UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,
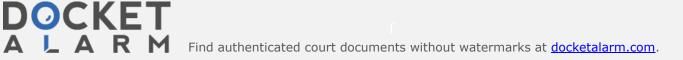Petitioner,

v.

CORE WIRELESS LICENSING S.A.R.L.,
Patent Owner.

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Case IPR2015-01898
Patent 8,434,020 B2

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PATENT OWNER'S MOTION FOR OBSERVATIONS ON CROSS-EXAMINATION OF DR. BRAD A. MYERS

Pursuant to the Scheduling Order dated March 17, 2016 (Paper 8), Patent Owner timely moves for observations on cross-examination in light of Patent Owner's cross-examination of Petitioner's witness, Dr. Brad A. Myers on November 3, 2016. The transcript of Dr. Rhyne's cross-examination testimony is being filed as exhibit 2014 ("Ex. 2014"). The exhibits used at the deposition of Dr. Myers are already of record in this proceeding and are not included as part of Ex. 2014.

Observations on Cross-Examination

1.   Ex. 2014 at 47:16-48:6; 49:7-50:3: Dr. Myers testified that "just pushing the caller log button by itself does not perform the example managing operations that we discussed." This testimony is relevant to his opinion that "Schnarel does not merely teach opening an application window/viewer; it also teaches executing functions under any proposed construction of that term." Ex. 1038 at ¶16.

2.   Ex. 2014 at 50:4-51:6: Dr. Myers testified that for a user to perform management operations using the caller log and fax viewers of Schnarel, there are a variety of things the user would have to do, including first selecting the message of interest, and then clicking or tapping on a button to perform the operation. This testimony is relevant to his opinion that

"Schnarel does not merely teach opening an application window/viewer; it also teaches executing functions under any proposed construction of that term." Ex. 1038 at ¶16.

3. Ex. 2014 at 57:3-16; 57:22-61:3: Dr. Myers testified that "The caller log viewer and the fax viewer are a program that provides access to functions and data. And so one could certainly interpret them as meeting my definition of application." This testimony is relevant to his opinion that Schnarel's viewers are not applications. Ex. 1038 at ¶¶11-12.

4. Ex. 2014 at 70:22-71:17: Dr. Myers agreed that the reasoning detailed at column 12, lines 18-21 of Schnarel is an acceptable reason to one of ordinary skill in the art for having separate applications instead of a single application. This testimony is relevant to his opinion that a person of ordinary skill in the art would have been motivated to implement Schnarel's message viewers as part of Schnarel's message center application. Ex. 1038 at ¶15.

5. Ex. 2014 at 75:17-76:18: Dr. Myers testified that when the security feature in Schnarel is enabled, the user is prompted for a user ID and password before being allowed to enter the corresponding viewer. Conversely, Dr. Myers agreed that there is no disclosure in the '020 patent that a PIN security number is entered in order to provide access to

some other underlying feature. This testimony is relevant to his opinion that Schnarel's security feature is analogous to the '020 patent's "enter a PIN security number" function. Ex. 1038 at ¶17.

6. Ex. 2014 at 77:22-78:15: Dr. Myers agreed that a reasonable example for why one would want to enter a PIN is turning on a password protection feature where a user needs to enter a PIN security number that thereafter protects the phone. This testimony is relevant to his opinion that Schnarel's security feature is analogous to the '020 patent's "enter a PIN security number" function. Ex. 1038 at ¶17.

7. Ex. 2014 at 78:16-80:1: Dr. Myers testified that Schnarel's caller log button itself is labeled caller log, and the ultimate alleged function as a result of pushing the caller log button is to view the caller log, not password protection. This testimony is relevant to his opinion that Schnarel's security feature is analogous to the '020 patent's "enter a PIN security number" function. Ex. 1038 at ¶17.

8. Ex. 2014 at 95:5-16: Dr. Myers agreed that in the field of human-computer interaction, it is true that it is preferable that the user knows what to do just by looking at the screen. This testimony is relevant to his opinion configuring Schnarel so that its summary pane is reached directly from the main menu would not frustrate Schnarel's purpose of allowing

users to quickly discover whether or not they have new messages and quickly access these new messages. Ex. 1038 at ¶19.

9. Ex. 2014 at 113:11-118:10: Dr. Myers testified that "it's certainly possible that AOL's mail feature would qualify as a web application," using his definition of web application. This testimony is relevant to his opinion disagreeing with Patent Owner's position that the AOL "mail feature" is an application. Ex. 1038 at ¶29.

10. Ex. 2014 at 124:7-13;127:7-19: Dr. Myers testified that the definition of "application" that he provided in Exhibit 1028 is "the way that a person of ordinary skill in the art would understand application," where the definition in Exhibit 1028 indicates that an application sits on top of systems software because it is unable to run without the operating system and system utilities. This testimony is relevant to his opinion that Patent Owner's construction for application (which recognizes that an "application" exists in a particular software architecture having an operating system) is incorrect. Ex. 1038 at ¶¶6-7.

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