

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,

Petitioner

v.

FATPIPE NETWORKS PRIVATE LIMITED

Patent Owner

Case IPR2017-01845

Patent 6,775,235

DECLARATION OF DAVID O'BRIEN

Cisco Systems, Inc.

I, David W. O'Brien, hereby declare as follows:

1. My name is David O'Brien. I am a Partner at Haynes and Boone, LLP. I make this declaration from my personal knowledge.
2. I am of-record as back-up counsel for Petitioner Cisco Systems, Inc. in IPR2017-01845. I was involved in all aspects of the preparation of the petition for *inter partes* review, including the search for relevant prior art.
3. I was not aware of U.S. Patent No. 6,243,754 to Guerin ("Guerin", Ex. 1006) prior to my involvement in the analysis of U.S. Patent No. 6,775,235 ("the '235 Patent"). I began searching for prior art relevant to the '235 Patent on or about April 12, 2017. I discovered Guerin in the course of searching for prior art on or about May 15, 2017. According to Haynes and Boone's document management system, I added an Adobe PDF file bearing the name "US6243654 (Guerin)" on May 15, 2017 at 5:04 PM Central Daylight Time. I received the first analysis of the Guerin reference in light of the '235 Patent claims on May 16, 2017.
4. As part of the analysis of the '235 Patent, Haynes and Boone engaged a professional search firm, Crown Point Advisors, on May 3, 2017 to search for prior art relevant to U.S. Patent No. 6,775,235. Crown Point Advisors provided search results to Haynes and Boone on the following dates in 2017: May 8, May

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17, May 19, May 23, June 2, and June 8. None of the search results provided by Crown Point Advisors included Guerin.

5. From the time of Haynes and Boone's engagement on the analysis of U.S. Patent No. 6,775,235, to the filing of the Petition, Cisco Systems, Inc. has been the sole party that requested, provided input, controlled, or directed Haynes and Boone's work on IPR2017-01845.

6. From the time of Haynes and Boone's engagement on the analysis of U.S. Patent No. 6,775,235, to the filing of the Petition, I did not communicate with any personnel from Viptela, Inc. Viptela, Inc. did not provide any input, and did not direct or control Haynes and Boone's analysis of U.S. Patent No. 6,775,235, and played no role in the preparation and filing of the petition. Viptela did not provide Haynes and Boone with the Guerin reference or any other reference cited in IPR2017-01845.

7. I have appeared as record counsel on, or been involved in the preparation of, over 25 petitions for *inter partes* review or covered business method patent review. In my experience, two months is within a typical timeframe for the preparation and filing of a petition, including full development of suitable grounds of challenge, evaluation of the grounds with an expert declarant, and finalizing and filing the petition for review.

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III. Conclusion

8. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Executed on this 22nd day of November, 2017.

David W. O'Brien

David W. O'Brien
Breckenridge, Colorado

Cisco Systems, Inc.