

1 UNITED STATES PATENT AND TRADEMARK OFFICE

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3 BEFORE THE PATENT TRIAL AND APPEAL BOARD

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6 _____)
7 HTC CORPORATION; HTC AMERICA, INC.;)
8 SAMSUNG ELECTRONICS CO., LTD.; and)
9 SAMSUNG ELECTRONICS AMERICA, INC.,)

10 _____)
11 Petitioners,)

12 vs.)

13 E-WATCH, INC. and E-WATCH)
14 CORPORATION,)

15 _____)
16 Patent Owner.)

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19

20 DEPOSITION OF KENNETH PARULSKI

21 TAKEN ON

22 THURSDAY, MAY 21, 2015

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29 REPORTED BY: ARLEEN M. DUCKAT,

30 CSR No. 4085

E-Watch, Inc.
Exh. 2019
Petitioner - HTC Corporation, et al.
Patent Owner - E-Watch, Inc.
IPR2014-00987/IPR2015-00541 and
IPR2014-00989/IPR2015-00543

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<p>1 UNITED STATES PATENT AND TRADEMARK OFFICE</p> <p>2</p> <p>3 BEFORE THE PATENT TRIAL AND APPEAL BOARD</p> <p>4</p> <p>5 _____)</p> <p>6 HTC CORPORATION; HTC AMERICA, INC.;) SAMSUNG ELECTRONICS CO., LTD.; and) 7 SAMSUNG ELECTRONICS AMERICA, INC.,)) Case Nos. 8 Petitioners,) IPR2015-00987,) Patent 7,365.871 9 vs.) and) IPR2015-00989 E-WATCH, INC. and E-WATCH) 10 CORPORATION,) Patent 7,643,168)) 11 Patent Owner.)))</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16 DEPOSITION OF KENNETH PARULSKI, taken on 17 behalf of the Patent Owner, at 11988 El Camino 18 Real, Suite 350, San Diego, California, 19 commencing at 9:10 a.m. and ending at 2:00 p.m., 20 on Thursday, May 21, 2015, before 21 Arleen M. Duckat. C.S.R. No. 4085.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 I N D E X</p> <p>2</p> <p>3 W I T N E S S : Page</p> <p>4 KENNETH PARULSKI</p> <p>5</p> <p>6 Examination by Mr. Donahue 5</p> <p>7</p> <p>8 INFORMATION TO BE INSERTED:</p> <p>9 (None)</p> <p>10 UNANSWERED QUESTIONS:</p> <p>11 (None)</p> <p>12 EXHIBITS:</p> <p>13 Deposition Description Marked</p> <p>14 Exhibit 1001(a) Case No. IPR2015-00987, 11 Patent No. 7,643,B2</p> <p>15</p> <p>16 Exhibit 1001(b) Case No. IPR2015-00989 92 Patent No. 7,365,871 B2</p> <p>17</p> <p>18 Exhibit 1002 Case No. IPR2014-00987, 69 UK Patent application</p> <p>19 Exhibit 1004 Longginou reference 104</p> <p>20 Exhibit 1008 Reply Declaration of Kenneth 9 Parulski, Case No. IPR2015-00541</p> <p>21</p> <p>22 Exhibit 1009 Reply Declaration of Kenneth 90 Parulski, Case No. IPR2015-00543</p> <p>23 Exhibit 2009 Notice of Deposition of Kenneth 7 Parulski</p> <p>24</p> <p>25 Exhibit 2010 Notice of Deposition of Kenneth 7 Parulski</p>
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<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR THE PETITIONER HTC:</p> <p>4 PERKINS COIE BY: JACK KO, J.D., PH.D. 5 2901 North Central avenue, Suite 2000 Phoenix, Arizona 85012-2788 6 Telephone: 602.351.8074 E-mail: JKo@perkinscoie.com 7 and PERKINS COIE 8 BY: BABAK TEHRANCHI, PH.D., ESQ. 11988 El Camino Real, Suite 350 9 San Diego, California 92130-2594 Telephone: 858.720.5734 10 E-mail: BTehranchi@perkinscoie.com</p> <p>11 FOR THE PETITIONER SAMSUNG:</p> <p>12 PAUL HASTINGS, LLP BY: PHILLIP W. CITROEN, ESQ. 13 875 15th Street, N.W. Washington, DC 20005 14 Telephone: 202.561.1991 E-mail: phillipcitroen@paulhastings.com</p> <p>15</p> <p>16 FOR THE PATENT OWNER: (VIA SPEAKERPHONE ONLY)</p> <p>17 DiNOVO, PRICE, ELLWANGER & HARDY, LLP BY: GREGORY DONAHUE, ESQ. 18 7000 North MoPac expressway, Suite 350 Austin, Texas 78731 19 Telephone: 512.539.2626 E-mail: gdonahue@dpelaw.com</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 I N D E X</p> <p>2 (Continued)</p> <p>3 EXHIBITS: (Continued)</p> <p>4 Deposition Description Marked</p> <p>5 Exhibit 2011 Petitioner's Reply to patent 20 owner's response for the '987</p> <p>6</p> <p>7 Exhibit 2012 Definition from the Oxford 22 Dictionary</p> <p>8 Exhibit 2013 Fax from Wikipedia 62</p> <p>9 Exhibit 2014 JPEG from Wikipedia 63</p> <p>10 Exhibit 2015 Merriam Webster definition of 64 "JPEG"</p> <p>11</p> <p>12 Exhibit 2016 Some specifications of