

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Apple Inc.

Petitioner,

v.

E-Watch, Inc.

Patent Owner.

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Case: To Be Assigned

Patent 7,365,871

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**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 of 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;  
WO 1999/035818 (‘818 publication, Ex. 1002).

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. In 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 '871 patent including the specification and claims 1-15 ("Asserted Claims") of the '871 Patent, as well as the file history of the '871 patent. In this regard, I understand the '871 patent was filed on January 3, 2003, as application serial number 10/336,470. I further understand that the '871 patent originated from U.S. Application No. 09/006,073 ("the '073 application"), which has an effective filing date of January 12, 1998. For the purposes of this Declaration, I have been informed that the '871 patent should not be entitled to the effective filing date of the '073 application, and I have been instructed to evaluate the '871 patent based on its own January 3, 2003 filing date.

7. I have also been asked to review the subject matter disclosed by an international published patent application WO 1999/035818 ("the '818 publication). The '818 publication was published on July 15, 1999. It names David A. Monroe as the inventor and indicates that a priority claim is made to the '073 application which has a filing date of January 12, 1998.

8. 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.

9. It is my understanding that in determining whether a patent claim is disclosed by a reference, the Patent Office must construe the claim using the BRI 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.

10. It is my understanding that an analysis comparing patent claims to a reference takes into account the scope and content of the reference and identifies any differences between the claimed subject matter and that disclosed by the

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