

U.S. Patent No. 8,407,609

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Sling TV L.L.C.

Petitioner

v.

Uniloc 2017 LLC

Patent Owner

Patent No. 8,407,609

Inter Partes Review No. _____

DECLARATION OF DR. JAMES A. STORER

TABLE OF CONTENTS

LIST OF EXHIBITS'	vii
I. INTRODUCTION	1
A. Educational Background	2
B. Career History	2
C. Publications and Patents.....	3
D. Other Relevant Qualifications.....	4
II. MATERIALS AND OTHER INFORMATION CONSIDERED	5
III. SUMMARY OF OPINIONS	6
IV. UNDERSTANDING OF THE LAW	6
A. Legal Standard for Prior Art.....	6
B. Legal Standard for Anticipation.....	7
C. Legal Standard for Obviousness	8
D. Legal Standard for Claim Construction	11
V. RELEVANT TIMEFRAME	14
VI. LEVEL OF SKILL OF ONE OF ORDINARY SKILL IN THE ART .	14
VII. TECHNOLOGY BACKGROUND	15
A. Webpage and Internet Technology, Generally.....	16
1. The Internet's Client/Server Architecture.....	16
2. How Web Pages Work.....	17
3. How Markup Languages Work.....	18
4. How URLs Work	19
5. How Web Host Servers Work.....	20
6. How Web Sites Work with Databases.....	20
7. FTP and Downloading Files	21
B. Brief History of Java	22
1. Java Applets	23
2. Applets, Generally	24
VIII. THE '609 Patent	24
A. Summary of the '609 Patent.....	24

B.	'609 Patent Prosecution History.....	28
C.	Patent Owner Uniloc's Statements Concerning the '609 Patent	30
D.	The Challenged Claims	30
IX.	CLAIM CONSTRUCTION.....	31
A.	“applet” (Claim 1)	31
B.	“computer system” (Claim 1).....	33
C.	Timing-related limitations (Claim 1)	33
1.	“amount of time the digital media presentation is streamed” (element 1[g]).....	34
2.	“cumulative time the corresponding web page was displayed by the user's computer” (element 1[h])	37
X.	OVERVIEW OF THE SCOPE AND CONTENT OF THE PRIOR ART	39
A.	The Knowledge of a POSA at the Time of the Invention.....	39
B.	U.S. Patent Application Pub. No. 2004/0254887 to Jacoby (“Jacoby”)	40
C.	PCT Pub. No. WO01/89195 to Mcternan et al. (“Mcternan”).....	44
D.	EP Patent Application Pub. No. 939,516 to Robinson et al. (“Robinson”)	46
E.	U.S. Patent No. 5,732,218 to Bland et al. (“Bland”)	50
XI.	Ground 1: Jacoby in view of Bland renders obvious each of the challenged claims 1-3.....	53
A.	Claim 1	53
1.	Claim element 1 [pre]: “A method for tracking digital media presentations delivered from a first computer system to a user's computer via a network.”	53
2.	Claim element 1[a]: “providing a corresponding web page to the user's computer for each digital media presentation to be delivered using the first computer system.”	58
3.	Claim element 1[b]: “providing identifier data to the user's computer using the first computer system.”	60
4.	Claim element 1[c]: “providing an applet to the user's computer for each digital media presentation to be delivered using the	

	first computer system, wherein the applet is operative by the user's computer as a timer."	62
5.	Claim element 1[d]: "receiving at least a portion of the identifier data from the user's computer responsively to the timer applet each time a predetermined temporal period elapses using the first computer system."	71
6.	Claim element 1[e]: "storing data indicative of the received at least portion of the identifier data using the first computer system."	73
7.	Claim element 1[f]: "wherein each provided webpage causes corresponding digital media presentation data to be streamed from a second computer system distinct from the first computer system directly to the user's computer independent of the first computer system."	80
8.	Claim element 1[g]: "wherein the stored data is indicative of an amount of time the digital media presentation data is streamed from the second computer system to the user's computer."	83
9.	Claim element 1[h]: "wherein each stored data is together indicative of a cumulative time the corresponding web page was displayed by the user's computer."	86
B.	Claim 2: "[t]he method of claim 1, wherein the storing comprises incrementing a stored value dependently upon the receiving."	87
C.	Claim 3: "[t]he method of claim 2, wherein the received data is indicative of a temporal cycle passing."	88
XII.	Ground 2: Mcternan in view of Robinson renders obvious each of the challenged claims 1-3.....	89
A.	Claim 1	89
1.	Claim element 1 [pre]: "A method for tracking digital media presentations delivered from a first computer system to a user's computer via a network."	89
2.	Claim element 1[a]: "providing a corresponding web page to the user's computer for each digital media presentation to be delivered using the first computer system."	94
3.	Claim element 1[b]: "providing identifier data to the user's computer using the first computer system."	96

4.	Claim element 1[c]: “providing an applet to the user’s computer for each digital media presentation to be delivered using the first computer system, wherein the applet is operative by the user’s computer as a timer.”	100
5.	Claim element 1[d]: “receiving at least a portion of the identifier data from the user’s computer responsively to the timer applet each time a predetermined temporal period elapses using the first computer system.”	105
6.	Claim element 1[e]: “storing data indicative of the received at least portion of the identifier data using the first computer system.”	108
7.	Claim element 1[f]: “wherein each provided webpage causes corresponding digital media presentation data to be streamed from a second computer system distinct from the first computer system directly to the user’s computer independent of the first computer system.”	110
8.	Claim element 1[g]: “wherein the stored data is indicative of an amount of time the digital media presentation data is streamed from the second computer system to the user’s computer.” ...	113
9.	Claim element 1[h]: “wherein each stored data is together indicative of a cumulative time the corresponding web page was displayed by the user’s computer.”	115
B.	Claim 2: “[t]he method of claim 1, wherein the storing comprises incrementing a stored value dependently upon the receiving.”	117
C.	Claim 3: “[t]he method of claim 2, wherein the received data is indicative of a temporal cycle passing.”	118
XIII.	Motivation to Combine	119
A.	The Jacoby-Bland combination.....	119
1.	Combining Bland’s teaching of an applet.....	119
2.	Combining Bland’s teaching of tracking an object and Bland’s timing mechanism.....	121
B.	The Mcernan-Robinson Combination.....	124
1.	Combining Robinson’s teaching of an applet.....	124
2.	Combining Robinson’s teaching of tracking time on a page..	125
XIV.	RESERVATION OF RIGHTS.....	128

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.