

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: Rohrabough *et al.*

U.S. Patent No.: 7,831,926

Issue Date: November 9, 2010

Serial No.: 11/738,486

Filing Date: April 21, 2007

Title: Scalable Display Of Internet Content On Mobile Devices

Inter Partes Review Trial Nos.: IPR2013-00004 / IPR2013-00257

In re Patent of: Rohrabough *et al.*

U.S. Patent No.: 7,461,353

Issue Date: December 2, 2008

Serial No.: 11/045,757

Filing Date: January 28, 2005

Title: Scalable Display Of Internet Content On Mobile Devices

Inter Partes Review Trial No.: IPR2013-00007 / IPR2013-00256

SUPPLEMENTAL DECLARATION OF RICHARD J. LUTZ, PH.D.

I, Richard J. Lutz, Ph.D., declare:

1. My name is Richard J. Lutz, and I reside at 2345 NW 13th Place, Gainesville, FL. I am an independent consultant. I have prepared this Declaration for consideration by the Patent Trial and Appeal Board. I am over eighteen years of age and I would otherwise be competent to testify as to the matters set forth herein if I am called upon to do so.

2. I have written this Declaration at the request of Kyocera Corporation and Motorola Mobility LLC (hereinafter "Petitioners"). This Declaration supplements my September 17, 2013 Declaration submitted as exhibit Kyocera PX 1049 in the above-referenced PTAB proceedings, and is further rebuttal to the Declaration of Dr. Glenn Reinman, dated July 19, 2013.

3. I have reviewed Part II.E of the "Patent Owner's Notices of Objections to Evidence Pursuant to 37 C.F.R. § 42.64" that were submitted on September 30, 2013 in each of the above-referenced PTAB proceedings.

4. I understand that the Patent Owner objects to my September 17, 2013 Declaration as "based on insufficient facts and data" and as "the product of unreliable principles and methods unreliably applied to the facts of this case." The Patent Owner states that I have "drawn factual and legal conclusions from scant evidence based on questionable inferences, failing to satisfy the

evidentiary standards for testimony by expert witnesses.” The Patent Owner provides no examples or further explanation of these objections.

5. I disagree with the Patent Owner’s objections. As I stated in my September 17, 2013 Declaration, in forming my opinions, I rely on my knowledge and experience in the field and on documents and information referenced in my September 17, 2013 Declaration and in the Declaration of Dr. Reinman. These facts and data that I rely on include marketing textbooks (¶¶ 11, 41-43), articles and product reviews (¶¶ 19-22, 24, 32-39, 46-50, 52-57, 59-60), Steve Jobs’ 2007 MacWorld introduction of the iPhone (¶¶ 23-28, 51, 58, 61), and global brand rankings by Interbrand, a well-known brand consultancy (¶ 45).

6. Part V of my September 17, 2013 Declaration at ¶¶ 8-40 specifically rebuts the Reinman Declaration. In this part of my Declaration I rely on and cite to the same facts and data that Dr. Reinman relied upon.

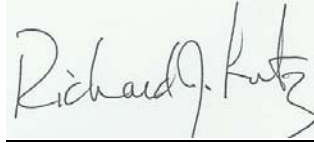
7. The facts and data that I reviewed, relied on, and cited to are the kinds of facts and data that experts in the marketing field ordinarily rely on to form an opinion regarding factors that contribute to a product’s commercial success.

8. From my review of the facts and data, I concluded that a consideration of the entire marketing mix supporting the launch of the iPhone makes it abundantly clear that its commercial success did not derive exclusively from the zoom feature at issue here. The iPhone was a multi-faceted, revolutionary product that offered significant relative advantage over the competition, carried a highly valued brand name, enjoyed strong advertising support and intense publicity, was available at a very reasonable price point, and was closely aligned with a service provider. In my professional opinion, all of these factors contributed significantly to the iPhone’s commercial success.

9. I hereby declare that statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. Should further information become available to me as this matter proceeds, I may revise my opinions accordingly as necessary. I declare under penalty of perjury that the foregoing Declaration is true and correct.

October 11, 2013

Date

A handwritten signature in black ink on a light green rectangular background. The signature reads "Richard J. Lutz" in a cursive style.

Richard J. Lutz, Ph.D.