

Filed on behalf of Ricoh Americas Corporation and Xerox Corporation

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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RICOH AMERICAS CORPORATION

XEROX CORPORATION

Petitioners

v.

MPHJ TECHNOLOGY INVESTMENTS LLC

Patent Owner

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CASE: IPR2013-00302

Patent 7,986,426

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**REPLY TO PATENT OWNER'S RESPONSE**

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## I. INTRODUCTION

The Board properly construed the claims and found that there is a reasonable likelihood that each of XNS and Salgado anticipates claims 1-11 of the '426 Patent. (Paper 8, 22-35.) MPHJ has provided no credible basis to support reversal of this finding. Rather, MPHJ's Patent Owner Response (Paper 30; "POR") and the testimony of MPHJ's expert, Mr. Glenn E. Weadock, further demonstrate that all claims of the '426 Patent should be held unpatentable.

MPHJ failed to demonstrate the validity of the '426 Patent for at least four primary reasons. *First*, MPHJ's POR relied on the hastily prepared Declaration of Glenn E. Weadock (Ex. 2002; "Weadock Decl.") that should be given no weight, and therefore provides no support for the validity of the '426 Patent claims. Mr. Weadock is not qualified to opine on the technology disclosed in the '426 Patent. Moreover, he (1) repeatedly admitted that he had insufficient time and resources to prepare his Declaration, (2) failed to apply proper patent law principles, and (3) contradicted several important aspects of his Declaration. *Second*, MPHJ's arguments that attempt to distinguish over the cited prior art – XNS and Salgado – hinge on constructions of the terms "applications" and "module" that do not comport with the governing broadest reasonable interpretation (BRI) standard. *Third*, Mr. Weadock admitted that all of the structural limitations recited in the claims were known in the prior art; in fact, he even authored a book in 1995 that

disclosed the functional or software aspects of the putative invention. *Fourth*, MPHJ's POR is devoid of any credible argument that rebuts the Board's findings that the claim elements are anticipated by both XNS and Salgado.

## **II. THE BOARD SHOULD GIVE NO WEIGHT TO MR. WEADOCK'S DECLARATION**

### **A. Mr. Weadock Is Not Qualified To Opine On The '426 Patent**

Mr. Weadock is not qualified to serve as an expert in this matter. In fact under Dr. Melen's proposed definition of a person of ordinary skill in the art ("POSA"), Mr. Weadock is not even a POSA. (RIC 1008 ("Melen Decl."), ¶18.)<sup>1</sup> Specifically, since 1985, Mr. Weadock has worked as an IT consultant helping his clients specify and configure hardware and software for their office networks, troubleshoot IT issues, set up help desks, develop websites, and provide assistance in legal matters. (RIC 1013 ("Weadock Depo."), 160:16-163:6.) He does not design hardware or software; he helps his clients configure it. (*Id.* at 163:14-164:10.) In fact, Mr. Weadock has never developed software primarily oriented towards printing, scanning, copying, or facsimile (*id.* at 114:15-116:4); he has

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<sup>1</sup> Mr. Weadock has inappropriately and conveniently proposed a POSA definition that is written so broadly as to potentially even cover Mr. Weadock's education and background. (Weadock Decl., ¶15.) The Board should reject this proposed POSA definition.

never written software for a commercial device (*id.* at 116:5-13); and he has never been employed by a scanner or copier company (*id.* at 133:10-12).

And Mr. Weadock is even less experienced in developing hardware. He holds a B.S. Degree in General Engineering – majoring in *energy technologies*. (*Id.* at 123:2-3.) Energy technologies are “oil and gas, nuclear, wind, solar technologies that are used to generate energy sources. That was the focus of [Mr. Weadock’s] major.” (*Id.* at 126:5-9.) Thus, it is not surprising that he never took any courses in circuit design or hardware. (*Id.* at 116:22-117:2.)

By contrast, Petitioners’ Expert, Dr. Roger Melen, is ideally qualified to opine on the technology at issue; he holds a Ph.D. in Electrical Engineering from Stanford University and was developing networked digital scanner/copier technology as the Vice President of R & D at Canon Research Center America from 1990 to 2001, which includes the earliest possible priority date of the ’426 Patent. (Ex. 2003 (“Melen Depo.”), 20:9-21:4; Melen Decl., ¶14, Att. 1.)

**B. Mr. Weadock Repeatedly Admitted That He Lacked Sufficient Time And/Or Money To Properly Prepare His Declaration**

Mr. Weadock stated at least eight times during his deposition that he lacked sufficient time and/or money to prepare the Declaration he submitted in support of MPHJ’s POR. (Weadock Depo., 181:24-182:2, 195:7-196:2, 196:18-21, 197:5-8, 202:1-21.) Prior to his deposition, Mr. Weadock admitted that he had never seen MPHJ’s POR – the very document his Declaration allegedly supports. (*Id.* at 25:9-

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