

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 7,643,168

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. 7,643,168 (Ex. 1001, “the ’168 patent”) prior to the time of filing the ’168 patent. I am being compensated at my standard rate of \$550 per hour. My compensation does not depend on the outcome of this proceeding.

3. In preparing this Declaration, I considered the following materials:

U.S. Patent No. 7,643,168 (’168 patent, Ex. 1001) and its file history (including the Office Action dated October 4, 2007, Ex. 1011);

WO 1999/035818 (’818 publication, Ex. 1006); and

U.S. Patent No. 7,365,871 (’871 patent, Ex. 1009) and its file history.

4. 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.

5. 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.

6. 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.

7. I have been asked to review the '168 patent including the specification and claims 1-31 ("Asserted Claims") of the '168 Patent. In this regard, I understand the '168 Patent was filed on December 28, 2006 as application serial number 11/617,509 ("the '509 application"). I understand that the '509 application was as a continuation of only application 10/336,470, filed January 3, 2003, now U.S. Patent No. 7,365,871 ("the '871 patent"). I further understand that the '871 patent originated from an originally filed application, application 09/006,073, which has an effective filing date of January 12, 1998. However, I have been informed that the '168 patent is not entitled to an effective filing date of the '073 application, and I have been instructed to evaluate the '168 patent based on an effective filing date of January 3, 2003, which is the filing date of the '871 patent (the parent of the '168 patent).

8. I have also been asked to review the subject matter disclosed by an international published patent application WO 1999/035818 ("the '818 publication") and compare its disclosure to the Asserted Claims of the '168 patent.

The '818 publication was published on July 15, 1999. It names David A. Monroe as the inventor and indicates that a claim for priority is made to the '073 application, which has a filing date of January 12, 1998.

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 '168 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 of an unexpired patent is disclosed by a reference, the Patent Office must first construe the claim using a broadest reasonable interpretation (BRI) consistent with the specification as a POSA would have understood both the claim term and the specification. 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

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