

Petition for *Inter Partes* Review of U.S. Patent No. 9,268,748

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MERRILL COMMUNICATIONS LLC d/b/a MERRILL CORPORATION,

Petitioner,

v.

E-NUMERATE SOLUTIONS, INC.,

Patent Owner.

Patent No. 9,268,748

Issue Date: February 23, 2016

Title:

SYSTEM, METHOD, AND COMPUTER PROGRAM PRODUCT FOR
OUTPUTTING MARKUP LANGUAGE DOCUMENTS

DECLARATION OF ANNE RONDONI TAVERNIER

I, Anne Rondoni Tavernier, state and declare as follows:

1. I am an attorney at Fredrikson & Byron P.A.
2. I am over 18 years of age and am competent to make this Declaration. I make this Declaration based on my own knowledge and experience.
3. On June 27, 2018, I utilized the “Ask a Librarian” General Inquiries Form on the Library of Congress website to inquire about date on which the book *Mastering Access 97* (hereinafter “Access”) with ISBN 0-7821-1924-7 and Library of Congress Card Number 96-71646 was received by the Library of Congress.
4. On July 2, 2018, I received an e-mail response to this request from the Researcher and Reference Services Division of the Library of Congress.
5. Attached as Exhibit A is a true and correct copy of my June 27 inquiry to the Library of Congress, and the Library of Congress’ subsequent July 2 reply.
6. The Library of Congress utilizes MARC records. According to the Library of Congress website, available at https://catalog.loc.gov/vwebv/ui/en_US/htdocs/help/index.html, the Library of Congress “uses the international MARC 21 encoding standard to represent and communicate bibliographic, authority, and holdings data in LC Online Catalog records. This standard explicitly characterizes the structure, content designation, and data content

(or fields) found in each Catalog record. Some data specific to the Library is contained in locally-defined MARC fields.”

7. The Library of Congress’ July 2 response reflected in Exhibit A contained the MARC record for Access. The response also contained a link to the Library of Congress’ online bibliographic record and MARC record for Access.
8. Attached as Exhibit B is a true and correct depiction of the full bibliographic record and MARC record for Access which is accessible by clicking the link contained in the Library of Congress’ July 2 response email.
9. The MARC records as depicted in both Exhibit A and Exhibit B contain the same substantive MARC information for Access.
10. The MARC record for Access confirms that it was available in the Library of Congress as of March 1997.
11. The Library of Congress’ July 2 response reflected in Exhibit A indicates that the publisher sent Access to the Library of Congress on March 6, 1997, which is visible in the MARC field 955.
12. According to the Library of Congress website, the Library of Congress releases Descriptive Cataloguing Manuals (“DCMs”) which contain the specific cataloguing practices of the Library of Congress. These manuals are released and updated at least annually. Attached as Exhibit C is a true and

correct copy of the Library of Congress website where the DCMs are available.

13. The 2006 DCM indicates that MARC field 955 is used for “Local Functional Tracking Information.” Attached as Exhibit D is a true and correct excerpt of the 2006 DCM Update 1-2 which indicates the purpose of the MARC field 955.
14. Use of the MARC field 955 for tracking information continues to present day, as the 2017 DCM update shows that the 955 field is still used for book location tracking. Attached as Exhibit E is a true and correct excerpt of the 2017 DCM Update 4 which indicates the purpose of the MARC field 955.
15. The final date listed in the MARC field 955 for Access is March 19, 1997.
16. According to the Library of Congress 2012 MARC Concise Format Overview, available at https://www.loc.gov/marc/MARC_2012_Concise_PDF/Part3_Bibliographic.pdf, the MARC fields 630 and 650 contain subject headings and access terms. Attached as Exhibit F is a true and correct excerpt of the Library of Congress 2012 MARC Format Overview which indicates the purpose of the MARC fields 630 and 650.
17. As reflected in Exhibits A and B, the MARC field 630 for Access contains the subject denotations “Microsoft Access,” and “Microsoft Windows

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