

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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RPX CORPORATION,  
Petitioner,

v.

APPLICATIONS IN INTERNET TIME, LLC,  
Patent Owner.

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Case IPR2015-01750  
Patent No. 8,484,111 B2

Case IPR2015-01751  
Case IPR2015-01752<sup>1</sup>  
Patent 7,356,482 B2

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**SECOND DECLARATION OF WILLIAM W. CHUANG**

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<sup>1</sup> The word-for-word identical paper is served in each proceeding identified in the heading.

RPX Exhibit 1073 RPX v. AIT IPR2015-01750
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I, William W. Chuang, declare:

1. I have reviewed the opinion of the United States Court of Appeals for the Federal Circuit in *Applications in Internet Time, LLC v. RPX Corporation*, 897 F.3d 1336 (Fed. Cir. 2018) (hereafter “the Federal Circuit opinion”) concerning IPR2015-01750, IPR2015-01751, and IPR2015-01752 (“the AIT IPRs”) challenging U.S. Patents Nos. 7,356,482 and 8,484,111 (“the AIT Patents”) owned by Applications in Internet Time, LLC (“AIT”).

2. In my current capacity as Executive Vice President of Client Services, and in my former capacities as Senior Vice President of Client Services and Vice President of Client Relations at RPX Corporation (“RPX”), I have at various times been RPX’s primary contact for client Salesforce.com (“Salesforce”). I am familiar with the services RPX provides Salesforce, with the services RPX provides to clients generally, and with what Salesforce and clients generally expect to receive from RPX.

#### **I. RPX’S BUSINESS MODEL**

3. RPX’s core business model is defensive patent aggregation, which involves acquiring patents and licensing those patents to RPX’s members. This is explained, for example, in RPX’s 2013 Form 10-K Annual Report: “The core of our solution is defensive patent aggregation, in which we acquire patent assets that are being or may be asserted against our current and prospective clients. We then

provide our clients with a license to these patent assets to protect them from potential patent infringement assertions.” (Ex. 2008 at 3.) The license rights to the patent assets that RPX has acquired is the primary reason clients become RPX members and pay membership fees to RPX.

4. As of [REDACTED] when Salesforce became an RPX client, RPX had a standard form (hereafter the “Form Membership Agreement”) on which [REDACTED] membership and license agreements for RPX’s clients were based, [REDACTED] A [REDACTED] version of the Form Membership Agreement is provided as Exhibit 1074. The Form Membership Agreement sets forth the terms and conditions of the “License and Membership Rights” that a client receives as an RPX member [REDACTED], as well as the “Fees, Payment Terms and Audit” to which the client agrees in return for the License and Membership Rights [REDACTED].

5. As set forth in [REDACTED], the typical RPX membership provides the client a “Patent License” [REDACTED], and “Defensive Rights” to purchase RPX-owned patents for defensive assertion [REDACTED]. The Patent License involves [REDACTED] [REDACTED] [REDACTED] [in the Form

Membership Agreement].” (Ex. 1074 at 2.) In a typical year of membership, the Patent License would include various rights (including the right not to be sued for infringement) over thousands of patents. Pursuant to [REDACTED]

[REDACTED], the Defensive Rights provide [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Ex. 1074 at 4.)

6. As set forth in [REDACTED] the typical RPX client pays RPX an “Annual Membership and License Fee” in return for the Patent License and Defensive Rights that the client receives as an RPX member.

The Annual Membership and License Fee is due on the anniversary of the agreement’s execution, [REDACTED]

[REDACTED]. Pursuant to [REDACTED], the amount of the Annual Membership and License Fee is calculated annually based upon the Rate Card [REDACTED]

[REDACTED]. The Rate Card [REDACTED]

[REDACTED] bases the amount of the Annual Membership and License Fee on a percentage of the client’s Normalized Operating Income (“NOI”).

7. As of 2015 when RPX filed the petitions for the AIT IPRs, RPX continued to base [REDACTED] clients’ membership agreements on a version of

the standard Form Membership Agreement. Provided as Exhibit 1075 is a version of the Form Membership Agreement dated [REDACTED] 2015. Consistently between the [REDACTED] and 2015 versions of the Form Membership Agreement, the typical RPX membership provided the client a Patent License [REDACTED] and Defensive Rights to purchase RPX-owned patents for defensive assertion [REDACTED], for which the client agreed [REDACTED] to pay RPX an Annual Membership and License Fee calculated based on a percentage of the client's NOI using the Rate Card [REDACTED] [REDACTED].

8. An aspect of RPX's core business model of defensive patent aggregation is information gathering. In the course of RPX's core business of acquiring "patent assets that are being or may be asserted against our current and prospective clients" (Ex. 2008 at 3), RPX closely monitors the patent market and patent assertions to identify potential acquisitions and gather pricing data. RPX thus gathers extensive and valuable market intelligence and data as part of its core acquisition business, and shares that intelligence and data with RPX's members. RPX's 2013 Form 10-K Annual Report explains this under the "Defensive Patent Aggregation" heading, making clear this information sharing is part of RPX's core solution of defensive patent aggregation: "As a part of our solution, we provide extensive patent market intelligence and data to our clients. Clients can access this market intelligence and data through our proprietary web portal and through

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