

Amazon.com, Inc., et al. vs. Personalized Media

**Videotaped Deposition of
ANTHONY WECHSELBERGER**

June 02, 2014

June 03, 2014

August 25, 2014

Media Included		
Exhibits	Transcript	Word Index

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PMC Exhibit 2007

<p>Page 1</p> <p>1 UNITED STATES PATENT AND TRADEMARK OFFICE</p> <p>2</p> <p>3</p> <p>4</p> <p>5 AMAZON.COM, INC., and AMAZON WEB SERVICES, LLC,</p> <p>6 Petitioners</p> <p>7 vs.</p> <p>8 PERSONALIZED MEDIA COMMUNICATIONS, LLC.,</p> <p>9 Patent Owner</p> <p>10</p> <p>11 IPR2014-01532</p> <p>12 United States Patent No. 7,801.304</p> <p>13</p> <p>14</p> <p>15 DEPOSITION OF ANTHONY J. WECHSELBERGER</p> <p>16 IRVINE, CALIFORNIA</p> <p>17 Tuesday, JUNE 9, 2015</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Reported By:</p> <p>23 Kyung Lee-Green</p> <p>24 CSR No. 112655, CLR</p> <p>25 Job No.: 10016808</p>	<p>Page 2</p> <p>1 UNITED STATES PATENT AND TRADEMARK OFFICE</p> <p>2</p> <p>3</p> <p>4</p> <p>5 AMAZON.COM, INC., and AMAZON WEB SERVICES, LLC,</p> <p>6 Petitioners</p> <p>7 vs.</p> <p>8 PERSONALIZED MEDIA COMMUNICATIONS, LLC.,</p> <p>9 Patent Owner</p> <p>10</p> <p>11 IPR2014-01532</p> <p>12 United States Patent No. 7,801.304</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 Deposition of ANTHONY J. WECHSELBERGER, taken on</p> <p>19 behalf of Patent Owner Personalized Media</p> <p>20 Communications, LLC at 2040 Main Street, 14th Floor,</p> <p>21 Irvine, California, commencing at 9:14 a.m., and ending</p> <p>22 at 6:47 p.m., on Tuesday, June 9, 2015, before</p> <p>23 KYUNG LEE-GREEN, Certified Shorthand Reporter No. 12655</p> <p>24 for the State of California.</p> <p>25</p>
<p>Page 3</p> <p>1 APPEARANCES:</p> <p>2 FOR THE PETITIONERS:</p> <p>3 KNOBBE MARTENS</p> <p>4 BY: COLIN HEIDEMAN, ESQ.</p> <p>5 925 Fourth Avenue</p> <p>6 Suite 2500</p> <p>7 Seattle, Washington 98104</p> <p>8 (206)405-2016</p> <p>9 colin.heideman@knobbe.com</p> <p>10 -and-</p> <p>11 BY: KENT N. SHUM, ESQ.</p> <p>12 2040 Main Street</p> <p>13 14th Floor</p> <p>14 Irvine, California 92614</p> <p>15 (949)760-0404</p> <p>16 kent.shum@knobbe.com</p> <p>17</p> <p>18 For the Patent Owner:</p> <p>19 GOODWIN PROCTER</p> <p>20 BY: STEPHEN T. SCHREINER, ESQ.</p> <p>21 901 New York Avenue, NW</p> <p>22 Washington, D.C. 20001</p> <p>23 (202)346-4000</p> <p>24 sschreiner@goodwinprocter.com</p> <p>25</p>	<p>Page 4</p> <p>1 INDEX</p> <p>2 WITNESS: Anthony J. Wechselberger PAGE</p> <p>3 Examination by Mr. Schreiner 6, 235</p> <p>4 Examination by Mr. Heideman 234</p> <p>5</p> <p>6 EXHIBITS</p> <p>7 MARKED PAGE</p> <p>8 Exhibit 2011 Excerpt from US 7,801,304 46</p> <p>9 Exhibit 2012 UK Patent Application GB 2 132 860 47</p> <p>10 Exhibit 2013 Expert Declaration of 47</p> <p>Anthony J. Wechselberger</p> <p>11</p> <p>12 Exhibit 2013A Encryption: A Cable TV Primer, 47</p> <p>Bates-stamped PMC3654014 through</p> <p>PMC3654019</p> <p>13</p> <p>14 Exhibit 2014 Excerpt from the sworn declaration 47</p> <p>of Anthony J. Wechselberger's</p> <p>15 Exhibit 2014A Preliminary Patent Owner Response 115</p> <p>to Petition for Inter Partes</p> <p>Review</p> <p>16</p> <p>17 Exhibit 2014B Wikipedia printout 136</p> <p>18 Exhibit 2015 Claims at issue 136</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p>1 PRIOR EXHIBITS REFERENCED</p> <p>2 EXHIBIT PAGE</p> <p>3 1001 8</p> <p>4 1004 9</p> <p>5 1006 45</p> <p>6 1007 135</p> <p>7 1008 135</p> <p>8 1009 136</p> <p>9</p> <p>10 QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER</p> <p>11 PAGE LINE</p> <p>12 27 10</p> <p>13</p> <p>14 INFORMATION REQUESTED</p> <p>15 (None.)