

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. IPR2016-01201
U.S. Patent 8,542,815

**DECLARATION IN SUPPORT OF PATENT OWNER'S
OPPOSITION TO MOTION FOR SANCTIONS**

I, Kevin N. Malek, declare as follows:

1. I am an attorney registered to practice before the United States Patent and Trademark Office. I submit this declaration based on my personal knowledge of the facts and matters presented herein.

2. I have reviewed the Exhibits 3003 - 3008¹ in this proceeding, which are indicated to be copies of letters sent by Dr. Sawyer (the “Sawyer Letters”). I have also reviewed the Declaration of Adam Knecht dated December 18, 2017 (“Knecht Declaration” at Exhibit 2057), which I understand is being filed as an Exhibit herewith.

3. For purposes of this declaration, all references to the May 1, 2017 letter of Dr. Sawyer will refer to the copy of the May 1, 2017 letter attached to the Knecht Declaration, which includes the enclosures omitted in Exhibit 3003.

4. Exhibit 2058 is a true and correct copy of a document that the May Sawyer letter cites, at page 2, as “O’Brien, R., Weir, K., & Young, C. (2014, May 1) as “Revealed: Federal judges guilty of owning stock in corporations they ruled on. Occupy.com,” which I downloaded on January 12, 2018 from the following Internet URL: <http://www.occupy.com/article/revealed-federal-judges-guilty-owning-stock-corporations-they-ruled#sthash.dUEdfXt6.iJ5Nrn4s.dpbs>

¹ All Exhibit numbers used in this Declaration are numbers designated to the various exhibits in this IPR proceeding.

5. Exhibit 2059 is a true and correct copy of a document that the May Sawyer letter cites, at page 2, as a letter dated August 7, 2013 from the United States Patent and Trademark Office of the General Counsel responding to a USPTO FOIA Request in a proceeding concerning U.S. Pat. No. 7,139,761, which I downloaded on January 12, 2018 from the following Internet URL:
<https://www.fbcoverup.com/docs/library/2013-08-07-Patent-Office-FOIA-Response-REDACTED-CONFLICTS-LOGS-re-Leader-v-Facebook-F-13-00218-Aug-7-2013.pdf>

6. Exhibit 2060 is a true and correct copy of a document that the May Sawyer letter cites, at page 2, as a “Questionnaire for Non-Judicial Nominees” that he states was answered by the “Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, Michelle K. Lee,” and which I downloaded on January 12, 2018 from the following Internet URL referenced by Dr. Sawyer:
<https://www.judiciary.senate.gov/imo/media/doc/Lee%20Questionnaire%20Final.pdf>

7. Exhibit 2061 is a true and correct copy of version of an article that the May Sawyer letter cites, at page 3, as “Davis, R. (2014, August 14) as “PTAB’s ‘Death Squad’ label not totally off-base, chief says,” which I downloaded as a cached link in Google’s search results on January 12, 2018 for the following Internet URL:

<https://www.law360.com/articles/567550/ptab-s-death-squad-label-not-totally-off-base-chief-says>

8. Exhibit 2062 is a true and correct copy of a document that the May Sawyer letter cites, at page 3, as “Graham, S. & Shuchman, L. (2015, Fall) as “The Brainy Bunch. Intellectual Property: An ALM Supplement, 6,” which I downloaded on January 12, 2018 from the following Internet URL: https://www.ropesgray.com/~media/Files/articles/2015/September/20150911_PT_AB_Reprint.ashx

9. Exhibit 2063 is a true and correct copy of a document that the May Sawyer letter cites, at page 4, referred to as USPTO PTAB statistics, which I downloaded on January 12, 2018 from the following Internet URL: https://www.uspto.gov/sites/default/files/documents/aia_statistics_january2017.pdf

10. Exhibit 2064 is a true and correct copy of an article that the May Sawyer letter cites, at page 4, as “Davis, R. (2017, April 24) Fed. Circ. Reverses PTAB nix of Synopsys Circuit patent. Law 360,” which I downloaded as a cached link in Google’s search results on January 12, 2018 for the following Internet URL: <https://www.law360.com/articles/916431/fed-circ-reverses-ptab-nix-of-synopsys-circuit-patent>

11. Exhibit 2065 is a true and correct copy of a document that the May Sawyer letter cites, at page 4, as “Scheller, B.M. & Ferraro, V.M. (2017, April 25).

Federal Circuit to PTAB: No short cuts allowed. The National Law Review,” which I downloaded on January 12, 2018 from the following Internet URL: <https://www.natlawreview.com/article/federal-circuit-to-ptab-no-short-cuts-allowed>

12. Exhibit 2066 is a true and correct copy of a document that the May Sawyer letter cites, at pages 4-5, as “Couturier, K. (2016, Dec. 20). How Europe is going after Apple. Google, and other U.S. tech giants. New York Times,” which I downloaded on January 12, 2018 from the following Internet URL: <https://www.nytimes.com/interactive/2015/04/13/technology/how-europe-is-going-after-us-tech-giants.html>

13. Exhibit 2067 is a true and correct copy of a document that the May Sawyer letter cites, at page 5, as “Manjoo, F. (2017, Jan. 4). Tech giants seem invincible. That worries lawmakers. New York Times,” which I downloaded on January 12, 2018 from the following Internet URL: <https://www.nytimes.com/2017/01/04/technology/techs-next-battle-the-frightful-five-vs-lawmakers.html>

14. Exhibit 2068 is a true and correct copy of a document that the May Sawyer letter cites, at page 5, as “Quinn, G. & Brachmann, S. (2017, Feb. 2, 2017). Michelle Lee’s views on patent quality out of touch with reality facing patent applicants”, which I downloaded on January 12, 2018 from the following Internet

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