

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: Stephen Barbour
U.S. Patent No.: 11/574,372 Attorney Docket No.: 54598-0001PS2
Issue Date: February 7, 2023
Appl. Serial No.: 16/484,728
Filing Date: January 6, 2020
Title: BLOCKCHAIN MINE AT OIL OR GAS FACILITY

SECOND DECLARATION OF VERNON KASDORF

I, Vernon Kasdorf, declare as follows:

I. ASSIGNMENT

1. I have been retained on behalf of Crusoe Energy Systems, LLC. (“Crusoe” or “Petitioner”) to offer technical opinions related to U.S. Patent No. 11/574,372 (“The ’372 patent”), assigned to Upstream Data Inc. (“Upstream” or “Patent Owner”). I understand that Crusoe is requesting the Patent Trial and Appeal Board (“PTAB” or “Board”) to institute a post-grant review (“PGR”) proceeding of the ’372 patent.

2. I have been asked to provide my independent analysis of the ’372 patent. Crusoe has specifically asked for my analysis from the perspective of a POSITA in the bitcoin mining industry.

3. I am not and never have been, an employee of Crusoe. I received no compensation for this declaration beyond my normal hourly compensation based on my time actually spent analyzing the ’372 patent and issues related thereto, and I will not receive any added compensation based on the outcome of this PGR or other proceeding involving the ’372 patent.

II. QUALIFICATIONS

4. My name is Vernon Kasdorf. I am the CEO of KubeData Systems Inc. and have held that position since 2013.

5. I have a Bachelor’s Degree in business administration from Trinity Western University.

6. I have extensive experience in building industrial cryptocurrency mining data centers, including data centers for mining Bitcoin. I have over 25 years of experience in the IT sector, with my career heavily focused on mining within the oil, gas, mineral, and cryptocurrency industries.

7. KubeData Systems Inc., my company, primarily, provides senior, strategic IT

consulting services to mining companies, IoT companies, and large Enterprise organizations. I was also the owner and partner in KubeData Systems Inc. from 2013 to present.

8. My company developed and commercialized the CryptoKube mobile bitcoin miner system, to address the demand for an industrial cryptocurrency mining mobile data center. It was also our first 100% free-cooled data center. KubeData Systems Inc. designed and built three generations of CryptoKube mining data centers, servicing the Canadian and United States market.

9. I have provided IT Strategic Consulting to many companies, including Goldcorp (the world's largest gold miner).

10. I am fully familiar with the CryptoKube brochure dated March 5, 2016 ("CryptoKube brochure") and CryptoKube Bitcoin mining Data center tour(CC) ("CryptoKube video"). The CryptoKube brochure is EX1006, and the CryptoKube video is EX1007. I am able to authenticate both and declare that both the CryptoKube brochure and the CryptoKube video were published before February 8, 2017 – which I understand to be the earliest claimed priority date of the '372 patent.

11. I have personal knowledge that the CryptoKube brochure was originally published (distributed online, at trade show, and via emails to customers) in 2014 and the CryptoKube video was published on YouTube on December 18, 2014.

12. My curriculum vitae, which includes a complete list of my publications, is included as Appendix A.

13. I am being compensated at a rate of \$350 per hour for my work in this case. This compensation is not contingent on the nature of my findings or the outcome of this litigation.

14. I am over the age of 18 and am competent to write this declaration. I have personal knowledge, or have developed knowledge, of the technologies discussed in this declaration based upon my education, training, or experience with the matters discussed herein.

III. PERSON OF ORDINARY SKILL IN THE ART

15. In my opinion, a person of ordinary skill in the art of the '372 patent would have a degree in chemical engineering, petroleum engineering, process engineering, mechanical engineering, or a similar field with 1-2 years of experience in designing power generation systems, Bitcoin mining systems, or other comparable hands-on experience. Alternatively, a person having 3-5 years of experience in the Bitcoin mining industry would also qualify as a POSITA. Additional education could substitute for professional experience, or vice versa.

IV. LEGAL PRINCIPLES

16. I am not a lawyer and I will not provide any legal opinions in this PGR. Although I am not a lawyer, I have been advised that certain legal standards are to be applied by technical experts in forming opinions regarding the meaning and validity of patent claims.

A. Claim Construction

17. I understand that claim terms are generally given their plain and ordinary meaning in light of the patent's specification and file history as understood by a person of ordinary skill in the art at the time of the purported invention. In that regard, I understand that the best indicator of claim meaning is its usage in the context of the patent specification as understood by a POSITA. I further understand that the words of the claims should be given their plain meaning unless that meaning is inconsistent with the patent specification or the patent's history of examination before the Patent Office. I also understand that the words of the claims should be interpreted as they would have been interpreted by a POSITA at the time of the invention was made (not today).

B. Indefiniteness

18. I understand that a claim is indefinite under § 112 if a POSITA, viewing the claim in light of the specification and prosecution history, cannot determine the full scope of the invention with reasonable certainty. I understand that, if a claim term is amenable to two or more plausible constructions, any claim containing that term is indefinite.
19. I understand that a claim that depends from an indefinite claim is itself indefinite unless additional limitations resolve any indefiniteness.

C. Written Description

20. I understand that the four corners of a patent application must reasonably convey to a POSITA that the inventor had possession of and actually invented the claimed subject matter at the time the application was filed.

D. Indefiniteness for Means-Plus-Function Terms

21. I understand that a claim term that does not use the word “means” is presumed not to be a means-plus-function term subject to §112(f). I understand that the presumption is overcome if it is shown that a claim term (1) recites function without sufficient structure, as understood by a POSITA, for performing the function, or (2) does not recite sufficiently definite structure. I understand that reciting “sufficiently definite structure” means whether the words of the claim, as understood by a POSITA, have definite meaning as the name of for the structure.
22. I understand that in the case of a claim term that is associated with performing multiple functions, the claim term must have sufficient definite structure capable of performing all of the recited functions. I understand that in assessing the meaning of the term, it is done in view of the functions it is claimed to perform in light of the specification and claims.
23. I understand that a claim term that is a means-plus-function term subject to § 112(f) is indefinite if the specification fails to disclose sufficient structure to perform all of the

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