

DOCKET NO: 5932-5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT: 8,135,398

TRIAL NO: IPR2014-----

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

FILED: MAY 6, 2011

ISSUED: March 13, 2012

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

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**DECLARATION OF DR. KEVIN C. ALMERO TH
CONCERNING CLAIMS 58 AND 63 OF U.S. PATENT NO. 8,135,398**

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 claims 58 and 63 (“the challenged claims”) of U.S. Patent No. 8,135,398 (“the ‘398 patent”) that I understand is being submitted to the Patent Trial and Appeal Board (“the Board”) of the United States Patent and Trademark Office (“PTO” or “USPTO”) by Samsung Electronics Co., Ltd. (“Petitioner”).

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 58 and 63 in the ‘398 patent.¹ I understand that the ‘398 patent is owned by Virginia Innovation Sciences, Inc. (“VIS” or “Patent Owner”).

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

¹ I understand that the ‘398 patent is Exhibit 1001 to the petition for *inter partes* review in this proceeding. I also understand that claims 58 and 63 depend from claims 15, 55 and 15, 62, respectively, and that my opinion will address the limitations recited in these claims, as well.

Patent Family.”

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 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 58 and 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 claim 58 depends from claim 55 which depends from claim 15, and claim 63 depends from claim 62 which depends from claim 15, this declaration also addresses claims 15, 55 and 62, in order to address all limitations of claims 58 and 63.

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 the challenged claims of the ‘398 patent are unpatentable as being rendered obvious by

Almeroth Declaration Concerning Claims 58 and 63 of U.S. Patent No. 8,135,398
the prior art references discussed below and shown in the claim chart attached as
Appendix C.

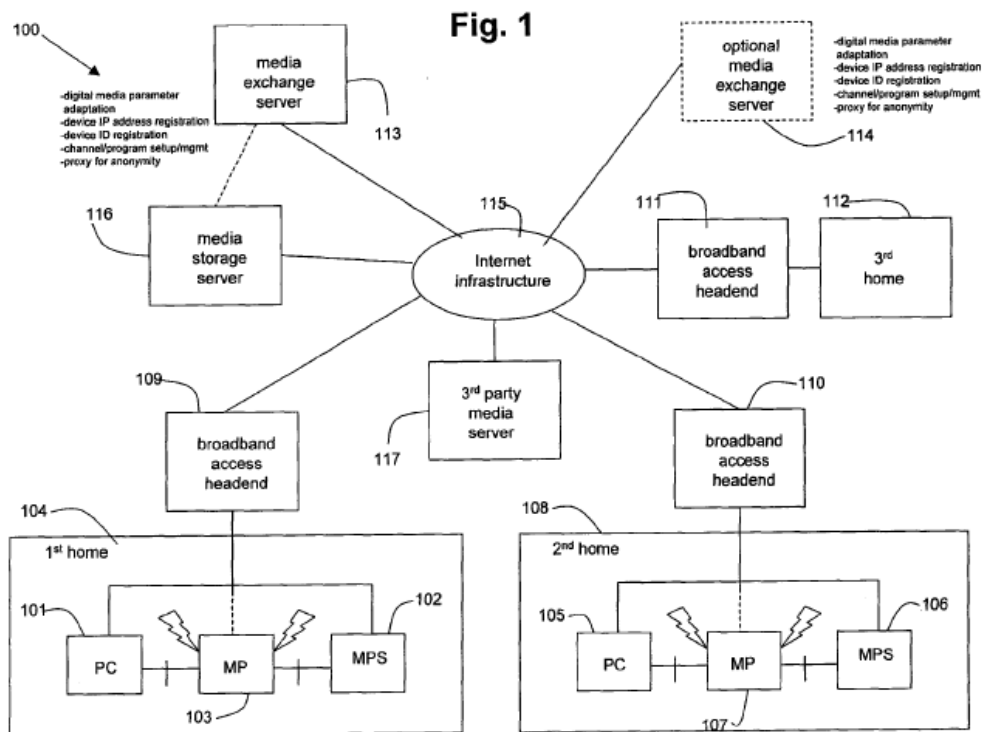
6. More particularly, it is my opinion that:

- The combination of U.S. Patent No. 8,028,093 (“Karaoguz”), U.S. Patent No. 7,580,005 (“Palin”) and U.S. Patent Application Publication No. 2004/0223614 (“Seaman”) renders claims 58 and 63 obvious, as explained in detail in **Appendix C**;²

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 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.

² I understand that Karaoguz is Exhibit 1002, Palin is Exhibit 1003 and Seaman is Exhibit 1004 to the petition for *inter partes* review of claims 58 and 63 of the ‘398 patent, filed with this declaration.

8. For example, U.S. Patent No. 8,028,093 (“Karaoguz”) discloses “a media exchange network comprising an architecture to support adaptive digital media parameters” including, “for example, resolution content, display size, and color/grey-scale content.” Karaoguz, 3:53-4:10. As shown below in Figure 1, the media exchange network may include two communication devices in which the “second communications device may receive a device profile relating to the first communications device, adapt media content based upon the device profile of the first communications device, and send the adapted media content to the first communications device.” Karaoguz, Abstract. Karaoguz also discusses the use of specialized channels for communicating multimedia content among devices. *See, e.g.,* Karaoguz at 8:8-14.



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