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Filed on behalf of Apple Inc.

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**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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APPLE INC.,

Petitioner

v.

BILLJCO LLC,

Patent Owner

IPR2022-00131

**SUPPLEMENTAL DECLARATION OF THOMAS LA PORTA, PH.D.  
REGARDING CLAIMS 1, 5, 13, 20, 21, 29, 30, 34, 42, and 49  
OF U.S. PATENT NO. 8,639,267**

I, Thomas La Porta, Ph.D., declare as follows:

## **I. INTRODUCTION**

1. My name is Thomas F. La Porta, and I have been retained by counsel for Petitioner Apple Inc. (“Petitioner”) to analyze U.S. Patent No. 8,639,267 (“’267 patent”) and to provide my opinions regarding the patentability of claims 1, 5, 13, 20, 21, 29, 30, 34, 42, and 49 of the ’267 patent in light of Patent Owner’s Response.

2. I am being compensated at my normal consulting rate of \$550 per hour for my time. My compensation is not contingent on the outcome of this proceeding, or of any proceedings relating to the ’267 patent.

## **II. BACKGROUND AND QUALIFICATIONS**

3. My background and qualifications have previously been provided in my Declaration filed with the Petition for Inter Partes Review. EX1002, Section II.

## **III. MATERIALS CONSIDERED**

4. For purposes of forming my opinions as stated in this supplemental declaration, I have reviewed the following documents in addition to the documents I considered for forming my opinions in the original declaration (EX1002, Section III):

- Patent Owner's Response.
- Patent Owner's Response.
- Exhibits identified in the Table of Exhibits for Petition for *Inter Partes* Review of U.S. Patent 8,639,267.

5. Petitioner's counsel has asked me to consider whether certain references disclose or suggest, alone or in combination, the features recited in certain claims of the '267 patent. I have also been asked to consider the plain and ordinary meaning of terms in the Challenged Claims.

6. My opinions in this declaration are based on my review of the documents above, my understanding as an expert in the relevant field, and my education, training, research, knowledge, and personal and professional experience.

7. To my knowledge, I have no financial interest in Petitioner. Counsel for Petitioner has informed me that BillJCo purports to own the '267 patent. To the best of my knowledge, I have no financial interest in BillJCo and, to my recollection, have had no contact with BillJCo or the named inventors of the '267 patent, William J. Johnson and Jason M. Johnson. To the best of my knowledge, I do not have any financial interest in the '267 patent.

8. To the extent any mutual funds or other investments that I own have a financial interest in the Petitioner, the Patent Owner, or the '267 patent, I am not aware of, and do not control, any financial interest that would affect or bias my judgment.

#### **IV. LEGAL STANDARDS**

9. The legal standards used for forming my opinions have previously been provided in my Declaration filed with the Petition for Inter Partes Review. EX1002, Section IV.

#### **V. THE CHALLENGED CLAIMS ARE OBVIOUS**

10. Based on my review of the POR, I maintain that claims 1, 5, 13, 20, 21, 29, 30, 34, 42, and 49 (the “Challenged Claims”) are obvious under three grounds: (1) Haberman; (2) Haberman in view of Boger; and (3) Vanluijt. *See* Institution Decision, 18-19, 23. Nothing in the Patent Owner Response (“POR”) changes this determination.

11. In my opinion, Patent Owner (PO) fails to address the substantive analysis of the petition and the institution decision in the Patent Owner. Instead, PO relies on narrow constructions for “privilege” and “destination identity,” which PO uses to justify their position of non-obviousness. As laid out below, I believe these constructions are both unnecessary and incorrect. Nevertheless, even

construing these terms in the manner proposed by the PO, I believe the Petitioner's grounds still render the Challenged Claims obvious as discussed below.

12. Finally, it is my opinion that, by failing to address the substantive analysis of the petition, PO concedes that the Petitioner's arguments of obviousness are correct should the Board reject PO's constructions. Accordingly, I maintain that the Challenged Claims are obvious under three distinct grounds. *See* Petition, 7-64.

**A. Claim Construction**

**1. No construction is necessary**

13. Rather than address the substantive analysis of the Petition or Institution Decision, PO proposes constructions of "privilege" and "destination identity" that go beyond their plain and ordinary meaning. As explained in the Petition, I submit that the challenged claims should take their ordinary and customary meaning under *Phillips*. I do not believe that any of PO's proposed constructions should be adopted in this proceeding for at least the reasons set forth below.

**2. "Privilege"**

14. PO alleges that "privilege" should be construed according to its plain and ordinary meaning. PO then offers several different interpretations for what PO

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