EXHIBIT GG

538

Bruce Johnson
DWT

JUL 03 2006

RECEIVED
at 3:52

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TIM and PENNY PATERSON, husband and wife and the marital community thereof, Plaintiffs, v. LITTLE, BROWN AND COMPANY, a Massachusetts state corporation, TIME WARNER BOOK GROUP, a Delaware state corporation, HAROLD EVANS ASSOCIATES LLC, a New York state limited liability company, HAROLD EVANS, and DAVID LEFER, Defendants.	No. 2:05-CV-01719-TSZ **ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF INTERROGATORIES TO PLAINTIFFS**

Pursuant to FED. R. CIV. P. 26 and 33, Defendants Little, Brown & Co., Time Warner Book Group, Harold Evans Associates LLC, Harold Evans, and David Lefer, hereby request that Plaintiffs Tim and Penny Paterson answer the following interrogatories separately, in writing and under oath within thirty (30) days after service.

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 1
SEA 1773744v2 3910089-29

539

DEFINITIONS AND INSTRUCTIONS

Unless the context indicates otherwise, the following words and phrases have the meanings given:

A.   "Plaintiff," "Paterson," "you" or "your" mean and refer to Plaintiff Tim Paterson, named in this action, and to all of his agents, representatives, consultants, special assistants, joint ventures, or contractors, and attorneys of any of them; and any persons who at any time acted by, through, or on behalf of any of them. To avoid confusion, these terms include without exception all persons who worked with or collaborated with Plaintiff Tim Paterson or with Seattle Computer Products prior to 1982 in developing any hardware, software, or firmware products later sold, licensed, offered for sale, or offered for licensing by Tim Paterson, Seattle Computer Products, or Microsoft Corporation.

B.   "Defendants" means and refers to Little, Brown & Co., Time Warner Book Group, Harold Evans Associates LLC, Harold Evans, and David Lefer, named in this action, and to all of their agencies, divisions, departments, nominees, affiliated entities and units, including subsidiaries, instrumentalities, subdivisions, predecessors, successors and assignees of any of them, administrators, officers, directors, employees, agents, representatives, consultants, special assistants, joint ventures, contractors, and attorneys of any of them; and any persons who at any time acted by, through, or on behalf of any of them.

C.   The term "document" is used in the broadest possible sense as interpreted under the Federal Rules of Civil Procedure and includes, without limitation, all originals and copies, duplicates, drafts, and recordings of any written, graphic or otherwise recorded matter, however produced or reproduced, and all "writings" as defined in Section 1001 of

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 2
SEA 1773744v2 3910089-29

1   the Federal Rules of Evidence, including, without limitation, the following: abstracts,

2   advertisements, agendas, agreements, analyses of any kind, articles, blueprints, brochures,

3   charts, compilations, computer runs and printouts, flow-charts, letters, reports (including

4   reports or notes of telephone or other conversations), memoranda, brochures, books,

5   ledgers, drawings, photographs, specifications, drafts, e-mail, voice-mail, catalogs,

6   invoices, bills of materials, purchase orders, proposals, contracts, and other writings of

7   whatsoever nature, whether on paper or magnetic tape or other non-paper information

8   storage means, including film and computer memory devices; and where any such items

9   contain any marking not appearing on the original or are altered from the original, then

10   such items shall be considered to be separate original documents.

11   D.   The term "thing" as used herein refers to any tangible object other than a

12   document, and includes objects of every kind and nature such as, but not limited to,

13   models, samples, prototypes and commercial units, in each case, whether complete or not,

14   or functional or not.

15   E   The terms "concerning," "referring," "relating," or "describing" include

16   referring to, alluding to, responding to, relating to, connected with, commenting upon, in

17   respect of, about, regarding, discussing, showing, describing, reflecting, analyzing,

18   touching upon, constituting, and being.

19   F.   The term "person" or "persons" includes any individual, firm, partnership,

20   association, joint venture, corporation, governmental agency, other entity, or combination

21   of any of the above.

22

23

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 3
SEA 1773744v2 3910089-29

541

G.   The term "communication" shall include any meeting, telephone call, e-mail, conversation, letter, memorandum, voice-mail, document, or other form of communication, whether verbal or nonverbal.

H.   "Complaint" refers to the Complaint for Damages for Defamation and False Light Invasion of Privacy filed on or about October 12, 2005, bearing Civil Action No. 2:05-CV-01719-TSZ.

I.   The term "86-DOS" means the operating system developed by Paterson in or around 1980 and which has also been referred to as "Q-DOS," "Quick 'n' Dirty DOS," "Seattle DOS," "PC-DOS," and "MS-DOS," and any and all associated utility software, supporting software, and/or software contemporaneously developed by Paterson. To avoid confusion, the term "86-DOS" includes what is referred to as "DOS" in ¶¶ 15, 16, and 17 of the Complaint and as "QDOS" and "Quick and Dirty Operating System" in ¶ 17 of the Complaint.

J.   The term "Source Code" means the human readable form of computer software either in printed form or in computer-readable form on magnetic or optical media, which when compiled, assembled, translated, or transformed in some other manner becomes the Object Code of a computer software.

K.   The term "Object Code" means program files produced by an assembler, compiler, or other translator program, in a form not easily understood by humans. Object Code includes files which are directly machine-executable computer software code in binary form, or which may be converted to executable binary form using one or more additional translation or conversion steps.

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 4
SEA 1773744v2 3910089-29

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

542

L.   The term "Documentation for 86-DOS" means any written textual and/or graphic materials, regardless of the form in which the materials were created or stored, that describes 86-DOS, describes the provenance of 86-DOS, or which was created as part of the development of 86-DOS including, but not limited to, design notes, meeting notes, correspondence, and electronic mail messages.

M.   The term "identify" means:

(i)   in the case of a natural person, to state the full name, the last known residence and telephone number, the last known employer or business affiliation and telephone number, and the last known occupation and business position or title held;

(ii)   in the case of any other person or entity, to state the full name, the place and date of incorporation or organization, the principal place of business, and identity of all natural persons having knowledge of the involvement of said other person or entity with the subject matter of the Interrogatory;

(iii)   in the case of a document or a communication that is documented, to state the type of document, the date of the document, the name and title or position of the person that is signatory to the document, or the name and title or position of the person who prepared the document, the name and title or position of each recipient or addressee of such document (whether specifically named therein or not) either at the time of initial distribution or at some subsequent time, and a brief statement of the subject matter of the document. If the document itself or a copy thereof has been provided, you may simply refer to the document and provide only

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 5
SEA 1773744v2 3910089-29

543

the information requested above to the extent it is not unequivocally reflected in the document itself;

    (iv)   in the case of a "thing," to describe such thing by *inter alia* model number, function, origin, date obtained, location, and custodian;

    (v)   in the case of a communication that is not documented, to state the nature of the communication (e.g., telephone conversation or personal meeting), the identity of all persons participating in or overhearing the communication, the date of the communication, and the substance of the information or opinions communicated by each participant; and

    (vi)   in the case of documents or files in computer-readable format, sufficient information and/or software to permit the code to be accessed on a computer running Microsoft Windows XP.™

N.   As used herein, the singular form of a noun or pronoun will include within its meaning the plural form of a noun or pronoun, and vice versa; the use of the masculine form of a pronoun will include within its meaning the feminine form of the pronoun, and vice versa; the use of the tense of any verb will include all other tenses of the verb so used; and the use of "and" will include "or" and vice versa.

