Filed on behalf of Petitioner
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UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

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RPX Corporation
Petitioner

v.

Applications in Internet Time, LLC
Patent Owner

_____

Case IPR2015-01750
Patent 8,484,111 B2

Case IPR2015-01751
Case IPR2015-01752
Patent 7,356,482 B2[1]

REPLY DECLARATION OF MARK E. CROVELLA, PH.D.

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[1] The word-for-word identical paper is filed in each proceeding identified in the heading.

I, Mark E. Crovella, Ph.D., declare that I submitted an original declaration (Ex. 1002 in IPR2015-01750 and IPR2015-01751 and Ex. 1102 in IPR2015-01752) in these related *inter partes* reviews, and further declare as follows:

1. I have reviewed paragraphs 26-48 of the Declaration of H. V. Jagadish (Ex. 2032 in all three proceedings) where Dr. Jagadish construes the clause "a change management layer for automatically detecting changes that affect an application" in claim 1 of the '482 patent, the phrase "automatically detecting changes that affect a particular application" in claim 21 of the '482 patent, and "the fourth portion of the server being configured to automatically detect changes that affect the information in the first portion of the server or the information in the second portion of the server" in claim 13 of the '111 patent. (*Id.* at ¶¶ 41, 48.)

2. Dr. Jagadish's construction of "a change management layer for automatically detecting changes that affect an application" in claim 1 of the '482 patent explicitly construes only the function performed by the layer, and appears to implicitly construe the entire clause as a layer that performs the function so construed. The construction Dr. Jagadish proffers for the function "automatically detecting changes that affect an application" is "automatically detecting changes which impact how the application program should operate," "where those 'changes' arise from changes external to the application program." (*Id.* at ¶¶ 27, 40.) He applies the same construction to "automatically detecting changes that

affect a particular application" in claim 21 of the '482 patent. (*Id.* at ¶ 41.) Dr.

Jagadish also construes "the fourth portion of the server being configured to

automatically detect changes that affect the information in the first portion of the

server or the information in the second portion of the server" in claim 13 of the

'111 patent in "the same way as the 'change management layer.'" (*Id.* at ¶ 48.)

3.   I disagree with Dr. Jagadish's overly narrow constructions. I

understand that in an *inter partes* review, claim language must be given its

broadest reasonable interpretation (BRI) consistent with the specification from the

perspective of a person of ordinary skill in the art (POSA) at the time of the

patent's filing date. I further understand that the BRI for words in a claim that are

not terms of art is the plain and ordinary meaning of the words, so long as that

meaning is not inconsistent with the specification. In my opinion based on my

knowledge of a POSA's perspective in the relevant timeframe, and as explained

further below, Dr. Jagadish's construction is not the BRI of "automatically

detecting changes that affect an application," "automatically detecting changes that

affect a particular application," or "the fourth portion of the server being

configured to automatically detect changes that affect the information in the first

portion of the server or the information in the second portion of the server."

4.   First, I do not agree with Dr. Jagadish's narrowing of the recited

"changes" to only "changes that arise from changes external to the application

program." Dr. Jagadish does not take the position that "changes" is a term of art, and I agree that "changes" is not and was not a term of art in the patents' time frame. As such, the BRI that a POSA would have given "changes" is its plain and ordinary meaning. Dr. Jagadish's construction – "changes that arise from changes external to the application program" – is clearly not the plain and ordinary meaning of "changes." Rather, it narrows "changes" to a particular subset of changes (i.e., those that arise from changes external to the application program). The proper BRI of "changes that affect an application," on the other hand, encompasses any change (according to the plain and ordinary meaning of "change") that affects the application recited in the claim, including changes that arise from changes external to the application program as well as changes that do not arise from changes external to the application program. I find no statement in the patents' specification requiring that "changes" be construed more narrowly, nor any embodiment in the specification that would not fall under this plain and ordinary meaning of "changes."

5.   I also do not agree with Dr. Jagadish's narrowing of the recited "affect[ing] an application" to only "impact[ing] how the application program should operate." The BRI of "changes that affect an application" is not limited to changes that impact how the application should operate. A POSA would have understood that changes can affect an application without impacting how the

application "should" operate, and those types of changes are also included in the plain and ordinary meaning of "changes that affect an application." For example, a change to the processing resources available to an application could affect the application (e.g., by causing it to run faster or slower) without impacting how the application "should" operate (e.g., without altering any of the steps that the application attempts to perform).

6.   Additionally, I disagree with Dr. Jagadish's opinion that "changes that affect the information in the first portion of the server or the information in the second portion of the server" in claim 13 of the '111 patent should be construed in the same manner as "changes that affect [an application / a particular application]" in the claims of the '482 patent. The plain language of the claims and the shared specification of the patents do not support the notion that "the information in the first portion of the server or the information in the second portion of the server" has the same meaning as "an application" or "a particular application." The words are clearly different, and I find nothing in the patents to indicate that the differences are not meaningful.

7.   Furthermore, even if Dr. Jagadish's construction of "automatically detecting changes that affect an application" (which he asserts should be applied as well to "automatically detecting changes that affect a particular application" and "changes that affect the information in the first portion of the server or the

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