

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTERACTIVE COMMUNICATIONS INTERNATIONAL, INC.,

Petitioner,

v.

BLACKHAWK NETWORK INC.,

Patent Owner.

Case No. IPR2024-00465

U.S. Patent No. 11,488,451

DECLARATION OF JAMES MCDONALD

I, James McDonald, declare as follows:

1. I am Vice President, Litigation & Chief IP Counsel at Blackhawk Network, Inc. I have held this position for the past 9 years and was patent counsel at Blackhawk for the 4 years prior.

2. I am familiar with Blackhawk's records management policies and records retention. I was involved in retrieving Blackhawk records for production in *Blackhawk Network, Inc. v. SL Card Company Inc. d/b/a Linq3*, No. CV 2022-051638 (Superior Court of Arizona, County of Maricopa) (the "Arizona state court case").

3. The following documents are true and correct copies of business records held by Blackhawk:

a. **EX2006**, an e-mail that Blackhawk received from Linq3 (Tom Siegel) on February 14, 2018;

b. **EX2007**, an e-mail that Blackhawk received from Linq3 (Daniel Cage) on April 26, 2018;

c. **EX2008**, an e-mail that Blackhawk (Bill Tauscher) sent to Linq3 on November 10, 2017;

- d. **EX2011**, an e-mail that Blackhawk (Steve Dekker) sent to Linq3 on November 13, 2017;
- e. **EX2012**, an e-mail that Blackhawk received from Linq3 (John Minutaglio) on December 7, 2017;
- f. **EX2014**, an e-mail received by Blackhawk from Linq3 (Matt Dillard) on September 17, 2018 enclosing a file “Amendment 1 to Product Distribution Agreement 09-17-2018.docx.”

All of the foregoing exhibits are confidential business records of Blackhawk that have remained confidential since they were created.

4. **EX2004** is a true and correct (but excerpted) copy of an e-mail that Blackhawk (Melissa Murillo) sent to Linq3 on May 8, 2018 enclosing a slide deck entitled “New Products Discussion: BHN | Linq3 May 2018.” EX2004 contains an excerpt of that slide deck, specifically, slides 1-3 and 5, which are true and correct. EX2004 is a confidential business record of Blackhawk’s that has been maintained in confidence since it was created, with one exception. Slide 6 of the slide deck is presented in redacted form in Blackhawk’s complaint in the Arizona state court case as follows:

QuickTicket V2 USA

New version of BHN's Lottery Product in Canada
Gift card without mobile component at checkout for PowerBall and MegaMillions

Concept:

Issue a scratch off draw ticket in Blackhawk retailers, in check lane. This ticket would be merchandised and would contain quick picks printed on ticket, covered with opaque coating which reveals quick picks when scratched off.

Consumer flow:

- 1) Consumer would purchase Power Ball and Mega Million scratch off tickets in lane.
- 2) The cashier would scan a c128 barcode issued by BHN to activate the lottery play and the Quick Picks would be entered into the next draw.
- 3) After purchase, the consumer would scratch off the opaque coating revealing quick pick board numbers.



See EX2001.0013. Blackhawk regards the redacted material shown above as confidential information. Blackhawk also regards all other content of EX2004 as confidential.

5. **EX2010** is a true and correct copy of a slide deck entitled “QuickTicket,” dated December 2017 that Blackhawk provided to Linq3. EX2010 is a confidential business record of Blackhawk that has remained confidential, except as discussed below, since it was created. Material from EX2010 has been disclosed in Blackhawk’s complaint (EX2033) in the Arizona state court case as follows:

- a. Material at EX2010.0004 is disclosed at EX2033.0005 as shown below:



EX2001.0005

- b. Material at EX2010.0010 is disclosed in Blackhawk's complaint at EX2033.0012-13.
- c. Material at EX2010.0005 is disclosed in Blackhawk's complaint at EX2033.0015 as follows:



EX2001.0015

6. **EX2013** is a true and correct (but excerpted) copy of an e-mail sent internally within Blackhawk, from Melissa Murillo to Richard Gotlieb, on May 1, 2018, enclosing a slide deck entitled “New Products Discussion BHN | Linq3 April 2018.” EX2013 contains an excerpt of that slide deck, specifically, slides 1 and 4, which are true and correct. EX2013 is a confidential business record of Blackhawk’s that has been maintained in confidence since it was created.

7. In signing this declaration, I realize that this 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.

8. I am aware that willfully false statements and the like made by me in connection with this declaration are punishable by fine or imprisonment, or both (18 U.S.C. § 1001) and may jeopardize the validity of the *Inter Partes* Review. All statements herein made by me of my own knowledge are true and all statements made on information and belief are believed to be true. I declare under penalty of perjury that the foregoing is true and correct.

Date: April 28, 2024

James S McDonald
James McDonald