UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEALS BOARD

APPLE INC.
Petitioner

v.

PERSONALIZED MEDIA COMMUNICATIONS, LLC
Patent Owner

Case No.: IPR2016-00755
Patent No.: 8,191,091

**DECLARATION OF ANTHONY J. WECHSELBERGER
IN SUPPORT OF
PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE &
PETITIONER'S OPPOSITION TO PATENT OWNER'S CONTINGENT
MOTION TO AMEND**

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I, Anthony J. Wechselberger, do hereby declare as follows:

1. I previously prepared and executed a declaration (Ex. 1001) in IPR2016-00755. I submit this declaration in support of Petitioner Apple's opposition to Patent Owner PMC's Contingent Motion to Amend (Paper 21). This declaration also responds to arguments raised in PMC's Patent Owner Response (Paper 20) and Dr. Weaver's declaration (Ex. 2022).

2. In preparing this declaration, I reviewed and considered the following:

- The Board's Decisions Instituting *Inter Partes* Review (Paper 14)
- PMC's Patent Owner Response (Paper 20)
- Declaration of Dr. Weaver (Ex. 2022)
- Deposition Testimony of Dr. Weaver (Ex. 1054)
- Declaration of Dr. Dorney (Ex. 2130)
- Deposition Testimony of Dr. Dorney (Ex. 1052)
- Additional prior art and materials discussed in Sections II-IV

This material is in addition to the material I reviewed and considered while preparing my original declaration.

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I. OPINIONS IN SUPPORT OF PETITIONER'S REPLY

A. PMC and Dr. Weaver's Arguments Regarding Frezza

3. Dr. Weaver argues that Frezza does not describe "detecting" an initialization program in the BOOT ROM because "retrieving data from its known 'correct location' does not require any 'detecting.'" (Ex. 2022 ¶ 228.) Dr. Weaver goes on to explain that "A POSITA would understand 'detect' to mean 'to discover or identify the presence or existence of' something … which necessarily involves searching for and discovering the unknown." (Ex. 2022 ¶ 228.)

4. That is nonsense. Nothing in the '507 Application, PMC's proposed construction of "detecting," or what one of ordinary skill in the art would generally understand limits detection to those instances in which the thing being detected "was previously unknown."

5. Dr. Weaver also argues that the initialization program described by Frezza ***might not*** designate the described "booter channel" because "[i]t is entirely possible that the initialization program … simply invokes a hardwired function which in turn operates the frequency agile FM receiver 18 in Frezza's system." (Ex. 2022 ¶ 230.)

6. That is simply not how a person of ordinary skill in the art would understand the teachings of Frezza, which clearly describes that the "initialization

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