

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PANASONIC CORPORATION OF NORTH AMERICA, ET AL.
Petitioners

v.

CELLSPIN SOFT, INC.
Patent Owner

Patent No. 9,258,698
Inter Partes Review No. 2019-00131

**DECLARATION OF DR. MICHAEL FOLEY CONCERNING PATENT OWNER'S
SUR-REPLY TO PETITIONER'S REPLY**

I, Dr. Michael Foley, declare as follows:

I. INTRODUCTION, BACKGROUND AND QUALIFICATIONS

1. My name is Michael Foley, and I am currently the CEO of Innovative Yachtter Solutions, which provides consulting services relating to Internet-of-Things products, for example products that utilize Bluetooth[®] Low Energy technology.

2. Panasonic Corporation and Panasonic Corporation of North America (collectively “Petitioner” or “Panasonic”) filed a Petition (Doc 1,) to institute an *inter partes* review of claims 1, 3–5, 7, 8, 10–13, and 15–20 (“challenged claims”) of U.S. Patent No. 9,258,698 (“698 patent”). Ex. 1003. The Petition is supported by the first declaration of Dr. John Strawn, which is Ex. 1001. The Patent Trial & Appeal Board (“PTAB” or “Board”) instituted inter parties review (Doc 11, “Institution Decision”). The Patent Owner Cellspin Soft, Inc. (“Cellspin”) filed its Preliminary Response (Doc 7) on January 30, 2019. Cellspin filed its Response (Doc 19) on July 22, 2019, along with my prior declaration at Exhibit 2009. Panasonic filed its Reply (Doc 24) on October 15, 2019. Panasonic’s Reply is supported by the Second Declaration of Dr. John Strawn, which is Ex. 1024. Unless specifically indicated otherwise herein, references herein to Dr. Strawn’s contentions or to his “Declaration” are directed at his Second Declaration at Ex. 2014. Cellspin filed objections (Doc 25) to Panasonic’s Reply and to the Strawn Declaration on October 22, 2019.

3. I have been asked by Cellspin to provide my opinions and analysis responsive to issues raised by in Petitioner’s Reply and/or the Strawn Declaration at Ex. 2014. For this work I am being compensated at the rate of \$400 per hour. The amount of my compensation is not dependent upon the substance of my opinions or upon the outcome of this matter.

4. A true and correct copy of my CV is at Ex. 2010. I received a Bachelor of Science degree in Electrical Engineering (“EE”) from the University of Iowa, and a Master’s degree and

Ph.D. in EE from Arizona State University.

5. From 1999 to 2004, I worked at Microsoft Corporation as a wireless systems architect, where I worked on integrating wireless technology into Windows® and WinCE® platforms. I was also the Microsoft representative to several standards groups, including the Bluetooth Special Interest Group (“SIG”), the WAP Forum, and the Wi-Fi Alliance.

6. From 2004 to 2012, I worked at the Bluetooth SIG as Executive Director and CEO. My responsibilities as Director and CEO of the Bluetooth SIG included, but were not limited to, directing strategy, member relations, operations, and technology development, expanding the Bluetooth SIG into Europe and Asia, and managing Bluetooth SIG board meetings.

II. SUMMARY OF OPINIONS

7. In addition to the points made in my original declaration at Ex. 2009, Panasonic’s Reply and the Strawn Declaration highlight that at least these key points are not shown in any of the materials in which I have reviewed:

- a paired wireless connection between a camera and a mobile device;
- cryptographic authentication of the mobile device by the camera;
- none of the proposed combinations disclose limitation G (request from the mobile device) using HTTP to upload received file and additional data, e.g., Mashita teaches away from a cellular phone using HTTP;
- combining Mashita with Hirashi would not work;
- GUI’s in general and specifically not for image deletion on the wirelessly connected camera; and
- for claims 5 and 8, a single mobile application performing all the required functions (e.g., request, store, HTTP media upload, delete using GUI).

8. In the analysis that follows, I supplement any prior pertinent analysis, focusing on responding to the Reply and Strawn Declaration, and present my detailed analyses providing clear rational as to why these and other items are not disclosed or rendered obvious by the asserted prior art. To the extent necessary or appropriate to provide background, context of support to the matters herein, my prior Declaration at Ex. 2009 is incorporated by reference herein.

III. LEGAL UNDERSTANDINGS

9. I am not a lawyer. My initial legal understandings are stated in my prior Declaration at Ex. 2009. Any other legal understandings are stated in the body of my report. I have received my understanding of legal standards, but not factual matters, from Counsel for Cellspin.

IV. PANASONIC'S ASSUMPTIONS ABOUT MY PRIOR DECLARATION ARE INCORRECT


10. Panasonic incorrectly assumes that my Declaration at Ex. 2009 was copied or "parroted" from Cellspin's Response. I am the author of my Declaration at Ex. 2009. I never saw Cellspin's Response while I was authoring or drafting my prior Declaration. I did not copy, parrot, paraphrase or even borrow anything from a Response document that I had not seen. The only Response that I had seen prior to drafting my prior Declaration was Cellspin's Preliminary Response (Doc 7). The opinions and analysis expressed in my prior Declaration, and in this Declaration, are my own. The similarities between Cellspin's Response and my Declaration are due to Cellspin's Response, which was drafted by Cellspin's counsel, having copied or paraphrased matters from my Declaration, including as I was close to reaching a final draft of that Declaration, and also including from the near final and ultimately final draft of the Declaration. The foregoing process is also being used for this Declaration, namely, that I have not copied, parroted, paraphrased or even borrowed anything from Cellspin's Sur-Reply, which I have not seen as of the completion and signing of this Declaration.

V. CLAIM CONSTRUCTION

A. **“Pairing” is different from “Authentication” and both are different from “Encryption”.**

11. As shown in the figure below [Ex 2006, p. 19], there are 15 different optional activities after a Bluetooth connection is established. Pairing, Authentication and Encryption are different optional activities. Also, as shown in Figure 3.1 in the v2.1+EDR Bluetooth Core Specification [Ex. 2006, p. 861] it again clearly shows that the Pairing is different from Authentication and both of them are different from Encryption.

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 **Bluetooth**

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4.12	Refreshing Encryption Keys.....	721
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4.14	QOS Setup.....	722
4.15	Switch Role	723

All 15 are Optional

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