

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: Robert J. Davies
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DECLARATION OF MR. LAWRENCE FAULKNER

1. My name is Lawrence Faulkner. I am over the age of 18, have personal knowledge of the facts set forth herein, and am competent to testify to the same. I have reviewed Ex. 1006, and certify that Ex. 1006 is a true and correct copy of the IrDA Object Exchange Protocol, Version 1.2 (“IrOBEX 1.2”). In support of my statements here, I have attached and referred to appendices that include archives of web pages and copies of published papers.
2. I currently serve as a Project Manager at Granite Construction. From 1998 to 2000, I served as the Executive Director of the Infrared Data Association (IrDA). IrDA is a non-profit corporation established in 1993 that focuses on providing standards for infrared data exchange that ensure quality and interoperability between mobile computing devices. During my tenure as Executive Director of IrDA I oversaw the development of numerous technical specifications and the deployment of IrDA technology in millions of electronic devices, including all mobile devices implementing the PalmOS platform as well as every major cell phone manufactured throughout the world. Ex.1040, Abstract, 3. IrDA technologies were widely deployed in cell phones, cameras, camcorders, and even toys. *Id.*
3. During my tenure as Executive Director, infrared data exchange using IrDA was the de facto technical solution for wireless cable replacement, especially

for mobile handheld devices. At the start of my tenure, the Bluetooth specification had not yet been released or implemented in a commercial product (which first occurred in 1999). The WiFi specification was released in late 1998 and took time to become popular. Other technologies emerged around this time as well, most of which have now fallen to the wayside, and some of which have survived. But in 1998, infrared data exchange with IrDA was essentially the dominant communication protocol in the wireless data communication market. At that time, designers and developers of mobile systems were acutely aware of the IrDA technology, the IrDA specifications, the IrDA organization, and the website www.IrDA.org.

4. As Executive Director, I oversaw the release of various protocols and specifications, covering all relevant technology layers, from low-level physical transceivers up to high-level protocols for data exchange. One of these protocols was the IrDA Object Exchange Protocol, Version 1.2 (“**IrOBEX 1.2**”; Ex. 1006). In 1999, I was personally involved in the public release of IrOBEX 1.2, an update to an earlier published version of IrOBEX. During the development of the IrOBEX 1.2 specification, I was in regular contact with the authors (Patrick Megowan, David Suvak, and Doug Kogan of Counterpoint Systems Foundry, Inc.) as well as the other contributors to

the specification, which included representatives from Microsoft, Apple, Hewlett-Packard, and Nokia.

5. To the best of my recollection, the IrOBEX 1.2 specification was made publicly available on the IrDA.org website on or immediately after the March 18, 1999 date listed in the document. Ex. 1006, 1. I personally authorized the release of the IrOBEX 1.2 specification on the IrDA website and I have personal knowledge that the IrOBEX 1.2 specification was made publicly available well before October 11, 1999.
6. Ex. 1039 corroborates my personal knowledge and shows a screenshot of a web directory hosted by the Open Source Lab at Oregon State University, which includes downloadable copies of many of the IrDA specifications. Among the downloadable files in this directory is a pdf file of the IrOBEX 1.2 specification, which is a true and correct copy of Ex. 1006. The web directory lists a last modified timestamp of “1999-05-27” for the IrOBEX 1.2 specification clearly indicating that this file was created no later than May 27, 1999, approximately two months after the date identified in the IrOBEX 1.2 document. It is clear from the internal date of the IrOBEX 1.2 specification, the file date of the copy of the IrOBEX 1.2 specification hosted at Oregon State University, and my own personal recollection, that

the IrOBEX 1.2 specification was made publicly available between March 18, 1999 and May 27, 1999.

7. Appendix AAA shows a link to the IrOBEX 1.2 specification on the IrDA website on Oct. 4, 1999, clearly showing the link to download the IrOBEX 1.2 specification. Appendix AAA, 2. The page shown in Appendix AAA is a true and correct copy of the webpage that provided a link to IrOBEX 1.2 in 1999. I have personal knowledge that, at the time this link was placed on the “Specifications” page of the IrDA.org website, a copy of the IrOBEX 1.2 specification in PDF form was also placed on the IrDA.org website, and that by clicking on the link, any user could download the IrOBEX 1.2 specification from the IrDA.org website. The IrDA standards, including IrOBEX 1.2, were prominently displayed on the IrDA website and indexed under a section titled Standards. Appendix AAA. Additionally, the IrDA website included search functionality that would have helped a person locate documents of interest, such as the IrOBEX 1.2 specification.
8. The IrDA organization was formed not only to create specifications for technology involving infrared data communications, but also to promote the technology throughout the world. The IrDA organization had a Marketing Chair, Brian Ingham, whose responsibilities included promotion of the IrDA technologies and specifications. Appendix BBB. IrDA also employed two

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