

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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HYUNDAI MOTOR COMPANY,

Petitioner

v.

MEL NAVIP LLC,

Patent Owner

Patent No. 8,244,465

*Inter Partes* Review No.  
IPR2024-00172

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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 Hyundai Motor Company (“Petitioner”).

2. I have written this report on behalf of Petitioner to provide my expert opinion regarding the authenticity and public availability of a publication. My report sets forth my opinions in detail and provides the basis for my opinions regarding the public availability of this publication.

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

4. 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 report, 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.

5. All of the materials that I considered are discussed explicitly in this declaration.

## II. QUALIFICATIONS

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

7. 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.

8. 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.

9. My full curriculum vitae is attached hereto as Exhibit 1025.

### **III. PRELIMINARIES**

10. *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.

11. I am informed by counsel that a printed publication 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.

12. 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 printed 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 printed 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 printed 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 printed publication. I also understand that the cataloging and indexing of information that would guide a person interested in the relevant subject matter to the printed publication, such as the cataloging and indexing of an abstract for the printed publication, is sufficient to render the printed publication publicly accessible.

13. I understand that routine business practices, such as general library cataloging and indexing practices, can be used to establish an approximate date on which a printed publication became publicly accessible.

14. *Persons of ordinary skill in the art.* I am told by counsel that the subject matter of this proceeding generally relates to navigation systems.

15. 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.

16. I am told by counsel that persons of ordinary skill in this subject matter or art would have had an undergraduate degree in electrical engineering, computer engineering, computer science, or an equivalent degree, as well as at least three years of experience in the design and implementation of navigation systems.

17. It is my opinion that such a person would have been engaged in research, learning, thorough study and practice in the field and possibly through formal instruction the bibliographic resources relevant to his or her research. In the 2007 timeframe, such a person would have had access to a vast array of long-established print resources in the area of navigation systems.

#### IV. EXHIBIT 1015 (“TOMTOM”)

18. Exhibit 1015 is a copy of the document titled *TomTom ONE Manual* prepared by TomTom International B.V. (hereafter “TomTom”). The document is identified as Part no. 4N00.001 (*see* EX1015, page 68). I downloaded the document from the Internet<sup>1</sup> and made the copy that is Exhibit 1015.

19. The *TomTom ONE Manual* is a true and accurate copy of the document that was issued and distributed to purchasers of automobiles with the navigation system. The document bears a 2005 copyright date (*see* EX1015, page 68). Specifically, the text of the *TomTom ONE Manual* document 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. Exhibit 1015 was found within the custody of the issuing corporate entity – a place where, if authentic, a copy of this document would likely be.

20. Attachment A is an official press release titled “TomTom brings personal navigation to everyONE” announcing the release of the TomTom ONE navigation system on October 17, 2005, which was prepared and distributed by the TomTom Newsroom on October 24, 2005. Attachment A is a true and correct copy

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[https://download.tomtom.com/open/manuals/one/refman/Main\\_menu\\_EN\\_US.htm](https://download.tomtom.com/open/manuals/one/refman/Main_menu_EN_US.htm)

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of the press release which I also accessed from the TomTom Newsroom archives.<sup>2</sup> Specifically, the text of Attachment A 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 Attachment A compared to what is currently accessible on the Internet. Further, Attachment A was found within the custody of the archives for the issuing corporate entity (*i.e.*, TomTom International B.V.), a place where, if authentic, a copy of this press release would likely be. Attachment A is a true and correct copy in a condition that creates no suspicion about its authenticity.

21. A press release exhibits the following characteristics: the press release is attributed to a creator or author (in this case, TomTom International B.V.) which affixes a date of creation (in this case, October 24, 2005) and publishes the document.

