

CASE IPR2019-01279
Patent No. 8,510,407

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LENOVO HOLDING COMPANY, INC.,
LENOVO (UNITED STATES) INC., and
MOTOROLA MOBILITY LLC,
Petitioners,

v.

DODOTS LICENSING SOLUTIONS LLC,
Patent Owner.

CASE IPR2019-01279
Patent No. 8,510,407

SUPPLEMENTAL DECLARATION OF
DOCTOR EARL SACERDOTI, PH.D.

I, Dr. Earl Sacerdoti, Ph.D., declare as follows:

- 1) I am submitting this declaration in response to PETITIONER’S REPLY, Case IPR2019-01279 Patent No. 8,510,407 (the “Reply”). This declaration supplements the earlier declaration that I submitted in this matter. (Declaration of Doctor Earl Sacerdoti, Ph.D., Patent Owner’s Response, Exhibit 2004 (“Sacerdoti Declaration”))
- 2) The Reply incorrectly and without justification that Figure 13 from the ‘407 Patent “is merely a bulleted list of attributes and connotes no particular structure.” (Reply at 3). However, the ’407 patent describes Figure 13 as a data structure. “FIG. 13 illustrates a **data structure** for a NIM definition, stored in the NIM application server's template database or user profile database;” (3:63-65, emphasis added) One of skill in the art would understand that, when identified as a data structure, Figure 13 would indicate a hierarchical data structure in which the alleged “bulleted list” is understood to indicate that the indented, bulleted elements were attributes of each NIM definition (identified by the value of the “IDENTIFICATION” element) that stored values specifying the FRAME, MENU, and CONTROLS that defined each NIM.

3) The Reply states that the following sentence from the '407 Patent is limited to just one embodiment: "NIMs are extremely flexible, because the definition of the NIM is content, rather than compiled code." (21:48-50) However, I believe it is a broad general statement about NIMs and their definitions. One of skill in the art would understand that the "one embodiment" in the paragraph cited in the Reply suggests alternative embodiments which employ description languages that are alternative to XML to define a NIM, rather than alternative embodiments in which the definitions of NIMs are compiled code.

4) The Reply also asserts incorrectly and without justification that the assertion in the specification that a NIM definition can be distributed as an XML blob demonstrates that a NIM definition could be executable. The '407 patent states, "The NIM definition is therefore fairly small in size (~2K), and is therefore easily distributable as an XML file or Blob (binary large object) which is communicated using the same mechanisms (HTTP/HTTPS requests) as regular Web pages." (33:59-63) The Reply states, "But this example also fails to support Patent Owner's narrow construction as the example includes not only an XML file but also a binary large object, which might contain any binary content, including executable code." (Reply at 4) In suggesting that a blob may contain any binary content, I believe that the

authors of the Reply mis-parsed the phrase “an XML file or Blob” to mean “either an XML file or a Blob”. One of skill in the art would parse the phrase as “an XML file or an XML Blob.” My opinion of the correct parsing of the phrase as “an XML file or an XML Blob” is supported by the only other reference to a Blob in the ’407 patent, approximately 35 lines below the phrase in question, which refers explicitly to an “XML Blob containing the NIM definition.” “When users share NIMs or NIM packs, their home NIM application generates a [] share module, which may for example be an XML Blob containing the NIM definition or Sharepack modules shared. The shared NIM XML is then sent to, and saved in, the Sharelink database (78 of FIGS. 1 and 24).” (34:26-30) I further note that the Reply’s parsing of the phrase in question is not supported by expert testimony. Thus, while a Blob data type may in general contain executable code, the entirety of the specification makes clear that the Blob cited in the Reply encodes XML, not an executable program.

5) The Reply additionally asserts without justification or support of expert testimony that the specification discloses embodiments that describe NIM templates that are executable. “Second, Patent Owner’s construction should also be rejected because it attempts to exclude disclosed embodiments that describe NIM templates that are executables, ...” (Reply

at 5.) The Reply identifies two alleged descriptions of executable code. Neither identified description refers to a NIM template that is executable code.

6) The first example of an allegedly executable NIM template cited by the Reply is a “second executable module” mentioned in the Summary of the Invention. (3:8-10) Having read the specification, one of skill in the art would recognize that the “second executable module” is embedded in a paragraph that summarizes the method further described in detail in the Detailed Description of the Invention and sketched in Figure 11. It summarizes four steps, each carried out by an executable module operating on the client computer, required to provide a NIM to a client computer. “The apparatus of the invention includes a computer readable memory to direct a computer to function in a specific manner. The computer readable memory includes a first executable module to identify a definition of a Networked Information Monitor (NIM). A second executable module defines a NIM frame for the NIM using the definition. A third executable module retrieves content for the NIM. A fourth executable module places the content in a N[I]M viewer defined by the frame.” (3:4-12)

7) The specification provides a full description of these steps, carried out in the identical sequence, in conjunction with Figure 11. That

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