UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOOGLE LLC,

Petitioner,

v.

PROXENSE, LLC,

Patent Owner.

_____

Case No. IPR2024-00232
U.S. Patent No. 8,352,730

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DECLARATION OF STEPHEN GRAY IN SUPPORT OF PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

GOOGLE EXHIBIT 1027
GOOGLE v. PROXENSE
IPR2024-00232

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I. INTRODUCTION

1. I have been retained by Google LLC ("Petitioner") as an independent expert consultant in this proceeding before the United States Patent and Trademark Office.

2. I previously submitted a declaration in support of Google's petition for Inter Partes Review (IPR) of U.S. Patent No. 8,352,730 (the "'730 Patent"), which I understand was designated Exhibit 1003. In particular, for that declaration, I was asked to provide my opinions in connection with this IPR, including my opinions concerning the patentability of claims 1-6 and 8-17 (the "Challenged Claims") of the '730 Patent. I will refer to that as my "Opening Declaration."

3. For this Declaration, I was asked to provide my opinions regarding certain arguments raised by Proxense and its expert, Troy Carrothers, in Proxense's Patent Owner's Response ("POR").

4. As before, I am being compensated at my normal hourly rate. My compensation is based solely on the amount of time that I devote to activity related to this case and is in no way contingent on the nature of my findings, the presentation of my findings in testimony, or the outcome of this or any other proceeding. I have no other financial interest in this proceeding.

5. My Background and Qualifications were set forth in my Opening Declaration.

II. MATERIALS CONSIDERED

6. In forming my opinions set forth herein, I considered the following Materials in addition to those considered in my Opening declaration, as well as my own experiences:

Exhibit	Description
Ex. 1026	U.S. Patent No. 8,886,954 ("the '954 patent")
Paper 6	Patent Owner's Preliminary Response
Paper 10	Decision on Institution
Paper 14	Patent Owner's Response
Ex. 2018	Declaration of Troy Carrothers

III. LEGAL STANDARDS

7. My Opening Declaration summarizes my understanding of the legal standards relevant to my analysis of the Challenged Claims.

IV. REPLY TO PATENT OWNER'S INTERPRETATION OF THIRD PARTY TRUSTED AUTHORITY

8. I understand that Patent Owner "agrees" with the Board's construction of the term "third-party trusted authority" as "a trusted authority that is an entity separate from the parties to a transaction." POR at 6 (also noting that this construction is "consistent with its plain and ordinary meaning.").

9. This construction is consistent with what a POSITA would have understood the term to mean, and is disclosed by Ludtke, as explained in my opening declaration. Ex. 1003, ¶¶49-51, 53, 107-109.

10. I also understand that Patent Owner separately "challenges [the construction's] application in the Petition, in particular the finding that the 'parties to a transaction' of the Patent (relative to the claimed third party trusted authority) can be a user and a vendor or merchant." POR at 7; *see also* POR at 8 ("the specification and claim language at issue requires that at least one of the parties to the claimed transaction must be the application."). Specifically, I understand that Patent Owner argues that "at least one of the parties to the claimed transaction *must* be the application." POR at 7.

11. It is my opinion that the '730 patent contemplates that an application *may be* a party to the transaction but does not *require* as much because the '730 patent and related continuation U.S. Patent No. 8,886, 954 ('954 patent) describes embodiments in which the application is not a party to the transaction.

12. As the '730 patent explains[1], "[a]pplication 330 is a resource that can be accessed by a verified and authenticated user." Ex, 1001, 5:27-28. The application "can be, for example, a casino machine, a keyless lock, a garage door

[1] I understand that Patent Owner is acting as its own lexicographer with respect to this term.

opener, an ATM machine, a hard drive, computer software, a web site, a file, and the like." Ex. 1001, 5:28- 31. The '954 patent similarly explains "[a]pplication 330 can be, for example, a casino machine, a keyless lock, a garage door opener, an ATM machine, a hard drive, computer software, a web site, a file, a financial account (e.g. a savings account, checking account, brokerage account, credit card account, credit line, etc.) and the like" and further describes embodiments in which "a file includes medical information such as a medical record, insurance information or other healthcare information." Ex. 1026, 6:19-26.

13. A POSITA would have understood that the ATM machine, as described in the '730 patent is not a party to a transaction even though it is an application (resource to be accessed by the verified and authenticated user) as set forth in the '730 patent. This is because the ATM is merely the instrumentality through which the user (a first party) conducts financial transactions, e.g., deposits and withdrawals, with the bank (the other party). Similarly, a "file" (another type of application (resource to be accessed by the verified and authenticated user) exemplified in the '730 patent is not a party to a transaction—rather the user and the provider of the file (e.g., a vendor) are the parties.

14. This is consistent the term's use in '954 patent, which indicates that an "application" includes a "financial account" such as a "savings account" and a "file" such as a "medical record, insurance information or other healthcare

information." Ex. 1026, 6:18-26. None of these files would have been interpreted by a POSITA to be a party to a transaction because the transaction—that is the exchange to be sought—is between a user requesting access to the file, and the grantor providing access to the file. Thus, although the application (resource to be accessed) *may* be a party to the transaction, *it is not* required by the claims as Patent Owner argues.

V. CONCLUSION

15. For the reasons set forth in Section XI of my Opening Declaration and statements made herein, it is my opinion that one skilled in the art would have found the Challenged Claims of the '730 patent to be obvious.

16. In signing this declaration, I understand that the declaration will be filed as evidence in a contested case before the Patent Trial and Appeal Board of the United States Patent and Trademark Office. I declare that all statements made herein of my knowledge are true, and that all statements made on information and belief are believed to be true, and 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 1001 of Title 18 of the United States Code.

Date: January 6, 2025

Respectfully submitted,



Stephen Gray