O.   With respect to any responsive information which you earlier possessed but no longer possess, please explain the circumstances which led to the loss of the information, including the identity of anyone who may possess such knowledge, identify the thing or document, state the particular Request(s) to which it would otherwise be responsive, and set forth in detail the circumstances of the loss or destruction thereof.

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 6
SEA 1773744v2 3910089-29

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

544

P.   "State the factual basis" means to describe in detail all evidentiary facts presently known to you or inferred from the existence of other evidentiary and/or ultimate facts, to identify all persons having substantive knowledge of such facts, and to identify the facts known to such persons.

Q.   These requests are continuing. Defendant hereby requests that Plaintiff timely supplement each response if additional investigation and discovery cause any response to be either incomplete or incorrect.

PRIVILEGE

If any document or thing would be required to be produced in response to any request except for the fact that a privilege or immunity against production is claimed, set forth for each such document and thing:

(a)   Its date and title or description of its type, nature or kind (e.g., letter);

(b)   Its author, writer, preparer, sender, and addressee or recipients;

(c)   A general description of its subject matter;

(d)   The exact grounds on which the objection to production is based;

(e)   The identity of all persons, in addition to those identified as required by section (b), supra, known to have seen or had access to the document or thing; and

(f)   Identify the current location and the person now in possession of the document or thing.

INTERROGATORIES

INTERROGATORY NO. 1:   Please identify each individual having knowledge or information relevant to the subject matter of this lawsuit or any discoverable information

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 7
SEA 1773744v2 3910089-29

545

1 that may be used in support of your claims in this lawsuit, and the subject matter of each

2 such individual's knowledge.

3 **RESPONSE:**

4 The following is a list of individuals that, to the best of plaintiff's knowledge, could have

5 or may have relevant information to the allegations contained in plaintiff's Complaint.

6 Some of these names date back to the period of the 1970s and plaintiff hereby states that he

7 is not aware of each individual's health, mental acuity, or their location

8

9 The below explanations are the best that the plaintiff can produce without reviewing

10 further documents and extensive research that might trigger a deeper understanding of

11 what the testimony could be. This should be considered a best efforts list that will be

12 added to as the litigation continues.

13

14 1. Rod Brock, former owner of Seattle Computer. He can testify to Mr.

15 Paterson's abilities to education and training and the assignments given to him

16 by the owner of the business as an employee including but not limited to the

17 authorship of DOS and other software programs, procedures, and codes;

18 2. Kathy Brock, co-owner of Seattle Computer; She can testify to Mr. Paterson's

19 abilities to education and training and the assignments given to him by the

20 owner of the business as an employee including but not limited to the

21 authorship of DOS and other software programs, procedures, and codes;

22 3. Pat Opalka, co-worker at Seattle Computer. He can testify to Mr. Paterson's

23 abilities to education and training and the assignments given to him by the

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 8
SEA 1773744v2 3910089-29

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

owner of the business as an employee including but not limited to the authorship of DOS and other software programs, procedures, and codes;

4.   Bob O'Rear, Microsoft Employee. Plaintiff believes that the following individual might have testimonial knowledge of his involvement in the creation of DOS and its implementation by both Microsoft, IBM, and other computer operating systems engineers;

5.   Paul Allen, Microsoft Employee. Plaintiff believes that the following individual might have testimonial knowledge of his involvement in the creation of DOS and its implementation by both Microsoft, IBM, and other computer operating systems engineers;

6.   Bill Gates, Microsoft Employee. Plaintiff believes that the following individual might have testimonial knowledge of his involvement in the creation of DOS and its implementation by both Microsoft, IBM, and other computer operating systems engineers;

7.   Aaron Reynolds, Microsoft Employee. Plaintiff believes that the following individual might have testimonial knowledge of his involvement in the creation of DOS and its implementation by both Microsoft, IBM, and other computer operating systems engineers;

8.   Mark Zbikowski, Microsoft Employee. Plaintiff believes that the following individual might have testimonial knowledge of his involvement in the creation of DOS and its implementation by both Microsoft, IBM, and other computer operating systems engineers;

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 9
SEA 1773744v2 3910089-29

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

547

9.   Nancy Panners (maiden), Microsoft Employee. Plaintiff believes that the following individual might have testimonial knowledge of his involvement in the creation of DOS and its implementation by both Microsoft, IBM, and other computer operating systems engineers;

10.   Gordon Letwin, Microsoft Employee. Plaintiff believes that the following individual might have testimonial knowledge of his involvement in the creation of DOS and its implementation by both Microsoft, IBM, and other computer operating systems engineers;

11.   Mike Courtney, Microsoft Employee. Plaintiff believes that the following individual might have testimonial knowledge of his involvement in the creation of DOS and its implementation by both Microsoft, IBM, and other computer operating systems engineers;

12.   Mark McDonald, Microsoft Employee. Plaintiff believes that the following individual might have testimonial knowledge of his involvement in the creation of DOS and its implementation by both Microsoft, IBM, and other computer operating systems engineers;

13.   Bob Wallace (possibly deceased), Microsoft Employee. Plaintiff believes that the following individual might have testimonial knowledge of his involvement in the creation of DOS and its implementation by both Microsoft, IBM, and other computer operating systems engineers;

14.   Chris Larson, Microsoft Employee. Plaintiff believes that the following individual might have testimonial knowledge of his involvement in the creation

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 10
SEA 1773744v2 3910089-29

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

548

of DOS and its implementation by both Microsoft, IBM, and other computer operating systems engineers;

15.   Dave Bradley (possibly deceased) IBM Employee. Plaintiff believes that the following individual might have testimonial knowledge of his involvement in the creation of DOS and its implementation by both Microsoft, IBM, and other computer operating systems engineers;

16.   Mel Hallerman, IBM Employee. Plaintiff believes that the following individual might have testimonial knowledge of his involvement in the creation of DOS and its implementation by both Microsoft, IBM, and other computer operating systems engineers;

17.   Bob Eichenlaub;

18.   Tom Rolander;

19.   Jann Perez;

20.   Ray Perverini;

21.   Ray Duncan, author of various DOS books who would know about the history of DOS and its evolutionary stages of development;

22.   unidentified employees of Falcon International Corporation;

23.   Rick Helberg;

24.   Jane Doe Broom and John Doe Broom, owners of Retail Computer Store;

25.   Lifeboat Associates;

26.   Unidentified female, "Catherine", employee at Microsoft in 1983;

27.   Robin Reynolds;

28.   Craig Watjen;

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 11

SEA 1773744v2 3910089-29

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

549

29.   Jim Harding;

30.   Brian Bertlin;

31.   Tandy Trower

INTERROGATORY NO. 2:   Please explain in complete detail both the measure of damages you seek to recover as a result of Defendants' actions alleged in this lawsuit and the method of calculating such damages. In doing so, please identify without limitation:

(a) a complete description of those facts on which you base your claim for damages;

(b) each person who has knowledge of the damages sought and summarize the knowledge that this person has on the subject; and (c) each document that reflects the factual basis of your claim for damages.

