

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: Michael S. Smith

U.S. Patent No.: 10,649,580 Attorney Docket No. 50095-0165IP1

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Title: DEVICES, METHODS, AND GRAPHICAL USER INTERFACES
FOR MANIPULATING USER INTERFACE OBJECTS WITH
VISUAL AND/OR HAPTIC FEEDBACK

DECLARATION OF KATHRYN TALBOT

I. INTRODUCTION

I, Kathryn Talbot, of San Francisco, CA, declare that:

1. My name is Kathryn Talbot. I am making this Declaration at the request of Apple Inc. (“Apple” or “Petitioner”). I understand that this Declaration will be submitted as an Exhibit in support of a Petition for *Inter Partes* Review of U.S. Patent No. 10,649,580 (“the ’580 patent”).
2. I have been asked to provide my expert opinion regarding the authenticity and public availability of a video hosted by the video sharing website YouTube (youtube.com). Specifically, I have been asked to provide my opinion regarding the following videos:

- *Zooming & Sliding* (December 28, 2007), *available at youtube.com/watch?v=EcE3XBytN-U* (Exhibit LINGDI-1005)

As I explain below, Exhibit APPLE-1005 is a true and correct copy of the *Zooming & Sliding* video in MP4 format.

3. The opinions set forth in this Declaration are my independent opinions, formed after conducting significant analysis.
4. I am being compensated for my time spent working on this matter at my normal hourly consulting rate, 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

proceeding. I have no other interests in this proceeding or with any of the parties.

5. In addition to my knowledge and expertise, I considered the following materials in conducting my analysis set forth in this Declaration

- Exhibit APPLE-1004
- Exhibit APPLE-1005
- Exhibit APPLE-1008
- The content, including the video and metadata, located at
youtube.com/watchv=EcE3XBytN-U

II. PROFESSIONAL BACKGROUND AND QUALIFICATIONS

6. I am an expert on various social media platforms. I currently own and maintain a consulting firm, Kate Talbot Marketing. I assist and counsel clients on using and leveraging various social media applications and other digital technologies for their businesses, including YouTube, Snapchat, LinkedIn, Twitter, Facebook, Instagram, and Pinterest. Prior to starting my consulting firm, I had significant experience with such social media and digital technologies while working for various companies, starting with my employment in 2007 with public relations agencies.

7. I have been qualified as a social media expert in a private arbitration proceeding before Judicial Arbitration and Mediation Services, Inc. I am a regular speaker on social media at conferences and webinars presented worldwide. My expertise has been featured on CNN, NBC News, BBC, NPR, Nasdaq, Huffington Post, and iHeart Radio.

8. I am also an experienced lecturer on the topic of social media applications. I have designed, created, and taught digital social media marketing workshops at corporations and educational institutions worldwide, including Sony Latin America and the Digital Marketing Institute in Dublin, Ireland. I am a former Senior Forbes Contributor covering social media and the influencer economy.

9. A detailed record of my professional qualifications is set forth in my résumé. Appendix A to this declaration is a true and correct copy of my résumé.

III. APPLICABLE LEGAL PRINCIPLES

10. I am not an attorney or an expert in patent law. Therefore, the attorneys from Fish & Richardson, P.C. have provided me with guidance as to the patent law applicable to my opinions in this matter. The paragraphs below express my understanding of how I must apply current principles related to public accessibility in this matter.

11. I have been informed that the video, *Zooming & Sliding*, was publicly accessible as of the date it was made available such that persons interested in and ordinarily skilled in the relevant subject matter could locate it through the exercise of reasonable diligence.

12. *Person of ordinary skill in graphical user interfaces*. I have been informed by counsel that the subject matter of the patent challenged in this proceeding relates generally to graphical user interfaces. I have been informed that a person of ordinary skill in the art would have had at least a bachelor's degree in computer science, computer engineering, electrical engineering, human-computer interaction, or a related field, and would have had at least two years of relevant work experience in the design and development of graphical user interfaces (GUIs), human-computer interfaces, or equivalents thereof. Less work experience may be compensated by a higher level of education and vice versa

IV. AUTHENTICITY AND PUBLIC ACCESSIBILITY OF THE VIDEOS OF EXHIBIT APPLE-1005

13. In my opinion, persons interested in and ordinarily skilled in the relevant subject matter would have been familiar with YouTube and would have used it to research features of graphical user interfaces and human-computer interfaces demonstrated in Exhibits APPLE-1005.

14. I watched the video and reviewed the content and metadata located at the URL www.youtube.com/watch?v=EcE3XBytN-U. I also watched the video in MP4 format of Exhibit APPLE-1005

15. Based on my observation, the video of Exhibit APPLE-1005 has the same content as the video located at the URL www.youtube.com/watch?v=EcE3XBytN-U. I have been informed that the MP4 file of Exhibit APPLE-1005 was created by converting the video located at the URL www.youtube.com/watch?v=EcE3XBytN-U into MP4 format, which is consistent with my observation that the video of Exhibit APPLE-1005 has the same content as the video located at that URL. Thus, Exhibit APPLE-1005 is a true and correct copy, in MP4 format, of the video located at the URL www.youtube.com/watch?v=EcE3XBytN-U.

