UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.

Petitioner,

v.

VOIP-PAL.COM, INC.,

Patent Owner

Case No. IPR2016-01198
U.S. Patent 9,179,005

**DECLARATION IN SUPPORT PATENT OWNER
RESPONSE TO INTER PARTES PETITION**

I, John Rutter, declare as follows:

1.   In 2005 I was employed by Smart 421, a company headquartered in Ipswich, England as a Lead Technical Architect. My role at Smart421 involved consultancy, design and development work. These engagements used skills based on my extensive experience in I.T. and computer software since 1979, during which time I have worked on military, financial and telecommunications systems.

2.   In June 2005 Smart 421 was retained by Digifonica to perform a high level technical review and appraisal of the Digifonica VoIP application software and development processes. My understanding of the terms of the engagement were that all information received by Smart 421 regarding Digifonica's system was to remain confidential.

3.   In June 2005 Smart 421 received numerous documents from Digifonica electronically on the Smart 421 FTP site. I have reviewed an email from Clay Perreault at Digifonica to me dated: "6/6/05, 5:37 PM" (**Ex. 2005**) which includes an email chain including an earlier email written by me to Clay Perreault. I have also reviewed an email from Clay Perreault to me dated: "6/15/05, 3:28 PM" (**Ex. 2006**) which includes an email chain including an earlier email written by me to Clay Perreault. These email chains are consistent with my memory of receiving electronic documents from Digifonica in June 2005. I do recall receiving this range of documents provided for this assessment.

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4.   Along with my colleague Stuart Gare, also of Smart421, I visited the offices of Digifonica in Vancouver, Canada in June 2005 and met with several people including Emil Bjorsell and Clay Perreault. During that visit the Digifonica team demonstrated the operation of their system. Digifonica demonstrated the ability of their system to place phone calls between two SIP phone devices, on the same or different nodes, and between a SIP phone device and the PSTN network.

5.   Stuart Gare and I prepared a 35-page report entitled "Technical Review of Digifonica VoIP System" dated July 5, 2005 (**Ex. 2003**). I have reviewed a copy of this report and it appears to be the report that Stuart Gare and I prepared in July 2005.

6.   I emailed the report to Digifonica on July 5, 2005. I have reviewed a copy of an email from me to Clay Perreault dated: "Tue, 5 Jul 2005 17:41:31 +0100" (**Ex. 2007**) and it appears to be the email that I sent to Digifonica with the attached report on July 5, 2005.

7.   The following are quotes from the Smart 421 report which accurately reflected our review of the Digifonica system at that time:

> "The core code appears to be very well written and has been tested in live operation and destructive testing by developers over a period of time." [p. 5]

> "Version 1 is the historical development path leading to the current live system, and Version 2 is a newer development path that has been

implemented in recent months to include more formal measures against software deliveries." [p. 9]

"This also provides the opportunity for further documentation and other quality control measures to be applied, without the overhead of enforcing this additional work on the phase 1 system that is currently in operation." [p. 15]

"This approach was partly down to issues of resources and costs, getting a very functional system operational with a strong understanding of the underlying technology and network integration issues of a VoIP solution." [p. 20]

"With a live system in operation, the need for strict release controls and quality assurance is increased to avoid potential service disruption. In recent weeks, Digifonica have filled further positions in delivery management and these issues are under control for the Version 2 development, as well as for any maintenance releases required against the live Version 1 software." [p. 21]

8.   I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: 31-Jan-17   By: S Cray