</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 5</p> <p>1 IRVINE, CALIFORNIA;</p> <p>2 TUESDAY, JUNE 9, 2015; 9:14 A.M.</p> <p>3</p> <p>4 ANTHONY J. WECHSELBERGER,</p> <p>5 having been administered an oath to tell the truth, the</p> <p>6 whole truth, and nothing but the truth, testified as</p> <p>7 follows:</p> <p>8</p> <p>9 EXAMINATION</p> <p>10 BY MR. SCHREINER:</p> <p>11 Q Good morning.</p> <p>12 A Good morning.</p> <p>13 Q How are you today, Mr. Wechselberger?</p> <p>14 A Fine.</p> <p>15 Q Please state your full name for the record.</p> <p>16 A Anthony J. Wechselberger.</p> <p>17 Q And do you go by Tony; is that correct?</p> <p>18 A Yes.</p> <p>19 Q Okay.</p> <p>20 And what is your current home address?</p> <p>21 A 3447 Bernardo Lane -- B-e-r-n-a-r-d-o;</p> <p>22 Escondido, E-s-c-o-n-d-i-d-o -- California 92029.</p> <p>23 Q Okay. And how long have you lived at that</p> <p>24 residence?</p> <p>25 A Since 1988.</p> <p>Page 6</p>
<p>Page 7</p> <p>1 Q Pretty good stretch?</p> <p>2 A Yes.</p> <p>3 Q Okay.</p> <p>4 And where did you reside prior to that?</p> <p>5 A It was also Escondido.</p> <p>6 Q Okay. That's a different address in</p> <p>7 Escondido?</p> <p>8 A Yeah.</p> <p>9 Q And I'm going to be asking you a series of</p> <p>10 questions today. I ask you that you give me full and</p> <p>11 complete answers. Be responsive to my questions. If I</p> <p>12 give you any questions that you don't understand, just</p> <p>13 let me know and I'll try to rephrase them. www.aplusCR.com</p> <p>14 My goal here isn't to trick you, but it's to</p> <p>15 give you questions that you can understand and elicit</p> <p>16 answers based on your expert background. Does that make</p> <p>17 sense?</p> <p>18 A Yes.</p> <p>19 Q Are you under the influence of any sickness or</p> <p>20 illness that would impair your ability to testify</p> <p>21 truthfully and completely today?</p> <p>22 A No.</p> <p>23 Q Are you under the influence of any medications</p> <p>24 or substances that would impair your ability to testify</p> <p>25 truthfully and completely today?</p>	<p>Page 8</p> <p>1 A No.</p> <p>2 Q How did you prepare for today's deposition?</p> <p>3 A I reviewed the prior art -- I -- first, I</p> <p>4 re -- I reviewed my declaration. I reviewed the prior</p> <p>5 art references that I used in that declaration. I</p> <p>6 reviewed the '304 patent, the '940 patent. I read the</p> <p>7 petition on defendant's position -- petition. I read</p> <p>8 the preliminary response from PMC and about -- and --</p> <p>9 and -- and, at one point, I also read the -- your re --</p> <p>10 PMC's request for a rehearing.</p> <p>11 And then also had, I believe, three different</p> <p>12 dial-in telephone conferences with Amazon's attorneys.</p> <p>13 And then finally I was here for a day of depo prep</p> <p>14 yesterday.</p> <p>15 Q And when you refer to the -- when you refer to</p> <p>16 the -- you said the '940 patent. I think you might have</p> <p>17 meant the '490 patent?</p> <p>18 A I'm sorry. '490 patent, yes, the original</p> <p>19 November 1981 Harvey patent.</p> <p>20 Q That would be -- just for the record, that</p> <p>21 would be PMC's patent 4,694,490, which is Amazon</p> <p>22 Exhibit 1001. We'll enter that into the record in a</p> <p>23 moment.</p> <p>24 And when you refer to the '304 patent, is that</p> <p>25 referring to the subject of this IPR, which is PMC's</p>

