

Second Declaration of Tal Lavian, Ph.D.
IPR2016-01156, -01157, -01158, -01159

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FACEBOOK, INC.
Petitioner

v.

WINDY CITY INNOVATIONS, LLC
Patent Owner.

Case IPR2016-01156, Patent 8,458,245
Case IPR2016-01157, Patent 8,407,356
Case IPR2016-01158, Patent 8,473,552
Case IPR2016-01159, Patent 8,694,657

SECOND DECLARATION OF TAL LAVIAN, PH.D.

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I, Tal Lavian, Ph.D., declare as follows:

I. INTRODUCTION

1. I previously submitted declarations in the above-captioned IPR proceedings dated June 3, 2016 setting forth my qualifications and experience. (IPR2016-01156, Ex. 1002 (“Lavian 01156 Declaration”); IPR2016-01157, Ex. 1002 (“Lavian 01157 Declaration”); IPR2016-01158, Ex. 1002 (“Lavian 01158 Declaration”); IPR2016-01159, Ex. 1002 (“Lavian 01159 Declaration”).) In the interest of brevity, I refer to that information rather than repeat it here. (E.g., Lavian 01156 Decl. ¶¶ 3-10 & Ex. A.)

2. In this second declaration, I refer to the above-captioned IPR proceedings collectively as “the Windy City IPRs” and the challenged patents collectively as “the Windy City patents.”

3. I understand that trial was instituted in the Windy City IPRs as follows:

- IPR2016-01156 (’245 patent):
 - Claims 1–5, 7, and 9–14 as unpatentable under 35 U.S.C. § 103(a) in view of Roseman, Rissanen, Vetter, Pike, and Westaway
 - Claims 6, 8, 15, 17, and 18 as unpatentable under 35 U.S.C. § 103(a) in view of Roseman, Rissanen, Vetter, Pike, Westaway, and Lichty
- IPR2016-01157 (’356 patent):

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- Claims 1–5, 8, 9, 12, 14–16, 19–24, 27, 28, 31, 33–35, and 37 as unpatentable under 35 U.S.C. § 103(a) in view of Roseman, Rissanen, and Vetter
- Claims 6, 7, 17, 26, and 36 as unpatentable under 35 U.S.C. § 103(a) in view of Roseman, Rissanen, Vetter, and Pike
- Claims 18 and 25 as unpatentable under 35 U.S.C. § 103(a) in view of Roseman, Rissanen, Vetter, and Gosling
- IPR2016-01158 ('552 patent):
 - Claims 1–59 and 64, under 35 U.S.C. § 103(a), as obvious over Roseman, Rissanen, Vetter, Pike, and Lichty
- IPR2016-01159 ('657 patent):
 - Claims 189, 334, 342, 348, 465, 580, 584, and 592, under 35 U.S.C. § 103(a), as obvious over Roseman, Rissanen, Vetter, Pike, and Lichty.

(See IPR2016-01156, Paper 7 (“01156 Decision”) at 30-31; IPR2016-01157, Paper 7 (“01157 Decision”) at 27; IPR2016-01158, Paper 7 (“01158 Decision”) at 37; IPR2016-01159, Paper 7 (“01159 Decision”) at 36.)

4. I have been asked to prepare this second declaration to respond to certain points raised in the “Declaration of Dr. Jaime G. Carbonell, Ph.D.” in the Windy City IPRs. (IPR2016-01156, Ex. 2005 (“Carbonell 1156 Declaration”); IPR2016-01157, Ex. 2005 (“Carbonell 1157 Declaration”); IPR2016-01158, Ex. 2005 (“Carbonell 1158 Declaration”); IPR2016-01159, Ex. 2005 (“Carbonell 1159 Declaration”).) I have prepared this second declaration to address the points made across all four of Dr. Carbonell’s declarations, all of which present considerable

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overlap in content. Accordingly, not all of the points that I address in this second declaration will apply to all of the IPR petitions.

5. In preparing this second declaration, in addition to the materials that I previously reviewed, I have also reviewed:

- the “Decision” by the Patent Trial and Appeal Board (“Board”) instituting *inter partes* review in the Windy City IPRs;
- the “Patent Owner Response” in the Windy City IPRs;
- the transcript of Dr. Carbonell’s deposition taken in connection with the Windy City IPRs.
- any other materials I cite herein.

II. RESPONSE TO DR. CARBONELL’S OPINIONS RE PERSON OF ORDINARY SKILL IN THE ART

6. My previous declarations included a definition of a person of ordinary skill in the art. (Lavian 01156 Decl. ¶ 14; Lavian 01157 Decl. ¶ 13; Lavian 01158 Decl. ¶ 14; Lavian 01159 Decl. ¶ 13.) I understand that Dr. Carbonell has opined that one of ordinary skill in the art would have had a bachelor’s degree in computer science (or a related field) and at least one year of work experience in programming in computer communication methods. (E.g., Carbonell 01156 Decl. ¶ 18; Carbonell 01157 Decl. ¶ 18; Carbonell 01158 Decl. ¶ 18; Carbonell 01159 Decl. ¶ 18.) While I adhere to the definition that I provided in my original declarations, my opinions would not change if the person of ordinary skill in the art were to be found to have the level of skill proposed by Dr. Carbonell.

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