| UNITED STATES PATENT AND TRADEMARK OFFICE |
|--|
| |
| BEFORE THE PATENT TRIAL AND APPEAL BOARD |
| |
| RIOT GAMES, INC., Petitioner, |
| $\mathbf{v}.$ |
| PALTALK HOLDINGS, INC., Patent Owner. |
| |
| Cases IPR2018-00129. IPR2018-00130, IPR2018-00131, IPR2018-00132 Patents 5,822,523 & 6,226,686 |
| |

DECLARATION OF DR. KEVIN C. ALMEROTH



TABLE OF CONTENTS

| I. | INTRODUCTION | 1 |
|----------|---|----|
| II. | MATERIALS REVIEWED | 4 |
| III. | QUALIFICATIONS | 6 |
| IV. | LEGAL PRINCIPLES | 10 |
| A. | Anticipation | 10 |
| B. | Obviousness | 11 |
| | 1. Motivation to Combine | 12 |
| | 2. Non-Analogous Art | 13 |
| | 3. Combination of Prior Art Renders Prior Art Device Inoperable For Its Intended Purpose | 13 |
| | 4. References Teach Away From Combination | 13 |
| | 5. Secondary Considerations of Non-Obviousness | 14 |
| V. | PERSON OF ORDINARY SKILL IN THE ART | 14 |
| VI. | CLAIM CONSTRUCTION | 15 |
| A. 12 | "aggregated message" (Claim 1 of the '523 Patent and Claims 1, 3, 7, and of the '686 Patent) and "server message" (Claim 18 of the '686 Patent) | 17 |
| Pa | "aggregated payload" (Claim 1 of the '523 Patent and Claims 1, 7, and 12 the '686 Patent), "aggregating said payload portions" (Claim 3 of the '686 tent), and "aggregating said payload portion with the payload portion of a cond host message" (Claim 18 of the '686 Patent) | 24 |
| | MOTIVATION TO COMBINE ALDRED AND RFC 1692 | |
| A. | Petitioner's Alleged Motivations | 26 |
| B. | Problems with combining Aldred and RFC 1692 | 29 |
| | 1. The CSP in Aldred has an "order" requirement | 30 |
| | 2. Effects of large packets with respect to the serialization process of Aldred. | 31 |
| | 3. The Requirement of packet order in the Serialization process when Aldred and RFC 1692 are combined | 33 |
| | 4. Petitioner failed to consider why a POSITA would turn to RFC 1692 when Aldred already discusses alternative bandwidth solutions | 38 |



| THE '686 PATENT '523 PATENT AND CLAIMS 1, 3, 7, 12, AND 18 OF THE '686 PATENT | 40 |
|--|-----------|
| A. RFC 1692 Does Not Disclose or Suggest "aggregating said payload portions of said messages to create an aggregated payload" (Claim 1 of the '523 Patent and Claims 7 and 12 of the '686 Patent); "aggregating said payload portions of said host messages to create an aggregated payload" (Claims 1 and 3 of the '686 Patent); "aggregating said payload portion with the payload portion of a second host message" (Claim 18 of the '686 Patent) | 40 |
| B. RFC 1692 Does Not Disclose or Suggest "forming an aggregated message using said aggregated payload" (Claim 1 of the '523 Patent and Claims 1 and 12 of the '686 Patent); "create an aggregated message" (Claim 3 of the '686 Patent); "said aggregated message" (Claim 7 of the '686 Patent); and "forming a server message" (Claim 18 of the '686 Patent) | 50 |
| X. DEPENDENT CLAIMS | 59 |
| A. Aldred in view of RFC 1692 does not render obvious Claims 4, 5, 16, 17, 34-37, 41, and 42 of the '523 Patent, nor Claims 30, 34, 35, 49, 53, 54, 66, and 70 of the '686 Patent | 59 |
| B. Aldred in view of RFC 1692 does not render obvious Claims 2, 3, 6-10, 15, 18, 19-27, 31-33, and 44-47 of the '523 Patent, nor Claims 2, 4, 8-11, 13-17, 19-21, 26-29, 39, 40, 45-48, 56, 57, and 62-65 of the '686 Patent | 64 |
| C. Aldred in view of RFC 1692 and RFC 1459 does not render obvious Claims 38-40 of the '523 Patent, nor Claims 31-33, 50-52, and 67-69 of the '686 Patent | 70 |
| D. Aldred in view of RFC 1692 and Denzer does not render obvious Claim 43 of the '523 Patent, nor Claims 36 and 55 of the '686 Patent | 72 |
| E. Aldred in view of RFC 1692 and Ulrich does not render obvious Claim 11 of the '523 Patent, nor Claims 22, 41, and 58 of the '686 Patent | 73 |
| F. Aldred in view of RFC 1692 and Ulrich does not render obvious Claim 12 of the '523 Patent, nor Claims 23, 42, and 59 of the '686 Patent | 76 |
| G. Aldred in view of RFC 1692 and Ulrich does not render obvious Claims 13 and 14 of the '523 Patent, nor Claims 24, 25, 43, 44, 60 and 61 of the '686 Patent. | 79 |
| H. Aldred in view of RFC 1692 and Ulrich does not render obvious Claims 29 and 30 of the '523 Patent | 81 |



IPR2018-00129, IPR2018-00130, IPR2018-00131, IPR2018-00132Patent Nos. 5,822,523 & 6,226,686

| X | ζ. | CONCLUSION | 86 |
|---|-----|---|----|
| | the | e '686 Patent | 83 |
| | 15 | , 23, 27, and 28 of the '523 Patent, nor Claims 26, 27, 45, 46, 62, and 63 of | |
| | I. | Aldred in view of RFC 1692 and Ulrich does not render obvious Claims | |



IPR2018-00129, IPR2018-00130, IPR2018-00131, IPR2018-00132 Patent Nos. 5,822,523 & 6,226,686

I, Dr. Kevin C. Almeroth, declare as follows:

I. INTRODUCTION

- 1. I have been retained by the law firm of Munck Wilson Mandala, LLP on behalf of Paltalk Holdings, Inc. ("Paltalk" or "Patent Owner") as an independent expert consultant in the above-captioned proceedings before the Patent Trial and Appeal Board of the United States Patent and Trademark Office. All statements herein made of my own knowledge are true, and all statements herein made based on information and belief are believed to be true. I am over 21 and otherwise competent to make this declaration. Although I am being compensated at my standard hourly rate of \$650 for my time spent on this matter, my opinions herein are my own, no part of my compensation depends on the outcome of this proceeding, and I have no other interest in this proceeding.
- 2. I understand Petitioner Riot Games, Inc. has requested *inter partes* review of U.S. Patent No. 5,822,523 ("the '523 Patent) in *inter partes* review proceeding Nos. IPR2018-00129 and IPR2018-00130. I understand Petitioner has also requested *inter partes* review of U.S. Patent No. 6,226,686 ("the '686 Patent) in *inter partes* review proceeding Nos. IPR2018-00131 and IPR2018-00132. I understand that the Board has instituted trial on each of these IPRs on the following grounds:
 - IPR2018-00129:



DOCKET

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.