16. In my experience, the unique video identifier originally assigned to a video when it is first uploaded does not change while the video remains accessible on YouTube. That allows users to access each video using the same URL from the time the video is uploaded to YouTube to the time the video is removed from YouTube. Thus, for example, from the time the video corresponding to Exhibit APPLE-1005 was uploaded to YouTube until the present (given that the video has not been removed) the video has been accessible at the same URL: www.youtube.com/watch?v=EcE3XBytN-U

17. In addition to the video itself, each YouTube page also provides content and information related to the video. The content and information include, for example, a title of the video, a description of the video, the upload date of the video, comments that users have left about the video, number of “views” (times that users have watched the video), number of “likes” and “dislikes” of the video, the person or entity that uploaded the video, and whether the video is accessible via a YouTube channel. Based on my knowledge of and experience with YouTube going back to at least 2012, YouTube maintains such content and information as a routine business practice. Accurate maintenance of such content and information are important to YouTube and its users for various reasons: (1) facilitating searching for videos of interest, (2) sorting search results, (3) determining how new or old the content in a video is, and (4) determining the popularity of a video.

18. The URL is the YouTube webpage where the video of Exhibit APPLE-1005 is accessible. In my experience, each video accessible via YouTube has a unique URL starting with a common prefix—“https://www.youtube.com/watch?v=”—followed by a unique video identifier. In the case of the video corresponding to Exhibit APPLE-1005, the unique video identifier is “EcE3XBytN-U”

19. The unique video identifier originally assigned to a video when it is first uploaded does not change while the video remains accessible on YouTube. That allows users to access each video using the same URL from the time the video is uploaded to YouTube to the time the video is removed from YouTube. Thus, for example, from the time the video corresponding to Exhibit APPLE-1005 was uploaded to YouTube until the present (given that the video has not been removed) the video has been accessible at the same URL: www.youtube.com/watch?v=EcE3XBytN-U

20. Based on my knowledge of and experience with YouTube going back to at least 2012, after a YouTube user uploads a video, the user cannot significantly alter the content of the video without removing the video and uploading an edited video with a different unique video identifier. In my experience, users cannot add content to a video using the same unique video identifier. I am aware of limited tools for removing portions of an uploaded video. For example, a user may remove portions of an uploaded video that are subject to a copyright claim. A user may also change some information about the video, such as the title and description, but such changes do not change the content of the video itself. Further, in my experience, the user cannot change the original upload date or information related to views, likes, dislikes, and comments. Therefore, based on my experience, at least the

portions of a video that are currently accessibility on YouTube were also accessible at the same YouTube URL on the upload date.

21. It is also my opinion that persons interested in and ordinarily skilled in the relevant subject matter would have easily been able at the relevant time to locate the video of Exhibit APPLE-1005 by exercising reasonable diligence. At all relevant times, YouTube videos were searchable by at least their title and description. Anyone interested in and ordinarily skilled in graphical user interfaces and human-computer interfaces would have been able to use keyword searching to search for various terms used in the descriptions of the videos corresponding to Exhibit APPLE-1005, including the transcripts of the videos, to find them on YouTube. For instance, the video provides the following description, which provides numerous keywords for searching:

Precise parameter manipulation tasks typically require adjustment of the scale of manipulation in addition to the parameter itself. We introduces the notion of Zoom Sliding (Zliding) for fluid integrated manipulation of scale via pressure input while parameter manipulation within that scale is achieved via x-y cursor movement. We also present the Zlider, a widget that instatiates the Zliding concept.

22. Additionally, I have been informed that Gonzalo Ramos, the individual who uploaded the video provided in Exhibit APPLE-1005 published a thesis (Exhibit APPLE-1008) in 2007 and presented and published a paper (Exhibit APPLE-1004) in 2005 relating to the “Zlider” widget shown in Exhibit APPLE-1005 video. Based on my review of Dr. Ramos’ thesis (Exhibit APPLE-1008), I ascertained that Dr. Ramos provided the URL for Exhibit APPLE-1005 on pages xv, 97, 98, 101, 105, and 120 of his thesis. As such, persons interested in and ordinarily skilled in the relevant subject matter reviewing Dr. Ramos’ thesis could easily have found and accessed Exhibit APPLE-1005. Additionally, I have been informed that, in 2005, Dr. Ramos’ paper (Exhibit APPLE-1004) was presented at the Association for Computing Machinery’s (ACM) UIST conference, a conference attended both by academia and industry members, and that the paper would have been provided to the ACM’s Special Interest Group on Computer-Human Interaction’s (SIGCHI) members. I have further been informed that SIGCHI is the leading international community of students and professionals interested in research, education, and practical applications of Human Computer Interaction. Thus, many interested persons would have had access to Dr. Ramos’ 2005 paper, which discussed the Zlider widget,

and any such interested person could have found and accessed the video at Exhibit APPLE-1005 using keywords (e.g., Zlider) from Dr. Ramos' paper.

23. In view of my knowledge of and experience with YouTube, and the foregoing evidence, it is my opinion that the video corresponding to Exhibit APPLE-1005 could have easily been located on YouTube by persons interested and ordinarily skilled in the relevant subject matter and exercising reasonable diligence on or near December 28, 2007.

24. I currently hold the opinions set expressed in this declaration. But my analysis may continue, and I may acquire additional information and/or attain supplemental insights that may result in added observations.

25. I hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true. I further declare 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 the Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Dated: 6/15/2024 By: Kathryn Talbot
Kathryn Talbot