

1	<p>1 UNITED STATES PATENT AND TRADEMARK OFFICE</p> <p>2 BEFORE THE PATENT TRIAL AND APPEAL BOARD</p> <p>3 Case IPR2014-01366</p> <p>4 Patent 6,108,704 C1</p> <p>5 -----</p> <p>6 SAMSUNG ELECTRONICS CO., LTD., SAMSUNG</p> <p>7 ELECTRONICS AMERICA, INC., SAMSUNG</p> <p>8 TELECOMMUNICATIONS AMERICA, LLC CISCO</p> <p>9 SYSTEMS, INC., and AVAYA, INC.,</p> <p>10 Petitioner,</p> <p>11 v.</p> <p>12 STRAIGHT PATH IP GROUP, INC.,</p> <p>13 Patent Owner.</p> <p>14 -----</p> <p>15 DEPOSITION OF STUART STUBBLEBINE, Ph.D., a</p> <p>16 witness called by and on behalf of the</p> <p>17 Petitioners, taken pursuant to 37 C.F.R. 42.53,</p> <p>18 before Daria L. Romano, RPR, CRR and Notary</p> <p>19 Public in and for the Commonwealth of</p> <p>20 Massachusetts, at Mintz Levin Cohn Ferris</p> <p>21 Glovsky and Popeo P.C., One Financial Center,</p> <p>22 Boston, Massachusetts, on Tuesday, September 1,</p> <p>23 2015, commencing at 9:04 a.m. to p.m.</p> <p>24</p> <p>25</p>	3
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	<p>1 INDEX</p> <p>2 Deposition of: Page</p> <p>3 STUART STUBBLEBINE, Ph.D.</p> <p>4 By Mr. Erickson 5</p> <p>5 By Mr. Newman 86</p> <p>6</p> <p>7</p> <p>8</p> <p>9 EXHIBITS</p> <p>10 No. Page</p> <p>11 Exhibit 1001 Patent 6,108,704 7</p> <p>12 Exhibit 2023 Declaration of Dr. Stuart</p> <p>13 Stubblebine 6</p> <p>14</p> <p>15</p> <p>16 *Original exhibits returned to Mr. Erickson</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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1 PROCEEDINGS

09:04:36 2 MR. ERICKSON: For the record, per

09:04:37 3 our prior agreement, we've agreed that this will

09:04:41 4 be one consolidated deposition for all three

09:04:44 5 IPRs. So the testimony given today can be used

09:04:46 6 in IPRs 2014-01366, 01367, and 01368.

09:04:56 7 And if we refer to the asserted

09:04:59 8 patents in plural, we're referring to the '704

09:05:03 9 patent, '121 patent, and the '469 patent.

09:05:10 10 Counsel, do you have anything to add

09:05:12 11 to that?

09:05:12 12 MR. NEWMAN: No, I affirm that

09:05:14 13 that's our agreement.

09:05:17 14

09:05:17 15 STUART STUBBLEBINE, Ph.D.

16

17 a witness having been satisfactorily identified

18 by the production of a driver's license, was

19 first duly sworn, was examined and testified as

20 follows:

21

22 DIRECT EXAMINATION

09:05:18 23 BY MR. ERICKSON:

09:05:18 24 Q. Good morning, Dr. Stubblebine.

09:05:20 25 A. **Good morning.**

6

09:05:22 1 Q. Since 2000, what percentage of -- let

09:05:27 2 me withdraw that.

09:05:28 3 Is there any reason why you can't give

09:05:30 4 your full and complete best testimony today?

09:05:32 5 A. **No.**

09:05:33 6 Q. Okay. Since 2000, approximately how

09:05:35 7 much of your income is derived from expert

09:05:38 8 consulting?

09:05:40 9 A. **2000. That's tough to gauge. Do you**

09:05:59 10 **have a copy of my declaration which has my CV?**

09:06:10 11 MR. ERICKSON: Let's go ahead and

09:06:11 12 mark this.

