

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

In re U.S. Patent No. 7,149,511 (challenged claims 1-10, 58-65)

Filed: Aug. 31, 2000

Issued: Dec. 12, 2006

Inventors: Edward F. Bachner, III, John Major, Xin Du

Assignee: Rosetta-Wireless Corporation

Title: Wireless Intelligent Personal Server

Mail Stop PATENT BOARD, PTAB
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DECLARATION OF DR. NATHANIEL POLISH

I, Dr. Nathaniel Polish, make this declaration at the request of Apple Inc. in connection with the petition for *inter partes* review submitted by Petitioners Apple Inc., Samsung Electronics Co. Ltd., and Samsung Electronics America, Inc. (“Petitioners”) for U.S. Patent No. 7,149,511 (“the 511 Patent”) based on the prior art patent U.S. 5,864,853 to Kimura, et al. (“Kimura”). All statements made herein of my own knowledge are true, and all statements made herein based on information and belief are believed to be true. Although I am being compensated

for my time in preparing this declaration, the opinions articulated herein are my own, and I have no stake in the outcome of this proceeding or any related litigation or administrative proceedings.

I. INTRODUCTION

1. In the preparation of this declaration, I have reviewed the relevant portions of the following documents:

AP-1001	U.S. Patent No. 7,149,511 (challenged patent)
AP-1003	Reexamination History of U.S. Patent No. 7,149,511
AP-1004	U.S. Patent No. 5,864,853 to Kimura et al.
AP-1005	IEEE 100, THE AUTHORITATIVE DICTIONARY OF IEEE STANDARDS TERMS, 7th Ed. (2000) (excerpts)
AP-1006	MICROSOFT COMPUTER DICTIONARY 5th Ed (2002) (excerpts)
AP-1007	Patent Owner Rosetta's Initial Infringement Contentions served in Co-Pending Litigation (excerpts)
AP-1008	U.S. 5,978,805 to Carson
AP-1009	U.S. 5,845,293 to Veghte et al.
AP-1010	U.S. 5,797,089 to Nguyen
AP-1011	U.S. 6,222,726 to Cha
AP-1012	Graham, THE FACTS ON FILE, DICTIONARY OF TELECOMMUNICATIONS (1983) (excerpts)

2. In forming my opinions expressed below, I have considered the documents listed above, any other documents or sources cited herein, as well as my knowledge and experience based upon my work in this area as described below.

3. The application that led to the issuance of the 511 Patent was filed on August 31, 2000. I am familiar with the technology at issue and am aware of the state of the art around August 2000. Based on the technology disclosed in the 511 Patent, a person of ordinary skill in the art (“POSITA”) would include someone who has a minimum of a bachelor’s degree in computer engineering or computer science, and either a master’s degree in computer engineering or computer science or two or more years of experience with computer networks and/or computer file systems, or the equivalent. My analyses and opinions below are given from the perspective of a POSITA in these technologies in this timeframe, unless stated otherwise.

II. QUALIFICATIONS AND COMPENSATION

4. I have a Ph.D. in Computer Science from Columbia University. I hold the following four degrees from Columbia University, spanning the years 1980 to 1993:

- Ph.D. in Computer Science, May 1993, Thesis: *Mixed Distance Measures for the Optimization of Concatenative Vocabularies in Speech Synthesis*;
- M.Phil. in Computer Science, December 1989;

- M.S. in Computer Science, December 1987;
- B.A. in Physics, Columbia College, May 1984.

5. For over twenty-five years, I have run a computer technology development firm that I co-founded, called Daedalus Technology Group. My primary business activity is the development of computer-related products. This activity involves understanding the business objectives of customers, designing products to suit their needs, and supervising the building, testing, and deployment of these products. I develop hardware and software as well as supervise others who do so.

6. Also, from time to time I started other companies in order to pursue particular product opportunities. Most of my business activity, however, is as a consulting product developer. From time to time I have also served as an expert witness on computer- and software-related cases. I am a named inventor on seven United States patents, and am a member of several professional societies, including the IEEE and ACM.

7. I have extensive experience in the technical areas of the 511 Patent. In the late 1980s I developed a remote hard disk product called a Simplicity Hard Drive. It interfaced to the PC printer port. I developed driver and other interface software for this product that made the external storage available to the PC operating system. I have extensive experience using many wireless technologies

for purposes ranging from RFID to large scale deployments of Wi-Fi.

8. I am being compensated at an hourly rate of \$600.00. My compensation is not dependent on the substance of my statements in this Declaration.

III. RELEVANT LEGAL STANDARDS

9. I have been asked to provide my opinions regarding whether the claims of the 511 Patent are anticipated or rendered obvious by the prior art.

10. I have been informed that in order for prior art to anticipate a claim under 35 U.S.C. § 102, the reference must disclose every element of the claim.

11. I have been informed that a claimed invention is not patentable under 35 U.S.C. § 103 if the differences between the invention and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a POSITA. I also understand that the obviousness analysis takes into account factual inquiries including the level of ordinary skill in the art, the scope and content of the prior art, the differences between the prior art and the claimed subject matter, and any secondary considerations which may suggest the claimed invention was not obvious.

12. I have been informed by legal counsel that the Supreme Court has recognized several rationales for combining references or modifying a reference to show obviousness of claimed subject matter. I understand some of these rationales

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