RESPONSE:

Plaintiff owns Paterson Technology. Paterson Technology is a sole proprietorship which is in the field of research and development of test-coverage software and other media interface devices. Plaintiff currently has under development many other products in different phases of development, including products ready to be patented. These ready to be patented products are in the area of remote home automation equipment such as remote irrigation equipment, television translators and controllers. These products currently require venture capital and other capital investments. These new wireless inventions are based in and run by software applications which plaintiff is the author of and implements the interfaces between the software and the hardware inventions. Plaintiff's allege that the defendants have accused plaintiff of common law theft, a felony, plagiarism, and stealing

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 12
SEA 1773744v2 3910089-29

ideas and intellectual property from third parties and using said information to gain an economic advantage and earned a unwarranted reputation by using this "stolen" intellectual property. The damages that flow from this are *per se* damages together with damages involving loss of reputation in the community, the inability to obtain financing for current projects and having to defend himself in a close knit software creators community. This book has triggered negative reaction and, on a more probable than not basis, will trigger future negative reaction, making it much more difficult to operate and sustain and obtain the credibility necessary to succeed in the marketplace of ideas. The allocation of damages, based on the above, are *per se* damages of $250,000.00 and future economic loss of $500,000.00.

INTERROGATORY NO. 3:   Identify each person who may be called as an expert witness at trial, state the subject matter on which the expert is expected to testify, the substance of the facts, and a summary of the grounds for each opinion.

RESPONSE:

1.   Prof. Lee Hollaar School of Computing
        University of Utah
        50 S. Central Campus Dr. Rm. 3190
        Salt Lake City, UT 84112

Professor Hollaar is an expert on software and its evolution and history. He will testify that the information contained in Kildall's autobiography is inaccurate and unsubstantiated to a certain degree. He will follow the evolution of software and the art and science of computing and opine on how DOS came to be and was utilized by the computing community after Seattle Computer sold it to Microsoft and IBM. He will further testify that Plaintiff invented DOS as proved by a host of documents and testimonial evidence.

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 13
SEA 1773744v2 3910089-29

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

551

2.   Robert Moss
        2401 Fourth Avenue, Suite 860
        Seattle, WA 98121

Robert Moss is a forensic economist who may testify on the subject of damages, the difficult path of achieving financing for start-up businesses and the role of reputation in the financial community for truthfulness and veracity as elements to be considered by venture capitalists.

INTERROGATORY NO. 4:   If any expert or consultant, whether or not hired by you, has made any investigation or submitted any report relative to the matters involved in this lawsuit, please identify the expert or consultant; the business or profession of the individual identified; the education, experience or other qualifications of the individual; the person or entity that hired the individual; any documents reviewed by the expert or consultant; and any reports or documents prepared by the expert or consultant.

RESPONSE:

See attached Curriculum Vitae of Professor Lee Hollar

See attached Curriculum Vitae of Robert Moss.

No reports have been made. Plaintiff will supplement when received.

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 14
SEA 1773744v2 3910089-29

552

1

DATED this 20th day of April, 2006.

2

Davis Wright Tremaine LLP
Attorneys for Defendants

3

4

5

By _____
Bruce E. H. Johnson, WSBA #7667
Kaustav M. Das, WSBA #34411
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688
Telephone: (206) 628-7683
Fax: (206) 628-7699
E-mail: brucejohnson@dwt.com

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 15

SEA 1773744v2 3910089-29

ANSWERS dated this _____ day of _____, 2006.

Law Offices of D. Michael Tomkins, P.S.
Attorneys for Plaintiffs

SEE ATTACHED

By _____
Dietrich Biemiller WSBA# 32171

STATE OF WASHINGTON)
)
COUNTY OF _____)

SEE ATTACHED

_____, being first duly sworn on oath deposes and says:

    I am one of the plaintiffs herein, have read the foregoing Answers to Defendant's First Set of Interrogatories to Plaintiffs, and believe the same to be true and correct.

SEE ATTACHED

_____

    SUBSCRIBED AND SWORN to before me this _____ day of _____, 2006.

SEE ATTACHED

_____
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My Commission expires: _____
Printed Name: _____

STATE OF WASHINGTON)
)
COUNTY OF _____)

SEE ATTACHED

_____, being first duly sworn on oath deposes and says:

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 16
SEA 1773744v2 3910089-29

554

1

2

3

      I am one of the plaintiffs herein, have read the foregoing Answers to Defendant's First Set of Interrogatories to Plaintiffs, and believe the same to be true and correct.

SEE ATTACHED
_____

4

      SUBSCRIBED AND SWORN to before me this _____ day of _____,
2006.

5

6

SEE ATTACHED
_____

7

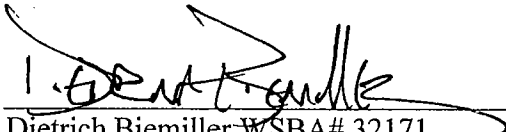NOTARY PUBLIC in and for the State of
Washington, residing at _____
My Commission expires: _____
Printed Name: _____

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

ANSWERS AND RESPONSES TO DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS (05-CV-01719) — 17

SEA 1773744v2 3910089-29

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

555

ANSWERS dated this _29_ day of _June_ _____, 2006.

Law Offices of D. Michael Tomkins, P.S.
Attorneys for Plaintiffs

By _____
Dietrich Biemiller WSBA# 32171

STATE OF WASHINGTON)
)
COUNTY OF _____)

_____, being first duly sworn on oath deposes and says:

I am one of the plaintiffs herein, have read the foregoing Answers to Defendant's First Set of Interrogatories to Plaintiffs, and believe the same to be true and correct.

_____

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2006.

_____
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My Commission expires: _____
Printed Name: _____

STATE OF WASHINGTON)
   )
COUNTY OF _King_)

_Tim Paterson_____, being first duly sworn on oath deposes and says:

DEFENDANTS' FIRST SET OF INTERROGATORIES TO PLAINTIFFS
(05-CV-01719) — 10
SEA 1773744v2 3910089-29

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

556

1   I am one of the plaintiffs herein, have read the foregoing Answers to Defendant's

2   First Set of Interrogatories to Plaintiffs, and believe the same to be true and correct.

3

4   SUBSCRIBED AND SWORN to before me this 21ˢᵗ day of June ,

5   2006.

6
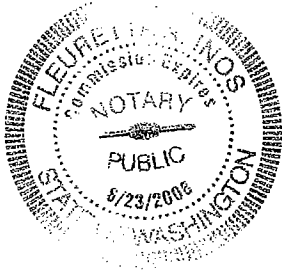
7   NOTARY PUBLIC in and for the State of
    Washington, residing at Seattle

8   My Commission expires: 6/23/08
    Printed Name: Fleuretta A. Inos

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

DEFENDANTS' FIRST SET OF INTERROGATORIES TO PLAINTIFFS
(05-CV-01719) — 11
SEA 1773744v2 3910089-29

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

557

558

Lee A. Hollaar
(As of February 2005)

Born: March 9, 1947, Litchfield, Minnesota

Education

Ph.D., Computer Science, University of Illinois, 1975
M.S., Computer Science, University of Illinois, 1974
B.S., Electrical Engineering, Illinois Institute of Technology, 1969
Nonmatriculated student, University of Utah College of Law, 1989–1993

