

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner

v.

CONTENTGUARD HOLDINGS, INC.
Patent Owner

Patent No. 7,774,280
Issued: August 10, 2010
Filed: October 4, 2004
Inventors: Nguyen, *et al.*
Title: System and Method for Managing Transfer of Rights Using Shared
State Variables

Inter Partes Review No. IPR 2015-00354

**DECLARATION OF TIMOTHY P. MALONEY IN SUPPORT OF
CONTENTGUARD HOLDINGS, INC.'S
UNOPPOSED MOTION TO CORRECT FILING DATE OF PATENT
OWNER'S PRELIMINARY RESPONSE**

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

I, Timothy P. Maloney, declare:

1. I am a partner at the law firm of Fitch, Even, Tabin & Flannery LLP and I am the designated lead counsel for Patent Owner ContentGuard Holdings, Inc. (“CG”) in relation to IPR2015-00354. I make this declaration in support of CG’s Unopposed Motion to Correct Filing Date of Patent Owner’s Preliminary Response based on my own personal knowledge. If called as a witness, I could and would testify competently to the facts in this declaration.

2. CG had Preliminary Responses due on April 6 in six related IPR and CBM proceedings. I was the lead attorney responsible for these submissions. I was assisted by other attorneys and professional staff in preparing and finalizing these responses, all but one of whom work in the Chicago office of the firm. Ms. Jackeline Torres, a legal assistant in the firm’s Chicago office, was directed to electronically file each completed response, including CG’s Preliminary Response and supporting exhibits for IPR2015-00354. I authorized Ms. Torres to file under my own PRPS credentials.

3. I was present at the firm’s Chicago office and personally signed off on each Response and authorized the filing of each response upon completion. The response for IPR2015-00354 was the last of the six to be filed. The finalized response and supporting exhibits were provided to Ms. Torres by approximately 11:50 p.m. and she was instructed to file them as soon as the filing of the fifth

response was completed. At 12:01 a.m. Eastern Time on April 7, I received a PRPS Notification Filing Courtesy Notice email indicating that the Response in IPR2015-00354 had been filed and was available on PRPS. The email indicated that it was sent at 12:00 a.m. Eastern time on April 7 and that it was also sent to Petitioner's lead counsel. A true and correct copy of the Notification Filing Courtesy Notice email is attached as Exhibit 2025. The PRPS Notification Filing Courtesy Notice email indicated that the Response had been given a filing date of April 7, 2015.

4. Immediately upon receiving the Notification Filing Courtesy Notice email, I asked Ms. Torres when she began filing the Response to IPR2015-00354. Ms. Torres indicated that she began submitting the files for uploading into PRPS at about 11:56 p.m. and had selected the "Submit" button when the upload had completed at 11:58 or 11:59 p.m. Ms. Torres explained that PRPS was processing the Submit request for about two minutes before a notice appeared indicating that the submission was completed.

5. I directed a litigation paralegal, Mr. Timothy Willette, to email a service copy of CG's Response to Petitioner's lead counsel. At 12:42 a.m. Eastern Time, Mr. Willette's email attaching the Response for IPR2014-00354 was sent to Petitioner's lead counsel, Mr. Jeffery Kushan at the Sidley Austin law firm. A true and correct copy of the service email is attached as Exhibit 2026.

6. On the morning of April 9, 2015, I contacted PTAB Paralegal Specialist, Amy Kattula, to explain the circumstances of our attempt to file the Response to IPR2015-00354 on April 6, and to inquire about the possibility of filing a motion to correct any perceived untimeliness of the Response. Ms. Kattula instructed me to contact Petitioner, Apple Inc.'s lead counsel to determine whether Apple would object to a motion to accept the late submission of the Response.

7. I contacted Mr. Kushan the same morning. I explained that the files had been uploaded and the "Submit" button clicked on April 6, but that the PRPS Notification Filing Courtesy Notice email indicated that the Response had been given a filing date of April 7, 2015. I inquired whether Apple would oppose a motion by CG to accept the Response.

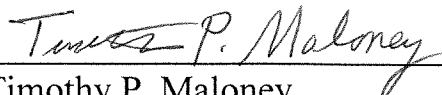
8. On April 13, I received an email from Mr. Kushan stating that Apple would not oppose a motion to accept the Response. A true and correct copy of Mr. Kushan's email is attached as Exhibit 2027.

9. On April 13, I emailed Ms. Kattula to confirm that I had conferred with Apple's counsel and was advised that Apple would not oppose a motion to accept the Response.

10. On April 14, I received an email from Ms. Kattula indicating that CG was authorized to file a motion to correct the filing date. A true and correct copy of the email exchange with Ms. Kattula is attached as Exhibit 2028.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed in Chicago, Illinois on April 16, 2015.

Dated: April 16, 2015



Timothy P. Maloney
Registration No. 38,233