

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD**

Applicant:	Darbee et al.	Universal Remote Control, Inc.
Case No.:	IPR2013-00127	v.
Filing Date:	2/23/2001	Universal Electronics, Inc.
Patent No.:	6,587,067	Trial Paralegal: Andrew Kellog
Title:	Universal Remote Control With Macro Command Capabilities	Attny Doc.: 059489.05US5/IPR

DECLARATION OF PATRICK H. HAYES

I, Patrick H. Hayes, hereby declare as follows:

Background And Qualifications

1. My name is Patrick H. Hayes. I recently retired from full-time employment with Patent Owner Universal Electronics, Inc. (“UEI”), but I continue to consult for them occasionally. I served in various engineering and development capacities in the electronics industry since 1969, including fourteen years in commercial computers and networking, eight years in telecommunications, and twenty years in consumer electronics.

2. In 1968, I earned a Bachelor of Science degree in the field of Electrical Engineering from the University of Witwatersrand in Johannesburg, South Africa.

3. Between the years of 1969 and 1973, I worked for the South African Railroad Administration, where my responsibilities included the design and

installation of communication networks for purposes such as railroad car control, oil pipeline telemetry and airline reservation systems.

4. Between the years of 1973 and 1975 I worked for Computer Sciences Sigma Ltd. as a software development engineer for networked systems.

5. Between the years 1975 and 1987 I worked for Computer Automation Inc. (later SyFA Data Systems) in the capacity of Director of Engineering, overseeing product development of hardware and software for distributed processing and local area network systems.

6. Between the years 1987 and 1992 I worked for Lear Siegler Inc. Telecommunication Division as Director of Engineering overseeing the hardware and software development of digital telephony transmission systems.

7. Between the years of 1992 and 2013, I worked for UEI, a major developer and manufacturer of universal remote controls, performing at various times as Director of Software Development, Vice President of Technology Development, Vice President of Core Technology, and Vice President of Intellectual Property.

8. I am a named inventor on over sixty granted and pending U.S. patents and patent applications, the majority of which relate to universal remote control technology.

9. I have been retained in this matter by UEI to provide an analysis of U.S. Patent No. 6,587,067 (the “‘067 patent”) pursuant to the Board’s decision

instituting an *inter partes* review of Claims 1-6 of the '067 patent, and specifically to rebut the opinions of Petitioner's expert, Dr. Alan Herr.

10. I am being compensated at the rate of \$125 per hour for my work. My fee is not contingent on the outcome of this matter, or on the positions I have taken in this declaration. I have no financial interest in Petitioner Universal Remote Control, Inc.

11. It is my understanding that my former employer UEI owns the '067 patent. I have no financial interest in UEI.

The State Of The Art As Of The Priority Date Of The '067 Patent

12. In his declaration, Dr. Herr opined that, as of the priority date of the '067 patent, a person of ordinary skill in the art would have purportedly been aware of three different methods of configuring a universal remote control, of which I am in agreement on the following two: (1) "learning" remote controls, which learn how to operate a particular appliance from the remote control that was sold and packaged alongside the particular appliance; and (2) "scan and set" remote controls, which scan through a variety of command codes while the user watches the particular appliance for an observable effect thereon, at which point the user instructs the remote to utilize that command code for that appliance.

13. However, I disagree with Dr. Herr that one of ordinary skill in the art was aware of a third method of configuration, which I will refer to as a direct entry

method, at that time. In the direct entry method, the universal remote control is pre-programmed with a large library of command codes that are predisposed to enable the universal remote control to operate a plurality of different home appliances sold by different manufacturers. The user directly identifies the remote control to operate with a particular appliance by entering an identification code—for example a three- or four-digit number. Each identification code corresponds to a set of command codes and data in the library stored in the remote control, which control a particular appliance. Based on my own experience in the industry and my review of the documents I have considering herein, this particular methodology was first disclosed to those of ordinary skill in the art through UEI's filing in 1987 of the ancestor patent application that eventually led to the '067 patent.

Summary And Basis Of Opinions

14. It is my opinion that the prior art of record in this proceeding is insufficient to anticipate or render obvious the '067 patent because each of the prior art references relied on by Petitioner lacks one or more key elements disclosed and claimed by the '067 patent.

15. I understand that patent claims are unpatentable as obvious when the differences between the claimed subject matter and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art in the relevant field of technology.

It is my understanding that an obviousness analysis involves consideration of the following factors: (1) the scope and content of the prior art; (2) the differences between the claimed invention and the prior art; (3) the level of ordinary skill in the art; and (4) secondary considerations of non-obviousness.

The '067 Patent Is Patentable Over Rumbolt In View Of Magnavox

16. U.S. Patent No. 4,774,511 to Rumbolt et al. (“Rumbolt”) discloses a universal remote control for controlling a plurality of home appliances from different manufacturers, which are identified to the remote control using a set of binary DIP (dual in-line package) switches.

17. PR Newswire (April 9, 1987), “Magnavox Unveils Total Remote Tuning System and Second Generation Universal Remote Control,” [Press Release], NAP Consumer Electronics Cop., Retrieved from DIALOG (“Magnavox”) discloses a universal remote control for controlling a plurality of home appliances from different manufacturers, whereby the user can program the remote control using a numeric code provided in the operating manual. “To identify a particular VCR, a viewer simply presses the REC button on the remote, presses the on/off button on the VCE (sic) or cable box and enters the appropriate code.” (Magnavox, at 2.)

18. At the outset, it is my opinion that Magnavox is, at best, ambiguous as to how its remote control is programmed to operate with a particular appliance.

Magnavox states that

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