

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

WACO DIVISION

VOIP-PAL.COM, INC.,

Plaintiff,

v.

AMAZON.COM, INC.;
AMAZON.COM SERVICES LLC; and
AMAZON WEB SERVICES, INC.

Defendants.

Case No. 6:20-cv-00272-ADA

**DECLARATION OF
DANIJELA CABRIC, PH.D.**

I, Dr. Danijela Cabric, declare as follows:

I. INTRODUCTION

1. I have personal knowledge of the facts contained in this declaration and, if called as a witness, I could and would competently testify to those facts. I have been retained by Voip-PAL.Com Inc. (“Voip-PAL”) as an expert in the fields of computer science, computer communications, and related technologies. I am being compensated at my normal consulting rate. My compensation does not depend on and in no way affects the substance of my statements in this Declaration.

II. QUALIFICATIONS

2. My technical qualifications are as follows. I hold a Ph.D. in Electrical Engineering in 2007 from the University of California, Berkley in Berkeley, CA, for research on the topic of “Cognitive Radios: System Design Perspective,” under the supervision of Dr. Robert W. Brodersen. Previous to that, I received a M.S. in Electrical Engineering in 2001 from the University of California, Los Angeles (“UCLA”), based on a thesis entitled, “Characterization of a Fast Frequency-Hopped FSK Testbed through Simulations and Field Trials.”

3. I am a Full Professor of Electrical Engineering at University of California, Los Angeles. I have been a full, tenured professor in the Department of Electrical Engineering at UCLA since 2018. My research interests include digital communications and wireless system design. I am aware of the knowledge that a person of ordinary skill in the art would have had at the time the invention was made.

4. I have taught undergraduate and graduate courses at UCLA and at UC Berkeley. For example, I have taught the following undergraduate courses at UCLA: Signals and System, Digital Signal Processing, Logic Design for Digital Systems, Circuit Analysis I, Digital Electronic Circuits. I have also taught graduate courses at UCLA including Estimation and Detection, Digital Communications, Wireless Communication System Design, Modeling and Implementation. Further, I developed a new graduate-level course titled: Special Topics in Circuits and Embedded Systems: Wireless Communications System Design. At UC Berkeley, I taught the undergraduate course Probability and Random Processes and was a graduate-level course consultant for the course VLSI Signal Processing.

5. I am a Fellow of the Institute of Electrical and Electronics Engineers (IEEE) and have also been recognized by the IEEE as a ComSoc Distinguished Lecturer from 2018-2020. In 2020, I received the Best paper Award at the 4th ACM Workshop on Millimeter-Wave Networks and Sensing Systems, and the year before, in 2019, I received the Best paper Award at the IEEE International Conference on Communications, Networking, and Computing. I am the author or co-author of five books or chapters, 70 journal publications, eight magazine articles, 126 conference papers, 17 invited papers, 1 patent and 2 patent applications. I have also been invited to speak at about 62 talks, panels, keynotes, or tutorials. I am the author or co-author of over 250 technical publications in the areas of communications, communications signal processing, networking, embedded systems and integrated circuits.

6. I have also been hired by several technology companies as a consultant, including Amazon, Inc., Perceptronics Solutions, LocatorX, Intellectual Ventures, and Specom, Inc. I have also served on the Board of Advisors for MaxLinear, Inc.

7. I have provided a copy of my curriculum vitae as an attachment to this declaration as **Exhibit A**. My Curriculum Vitae provides a more detailed description of my qualifications, experience, publications, awards and patents, as well as a list of cases in which I have testified at trial, hearing, or by deposition within the last four years.

III.TASK

8. I have been asked to provide testimony regarding the understanding of a person of ordinary skill in the art (“POSITA”) at the time of invention regarding the technology disclosed and claimed in VoIP-Pal’s patents in general, and the 10,218,606 patent (“the ’606 Patent”) in particular. Among other things, I have provided comments distinguishing between Claim 1 of the ’606 patent and Claim 1 of U.S. Patent No. 9,826,002 B2 (“the ’002 Patent”); I have distinguished also between Claim 1 of the ’606 Patent and the conventional practices of historical switchboard operators; and I have explained how a POSITA would know how to perform the invention. I have identified unconventional technical advantages and improvements which arise from the claims of the ’606 Patent.