Employment

June 1986 to present. University of Utah. Professor of Computer Science
June 1996 to December 1997, United States Court of Appeals for the Federal Circuit, Visiting Scholar
January 1997 to August 1997, United States Senate Committee on the Judiciary, Committee Fellow
July 1983 to September 1984, July 1985 to June 1986, July 1989 to June 1991. University of Utah. Associate Chairman, Department of Computer Science
August 1986 to June 1992. University of Utah. Director of Campus Networking
July 1987 to June 1991. University of Utah. Research Professor of Electrical Engineering
October 1983 to September 1995. Contexture, Inc. Founder and President
August 1980 to June 1986. University of Utah. Associate Professor of Computer Science
February 1986 to July 1987. University of Utah. Research Associate Professor of Electrical Engineering
June 1978 to August 1980. University of Illinois at Urbana–Champaign. Assistant Professor of Computer Science and Senior Research Engineer, Computing Services Office
September 1975 to June 1978. University of Illinois. Visiting Research Assistant Professor, Department of Computer Science and Aviation Research Laboratory
February 1970 to August 1975. University of Illinois. Graduate research assistant in Computer Science
February 1969 to May 1974. Datalogics, Inc., Chicago. Systems Engineer and Coordinator of Engineering
August 1967 to July 1969. First National Bank of Chicago. Senior Systems Programmer

Professional Societies

Institute for Electrical and Electronics Engineers, Senior Member
Association for Computing Machinery, Member
National Association of Patent Practitioners, Founding Member
American Intellectual Property Law Association, Patent Agent Affiliate Member

Professional Activities

Registered Patent Agent, United States Patent and Trademark Office, 1989 to present

559

Lee A. Hollaar   Page 2

Chair, Intellectual Property Committee, IEEE-USA, 2001–2002; vice chair, 1998–2000
IEEE-USA liaison to AAAS Court Appointed Scientific Experts Project, 2000 to present
Advisory board member, Bureau of National Affairs Expert Evidence Report, 2001 to
    present
Member of Utah Digital Signature Legislative Facilitation Committee, 1994–95;
    Implementation Committee, 1995–1997
Professional Engineer (Control Systems), California, 1977 to 1997.
Member of the State Networking Committee, under the Utah State Advisory Council on
    Science and Technology, 1989
Vice-Chairman of SIGIR, ACM's Special Interest Group for Information Retrieval,
    1985–87
Member of the Model Curriculum Committee of the Educational Activities Board of the
    IEEE Computer Society, 1982–83
Designated Engineering Representative (Systems and Equipment), Federal Aviation
    Administration, Great Lakes Region, 1975–80
Workshop participant and reviewer, Office of Technology Assessment study "Finding a
    Balance: Computer Software, Intellectual Property and the Challenge of
    Technological Change," 1992
Advisory Panel member and workshop participant, Office of Technology Assessment
    study "Information Privacy and Security in Network Environments," 1994
Referee for National Science Foundation and many journals, conferences, and
    workshops

Other Activities

Commercial Pilot, Single- and Multi-Engine Airplane and Free Balloon; Ground
    Instructor, Advanced and Instrument. Private and Commercial Pilot Examiner, Hot
    Air Balloon, 1976–80. Former Flight Instructor, Instrument and Single- and
    Multi-Engine Airplane.

Honors

Elected to membership in Sigma Xi (research), Eta Kappa Nu (Electrical Engineering),
    and Phi Kappa Phi (scholastic)
Included on the list of Teachers Ranked as Excellent by their Students, University of
    Illinois, 1978
Nominated for Engineering College Outstanding Teacher by Department of Computer
    Science, 1983
Distinguished Visitor, IEEE Computer Society, 1985–87

Publications: Books

Legal Protection of Digital Information, BNA Books, 2002

Lee A. Hollaar   Page 3

Publications: Chapters in Books

"Unconventional Computer Architectures for Information Retrieval" in Annual Review of
     Information Science and Technology (Martha Williams, editor), Volume 14, 1979
"The Architecture and Operation of a Large, Full-Text Information Retrieval System"
     (with Kent Smith, Wing Hong Chow, Roger Haskin, and Perry Emrath), International
     Workshop on Database Machines, August 1982; Chapter 9 in Advanced Database
     Machine Architecture, Prentice-Hall, 1983
"The Utah Text Retrieval Project -- A Status Report," Third Joint BCS/ACM Symposium,
     King's College, Cambridge, July 1984; Chapter 8 in Research and Development in
     Information Retrieval, C. J. van Rijsbergen, editor, Cambridge University Press, 1984
"The Utah Text Search Engine: Implementation Experiences and Future Plans" in Fourth
     International Workshop on Database Machines, March 1985; proceedings published
     by Springer-Verlag, 1985
"Special-Purpose Hardware for Information Retrieval," in Information Retrieval: Data
     Structures and Algorithms, William Frakes and Ricardo Baeza-Yates, editors,
     Prentice-Hall, 1992
"Text Databases and Information Retrieval" (principal author Ellen Riloff), in CRC
     Handbook of Computer Science and Engineering, 1996

Publications: Refereed Journals

"Specialized Merge Processor Networks for Combining Sorted Lists," ACM Transactions
     on Database Systems, September 1978
"Text Retrieval Computers," Computer, March 1979
"A Design for a List Merging Network," IEEE Transactions on Computers, June 1979
"Alternative Approach to Multi-Sensor Navigation" (with Michael J. Cannon), AIAA
     Journal of Guidance and Control, September 1980
"Direct Implementation of Asynchronous Control Units," IEEE Transactions on
     Computers, December 1982
"Operational Characteristics of a Hardware Pattern Matcher" (with Roger Haskin), ACM
     Transactions on Database Systems, March 1983
"The Utah Text Retrieval Project," Information Technology: Research and Development
     (Buttersworths, Kent, England), October 1983
"Special-Purpose Hardware for Text Searching: Past Experience, Future Potential,"
     Information Processing & Management, Volume 27, Number 4, 1991. (An early
     version of this paper also appeared in IEEE Data Engineering Bulletin, March 1990)
"Justice Douglas Was Right: The Need for Congressional Action on Software Patents,"
     AIPLA Quarterly Journal, Winter 1996
"Co-Teaching Engineering and Writing: Learning about Programming, Teamwork, and
     Communications," (with Louise Rehling), Issues in Integrative Studies, 1997

Publications: Other Journals

"Software Patents," book review in IEEE Computer, December 1995

Lee A. Hollaar   Page 4

"Legal Recognition of Digital Signatures" (with Alan Asay), sidebar article in Special
    Issue on Public Key Cryptology, *IEEE Micro*, June 1996
"Text Databases and Information Retrieval" (principal author: Ellen Riloff), *Computing
    Surveys*, 1996
"Now That the CDA's History, Let's Plan Anew," *The National Law Journal*, July 14, 1997
"Computer Antitrust Litigation: A Technologically Sound Legal Opinion Requires Judicial
    Reliance on Technical Experts," *BNA Expert Evidence Report*, October 2001
"Requesting and Examining Computer Source Code," *BNA Expert Evidence Report*, May
    10, 2004
"Liability for Inducement of Copyright Infringement" The Genie is Out of the Bottle,"
    Journal of Internet Law, September 2004
"The Use of Neutral Experts," *BNA Expert Evidence Report*, December 20, 2004

