

Filed on behalf of Roy-G-Biv Corporation

By: Richard T. Black  
Foster Pepper PLLC  
1111 Third Avenue, Suite 3400  
Seattle, Washington 98101-3299  
Tel: (206) 447-6251  
Fax: (206) 749-2062  
Email: [blacr@foster.com](mailto:blacr@foster.com)  
Registration No.: 40514

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

**ABB, INC.**  
Petitioner

v.

**ROY-G-BIV CORPORATION**  
Patent Owner

---

**Trial No.: IPR2013-00062**  
(pursuant to Joinder with IPR2013-00282)  
U.S. Patent No. 6,516,236B1

---

**PATENT OWNER ROY-G-BIV (“RGB”)**  
**AMENDED MOTION FOR OBSERVATIONS ON CROSS**  
**EXAMINATION**

As permitted by the Board by Its order dated January 7, 2014 (Paper 64), Patent Owner, Roy-G-Biv Corporation, submits the following Amended Observations on the November 20, 2013 cross-examination testimony of ABB reply declarant Dr. Richard Voyles [Exhibit 2013], and the December 4, 2013 cross-examination of ABB reply declarant Dr. Nikolas Papanikolopoulos [Exhibit 2014].

The text below follows as closely as possible the recommended format template as indicated in the Trial Practice Guide and previous orders by the Board. In accordance with the Trial Practice Guide, each of the Observations 1-12 below provides a concise statement of the relevance of the precisely identified testimony to a precisely identified argument.

**1. ABB Expert Voyles’ Opinions Regarding Reliability of RGB Expert Stewart**

In Exhibit 2013, on page 38, lines 5-10 and 12-25, ABB expert Dr. Voyles was asked, “In your opinion, is Dr. Stewart an intelligent man?” Dr. Voyles responded “Absolutely.” Dr. Voyles was further asked “In your opinion, is Dr. Stewart a reliable computer scientist?” He responded “Yeah...Reliable by familiar definitions of ‘reliable.’” This testimony is relevant to the arguments on pages 10 – 11 of ABB’s Reply Brief regarding the reliability of Dr. Stewart’s opinions. This

testimony is relevant to the weight that should be afforded Dr. Stewart's Declaration.

**2. Dr. Voyles' Opinions Regarding Reliability of Dr. Stewart's Opinions on Certain Claim Terms**

In Exhibit 2013, on page 38 lines 16-25 and page 89, lines 5-6, Dr. Voyles testified that he holds Dr. Stewart in "high regard" in "certain areas of expertise," and that "I hold him in high regard as a software engineer. As a specialist in embedded systems." (p. 38), and further, "It's a very broad field, but [computer science is] one of his fields of expertise" (p. 89). On page 40, lines 16-19, Dr. Voyles testified that, in his own doctoral work, Dr. Voyles "relied upon the Chimera software developed by Dr. Stewart," and on page 41, lines, 6-8, Dr. Voyles testified that Dr. Stewart was responsible for "develop[ing] port based objects." This testimony is relevant to the argument on page 10-11 of ABB's Reply Brief regarding Dr. Stewart's expertise in computer science and software. This testimony is also relevant to the weight of Dr. Stewart's opinions concerning the meaning of software related claim terms such as "function" and "code."

**3. ABB Expert Papanikolopoulos' Opinions Regarding the Expertise of Dr. Stewart**

In Exhibit 2014, on page 14, lines 5-7, ABB expert Dr. Papanikolopoulos was asked: "Are you aware that ABB attempted to retain Dr. Stewart in these

matters?” to which he responded, “Yes.” Further, on page 61, lines 4-5, and again on page 64, line 21, Dr. Papanikolopoulos testified that Dr. Stewart is a “very bright individual.” Finally, on page 62, lines 20-23, Dr. Papanikolopoulos was asked, “You've submitted multiple letters of recommendations for Dave Stewart in the past; is that correct?” to which he responded, “This is my recollection.” This testimony is relevant to the arguments on pages 10–11 of ABB’s Reply Brief regarding the reliability of Dr. Stewart’s opinions. This testimony is relevant to the weight that should be afforded Dr. Stewart’s Declaration.

**4. ABB Expert Papanikolopoulos’ Opinions Regarding the Software Expertise of RGB Expert Stewart**

In Exhibit 2014, on page 19, lines 13-18, Dr. Papanikolopoulos testified that “we continue to have interactions and even, for example, using the Chimera system in my lab at the University of Minnesota.” When asked, “That was a system that was designed and built by Dr. Stewart, correct?” he responded “Yes.” This testimony is relevant to the arguments on pages 10–11 of ABB’s Reply Brief. This testimony is relevant to the weight of Dr. Stewart’s opinions concerning the meaning of software-related claim terms such as “function” and “code.”

**5. Dr. Voyles’ Testimony Regarding Disputing Dr. Stewart’s Opinions**

In Exhibit 2013, on page 57, lines 21- page 58, line 3, Dr. Voyles was asked, “So one of your objectives in your retention in this matter was to review Dr.

Stewart's declarations, identify any disagreements that you had with respect to his declarations, and then give your response in your declarations; correct?" Dr. Voyles responded, "That was part of my understanding." At page 138, lines 15-24, Dr. Voyles was then asked, "Exhibit 2020 [is] an accurate summary of the different disputes you have with Dr. Stewart in this case?" to which he responded "Yes." (Exhibit 2020 used in the deposition is attached as Exhibit 2017 in the IPR.) This testimony is relevant to the arguments on pages 10-11 of ABB's Reply Brief concerning "component functions." This testimony is relevant because Dr. Voyles, in Exhibit 2017, does not identify any disagreements with Dr. Stewart's opinion that the asserted references do not teach "component functions."

#### **6. Dr. Voyles Testimony Regarding the Component Function Limitation**

On page 142, lines 24-25, Dr. Voyles testified, "I find no specific references to actions in the Onika context" in his own declaration. That testimony is relevant to ABB's argument on pages 22 and 52 of its Petition that Gertz's "actions" are equivalent to "component functions," This testimony is relevant because Dr. Stewart opines in paragraphs 26 and 40 of his Declaration [Exhibit 2011] that Gertz' actions are not "functions," and therefore cannot be "component functions."

# 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.