UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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SAMSUNG ELECTRONICS CO. LTD.; SAMSUNG ELECTRONICS
AMERICA, INC.; SAMSUNG TELECOMMUNICATIONS AMERICA, LLC;
AND SAMSUNG AUSTIN SEMICONDUCTOR, LLC;
Petitioner

v.

REMBRANDT WIRELESS TECHNOLOGIES, LP
Patent Owner
_____

Case IPR2014-00xxx
Patent 8,457,228
_____

DECLARATION OF ROBERT O'HARA

I, Robert O'Hara, declare as follows:

1.   I was an editor of the IEEE 802.11-1997 standard. I have personal knowledge of the facts listed below.

2.   The IEEE 802.11 Working Group exists in order to create wireless local area network standards. As part of this effort, the IEEE 802.11 Working Group created several drafts of the 802.11-1997 standard. At the conclusion of the standard setting process, the IEEE Standards Board approved the final draft created by the IEEE 802.11 Working Group. The IEEE Standards Board approved this final draft on June 26, 1997. The IEEE 802.11 Working Group's normal practice is to keep copies of the drafts of its standards.

3.   Adrian Stephens, who is the current 2nd Vice Chair of the IEEE 802.11 Working Group, asked me to retrieve the drafts of the 802.11-1997 standard.   I forwarded copies of the drafts to him, and I understand he then forwarded those drafts to counsel for Samsung. These drafts are kept on the IEEE's servers, and the copies I forwarded were retrieved from the IEEE's servers.

4.   I have reviewed the document titled "Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications," which is labeled "P802.11D4.0" and dated "20 May 1996." This document, which I understand is an exhibit to Samsung's petitions for Inter Partes Review, is a true and accurate copy of the draft that was maintained on the IEEE's servers in the file titled "DREFT40PS.ZIP." It is available from http://www.ieee802.org/11/ Documents/DocumentArchives/1996_docs/. The "last modified" date on this file is May 23, 1996, which indicates that this zip file has not changed since that time. *See* Exhibit A (IEEE 802.11 website, showing last modified date on page 2). Based on this "last modified date" I

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understand that May 23, 1996 is the date the zip file was uploaded to the 802.11 Working Group's web server.

5.   As an editor of the 802.11 Working Group, I helped to create Draft 4.0 of what later became the 802.11-1997 standard. This document was completed on May 20, 1996, and it was available to individuals who expressed interest in obtaining it on or before May 23, 1996, as explained in more detail in paragraphs 9-12 below.

6.   The "PS" in "DREFT40PS.ZIP" stands for Postscript, which is a file format used to describe printed pages. Thus, the Postscript files from the zip file titled "DREFT40PS.ZIP" represent Draft 4.0 of the 802.11-1997 Standard as it was meant to be printed. Other zip files (such as "DREFT407.ZIP," which is available from the same website) include the same content in Microsoft Word format. However, the Microsoft Word copy of Draft 4.0 spreads the content of the draft across multiple (15) Microsoft Word documents which, when combined, create a complete copy of the draft standard.

7.   The Postscript copy of Draft 4.0 and the Microsoft Word copy of Draft 4.0 were distributed together. One reason these files were distributed together was that, for technical reasons, some users had problems printing the Microsoft Word copy but could print the Postscript copy. However, the Postscript copy could not print two figures that could be printed by the Microsoft Word files. Thus, the Postscript copy of draft 4.0 omits the following portions of draft 4.0 that are present in the Microsoft Word copy of draft 4.0:

   a) Page 79 of the Postscript copy omits part of Figure 42 and the text that appeared immediately below Figure 42 in the Microsoft Word copy:
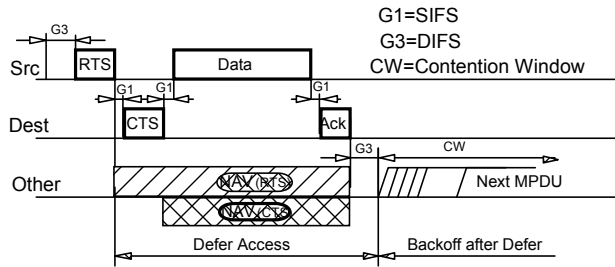
Figure 42, RTS/CTS/DATA/ACK and NAV Setting

