

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LG ELECTRONICS, INC., et al.,
Petitioner

v.

STRAIGHT PATH IP GROUP, INC.
(FORMERLY KNOWN AS INNOVATIVE
COMMUNICATIONS
TECHNOLOGIES, INC.)
Patent Owner

INTER PARTES REVIEW OF U.S. PATENT NO. 6,009,469
Case IPR No.: IPR2015-00198

**DECLARATION OF DARREN M. JIRON IN SUPPORT OF MOTION TO
CORRECT CLERICAL ERROR PURSUANT TO 37 C.F.R. 42.104c**

I, Darren M. Jiron, declare:

1. I am a partner at Finnegan, Henderson, Farabow, Garrett & Dunner, LLP. I primarily work from Finnegan's Reston, VA Office.

2. I, together with backup counsel, Raj Gupta, have primary responsibility on behalf of petitioner, LG Electronics, Inc. ("LGE"), for the inter partes review styled as Trial No. IPR2015-00198 for U.S. Patent No. 6,009,469 ("the '469 patent").

3. The team responsible for finalizing and submitting the petition for IPR2015-00198 included me; Mr. Gupta; my associate, R. Benjamin Cassady; and our legal assistant, Lauren Young.

4. We filed the petition for IPR2015-00198 on October 31, 2014. That same day, we filed two additional petitions for inter partes review proceedings styled as Trial Nos. IPR2015-00196 and IPR2015-00209. The additional petitions challenge patents related to the '469 patent and rely on many of the same prior art references and exhibits as the petition for IPR2015-00198. Supporting declarations for all three petitions were submitted by Dr. Bruce M. Maggs. In all three petitions, Dr. Maggs' Declaration is listed as Exhibit 1002.

5. In preparation for filing of the three petitions and at my direction and direction from others on our team, Ms. Young collected the three Declarations of Dr. Maggs for submission as Exhibit 1002 in the respective petitions and placed them in

electronic folders. Ms. Young also collected all of the other exhibits for the three petitions and placed them into the electronic folders. During subsequent review, it became clear that through clerical error, Exhibit 1002 for the IPR2015-00196 petition was inadvertently added into the electronic folders for both the IPR2015-00196 and IPR2015-00198 petitions. As a result, upon filing of the three petitions on October 31, 2014, the copy of Exhibit 1002 corresponding to the IPR2015-00196 petition, which had been inadvertently included in the electronic directory corresponding to the IPR2015-00198 petition, was then inadvertently submitted as an exhibit to the IPR2015-00198 petition.

6. The correct Exhibit 1002 for IPR2015-00198 is attached to the concurrently filed Motion to Correct Clerical Error Pursuant to 37 C.F.R. 42.104c.

7. I became aware of the inadvertently filed exhibit late in the day on November 4, 2014. Immediately thereafter, on November 5, 2014, Mr. Gupta emailed the Board requesting permission to expunge the incorrect version of Exhibit 1002 from IPR2015-00198 and replace it with the correct version of Exhibit 1002. (See Appendix 1). Mr. Gupta attached to his November 5 email to the Board a copy of the correct Exhibit 1002 for IPR2015-00198. (See *id.*). That same day, Mr. Gupta sent an email to the Patent Owner's litigation counsel, informing them of the inadvertently filed exhibit and serving a corrected version. (See Appendix 2). Mr. Gupta's email also attached Petitioner's correspondence with the Board. (See *id.*).

Also on November 5, Mr. Cassady sent cover letters via Federal Express to both Patent Owner's litigation counsel and Patent Owner's counsel of record listed on the USPTO's PAIR website (James Berquist) for the '469 patent enclosing hard copies of the correct Exhibit 1002 for IPR2015-00198. (See Appendices 3 & 4).

8. On November 7, 2014, I called Ms. Maria Vignone of the Board to inquire as to whether the Board had received the Mr. Gupta's November 5 email. Ms. Vignone confirmed that the Board had received the email and would respond to our request soon. She also asked whether or not the Patent Owner opposed our request to correct Exhibit 1002. (See Appendix 5).

9. In response to Ms. Vignone's inquiry, on November 7, 2014, Mr. Gupta sent an email to Patent Owner's litigation counsel asking if Patent Owner opposed the request to correct the inadvertently filed Exhibit 1002. (See Appendix 6). Mr. Cassady sent a similar email to Mr. Berquist. (See Appendix 7).

10. In response to Mr. Gupta's November 7 email, Michael Newman, counsel for Patent Owner, responded that he would reach out to the Patent Owner and provide their positions by Monday, November 10. (See Appendix 8).

11. On Monday, November 10, Mr. Newman sent another email requesting a draft of the request that Petitioner planned to file with the Board to "better inform [Patent Owner's] decision." (See Appendix 9). After receiving the email, Mr. Gupta called Mr. Newman and informed him that Petitioner had not prepared a

motion and were not planning to file a motion unless and until the Board authorized such a motion.

12. Following the conversation between Mr. Gupta and Mr. Newman, on November 10, Mr. Newman sent an email to Mr. Gupta stating Patent Owner's opinion that Petitioner needs to file a motion to replace the exhibit and must request permission from the Board to do so. (See Appendix 10). Mr. Newman's email did not state whether or not Patent Owner opposed replacing the exhibit. (See *id.*). In response, on November 10, Mr. Gupta again requested that Patent Owner state if it intends to oppose substitution of the corrected exhibit. (See Appendix 11).

13. On Tuesday, November 11, Mr. Newman responded that "the patent owner does not object to the petitioners completing the petition by filing the correct exhibit, but the patent owner contends that the petition is currently incomplete under 35 U.S.C. § 312(a)(3)(B), and should not be accorded a filing date until the petitioners file the correct exhibit. *See 37 C.F.R § 42.106.*" (See Appendix 12). Mr. Gupta immediately relayed this information to the Board by email dated November 11, 2014. (See Appendix 13).

14. On Wednesday, November 12, Mr. Gupta called Ms. Vignone to confirm receipt of his November 11 email to the Board. Ms. Vignone stated that she received the email and forwarded it to the PTAB panel on November 12.

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