Publications: Refereed Conferences

"A Specialized Architecture for Textual Information Retrieval" (with William H.
    Stellhorn), National Computer Conference, June 1977
"Multi-System Position Determination" (with Michael J. Cannon), AIAA/IEEE Second
    Digital Avionics Systems Conference, November 1977
"Rotating Memory Processors for the Matching of Complex Textual Patterns," Fifth
    Annual Symposium on Computer Architecture, April 1978
"Current Research into Specialized Processors for Text Information Retrieval" (with
    David C. Roberts), Fourth International Conference on Very Large Databases, August
    1978
"Hardware Systems for Text Information Retrieval," ACM SIGIR Conference, June 1983
"The Implementation of a Radix-16 Digit-slice Using a Cellular VLSI Technique" (with
    Tony M. Carter), IEEE International Conference on Computer Design/VLSI in
    Computers, October 1983
"On the Testability of the Direct Implementation of Asynchronous Circuits" (with Tao
    Li), Conference on Advanced Research in VLSI, Massachusetts Institute of
    Technology, January 1984
"A Message-Based Information Handling System" (with Shane Robison and Michael
    Zeleznik), IEEE Compcon, February 1984
"The Structure and Operation of a Relational Database System in a Cell-Oriented
    Integrated Circuit Design System" (with Tony Carter, Brent Nelson, and Raymond
    Lorie), Design Automation Workshop, June 1984
"A Testbed for Information Retrieval Research: The Utah Retrieval System Architecture,"
    Eighth Annual International ACM SIGIR Conference, Montreal, June 1985
"A Distributed Information Handling System," ACM Annual Conference, Denver, October
    1985
"A Workstation-Based Approach to Text Retrieval and Manipulation," First International
    Conference on Computer Workstations, San Jose, November 1985
"The Utah Retrieval System Architecture," RIAO 88, Massachusetts Institute of
    Technology, March 1988

Lee A. Hollaar   Page 5

"Implementation and Evaluation of a Parallel Text Search for Very Large Text
    Databases," HICSS-25 (Hawaii International Conference on System Sciences),
    January 1992

Publications: Other Conferences

"Can Low-Cost VOR and Omega Receivers Suffice for RNAV?" ION National Aerospace
    Meeting, April 1978
"Statement for the Session on Impact of New Technologies" in Issues in Data Base
    Management (H. Weber and A. I. Wasserman, eds.), North Holland Publishing, 1979.
"Innovative Architectures for Retrieval Systems," National Online Information Meeting,
    March 1980
"Design Considerations of a Campus-wide Building Control System," Fall 1980 Educom
    Conference Proceedings
"Specialized Hardware for Implementing Full Text Retrieval Systems," American
    Chemical Society National Meeting, April 1982
"The Utah Search Engine," American Society for Information Science Annual Meeting,
    October 1985
"The Role of Intellectual Property in Open Source Software," IIPI Conference on
    Strategies for Building Software Industries in Developing Countries, May 19, 2004

Publications: Online Only

"*Sony* Revisited: A new look at contributory copyright infringement"
    http://digital-law-online.info/papers/lah/sony-revisited.htm

Publications: Other

"A Programmably Loadable Control Store for the Burroughs D-Machine." M.S. Thesis,
    May 1974 (David Kuck, advisor)
"A List Merging Processor for Inverted File Information Retrieval Systems." Ph.D. Thesis,
    October 1975 (David Kuck, advisor)
"EXCEL, Experiments in Computer Electronics and Logic, Fifth Edition," Text for logic
    design laboratory at the University of Illinois Department of Computer Science,
    1980 (with Michael Faiman)
"The Design of an Extensible Communications-Based Full Text Information Retrieval
    System" (with Shane Robison and Michael Zeleznik). Final report for Contract
    82F765800, "Development of Algorithms and Evaluation of Performance for
    Information Retrieval Systems", revised February 1984
"When Is Copyright Infringement Legal?," letter in Forum, *Communications of the ACM*,
    June 2004
""Attach on Proposed Induce Act Ignores Long-Standing Element of Copyright Law,"
    letter in *Legal Times*, November 1, 2004
Letter to the Editor, *Journal of the Patent and Trademark Office Society*, January 2005

Lee A. Hollaar   Page 6

Briefs

Amicus brief filed with the United States Court of Appeals for the District of Columbia
Circuit in *United States v. Microsoft*, December 2000
Amicus brief filed with the Supreme Court of the United States in *MGM v. Grokster*,
January 2005

Patents and Applications

"Method and System for Matching Encoded Characters" (with Roger Haskin), United
States Patent 4,450,520, issued May 22, 1984
"Method for Error Recovery in a Digital Data Communications System," United States
Patent 5,396,613, issued March 7, 1995
"Quotation Highlighting in a Hypertext System," filed December 22, 1994, allowed
December 2004.

Research Grants and Contracts

Legal Protection of Digital Information. Sponsorship gifts from Summit Law Group
($75,000), Lineo ($25,000), and the Bureau of National Affairs (subscriptions),
2000–present; gift in 2004 of $255,000.

Hardware and software systems for the retrieval and handling of text. This work
includes the development of special purpose backend processors, particularly a
high-speed text search engine implemented in custom VLSI, and the design and
implementation of a distributed software architecture for text handling.
"Implementation and Evaluation of a Parallel Text Searcher for Very Large Databases,"
National Science Foundation's Experimental Systems Program, MIP-9023174, 9-91
through 6-97, $1,923,462
"Continued Analysis and Development of Specialized Backend Processors for Very Large
Text Databases," National Science Foundation, MCS-7825872 (University of Illinois),
5-79 to 8-80, $90,279; MCS-8021116 (University of Utah), 8-80 to 2-82, $44,969;
MCS-8021116A01, 3-82 to 5-85, $104,559; MCS-8021116A02, 6-83 to 8-84,
$32,977; DCR-8503663, 6-85 to 5-88, $156,864
"Implementation of a Production-Quality Workstation-Based Information Retrieval
System," Federal contract 86F224000, 6-86 to 7-87, $391,653
"Development of Algorithms and Evaluation of Performance for Information Retrieval
Systems," Federal contract 82F765800, 6-82 to 7-83, $147,190; 8-83 to 3-84,
$175,000; 3-84 to 10-84, $183,032; 11-84 to 10-85, $213,917; 11-85 to 5-86,
$55,119
"Support and Enhancement of the URSA Retrieval System," Federal contract
88-N620200-000, 6-88 to 3-89, $102,795 (through Contexture, Inc.)
"Porting of the URSA Retrieval System to Other Workstations," Federal contract, 9-89 to
3-90, $35,000 (through Contexture, Inc.)
Development grant from Digital Equipment Corporation, 5-83, $12,038
Equipment grant from Sun Microsystems, Inc., 7-92, $25,000

Lee A. Hollaar

<u>Design methods and tools for VLSI circuits</u>. This includes the development of a direct mapping technique for asynchronous circuits and the specification of relational database extensions for the efficient handling of cell-based designs.

