

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner

v.

PERSONALIZED MEDIA COMMUNICATIONS, LLC
Patent Owner

Case No.: IPR2016-01520
Patent No.: 8,559,635

**DECLARATION OF ANTHONY J. WECHSELBERGER
IN SUPPORT OF
PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE &
PETITIONER'S OPPOSITION TO PATENT OWNER'S CONTINGENT
MOTION TO AMEND**

TABLE OF CONTENTS

I.	Opinions In Support of Petitioner’s Reply.....	2
A.	The Challenged Claims Are Not Supported by the Written Description of the ’490 Patent.....	2
B.	The Challenged Claims Are Unpatentable.....	6
II.	The Substitute Claims Are Not Supported By The ’413 Application	9
A.	Substitute Claim 41 Is Not Supported by the Specification.	9
B.	Substitute Claims 42 and 43 Are Not Supported by the Specification.....	10
C.	Substitute Claims 44-48 Are Not Supported by the Specification.....	17
III.	Substitute Claim 41-48 Are Unpatentable Over The Prior Art.....	21
A.	Substitute Claim 41 Is Obvious Over Campbell.....	21
B.	Substitute Claims 42 and 43 Are Obvious Over Seth-Smith.....	24
C.	Substitute Claims 44-48 Are Obvious Over Chandra.....	33
IV.	Conclusion	39

I, Anthony J. Wechselberger, do hereby declare as follows:

1. I previously prepared and executed a declaration (Ex. 1001) in IPR2016-01520. I submit this declaration in support of Petitioner Apple's opposition to Patent Owner PMC's Contingent Motion to Amend. This declaration also responds to arguments raised in PMC's Patent Owner Response (Paper 17) and Dr. Weaver's declaration (Ex. 2023).
2. In preparing this declaration, I reviewed and considered the following:
 - The Decision Instituting *Inter Partes* Review (Paper 7)
 - PMC's Patent Owner Response (Paper 17)
 - Declaration of Dr. Weaver (Ex. 2023)
 - Deposition Testimony of Dr. Weaver (Ex. 1051)
 - Declaration of Dr. Dorney (Ex. 2223)
 - Prior art and state of the art references cited herein
 - Additional materials cited in Sections I-III

This material is in addition to the material I reviewed and considered while preparing my original declaration.

I. OPINIONS IN SUPPORT OF PETITIONER’S REPLY

A. The Challenged Claims Are Not Supported by the Written Description of the ’490 Patent

1. Claims 18, 20, 32, and 33 Are Not Supported By the Written Description of the ’490 Patent

(1) Telephone Link

3. I understand that PMC relies on the ’490 Patent’s description that a signal processor could “telephone a remote site to get an additional signal or signals necessary for the proper decryption and/or transfer of incoming programing transmissions” in support of this limitation. In contrast to Chandra, the ’490 Patent does not describe that encrypted information is received over a telephone line. Not everything sent over a telephone line is encrypted. The ’490 Patent does state that “the signal or signals needed to operate decryptor/interruptor, 115, correctly may be on a separate channel of programing that is, itself, encrypted in transmission.” However, that embodiment describes receiving information via a cable television transmission, not over a telephone line. (Ex. 1004 at 15:8-19.)
4. The telephone line disclosure that PMC relies on also fails to support other limitations from claims 18, 20, 32, and 33. For example, claims 32 and 33 respectively require that a “control signal” or “downloadable code” is received in the “encrypted digital information transmission” and these signals control the decryption of a *second* signal received in that

transmission. The 1981 specification does not describe that anything encrypted is received over the telephone line, let alone that two signals, one of which controls the decryption of the other, are received. Similarly, Dr. Weaver argues the the signal received over the telephone line discloses the “code” of claim 18.” (Ex. 2023 ¶209.) However, the information that Dr. Weaver contends is decrypted on the basis of that code, which must have been received in the encrypted digital information transmission, is never described as being received via a telephone line. (Ex. 1004 at 13:13-32.)

(2) Wall Street Week (Fig. 6C) and Julia Child (Fig. 6D) Examples

5. Dr. Weaver’s argument in support of his contention that, in the “primary” embodiment of the Julia Child example, the encrypted digital recipe would have been received over a “digital information channel” is technically unsound. Dr. Weaver states that “[c]able converter boxes did not perform NTSC demodulation; they converted the variable input carrier to a fixed output carrier” and “cable converter box 222 simply converted the carrier frequency of the transmission received by the box to ... a standard frequency.” (Ex. 2023 ¶183.) He argues, on the basis of that premise, that “if the output transmission from cable converter 222 was an all-digital information transmission, it follows that the input transmission tuned by

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.