

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NOKIA OF AMERICA CORPORATION, ERICSSON INC.,
AND T-MOBILE USA, INC
Petitioners

v.

GENERAL ACCESS SOLUTIONS, LTD.,
Patent Owner

Case No. IPR2023-01416

U.S. Patent No. 6,947,477

**DECLARATION OF SYLVIA HALL-ELLIS, PH.D. IN SUPPORT OF
PETITION FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 6,947,477**

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DECLARATION OF SYLVIA HALL-ELLIS, PH.D.

I. INTRODUCTION

1. My name is Sylvia D. Hall-Ellis. I have been retained as an expert on behalf of T-Mobile USA, Inc., Ericsson, Inc., and Nokia of America Corporation (collectively, “Petitioners”).

2. I have written this Declaration on behalf of Petitioners to provide my expert opinion regarding the authenticity and public availability of a publication, the Personal Handy Phone System, published in December 1995. My Declaration sets forth my opinions in detail and provides the basis for my opinions regarding the public availability of this publication.

3. I have personal knowledge of the facts contained in this Declaration, am of legal age, and am otherwise competent to testify.

4. Unless otherwise stated, the matters contained in this Declaration are of my own personal knowledge and, if called as a witness, I could and would testify completely and truthfully with regard to the matters set forth herein.

5. I reserve the right to supplement or amend my opinions, and basis for them, in response to any additional evidence, testimony, discovery, argument, and/or other additional information that may be provided to me after the date of this Declaration.

6. I am being compensated for my time spent working on this matter at my normal consulting rate of \$350 per hour, plus reimbursement for any additional reasonable expenses. My compensation is not in any way tied to the content of this Declaration, the substance of my opinions, or the outcome of this litigation. I have no other interests in this proceeding or with any of the parties.

7. All of the materials that I considered are discussed explicitly in this Declaration.¹

II. QUALIFICATIONS

8. I Am qualified by education and experience to testify as an expert in the field of library science. Attached as Ex. 1010-1 to this Petition is a copy of my curriculum vitae detailing my education and experience. Additionally, the following overview of my background pertains to my qualifications for providing expert testimony in this matter.

9. I am currently an Adjunct Professor in the School of Information at San José State University. I obtained a Master of Library Science from the University of North Texas in 1972 and a Ph.D. in Library Science from the University of Pittsburgh in 1985. Over the last 50-plus years, I have held various positions in the field of library and information resources. I was first employed as a librarian in 1966

¹ Where appropriate, I refer to exhibits that I understand are to be attached to the petition for *inter partes* review of the '477 Patent.

and have been involved in the field of library sciences since, holding numerous positions.

10. I am a member of the American Library Association (ALA) and its Association for Library Collections & Technical Services (ALCTS) Division, and I served on the Committee on Cataloging: Resource and Description (which wrote the new cataloging rules) and as the chair of the Committee for Education and Training of Catalogers and the Competencies and Education for a Career in Cataloging Interest Group. I also served as the Chair of the ALCTS Division's Task Force on Competencies and Education for a Career in Cataloging. Additionally, I have served as the Chair for the ALA Office of Diversity's Committee on Diversity, as a member of the REFORMA National Board of Directors, as a member of the Editorial Board for the ALCTS premier cataloging journal, *Library Resources and Technical Services*, as a Co-Chair of the Library Research Round Table (LRRT) for the American Library Association, and as a member of the LRRT Nominating Committee.

11. I have also given over one hundred presentations in the field, including several on library cataloging systems and Machine-Readable Cataloging ("MARC") standards. My current research interests include library cataloging systems, metadata, and organization of electronic resources.

III. LEGAL STANDARDS

12. *Scope of this Declaration.* I am not an attorney and will not offer opinions on the law. I am, however, rendering my expert opinion on the authenticity of the documents referenced herein and on when and how each of these documents was disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art, exercising reasonable diligence, could have located the documents before on or around the listed dates of their respective publications below.

13. I am informed by counsel that a publication in printed or electronic or other version qualifies as publicly accessible as of the date it was disseminated or otherwise made available such that a person interested in and ordinarily skilled in the relevant subject matter could locate it through the exercise of ordinary diligence. I am further informed by counsel that the following five factors are considered to determine whether a work is publicly available: (a) the breadth of dissemination of the work; (b) whether the material is addressed to or of interest to a POSITA; (c) how widely the work was disseminated; (d) for how long the reference was disseminated or available; and, (e) whether the information was disseminated publicly with no expectation of confidentiality.

