

**CONFIDENTIAL BUSINESS INFORMATION - SUBJECT TO PROTECTIVE ORDER**

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C. 20436**

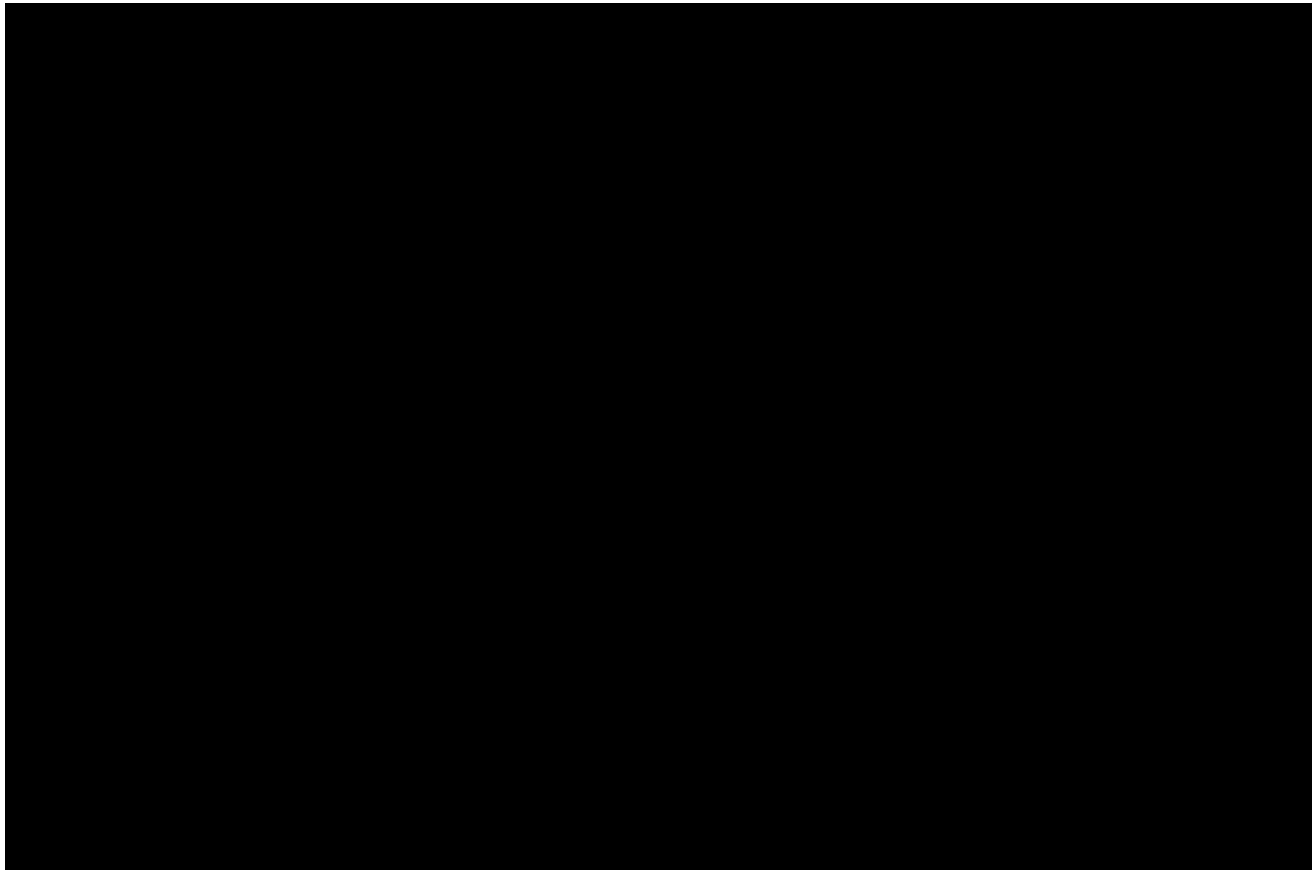
**Before the Honorable David P. Shaw  
Administrative Law Judge**

**In the Matter of**

**CERTAIN DIGITAL MEDIA DEVICES,  
INCLUDING TELEVISIONS, BLU-RAY DISC  
PLAYERS, HOME THEATER SYSTEMS,  
TABLETS AND MOBILE PHONES,  
COMPONENTS THEREOF AND  
ASSOCIATED SOFTWARE**

**Investigation No. 337-TA-882**

**REBUTTAL EXPERT REPORT OF MR. IVAN ZATKOVICH REGARDING  
VALIDITY OF U.S. PATENT NOS. 8,050,652, 8,045,952, and 6,618,593**

