

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor: Hulst et al.	§	Attorney Docket No.:
United States Patent No.: 7,334,720	§	104677-5005-825
Formerly Application No.: 11/336,758	§	Customer No. 28120
Issue Date: February 26, 2008	§	
Filing Date: January 19, 2006	§	Petitioner: Apple Inc.
Former Group Art Unit: 2876	§	
Former Examiner: Steven S. Paik	§	

For: Data storage and access systems

MAIL STOP PATENT BOARD  
Patent Trial and Appeal Board  
United States Patent and Trademark Office  
Post Office Box 1450  
Alexandria, Virginia 22313-1450

**DECLARATION OF DR. JOHN P. J. KELLY IN SUPPORT OF APPLE  
INC.'S PETITION FOR COVERED BUSINESS METHOD PATENT  
REVIEW OF UNITED STATES PATENT NO. 7,334,720 PURSUANT TO 35  
U.S.C. § 321, 37 C.F.R. § 42.304**

I, John Kelly, hereby declare as follows:

## I. INTRODUCTION

1. I have been retained to provide assistance regarding U.S. Patent No. 7,334,720 (“720 patent”). Attached hereto as Appendix A is a true and correct copy of my *Curriculum Vitae* describing my background and experience. I have personal knowledge of the facts and opinions set forth in this declaration, and, if called upon to do so, I would testify competently thereto.

2. I hold Bachelor of Arts and Master of Arts degrees with Honors in Mathematics from the University of Cambridge, England. I hold a Ph.D. in Computer Science from U.C.L.A. From 1982 through 1986, I was a professor in the Computer Science Department at U.C.L.A. From 1986 through 1997, I was a professor in the Electrical and Computer Engineering Department of the University of California, Santa Barbara, where I held tenure.

3. I am the principal of Kelly Computing, Inc. I teach and consult in many different aspects of computer science and engineering, including computer hardware and software architecture and design, software engineering and fault tolerance. My particular areas of expertise include computer architecture, software engineering and “clean-room” development and evaluation, reverse engineering, operating systems (including real-time and embedded), network computing

(including Internet computing), storage systems, fault tolerance, parallel and distributed computing systems, transaction processing systems, database systems, and program management.

4. As a result of my education and professional experience, I have extensive development experience and knowledge of computer operating systems including access control concepts, data encryption/decryption techniques, networking technologies, database systems, communication protocols including network communication protocols, user interfaces including graphical user interfaces and computer hardware design, and software analysis, design, and development. I have developed computer software and hardware for many different computer systems and applications including programming microprocessors. For more than the last 20 years, I have analyzed software products related to access control, audio and video playback, network transmission of audio and video, storage of audio and video in multimedia databases, and content delivery networks and distribution systems. For example, I have analyzed databases and repositories used to store and access audio file repositories, network based distribution of electronic media, set top boxes, and content delivery network architecture of leading content delivery network providers. I have also analyzed the source code for computer operating systems such as Apple's Mac OS X,

Microsoft Windows, Linux, etc. I have also testified in Court on several occasions as a computer science expert to report my analysis and opinions.

5. I have worked in the area of computer software, hardware and system design and development for over forty years. I have extensive experience in the design and development of small and large scale software systems. I have been involved in the specification, development, integration, and testing of computer systems with a wide range of requirements, sizes and types. These have included, by way of example, custom hardware and software for a US Air Force fighter plane, a distributed real-time system for US FAA air traffic control, and a distributed geographical information system for the US Department of Energy.

6. From 1978 to 1995, I specified, designed and implemented distributed database architectures, systems and applications for Los Alamos National Laboratory and NASA's Jet Propulsion Laboratory and database machine design and implementation at Transaction Technology Incorporated, Ordain, Inc. and Teradata.

7. From 1985 to 1998, I consulted for AT&T GIS, NCR, Symbios Logic, and LSI Logic, including working as a member of the AT&T GIS Science Advisory Committee ("SAC"). The SAC evaluated AT&T's organization,

technical direction and product strategy and made recommendations to the Vice President of Technology and Development.

8. A listing of testimony that I have provided in the last four years and my compensation is attached hereto as Appendix B. I am being compensated for my time spent in connection with this case. I have no financial interest in the outcome of this case.

9. In preparing my opinions, I have considered the following materials:

<b>Exhibit</b>	<b>Document</b>
1001	U.S. Patent No. 7,334,720
1002	Plaintiffs' First Amended Complaint
1003	U.S. Patent No. 5,925,127
1004	U.S. Patent No. 5,940,805
1006	U.S. Patent No. 4,999,806
1007	U.S. Patent No. 5,675,734
1008	U.S. Patent No. 4,878,245
1009	File History for U.S. Patent No. 7,334,720
1010	U.S. Patent No. 7,942,317
1011	U.S. Patent No. 5,103,392
1012	U.S. Patent No. 5,530,235
1013	U.S. Patent No. 5,629,980
1014	U.S. Patent No. 5,915,019
1015	European Patent Application, Publication No. EP0809221A2
1016	International Publication No. WO 99/43136
1017	JP Patent Application Publication No. H11-164058 (translation)
1018	Eberhard von Faber, Robert Hammelrath, and Frank-Peter Heider, "The Secure Distribution of Digital Contents," IEEE (1997)
1020	U.S. Patent No. 8,033,458
1023	Claim Construction Memorandum Opinion from Smartflash LLC v. Apple Inc., No. 6:13cv447 (Dkt. 229)

# 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.