

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Yita LLC,
Petitioner

v.

MacNeil IP LLC,
Patent Owner

Case No. IPR2020-01138
U.S. Patent No. 8,382,186

**DECLARATION OF SYLVIA D. HALL-ELLIS, PH.D.
IN SUPPORT OF PETITION FOR *INTER PARTES* REVIEW OF
U.S. PATENT NO. 8,382,186**

I, Sylvia D. Hall-Ellis, Ph.D., declare as follows:

I. INTRODUCTION

1. My name is Sylvia D. Hall-Ellis. I have been retained as an expert by Yita LLC (“the Petitioner”), who I am informed is a petitioner for the *inter partes* review (IPR) proceeding in which this declaration is being submitted.

2. I have written this declaration at the request of the Petitioner to provide my expert opinion regarding the authenticity and public availability of a publication, identified in Section V below. My declaration sets forth my opinions in detail and provides the basis for my opinions regarding the authenticity and public availability of the publication. If called to testify in the above-captioned matter, I will testify with regard to the opinions and bases set forth below.

3. I reserve the right to supplement or amend my opinions, and bases for them, in response to any additional evidence, testimony, discovery, argument, and/or other additional information that may be provided to me after the date of this declaration.

4. As of the preparation and signing of this declaration, libraries across the nation are closed pursuant to an order of the federal and state governments due to the COVID-19 virus. However, were the libraries open, I would expect to be able to obtain paper copies of the documents in this declaration. Additionally, it is my typical practice to obtain a paper copy of each publication to further confirm

my opinions that the documents were available prior to the alleged priority date of a patent under consideration. I reserve the right to supplement my declaration when the libraries reopen to provide such information.

5. I am being compensated for my time spent working on this matter at my normal consulting rate of \$300 per hour, plus reimbursement for any additional reasonable expenses. My compensation is not in any way tied to the content of this report, the substance of my opinions, or the outcome of this proceeding. I have no other interests in this proceeding or with any of the parties.

6. All of the materials that I considered and relied upon are discussed explicitly in this declaration.

II. QUALIFICATIONS

7. I am currently an Adjunct Professor in the School of Information at San José State University in San José, California. I obtained a Masters of Library Science from the University of North Texas in 1972 and a Ph.D. in Library Science from the University of Pittsburgh in 1985. Over the last fifty years, I have held various positions in the field of library and information resources. I was first employed as a librarian in 1966 and have been involved in the field of library sciences since, holding numerous positions.

8. I am a member of the American Library Association (ALA) and its Association for Library Collections & Technical Services (ALCTS) Division, and I

served on the Committee on Cataloging: Resource and Description (which wrote the new cataloging rules) and as the chair of the Committee for Education and Training of Catalogers and the Competencies and Education for a Career in Cataloging Interest Group. I also served as the Chair of the ALCTS Division's Task Force on Competencies and Education for a Career in Cataloging. Additionally, I have served as the Chair for the ALA Office of Diversity's Committee on Diversity, as a member of the REFORMA National Board of Directors, and as a member of the Editorial Board for the ALCTS premier cataloging journal, *Library Resources and Technical Services*.

9. I have also given over one hundred presentations in the field, including several on library cataloging systems and Machine-Readable Cataloging ("MARC") standards. My current research interests include library cataloging systems, metadata, and organization of electronic resources.

10. My full curriculum vitae is attached hereto as Attachment B

III. PRELIMINARIES

A. Scope of Declaration and Legal Standards

11. I am not an attorney and will not offer opinions on the law. I am, however, rendering my expert opinion on the authenticity of the documents referenced herein and on when and how each of these documents was disseminated or otherwise made available to the extent that persons interested and ordinarily

skilled in the subject matter or art, exercising reasonable diligence, could have located the documents before the dates discussed below with respect to the specific documents.

12. I am informed by counsel that a printed publication qualifies as publicly accessible as of the date it was disseminated or otherwise made available such that a person interested in and ordinarily skilled in the relevant subject matter could locate it through the exercise of ordinary diligence.

13. While I understand that the determination of public accessibility under the foregoing standard rests on a case-by-case analysis of the facts particular to an individual publication, I also understand that a printed publication is rendered “publicly accessible” if it is cataloged and indexed by a library such that a person interested in the relevant subject matter could locate it (i.e., I understand that cataloging and indexing by a library is sufficient, though there are other ways that a printed publication may qualify as publicly accessible). One manner of sufficient indexing is indexing according to subject matter category. I understand that the cataloging and indexing by a single library of a single instance of a particular printed publication is sufficient, even if the single library is in a foreign country. I understand that, even if access to a library is restricted, a printed publication that has been cataloged and indexed therein is publicly accessible so long as a presumption is raised that the portion of the public concerned with the relevant

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