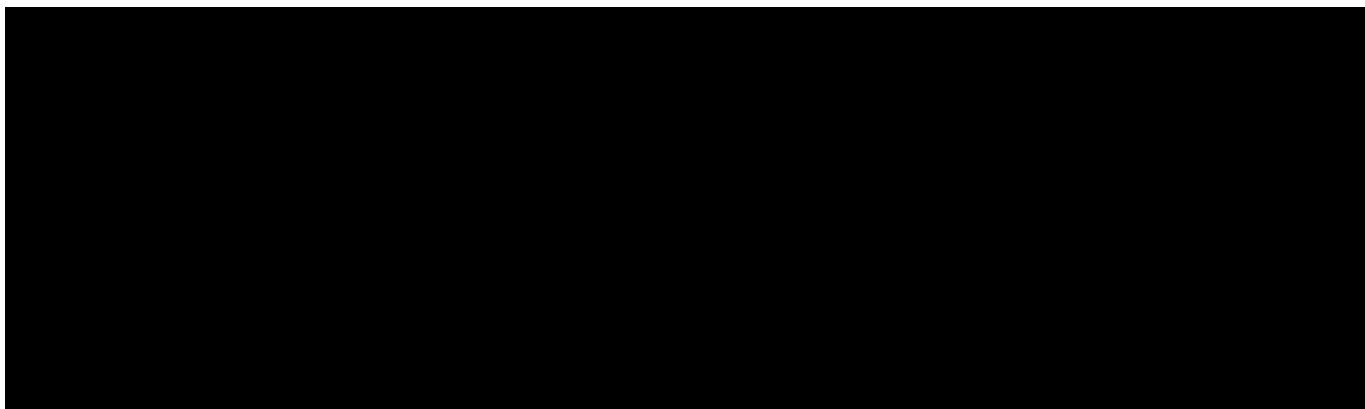


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**IX. RESPONSE TO JEFFAY INVALIDITY REPORT REGARDING THE QURESHEY PATENTS**

168. On November 12, 2013, Respondents and Intervenor jointly served the Expert Report of Kevin Jeffay, Ph.D. Regarding U.S. Patent Nos. 8,045,952 and 8,050,652 (“Jeffay Report”). In the Jeffay Report, Dr. Jeffay sets forth his opinions regarding the state of the art, level of ordinary skill in the art, priority dates, claim construction, and invalidity of the asserted claims of the Qureshey Patents.

169. I have reviewed the Jeffay Report, the references cited therein, and the other materials considered by Dr. Jeffay in preparing his report. The following is my response to the analysis and opinions set forth in the Jeffay Report.

**A. State of the Art**

170. The Jeffay Report states that as of the year 2000 a user was able to use a personal computer to manually create media playlists for local storage by the computer. (Jeffay Report ¶¶ [083]-[094].) The Jeffay Report also provides Dr. Jeffay’s opinions regarding the alleged state of the art with respect to Internet radio and streaming media. (Jeffay Report ¶¶ [095]-[0103].)

171. Dr. Jeffay did not allege that this “state of the art” anticipates or renders obvious the asserted claims of the Qureshey Patents alone or in combination with any other alleged prior art, and accordingly, I understand that no response is required. In any event, in my opinion, the technologies referenced by Dr. Jeffay are at most cumulative of the prior art previously considered by the United States Patent & Trademark Office (“PTO”) during the prosecution of the Qureshey Patents. This includes, for example, one or more of the *White*, *Logan*, and/or *Abecassis* patents addressed below, over which the PTO previously determined that the claims of the Qureshey Patents are novel and nonobvious.

**B. Relevant Field and Level of Ordinary Skill in the Art**

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172. Dr. Jeffay states that “a person of ordinary skill in the art as of the effective filing dates of the ‘952 and ‘652 Patents in November of 2000 would have a Bachelor of Science degree in in [sic] electrical engineering, computer engineering, computer science, or equivalent thereof, and one to two years of experience with computer and multimedia networking. More education could substitute for experience, and that experience, especially when combined with training, could substitute for formal college education.” (Jeffay Report, ¶ [0106].)

173. In my opinion, there is no material difference in our respective opinions regarding the relevant field (“media file sharing” versus “computer and multimedia networking”) and the appropriate level of skill of a person having ordinary skill in the art (e.g., Bachelor of Science in electrical engineering, computer science, or equivalent with 1-2 years of experience in the relevant field).

174. However, in my opinion, Dr. Jeffay did not actually apply the above-stated level of skill in reaching his conclusions regarding invalidity.

**a. Dr. Jeffay’s Obviousness Combinations Require Higher Than Ordinary Skill**

175. In addition to other deficiencies in Dr. Jeffay’s invalidity analyses identified below, in my opinion Dr. Jeffay effectively applied a much higher level of skill in reaching his conclusions that the asserted claims of the Qureshey Patents are obvious. For example, as an alleged motivation to combine prior art references, Dr. Jeffay states:

I am aware of no technological reason that would have prevented a person of skill in the art from combining the different technologies discussed in the prior art references, including but not limited to home networks, peer-to-peer networks, host-client networks (those with a central host), personal audio players, karaoke systems, jukeboxes, and wireless players.” (Jeffay Report ¶ [0230]; underlining added.)

176. In my opinion, Dr. Jeffay’s obviousness analysis applies a level of skill much closer to his own Ph.D. in computer science and experience “designing, building, analyzing, and

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