

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC. &
SAMSUNG TELECOMMUNICATIONS AMERICA, LLC.
Petitioner,

v.

STRAIGHT PATH IP GROUP, INC.
Patent Owner

INTER PARTES REVIEW OF U.S. PATENT NO. 6,009,469

Case IPR No.: Unassigned

**PETITION FOR *INTER PARTES* REVIEW OF
U.S. PATENT NO. 6,009,469 UNDER 35 U.S.C. §§ 311-319 AND
37 C.F.R. §§ 42.1-80, 42.100 *et seq.***

DECLARATION OF ROBERT COWART

I, Robert Cowart, being of legal age, hereby declare, affirm, and state the following:

1. I have been retained as a consultant by DLA Piper LLP (US) (“DLA”), counsel for Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (“Petitioner”). I submit this declaration in connection with Petitioner’s Petition for *Inter Partes* Review of claims 1-3, 5-6, 9-10, 14, and 17-18 of U.S. Patent No. 6,009,469 (“the ’469 patent”). I am being compensated for my time at the rate of \$350 per hour, plus actual expenses. My compensation is not dependent in any way upon the outcome of Petitioner’s Petition.

2. I previously provided a declaration for a Petition for *Inter Partes* Review of the ’469 patent filed by Sony Corporation. I have reviewed the declaration that I previously made, and have confirmed the accuracy of the contents of my prior declaration. I hereby incorporate the contents of my prior declaration.

3. I have written more than forty-five books on computer programming and applications, including more than a dozen on Microsoft operating systems. One such book I authored, *Windows NT 3.5: Unleashed*, was published in January 1995 and provides an overview of Microsoft Windows NT 3.5 Server software.

4. In researching and writing *Windows NT 3.5: Unleashed*, I spent months working with a beta version of the Windows NT 3.5 Server software. Microsoft sent me the beta version of the Windows NT 3.5 Server software prior to

September 1994. I have retained the beta version of Windows NT 3.5 Server software that Microsoft sent to me, and it is in my current possession.

5. A beta version of software is a pre-release of the software that is typically given out to a large group of individuals to use the software under real-world conditions. As a beta tester, I received a beta version of the Windows NT 3.5 Server software prior to the official release of that software in September 1994. I was one of thousands of beta testers for the Windows NT 3.5 Server software.

6. Exhibits 1027 through 1029 are news articles that DLA has sent to me and that I have reviewed. They confirm my recollection that Windows NT 3.5 Server was officially released in September 1994. Exhibit 1027 is an article published in PC Week volume 11 issue 37, dated September 19, 1994, and titled “NT pricing: low-cost OS, Back Office ‘gotchas.’” The article states that Microsoft “will officially launch the NT Back Office product suite this week.... NT Workstation will be available for a single-quantity list price of \$395, while NT Server 3.5 will be \$700, sources close to the company said.”

7. Exhibit 1028 is a New York Times’ article dated September 17, 1994 and titled “Company News; Microsoft to Introduce New Windows NT.” The article states that the “Microsoft Corporation plans to renew its bid to become a big player in the network computing software market on Monday [September 19th] by introducing a new version of its Windows NT.” The article further mentions that

Microsoft “intends to price the Windows NT Server 3.5, bundled with Back Office, for \$2,199. It will sell the operating system alone for \$699, plus \$39.95 for each personal computer that will be connected to the network. Previously, it charged a flat \$1,500 for an unlimited number of PC’s.”

8. Exhibit 1029 is an article dated May 16, 1994, titled “Beta users wowed by Dayton’s speed,” and published in Network World. The article states that “Microsoft announced details about the [Windows NT 3.5] software in April and shipped beta copies to 10,000 customers two weeks ago.” The article further notes that first beta versions of “Daytona” were shipped in May 1994, a second beta version of “Daytona” was expected to ship in June 1994, and another version was to be made “generally available” in August 1994.

9. These article confirms my recollection that I received a beta version of Windows NT Server 3.5 prior to the software’s official release in September 1994.