09:06:11 13 (Exhibit 2023 marked

09:06:11 14 for identification)

09:06:11 15 BY MR. ERICKSON:

09:06:44 16 Q. For the record, what you've been

09:06:46 17 handed has been marked as deposition

09:06:48 18 Exhibit 2023. It's also the Exhibit 2023

09:06:53 19 submitted in the 1366 IPR which is your

09:06:57 20 declaration related to the '704 patent.

09:07:17 21 A. **Are you referring to time or income?**

09:07:19 22 Q. Income.

09:07:28 23 (Pause)

09:07:29 24 A. **It's tough to guess. I've never made**

09:07:32 25 **such a calculation. It would be a guess if I**

7

09:07:36 1 **came up with a number.**

09:07:37 2 Q. All right. And to your knowledge, is

09:07:42 3 this a complete list of all the cases in which

09:07:45 4 you've served as an expert witness since 2000?

09:07:51 5 A. **This is a little bit out of date.**

09:08:06 6 **The RSA matter is completed, so is the**

09:08:11 7 **T-Mobile matter. And then there's an additional**

09:08:18 8 **matter with Nomatics where I've had multiple**

09:08:30 9 **declarations, or at least one.**

09:08:34 10 **I'm trying to think if there's**

09:08:36 11 **anything else. That's all I can think of. So**

09:08:42 12 **it's just more of the most current is what would**

09:08:46 13 **be out of date.**

09:08:47 14 Q. Okay. I'm going to hand you a copy of

09:09:04 15 the '704 patent.

09:09:07 16 MR. ERICKSON: Can you mark that as

09:09:09 17 Exhibit 1001.

09:09:11 18 (Exhibit 1001 marked

09:09:28 19 for identification)

09:09:28 20 BY MR. ERICKSON:

09:09:29 21 Q. So most of our time today will be

09:09:32 22 spent on these two exhibits, so keep those two

09:09:36 23 handy.

09:09:38 24 And first I want to direct you to

09:09:41 25 paragraph 33 of your declaration on the '704

8

09:09:45 1 patent.

09:09:55 2 A. **I've got a clean copy of the '704**

09:09:59 3 **where the pages are just a little bit larger.**

09:10:01 4 Q. Okay.

09:10:02 5 A. **I've just compared the two, and**

09:10:04 6 **they're the same.**

09:10:05 7 Q. Okay. If that's easier for you to

09:10:07 8 read, that's fine.

09:10:08 9 A. **The print is a little bit larger.**

09:10:11 10 Q. Okay.

09:10:13 11 A. **And the same thing with the '121.**

09:10:16 12 Q. Okay.

09:10:16 13 A. **I haven't compared it since you**

09:10:19 14 **haven't handed that to me.**

09:10:22 15 Q. Okay.

09:10:24 16 A. **Paragraph 33?**

09:10:25 17 Q. Correct.

09:10:29 18 The first sentence is, "I agree with

09:10:33 19 Straight Path's interpretation of 'connected to

09:10:36 20 the computer network' and 'online' as meaning

09:10:40 21 available for communication."

09:10:42 22 Do you see that sentence?

