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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT: 8,135,398

INVENTORS: TIEHONG WANG,
NING WANG, XIMING WANG,
TIEJUN WANG, WILLIAM E.
HALAL

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TITLE: METHOD AND
APPARATUS FOR MULTIMEDIA
COMMUNICATIONS WITH
DIFFERENT USER TERMINALS

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DECLARATION OF DR. KEVIN C. ALMEROTH
CONCERNING U.S. PATENT NO. 8,135,398

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I. INTRODUCTION

1. My name is Dr. Kevin C. Almeroth. I have been asked to submit this declaration on behalf of Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively, "Samsung") in connection with a petition for *inter partes* review of U.S. Patent No. 8,135,398 ("the '398 patent") that I understand is being submitted to the Patent Trial and Appeal Board ("Board") of the United States Patent and Trademark Office ("PTO" or "USPTO") by Samsung Electronics Co., Ltd. ("Petitioner").[1]

2. I have been retained as a technical expert by Petitioner to study and provide my opinions on the technology claimed in, and the patentability or non-patentability of, claims 15, 57, 58 and 60-63 in the '398 patent ("the challenged claims"). The '398 patent is related to U.S. Patent No. 7,899,492 ("the '492 patent"), U.S. Patent No. 8,050,711 ("the '711 patent"), U.S. Patent No. 8,145,268 ("the '268 patent") and 8,224,381 ("the '381 patent"), sometimes referred to "the '492 Patent Family." I understand that the '398 patent is owned by Virginia Innovation Sciences, Inc. ("VIS" or "Patent Owner").

3. In addition, I have been retained by Samsung in connection with a litigation involving the '398 patent. The caption of the litigation is *Virginia*

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[1] I understand that the '398 patent is Exhibit 1001 to the petition for *inter partes* review of the '398 patent.

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Innovation Sciences, Inc. v. Samsung Electronics Co., Ltd.; Samsung Electronics America, Inc.; Samsung Telecommunications America LLC (Civil Action No. 2:12-cv-00548-MSD-DEM) (E.D. Va.) ("the litigation"). In connection with the litigation, I have thus far prepared an expert report regarding the invalidity the '398 patent (as well as the patents in the '492 Patent Family).

II. SUMMARY OF OPINIONS

4. This declaration is directed to claims 15, 57, 58 and 60-63 of the '398 patent and sets forth certain opinions I have formed, the conclusions I have reached, and the bases for each. However, because claims 57 and 55 depend from claim 55 of the '398 patent (which, in turn, depends from claim 15), this declaration also addresses claim 55 in order to address all limitations of claims 57 and 58.

5. Based on my experience, knowledge of the art at the time of the patent application, analysis of prior art references, and the broadest reasonable interpretation of the claims in light of the specification, it is my opinion that all of the challenged claims of the '398 patent are unpatentable as being anticipated or rendered obvious by the prior art references discussed below and shown in the claim charts attached as **Appendices C-F**, which are part of my declaration and part of my sworn testimony.

6. More particularly, it is my opinion that:

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- U.S. Patent No. 7,580,005 ("Palin") Palin anticipates claims 15, 57 and 60-62 of the '398 patent, as explained in detail in **Appendix C**;[2]
- U.S. Patent No. 8,028,093 ("Karaoguz") anticipates claims 15, 57, 61 and 62, as explained in detail in **Appendix D**;[3]
- The combination of Palin and Karaoguz renders claims 15, 57 and 60-62 obvious, as explained in detail in **Appendix E**; and
- The combination of Palin and U.S. Patent Application Publication No. 2004/0223614 ("Seaman") renders claims 58 and 63 obvious, as explained in detail in **Appendix F**.[4]

7. For example, the '398 patent purports to solve "problems with the delivery of Internet content through cellular phones. For example, even with the high bandwidth connection provided by advanced cellular Systems, there remains a bottleneck between the Internet and the cellular network (CN), as well as delays

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[2] I understand that Palin is Exhibit 1002 to the petition for *inter partes* review of the '398 patent.

[3] I understand that Karaoguz is Exhibit 1003 to the petition for *inter partes* review of the '398 patent.

[4] I understand that Seaman is Exhibit 1004 to the petition for *inter partes* review of the '398 patent.

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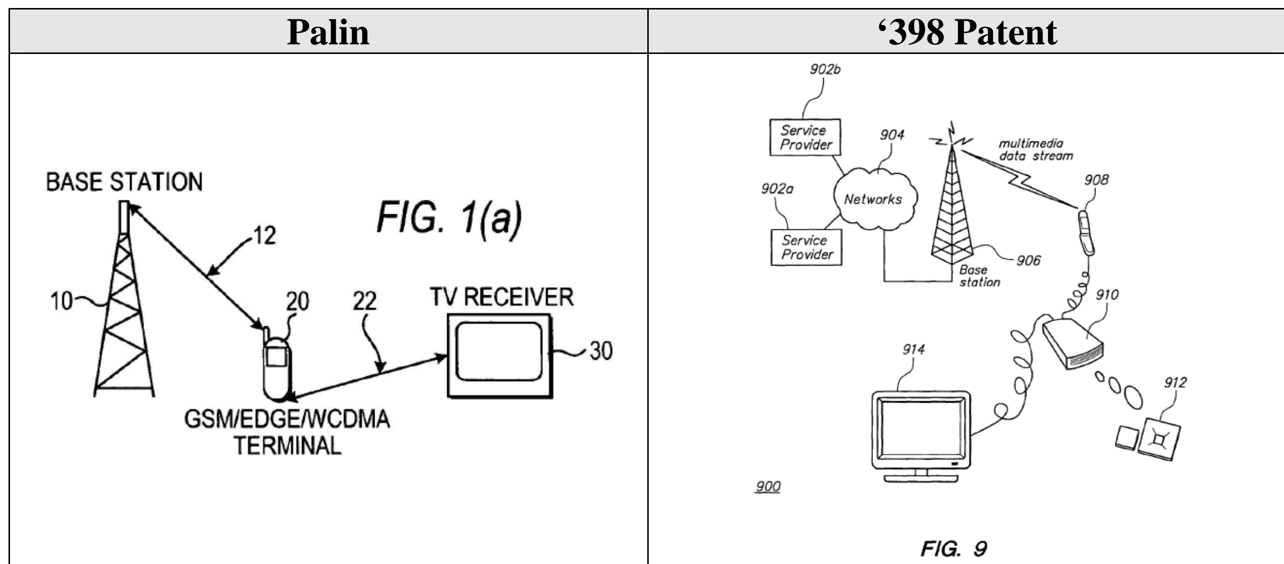
caused by the Internet itself." '398 patent at 1:56-61. According to the '398 patent, "[w]hat is needed is a solution to the problem of diminished user enjoyment of the various devices and corresponding content that a user may enjoy due to the complications of trying to manage content and interface with a variety of different devices that are not necessarily compatible." '398 patent at 3:9-13. The solution proposed by the '398 patent, however, had already been recognized in the prior art.

8. Palin, for example, discloses that "currently available mobile terminals are limited because of the size, … users would not enjoy watching … video on such a display" Palin at 1:21-26. Indeed, the overlap in the solutions proposed by the two patents is reflected in their figures:



9. Although the '398 patent purports to solve the limited screen size problem by converting and providing the video signal to an alternative (e.g., external) display system, ('398 patent at 15:36-64, 16:59 to 17:13), Palin had

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