UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

WEBPOWER, INC.

Petitioner

v.

WAG ACQUISITION, LLC

Patent Owner

Patent No. 8,122,141

Issue Date: February 21, 2012

Title: STREAMING MEDIA BUFFERING SYSTEM

_____

DECLARATION OF NATHANIEL POLISH, PH.D.

TABLE OF CONTENTS

I, Nathaniel Polish, hereby declare the following:

1.   I have been retained by Petitioner to provide my opinions concerning the validity of claims 1-28 of U.S. Patent No. 8,122,141 (the "'141 patent"). I am being compensated for my time in preparing this declaration, but my compensation is not tied to the outcome of this matter and my compensation is not based on the substance of the opinions rendered here.

I.   Introduction and Qualifications

2.   I have a Ph.D. in Computer Science from Columbia University. I hold the following four degrees from Columbia University, spanning the years 1980 to 1993:

- Ph.D. in Computer Science, May 1993, Thesis: Mixed Distance Measures for the Optimization of Concatenative Vocabularies in Speech Synthesis;

- M.Phil. in Computer Science, December 1989;

- M.S. in Computer Science, December 1987; and

- B.A. in Physics, Columbia College, May 1984.

3.   I am president of Daedalus Technology Group, Inc., a computer technology development firm that I co-founded over twenty-five years ago. My primary business activity is the development of computer-related products, including small handheld electronic devices and testers, video and messaging systems, as well

as large-scale distributed systems.

4.	I have experience in the technical areas of the '141 patent. For example, in the early 1980's, I developed an interactive system using computer controlled video disks and touch screens. From 1983-1987, I developed high-speed drivers for several graphical devices and evaluated their applicability for interactive uses. By 1994, I had developed a proof-of-concept system to compress images of checks to very small file size.

5.	I have further written an article regarding the technical areas of the '141 patent, entitled "The Burstware Family of Protocols."

6.	I am a named inventor on seven United States patents, including U.S Patent Number 5,963,202 issued on October 5, 1999 and entitled, "System and Method for Distributing and Managing Digital Video Information in a Video Distribution Network."

7.	I am further a member of several professional societies, including the Institute of Electrical and Electronics Engineers (IEEE), and the Association for Computing Machinery (ACM).

8.	I have also performed services in patent disputes as an independent technical expert and consultant and as an expert witness on computer, video, and software-related cases.

9.	A copy of my curriculum vitae is attached as Exhibit 1011.

II. Understanding of the Governing Law

A. Types of Claims – Independent and Dependent

10.   I understand that there are two types of U.S. patent claims: 1) independent claims and 2) dependent claims. I understand that independent claims only include the aspects stated in the independent claim. I further understand that dependent claims include the aspects stated in that dependent claim, plus all the aspects stated in the other claim(s) from which that dependent claim depends.

B. Invalidity by Anticipation or Obviousness

11.   I understand that a claim is invalid if it is anticipated or obvious. I understand that anticipation of a claim requires that every element of a claim is disclosed expressly or inherently in a single prior art reference, arranged as in the claim. With regard to inherency, I understand that anticipation by inherency requires that one of ordinary skill in the relevant art would have recognized that the missing descriptive matter is necessarily present in the subject matter described in the reference.

12.   I further understand that obviousness of a claim requires that the claim be obvious from the perspective of a person of ordinary skill in the relevant art, at the time the invention was made. In analyzing obviousness, I understand that it is important to understand the scope of the claims, the level of skill in the relevant art, the scope and content of the prior art, the differences between the prior art and the claims, and any secondary considerations.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

WHAT WILL YOU BUILD? | sales@docketalarm.com | 1-866-77-FASTCASE

fastcase
Smarter legal research.