<p>Page 9</p> <p>1 patent 7,801,304?</p> <p>2 (Reporter clarification.)</p> <p>3 BY MR. SCHREINER:</p> <p>4 Q Oh, I'm sorry.</p> <p>5 PMC's patent 7,801,304, is that the</p> <p>6 '304 patent that you reviewed?</p> <p>7 A Correct.</p> <p>8 Q And that's Amazon's Exhibit 1004, which we'll</p> <p>9 enter shortly.</p> <p>10 During your dial-in calls, who -- who did you</p> <p>11 speak with?</p> <p>12 A Two gentlemen to my left.</p> <p>13 Q And those gentlemen are who?</p> <p>14 A Colin --</p> <p>15 MR. HEIDEMAN: Heideman.</p> <p>16 THE WITNESS: -- Heideman. Mr. Colin Heideman</p> <p>17 and Mr. Kent Shum.</p> <p>18 BY MR. SCHREINER:</p> <p>19 Q And Mr. Heideman and Shum were -- they were --</p> <p>20 both of them were all on three calls you mentioned?</p> <p>21 A Mr. Heideman was not on all three. He may</p> <p>22 have made appearances on one or two partially. But</p> <p>23 Mr. Shum was on all of them.</p> <p>24 Q Okay. What was the total length of the</p> <p>25 three calls that you had as part of your deposition</p>	<p>Page 10</p> <p>1 preparation approximately?</p> <p>2 A Approximately, I would say, on the average,</p> <p>3 they each ran about an hour and a half.</p> <p>4 Q So something on the order of four and a half,</p> <p>5 five hours of preparation via phone calls?</p> <p>6 A Yes.</p> <p>7 Q Okay.</p> <p>8 And when you mentioned the documents that you</p> <p>9 had reviewed, you -- you mention the -- your</p> <p>10 declaration, the prior art references, the '304 patent,</p> <p>11 the '490 patent, the petition, the preliminary response,</p> <p>12 and PMC's request for rehearing.</p> <p>13 Approximately how long did you spend reviewing</p> <p>14 those documents as part of your preparation for this</p> <p>15 deposition?</p> <p>16 A I would guess 10, 12 hours.</p> <p>17 Q Okay.</p> <p>18 And you did that where? At your -- at your</p> <p>19 home? At your office? At the offices here at</p> <p>20 Knobbe Marten?</p> <p>21 A At my home office.</p> <p>22 Q Okay.</p> <p>23 And you indicated that you did one day of</p> <p>24 deposition preparation at your counsel's office</p> <p>25 yesterday; is that correct?</p>
<p>Page 11</p> <p>1 A Yes.</p> <p>2 Q And how much time did you spend?</p> <p>3 A Yesterday?</p> <p>4 Q Yes, sir.</p> <p>5 A We started at 9:00, broke for lunch for</p> <p>6 perhaps an hour, and then quit about -- I believe about</p> <p>7 5:00 p.m.</p> <p>8 Q Okay. So on the order of seven hours?</p> <p>9 A Seems right.</p> <p>10 Q And who did you meet with during that</p> <p>11 deposition preparation?</p> <p>12 A Colin and Kent to my left.</p> <p>13 Q Mr. Heideman and Mr. Shum? www.apptusCR.com</p> <p>14 A Mr. Shum, yeah.</p> <p>15 Q Okay.</p> <p>16 Did you speak -- you're aware that there are</p> <p>17 several other IPR proceedings that are at issue</p> <p>18 involving Amazon and PMC?</p> <p>19 A I am aware, yes.</p> <p>20 Q And you're aware that there's other experts</p> <p>21 who've been engaged by Amazon to assist them in those</p> <p>22 IPRs; correct?</p> <p>23 A That's my understanding, yes.</p> <p>24 Q Okay.</p> <p>25 As part of your deposition preparation, did</p>	<p>Page 12</p> <p>1 you have any contact with any of the other experts?</p> <p>2 A No.</p> <p>3 Q Prior to your deposition -- strike that.</p> <p>4 As part of your involvement in Amazon's</p> <p>5 petition regarding the '304 patent, including the</p> <p>6 preparation of your declaration, did you have contact</p> <p>7 with Amazon's other experts in the other IPRs?</p> <p>8 A No.</p> <p>9 Q Okay. So you never spoke with</p> <p>10 Charles Neuhauser?</p> <p>11 A Correct. I have not spoken to him.</p> <p>12 Q Have you ever spoken to him?</p> <p>13 A I think not.</p> <p>14 Q Michael O'Slinn -- excuse me -- Michael Slinn?</p> <p>15 A Don't know the name.</p> <p>16 Q So you didn't speak to him?</p> <p>17 A That's correct.</p> <p>18 Q Did you review the -- strike that.</p> <p>19 Mr. O'Slinn -- strike that.</p> <p>20 Giving this man some Irish background that</p> <p>21 maybe he doesn't have.</p> <p>22 Are you aware that Michael -- strike that.</p> <p>23 Are you aware that Amazon submitted a petition</p> <p>24 for IPR on another patent that involves decryption,</p> <p>25 which is 7,805,749 or the '749 patent?</p>