A STA that used information from an RTS frame as the most recent basis to update its NAV setting is permitted to reset its NAV if no PHYRXSTART.indicate is detected from the PHY during a period with a duration of (2 x aSIFSTime) + (CTS_Time) + (2 x aSlotTime) starting at the PHYRXEND.indicate corresponding to the detection of the RTS frame. The "CTS_Time" shall be calculated using aCTSSize and the data rate at which the RTS frame used for the most recent NAV update was transmitted.

b) Page 84 of the Postscript copy omits some of Figure 47, which appeared in the

Microsoft Word copy as follows:
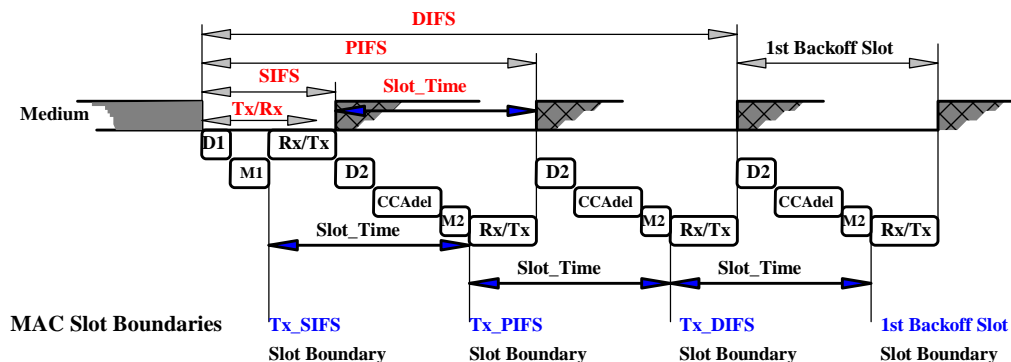
8.   Aside from the minor printing errors explained above, there are no substantive

differences between the Postscript copy and the Microsoft Word copy of Draft 4.0 of the 802.11-

1997 standard. Both the Postscript copy and the Microsoft Word copy were available to any

interested individual beginning no later than May 23, 1996, as explained below.

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9.   Each draft of the 802.11-1997 standard was available to all members of the 802.11 Working Group's e-mail list. The drafts were too large to attach to an e-mail, so they were posted to the 802.11 Working Group's server so they could be downloaded. An announcement was sent to the e-mail list when a draft became available on the 802.11 Working Group's server. These announcements made the drafts available to a large number of individuals. The e-mail list included all or nearly all of the 90 individuals listed in the Foreword (pages iii-iv) to Draft 4.0 and anyone else who attended an 802.11 Working Group meeting and provided an email address to the chair, including other members of the 802.11 Working Group as well as non-members.

10.   The 802.11 Working Group's e-mail list was open to anyone that attended an 802.11 Working Group meeting and provided an e-mail address to the chair. There were no restrictions on who could attend the 802.11 Working Group's meetings nor on who could provide an e-mail address. Attendees provided their e-mail address to the chair by filling out a sign-in sheet, which was contained in a three-ring binder, at the meetings. Users could also be added to the e-mail list by sending a request to the chair, such as via e-mail. My recollection is that anyone who made such a request would be added to the e-mail list, thereby receiving access to the drafts of the 802.11-1997 standard.

11.   The copies of the drafts on the 802.11 Working Group's server were included in password protected zip files. I recall that that the announcements sent to the 802.11 Working Group's e-mail list included the passwords needed to access the drafts on the server. If the passwords weren't included in the e-mails, they were made available to all members of the e-mail list in another way. The passwords existed because the IEEE wanted to keep distribution of the drafts limited to interested individuals, as opposed to the entire internet. (This is still true.

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