

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the *Inter Partes* Review of:

U.S. Patent No. RE40,520

Filed: June 14, 2005

Issued: September 23, 2008

Inventor(s): Doktor, Karol

Assignee: Financial Systems

Technology (Intellectual Property) Pty.
Ltd.

Title: EASILY EXPANDABLE DATA Panel: To Be Assigned
PROCESSING SYSTEM AND
METHOD

Trial Number: To Be Assigned

Attorney Docket No:

Mail Stop *Inter Partes* Review

Commissions for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

DECLARATION OF JOEL MERKIN

I, Joel Merkin, do hereby declare as follows:

1. I am an attorney at the law firm of Kirkland & Ellis LLP, 300 N. LaSalle, Chicago, Illinois 60654, and serve as counsel for Petitioner International Business Machines, Corp. (“IBM”). I submit this declaration in support of IBM’s Petition for *Inter Partes* Review of U.S. Patent No. RE40,520 (“Petition”). I am over twenty-one years of age and not under any legal disability. I have personal knowledge of the following facts and, if called as a witness, could and would testify competently thereto.
2. Attached hereto as Exhibit 1005 is a true and correct copy of U.S. Patent No. RE40,520 (“the ’520 Patent”).
3. Attached hereto as Exhibit 1006 is a true and correct copy of James P. Davis, *et al.*, EDICT – An Enhanced Relational Data Dictionary: Architecture and Example.
4. Attached hereto as Exhibit 1007 is a true and correct copy of Stephanie Cammarata, *et al.*, Extending a Relational Database with Deferred Referential Integrity Checking and Intelligent Joins.
5. Attached hereto as Exhibit 1008 is a true and correct copy of U.S. Patent No. 4,868,733 to Fujisawa, *et al.*
6. Attached hereto as Exhibit 1009 is a true and correct copy of U.S. Patent No. 5,206,951 to Khoyi, *et al.*

7. Attached hereto as Exhibit 1010 is a true and correct copy of Local Patent Rule 4.1 Identification of Claim Terms to be Construed and Proposed Constructions, Pleading and Exhibit A of FST's Proposed Claim Constructions, *FST v. IBM*, Case No. 1:11-cv-08729 (N.D. Ill.).
8. Attached hereto as Exhibit 1011 is a true and correct copy of Local Patent Rule 4.3 Joint Claim Construction and Pre-Hearing Statement, *FST v. Oracle*, Case No. 2:08-cv-371 (E.D. Tex.).
9. Attached hereto as Exhibit 1012 is a true and correct copy of U.S. Patent Appl. No. 08/862,176 ("the '176 Application").
10. Attached hereto as Exhibit 1013 is a true and correct copy of excerpts from the file history of the '176 Application: March 5, 1998 Notice of Allowability.
11. Attached hereto as Exhibit 1014 is a true and correct copy of U.S. Patent No. 5,826,259.
12. Attached hereto as Exhibit 1015 is a true and correct copy of U.S. Reissue Appl. No. 11/152,835 ("the '835 Reissue Application").
13. Attached hereto as Exhibit 1016 is a true and correct copy of Reexamination Request No. 90/007,707 ("the '707 Reexamination").

14. Attached hereto as Exhibit 1017 is a true and correct copy of excerpts from the file history of the '707 Reexamination: September 30, 2005 Order Granting Reexamination.
15. Attached hereto as Exhibit 1018 is a true and correct copy of excerpts from the file history of the '707 Reexamination: December 5, 2005 Decision Merging '835 Reissue Application and '707 Reexamination.
16. Attached hereto as Exhibit 1019 is a true and correct copy of excerpts from the file history of the '707 Reexamination: June 1, 2006 Interview Summary.
17. Attached hereto as Exhibit 1020 is a true and correct copy of excerpts from the file history of the '707 Reexamination: February 20, 2008 Notice of Allowability.
18. Attached hereto as Exhibit 1021 is a true and correct copy of Reexamination Request No. 90/008,648 (“the '648 Reexamination”).
19. Attached hereto as Exhibit 1022 is a true and correct copy of excerpts from the file history of the '648 Reexamination: July 19, 2007 Order Granting Reexamination.
20. Attached hereto as Exhibit 1023 is a true and correct copy of excerpts from the file history of the '648 Reexamination: February 11, 2009 Amendment.
21. Attached hereto as Exhibit 1024 is a true and correct copy of excerpts from the file history of the '648 Reexamination: March 5, 2009 Office Action.

22. Attached hereto as Exhibit 1025 is a true and correct copy of excerpts from the file history of the '648 Reexamination: June 4, 2009 Applicant Response.
23. Attached hereto as Exhibit 1026 is a true and correct copy of excerpts from the file history of the '648 Reexamination: September 18, 2009 Notice of Intent to Issue a Reexamination Certificate.
24. Attached hereto as Exhibit 1027 is a true and correct copy of January 5, 2010 Reexamination Certificate.
25. Attached hereto as Exhibit 1028 is a true and correct copy of a FST's Opening Claim Construction Brief, *FST v. Oracle*, Case No. 2:08-cv-371 (E.D. Tex.).
26. Attached hereto as Exhibit 1029 is a true and correct copy of FST's Reply in Support of its Opening Claim Construction Brief, *FST v. Oracle*, Case No. 2:08-cv-371 (E.D. Tex.).
27. Attached hereto as Exhibit 1030 is a true and correct copy of a Transcript of the October 7, 2010 Claim Construction Hearing, *FST v. Oracle*, Case No. 2:08-cv-371 (E.D. Tex.).
28. Attached hereto as Exhibit 1031 is a true and correct copy of excerpts from the file history of the '648 Reexamination: June 13, 2007 Notice of Reexamination Request Filing Date.

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