"Asynchronous Control for VLSI Circuits: Methods for Automated Design and Testing using a Direct Mapping Technique," National Science Foundation, ECS-81-16742, 3-82 to 8-84, $68,737

"Computer Aided Design" (principal investigator: R. F. Riesenfeld), National Science Foundation MCS-81-21750, 10-82 to 9-87, $2,853,262 plus $500,000 university matching funds

"Joint Study of the Requirements for a Database Management System for Computer Aided Design," IBM San Jose Research Laboratory, 12-82 to 6-83, $34,700; 4-84 to 9-84 (with Tony Carter), $49,987

<u>Other research support</u>:
"Digital Signatures for Clinical Laboratory Documentation Management and Information Dissemination" (Jeffrey Smith, M.D., co-principal investigator), University of Utah, 7-98 to 6-99, $34,000

"A Real-Time Computer and Graphics Laboratory," National Science Foundation, MCS-81-05757, 4-81 to 4-82, $145,000

"Avionics Systems Analysis," NASA Langley Research Center, NAS1-15145, 12-77 to 9-78, $9,001

"Shared Memory Multi-Processor Study," IBM General Systems Division, GSD-210019, 11-79 to 11-82, $217,200 plus $250,000 in furnished equipment (University of Illinois, co-principal investigator, participation ended 9-80)

Laboratory Development Funds from University of Utah, 8-80, $40,000

Research Development Funds: Versatec to ComputerVision Interface, Kistler Glass Fund, University of Utah, 4-81, $2,000

Equipment gift from Data I/O Corporation, 9-84, $8,275

Students Supervised (Doctoral)

Rhon L. Williams (Electrical Engineering, 1978), "A Multiprocessor System for the Direct Execution of Lisp"

Michael J. Cannon (Computer Science, 1979), "A New Approach to Multi-Sensor Navigation System Design"

Roger L. Haskin (Computer Science, 1980), "Hardware for Searching Very Large Text Databases"

Hui-Ming Huang (Computer Science, 1980), "On the Design and Scheduling of an Index Processing System for Very Large Databases"

Tao Li (Computer Science, 1985), "Fault Diagnosis and Design-for-Testability for Integrated Sequential Circuits" (co-advisor with Kent F. Smith)

Mamdouh H. Ibrahim (Computer Science, 1987), "Database Loading by Example: A Learning Approach to Loading Information Retrieval Databases"

Robert N. Elens (Computer Science, 1990), "Sequencing Computational Events in Heterogeneous Distributed Systems"

Lee A. Hollaar   Page 8

Michael P. Zeleznik (Computer Science, 1993), "Security Design in Distributed
    Computing Applications"

Students Supervised (Master's)

Paul Stoecker (Electrical Engineering, 1976), "VOR–VOR Area Navigation" (co-advisor)
Dean Johnson (Electrical Engineering, 1976), "A Two Channel Moving Head Parallel
    Access Disk Memory System" (co-advisor)
Roger Haskin (Computer Science, 1978), "On Aircraft Predictor Display Systems"
Katherine Harper (Computer Science, 1980), "An Evaluation of Path Pascal as a Discrete
    Event Simulation Language"
Tony Carter (Computer Science, 1982), "ASSASSIN: An Assembly, Specification and
    Analysis System for Speed–Independent Control–Unit Design in Integrated Circuits
    Using Path–Programmable Logic (PPL)" (co-advisor)
Robert C. Pendleton (Computer Science, 1985), "Simulation Analysis of a Large Textual
    Database Search System"
Ellen S. Gibson (Computer Science, 1984), "An Extensible and Flexible Query Language
    for an Information Retrieval System"
Kenneth S. Stevens (Computer Science, 1984), "The Soft Controller: A Self–Timed
    Microsequencer for Distributed Parallel Architectures" (co-advisor)
Forrest B. Pickett (Computer Science, 1984), "A Self–Timed Cell Set and Library for the
    Design of Integrated Circuits" (co-advisor)
Michael P. Zeleznik (Computer Science, 1985), "A Portable, Net–Transparent
    Communication System for Distributed, Message–based Applications"
David J. Schlegel (Computer Science, 1985), "A Portable Window Manager for a
    Message–based, Distributed System"
Koah–Hsing Wang (Computer Science, 1985), "Performance Monitoring and Projection
    for an Information Retrieval System"
Walter O. Haas (Computer Science, 1985), "Design of a Gateway Between a Public Data
    Network and an Ethernet Using TCP/IP"
Cliff J. Anderson (Computer Science, 1986), "Automated Routing Tools for the PPL
    Design Methodology" (co-advisor)
James Schimpf (Computer Science, 1987), "Realization of a PFSA Based Search Machine"
Nancy Orr (Computer Science, 1988), "A Method for Evaluation of Graphics
    Coprocessors for Personal Computers"
Jeffrey K. Smith (M.S., Computer Science, 1991), "Seqwarp: A Low–Cost Systolic Array
    for Biological Sequence Comparison"
Robin Roberts (M.E., Computer Science, 1993)
James Roberts (M.E., Computer Science, 1993)
Mark (Bassam) Salem (Computer Science, 1995), "An Object-Based Communications
    Framework for the Development of Distributed Systems"
Lisa Letellier (Computer Science, 1997), "Managing Information in a Distributed
    Information Retrieval System"
Baocai Zhang (M.E., Computer Science, 1998)

566

Lee A. Hollaar   Page 9

Classes Taught

University of Utah:
CS 5480/6480, Data Communications, Fall 1998, Fall 1999, Fall 2001, Fall 2003
CS 2960, Introduction to Computer Networking, Spring 2001
CS 0396/3960/5960, Introduction to Networks, Fall 2004
CS 5060, Legal Protection of Digital Information, Fall 2000, Fall 2002, Fall 2004 (taught
    as CS 6960)
CS 0962/5962, Special Topics: Legal Protection of Computer Software, Fall 1998, Fall
    1999
CS 5940/6940, Seminar on Law in a Digital World, Spring 2003
CS 5964, Special Topics: Electronic Commerce, Spring 1999
CS 5966, Special Topics: Social Aspects of a Digital World, Spring 2000
CS 321, Introduction to Logic Design, Autumn 1981 and 1982
CS 322, Introduction to Computer Architecture, Winter 1982, 1983, 1984
CS 323, Advanced Logic Design, Spring 1982 and 1983
CS 410, Low Level Programming, Autumn 1980
CS 451-452-453, Senior Project Laboratory, 1989-90, 1990-91, 1991-92, 1992-93,
    1993-94, and 1994-95 academic years (writing-intensive course)
CS 506, Operating Systems, Spring 1981, 1982, 1984, 1985, 1986, and Autumn 1988
    [formerly CS 536]
CS 508, Data Communications Systems, Winter 1982, Spring 1983, Winter 1984 and
    1985 (with R. L. Frank), Autumn 1986, Spring 1987 (with David Hanscom), Winter
    1998 [formerly CS 571 (Topics in Computer Science) and CS 525]
CS 578, Special Topics: Advanced Networking, Spring 1998
CS 57X, Topics in Computer Science (Information Retrieval), Autumn 1984
CS 57X, Topics in Computer Science (Text Retrieval Seminar), Winter and Spring 1992,
    Fall and Winter 1993
CS 57X, Topics in Computer Science (Computers, Ethics, and the Law), Winter 1984
    (with James Jensen, Esq.), Winter 1986, Winter 1989, Spring 1991, Winter 1993,
    Spring 1993
CS 579, Legal Protection of Computer Software, Autumn 1995, Winter 1995, Winter
    1998
CS 592, Asynchronous Circuits, Autumn 1981 (with A. L. Davis)
CS 628, Organization of Computing Systems, Autumn 1980 (with A. L. Davis and E. I.
    Organick)
CS 638, Database Systems, Autumn 1983 and 1984
CS 679, Computer Intellectual Property Law, Winter 1994, Winter 1995, Spring 1998
CS 679, Computer Law (for law students), Spring Semester 1996
CS 68X, URSA Seminar, 1991-92, 1992-93, 1993-94, Winter 1995
CS 685, Text Retrieval Seminar (with Ellen Riloff), Autumn 1994
CS 689, Database Machine Seminar, Winter and Spring 1983
Introduction to Copyright Law, continuing legal education seminar sponsored by the
    Division of Continuing Education and the Utah State Bar, October 1995

