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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

K/S HIMPP
Petitioner,

v.

BRAGI GmbH,
Patent Owner.

Case IPR2023-00901
Patent 10,635,385

DECLARATION OF NIKOLAJ HVIID
UNDER 37 C.F.R. § 1.131

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I, Nikolaj Hviid, declare:

1. I am a citizen of Denmark and am over 21 years of age and in all respects fully competent to make this Declaration. I make this Declaration based on facts within my personal knowledge, and if called as a witness, I could and would competently testify to the matters set forth herein.

2. I am familiar with U.S. Patent No. 10,635,385. I know that this patent is assigned to Bragi GmbH and names Martin Steiner as the inventor. I am familiar with the technology claimed in this application.

3. I am the founder and CEO of Bragi GmbH and have been since its inception in 2012. I quit my job in 2012 when I came up with the idea of creating my own wireless earpieces. In March of 2013, I began sourcing developers and designers to onboard and support the project and incorporated my company.

4. My intent in creating The Dash was to build a computer in the ear which allowed the user to interact with the wireless earpieces through a mobile application. The wireless earpieces I envisioned and later created were in-ear earpieces that fit comfortably and completely into a user's ear without wrapping around the exterior. The wireless earpieces would have a large number of sensors embedded in them which would take different measurements that could then be portrayed to the user, for example, through the application.

5. After about a year of working on The Dash, myself and my team at Bragi launched a Kickstarter Campaign in February of 2014 in order to crowd fund the development of the Dash. I wrote every post and update associated with this Kickstarter campaign. I also responded to the majority, at least over 75%, of the comments and questions that came in with the campaign.

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6. In February 2014 when I launched the Kickstarter, I knew that the wireless earpieces would require an application interface for interaction with the earpieces. However, the idea was not developed or reduced to practice in the way it is claimed in the '385 Patent.

7. On February 14, 2014, I posted a Kickstarter update with a "stretch goal" for a mobile application if the Kickstarter were to raise $1,500,051. [1]

8. I hired Martin Steiner, the lead inventor on the '385 Patent, as the User Experience lead. Martin was with Bragi from October 2014 to January 2021. One of his responsibilities as the User Experience lead was to develop the mobile application for interacting with The Dash wireless earbuds. Some of his developments were patented with Martin as the inventor, including those claimed in the '385 Patent.

9. On February 11, 2015, I published a Kickstarter update with a preview of the application Martin had been working to develop.[2] Martin is seen in this video demonstrating how a prototype of the application worked. Behind Martin, photos of the development (including many of those included in the '385 Patent as figures) can be seen. In this post, I also included a link where backers could download a prototype of the application. The prototype application for interacting with the wireless earbuds included a visual representation of the wireless earbuds, as well as the corresponding battery charge percentage for each of the wireless earbuds.

10. I am familiar with the exhibit in this proceeding filed as Ex. 2006. I recognize Martin Steiner as present and speaking about The Dash in this video, including with regard to the mobile application he developed which is the subject of the claims of the '385 Patent. I confirm that on the date we posted this video, June 24, 2015, we had a working prototype of the mobile

[1] https://www.kickstarter.com/projects/hellobragi/the-dash-wireless-smart-in-ear-headphones/posts/747956
[2] https://www.kickstarter.com/projects/hellobragi/the-dash-wireless-smart-in-ear-headphones/posts/1132497

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application for The Dash. I also confirm that this prototype performed the functionalities claimed in the ’385 Patent.

11. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on this 30th day of January 2024

DocuSigned by:

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Nikolaj Hviid