

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Apple Inc.

Petitioner,

v.

E-Watch, Inc.

Patent Owner.

Case: To Be Assigned

Patent 7,365,871

DECLARATION OF STEVEN J. SASSON

MAIL STOP PATENT BOARD

Patent Trial and Appeal Board

United States Patent & Trademark Office

P.O. Box 1450

Alexandria, Virginia 22313-1450

1. My name is Steven J. Sasson. I am over the age of 21 and am competent to make this declaration. I am a resident of the State of New York and reside at 12 Carefree Lane, Hilton, New York 14468.

BACKGROUND

2. I am currently an independent consultant. I have been retained to evaluate whether a certain publication discloses to a person of ordinary skill in the art (“POSA”) the subject matter of the claims of United States Patent No. 7,365,871 (“the ’871 patent” or the “Asserted Patent) prior to the time of filing the ‘871 patent. I am being compensated at my standard rate of \$550 per hour. My compensation does not depend on the outcome of this proceeding. In preparing this Declaration, I considered the following materials:

U.S. Patent No. 7,365,871 (‘871 patent, Ex. 1001) and its file history;

U.S. Patent No. 5,550,754 (‘754 patent, Ex. 1006); and

U.S. Patent No. 5,491,507 (‘507 patent, Ex. 1007).

3. I received a Bachelor’s Degree in electrical engineering from Rensselaer Polytechnic Institute (“RPI”) in Troy, New York in 1972. Subsequently I received a Master’s Degree from RPI in 1973.

4. In June of 1973, I joined Eastman Kodak Company (“Kodak”) as an electrical engineer working in the applied research laboratory which was referred to as Kodak Apparatus Division Research Labs (“Applied Labs”). I was a member

of the Electronics Research Group within the Applied Labs and worked primarily on electronics technology from the period of 1973 until 1980. Around 1980 until approximately 1990, I worked in the advanced development arm of consumer engineering for Kodak. My primary work during this time focused on the development of electronic photography and included research and development on image compression and transmission of compressed image data using wired and wireless communication channels. From approximately 1990 through approximately 2004, I took on various management roles at Kodak in which I supervised numerous engineering and other professionals involved in developing and commercializing digital imaging products. During this time, from the eighties through 2004, I was very familiar with the qualifications and levels of skill of ordinary engineers working on the electronic and mechanical aspects of camera related products due to my personal experience as an engineer and manager of engineers in this field of technology.

5. I am a named inventor on nine (9) United States patents. During my time working for Kodak, I was primarily responsible for the development of the first digital camera. My work in developing that digital camera led to the filing and allowance of United States Patent No. 4,131,919. For my work related to the development of the digital camera, I was awarded the Eastman Innovation Award, the Photographic Society of America Innovation Award, the Photographic

Manufacturers Association Award for significant contributions to photography, an honorary doctorate from the University of Rochester, and in 2009, the National Medal of Technology and Innovation. A copy of my resume is attached here as Attachment A.

6. I have been asked to review the Asserted Patent including the specification and particularly claims 1-8 and 12-14 of the '871 patent ("Asserted Claims"), as well as the file history. In this regard, I understand the asserted patent originates from an originally filed application, application no. 09/006,073, which has an effective filing date of January 12, 1998.

7. I have also been asked to review the subject matter disclosed by the following patents: i) U.S. Patent No. 5,550,754 ("McNelley" or "the '754 patent" issued August 27, 1996) and ii) U.S. Patent No. 5,491,507 ("Umezawa" or "the '507 patent" issued February 13, 1996). I have been further asked to compare the subject matter disclosed by the prior art patents listed above to the Asserted claims of the Asserted Patent and determine whether the patents disclosed the claimed subject matter to a POSA prior to the effective filing date (January 12, 1998) of the Asserted Patent.

8. After review of the Asserted Patent and the patents listed above, I conclude that the subject matter of the Asserted Claims was either known or obvious to a POSA as of the effective filing date by the listed prior art patents

either individually or in combination.

9. I am an engineer by training and profession. The opinions I am expressing in this report involve the application of my engineering knowledge and experience to the evaluation of certain prior art with respect to the '871 patent. My knowledge of patent law is no different than that of any lay person. Therefore, I have requested the attorneys from Jones Day, who represent Apple, to provide me with guidance as to the applicable patent law in this matter. The paragraphs below express my understanding of how I must apply current principles related to patent validity to my analysis.

10. It is my understanding that in determining whether a patent claim is obvious in view of the prior art, the Patent Office must first construe the claim by giving the claim its broadest reasonable interpretation consistent with the specification as the claim terms and specification would be understood by a POSA. It is my understanding that the broadest reasonable interpretation is the plain meaning, i.e., the ordinary and customary meaning, given to the term by a POSA at the time of the invention, taking into account whatever guidance, such as through definitions, may be provided by the written description in the patent, without importing limitations from the specification. For the purposes of this review, I have construed each claim term in accordance with its plain meaning, i.e., its ordinary and customary meaning, under the required broadest reasonable interpretation.

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