

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY CORPORATION
Petitioner

v.

STRAIGHT PATH IP GROUP, INC.
(FORMERLY KNOWN AS INNOVATIVE COMMUNICATIONS
TECHNOLOGIES, INC.)
Patent Owner

INTER PARTES REVIEW OF U.S. PATENT NO. 6,108,704
Case IPR No.: *To Be Assigned*

DECLARATION OF ROBERT COWART

I, Robert Cowart, declare under penalty of perjury that:

1. I have been retained as a consultant by Wolf, Greenfield & Sacks, P.C. (“Wolf Greenfield”), counsel for Petitioner Sony Corporation (“Sony”). I submit this declaration in connection with Sony’s Petition for *Inter Partes* Review of Claims 1, 11-12, 19, 22-23, and 30 of U.S. Patent No. 6,108,704 (“the ‘704 patent”). I am being compensated for my time at the rate of \$240 per hour, plus actual expenses. My compensation is not dependent in any way upon the outcome of Sony’s Petition.

2. I have written more than forty-five books on computer programming and applications, including more than a dozen on Microsoft operating systems. One such book, *Windows NT 3.5: Unleashed*, was published in January 1995 and provides an overview of Microsoft’s Windows NT 3.5 Server software.

3. In writing *Windows NT 3.5: Unleashed*, my fellow authors and I spent months working with a beta version of the Windows NT 3.5 Server software. Microsoft provided us with the beta version of the Windows NT 3.5 Server software, and I have retained at least one CD of beta Windows NT 3.5 Server software that Microsoft provided.

4. A beta version of software is a pre-release of the software that is typically given out to a large group of individuals to use the software under real-world conditions. As a beta tester, I received a beta version of the Windows NT

3.5 Server software prior to the official release of that software in September 1994.

I was one of thousands of beta testers for the Windows NT 3.5 Server software.

5. Exhibits 1042-1045 are news articles that Wolf Greenfield provided to me. They confirm my recollection that Windows NT 3.5 Server was officially released in September 1994. Exhibit 1042 is a September 19, 1994 article announcing that the Windows NT 3.5 software would be available “this month.” Exhibit 1043 is an October 3, 1994 article describing the software and stating that it is “currently shipping.” Exhibit 1044 is a September 17, 1994 New York Times article announcing Microsoft’s release of the Windows NT 3.5 later that month.

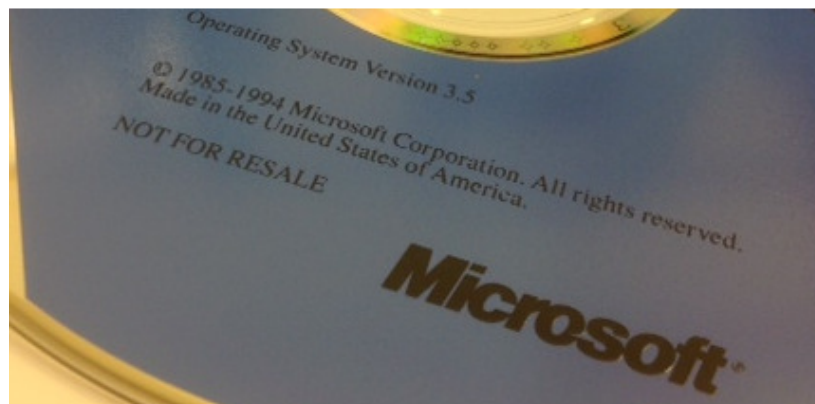
6. Exhibit 1045 is a May 16, 1994 article stating: “Microsoft announced details about the software [Windows NT 3.5] in April and shipped beta copies to 10,000 customers two weeks ago.” The article further notes that beta copies of Windows NT 3.5 (codenamed Daytona) first shipped in May 1994 and that a second beta version was to be shipped in June 1994. This article confirms my recollection that I received a beta version of Windows NT 3.5 prior to the software’s official release in September 1994.

7. When Windows NT 3.5 was officially launched in September 1994, I was under no obligation to maintain as confidential the beta software or the documentation that Microsoft had provided with the beta software.

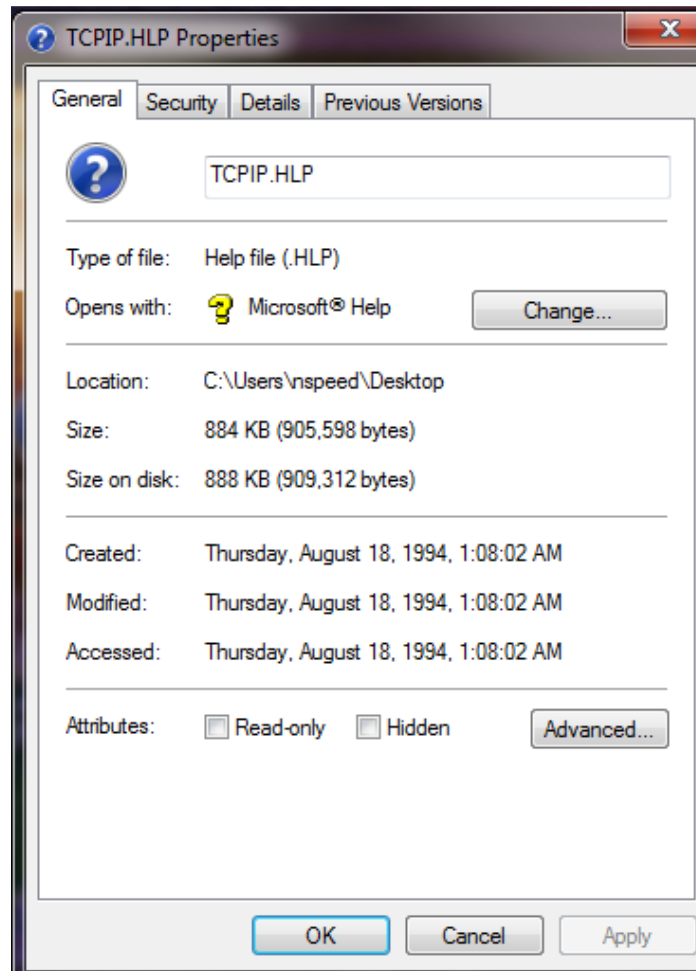
8. Below is a picture of my CD containing the beta version of Windows NT 3.5 Server that I have maintained in my possession since Fall 1994. Because it is a beta version of the software, I received it prior to the release of the official version in September 1994.



9. As shown below, the CD bears a 1994 copyright date:



10. The CD contains a file called “TCPIP.HLP.” The document properties for that file (shown below) indicate that it was last modified on August 18, 1994.



11. Clicking on the TCPIP.HLP file opens an electronic help file concerning Microsoft TCP/IP for Windows NT 3.5 Server. The table of contents for that help file is shown below:

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