implemented a metasearch
 8 engine.
 9 **Q And prior to 2000, you did not have any experience in**
 10 **the selection of hardware to be used to implement a**
 11 **metasearch engine, correct?**
 12 A Prior to 2000, I would not have had any
 13 decision-making for hardware for a metasearch engine.
 14 **Q I'm not so much focused on the decision-making. I'm**
 15 **just more did you have -- You didn't have any**
 16 **experiences in the selection process of hardware to**
 17 **be utilized for a metasearch engine prior to 2000?**
 18 A Yeah, that would be correct as well.
 19 **Q Now, prior to 2000, you did have experience with**
 20 **e-commerce sites?**
 21 A That's correct. I had experience with e-commerce
 22 sites prior to 2000.
 23 **Q And you list a few Web sites here in your first**
 24 **declaration, in paragraph 3 here I would assume --**
 25 **well, you can tell me. It recites like clique.com**

1 **and gear.com. Would you consider those e-commerce**
 2 **sites?**
 3 A Yes, those were e-commerce sites.
 4 **Q And prior to 2000, you had experience, then, in**
 5 **designing e-commerce Web sites?**
 6 A That's correct.
 7 **Q And some of those Web sites are the ones that are**
 8 **listed in your declaration?**
 9 A Correct.
 10 **Q Through 1999 when you were working on these**
 11 **e-commerce Web sites, were you working as a**
 12 **consultant, or were you working for a particular**
 13 **company or corporation?**
 14 A I was working for a consulting company that
 15 implemented these. So I was a consultant on these.
 16 **Q What was the consultant company?**
 17 A These were for Step Technology.
 18 **Q When did you work for AMD?**
 19 A I worked for AMD from 1988 to 2000. Oh, no. 1988 to
 20 1990.
 21 **Q And when you were at AMD, was that on hardware --**
 22 A It was both. I did both hardware and software.
 23 **Q What type of work were you doing related to these**
 24 **e-commerce sites prior to 2000?**
 25 A Oh, these would have been full engagements of

1 accepting customer requirements, doing design,
 2 implementation, test, deploy. And then after
 3 deploying, maintenance if that was necessary.
 4 **Q And were you involved in all of those aspects of the**
 5 **project?**
 6 A Yes.
 7 **Q And so you were involved with making decisions**
 8 **related to the implementation of those e-commerce**
 9 **sites?**
 10 A Yes.
 11 **Q And you were involved in the decision-making process**
 12 **related to how those sites process customer orders?**
 13 A Yes, but not for all of these.
 14 **Q For some of them?**
 15 A For some of them, that's right.
 16 **Q Which ones were you involved on the processing side?**
 17 A On the ones listed here, the clique.com and
 18 animalfairboutique.com.
 19 **Q Now, prior to 2000, did you have any experience with**
 20 **search engines?**
 21 A So there's two aspects to search engines. One is the
 22 actual search engines, and the other ones are the Web
 23 sites that are searched by search engines. Of course
 24 whenever you build e-commerce Web sites, you always
 25 have to be considerate of building them in a way that

1 they are searchable by search engines. So in that
 2 sense the answer is yes. But prior to 2000, I never
 3 worked on search engines on the search engine side.
 4 **Q Just so that I've got it clear in my mind, so prior**
 5 **to 2000, you did not work on search engines on the**
 6 **search engine side?**
 7 A That's correct. That's what I said, yes.
 8 **Q So prior to 2000, you didn't have any experience in**
 9 **designing search engines either?**
 10 A Right. Prior to 2000, I had not designed a search
 11 engine.
 12 **Q And prior to 2000, you did not have any experience in**
 13 **implementing search engines, correct?**
 14 A That's correct. Prior to 2000, I would not have
 15 implemented a search engine.
 16 **Q Now, prior to 2000, you were aware of search engines,**
 17 **correct?**
 18 A Yes, prior to 2000, I was aware of search engines.
 19 **Q Search engines like Google, Yahoo!?**
 20 A Correct. Yes.
 21 **Q Thanks. And I think we covered this, but I just want**
 22 **to make sure that we did. The Web sites that are**
 23 **listed in your biography, or declaration of your work**
 24 **history related up to 2000, none of those Web sites**
 25 **are metasearch engines, right?**

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.