

Filed on behalf of Microsoft Corporation

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION
Petitioner

v.

PROXYCONN, INC.
Patent Owner

Case IPR2012-00026 (TLG)
Case IPR2013-00109 (TLG)
Patent 6,757,717 B1

3rd Declaration of Professor Darrell D. E. Long
Regarding U.S. Patent No. 6,757,717

MICROSOFT
EXHIBIT 1025
Microsoft v. Proxyconn
IPR2012-00026 (TLG)
IPR2013-00109 (TLG)

1 **I. QUALIFICATIONS**

2 I incorporate my qualifications as described in my two prior declarations
3 (Ex. 1007 (1st IPR) and Ex. 1013 (2nd IPR) submitted in this matter.

4 **II. COMPENSATION**

5 Counsel for Microsoft is compensating me at my standard compensation
6 rate of \$500/hour for consulting and \$600/hour for testimony in deposition or trial,
7 plus reimbursement for reasonably incurred expenses. I have no interest in the
8 outcome of the related litigation or of this proceeding.

9 **III. SUMMARY OF MY STUDY AND CONCLUSIONS**

10 I have reviewed the entire transcript of testimony of Dr. Alon Konchitsky in
11 this matter, dated July 2, 2013. I have considered in particular pages 22–24, 28–
12 30, 96–97, 109–11, and 141–55 of this transcript. I also have reviewed two
13 versions of Dr. Konchitsky’s CV, one identified as Ex. 2003 (4 pages) and the
14 other identified as Ex. 1022 (6 pages).

15 Based on these materials, I am of the opinion that Dr. Konchitsky is not an
16 expert in any field of endeavor material to the ’717 patent or the prior art
17 references I have discussed in this matter. I am of the opinion that Dr. Konchitsky
18 does not even qualify as having ordinary skill or knowledge in this field. More
19 specifically, Dr. Konchitsky’s testimony demonstrates that he does not know what
20 is common knowledge to experts in this field, about HTTP, caching, file systems,

1 etc. He has not written about matters that experts in this field typically would have
2 written about, has not worked in this field, and does not belong to the
3 organizations to which experts in this field would typically belong.

4 **IV. FIELD OF THE INVENTION**

5 {For ease of reference, the below description is copied from my second
6 declaration submitted in this matter.}

7 The '717 patent defines its “field of the invention” as accessing data in
8 communication networks. ('717, 1:10–15). The field also includes the areas of
9 distributed data storage systems and networking, coding theory including error
10 detection and correction codes, and cryptographic hash functions commonly called
11 message digest functions. These were all mature fields for many years prior to
12 1998–99.

13 **V. LEVEL OF SKILL IN THE ART IN 1998–99**

14 {For ease of reference, the below description is copied from my second
15 declaration submitted in this matter.}

16 A person of ordinary skill in this art in 1998–99 would hold a B.S. degree in
17 computer science and would have as part of his study courses in operating systems,
18 networking, data compression and computer security. These studies would include
19 the storage subsystem of computer operating systems which is covered briefly in
20 most undergraduate operating systems courses, but few require the student to

1 examine actual source code. In addition he would have several years of practical
2 experience working in operating systems, in particular the data storage subsystem.

3 As a result, actual experience in working with this operating system
4 subsystem would normally occur after several years of experience working for a
5 company with a focus on systems software.

6 Alternatively, a person would develop the level of ordinary skill in the art in
7 1998–99 by obtaining an M.S. in computer science and by writing his or her thesis
8 in an area related to data storage and/or computer security.

9 A person of ordinary skill in the art would understand network protocols.
10 This was normally part of undergraduate programs in computer science in 1998–
11 99. A person of ordinary skill in the art would also understand coding theory; in
12 particular error detection and correction codes, as well as cryptographic hash
13 functions and message digest functions. Introduction to basic hash functions is a
14 normal part of most undergraduate curricula, but coding theory is normally part of
15 specialized courses (although it is commonly part of electrical engineering
16 programs), and cryptographic hash functions would normally be taught only in
17 courses in computer security.

18 I have first-hand experience teaching and working with such persons of
19 ordinary skill in the art. For example, I have taught students having about that
20 level of skill in this art since at least as early as 1990.

1 **VI. DR. KONCHITSKY IS NOT AN EXPERT IN THIS FIELD**

2 He is Not Familiar with Technologies that Any Expert Would Know:

3 HTTP GET: The HTTP protocols (e.g., HTTP/1.0 and HTTP/1.1) have
4 been the application-level data communication protocol for the World Wide Web
5 for more than 20 years. Any expert in this art would understand HTTP well. For
6 example, many of the references under discussion refer to HTTP: the HTTP/1.1
7 protocol is cited in DRP (Ex. 1003 (2nd IPR), p. 10), Mattis (Ex. 1004 (2nd IPR),
8 14:4–5) and is cited prior art to the '717 patent.

9 Dr. Konchitsky testified that he was not comfortable testifying about the
10 basic GET request in the HTTP protocol, and did not know whether a GET request
11 identified the data it requests by its Uniform Resource Locator (URL).
12 (Konchitsky TR 22:5–24:6). This lack of knowledge demonstrates a lack of even
13 ordinary skill in the art. Persons of ordinary skill in the art in 1998–99, and today,
14 would have no trouble describing an HTTP GET request. The HTTP/1.0 protocol
15 defines only three methods: GET, HEAD and POST. A HTTP/1.0 GET request
16 has only three elements: “GET” followed by the URL (e.g., /TheProject.html)
17 followed by the protocol (e.g., “HTTP/1.0.”) The same is true of the HTTP/1.1
18 GET method. (See, e.g., DRP, p. 7 (“GET /Example/home.html HTTP/1.1”). Any
19 expert in this art would know without hesitation that an HTTP GET request
20 identifies the desired resource by its URL.

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