an HTC One 75</p> <p>13</p> <p>14 Exhibit 2017 Merriam Webster definition of 91 "buffer"</p> <p>15</p> <p>16 Exhibit 2018 Institution decision of 103 IPR2014-00985</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p>1 SAN DIEGO, CALIFORNIA, THURSDAY, MAY 21, 2015 2 9:10 A.M 3 4 5 KENNETH PARULSKI, 6 having duly been sworn, was 7 examined and testified as follows: 8 9 EXAMINATION 10 11 BY MR. DONAHUE: 12 Q. Good morning, Mr. Parulski. My name is Greg 13 Donahue. I'm working with DiNovo, Price, Ellwanger & 14 Hardy, and I represent E-Watch, Inc., and 15 E-Watch Corporation in a patent litigation matter 16 against, among others, HTC and Samsung. And I also 17 represent E-Watch and E-Watch Corporation in these 18 IPR proceedings, which are numbered IPR2014-00987 and 19 IPR2014-000989. 20 Do you understand that? 21 A. Yes, I do. 22 Q. Have you ever been deposed before? 23 A. Yes, I have. 24 Q. Okay. In what type of cases have you been 25 deposed before?</p>	<p>1 A. Yeah. 2 Q. Have you seen these documents before? 3 A. Yes, I have. 4 Q. Okay. Do you understand that you're here 5 today to testify regarding your reply declarations 6 that you submitted on April 20, 2015, in conjunction 7 with IPR2014-00987 and -2014-00989? 8 A. Yes, I understand that. 9 Q. Let me just take a few minutes. It sounds 10 like you've been deposed; so I won't take too long 11 going over some basics about depositions. 12 But if at any time you need or want to take 13 a break, if you would just let me know, I will 14 attempt to accommodate you, and, hopefully, you'll be 15 able to complete any pending answer, but then we can 16 take a break as needed. 17 Please feel free to speak up if you need to 18 use the bathroom or want to get a drink of water or 19 anything. 20 In order to ensure that we maintain a clear 21 and accurate record, I'll also ask that you give 22 verbal answers to my questions rather than, you know, 23 shaking your head or making some sort of a hand 24 gesture, which would be difficult for the court 25 reporter to record and in this instance impossible</p>
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<p>1 A. I've been deposed as an inventor during my 2 years at Eastman Kodak Company. I've also been 3 deposed as a corporate witness for 4 Eastman Kodak Company. And I was deposed as an 5 expert witness one time. 6 Q. So you've been deposed in patent cases 7 before; is that correct? 8 A. Yes, that's correct. 9 Q. Have you ever been deposed before in 10 conjunction with an IPR proceeding? 11 A. No, I have not. 12 MR. DONAHUE: Okay. Let me introduce the 13 relevant deposition notices, which are marked as 14 Exhibits 2009 and 2010. 15 (Exhibits 2009 and 2010 marked.) 16 MR. DONAHUE: If someone on that end could 17 dig into the stack and maybe -- but it may make sense 18 to pull off that cover page that says "2009" and the 19 cover page that says "2010" so it's just purely the 20 actual deposition notice. 21 THE WITNESS: Okay. I have the papers now. 22 BY MR. DONAHUE: 23 Q. Okay, great. 24 So you have both exhibits, 2009 and 2010, in 25 front of you, which are the two deposition notices?</p>	<p>1 for me to see since I'm appearing telephonically. 2 So, then, and I also ask that you allow me 3 to finish my question before you begin answering, and 4 I will, of course, extend you the same courtesy, to 5 allow you to finish your answer before I begin with 6 another question. 7 Does that seem fair? 8 A. Yes, it does. 9 Q. Okay. Are you on any medications today that 10 would prevent you from being able to testify 11 truthfully and accurately? 12 A. No. 13 MR. DONAHUE: So I would like to introduce 14 Exhibit 1008 in the IPR2014-00987 proceeding. This 15 is your -- Mr. Parulski's reply declaration in that 16 proceeding. 17 (Exhibit 1008 marked.) 18 MR. DONAHUE: 19 Q. Hopefully, you have a copy of that there as 20 well. I believe I asked opposing counsel to have a 21 copy available. 22 Do we have one of those? 23 A. Yes, we do. 24 Q. Could you just let me know when it's in 25 front of you.</p>

