UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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HTC CORPORATION and HTC AMERICA, INC.
Petitioners

v.

ANCORA TECHNOLOGIES INC.
Patent Owner.

Case No. TBD
U.S. Patent No. 6,411,941

DECLARATION OF JON B. WEISSMAN, PH.D.

I, Jon B. Weissman, declare as follows:

I.   <u>INTRODUCTION</u>

1.   I have been retained by Knobbe, Martens, Olson, & Bear LLP ("Knobbe Martens") on behalf of HTC Corporation and HTC America, Inc. ("HTC" or "Petitioner") as an independent expert consultant in this proceeding before the United States Patent and Trademark Office. Although I am being compensated at my usual rate of $500 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. 6,411,941 ("the '941 patent") (attached as Ex. 1001 to HTC's petition). The application for the '941 patent was filed on October 1, 1998, as U.S. Patent Application No. 09/164,777, and the patent issued on June 25, 2002.

3.   I have been asked by counsel to review relevant materials and render my expert opinion in connection with technical matters related to the petition for covered business method review of the '941 patent. My opinions are set forth below.

II.   <u>QUALIFICATIONS</u>

4.   My academic and professional background is in computer science, specifically in the areas of distributed systems, file systems, and cloud computing. I am a leading researcher and educator in these areas. My career includes over 20 years' experience in industry and academia. As a systems researcher, I have built practical systems that have application in a wide variety of settings across many different types of distributed and parallel systems. For example, I was a lead designer on one of the first distributed Grid computing systems that spanned the Internet, called Legion. In my current work, I analyze and develop systems that allow mobile

devices to utilize remote cloud-computing resources to improve performance and save energy. My curriculum vitae, which includes a more detailed summary of my background, experience, and publications, is attached as Appendix A. Below I provide a short summary of my education and experience, which I believe to be most pertinent to the opinions that I express.

5.   I received a Bachelor of Science degree in Applied Mathematics and Computer Science from Carnegie Mellon University in 1984. I received a Master of Science degree in Computer Science in 1989 and a Ph.D. degree in Computer Science in 1995, both from the University of Virginia. My Ph.D. thesis involved developing the first automated scheduling system for parallel and distributed applications across heterogeneous local and wide-area networks. After completion of my Ph.D. program, I worked in industry for five years in the area of distributed systems.

6.   In 1995, I joined the faculty of the University of Texas in San Antonio as an Assistant Professor of Computer Science. In 1999, I joined the faculty of the University of Minnesota as Assistant Professor of Computer Science, where I am currently Full Professor of Computer Science – the highest academic rank at a top-tier research university. At the University of Minnesota, I lead the Distributed Computing Systems Group, consisting of faculty colleagues and both graduate and undergraduate students. I also serve as an investigator for the Center for Research in Intelligent Storage (CRIS), sponsored by the National Science Foundation.

7.   I have published over 100 technical articles, most at highly competitive refereed conferences and rigorously reviewed journals. I have recently served on the technical editorial boards of several flagship journals, including *IEEE Transactions on Parallel and Distributed Systems* and *IEEE Transactions on Computers*. I am currently the steering committee chair for

the ACM International Symposium on High Performance Parallel and Distributed Systems, the flagship conference in my area.

8.   My research in computer systems has been funded by the National Institutes of Health, NASA, the National Science Foundation, the Department of Energy, and the Air Force. With regard to the subject matter of the '941 patent relating to computer systems and security, my collaborators and I have obtained over $2 million in grant funding, including:

- National Institute of Health, ePCRN: Electronic Primary Care Research Network. This project explores how to support secure query processing across distributed networks.

- National Science Foundation, "A Data Mining and Exploration Middleware for Grid and Distributed Computing." This project explores how to perform intrusion detection in distributed systems.

- National Science Foundation, "One Cloud Does Not Fit All: Minnesota Integrated Cloud Systems Research Testbed (MIST)." This project seeks to build a cloud testbed consisting of mobile devices and servers distributed around campus with security as one of the principle research foci.

- Air Force Office of Scientific Research, "Telecommunication Networks for Mobile and Distributed Computing and Communications." This project focuses on developing software technology to securely connect mobile devices to servers and developing the technology for applications to run across distributed networks, such as the Grid.

9.   With regard to the subject matter of the '941 patent relating to secure computing systems, I have published several papers, here is a small subset:

- "Nebula: Distributed Edge Cloud for Data Intensive Computing," Mathew Ryden, Kwangsung Oh, Abhishek Chandra and Jon B. Weissman, *IEEE International Conference on Cloud Engineering*, March 2014, Boston, MA.

- "A Dynamic Approach for Characterizing Collusion in Desktop Grids," Louis-Claude Canon, Emmanuel Jeannot, and Jon B. Weissman, 24th *IEEE International Parallel and Distributed Processing Symposium* (IPDPS), 2010.

- "Adaptive Reputation-Based Scheduling on Unreliable Distributed Infrastructures," Jason D. Sonnek, Abhishek Chandra, and Jon B. Weissman, *IEEE Transactions on Parallel and Distributed Systems*, 18(11), November 2007.

III.   MATERIALS REVIEWED

10.   In forming my opinions, I have reviewed the '941 Patent, the prosecution history of the '941 patent, and the exhibits to the covered business method patent petition that this declaration supports.

IV.   SUMMARY OF FINDINGS

11.   It is my opinion, that Claims 1-19 of the '941 patent are unpatentable under 35 U.S.C. § 101 because they are directed to ineligible subject matter—in particular, the abstract idea of controlling software access based on data stored in a particular location. The basic concept is not patentable and was well known in the prior art. Based on my review of the '941 patent, I did not find any concepts recited in the claims that were not conventional and well known to persons of ordinary skill in the art before 1998.

12.   It is my opinion that the following references render obvious claims 1-3, 5-14, and 16-17 of the '914 patent:

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