

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS AMERICA, INC.
SAMSUNG ELECTRONICS CO., LTD.,
Petitioners

v.

KONINKLIJKE KPN N.V.
Patent Owner

Case IPR2025-00512
U.S. Patent 8,881,235

DECLARATION OF FRANK MULLER

I, Frank Muller, hereby declare and state:

1. I am a Dutch citizen residing in Delft, Netherlands and am an employee of Nederlandse Organisatie voor Toegepast-Natuurwetenschappelijk Onderzoek TNO (“TNO”), which is located in the Netherlands. I have a Master’s of Science Degree in Electrical Engineering. I hold the position of Senior Scientist with TNO. In 2008, I held that same title. I have no financial interest in the outcome of these IPR proceedings.

2. TNO is a technology consulting company that offers consulting in a variety of fields, including telecommunications. In 2008, my primary job responsibility was to help develop new technologies with and for TNO clients, including Koninklijke KPN N.V. (“KPN”). In the October 2008 to December 2008 timeframe, I was consulting on behalf KPN and one other client, whom I am unable to identify due to a non-disclosure agreement.

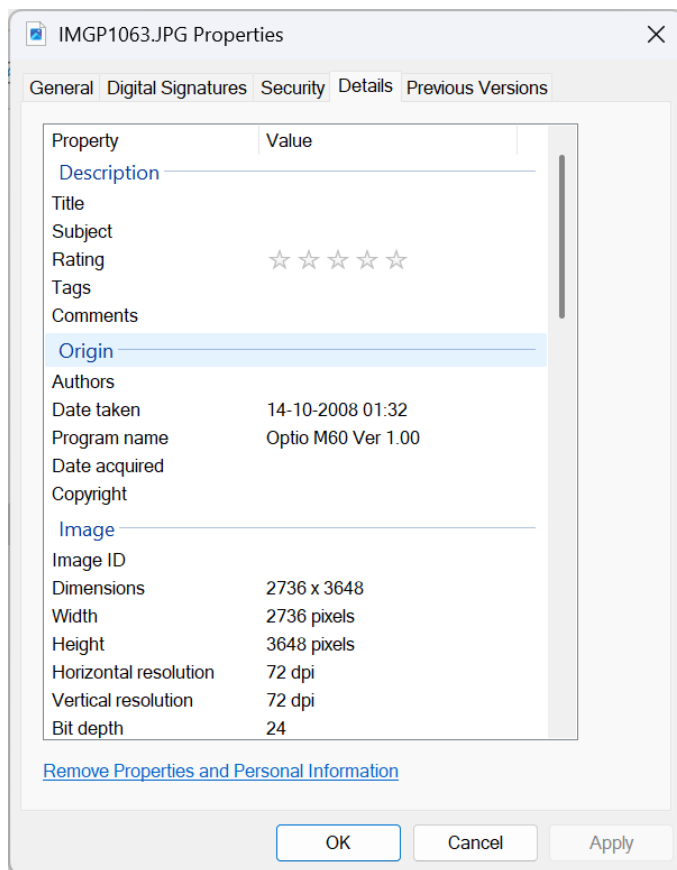
3. With respect to KPN, during that period I worked diligently to help prepare what would ultimately be filed on December 15, 2008 as European Patent Application No. 08021705 (Ex. 2016, hereafter “EP Application”). True and correct copies of emails that were exchanged with me between October 8, 2008 to December 10, 2008 have been provided in this proceeding as Exhibits 2012, 2017, 2019, 2021, 2023, 2025, 2027, 2029, 2031, 2033, 2035, 2037, 2039, 2048. These emails reflect discussions and correspondence relating to the draft EP Application leading up to

filing of the application on December 15, 2008. I understand that each email has been translated into English, and for purposes of my declaration I cite to both the original email followed by the translated version.

4. On October 8, 2008, Erik Visscher emailed a draft of the EP Application to my TNO email address. Ex. 2012 (original); Ex. 2013 (translation). The draft included two parts, namely a Microsoft Word file containing the text of the specification named “Service based authentication (8-10-2008).doc” and a Microsoft PowerPoint file named “service based auth (8-10-2008).ppt” containing draft figures. Ex. 2012. Exhibits 2014 and 2015 are true and correct PDF print outs of the Word and PowerPoint files, respectively, that were attached to the email. The draft was based on prior discussions and documents exchanged between me and Mr. Visscher.

5. However, at that time I was away on vacation that began on October 1 and did not end until October 19, 2008. Specifically, I was on a road-trip vacation across the United States. True and correct copies of photographs taken of me while on that vacation have been provided in these proceedings as Exhibit 2050. My vacation began in San Francisco (Ex. 2050, 1) and I traveled by car to Yosemite Park (*Id.*, 2), Calico (*Id.*, 3), Las Vegas (*Id.*, 4), near Bryce Canyon (*Id.*, 5), Monument Valley (*Id.*, 6), the Grand Canyon (*Id.*, 7), and then to Los Angeles (*Id.*, 8) to fly back to the Netherlands. The metadata of the native photograph files (.JPG) shows that all

of the photographs were taken between October 1 and October 20, 2008. For example, the last photograph of Exhibit 2050 corresponds to “IMGP1063.jpg” and shows a “Date taken” of October 14, 2008:



The time on my camera was Dutch time, so the date and times may be slightly off given that the photographs were taken in the United States. For example, none of the photographs were taken at night, and so the 1:32 AM time above is clearly incorrect. However, to the extent the dates are off, they should be off by no more than a day.