09:10:43 23 A. **Yes.**

09:10:43 24 Q. So in your opinion, the meaning of

09:10:46 25 those two quoted phrases is available for

<p style="text-align: right;">9</p> <p>09:10:50 1 communication?</p> <p>09:10:51 2 A. In the context of the asserted patents</p> <p>09:10:59 3 using those phrases, yes.</p> <p>09:11:01 4 Q. Okay. Turn to the '704 patent, column</p> <p>09:11:05 5 five. If you go to line 20 of column five, you</p> <p>09:11:26 6 see it states, "When either of processing units</p> <p>09:11:30 7 12, 22 logs onto the Internet via a dialup</p> <p>09:11:37 8 connection, a respective unit is provided a</p> <p>09:11:39 9 dynamically allocated IP address by a connection</p> <p>09:11:46 10 service provider."</p> <p>09:11:47 11 Do you see that?</p> <p>09:11:48 12 A. Yes.</p> <p>09:11:51 13 Q. Okay. So when the processing unit</p> <p>09:11:56 14 first logs onto the Internet and prior to</p> <p>09:11:59 15 receiving its IP address, is that processing</p> <p>09:12:06 16 unit available for communication?</p> <p>09:12:12 17 A. Which particular claim are you</p> <p>09:12:29 18 referring to?</p> <p>09:12:29 19 Q. This is claim one.</p> <p>09:13:41 20 (Pause)</p> <p>09:13:44 21 A. The claim one with respect to</p> <p>09:14:23 22 connected to the computer network or online</p> <p>09:14:26 23 relates, for example, to the first limitation</p> <p>09:14:31 24 where it's computer usable medium having program</p> <p>09:14:34 25 code embodied in the medium, the program code</p>	<p style="text-align: right;">11</p> <p>09:17:03 1 point, for example, where the connection server</p> <p>09:17:07 2 stores the address in the database and so on.</p> <p>09:17:15 3 That's the point when the -- that's the point</p> <p>09:17:32 4 when the connection server recognizes that the</p> <p>09:17:38 5 first process is online.</p> <p>09:17:47 6 Provided, though, provided that when</p> <p>09:17:50 7 we talk about online in the context of '704, it</p> <p>09:17:55 8 goes hand in hand always with the ability to</p> <p>09:18:00 9 manage -- the ability to track and manage</p> <p>09:18:04 10 offline signals or messages that's described in</p> <p>09:18:07 11 column six where when user logs off or goes</p> <p>09:18:11 12 offline from the Internet 24, the connection</p> <p>09:18:15 13 server 26 updates the status of the user in the</p> <p>09:18:18 14 database.</p> <p>09:18:20 15 So the point is, yes, there's an</p> <p>09:18:22 16 online point there, but it goes hand in hand</p> <p>09:18:25 17 with managing the notion of offline.</p> <p>09:18:30 18 Q. Okay. I want to try to parse that out</p> <p>09:18:34 19 a little bit.</p> <p>09:18:35 20 When processing unit 12 logs on the</p> <p>09:18:49 21 Internet but before it receives its dynamically</p> <p>09:18:54 22 allocated IP address, is the processing unit</p> <p>09:18:58 23 connected to the network?</p> <p>09:19:01 24 A. We have to look at connected to the</p> <p>09:19:04 25 network in the context of the claims. And so I</p>
<p style="text-align: right;">10</p> <p>09:14:43 1 comprising, and then now the part that I want to</p> <p>09:14:46 2 discuss, program code for transmitting to the</p> <p>09:14:49 3 server, a network protocol address received by</p> <p>09:14:55 4 the first process following connection to the</p> <p>09:14:59 5 computer network.</p> <p>09:15:01 6 So what's required here with respect</p> <p>09:15:05 7 to connected to the computer network and my</p> <p>09:15:11 8 agreement with the interpretation meaning</p> <p>09:15:14 9 available for communication here is you have --</p> <p>09:15:18 10 you would require the first process to have</p> <p>09:15:23 11 received the protocol address and following</p> <p>09:15:31 12 connection to the computer network, and then</p> <p>09:15:36 13 that code is transmitted to the server.</p> <p>09:15:40 14 So we see that -- like in lines 27, we</p> <p>09:16:04 15 see the first processing unit which has a</p> <p>09:16:09 16 process, and we see the transmission of E mail</p> <p>09:16:14 17 address and associated allocated IP address to</p> <p>09:16:17 18 the connection server on 26 going down through</p> <p>09:16:23 19 line I guess around 28 of column five.</p> <p>09:16:27 20 And so this is the point where that</p> <p>09:16:32 21 maps to the first claim limitation of -- that</p> <p>09:16:37 22 first aspect, the claim limitation which we were</p> <p>09:16:40 23 just talking about with respect to -- basically</p> <p>09:16:47 24 the way I interpret this is exactly what it</p> <p>09:16:53 25 says. And so it's at that point -- that's the</p>	<p style="text-align: right;">12</p> <p>09:19:08 1 interpreted or basically agreed with Straight</p> <p>09:19:12 2 Path's interpretation of connect to the network,</p> <p>09:19:15 3 and online means available for communication.</p> <p>09:19:19 4 And I took that in the context of the</p> <p>09:19:22 5 claim where the activity which I just described</p> <p>09:19:25 6 took place, and that's basically where that</p> <p>09:19:32 7 activity takes place.</p> <p>09:19:40 8 Q. In claim one, is the first process</p> <p>09:19:44 9 connected to the network prior to receiving the</p> <p>09:19:48 10 protocol address?</p> <p>09:20:14 11 (Pause)</p> <p>09:20:16 12 A. Claim one requires that the program</p> <p>09:21:00 13 code transmits to the server or network protocol</p> <p>09:21:04 14 address received by the first process following</p> <p>09:21:09 15 connection to the network.</p> <p>09:21:14 16 Can you repeat your question, please?</p> <p>09:21:15 17 Q. Yes. In claim one, is the first</p> <p>09:21:19 18 process connected to the computer network before</p> <p>09:21:22 19 it receives a network protocol address?</p> <p>09:21:26 20 A. I'm not aware of an embodiment where</p> <p>09:21:48 21 that's the situation.</p> <p>09:21:56 22 Q. Is it required by the claim?</p> <p>09:22:07 23 A. The first process has to have received</p> <p>09:22:22 24 the network protocol address following</p> <p>09:22:30 25 connection to the computer network.</p>

