

Filed on behalf of: E-NUMERATE SOLUTIONS, INC.

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

Case IPR2018-01391
U.S. Patent 9,262,383

DECLARATION OF MICHAEL J. SMITH

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I, Dr. Michael J. Smith of Palo Alto, California, declare as follows:

I. INTRODUCTION

1) I have been retained by e-Numerate Solutions, Inc. (“ENUM”) in this *Inter Partes* Review (“IPR”) as an independent expert to provide opinions regarding the subject matter recited in the claims of U.S. Patent No. 9,262,383 (Ex. 1001, “383 patent”). In particular, I have been asked to provide my opinion as to whether a person of ordinary skill in the art at the time of the invention (“POSA”) would have found claims 1, 17 and 18 of the ‘383 patent obvious in view of Alan Simpson & Elizabeth Olson, *Mastering Access 97* (4th ed. 1997) (Ex. 1005, “Simpson”), or alternatively, in view of Simpson and Charles F. Goldfarb & Paul Prescod, *The XML Handbook* (1998) (Ex. 1006, “Goldfarb”), or alternatively, in view of U.S. Patent No. 5,189,608 (Ex. 1007, “Lyons”), or alternatively, in view of Lyons and Goldfarb, based on the arguments and evidence submitted by Petitioner Merrill Communications LLC d/b/a Merrill Corporation (“Merrill”) and its declarant, Dr. Hospodor.

2) I understand that the Patent Trial and Appeal Board of the U.S. Patent and Trademark Office (“Board”) has instituted an IPR of the patentability of Claims 1, 17 and 18 of the ‘383 patent following the submission of a Petition by Merrill. I understand that Merrill also submitted a supporting declaration by Dr. Andrew David Hospodor.

- 3) I understand the Board has instituted review on the following grounds:
- a. Claims 1, 17 and 18 of the '383 patent as obvious over Simpson pursuant to 35 U.S.C. § 103;
 - b. Claims 1, 17 and 18 of the '383 patent as obvious over Simpson in view of Goldfarb pursuant to 35 U.S.C. § 103;
 - c. Claims 1, 17 and 18 of the '383 patent as obvious over Lyons pursuant to 35 U.S.C. § 103; and
 - d. Claims 1, 17 and 18 of the '383 patent as obvious over Lyons in view of Goldfarb pursuant to 35 U.S.C. § 103;
- 4) My analysis and conclusions regarding the '383 patent and the instituted grounds are set forth below.
- 5) In connection with forming my opinions, I have considered the references and materials submitted by the parties in this proceeding, and in particular those cited herein, including the following:

Exhibit	Reference Name
N/A	Merrill's Petition
1001	U.S. Patent No. 9,262,383 to Davis
1002	File History of U.S. Patent No. 9,262,383
1003	Declaration of Andrew D. Hospodor Regarding '383 Patent
1004	<i>Curriculum Vitae</i> of Andrew D. Hospodor
1005	Alan Simpson & Elizabeth Olson, <i>Mastering Access 97</i> (SYBEX Inc. 1997)

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