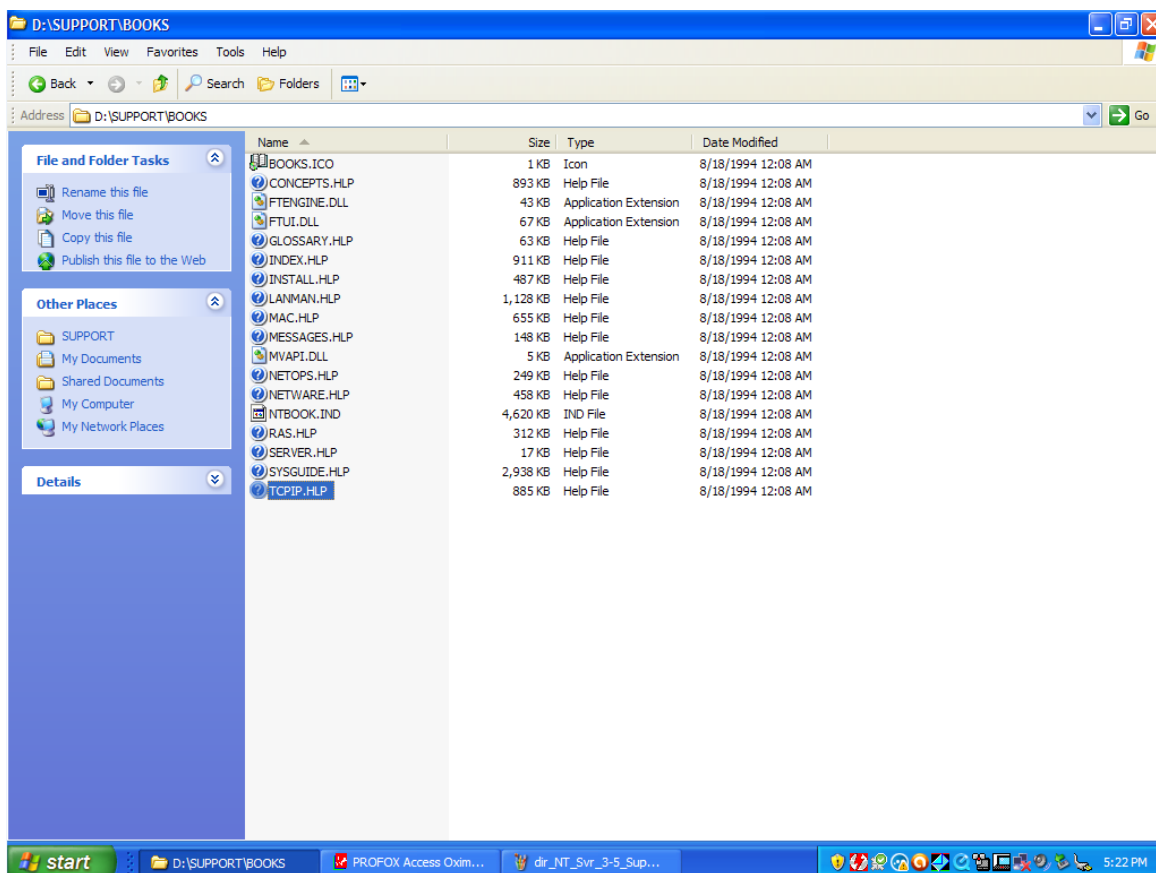
10. When Windows NT 3.5 was officially launched in September 1994, I was under no obligation to maintain as confidential the beta software or the documentation that Microsoft had provided with the beta software.

11. I received a CD containing the beta version of Windows NT 3.5 Server prior to September 1994, and I have maintained the CD in my possession since I received it. Because it is a beta version of the software, I received it prior to the

release of the official version in September 1994. The CD contains a copyright date of 1994.

12. The CD contains various files, and includes the following pathname, as seen below in a screenshot that I took and sent to DLA:

“D:/SUPPORT/BOOKS.” The CD also contains a file called “TCPIP.HLP” within the “BOOKS” folder. The “Date Modified” field for that file, as shown below, indicates that it was last modified on August 18, 1994.



13. Clicking on the TCPIP.HLP file opens an electronic help file titled “Microsoft Windows NT Server TCP/IP.” The table of contents for that help file, is shown below in a screenshot that I took and sent to DLA:



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