

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS
AT&T MOBILITY LLC

Petitioners

v.

SOLOCRON MEDIA, LLC

Patent Owner

Case IPR2015-_____
Patent No. 7,319,866

PETITION FOR INTER PARTES REVIEW OF
U.S. PATENT NO. 7,319,866
UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.100 ET SEQ.

DECLARATION OF JOHN M. STRAWN, PH.D.

I, John M. Strawn, declare:

1. I have been retained by Wiley Rein LLP to provide my opinions concerning the background of the art as related to U.S. Patent Nos. 7,319,866 (“the ‘866 Patent”); 7,257,395 (“the ‘395 Patent”); and 7,295,864 (“the ’864 Patent”) (“the Subject Patents”). In this Declaration I provide my opinions regarding the state of that art as of December 1999 and/or March 2000 for certain terminology used in the claims of the Subject Patents and patents related to the Subject Patents. In particular, I have been asked to evaluate the parent applications to which the Subject Patents claim priority. One was filed on December 6, 1999, which I reference as the “Provisional Application.” Another (the “Parent Application”) was filed on March 3, 2000, has a disclosure substantively identical to the specifications of the Subject Patents, and resulted in issuance of US Patent No. 6,492,692 (“the ‘692 patent”). I will collectively reference both as the “Priority Applications.” I have been further asked to provide my opinion on whether the Priority Applications provide sufficient written description to support “polyphony” or “polyphonic audio file” in the claims of the Subject Patents by reasonably conveying to one of skill in the art that the inventor had possession of those concepts and disclosed such possession in either of the Priority Applications. As detailed below, I conclude that the inventor did not have possession of the concepts

of “polyphony” or “polyphonic audio file” and that the inventor did not reasonably convey such possession in the Priority Applications.

2. I am being compensated for my work in preparing this Declaration at the rate of \$450 per hour, plus reimbursement of reasonable direct expenses. My compensation is not contingent on the outcome of this matter or the specifics of my testimony. I have no other interest in this matter or the parties involved in this matter.

I. QUALIFICATIONS

3. My qualifications for forming the opinions set forth in this Declaration are summarized in the following paragraphs and explained in more detail in my *curriculum vitae* which is attached as Attachment A to this report. Attachment A also includes a list of my publications and a listing of my testimony during the past four years.

4. I have been working in the field of software, digital signal processing, and processor architecture since 1976. I earned a Bachelor’s degree from Oberlin College in 1973 and a Ph.D. degree from Stanford in 1985, with my doctoral dissertation focusing on signal processing for analyzing digital audio.

5. I have over 30 years involvement in software, digital audio, digital music, digital signal processing, and processor architecture. Working in those areas, I have been an employee, a manager of a team of other Ph.D.s, and an

independent software consultant in signal processing specializing in high-level languages and assembly language.

6. I have implemented and taught theory and practice of recording and playing back sound involving PCM, WAV, MP3, and related compression techniques. The experience with PCM goes to generating sound on the mainframe at Oberlin, spring 1973. I used, recorded, and wrote software involving PCM and WAV-style files as part of my doctoral work at Stanford. I have written software for playback of PCM and WAV-style files in industry, for example as an employee at LucasFilm in the 1980's, and for many years since then as a software consultant. For compression such as MP3, I have implemented MP3 and related techniques for various consulting clients.

7. In litigation as shown on my attached CV, I testified as an expert in litigation in which MP3 files were disputed. For that litigation I reviewed extensive historical and theoretical literature, including PhD dissertations in German. I have taught MP3 and related compression techniques at various industry fora and, for several years, in a special course at the University of Colorado.

8. As for the musical aspects of this matter, I became familiar with monophony and polyphony in high school, through my work as a church organist and choir member. At Oberlin, there was course work on the origins of polyphony,

including an assignment transcribing a polyphonic work from the 1200s AD from the original manuscript. At Stanford, coursework included doctoral-level work in the history of music theory, specifically focusing on the development of polyphony in Europe in the time frame 800-1200 AD.

9. I have read and am familiar with the Subject Patents and the file histories of those patents. The Subject Patents are members of a family of patents, each of which is a continuation of the Parent Application 09/518,712 (Exhibit 1004), as outlined in the following table. Because the specification of each of the applications in the table is the same as that of the Parent Application, as I have verified, for convenience I provide citations from the specification of the ‘692 patent (Exhibit 1051) in Table 1.

US Patent No.	Application Number	Filed	Issued	Exhibit
6,496,692	09/518,712 ("Parent Application")	3/3/2000	12/17/2002	1004 (prosecution history) 1051 (patent)
7,257,395	10/223,200	8/16/2002	8/14/2007	1006 (application)
7,295,864	10/603,271	6/23/2003	11/13/2007	
7,319,866	10/915,866	8/11/2004	1/15/2008	1005 (application) 1001 (patent)
8,249,572	11/633,135	12/2/2006	8/21/2012	

Table 1. Patent Family Including Subject Patents

10. As part of my preparation for forming the opinions set forth in this Declaration, I have reviewed and relied upon the following:

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