

PETITION FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 7,860,131

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the *Inter Partes* Review of U.S. Patent No. 7,860,131

Trial No.: Not Yet Assigned

Issued: December 28, 2010

Filed: June 7, 1995

Inventors: John Christopher Harvey, *et al.*

Assignee: Personalized Media Communications, LLC

Title: SIGNAL PROCESSING APPARATUS AND METHODS

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PETITION FOR *INTER PARTES* REVIEW UNDER 37 C.F.R. § 42.100

On behalf of Zynga Inc. (“Zynga” or “Petitioner”) and in accordance with 35 U.S.C. § 311 and 37 C.F.R. § 42.100, *inter partes* review is respectfully requested for claims 1, 3, 4, 6, 9 and 11 of U.S. Patent No. 7,860,131 (“the Harvey ‘131 Patent”), attached hereto as Exhibit 1001.

The undersigned representative of Petitioner authorizes the Patent Office to charge the \$27,200 Petition Fee, along with any additional fees, to Deposit Account 501432, ref: 479204-620003. Six claims are being reviewed, so no excess claim fees are required.

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I. INTRODUCTION

The Harvey '131 Patent is currently being wielded by the patent owner, Personalized Media Communications, LLC (“PMC”), in an attempt to cover long-known computer programming and networking techniques that are far afield from the alleged invention described in the patent. (*See, Personalized Media Communications, LLC v. Zynga, Inc.*, U.S. District Court for the Eastern District of Texas, Civil Action No. 2:12-cv-68-JRG) PMC’s aggressive litigation campaign is made possible by an overly-expansive claim scope that results from a long and tortured prosecution history dating back to an original filing in November 1981, and includes approximately 300 related applications filed in 1995 in an effort to extend the patent term well beyond what is justifiable.

Most of the near 300 applications filed in 1995, including the application that matured into the Harvey '131 Patent, were directed to television and radio technology, as described in the specification of the Harvey '131 Patent. Also related to television technology were most of the thousands of prior art references cited by the patent owner during prosecution, including a single IDS citing over 700 references.

The allowed claims, first added by amendment nearly four years after the Harvey '131 Patent was filed in 1995 and almost 12 years after its 1987 priority date, are being asserted against online computer gaming technology, in a way that

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extends far beyond the television technology disclosed in the specification of the Harvey '131 Patent and the prior art considered by the Patent Office. (*See, e.g.,* PMC Infringement Contentions against Zynga, attached as Exhibit 1002.) This type of computer technology was well known before the 1987 priority date of the Harvey '131 Patent, however, as demonstrated by the teachings of the Higgins, Hedges and Sitrick references cited herein. Petitioner submits that had these more-relevant references been considered by the Patent Office during prosecution, at least claims 1, 3, 4, 6, 9 and 11 of the Harvey '131 Patent would not have issued, and therefore this petition for *inter partes* review should be granted.

II. GROUNDS FOR STANDING PURSUANT TO 37 C.F.R. § 42.104(a)

Petitioner certifies that the Harvey '131 Patent is available for *inter partes* review and that Petitioner is not barred or estopped from requesting *inter partes* review challenging the patent claims on the grounds identified herein.

III. OVERVIEW OF THE HARVEY '131 PATENT

The Harvey '131 Patent was filed on June 7, 1995 and issued on December 28, 2010. The patent claims priority to a series of continuation and continuation-in-part applications dating back to November 3, 1981, but, as detailed below, is only entitled to an effective filing date of no earlier than September 11, 1987 (the filing date of U.S. Patent No. 4,965,825.)

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