567

Lee A. Hollaar   Page 10

University of Illinois:
CS 264/265, Introduction to the Structure and Logic of Digital Computers, Spring
    1979, Fall 1979, Spring 1980
CS 360, Scientific Applications of Minicomputers, Fall 1978
CS 397, Seminar on Avionics Systems, Spring 1976
Initiated CS/EE 337, Control Structure of Computers, with Prof. James E. Robertson, as
    a graduate student

Academic Committees

University ad hoc Committee on Export Regulations, 2003
University Technology Transfer Advisory Committee (formerly Patent Review
    Committee), 1984–86, 1988–91, 1992–96 (Chair, 1993–96), 1999–2001 (Chair,
    2000–2001)
University Legal Counsel Advisory Committee, 1999–2003
University Academic Senate, 2001
University Digital Signature Committee, 1999–2001
University Senate Electronic University Advisory Committee, 1997–2001
University Studies Committee, 1999
University Writing Program Board, 1995–1997
University Academic Policy Advisory Committee, 1995–1997
University Library Policy Advisory Committee, 1995–1997
University Network Access Advisory Committee, 1993–1997
University Database Coordination Subcommittee, 1994–1997
University Ad-Hoc Committee on Intellectual Property Policy, 1995–1996
University Senate Budget and Planning Committee, 1992–94
University Research Committee, 1991–94
University Fiber Advisory Committee, 1992–94
University Committee on Instructional Communication Initiatives, 1989–92
University Computer Task Force. 1988–92
University ad hoc Committee on Patent and Software Policy, 1989–91
University Computer Facilities Planning Committee, 1981–84
University Computer Center Advisory Committee, 1985–86
University Copyright Policy Committee, 1982–83
University Library Expansion Committee, 1982–83
University Ad-hoc Committee on Computer Networking, 1985
Graduate Council Marriott Library Review Committee, 1985
Utah Resource for Genetic and Epidemiologic Research Faculty Advisory Committee,
    1987–92
Engineering College Council, 1999–2001 (Chair pro tem, 1999–2000; chair, 2000–01)
Engineering College Review, Promotion, and Tenure Committee, 1983–85
Engineering College Curriculum Committee, 1982–83
Engineering College Senate Nominating Committee, 1980–85
Engineering College Dean Search Committee, 1983
Dean's Advisory Committee on New Programs and Innovation, 1984–86
Department Colloquium Committee (Chair), 1980–81

568

Lee A. Hollaar   Page 11

Department Curriculum Committee (Chair), 1981–85
Department Computer Policy Committee (Chair), 1981–85, 1989, 1999–2000
Department Undergraduate Committee (Chair), 1982–1984

ROBERT W. MOSS, CONSULTING ECONOMIST

CURRICULUM VITAE

EDUCATION

1964-65	Doctoral studies, London School of Economics, London, England, OECD fellow.
1964	Master of Arts, Economics, American University, Washington, D.C., with distinction.
1962	Bachelor of Arts, Economics, University of Michigan, Ann Arbor, honors program.

PROFESSIONAL EXPERIENCE

Since 1977	Self-employed as an economist providing research and consulting services in labor economics and real estate development and management.
1987-2001	**Health Care Audits, Inc., Seattle, WA** Executive Vice President Responsible for marketing and management of this hospital and health care audit service.
1977-78	**Seattle University**, Albers School of Business, adjunct instructor, Labor Economics.
1975-77	**King-Snohomish Manpower Consortium, Seattle, WA** Director, Planning and Evaluation Developed annual plans and budgets for this $50 million CETA prime sponsor. Established evaluation program which led to significant program changes.
1972-74	Owner and skipper of 52' charter sailing yacht in Mediterranean.
1971-72	**U.S. Department of Labor, Washington, D.C.** Chief, Division of Public Career Programs Reformed and decentralized a $100 million training and employment program.
1970	**The World Bank, Washington, D.C.** Consultant Cooperated with United Nations officials to advise the Bank on funding the expansion of the land grant college system in India.

2401 Fourth Avenue • Suite 860•Seattle WA 98121 • (206) 441-6122•FAX (206) 441-6683

571

1969-71	**U.S. Training and Employment Service, Washington, D.C.**
	Special Assistant to the Director
	Executive and administrative assignments for a staff of 500; special projects for the Assistant Secretary of Labor.

1968-69	**President's Council on Youth Opportunity, Washington, D.C.**
	Regional Coordinator
	Translated national programs into local action by working with governors, mayors, and business leaders to develop job programs and activities for needy youth.

1967-68	**National Advisory Commission on Civil Disorders (The Kerner Commission)**
	Assistant Director, Research Services
	Led preparation and analysis of data on urban problems for major sections of the Commission's report on the socioeconomics causes of the 1960's riots.

prior to 1967	**Research positions with**
	▪ U.S. Advisory Commission on Intergovernmental Relations
	▪ Research Analysis Corporation for U.S. Department of Defense
	▪ Organization for Economic Cooperation and Development (Paris)
	▪ Survey Research Center, University of Michigan

PROFESSIONAL MEMBERSHIPS

American Economic Association
National Association of Forensic Economics (charter member)
Seattle Economics Club

PUBLICATIONS

"Hedonic Damages...How Far Can Economics Go?" Washington State Bar News, June, 1993.

"Valuing Future Expense in Spinal Cord Injury Cases" (with Heather H. Oesting) Bar Bulletin, Seattle-King County Bar Association, September, 1988

PROFESSIONAL PRESENTATIONS

"Use of an Economist in Employment Litigation," Washington Employment Lawyers Association, March, 2005.

"The Economics of Life Care Plans," Life Care Planning Seminar, Washington Medical Case Management Association, September, 2001.

572

"Structured Settlements for Minors," Minor Settlements Seminar, Washington State Trial Lawyers Association, June, 1997.

"What Can Economic Experts Do in an Employment Case?" Valuing Plaintiffs Employment Cases Seminar, Washington Employment Lawyers Association, October, 1995.
'What are Women Worth? An overview of women in economic statistics," Women in Litigation Seminar, Washington State Trial Lawyers Association, January, 1994.

"Demonstration of Economic Testimony," Experts: When, Why & How Seminar, Washington State Trial Lawyers Association, October, 1992.

"Current Issues in Forensic Economic Analysis," Presentation to the Benton/Franklin County Bar Association, June, 1992.

"Integrating Experts—How to use an economist and other experts," Washington State Trial Lawyers Association South King County Roundtable, November, 1990.

"The Role of the Economist," How to Evaluate and Settle Personal Injury Claims in Washington Seminar, Professional Education Systems, September, 1990.

"Economic Loss Evaluation in Business and Tort Type Brain Injury Cases," Skimender '90 Seminar, Washington State Trial Lawyers Association, February, 1990.

Discussant, Forensic Economics Session, Western Economic Association meeting.
Vancouver, B.C., July 1988.

"Using an Economist to Assess Damages," Evaluating Personal Injury Cases Seminar, Washington State Trial Lawyers Association, October, 1987.

573

EXHIBIT HH

574

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF SEATTLE AT WASHINGTON

--- x

TIM and PENNY PATERSON, husband and wife and
the marital community thereof,

                Plaintiffs,
                    No.: 2:05-CV-01719-TSZ
     -against-

LITTLE, BROWN and COMPANY, a Massachusetts
& State Corporation, TIME WARNER BOOK GROUP,
a Delaware Corporation, HAROLD EVANS
ASSOCIATES, LLC, a New York State Limited
Liability Company, HAROLD EVANS and
DAVID LEFER,

                Defendants.

