

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZTE (USA), INC.

Petitioner,

v.

FRACTUS, S.A.,

Patent Owner.

IPR No. IPR2018-01461

U.S. Patent No. 9,054,421

Issue Date: March 10, 2015

DECLARATION OF GANG CHEN

I, Gang Chen, declare as follows:

1. I am an attorney at Brinks Gilson & Lione. I am licensed to practice law in the state of Illinois.

2. I am over 18 years of age and I make this declaration based upon my own knowledge, personal experience, and belief. If called upon, I can competently testify to the facts stated in this declaration.

3. I assisted with the collection and assembly of the documents included as Exhibits supporting Petitioner's Petition for *Inter Partes* Review of U.S. Patent No. 9,054,421, bearing *Inter Partes* Review number IPR2018-01461, to be filed on August 3, 2018.

4. Exhibit 1008, as submitted with Petitioner's Petition, is a true and accurate copy of the P.R. 4-3 Joint Claim Construction Statement, as filed in the related district court litigation, *Fractus, S.A. v. ZTE Corp. et al.*, No. 2:17-cv-00561 (E.D. Tex.) (Dkt. No. 71) obtained from PACER.

5. Exhibit 1009, as submitted with Petitioner's Petition, is a true and accurate copy of the Memorandum Order and Opinion from the district court litigation, *Fractus, S.A. v. Samsung Elecs. Co., Ltd., et al.*, No. 6:09cv00203 (E.D. Tex.) (Dkt. No. 526) obtained from PACER.

6. Exhibit 1010, as submitted with Petitioner's Petition, is a true and accurate copy of excerpts from the file history for U.S. Patent No. 9,054,421,

obtained from the USPTO Public PAIR system.

7. Exhibit 1011, as submitted with Petitioner's Petition, is a true and accurate copy of excerpts from the file history for U.S. Patent No. 9,054,421, obtained from the USPTO Public PAIR system.

8. Exhibit 1012, as submitted with Petitioner's Petition, is a true and accurate copy of an Exhibit from Fractus' Opening Claim Construction Brief, as filed in the related district court litigation, *Fractus, S.A. v. ZTE Corp. et al.*, No. 2:17-cv-00561 (E.D. Tex.) (Dkt. No. 77, Ex. N) obtained from PACER.

9. Exhibit 1013, as submitted with Petitioner's Petition, is a true and accurate copy of an excerpt from the PCT Application, PCT/ES/00296, obtained from the website <https://register.epo.org>.

10. Exhibit 1016, as submitted with Petitioner's Petition, is a true and accurate copy of excerpts from the file history for the *inter partes* reexamination of U.S. Patent No. 7,394,432 (Control No. 95/001,483), obtained from the USPTO Public PAIR system.

I hereby declare that all statements made in this declaration are of my own knowledge and are true, that all statements made on information and belief are believed to be true, and 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 18 U.S.C. § 1001.

The contents of this declaration are true under penalty of perjury of the laws of the United States.

Dated: August 3, 2018

/s/ Gang Chen
Gang Chen