

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION

Petitioner

v.

IPR LICENSING, INC.

Patent Owner

U.S. Patent No.: 8,380,244

Filed: November 9, 2009

Issued: February 19, 2013

Title: Dual Mode Unit for Short Range, High Rate and Long Range, Lower Rate
Data Communications

**SUPPLEMENTAL DECLARATION OF DR. HARRY BIMS IN SUPPORT
OF THE PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 8,380,244**

Case No.: _____

SUPPLEMENTAL DECLARATION OF DR. HARRY BIMS

1. My name is Dr. Harry Bims. I have recently been retained by Microsoft Corporation to investigate and opine on certain issues relating to U.S. Patent No. 8,380,244.
2. I am being compensated at \$600 per hour for services I provide in this matter. This compensation is not contingent upon my performance, the outcome of this matter, or any issues involved in or related to this matter.
3. I previously submitted a declaration in *ZTE Corp. et al. v. IPR Licensing, Inc.*, Case No. IPR2014-00525, in support of ZTE's Petition for *Inter Partes* Review of U.S. Patent No. 8,380,244. I incorporate that declaration, which was marked as Exhibit 1002, and the exhibits to that declaration by reference to this declaration.
4. I submit this declaration in further support of Petitioner Microsoft's Petition for *Inter Partes* Review of U.S. Patent No. 8,380,244.
5. I am fully competent to make this declaration.
6. As described in at least Paragraph 120 of my declaration for ZTE, the GSM Standards were publicly available. I have been asked by Microsoft to provide additional evidence to corroborate my testimony that GSM 3.60 v6.1.1 R97 (Ex. 1005.03), and GSM 4.60 v6.1.0 R97 (Ex. 1005.06), which are labeled "Draft" and for "Public Enquiry," were publicly available.

7. Drafts of ETSI specifications, including drafts submitted for Public Enquiry, were made available to non-ETSI members.

8. ETSI published Working Procedures for standards management that explain, among other things, the publication and public availability of GSM and ETSI documents.

9. Exhibit 1030 is a true and correct copy of GSM/UMTS 01.00 v5.2.0 Working Procedures that was published in March of 1998 (“ETSI Working Procedures”). This document identifies the document management process of the ETSI Working Group and is currently publicly available at <http://www.3gpp.org/DynaReport/0100.htm>. It also bears a copyright date of 1998 and was publicly available in 1998.

10. The ETSI Working Procedures explain that a “Draft preliminary ETS” specification is sent out for Public Enquiry (“PE”), which typically is a 4-5 month period. (Ex. 1030 [ETSI Working Procedures] at §§ 4.4.1, 4.4.2). The Public Enquiry period is noted at the end of each specification. (Ex. 1030 [ETSI Working Procedures] at §§ 4.4.1, 4.4.2).

11. Section 4.5 of the ETSI Working Procedures is titled “Availability and distribution of UMTS and GSM specifications.” The section describes that specifications that have reached the initiation of the Public Enquiry stage “are made available through the ETSI Publications Office (Fax: +33 93 95 81 33) to

anybody (ETSI member or not).” (Ex. 1030 [ETSI Working Procedures], §§ 4.5, 4.5.1, 4.5.2).

12. ETSI continues to publish drafting rules that set forth guidelines for how specifications should be drafted and handled. Exhibit 1031 is a true and correct copy of the ETSI Drafting Rules that was published in May 2014. This document is currently publicly available at <http://www.etsi.org/images/files/IPR/etsi-drafting-rules.pdf> and confirms that ETSI continues to require that documents be made publicly available when submitted for Public Enquiry.

13. For example, the ETSI Drafting Rules include a glossary that defines what publicly available means. Publicly available means, “in the context of referencing documents within ETSI deliverables, a document that may be obtained from the source organization or its distribution channels by any person (with or without payment), simply by quoting the reference given in the ETSI deliverable to the source organization or other typical supplier (e.g. National Standards Organization, Library, etc.).” (Ex. 1031 [ETSI Drafting Rules] at 196). The ETSI Drafting Rules then state that “ETSI deliverables are made publicly available during the various stages of the relevant approval procedures prior to publication and at the point of publication.” (Ex. 1031 [ETSI Drafting Rules] at 196).

14. The ETSI Drafting Rules then clarify that “public availability is a broader concept than publication.” (Ex. 1031 [ETSI Drafting Rules] at 196). As an example, the ETSI Drafting rules state that “[a] Public Enquiry version of an ETSI deliverable is made publicly available by ETSI and, therefore, fulfils the above definition.” (Ex. 1031 [ETSI Drafting Rules] at 196). Thus, a document set for Public Enquiry is publicly available.

15. The ETSI Drafting Rules then distinguish “publicly available” from “published” and define “published” as a specific case of public availability that occurs when “all relevant approval procedures have been successfully completed.” (Ex. 1031 [ETSI Drafting Rules] at 197).

16. In sum, ETSI Drafting Rules and ETSI Working Procedures confirm my earlier opinions about the public availability of GSM 3.60 v. 6.1.1 R97 (Ex. 1005.03) and GSM 4.60 v. 6.1.0 R97 (Ex. 1005.06). Both documents have a 1998 copyright date, have 1998 dates listed on their cover pages, and were submitted for Public Enquiry. Thus, the documents were publicly available under ETSI guidelines.

I hereby declare that all statements made herein and in my original declaration of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with

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