UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

IRON DOME LLC
Petitioner
v.

E-WATCH, INC.
Patent Owner

Case: IPR2014-00439

Patent No. 7,365,871

Title: Apparatus For Capturing, Converting And Transmitting A Visual Image Signal Via A Digital Transmission System

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DECLARATION OF GAVIN CLARKSON IN SUPPORT OF PATENT OWNER RESPONSE RELATED TO *INTER PARTES* REVIEW OF U.S. PATENT NO. 7,365,871

E-Watch, Inc.
Exhibit 2040
Petitioner – Iron Dome LLC

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I. INTRODUCTION

1. My name is Dr. Gavin Clarkson, and I am an associate professor at New Mexico State University in Las Cruces, New Mexico. I have been asked to and have conducted a review of United States Patent No. 6,122,526 ("Parulski '526 patent") and United States Patent No. 3,893,037 ("Reele '037 patent") to determine whether or not they are invalidating prior art to Patent Owner's United States Patent No. 7,365,871 ("'871 patent"). This report summarizes those findings.

2. This report process has necessarily been multi-faceted given the acceptance by the United States Patent and Trademark Office ("PTO") of the December 27, 2004 Affidavit of David A. Monroe Under 37 CFR 1.131 ("original Rule 131 affidavit"), which indicates that the invention as claimed in the '871 patent ("the '871 patent invention") was first conceived in 1993. Although the original Rule 131 affidavit swears behind certain patent references by several years, I have reviewed extensive evidence that the inventor was sufficiently diligent in his attempts at completing actual reduction to practice of the '871 patent invention during this entire time period. It is my further understanding that the Declaration of David A. Monroe Pursuant to 28 U.S.C. §1746 and 37 C.F.R. §1.131 ("new Rule 131 affidavit") is being filed contemporaneously with this declaration and serves to temporally disqualify both the Parulski '526 patent and

Reele ‘037 patent as prior art. This new Rule 131 affidavit more comprehensively details the conception and diligence efforts of the ‘871 patent invention.

3. Furthermore, since the original Rule 131 affidavit was accepted by the PTO, the inventor was not required to specifically articulate the distinctions between the ‘871 patent invention from the disclosures of the Reele ‘037 patent and Parulski ‘526 patent. Had the inventor been given the opportunity to specifically articulate the distinctions between the ‘871 patent invention from the disclosures of the Reele ‘037 patent and Parulski ‘526 patent, in my opinion, he would have been able to successfully recite the distinctions between the ‘871 patent invention and these patents because neither the Reele ‘037 patent nor the Parulski ‘526 patent present sufficient teachings for a skilled person to be motivated to combine these references for arriving at the ‘871 patent invention or for enabling a skilled person to combine these references for arriving at the ‘871 patent invention.

4. My report details how the ‘871 patent invention differs from the Parulski ‘526 patent and the Reele ‘037 patent in the absence of the new Rule 131 affidavit and in view of the arguments presented in the above captioned *inter partes* review (“IPR”) petition. Nevertheless, it is my view that conception and diligence have been established by sufficient evidence such that the substantive

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