9. This declaration is not the first time I have provided testimony for VoIP-Pal. I provided an expert report in USPTO *ex parte* Re-examination Control. No. 90/019,124 in regarding U.S. Patent No. 10,218,606. While I am not a lawyer, in making the statements contained in this declaration, I have relied on my education in Electrical Engineering, my professional experience, the ’606 patent and its history. In forming my opinions for this Declaration, I have adopted the perspective of a POSITA as of the priority date of these patents, which I am defining as follows: a POSITA would be someone with an undergraduate degree in either Computer Science, Computer Engineering, Electrical Engineering, or a related

discipline, and would likely have about 2 years of experience in system-level development, but a greater degree of professional experience could serve to replace some formal education and a higher degree of education could replace some professional experience. Based on my education and experience, I believe I would qualify as at least a skilled person in the field of the invention (“POSITA”) both now and as of the patent’s priority date.

IV. DISCUSSION OF VOIP-PAL PATENTS

A. Claim 1 of the ’606 Patent is distinct from Claim 1 of the ’002 Patent.

10. I have been asked to compare Claim 1 of the ’606 Patent and Claim 1 of the ’002 Patent and indicate whether a POSITA would perceive that they are directed to the same concept. In my opinion, while both claims are in the field of communications and share some similarities, they are not directed to the same concept. Also, I was asked to answer the question of whether Claim 1 of the ’606 Patent is directed to the idea of routing a call based on participant characteristics (specifically, identity). In my opinion, it is factually inaccurate and inconsistent with the specification and claims to characterize Claim 1 as being directed to routing a call based on participant characteristics (specifically, identity). Third, I was asked to explain whether any technical advantages arise from the distinct concept contained in Claim 1. I will begin my analysis by focusing on differences between Claim 1 of each of the ’606 and ’002 Patents.

11. To begin with, Claim 1 of the ’606 Patent is focused on the association of each system user or subscriber (“participant”) with a specific element of a communication system’s infrastructure. The preamble states, the “first and second participant devices being associated with first and second network elements of the communication system, respectively.” This is important because, later in the claim, the routing decision is undertaken based on whether the first and second participant devices are associated with the “same” network element or not. For example, the claim recites, “processing the new second participant identifier, using the at

least one processor, to determine whether the second network element is the same as the first network element.” Nothing in claim 1 of the ’002 Patent corresponds to this step, which instead recites “classifying the communication, based on the new second participant identifier, as a system communication or an external network communication.” It is a misinterpretation of the claims and misunderstanding of the patent specification to equate these two steps. In particular, it is an error to equate the step of “when the second network element is determined not to be the same as the first network element...” (in the ’606 Patent) with the step of “when the communication is classified as an external network communication...” (in the ’002 Patent). The step of “when the second network element is determined not to be the same as the first network element...” (in the ’606 Patent) does not require classifying a communication as an “external network communication”. Quite to the contrary, Claim 1 of the ’606 Patent, if properly understood, assumes that when specific scenarios are tested for in the claim language—whether the network elements are the “same” or are “not the same”—this relates to communications *within* the system itself; it does not relate to a decision to route the communication outside of the system to an external network (or external communication system) through a gateway. An external network, such as is recited in Claim 1 would be outside of the system network in Claim 1.

12. A POSITA would interpret Claim 1 in part based on other claims and in light of the specification as a whole. For example, a POSITA would read Claim 1 in view of dependent Claim 14, which indicates that the action of producing a routing message identifying a gateway to an external communication system is *mutually exclusive* with the two scenarios described in Claim 1 of the ’606 Patent, as described above (i.e., whether the network element is the “same” or not). Claim 14 expressly recites: “receiving a third participant identifier associated with a third participant device, wherein *the third participant device is not associated with either the first network element or the second network element*; and

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