UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HTC CORPORATION, HTC AMERICA, Inc.
ZTE CORPORATION, and ZTE (USA), Inc., Petitioners,

v.

CELLULAR COMMUNICATIONS EQUIPMENT LLC,
Patent Owner

Case IPR2017-01508
Patent Number: 8,385,966

DECLARATION OF DR. BIJAN JABBARI IN SUPPORT OF PATENT OWNER'S RESPONSE

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I, Dr. Bijan Jabbari, declare as follows:

1. My name is Dr. Bijan Jabbari, and I have been retained as an expert witness for *Inter Partes Review* of IPR2017-01508.

2. This report contains statements of my opinions formed to date and the bases and reasons for those opinions. I may offer additional opinions based on further review of materials in this case, including opinions and/or testimony of other expert witnesses.

3. I understand that this Declaration is being submitted along with Patent Owner's Response.

4. Capitalized terms found in this Declaration that are not defined herein have the meaning given them in Patent Owner's Response.

5. In preparing this Declaration, I have reviewed the Petition, the declaration that accompanies the Petition (hereinafter referred to as "Petitioner's Declaration"), the exhibits that have been submitted with the aforementioned filings, Petitioner's Expert's deposition transcript, and Patent Owner's Preliminary Response.

6. This Declaration is a statement of my opinions on issues related to the validity of the Challenged Claims of the '966 Patent.

7. I am of the opinion that the Challenged Claims of the '966 Patent are patentable for the reasons discussed below.

I. QUALIFICATIONS

8. My full curriculum vitae is attached as Appendix A to this declaration and summarizes my career history, education, publications, and other relevant qualifications.

II. PERSON OF ORDINARY SKILL

9. For the purposes of this Declaration, I agree with the qualifications of a POSA as set for the in the Petition.

III. OBVIOUSNESS

10. Although I am not an attorney and do not intend to testify about legal issues, my opinions are also informed by my understanding of the relevant law. I understand that the Patent Office will find a patent claim invalid in an *inter partes review* if it concludes that it is more likely than not that the claim is invalid.

11. I have also been advised of the legal standards that apply to invalidity for obviousness under 35 U.S.C. § 103. I understand that a patent claim may be invalid under 35 U.S.C. § 103 if the differences between the claimed subject matter and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. I understand that obviousness is a question of law and that the following factors must be evaluated to determine whether a party challenging a patent claim's validity has met its burden of proof that the claimed invention is obvious: (1) the scope and content of the prior art; (2) the differences between the

claims and the prior art; (3) the level of ordinary skill in the art; and (4) objective indicia of non-obviousness.

12. I understand that to reach a proper determination under 35 U.S.C. § 103, one must step backward in time and into the shoes worn by the hypothetical "person of ordinary skill in the art" ("POSA") when the invention was unknown and just before it was made. In view of all factual information, one must then make a determination whether the claimed invention "as a whole" would have been obvious at that time to that person of ordinary skill in the art. Knowledge of the applicants' disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the differences between the claimed subject matter as a whole and the content of the prior art.

13. If a single element of the claim is absent from the prior art, alone, or in combination, the claims cannot be considered obvious.

14. Because obviousness is determined from the perspective of a person of ordinary skill in the art at the time of the invention, I have been informed to consider any distortion caused by hindsight bias, to guard against slipping into the use of hindsight, to be cautious of opinions that rely upon after-the-fact reasoning, and to avoid the temptation to read into the prior art the teachings of the invention at issue. The determination of obviousness is not whether a person could, with full knowledge of the patented device, reproduce it from prior art or known principles. The question is whether it would have been obvious, without knowledge of the patentee's

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