<p style="text-align: right;">Page 13</p> <p>1 A My understanding is that they've submitted 2 petitions for all of the asserted patents. And earlier 3 in my work on this project, I had the opportunity to at 4 least be told and read what the set of asserted claims 5 were way -- a long time ago. 6 Now, if -- if some of those claims have been 7 dropped, I don't know about it because I was -- when it 8 came back -- time to actually prepare for the petitions, 9 I was asked to focus only on the '304. So it seemed to 10 me one of those might have had something to do with 11 encryption or decryption, but I don't actually recall. 12 Q Were you asked to look at the '749 patent? 13 A As I said, I was given a list of the complete 14 set of asserted claims as those would have existed 15 several months ago. Now, as we all know, they all share 16 the same specification. So, you know, the name of 17 the -- the issues are the claims, not necessarily the 18 specific patent number itself. 19 Q So you -- so you looked at the claims of -- 20 strike that. 21 You looked at the claims for all the patents 22 that were asserted in the district court litigation 23 between Amazon and PMC; is that correct? 24 MR. HEIDEMAN: Objection. Mischaracterizes 25 the testimony.</p>	<p style="text-align: right;">Page 14</p> <p>1 BY MR. SCHREINER: 2 Q Please answer. 3 A Well, I'm trying to remember. 4 Q Yeah. 5 A Yeah. It was before the IPRs had -- had 6 gotten started so I guess it was just the district court 7 action, so -- and I was given what I -- what I believe 8 is the complete set of asserted claims. 9 Q How was it decided that you would assist with 10 the '304 patent as opposed to the other patents at issue 11 in that suit? 12 MR. HEIDEMAN: Objection. Lacks foundation. 13 Calls for speculation. 14 BY MR. SCHREINER: 15 Q Let's -- let's rephrase that. 16 Actually, no. Please answer the question. 17 How was it decided that you would assist with 18 the '304 patent as opposed to the other patents at issue 19 in this -- that suit? 20 MR. HEIDEMAN: Same objections. 21 THE WITNESS: I don't know. 22 BY MR. SCHREINER: 23 Q Did you decide yourself that you were going to 24 work on the '304 patent and -- and you went to counsel 25 and said, this is the one I'm going to work on?</p>
<p style="text-align: right;">Page 15</p> <p>1 A Well, in that case, I would definitely have 2 known. I said I don't know how I ended up working on 3 '304. I was just asked. 4 Q Okay. So the answer is you worked on the 5 '304 patent because you were asked to work on the 6 '304 patent; is that correct? 7 A Yes. 8 Q Were you asked to work on any of the other 9 patents that were at issue in the litigation? 10 A Not with respect to the -- any IPR activity. 11 Q Okay. Have you ever -- strike that. 12 You're here as an expert in connection with 13 this IPR proceeding on the '304 patent, is that correct? 14 A Yes. 15 Q Have you ever been an expert in an IPR 16 proceeding? 17 A Yes. 18 Q And describe for me the circumstances of that. 19 A Can you explain a little better what you mean 20 by "circumstances"? 21 Q You said you were an expert in a prior IPR 22 proceeding; correct? 23 A Yes. 24 Q Okay. What did you do in the prior IPR 25 proceeding?</p>	<p style="text-align: right;">Page 16</p> <p>1 A I was contacted by the defendant attorneys who 2 were going to write the petition. They had already made 3 up their mind that -- you know, that -- that this was 4 going to happen. They were looking for somebody with a 5 technology background that was appropriate. 6 I fit that background. And I was asked then 7 to become familiar with the patents-in-suit. Patent or 8 patents, I don't actually remember now. And the prior 9 art associated with it. And working with the law firm, 10 I prepared a declaration, which has been submitted. 11 My understanding is that PTAB decision is due 12 within the next month. Page 15, 16 Page 15, 16 some months ago. And 13 since that flurry of activity, which probably took place 14 over a period of four to six weeks, I have not been 15 involved with that case. 16 Q Okay. And who are the parties in that case? 17 A I actually don't remember. 18 Q Who -- who is -- are you working on behalf of 19 the patent holder, on behalf of the petitioner 20 challenging the patent? 21 A Petitioner. 22 Q Okay. Who's the petitioner? 23 A I don't remember who the parties are. Sorry. 24 Q Okay. You don't remember who the patent 25 holder is or who the petitioner is?</p>

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