

Filed on behalf of: PNC Bank, N.A.  
JPMorgan Chase & Co.  
JP Morgan Chase Bank, N.A.

By: Lionel M. Lavenue  
Timothy J. May  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
901 New York Avenue, NW  
Washington, DC 20001-4413  
Telephone: 202-408-4000  
Facsimile: 202-408-4400  
E-mail: lionel.lavenue@finnegan.com  
timothy.may@finnegan.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PNC Bank, N.A., JP Morgan Chase & Co., and JP Morgan Chase Bank, N.A.,  
Petitioner

v.

Maxim Integrated Products, Inc.,  
Patent Owner

Patent No. 6,237,095

**DECLARATION OF HENRY N. DREIFUS**

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I, Henry N. Dreifus, declare as follows:

## **I. Introduction**

1. I have been retained by PNC Bank, N.A., JP Morgan Chase & Co., and JP Morgan Chase Bank, N.A. (collectively, “Petitioner”) as an independent expert consultant in this proceeding before the United States Patent and Trademark Office. Although I am being compensated at my rate of \$350.00 per hour for the time I spend on this matter, no part of my compensation depends on the outcome of this proceeding, and I have no other interest in this proceeding.

2. I understand that this proceeding involves U.S. Patent No. 6,237,095 (“the ’095 patent”) (attached as Ex. 1001 to the petition). The application for the ’095 patent was filed on January 6, 1998, as U.S. Patent Application No. 09/003,541, which is based on U.S. Provisional Patent Application No. 60/004,510, filed September 29, 1995, and the patent issued on May 22, 2001.

3. I have been asked to consider whether certain references disclose or render obvious the claims of the ’095 patent.

4. I have been advised that a patent claim may be invalid as obvious if the differences between the subject matter patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art. I have also been advised that several factual inquiries underlie a determination of obviousness. These inquiries

include the scope and content of the prior art, the level of ordinary skill in the field of the invention, the differences between the claimed invention and the prior art, and any objective evidence of non-obviousness.

5. I have been advised that objective evidence of non-obviousness, known as “secondary considerations of non-obviousness,” may include commercial success, satisfaction of a long-felt but unsolved need, failure of others, copying, skepticism or disbelief before the invention, and unexpected results. I am not aware of any such objective evidence of non-obviousness of the subject matter claimed in the '095 patent at this time.

6. In addition, I have been advised that the law requires a “common sense” approach of examining whether the claimed invention is obvious to a person skilled in the art. For example, I have been advised that combining familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.

7. My opinions are set forth below.

## **II. Qualifications**

8. I am the Founder and Managing Director of Dreifus Associates, Limited (DAL), an Identity technology and Personnel Assurance solutions development and integration organization established in 1991. My accomplishments include holding a key patent on advanced smart cards and

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