

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Yamaha Corporation of America
Petitioner

v.

Black Hills Media, LLC
Patent Owner

Patent No. 8,214,873

Issue Date: July 3, 2012

Title: METHOD, SYSTEM, AND COMPUTER-READABLE MEDIUM FOR
EMPLOYING A FIRST DEVICE TO DIRECT A NETWORKED AUDIO
DEVICE TO RENDER A PLAYLIST

Inter Partes Review No. IPR2013-00598

**DECLARATION OF DAVID L. FEHRMAN IN SUPPORT OF
PETITIONER YAMAHA CORPORATION OF AMERICA'S
OPPOSITION TO PATENT OWNER'S MOTION TO EXCLUDE**

I, David L. Fehrman, declare as follows:

1. I am a partner at the law firm of Morrison & Foerster LLP, counsel for Petitioner Yamaha Corporation of America (“Yamaha”) in Case Nos. IPR2013-00593 (“the 593 IPR”), IPR2013-00594 (“the 594 IPR”), IPR2013-00597 (“the 597 IPR”), and IPR2013-00598 (“the 598 IPR”) (collectively, “the IPRs”). I am lead counsel for Yamaha in the IPRs. I have personal knowledge of the facts set forth below, and if called as a witness could and would competently testify thereto.

2. On August 12, 2014, Yamaha filed its Replies to the Responses filed by Patent Owner Black Hills Media LLC in each of the IPRs. Yamaha submitted certain exhibits in support of the IPRs, including the following Reply exhibits:

Exhibit No.	Description
597 IPR Ex. 1016 598 IPR Ex. 1020	<i>May 24, 2011 Declaration of Dr. Gareth Loy in MonkeyMedia, Inc. v. Apple, Inc., Case No. 1:10cv319 (E.D. Tex.), re-filed on July 25, 2014, with discussion of POOSITA in ¶ 27 [referenced herein as “Loy Declaration”]</i>
593 IPR Ex. 1022 594 IPR Ex. 1020	<i>Declaration of Ivan Zatkovich, filed as Exhibit 2013 in CBM2013-00004 on June 5, 2013, with discussion of POSITA in ¶ 8 [referenced herein as “Zatkovich Declaration”]</i>

3. On July 28, 2014, Yamaha took the deposition of Dr. Gareth Loy, who is Patent Owner's expert declarant in the 597 IPR and the 598 IPR. Prior to the July 28, 2014 deposition of Dr. Loy, Yamaha and its counsel were not aware of the statement contained in the Loy Declaration whereby "at least" was used in defining a "POOSITA."

4. On July 29, 2014, Yamaha took the deposition of Ivan Zatkovich, who is Patent Owner's expert declarant in the 593 IPR and the 594 IPR. Prior to the July 29, 2014 deposition of Mr. Zatkovich, Yamaha and its counsel were not aware of the statement contained in the Zatkovich Declaration whereby "at least" was used in defining a "POSITA."

5. Following the above-referenced July 28-29, 2014 depositions of Dr. Loy and Mr. Zatkovich, I investigated and discovered the statements contained in the Loy Declaration and the Zatkovich Declaration utilizing "at least" language in defining the level of ordinary skill in the art in those matters. I made this discovery during the process of preparing and finalizing Yamaha's Replies in the IPRs, which were filed on August 12, 2014.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and recollection.

Dated: September 26, 2014

/s/ David L. Fehrman
David L. Fehrman

Certificate of Service (37 C.F.R. § 42.6(e)(4))

I hereby certify that the attached “Declaration of David L. Fehrman in Support of Petitioner Yamaha Corporation of America’s Opposition to Patent Owner’s Motion to Exclude” was served on the below date on the Patent Owner via e-mail (by consent) to the following counsel of record for the Patent Owner:

Lana Gladstein (gladsteinl@pepperlaw.com)
Thomas Engellenner (engellennert@pepperlaw.com)
PEPPER HAMILTON LLP
125 High Street
19th Floor, High Street Tower
Boston, MA 02110

Theodosios Thomas (ted.thomas@sceneralabs.com)
BLACK HILLS MEDIA, LLC
5400 Trinity Road, Suite 303
Raleigh, NC 27607

Christopher Horgan (chris.horgan@concerttechonology.com)
Concert Technology
1438 Dahlia Loop
San Jose, CA 95126

Dated: September 26, 2014

 /Mehran Arjomand/
Mehran Arjomand