

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

HTC CORPORATION and HTC AMERICA, INC.,
Petitioners

v.

ANCORA TECHNOLOGIES, INC.,
Patent Owner

Case IPR2021-00570
Patent No. 6,411,941

**DECLARATION OF DR. DAVID MARTIN ON *INTER PARTES* REVIEW
OF U.S. PATENT NO. 6,411,941**

TABLE OF CONTENTS

List of Exhibits	4
I. Qualifications and Professional Experience	7
II. Background of this Matter	8
III. Summary of Opinions Regarding the Validity of the '941 Patent.....	9
IV. High-Level Description of Materials Studied.....	10
V. Relevant Legal Principles	11
A. Presumption of Validity	11
B. Anticipation	11
C. Obviousness.....	14
D. Prior Art Considered by the Examiner, and Prior Art that Is Cumulative to the Prior Art Considered by the Examiner	19
E. Claim Construction	20
F. Abstract Ideas	31
G. The Manner of Rebuttal	32
H. The Level of Ordinary Skill in the Art and Person of Ordinary Skill in the Art	32
I. Avoidance of Impermissible Hindsight.....	34
J. Requirements for Asserting Obviousness.....	34
VI. Technology Background.....	35
VII. The References Addressed in the Wolfe Declaration	42
VIII. General Comments on the Wolfe Declaration	43
A. Frequent Use of Impermissible Hindsight.....	43
B. Inadequacy of Addressing the Expectation of Success	44
IX. Rebuttal to Dr. Wolfe's Opinions Regarding the '941 Patent.....	45
A. Hellman, Chou, and/or Schneck Does Not Invalidate the Asserted Claims of the '941 Patent	45
1. Alleged Memory of the BIOS	52
2. No Motivation to Combine	58
3. Dependent Claims.....	58
a. Claim 2	58
b. Claim 3	58
c. Claim 6	60

d.	Claim 7	60
e.	Claim 9	60
f.	Claim 10	60
g.	Claim 11	61
h.	Claim 12	61
i.	Claim 13	63
j.	Claim 14	63
k.	Claim 16	63

List of Exhibits

Exhibit No.	Description
Ex. 2001	<i>RESERVED</i>
Ex. 2002	<i>RESERVED</i>
Ex. 2003	<i>RESERVED</i>
Ex. 2004	Apple Inc.'s N.D. Cal. Patent L.R. 3-3 Disclosures (Invalidity Disclosures)
Ex. 2005	Defendants HTC America, Inc. and HTC Corporation's Preliminary Non-Infringement and Invalidity Contentions
Ex. 2006	<i>RESERVED</i>
Ex. 2007	Email requesting permission to file motion to terminate
Ex. 2008	Ancora v. Samsung Fourth Amended Scheduling Order
Ex. 2009	Expert Report of Suzanne Barber Regarding Invalidity of U.S. Patent No. 6,411,941
Ex. 2010	Ancora v. HTC Order Setting Patent Case Schedule
Ex. 2011	Samsung and LG Invalidity Contentions and Select Invalidity Charts
Ex. 2012	Ancora v. HTC Affidavit of Service
Ex. 2013	IAM Article Judge Albright Interview
Ex. 2014	VLSI v. Intel Jury Verdict Form
Ex. 2015	Ancora v. LG Rebuttal Report of David Martin
Ex. 2016 NEW	Ancora's Preliminary Response to Petition, Case No. IPR2020-01609 (Dkt. 6)
Ex. 2017 NEW	Decision Granting Institution, Case No. IPR2020-01609 (Dkt. 7)
Ex. 2018 NEW	Declaration of Dr. David Martin, Ph.D.
Ex. 2019 NEW	<i>Ancora Techs., Inc. v. Apple, Inc.</i> , 744 F.3d 732 (Fed. Cir. 2014)
Ex. 2020 NEW	Telephonic Markman Hearing Tentative Ruling, <i>Ancora Technologies, Inc. v. TCT Mobile (US), Inc. et al.</i> , Case No. 8:19-cv-02192 (CDCA) (Dkt. #60)
Ex. 2021 NEW	US Patent 6,189,146 B1 ("Misra")
Ex. 2022 NEW	US Patent 5,479,639 ("Ewertz")

Exhibit No.	Description
Ex. 2023 NEW	Microsoft Corporation's Request for <i>Ex Parte</i> Reexamination Image File Wrapper, Control No. 90010560
Ex. 2024 NEW	Final Rulings on Claim Construction, <i>Ancora Technologies, Inc. v. TCT Mobile (US), Inc. et al.</i> , Case No. 8:19-cv-02192 (CDCA) (Dkt. #66, #69)
Ex. 2025 NEW	Phil Croucher, "The BIOS Companion," Tri-Tam Enterprises Inc. 1997

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.