22. Based on finding a digital copy of Attachment A on the Internet, it is my opinion that the press release titled “TomTom brings personal navigation to everyONE” was available to the public on October 24, 2005, as indicated on the document. It is also my opinion that there is no reason to doubt the authenticity of Attachment A given its appearance, contents, and the web address from which it

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<sup>2</sup> <https://www.tomtom.com/newsroom/press-releases/general/16291/tomtom-brings-personal-navigation-to-everyone/>

was obtained.

23. Exhibit 1015 is a true and correct copy of the document titled *TomTom ONE Manual* in a condition that creates no suspicion about its authenticity. Based on the date recorded in the document and the TomTom press release (Attachment A), it is my opinion that the *TomTom ONE Manual* was available to the public on October 17, 2005, or shortly thereafter.

## V. SUMMARY OF OPINIONS

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

| Exhibit | Publication                                                                                                                            | Publicly Available<br>No Later Than |
|---------|----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| 1015    | TomTom International B.V., <i>TomTom One Manual</i> , Part no. 4N00.001, Amsterdam, The Netherlands: TomTom International B.V., c2005. | October 17, 2005                    |

25. 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.

26. 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: November 14, 2023

  
Sylvia D. Hall-Ellis, Ph.D.

# ATTACHMENT A



## TomTom brings personal navigation to everyONE

**London, UK, 17 October 2005** TomTom, Europe's leading personal and in-car navigation solution provider, today announces the launch of its new TomTom ONE product. TomTom ONE combines a new slimmer, lighter design with TomTom's award-winning software at €399.

Ideal for first time navigation users, TomTom ONE combines ease of use, portability, unique touch screen technology and a sleek new design. With TomTom ONE, everyONE can find their way from A to B!

Drivers can enjoy the benefits of a TomTom ONE immediately, thanks to TomTom's award-winning plug and drive navigation software pre-installed on a memory card. This means there is no need to download complicated software, just plug in and start using. TomTom ONE comes with the latest regional maps provided by TeleAtlas. TomTom ONE is the size of a wallet and weighs in at only 260 grams, making it extremely portable. Additionally, TomTom ONE does not compromise on screen size which allows for optimal visibility in the car environment.

Even better, TomTom ONE delivers all the smart technology provided across the TomTom product range. The on-board Bluetooth connectivity enables TomTom ONE users to download a host of additional services, as part of the TomTom PLUS package. Features include TRAFFIC, safety camera information, as well as various other services.

"TomTom ONE boasts exceptional TomTom quality in a streamlined, easy to use package. As the most affordable integrated product we have ever brought to market, TomTom ONE makes personal navigation a reality for all, broadening our appeal and customer base," said Harold Goddijn, TomTom's chief executive officer. "For first time entrants to the navigation market, TomTom ONE provides all the core features, with the added benefit of TomTom PLUS services, easy to utilise via Bluetooth connectivity. And all of that at a great price" TomTom ONE is the entry level model in TomTom's family of integrated navigation devices.

The award winning TomTom product family of integrated devices ranges from:

**TomTom GO 700:** Hands-free calling, maps of Europe and remote control

**TomTom GO 500:** Hands-free calling, country specific maps + Major Road Network of Europe

**TomTom GO 300:** Country specific maps

**TomTom ONE:** TomTom's newest integrated navigation device

**TomTom ONE** is available in shops from November 2005.

### About TomTom

TomTom NV is a leading provider of personal navigation products and services to the consumer market. TomTom's products are developed with an emphasis on innovation, quality, ease of use and value. TomTom's products include all-in-one navigation devices which enable customers to navigate right out of the box, as well as navigation software products which integrate with third party devices such as PDAs and smartphones. TomTom's portfolio of products and services includes the award-winning TomTom GO family of integrated navigation devices, the TomTom Navigator software for PDAs, TomTom MOBILE navigation software for smartphones and TomTom Plus, a location-based content and services offering for TomTom's navigation products.

TomTom was founded in 1991 in Amsterdam and has offices in the Netherlands, the United Kingdom, the United States and Taiwan. TomTom's products are sold through a network of leading retailers in 17 countries and online.