

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: James J. Fallon et al.
U.S. Patent No.: 8,934,535 Attorney Docket No.: 45035-0002IP4
Issue Date: January 13, 2015
Appl. Serial No.: 4/033,245
Filing Date: September 20, 2013
Title: SYSTEMS AND METHODS FOR VIDEO AND AUDIO
DATA STORAGE AND DISTRIBUTION

Mail Stop Patent Board

Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF PROFESSOR SCOTT T. ACTON, Ph.D.

Dated: July 3, 2018

By: 
Scott T. Acton

TABLE OF CONTENTS

I. INTRODUCTION1

II. SUMMARY OF OPINIONS2

III. EXPERT QUALIFICATIONS AND BACKGROUND2

 A. Education and Work Experience.....2

 B. Compensation.....7

 C. Materials Reviewed.....8

IV. STATEMENT OF LEGAL PRINCIPLES.....11

 A. Claim Construction11

 B. Anticipation.....12

 C. Obviousness.....12

V. PERSON OF ORDINARY SKILL IN THE ART13

VI. CLAIM CONSTRUCTION15

 A. Broadest Reasonable Interpretation of “Data Block”15

 B. Broadest Reasonable Interpretation of “Parameter”16

 C. Broadest Reasonable Interpretation of “Asymmetric Compressors” or
 “Asymmetric Data Compression”.....16

 D. Broadest Reasonable Interpretation of “Access Profile”16

VII. OVERVIEW OF THE ’535 PATENT.....17

VIII. TECHNOLOGY OVERVIEW22

 A. Historical Overview of Data Compression22

 B. The MPEG Standard24

 C. Use of Profiles in Compression.....32

IX. OVERVIEW OF THE PRIOR ART REFERENCES.....33

 A. Dvir Overview.....33

 B. Ishii Overview39

X. UNPATENTABILITY OF THE ’535 PATENT CLAIMS42

 A. Ground 1: Claims 1, 2, 9, 10, and 14 of the ’535 Patent are anticipated
 by Dvir under 35 U.S.C. § 103.....42

 i. Claim 1 is anticipated by Dvir under 35 U.S.C. § 103.....42

- ii. Claim 2 is anticipated by Dvir under 35 U.S.C. § 103.....57
- iii. Claim 9 is anticipated by Dvir under 35 U.S.C. § 103.....59
- iv. Claim 10 is anticipated by Dvir under 35 U.S.C. § 103.....61
- v. Claim 14 is anticipated by Dvir under 35 U.S.C. § 103.....64
- B. Ground 2: Claims 1, 2, 9, 10, and 14 of the '535 Patent are obvious over Dvir under 35 U.S.C. § 103.....69
- C. Ground 3: Claims 3-6, 8, 11, and 12 of the '535 Patent are obvious over Dvir in view of Ishii under 35 U.S.C. § 103.....72
 - i. Reason to combine Dvir and Ishii72
 - ii. Claim 3 is rendered obvious over Dvir in view of Ishii under 35 U.S.C. § 10383
 - iii. Claim 4 is obvious over Dvir in view of Ishii under 35 U.S.C. § 10386
 - iv. Claim 5 is rendered obvious over Dvir in view of Ishii under 35 U.S.C. § 10389
 - v. Claim 6 is rendered obvious over Dvir in view of Ishii under 35 U.S.C. § 10391
 - vi. Claim 8 is rendered obvious over Dvir in view of Ishii under 35 U.S.C. § 10392
 - vii. Claim 11 is rendered obvious over Dvir in view of Ishii under 35 U.S.C. § 10398
 - viii. Claim 12 is rendered obvious over Dvir in view of Ishii under 35 U.S.C. § 10399
- XI. CONCLUSION.....101**

LIST OF APPENDICES

Appendix A CV of Professor Scott Action

Appendix B Professor Scott Acton's List of Engagements in Last Five Years

I. INTRODUCTION

1. I, Scott T. Acton, of Charlottesville, VA, being over the age of 18 and competent to make the statements herein, hereby declare the following:

2. I have been retained on behalf of Sling TV L.L.C., Sling Media L.L.C., DISH Network L.L.C., and DISH Technologies L.L.C. (collectively “DISH”). I understand that DISH is the Petitioner in an *Inter Partes* Review before the Patent Trial and Appeal Board (“PTAB” or “Board”) of U.S. Patent No. 8,934,535 (“the ’535 Patent”) (DISH1001).

3. I have been asked to opine on the subject of the validity of the claims of the ’535 Patent and such other topics as addressed in this report.

4. I have prepared this declaration summarizing certain of my opinions regarding this subject matter and its relevance to the validity of the ’535 Patent.

5. If called upon to do so, I am prepared to testify as an expert witness in this regard.

6. This declaration is based on information currently available to me. To the extent that additional information becomes available, I reserve the right to continue my investigation and study, which may include a review of documents and information that may be produced, as well as testimony from depositions that have not yet been taken.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.