6. Reference to my vacation was also made in my October 29, 2008 email to Erik Visscher. *See* Ex. 2017, 2 (original); Ex. 2018, 2 (translation). It was the accepted practice of TNO at the time that employees on formal vacation were not

expected to work while on vacation, consistent with custom practice in the Netherlands. Moreover, because of the nature of my vacation (a cross country road trip), it would have been very difficult for me to meaningfully progress work on the draft EP Application while on vacation.

7. When I returned to work on October 20, I had a considerable amount of catching up to do given that I had been on vacation for over two weeks. Additionally, I had a business trip to Chicago planned with KPN from October 22 to October 25 for a matter unrelated to the EP Application, which precluded me from devoting my time to the EP Application immediately upon my return. Specifically, the business trip related to patent licensing discussions with two companies in the U.S. I therefore had to prepare for this business trip. I have attached true and correct copies of my travel itinerary, travel declaration, and an email from TNO support confirming that they received my travel documentation, all of which evidences the Chicago trip. Ex. 2046-2049. The work performed relating to the Chicago business trip was part of my ordinary job duties and obligations at TNO.

8. After returning from the business trip, on October 27 (Monday) I had a day off from work to compensate for the previous week in which I worked five days while I have a contract for only four days per week. On October 28 (Tuesday), I worked on a quotation for a new project for another TNO client, the one mentioned in Paragraph 2 above with which TNO has a non-disclosure agreement, and I had a

progress meeting with my manager. On October 29, 2008 I emailed Mr. Visscher to inform him that I had been away for vacation and business and that I would begin reviewing the draft EP Application. Ex. 2017, 2 (original); Ex. 2018, 2 (translation). This was the first availability I had to review the draft during given my other work obligations. By November 5, I had completed my review but determined that I needed “some more time for my response.” Ex. 2017, 2 (original); Ex. 2018, 2 (translation). Specifically, I recognized that additional changes were needed to the draft text of the specification because of other practical considerations that had come to mind during my review. Ex. 2017, 2 (original); Ex. 2018, 2 (translation).

9. On November 6, I provided some feedback to Mr. Visscher via email, but needed additional time to fully explain my thinking in detail. To that end, I continued reviewing and editing the draft EP Application over the next few days. Ex. 2017, 1 (original); 2018, 1 (translation).

10. On November 10, I sent Mr. Visscher an email laying out additional major proposed changes to the draft EP Application, as well as a version with my own edits and comments included to both the specification text and figures. Ex. 2019, 3-4 (original); Ex. 2020, 3-4 (translation). It required considerable time and effort on my part to formulate these proposed changes and to make the proffered edits, particularly given the complexity of the technology at issue.

11. From November 12 to November 18, numerous emails were exchanged between myself and Mr. Visscher and at least one telephone discussion was held on November 17 relating to further preparation of the EP Application. Ex. 2019, 1-3 (original); Ex. 2020, 1-3 (translation). Mr. Visscher also stated that he was making major changes to the draft EP Application based on our collaboration during that period, but that he still needed to “go through the entire text and figures again to make the story consistent.” Ex. 2019, 1 (original); Ex. 2020, 1 (translation). As such, at this point it was my understanding that Mr. Visscher would send me a revised draft of the EP Application when he deemed it ready.

12. On November 25, Mr. Visscher sent me a revised draft of the EP Application and explained that the changes he had made were so “substantial” that he wanted me to take another look at the draft before it was filed. Ex. 2025, 1 (original); Ex. 2026, 1 (translation). On November 26, I had the entire day blocked off for work for the other TNO client, whom I cannot identify due to a non-disclosure agreement. On November 27, I attended a meeting on that client’s premises. On November 28, I worked on another matter for KPN and reviewed the final quotation for the other TNO client. I was on a planned foreign business trip with KPN in Taipei from November 30 to December 5 which limited my availability to fully review the revised draft in detail. Ex. 2035, 1 (original); Ex. 2036, 1 (translation) (Dec. 9, 2008 email explaining that “I was abroad for KPN for a week, so that’s why I’m only

replying now.); Ex. 2023, 1 (original); Ex. 2024, 1 (translation) (explaining that “I’m leaving on Sunday”); Ex. 2029, 1 (original); Ex. 2030, 1 (KPN employee stating that she saw that I had the draft EP Application with me “in China”); Ex. 2031, 1 (original); Ex. 2032, 1 (translation).

13. On December 8, I performed additional work for the other TNO client and work for KPN unrelated to the EP Application. On December 9, one working day after my return from Taipei, I had completed my review and I provided Mr. Visscher with my edits to the draft EP Application. Ex. 2033, 1 (original); Ex. 2034, 1 (translation). I also requested that he make edits to the figures that I was struggling to make myself. *Id.* On the following day—December 10—Mr. Visscher provided me with another revised draft of the EP Application. Ex. 2037 (original); Ex. 2038 (translation); Ex. 2039 (original); Ex. 2040 (translation). Ex. 2044 is a true and correct copy of the Word file named “Service based authentication (10-12-2008) final.doc” attached to the email of Exhibit 2039, and Exhibit 2045 is a true and correct copy of the PowerPoint filed named “Figures service based auth (10-12-2008) final.ppt” also attached to that same email. The draft EP Application was then approved for filing and ultimately filed on December 15, which was only five days later.

14. At no point during the October to December 2008 timeframe did I take any steps to abandon or unreasonably delay preparation of the EP Application for

filing. The documentary evidence provided shows that I worked diligently in October to December of 2008 to effectuate the filing of the EP Application, particularly in view of my considerable responsibilities at KPN, including multiple business trips.

15. 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. I further declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: 26-5-2025



Frank Muller