14. While I understand that the determination of public accessibility under the foregoing standard rests on a case-by-case analysis of the facts particular to an

individual publication, I also understand that a publication is rendered “publicly accessible” if it is cataloged and indexed by a library such that a person interested in the relevant subject matter could locate it (*i.e.*, I understand that cataloging and indexing by a library is sufficient, though there are other ways that a printed publication may qualify as publicly accessible). One manner of sufficient indexing is indexing according to subject matter category. I understand that the cataloging and indexing by a single library of a single instance of a particular publication is sufficient, even if the single library is in a foreign country. I understand that, even if access to a library is restricted, a publication that has been cataloged and indexed therein is publicly accessible so long as a presumption is raised that the portion of the public concerned with the relevant subject matter would know of the publication. I also understand that the cataloging and indexing of information that would guide a person interested in the relevant subject matter to the publication, such as the cataloging and indexing of an abstract, is sufficient to render the publication publicly accessible.

15. *Persons of ordinary skill in the art.* I am told by counsel that the subject matter of this proceeding generally relates to the field of fixed wireless access communications systems.

16. I have been informed by counsel that a “person of ordinary skill in the art at the time of the inventions” is a hypothetical person who is presumed to be

familiar with the relevant field and its literature at the time of the inventions. This hypothetical person is also a person of ordinary creativity, capable of understanding the scientific principles applicable to the pertinent field.

17. I am told by counsel that persons of ordinary skill in this subject matter or art would have had at least a Bachelor's Degree in computer science, electrical or computer engineering, or a related field, and at least two years of work or research experience in digital communications systems, such as wireless communications systems and networks, or equivalent, or a Master's Degree in electrical engineering, computer engineering, computer science, or a similar field.

18. It is my opinion that such a person would have been engaged in research, learning through study and practice in the field and possibly through formal instruction the bibliographic resources relevant to his or her research. In the 2001 timeframe, such a person would have had access to a vast array of long-established print resources in the area of fixed wireless access communications systems.

IV. EXHIBIT 1009 ("PHS")

19. Exhibit 1009 is a true and correct copy of the book titled *Personal Handy Phone System ARIB Standard*, Version 2, prepared and issued by the Association of Radio Industries and Businesses (hereafter "PHS") with a 1996 date. The text of Exhibit 1009 is complete; no pages are missing, and the text on each page appears to flow seamlessly from one page to the next; further, there are no

visible alterations to the document. The document is also identified as RCR STD-28. Exhibit 1009 was found within the custody of a library—a place where, if authentic, a copy of this book would likely be. Exhibit 1009 is a true and correct copy in a condition that creates no suspicion about its authenticity.

20. Attached hereto as Exhibit 1010-2 is a true and correct copy of the MARC record for this book from the Engineering Library at Stanford University (Palo Alto, California). The MARC record indicates a 1996 publication date in field 008. I personally identified and retrieved the library catalog record.

21. Exhibit 1009 shows stamps from the Engineering Library at Stanford University and the receipt date of July 3, 1997, on page 415. Therefore, it is my opinion that the PHS book was publicly available on July 3, 1997, and meets the five criteria outlined above (§13). The PHS book was listed in the Stanford University Libraries online catalog that is available worldwide through the Internet; the content is addressed to or of interest to a POSITA as identified above (§15-18); the book was disseminated globally; the PHS book continues to be available through the Stanford University Libraries website; and the book is available with no expectation of confidentiality.

V. SUMMARY OF OPINIONS

22. In view of the foregoing, it is my opinion that the publication described above were publicly available no later than the corresponding date listed in the table below:

Exhibit	Publication	Publicly Available No Later Than
Ex. 1009	Association of Radio Industries and Businesses. <i>Personal Handy Phone System ARIB Standard</i> . Version 2. RCR STD-28. Tokyo, Japan, Association of Radio Industries and Businesses, 1996.	July 3, 1997

23. In signing this Declaration, I recognize that the Declaration will be filed as evidence in a case before the Patent Trial and Appeal Board of the United States Patent and Trademark Office. I also recognize that I may be subject to cross-examination in the case and that cross-examination will take place within the United States. If cross-examination is required of me, I will appear for cross-examination within the United States during the time allotted for cross-examination.

24. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1034 of Title 18 of the United States Code.

DATED: October 12, 2023

By: 
Sylvia D. Hall-Ellis, Ph.D.