

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re *inter partes* review of:

U.S. Patent 7,818,399 to Ross, *et al.*

Filed: Herewith

For: **Methods of Expanding Commercial Opportunities for Internet Websites
Through Coordinated Offsite Marketing**

**Declaration of James Pichler in Support of
Petition for *Inter Partes* Review of U.S. Patent No. 7,818,399**

29362771.1

DECLARATION OF JAMES PICHLER

1. My name is James Pichler. I am over the age of twenty-one (21) years, of sound mind and capable of making the statements set forth in this Declaration. I am competent to testify to matters set forth herein. All the facts and statements contained herein are within my personal knowledge and they are, to the best of my knowledge, true and correct.

2. I am being compensated by the Petitioner for my assistance with its Inter Partes Review (IPR) and, specifically, for my time spent reviewing documents in association with the IPR and in preparing my testimony. Additionally, I am not, and have never been, an employee of Petitioner, and my compensation is not dependent upon the outcome of this proceeding. I am being compensated at a rate of \$150 per hour for my work.

Digital River Prior Art Publications

3. I have reviewed the Digital River publications provided as Exhibits 1004-1006 in the petition for *Inter Partes* Review. I was an employee of Digital River between July 1996 and July 2010. I have personal knowledge relating to the creation and distribution of these publications as of the times and dates specified as detailed below.

4. The following links from the Wayback Machine represent various content from Digital River's website at different points in time. These links are included as Exhibits 1005-1006 in the Petition. I was personally involved in creating and reviewing content for these websites:

<https://web.archive.org/web/19970412100754/http://www.digitalriver.com:80/>

(archived on 4/12/1997—Digital River April 1997 Website);

<https://web.archive.org/web/19971221024408/http://digitalriver.com:80/> (archived

on 12/21/1997 Digital River December 1997 Website 1 of 4);

<https://web.archive.org/web/19971221024500/http://digitalriver.com:80/Page2.htm>

[1](#) (archived on 12/21/1997 Digital River December 1997 Website 2 of 4);

<https://web.archive.org/web/19971221024519/http://digitalriver.com:80/Page3.htm>

[1](#) (archived on 12/21/1997 Digital River December 1997 Website 3 of 4);

<https://web.archive.org/web/19971221024534/http://digitalriver.com:80/Page4.htm>

[1](#) (archived on 12/21/1997 Digital River December 1997 Website 4 of 4).

I certify that each of these pages are true and correct copies of the specified web pages, and that they were published on the World Wide Web at location noted in the archive at least as of the archive date provided by the Wayback Machine.

5. A person in the field of ecommerce systems in general, ecommerce affiliate sales systems, web storefront design, and the like, exercising reasonable

diligence, would have found the above websites using customary internet searching tools available at the time. Additionally, in my position and capacity at Digital River I often spoke to potential clients in the ecommerce area, including individuals with 3 plus years of technical expertise in this field such as web-designers and technical developers who design and manage ecommerce websites, and directed them to the above websites. In fact, the above websites were made explicitly to receive traffic from such individuals.

6. Exhibit 1004 is the 1997 Digital River brochure. I was personally involved in creating and reviewing content for this brochure, and I certify that Exhibit 1004 is a true and correct copy. The 1997 Brochure was freely and actively distributed to potential clients as early as the summer of 1997. When brochures such as this were made by Digital River, it was our express goal to distribute as far and as wide as possible to people in our field (e.g. merchant's having or wanting to establish ecommerce websites and web designers tasked with designing and maintaining such sites). Individuals receiving this brochure would include potential clients in the ecommerce area, including individuals with 3 plus years of technical expertise in this field such as web-designers and technical developers who design and manage ecommerce websites.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further 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 Section 1001 of Title 18 of the United States Code.

1/12/18

Date



James Pichler