

Filed on behalf of Clearlamp, LLC

By: Matthew L. Cutler (mcutler@hdp.com)  
Bryan K. Wheelock (bwheelock@hdp.com)  
Harness, Dickey & Pierce, PLC  
7700 Bonhomme, Suite 400  
St. Louis, MO 63105  
Tel: (314) 726-7500  
Fax: (314) 726-7501

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

LKQ CORPORATION  
Petitioner

v.

Patent of CLEARLAMP, LLC  
Patent Owner

---

Case IPR2013-00020  
Patent 7,297,364

---

Before SALLY C. MEDLEY, KEVIN F. TURNER and JOSIAH C. COCKS,  
*Administrative Patent Judges.*

**DECLARATION OF IRVING S. RAPPAPORT**

Clearlamp, LLC Exhibit 2009 <b>Redacted</b>
---

I, Irving S. Rappaport, declare:

**I. Purpose of Representation**

1. I have personal knowledge of the statements made in this declaration and am prepared to testify on the matters stated herein, except for statements stated to be based upon my information, understanding, and belief, which I believe to be true.

2. In connection with this *Inter Partes* Review Proceeding, LKQ, Corporation, Petitioner, v. Clearlamp, LLC, Patent Owner, before the Patent Trial and Appeal Board (PTAB), I have been retained by the law firm of Harness, Dickey & Pierce on behalf of the Patent Owner Clearlamp, LLC. I have been asked to opine on certain issues relating to patent validity and particularly the prior art references cited under 35 U.S.C. 103 in the PTAB's Decision of March 29, 2013 and secondary considerations related to the issues of obviousness raised in this proceeding relating to the Clearlamp U.S. patent 7,297,364 ('364 patent). I have been provided with the following documents for review:

- U.S. Patent No. 7,297,364
- Prosecution History of the '364 patent
- Petition For *Inter Partes* Review of U.S. Patent No. 7,297,364 (and related exhibits)
- Patent Owner Clearlamp, LLC's Preliminary Response
- PTAB Board Decision "Institution of *Inter Partes* Review" (IPR2013-00020 (SCM); Paper 18)
- U.S. Patent App. No. US 2005/0208210 (Kuta)
- U.S. Patent No. 6,106,648 (Butt)

- Eastwood Forum on Headlight Re-Sealing dated February 18, 2005 (Eastwood)
- Deposition of Robert Sandau
- Deposition of James Devlin, and related exhibits
- General Motors and Volvo test results (Exhibits 2-4)

## **II. My Background and Qualifications as a Patent Attorney and Testifying Expert Witness in Patent Litigation**

3. I have been registered to practice before the United States Patent and Trademark Office (USPTO) since 1964 as a patent agent and as an attorney since 1966. I was first admitted to the Bar of the State of Missouri in 1966, the Bar of the State of Massachusetts in 1967, the United States Court of Customs and Patent Appeals in 1967 (now CAFC), the Bar of the State of Minnesota in 1973, the Bar of the State of Illinois in 1983 and the United States Supreme Court in 2005.

4. I received a B.S.E.E. from Washington University in St. Louis, MO in 1962, a J.D. with Honors from George Washington University in 1966 and served on the Law Review Staff, and an M.B.A. from the Boston University Graduate School of Management in 1969.

5. I worked as a Patent Examiner at the USPTO beginning in June 1962 before entering the U.S. Army as a Second Lieutenant in Army Security Agency stationed at the National Security Agency at Fort Meade, MD until March 1965.

6. During my career I have served as Assistant General Counsel and Chief Patent Counsel for Medtronic from 1971-77. From mid 1977 through fall of 1978 I was General Counsel and Assistant Secretary of Renal Systems Corporation. I served as Chief Patent Counsel for Data General Corporation

from fall 1978 until fall 1982. From fall of 1982 through summer of 1984 I was Associate General Counsel for IP and Licensing at Bally Corporation. In fall of 1984 I joined Apple Computer, Inc. and served as Associate General Counsel for IP and Licensing until summer 1990. I consulted on trademarks for Intel Corporation from late summer 1990 until July 1991, during which time I recommended that Intel adopt a program for having its customers place the Intel logo on the outside of their PCs. In July 1991 I was recruited by National Semiconductor to serve as Vice President of IP and Licensing.

7. I co-founded a software company, SmartPatents, Inc. in 1993 with Kevin Rivette, the co-author of Rembrandts in the Attic, which developed the first true electronic patents. In 1996 we had developed the first software platform for managing and analyzing large portfolios of patents using a graphical interface that provided landscape mapping of competitive patent portfolios, citation trees and many other reporting functions that are today common in the patent field. I am named as a co-inventor on over 50 issued U.S. and international patents covering numerous inventions related to the Aureka® software platform. In 1998 the company changed its name to Aurigin Systems, Inc. and is currently owned by Thomson Reuters, which continues to license the Aureka platform.

8. From 1987 through 1994 I was appointed for consecutive two year terms by three U.S. Secretaries of Commerce and two U.S. Trade Representatives to serve on IFAC 3, a U.S. Government Advisory Committee on Trade Related Intellectual Property Rights as part of the Uruguay Round of the GATT. The efforts of the Committee resulted in the formation World Trade Organization's (WTO) adoption of minimum standards for intellectual property rights relating to patents, trademarks, copyrights, design patents, and trade secrets, collectively known as TRIPS and first adopted in 1995. Today,

most developing and developing countries of the world are members of the WTO and are implementing the provisions of TRIPS. The Committee was also instrumental in passage of the Intellectual Property Provisions of the North American Free Trade Association (NAFTA).

9. In 2004, I co-founded another patent analytics company, IP Checkups, Inc., (IPC). The company provides software, services and subscriptions to companies, law firms, investment firms and universities for managing and analyzing patent portfolios in their competitive landscapes. IPC also offers PatentCAM™ subscriptions for automatically alerting and monitoring patents relating to specified technologies. We also offer subscription to the CleanTech PatentEdge™ Database, containing over 1.5 million worldwide patents and published applications in 165 cleantech categories.

10. In all of the positions I have held during my career I have been responsible for the filing, prosecuting, maintaining, licensing and litigating of patents in the U.S. as well as around the world.

11. Over the past 20 years I have served as an expert witness in over 60 IP-related litigations, representing plaintiffs and defendants about equally. I have testified at trial in 7 cases and been deposed over 40 times. In 2009 I served as the expert for i4i in its recent case against Microsoft on the issue of willful patent infringement, which resulted in damages of over \$350 million, including infringement, willful infringement and interest, as well as an injunction against further sales of Word 2003 and 2007. The decisions of the Federal District Court, the Federal Circuit, and a unanimous U.S. Supreme Court upheld all findings in favor of i4i. The award was the largest award for a patent infringement case ever upheld by the Supreme Court.

# 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.