13

09:22:36 1 Q. And you're not aware of any embodiment
 09:22:43 2 that satisfies that limitation?
 09:22:48 3 A. I think you misinterpreted what I
 09:22:53 4 said. I mean, there are embodiments in the
 09:23:01 5 specification that satisfy these limitations.
 09:23:04 6 Q. Is there an embodiment disclosed in
 09:23:21 7 the '704 patent where the first process is
 09:23:26 8 connected to the computer network before it
 09:23:30 9 receives its network protocol address?
 09:23:39 10 (Pause)
 09:24:02 11 A. I'm not aware of an embodiment.
 09:24:07 12 Q. Going back to claim one.
 09:24:26 13 Claim one requires that the first
 09:24:28 14 process be connected to the computer network
 09:24:35 15 before it receives its network protocol address,
 09:24:39 16 correct?
 09:24:40 17 A. I'm sorry, it what?
 09:24:57 18 Q. Claim one requires that the first
 09:24:59 19 process be connected to the computer network
 09:25:02 20 before it receives its network protocol address,
 09:25:05 21 correct?
 09:25:46 22 (Pause)
 09:25:48 23 A. It says basically that there's code
 09:26:07 24 that -- there's program code for transmitting to
 09:26:10 25 the server a network protocol address received

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09:26:13 1 by the first process following connection to the
 09:26:17 2 computer network.
 09:26:24 3 Q. Does that limitation require in your
 09:26:29 4 opinion that the first process be connected to
 09:26:31 5 the computer network before it receives its
 09:26:33 6 network protocol address?
 09:26:56 7 (Pause)
 09:27:02 8 A. It requires that following connection
 09:27:53 9 to the computer network, the program code
 09:27:57 10 transmits to the server network protocol address
 09:28:00 11 received by the first process.
 09:28:03 12 So at some point following connection
 09:28:05 13 to the computer network, there's a transmission
 09:28:08 14 of the protocol address received by the first
 09:28:11 15 process.
 09:28:23 16 Q. All right. So I understand it's your
 09:28:25 17 opinion that the transmission occurs after
 09:28:30 18 connection to the computer network, but my
 09:28:34 19 question is slightly different. My question is
 09:28:37 20 does claim one require that the first process be
 09:28:41 21 connected to the computer network before it
 09:28:43 22 receives its network protocol address?
 09:28:47 23 A. I just simply see the requirement that
 09:29:03 24 following -- following connection to the
 09:29:08 25 computer network -- yeah, basically the

