

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.

Petitioner

v.

PERSONALIZED MEDIA COMMUNICATIONS, LLC

Patent Owner

Case No.: IPR2016-00753 Patent No.: 7,752,649
Case No.: IPR2016-00754 Patent No.: 8,559,635
Case No.: IPR2016-00755 Patent No.: 8,191,091
For: Signal Processing Apparatus and Methods

**DECLARATION OF THOMAS J. SCOTT, JR., ESQ.
SUPPORTING THE PATENTABILITY OF
U.S. PATENT NOS. 7,752,649, 8,559,635, AND 8,191,091**

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

BACKGROUND

1. I, Thomas, J. Scott, Jr., being over 18 years of age, submit this declaration concerning “Secondary Considerations of Non-obviousness” relating to U.S. Patent No. 7,752,649 (“the ’749 patent”), U.S. Patent No. 8,559,635 (“the ’635 patent”), and U.S. Patent No. 8,191,091 (“the ’091 patent”) (collectively, “the Challenged Patents”).

2. I am the Senior Vice President and General Counsel of Patent Owner Personalized Media Communications, LLC (“PMC”) and have been in this position since April 2014. Prior to joining PMC, I had been serving as a counsel for the company and its predecessor entities, as well as its founder, Mr. John C. Harvey, for over 25 years.

3. As a registered patent attorney, I understand that “secondary considerations of non-obviousness” are factors established by the courts that can be used to attempt to demonstrate the non-obviousness of a patented invention, and include: (i) whether and to what extent the invention was commercially successful; and (ii) whether and to what extent there was industry praise of the claimed invention.

I. THE PMC PATENT FAMILY AND CLAIMED INVENTIONS

4. PMC owns a patent portfolio comprising 97 issued U.S. patents (including the Challenged Patents) and 7 pending U.S. patent applications.

5. All these PMC patents and applications belong in the same patent family. The first patent, U.S. Patent No. 4,694,490 issued from an application filed on November 3, 1981 (“the 1981 disclosure”). The second patent, U.S. Patent No. 4,704,725 issued from a continuation of the November 3, 1981 application. The rest of the patents (including the Challenged Patents) issued from applications that are all based on an application filed on September 11, 1987 (“the 1987 disclosure”) which was a continuation-in-part of the November 3, 1981 application.

6. Claiming priority ultimately to the same 1981 and 1987 disclosures, the Challenged Patents all share the same specification as most of the patents and applications in the PMC patent family.

7. The claimed inventions of the '649 Patent are directed to methods of processing signals in a receiver. In claim 39, for example, signals are processed in a television receiver that has multiple processors. An information transmission that includes digital television signals and a message stream is received at the television receiver. The message stream is detected and at least a portion of the message stream is input to a control processor. Control information in the inputted message stream portion is selected and communicated to at least one register memory. Stored function invoking data is compared to the contents of the register memory. The

digital television signals are input to the multiple processors on the basis of one or more matches. The digital television signals are processed simultaneously at two or more of the multiple processors, and television programming included in the digital television signals is displayed.

8. The claimed inventions of the '635 patent are directed to a programming transmission and receiving systems and methods with access control. The '635 patent describes using multiple decryption keys and multiple decryption algorithms for the decryption of encrypted video and audio. Not only are the video and audio encrypted, but so are the decryption keys. The decryption keys may be encrypted and transmitted with the programming transmission so that they must be decrypted before they can be used to decrypt the programming. Moreover, the instructions that are transmitted to cause the decryption may themselves be encrypted, thus requiring that they be decrypted before they are loaded and executed.

9. The claimed inventions of the '091 patent are directed to various decryption key management techniques implemented across a content distribution network. According to the claimed methods, when a receiver station receives an "information transmission" including "encrypted information," one or more "instruct-to-enable signals" may be detected to allow the receiver station to locate or obtain decryption-enabling information

such as decryption key(s), such that the encrypted information can be decrypted based on the enabling information in order to output protected programming. For example, independent claim 13 covers the detection and use of “an instruct-to-enable signal” in order to determine “a fashion in which said receiver station locates a first decryption key.” Independent claim 20 covers the detection and processing of two “instruct-to-enable signals” including “processor instructions” for obtaining two decryption keys that are both used for decryption of the encrypted information. Independent claim 26 covers detecting “an instruct-to-enable signal,” “automatically tuning said receiver station to a channel designated by said instruct-to-enable signal,” and “receiving enabling information from a remote source based on said step of tuning” that is used for decryption of encrypted content.

II. COMMERCIAL SUCCESS OF THE INVENTION

10. PMC’s numerous licenses of the patent family (that includes the Challenged Patents) reflect the commercial success of the patented technology and are thus relevant indicia of non-obviousness.

11. Because the inventions of the Challenged Patents provide, among other things, innovative techniques for decrypting and/or decoding digital content in a network environment, they have experienced exceptional

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