UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE INC. and APPLE INC.
Petitioners

v.

CONTENTGUARD HOLDINGS, INC.
Patent Owner

Case CBM 2015-00040[1]

U.S. Patent 7,774,280
Filed October 4, 2004
Issued August 10, 2010
Title: SYSTEM AND METHOD FOR MANAGING TRANSFER OF RIGHTS USING SHARED STATE VARIABLES

DECLARATION OF DAVID MARTIN, PH.D.

[1] Case CBM2015-00160 has been joined with this proceeding.

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

TABLE OF CONTENTS

I. INTRODUCTION 1

II. BACKGROUND AND QUALIFICATIONS 2

III. MATERIALS CONSIDERED 5

IV. PERSON OF ORDINARY SKILL IN THE ART 7

V. APPLICABLE LEGAL STANARDS 7

VI. OVERVIEW OF THE '280 PATENT AND THE '012 PATENT 12

VII. CLAIM CONSTRUCTION 21

VIII. THE '280 CLAIMS ARE NOT ANTICIPATED BY STEFIK 28

VIII.A. Stefik and '280 Claim 1 30

VIII.A.1. "obtaining a set of rights associated with an item, the set of rights including a meta-right specifying a right that can be created when the meta-right is exercised" 30

VIII.A.1.1 Next-Set-Of-Rights Is Not a Meta-right 32

VIII.A.1.2 Copy, Transfer, Loan, And Similar Rights Are Not Meta-rights 36

VIII.A.2. "wherein the meta-right is provided in digital form and is enforceable by a repository" 38

VIII.A.3. "determining, by a repository, whether the rights consumer is entitled to the right specified by the meta-right" 39

VIII.A.4. "exercising the meta-right to create the right specified by the meta-right if the rights consumer is entitled to the right specified by the meta-right" 45

VIII.A.5. "wherein the created right includes at least one state variable based on the set of rights and used for determining a state of the created right" 47

VIII.B. Stefik and '280 Claim 5 47

VIII.C. Stefik and '280 Claim 11 47

IX. THE '280 CLAIMS ARE NOT OBVIOUS IN VIEW OF STEFIK 47

DOCKET ALARM

Find authenticated court documents without watermarks at docketalarm.com.

X. THE PROPOSED AMENDED CLAIMS ARE PATENTABLE OVER THE CLOSEST KNOWN PRIOR ART 52
X.A. Amended 280 Claim 1 Over Closest Known Prior Art 54
X.A.1. Amended 280 Claim 1 Over Stefik '012 56
X.A.2. Amended 280 Claim 1 Over Stefik '980 57
X.A.3. Amended 280 Claim 1 Over Ireton 58
X.A.4. Amended 280 Claim 1 Over England 61
X.A.5. Amended 280 Claim 1 Over Gruse 65
X.A.6. Amended 280 Claim 1 Over Ginter 70
X.A.7. Amended 280 Claim 1 Over Wyman 72
X.B. Non-Obviousness of Amended 280 Claim 1 Over The Closest Known Prior Art 75
XI. CONCLUSIONS 78

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

I. INTRODUCTION

I, Dr. David Martin, declare as follows:

1. I have been retained on behalf of ContentGuard Holdings, Inc. ("ContentGuard"), and its counsel, Fitch Even Tabin & Flannery LLP, as an expert in this proceeding. I am personally knowledgeable about the matters stated herein, and am competent to make this declaration.

2. I understand that Google Inc. ("Google") filed a Petition for Covered Business Method Review regarding certain claims of United States Patent No. 7,774,280 ("the '280 patent"), which was accompanied by the Declaration of Benjamin Goldberg, Ph.D. I am aware that, after ContentGuard submitted its Preliminary Response, the Patent Trial & Appeal Board ("PTAB") issued a Decision on June 24, 2015 instituting trial only as to claims 1, 5 and 11. I understand that the trial will address issues of alleged anticipation by U.S. Patent No. 5,634,012 to Stefik et al. ("Stefik"), and obviousness over the combination of Stefik and the knowledge of one of ordinary skill in the art. I understand that the Decision did not institute trial on any other grounds asserted in Google's Petition.

3. I have been asked to provide my conclusions and bases thereof regarding several aspects of the issues in dispute. Based on my investigation in this matter, I conclude that Google and Dr. Goldberg have not shown that issued claims 1, 5 and 11 of the '280 patent are invalid based on Stefik, alone or in combination with the knowledge of one skilled in the art.

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

4. I have also been requested to provide my opinion about the patentability of an amended version of claim 1, proposed in the alternative by ContentGuard. My analysis and conclusions regarding that subject are also presented below.

5. I receive compensation at my standard hourly rate of $525 per hour for my time working on this matter, plus expenses. I have no financial interest in ContentGuard or in the '280 patent, and my compensation is not dependent on the outcome of this trial. The conclusions I present are due to my own judgment.

6. I am also engaged by ContentGuard, and its litigation counsel, McKool Smith P.C., as an expert in the following litigations: *ContentGuard Holdings, Inc. v Google, Inc*. (E.D. Tex. Case 2:14-cv-00061-JRG) and *ContentGuard Holdings, Inc. v Amazon.com, Inc., et al*. (E.D. Tex. Case 2:13-cv-01112-JRG). My role in those litigations has included providing opinions rebutting the invalidity theories regarding the '280 patent asserted by the Defendants' retained experts, Dr. Prakash and Mr. Ward. I have also provided opinions regarding infringement of the '280 patent by systems of the Defendants.

II. BACKGROUND AND QUALIFICATIONS

7. I have over 35 years of professional experience with computer software, and I have worked with the Internet and associated technologies since the late 1980s. I began using web browsers in 1993. I taught computer science to graduate and undergraduate computer science students for 10 years. I earned a Ph.D. in Computer

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

DOCKET ALARM

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.