

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PELOTON INTERACTIVE, INC.,
Petitioner,

v.

NEC CORPORATION,
Patent Owner.

Case No. IPR2023-01240
Case No. IPR2023-01241

Patent No. 9,769,427

DECLARATION OF SHUNSUKE CHISHIRO

I, Shunsuke Chishiro, declare as follows:

1. I have personal knowledge of the facts set forth herein, and if called to testify, I could and would competently testify to the same.
2. I am a staff at the Litigation and Counsel Department of the Intellectual Property Management Division of NEC Corporation (“NEC”) and have worked at NEC since April 2020.
3. In or around 2008, NEC used a patent information management system called “UNIPAT” to manage documents and communications related to patent applications, and to communicate with outside patent attorneys and patent agents. The records include metadata information, including the dates on which documents were uploaded to the system or communicated. Records made to UNIPAT occurred at or near the time of the relevant activity and were made by personnel with knowledge of the information contained in the records, and/or were made automatically by UNIPAT’s software. The UNIPAT records were kept in the course of regularly conducted business activities of NEC, and making the record therein was a regular practice of NEC. NEC employees were instructed to use care to ensure that records made to UNIPAT were accurate, and NEC relied on the accuracy of the information and metadata in the records in the course of its business.
4. In or around 2011, all data of UNIPAT was transferred to a successor system called “GeneSight,” which continues to store and maintain these business records,

including metadata. The records and metadata information from UNIPAT were accurately transferred to the GeneSight system during the transition, and NEC continues to rely on the accuracy of the records and metadata following the transition.

5. I am familiar with the operation of and meaning of information on the UNIPAT and GeneSight systems. I directed the extraction of Exhibits 2016, 2018, and 2020 from the GeneSight system.

6. Exhibit 2016 is a true and correct copy of a draft patent specification transmitted on November 6, 2008 from NEC to NEC's patent attorney, Baba International Patent Office ("Baba"), for a matter that resulted in the submission of Japan Patent Application No. 2008-294270 ("JP'270 Application") on November 18, 2008.

7. Exhibit 2018 is a true and correct copy of a work request from NEC to Baba, also transmitted from NEC to Baba on November 6, 2008.

8. Exhibit 2020 is a true and correct copy of the documents Baba submitted to the Japan Patent Office on November 18, 2008 and uploaded to UNIPAT on the same day.

9. I have personally reviewed Exhibits 2016, 2018, and 2020, as well as the GeneSight records for these documents, to confirm the accuracy of the statements above.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I understand that willful false statements and the like are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and may jeopardize the validity of the patent.

DocuSigned by:
Shunsuke Chishiro
7EFB7055D35246E
SHUNSUKE CHISHIRO
Date: April 25, 2024
Tokyo, Japan