<p style="text-align: right;">Page 10</p> <p>1 A. It's in front of me now.</p> <p>2 Q. Okay. Thank you.</p> <p>3 Let's start by going to paragraph 18, which</p> <p>4 is on Page 7. And referring, I guess, specifically</p> <p>5 to the last sentence of paragraph 18, you make the</p> <p>6 statement:</p> <p>7 "The '871 patent treats the cellular</p> <p>8 telephone 164 as a mere add-on device</p> <p>9 'whereby the image data signal can be</p> <p>10 transmitted via the cellular telephone to a</p> <p>11 remote facsimile machine over standard</p> <p>12 cellular and telephone company facilities.'" </p> <p>13 Do you see that?</p> <p>14 A. Yes, I do.</p> <p>15 Q. Okay. Do you agree with me that the '871</p> <p>16 patent has limitations in the claims that are related</p> <p>17 to the transmission of images?</p> <p>18 MR. KO: Objection to form.</p> <p>19 THE WITNESS: Generally, the '871 patent has</p> <p>20 many claims limitations, but certainly that includes</p> <p>21 transmission of images.</p> <p>22 BY MR. DONAHUE:</p> <p>23 Q. Okay. Do you agree with me that the '871</p> <p>24 patent has limitations that are directed specifically</p> <p>25 to the type of signals that can be transmitted and</p>	<p style="text-align: right;">Page 12</p> <p>1 through 8.</p> <p>2 Go ahead and read that --</p> <p>3 A. Okay.</p> <p>4 Q. -- if you would, and then I'll ask my</p> <p>5 question.</p> <p>6 A. This is the limitation that begins, "The</p> <p>7 wireless telephone"?</p> <p>8 Q. Correct.</p> <p>9 A. Okay. Thank you.</p> <p>10 Okay. I've read that section.</p> <p>11 Q. Okay. Now, do you agree with me that that</p> <p>12 limitation is directed specifically to the type of</p> <p>13 signals that can be transmitted and received by the</p> <p>14 device?</p> <p>15 MR. KO: Objection. Form.</p> <p>16 THE WITNESS: Well, generally -- generally,</p> <p>17 the limitation relates to the wireless telephone</p> <p>18 being operable to transmit and receive non-audio</p> <p>19 digital signals, which are -- which are types of</p> <p>20 digital signals. And then --</p> <p>21 BY MR. DONAHUE:</p> <p>22 Q. Okay.</p> <p>23 A. -- this is the non-audio digital signals,</p> <p>24 including a selected digitized framed image. So that</p> <p>25 would be a type of image.</p>
<p style="text-align: right;">Page 11</p> <p>1 received by a device?</p> <p>2 MR. KO: Objection. Form.</p> <p>3 THE WITNESS: I -- I don't have the exact</p> <p>4 claim in front of me for the '871 patent, and it</p> <p>5 would be helpful to have that in front of me.</p> <p>6 BY MR. DONAHUE:</p> <p>7 Q. Yeah, let's do that. I didn't intend this</p> <p>8 to become a memory test.</p> <p>9 MR. DONAHUE: So let's go ahead and</p> <p>10 introduce Exhibit 1001 from --</p> <p>11 THE WITNESS: Okay.</p> <p>12 MR. DONAHUE: -- IPR2014-00987.</p> <p>13 (Exhibit 1001 marked.)</p> <p>14 BY MR. DONAHUE:</p> <p>15 Q. Which, again, you'll have to look in that</p> <p>16 stack of documents. There should be a cover page</p> <p>17 that says Exhibit 1001, IPR2014-00987.</p> <p>18 A. Yes, I have it in front of me now.</p> <p>19 Q. Okay. Great. Thank you.</p> <p>20 And maybe to assist you, maybe if we just</p> <p>21 flip to claim 12 of that patent, and I think it's</p> <p>22 column 17, lines 1 through 8, is a specific</p> <p>23 limitation that may deal with what we want to talk</p> <p>24 about here.</p> <p>25 So if you could go to column 17, lines 1</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. Okay. Let me ask you to turn to -- or,</p> <p>2 actually, if you'll look at your Exhibit 1008, that</p> <p>3 is also in front of you now, paragraph 19. It begins</p> <p>4 by saying:</p> <p>5 "Second, I do not agree with PO's expert</p> <p>6 that my definition of a POSITA excluded</p> <p>7 'experience in the design of cellular</p> <p>8 communications devices.'" </p> <p>9 Do you see that?</p> <p>10 A. Yes, I do see that.</p> <p>11 Q. Okay. And then on the next page it</p> <p>12 continues on and says:</p> <p>13 "To the contrary, the definition I provided</p> <p>14 assumed that the person would have had a</p> <p>15 sufficient level of familiarity and</p> <p>16 knowledge with communications devices</p> <p>17 capable of transmitting digital image data."</p> <p>18 If you could look at your definition of</p> <p>19 "POSITA" in paragraph 16 and then tell me where</p> <p>20 familiarity and knowledge of communications devices</p> <p>21 capable of transmitting digital image data is</p> <p>22 included.</p> <p>23 A. Well, in paragraph 16, I say that:</p> <p>24 ". . . a person of ordinary skill in the art</p> <p>25 would have at least a bachelor's degree in</p>