15

09:29:12 1 requirement I see is the limitation explicitly
 09:29:16 2 of what's there, that there's a transmission of
 09:29:27 3 the network protocol address received by the
 09:29:30 4 first process following connection to the
 09:29:34 5 computer network.
 09:29:35 6 Q. This clause we've been repeating has
 09:29:45 7 three verbs, transmitting, received and
 09:29:49 8 following -- sorry, transmitting, received,
 09:29:55 9 following connection, at least.
 09:29:57 10 And I understand your testimony,
 09:29:59 11 please correct me if I'm wrong, I understand
 09:30:01 12 your testimony that in your opinion, the
 09:30:02 13 transmitting has to occur after the first
 09:30:07 14 process is connected to the computer network; is
 09:30:11 15 that correct?
 09:30:11 16 A. I'm sorry, can you repeat that? Just
 09:30:56 17 repeat what you said.
 09:31:00 18 Q. In your opinion, the transmitting has
 09:31:04 19 to occur following -- I'm sorry. Let me
 09:31:08 20 rephrase that.
 09:31:09 21 The transmitting occurs after the
 09:31:14 22 first process is connected to the computer
 09:31:17 23 network, correct?
 09:31:18 24 A. I discuss this whole issue in
 09:32:20 25 paragraph 35 of my report where I say, "The

16

09:32:24 1 claims require a network protocol address
 09:32:29 2 received 'following connection to the computer
 09:32:33 3 network.' If a computer is not considered
 09:32:35 4 'connected to the network' until it is
 09:32:37 5 'registered with a server,' then the computer
 09:32:40 6 would need to receive its network protocol
 09:32:44 7 address after it registered with the server.
 09:32:47 8 But in order to register with a server, the
 09:32:49 9 computer must already have its network protocol
 09:32:55 10 address. Thus," I go on to say, "if the term
 09:32:59 11 'connected to the computer network' / 'online'
 09:33:02 12 is construed to mean 'registered with a server'
 09:33:05 13 then either," I go on to talk, "neither WINS nor
 09:33:12 14 NetBIOS disclose the claim element 'a network
 09:33:17 15 protocol address received by the first process
 09:33:18 16 following connection to the computer network'
 09:33:20 17 because neither reference teaches 'a network
 09:33:23 18 protocol address received by the first process
 09:33:28 19 following registration with the server.'"
 09:33:51 20 Q. Are you finished? I don't want to cut
 09:33:54 21 you off.
 09:33:54 22 A. Just give me one second.
 09:33:57 23 Q. Okay.
 09:33:58 24 (Pause)
 09:33:59 25 A. Okay.

17

09:34:34 1 Q. So the second sentence in paragraph 35
 09:34:40 2 which states in your declaration "The claims
 09:34:43 3 require a network protocol address received
 09:34:49 4 'following connection to the computer network.'"
 09:34:56 5 Is it your opinion that claim one
 09:35:00 6 requires that the first process be connected to
 09:35:04 7 the computer network before it receives the
 09:35:06 8 network protocol address?
 09:35:20 9 (Pause)
 09:37:01 10 **A. The aspect of whether -- the aspect of**
 09:37:17 11 **connected to the computer network relates to**
 09:37:22 12 **this connection server managing -- basically**
 09:37:39 13 **being able to -- basically being able to provide**
 09:37:46 14 **a network protocol address of the second process**
 09:37:53 15 **from the server when the second process is**
 09:37:55 16 **connected to the computer network. And so from**
 09:38:03 17 **the context of the first process or any**
 09:38:09 18 **process -- basically, at least with respect to**
 09:38:14 19 **the first process.**
 09:38:15 20 **The second process would had to have**
 09:38:22 21 **provided -- basically the network protocol**
 09:38:32 22 **address of the second process would had to have**
 09:38:39 23 **been provided when the second process is**
 09:38:41 24 **connected to the computer network.**
 09:38:50 25 Q. My question right now is just focused

