

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FRIENDFINDER NETWORKS INC., STREAMRAY INC., WMM, LLC,  
WMM HOLDINGS, LLC, AND MULTI MEDIA, LLC

Petitioners

v.

WAG ACQUISITION, LLC

Patent Owner

Patent No. 8,122,141

Issue Date: February 21, 2012

Title: STREAMING MEDIA BUFFERING SYSTEM

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**DECLARATION OF NATHANIEL POLISH, PH.D.**

## TABLE OF CONTENTS

I. Introduction and Qualifications .....	1
II. Understanding of the Governing Law .....	3
A. Types of Claims – Independent and Dependent .....	3
B. Invalidity by Anticipation or Obviousness.....	3
C. Secondary or Objective Evidence of Nonobviousness .....	5
D. Relevant Time Period for the Anticipation and Obviousness Analyses.....	6
E. Basis For My Opinion .....	6
F. Level of Ordinary Skill in the Art in the Relevant Timeframe .....	6
III. State of the Art at the Claimed Priority Date.....	7
IV. Discussion of the '011 Patent.....	11
A. Overview .....	11
B. Claim Terms of the '141 Patent .....	12
VI. The Prior Art References.....	12
VII. Conclusion.....	23

I, Nathaniel Polish, hereby declare the following:

1. I have been retained by Petitioners 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.

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