<p style="text-align: right;">Page 14</p> <p>1 electrical engineering, computer experience, 2 or a related field, and 3-5 years experience 3 in designing digital imaging system" -- 4 "digital imaging devices." 5 And -- 6 Q. Yes. 7 A. -- in my opinion, such a person who had a 8 degree in electrical engineering or communications -- 9 or computer sciences would have, first of all, 10 learned about communications as part of the course 11 work. Certainly I did it in the late 1970s when I 12 was receiving my degree in electrical engineering. 13 And, furthermore, as part of their work in 14 digital image and devices, they would have had 15 knowledge of how to communicate the digital images 16 from a device, such as a digital camera, over various 17 communications, various types of communications, for 18 example, how to get the images out of the device off 19 a computer, how a computer might share those images 20 over the Internet. 21 So this is what I was referring to when I 22 say that I believe my definition of a person of 23 ordinary skill in the art would have had a sufficient 24 level of familiarity and knowledge with communication 25 devices that are capable of transmitting digital</p>	<p style="text-align: right;">Page 16</p> <p>1 A. I believe that it says three to five years 2 of experience in designing digital imaging devices. 3 Q. Okay. So that's the only thing you list 4 under the experience prong of your definition of 5 POSITA; correct? 6 A. Yes, I think that's fair. 7 Q. Okay. Let's take a look at paragraph 20 now 8 in that Exhibit 1008. And it says: 9 "Finally, in the event that the Board finds 10 that the level of skill that I used is 11 different than what has been suggested by 12 the PO, my opinions regarding the '871 13 patent would not change even under the PO's 14 definition." 15 Do you see that? 16 A. Yes, I do. 17 Q. So I don't see any reason provided in 18 paragraph 20 for why your opinions wouldn't change 19 even under the PO's definition of POSITA. 20 Why didn't you provide a reason for why your 21 opinion wouldn't change in this paragraph? 22 A. Well, the reason is really described earlier 23 relative to paragraph 18, which I think you directed 24 me to earlier. And I -- where I write: 25 "First, the '871 patent provides no new</p>
<p style="text-align: right;">Page 15</p> <p>1 image data. 2 Q. Okay. But there is no specific mention of 3 communications devices or transmission of digital 4 image data in your definition; correct? 5 MR. KO: Objection. Form. 6 THE WITNESS: Well, in my -- my 7 definition -- and I believe you're referring to -- 8 again, to paragraph 16 -- 9 BY MR. DONAHUE: 10 Q. Correct. 11 A. -- my definition doesn't go through an 12 extremely detailed list of all of the skills that 13 such a person of ordinary skill in the art would have 14 acquired. They would have acquired skills, for 15 example, at least at a high level some understanding 16 of optics and photography in order to capture images, 17 some understanding of image sensors in digital image 18 processing. 19 So I don't list the details of any of the 20 areas that a person of ordinary skill in the art 21 would have had. 22 Q. Is it fair, though, to say that under the 23 experience part of your definition of POSITA, the 24 only thing you expressly state is designing digital 25 imaging devices. Is that correct?</p>	<p style="text-align: right;">Page 17</p> <p>1 teachings related to the design of cellular 2 communication devices. It simply describes 3 the use of conventional, well-known 4 imaging-related formats and protocols" -- 5 -- and so on. 6 So I believe that's the reason that you are 7 looking for that perhaps should have been included at 8 the end of paragraph 20. 9 Q. So, essentially, you're somewhat dismissive 10 of the transmission functionality of the '871 patent; 11 so it's irrelevant whether or not that's included in 12 the definition of "POSITA"? 13 MR. KO: Objection to form. 14 THE WITNESS: I wouldn't say I'm dismissive. 15 I would say that the '871 patent, as I've written, is 16 using conventional, well-known formats and protocols, 17 such as Group-III fax, JPEG compression. It's 18 using -- it is transmitting the digital image data 19 over standard cellular and telephone company 20 facilities. It's not describing the details of a 21 cellular telephone. 22 So I don't believe it would be necessary to 23 be an expert in cellular communications technologies 24 or devices in order to be a person of ordinary skill 25 in the art for the '871 patent.</p>

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