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09:38:52 1 on the first process and the order, if any,
 09:38:56 2 that's required by claim one between the first
 09:39:01 3 process becoming connected to the computer
 09:39:03 4 network and the first process receiving its
 09:39:09 5 network protocol address.
 09:39:10 6 And so I just want to know your
 09:39:15 7 opinion on whether the claims require that the
 09:39:19 8 first process be connected to the computer
 09:39:24 9 network before receiving the network protocol
 09:39:27 10 address?
 09:39:27 11 **A. I guess my point is that this notion**
 09:39:31 12 **of connected to the computer network and online**
 09:39:43 13 **with respect to being available for**
 09:39:44 14 **communication, you can look at this from the**
 09:39:49 15 **perspective of the entity.**
 09:39:55 16 **If the server hasn't received the**
 09:40:01 17 **network protocol address, for example, of a**
 09:40:04 18 **process such as the second process, then you**
 09:40:12 19 **have a scenario that at least from the**
 09:40:15 20 **perspective of the server, you can have an**
 09:40:26 21 **aspect where it appears that the first process**
 09:40:32 22 **is not online from the perspective of the**
 09:40:38 23 **server.**
 09:40:41 24 **So I think with respect to your**
 09:40:43 25 **question, kind of looking at the perspectives of**

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09:40:49 1 **the entities in the system is relevant when you**
 09:40:53 2 **look at the different uses of online and**
 09:40:56 3 **connected to the network in this claim.**
 09:41:06 4 Q. Do you have an opinion as to whether
 09:41:11 5 claim one requires that the first process be
 09:41:15 6 connected to the computer network before it
 09:41:17 7 receives its network protocol address?
 09:41:28 8 **A. The claim -- I don't believe I**
 09:41:31 9 **expressed an opinion like that in my**
 09:41:35 10 **declaration. I didn't express -- basically what**
 09:41:38 11 **I expressed was I think what I read you and**
 09:41:40 12 **wrote in paragraphs 33, 34, that section and**
 09:41:46 13 **then the following section and possibly**
 09:41:48 14 **elsewhere, and I'm looking at just simply what's**
 09:41:52 15 **required of the claim limitations.**
 09:42:03 16 **And I'm also adding that you really**
 09:42:04 17 **need to look at -- when you look at these terms,**
 09:42:07 18 **you need to look at the perspective of the**
 09:42:10 19 **entities -- the limitations and the entities**
 09:42:13 20 **involved.**
 09:42:22 21 Q. The limitation that states a network
 09:42:30 22 protocol address received by the first process
 09:42:32 23 following connection to the computer network,
 09:42:35 24 which perspective is applicable to that
 09:42:40 25 limitation?

20

09:42:41 1 MR. NEWMAN: Objection.
 09:43:25 2 (Pause)
 09:44:51 3 **A. There's a couple of aspects going on**
 09:44:56 4 **here in that you have an embodiment; for**
 09:45:01 5 **example, in column five where a dynamically**
 09:45:09 6 **allocated IP address is provided by a connection**
 09:45:16 7 **service provider. And the first processing unit**
 09:45:27 8 **in column five, line 27 automatically transmits**
 09:45:35 9 **its associated E mail address and it's**
 09:45:37 10 **dynamically allocated IP address to the**
 09:45:39 11 **connection server at 26.**
 09:45:46 12 **The connection server then stores the**
 09:45:48 13 **address and database and time stamps the stored**
 09:45:51 14 **address using a timer thus establishing -- the**
 09:45:55 15 **first user operating the first processing unit**
 09:45:57 16 **is thus 12, so I'm just reading from the patent,**
 09:46:01 17 **is thus established in the database 34 as an**
 09:46:05 18 **active online party available for communication**
 09:46:08 19 **using disclosed point-to-point communications.**
 09:46:12 20 **And so from the perspective of -- from**
 09:46:23 21 **the perspective of the server, at this point**
 09:46:36 22 **when you've been established as an active online**
 09:46:52 23 **party available for communication using the**
 09:46:55 24 **disclosed point-to-point Internet protocol, at**
 09:47:01 25 **that point also in conjunction with managing**

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