UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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GUEST TEK INTERACTIVE ENTERTAINMENT LTD.,

Petitioner,

v.

NOMADIX, INC.,

Patent Owner.

U.S. Patent No. 7,953,857 to Short et al.
Issued: May 31, 2011
Filed: April 30, 2010

Title: SYSTEMS AND METHODS FOR DYNAMIC DATA TRANSFER
MANAGEMENT ON A PER SUBSCRIBER BASIS IN A COMMUNICATIONS
NETWORK

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IPR2019-00211

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Reply Declaration of Dr. Peter Dordal

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I.   INTRODUCTION

1.   My name is Dr. Peter Dordal, and I have been retained as a technical expert by counsel for Petitioner Guest-Tek Interactive Entertainment Ltd. to provide assistance in the above captioned *inter partes* review proceeding. I have reviewed the Declaration of Stuart G. Stubblebine and associated materials, and make the following statements in reply to his declaration, based on my own personal knowledge. If called as a witness, I could and would testify to the following.

II.   SUMMARY OF OPINION

2.   As I previously described, it is my opinion that claims 1 and 9 of the '857 patent would have been obvious to a person of ordinary skill in the art as of October 22, 1999, which I understand is the earliest date of the purported invention claimed in the '857 patent, based on any one of the following grounds:

(1)   Obviousness over U.S. Patent No. 5,864,540 ("Bonomi") in view of U.S. Patent No. 6,587,433 ("Borella") under 35 U.S.C. § 103;

(2)   Obviousness over U.S. Patent No. 7,392,279 ("Chandran") in view of IEEE's INDEX Project Report #98-010P ("Report #98-010P") under 35 U.S.C. § 103; and

(3)   Obviousness over U.S. Patent No. 5,623,492 ("Teraslinna") in view of Bonomi under 35 U.S.C. § 103.

3.   I have reviewed Dr. Stubblebine's declaration and, in my view, none of

the arguments that he makes changes the opinions I set forth in my original declaration

4.   As mentioned, I have been asked to opine on the validity of claims 1 and 9 of the '857 patent. Claim 1 recites a "system for allowing a user to dynamically control an amount of bandwidth available to the user in a network." Claim 9 recites most of the same limitations of claim 1, except claim 9 is in method form, directed to "A method of dynamically managing transmission of packets."

III.   CLAIMS AT ISSUE

5.   The full language of the claims is as follows, where the individual subparagraphs have been designated (1.a)-(1.e) and (9.a)-(9.d) for convenient reference:

> 1. A system for allowing a user to dynamically control an amount of bandwidth available to the user in a network, the system comprising:
>
> [1.a] a first network interface for communicating over a communication link with a user device during a network session;
>
> [1.b] a second network interface for communicating with one or more computer networks;
>
> [1.c] a data storage system including an indication of a network communication bandwidth associated with the user device and selected by the user; and
>
> [1.d] a processor configured to calculate a delay period associated with a received packet based on the network communication bandwidth associated with the user, and

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[1.e] the processor further configured to delay transmission of the packet based on the delay period to prevent the user device from achieving a bandwidth greater than the network communication bandwidth associated with the user device and selected by the user.

9. A method of dynamically managing transmission of packets, the method comprising:

[9.a] establishing a network session over a communication link between a network and a user device of a user;

[9.b] associating a data transmission parameter selected by the user with the user device;

[9.c] receiving a packet and calculating a delay period associated with the packet based on the data transmission parameter; and

[9.d] delaying transmission of the packet based on the delay period to prevent the user device from achieving a data transmission greater than the data transmission parameter associated with the user device and selected by the user.

IV. CLAIM CONSTRUCTION

6.   I understand that the terms of the unexpired '857 patent claims are to be given their broadest reasonable interpretation as understood by one of ordinary skill in the art at the time of the alleged invention in view of the '857 patent's specification.

7.   Dr. Stubblebine opines that the term "period" in the phrase "delay period" in the claims at issue means a calculated "length of time." Para. 32. I disagree. In my opinion, the term "period" does not require a specific length of time.

8.   For example, the claims do not refer to calculating a "length" of time.

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