

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD**

In re Application of: Mathieu
Kennedy Martin

Patent No.: 8,434,020

Filed: August 27, 2003

Issued: April 30, 2013

Assignee: Core Wireless Licensing
S.a.r.l.

Title: COMPUTING DEVICE WITH
IMPROVED USER INTERFACE FOR
APPLICATIONS

**Declaration of
Vernon Thomas Rhyne, III**

**In Support of the Petition for *Inter
Partes* Review of U.S. Patent No.
8,434,020**

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

REBUTTAL DECLARATION OF DR. VERNON THOMAS RHYNE, III

REBUTTAL DECLARATION OF VERNON THOMAS RHYNE, III

I. BACKGROUND

1. My name is Vernon Thomas Rhyne, III. My background, qualifications, and retention by LG are described in my previous declarations in support of the IPRs on the '020 and '476 patents.

II. ASSIGNMENT & AND MATERIALS CONSIDERED

2. I have been asked by LG to review and respond to the Declaration of Scott Denning, which was submitted on behalf of the Patent Owner (Core Wireless Licensing S.a.r.l.).

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

- Patent Owner Response (regarding the '020 patent)
- Patent Owner Response (regarding the '476 patent)
- Declaration of Scott A. Denning (Exhibit No. 2001 - addresses both the '020 and '476 patents) (“Denning Declaration”)
- Ex. 2009 (U.S. Patent No. 6,993,328) (“Oommen”)
- Transcript of April 28, 2016 Deposition of Vernon Thomas Rhyne, III
- Transcript of September 7, 2016 Deposition of Scott Denning
- Documents related to the Ericsson R380s phone:
 - Exhibit 1010 (Excerpt from 12/99 issue of *Popular Science* magazine)
 - Exhibit 1011 (User’s guide for Ericsson R380s)
 - Exhibit 1012 (Press release dated 3/18/99 from Open Mobile Alliance)

- Exhibit 1013 (Article dated 3/18/199 from EE Times)
- Exhibit 1014 (Excerpts from 2000 Edition of the *Authoritative Dictionary of IEEE Standards Terms*)

III. “APPLICATIONS”

4. All of the challenged claims in the '020 and '476 patents (claims 1, 2, 5-8, 10, 11, 13, and 14 of the '020 patent, and claims 1, 4, 5, 6, 8, 9, 20, 26, 27, and 29 of the '476 patent) require “applications.” All of those claims also require an “application summary window” or “summary window” that lists functions or data within an “application,” while that application is “in an unlaunched state.”

5. The Denning Declaration asserts that Blanchard does not disclose “applications,” and that a person of ordinary skill in the art (a “POSITA”) “would not interpret Blanchard as implementing the screens, or the icons shown on these screens, with ‘applications.’” *See* Denning Declaration at ¶ 44. I disagree, for the reasons explained below.

6. The Denning Declaration points out—correctly—that Blanchard provides only a general description of the software used to implement the user interface that it describes, *e.g.* “instructions ... for controlling the various operating features and functions.” *See* Denning Declaration at ¶ 46; Blanchard at 2:53-55. Indeed, Blanchard explains that it is intentionally silent regarding the specifics of

the “hardware and programming techniques” used to implement the user interface that it describes:

Since such systems utilize a variety of hardware and programming techniques, no attempt is made to describe the details of the program used to control the telephone terminal. However, the present invention must be blended into the overall structure of the system in which it is used and must be tailored to mesh with other features and operations of the system. (Blanchard at 5:13-20, emphasis added.)

7. The Denning Declaration then asserts that a person of ordinary skill would conclude from Blanchard’s silence that “applications” were not used:

If any conclusion could be reached by a POSITA from [Blanchard’s] structure and disclosure, it would be that Blanchard’s software is implemented with monolithic instructions, or an operating program as discussed by Oommen, and that these instructions include subroutines, perhaps dynamically linked as Oommen describes, that can be called to perform various features of the operating program. But a POSITA would not interpret Blanchard’s mention of “instructions” as disclosing a software architecture having applications layered on top of an operating system. (Denning Declaration, ¶ 46)

8. I disagree with Mr. Denning’s opinion that a person of ordinary skill in the art “would not interpret Blanchard’s instructions” as including “applications layered on top of an operating system” for the several reasons that I explain in the following subsections of this Declaration.

A. Prior to July 2000, “Applications” Were Known For Use In Mobile Telephones Such As The One Shown In Blanchard.

9. The software architecture of “applications layered on top of an operating system” was known to those of ordinary skill in the art for use in mobile

telephones by the July 2000 timeframe (*i.e.*, before the July 28, 2000 priority date of the '020 and '476 patents). Blanchard is focused on describing a user interface and, hence, is intentionally silent regarding the specifics of the “hardware and programming techniques” used to implement that user interface. *See* Blanchard at 5:13-16. A person of ordinary skill would recognize from this that Blanchard’s user interface should be implemented using known “hardware and programming techniques,” which as of July 2000 included “applications layered on top of an operating system.”

10. As I explained in my original declaration, the fact that relevant systems having “applications layered on top of an operating system” were known by July 2000 and is acknowledged by the '020 patent itself. *See* the '020 specification at 1:14-15 and 1:37-46 conceding that a prior art “mobile telephone” includes “several different applications (*e.g.*, a message application, a contacts/address book application, a calendar application and a telephone application” that the user could “start/open.”)

11. The fact that “applications layered on top of an operating system” were known by July 2000 is also demonstrated by the mobile phones that were known by that time. For example, as I pointed out in my original declaration, Ericsson’s R380 “smartphone” included a version of the Symbian EPOC32 operating system as well as a variety of applications including “Contacts,”

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.