

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZTE (USA) Inc.,
Samsung Electronics Co., Ltd., and,
Samsung Electronics America, Inc.,

Petitioners

v.

Evolved Wireless LLC,

Patent Owner

DECLARATION OF YOUNGBUM KIM

1. My name is Youngbum Kim. I am a principal engineer at Samsung Electronics Co., Ltd, and have been employed by Samsung since 2002.
2. I have served as one of Samsung's delegates to the Third Generation Partnership Project ("3GPP") for 14 years, since 2002. Specifically, I served in a subgroup of 3GPP's Technical Specification Group - Radio Access Network ("TSG-RAN"). This subgroup is known as Working Group 1 ("WG1").
3. Since 2002, I attended dozens of WG1's meetings and subscribed to WG1's reflector list (3GPP_TSG_RAN_WG1@list.etsi.org), to which I have sent e-mails and through which I have received e-mails. In general, before each WG1 meeting that I attended, I received e-mail messages from other companies' delegates through WG1's reflector list, providing technical documents, called contributions, for discussion at the meeting. Some of those e-mails provided the technical documents as e-mail attachments, while other e-mails provided hyperlinks to the locations where the technical documents were stored on 3GPP's publicly available website <<http://www.3gpp.org>>. These technical documents were always uploaded to, and freely available for download at, 3GPP's publicly available website, regardless of whether the documents were emailed through WG1's reflector-list as attachments or hyperlinks.

4. As a delegate for WG1, I sent e-mail messages submitting technical documents on Samsung's behalf to WG1's reflector list many times before meetings for which the documents were submitted for discussion.
5. In my 14 years as a delegate for WG1, I have also regularly accessed the location on 3GPP's website storing technical documents submitted to WG1. That location is freely available to the public at the uniform resource identifier <http://www.3gpp.org/ftp/tsg_ran/WG1_RL1/>, which I refer to in this declaration as "WG1's public directory." Since 2002, I have accessed WG1's public directory in several ways. For example, I accessed to 3GPP's homepage <http://www.3gpp.org> and from which I navigated to WG1's public directory. I could also access the public directory directly by entering its uniform resource identifier into my web browser. Regardless of which method I used to access WG1's public directory, I have never encountered a password requirement or any other restriction that would prevent me or a member of the general public from accessing WG1's public directory or any intermediate location. Based on my 14 years of experience as a WG1 delegate, any member of the public could freely access WG1's public directory, browse it, and download technical documents stored to it without restriction.
6. In preparing this declaration, I accessed <www.3gpp.org/ftp/tsg_ran/WG1_RL1/TSGR1_44/Docs/>, the location on

3GPP's web site at which R1-060700.zip is accessible to any member of the public without restriction. Attached as Exhibit 1 is a true and correct copy of a printout from that website. Exhibit 1 lists several ZIP files, including R1-060700.zip, as shown in the following excerpt.

2/20/2006	9:05 AM	62317	<u>R1-060698.zip</u>
2/20/2006	9:05 AM	51672	<u>R1-060699.zip</u>
2/20/2006	9:05 AM	98336	<u>R1-060700.zip</u>
2/20/2006	9:05 AM	289761	<u>R1-060701.zip</u>
2/20/2006	9:05 AM	11529	<u>R1-060702.zip</u>

(Ex. 1 at 7.) The text "R1-060700.zip" provides a link to a ZIP file titled R1-060700.zip. I downloaded and opened this ZIP file and found that it contains a single Microsoft Word file, a true and correct copy of which is attached as Exhibit 2.

7. In the excerpt from the 3GPP website printout shown above, there is also a date stamp (2/20/2006) to the left of the link to R1-060700.zip. Based on my 14 years of experience as a delegate for WG1, I understand this date stamp to mean that R1-060700.zip was uploaded to 3GPP's publicly available website on February 20, 2006, and that any member of the public could have downloaded the ZIP file, extracted the Word document it enclosed, and viewed the contents of that Word document without restriction on February 20, 2006 and thereafter. I have no reason to believe this date stamp is inaccurate.

8. I attended WG1 Meeting #45, which was held on May 8-12, 2006 in Shanghai, China. Attached as Exhibit 3 is a true and correct copy of an e-mail message dated May 2, 2006, shortly before Meeting #45. I obtained this e-mail message through WG1's reflector list which is also available at 3GPP's public e-mail website <<https://list.etsi.org/>>, and with which I have become familiar as a WG1 delegate. Like all other members of WG1, I received this e-mail message from Mr. Hiramatsu through WG1's reflector list along with two ZIP file attachments, including a ZIP file titled "R1-061114.zip." That ZIP file contained a single Microsoft Word document, a true and correct copy of which is attached as Exhibit 4. Neither the ZIP file nor the Word document enclosed in the ZIP file had a password or anything else that would have restricted my ability to access its contents.

9. In preparing this declaration, I accessed <http://www.3gpp.org/ftp/tsg_ran/WG1_RL1/TSGR1_45/Docs/>, the location on 3GPP's website in which R1-061114.zip is accessible to any member of the public without restriction. Attached as Exhibit 5 is a true and correct copy of a printout from that website. Exhibit 5 lists several ZIP files, including R1-061114.zip, as shown in the following excerpt.

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