--- x

        DEPOSITION of Defendant, HAROLD M. EVANS,

taken by the Plaintiffs pursuant to Notice, held at

the offices of Davis Wright Tremaine, LLP, 1633

Broadway, New York, New York, on February 6, 2007,

at 10:00 a.m., before a Notary Public of the State

of New York.

****
     BARRISTER REPORTING SERVICE, INC.
            120 Broadway
         New York, N.Y. 10271
           212-732-8066

575

Page 2

1

2   A P P E A R A N C E S:

3

4   D. MICHAEL TOMKINS, P.S.
                       Attorneys for Plaintiffs
5   8420 Dayton Avenue N.
                       Seattle, Washington 98103

6

               BY: D. MICHAEL TOMKINS, ESQ.

7

8

9

10   DAVIS WRIGHT TREMAINE, LLP
                       Attorneys for Defendants
11   2600 Fourth Avenue
                       Seattle, Washington 98101-1688

12

               BY: BRUCE E.H. JOHNSON, ESQ.

13

14

15   ALSO PRESENT:

16   TIM PATERSON

17   PENNY PATERSON

18   FIGUERETTA A. INOS,
                       Legal Assistant
19   D. Michael Tomkins, P.S.

20

21   xxxxx

22

23

24

25

576

f1c3ebe2-ca7d-4b1c-88d0-31f34c3cfae9

Page 113

1   Evans

2   A.   Yes.

3   Q.   Was that one of the source

4   materials you used?

5   A.   Yes.   "Tim Paterson (created) a

6   16-bit CP/M... all Q DOS commands were the

7   same as CP/M.   Paterson admitted to `a

8   little light borrowing' from CP/M but

9   claimed that most of the code was his

10   own."

11   I would have thought that

12   Mr. Paterson claimed all the code was his

13   own.

14   "Gary Kildall thinks a lot of the

15   Q DOS code was stolen straight from CP/M.

16   Ask Bill Gates why function code No. 6 (9

17   surely) in Q DOS (and still in MS DOS more

18   than ten years later) ends in a dollar

19   sign."

20   Because Bill Gates couldn't know

21   the answer, but Mr. Paterson knows the

22   answer why it ends with a dollar sign.

23   Q.   Now, Mr. Cringley, did you talk to

24   him about that passage?

25   A.   No.   For the record, it's a book.

577

f1c3ebe2-ca7d-4b1c-88d0-31f34c3cfae9

Page 114

1   Evans

2   If you try to talk to everybody with the

3   book, you'll never get anything finished.

4   Q.   What happens if somebody gets a

5   book published, for whatever reason,

6   that's been poorly researched; somebody

7   has a grudge, somebody purposefully wants

8   to do harm to the general record? You as

9   a historian don't take a published book on

10   its face because it's published; certainly

11   you research the researcher, don't you?

12   A.   But when that book recapitulates

13   and states what eleven, twelve, fifteen

14   other books say and there would be no

15   outcry, no public corrections, no website

16   corrections, no criticism in reviews, you

17   begin to think there is a certain

18   credibility to that book.

19   When, you know, Mr. Cringley is an

20   acclaimed author, you begin to think that

21   you may have the picture right.

22   Q.   Can't you use that same argument

23   when Kildall makes little or no -- takes

24   little or no umbrage for years and years

25   about CP/M? He doesn't sue, he doesn't do

578

f1c3ebe2-ca7d-4b1c-88d0-31f34c3cfae9

1   Evans

2   gnashing of the teeth, he accepts it and

3   moves on as not a clone, not a rip-off?

4   A.   Well, Mr. Kildall said it was a

5   rip-off and used that phrase often.

6   Q.   In his memoir?

7   A.   But he used it more often amongst

8   colleagues. Mr. Kildall got increasingly

9   furious.

10   You asked why he didn't sue and why

11   he remained kind of complacent, really,

12   and the answer is that he had a faith in

13   his technology with winning the

14   marketplace. He completely underestimated

15   the power of IBM.

16   Q.   So you think that Kildall thought

17   that his operating system was so much

18   better than anything out there that the

19   world would beat down his door

20   economically and at the retail store when

21   priced against MS DOS?

22   A.   Of course, he was shocked when he

23   found that MS DOS was priced so much

24   cheaper and he felt betrayed, and in fact,

25   he thought it was a conspiracy to take the

579

f1c3ebe2-ca7d-4b1c-88d0-31f34c3cfae9

Page 127

1   Evans

2   about her earlier today.

3   THE WITNESS: Yes, she was a

4   board member representing venture

5   capitalists that invented in DRI.

6   I spoke to both of them.

7   Q.   Did she give you any information

8   about this controversy?

9   A.   Yes.

10   Q.   That was used in both books?

11   A.   Yes.

12   Q.   Kay Nishi?

13   MR. TOMKINS: N-I-S-H-I.

14   A.   Kay Nishi is a DRI employee.

15   Q.   Did you speak to him?

16   A.   No.

17   Q.   Do you know if anybody did?

18   A.   I don't know. She's in the Kildall

19   memoir.

20   Q.   But you and your team --

21   A.   No, I never did not speak to that

22   person.

23   Q.   At Seattle Computer, you didn't

24   talk to anybody at Seattle Computer?

25   A.   I didn't.

1   Evans

2   Q.   Or anyone from your team?

3   A.   Not to my knowledge. They may have

4   done, but they took the public records.

5   Q.   And Ray Norda, is that the Novell

6   founder?

7   A.   Yes.

8   Q.   Did you ever consult him on

9   anything?

10   A.   David Lefer had the transcript of

11   the Caldera trial concerning DRI versus

12   DOS concerning Novell.

13   Q.   Do you know if anybody from your

14   staff talked to Mr. Norda about this

15   controversy?

16   A.   I don't know. I read the

17   transcript.

18   Q.   Did you gain any information that

19   was used in the book from the transcript?

20   A.   It fell into the same pattern. I

21   mentioned it at the end of the hardback

22   chapter that Kildall thought it was ironic

23   that he was now -- that -- this is going

24   back to the history. I don't know if you

25   want me to go into this DRI and DOS.

581

1   Evans

2   The statute of limitations, as I

3   understand, had run out on him suing over

4   DOS; however, when subsequent editions of

5   that came out, he felt that it opened the

6   door to him to sue or complete by a clone,

7   okay, which was called -- I don't want to

8   get into all the initials because she'll

9   be in big trouble, yes, but it was taken

10   up by the company that bought -- Kildall

11   itself didn't do it, but the company that

12   bought DRI did take up that legal option

13   to sue. And that's a whole complicated

14   story.

15   They accused Microsoft of unfair

16   practices and trying to kill that

17   grandfathered -- there's CP/M, there's

18   DOS, there's the new vision of DOS and

19   here is what Kildall's doing, and he's

20   claiming that this has a right to sue

21   through its linear going back to CP/M.

22   Q.   You've been an editor before?

23   A.   Yes.

24   Q.   And you run a publishing company?

25   A.   Yes.

Page 152

1   Evans

2   A.   No, sorry. Wait a minute. Excuse

3   me. He improved the way files were stored

4   while accompanying most of the top part,

5   the commands that interface between the

6   applications and the hardware.

7   Q.   So you're not saying API?

8   A.   No, no. I was trying to get ahead

9   of you, which I shouldn't do.

10   Q.   I understand.

11   And then you go back to, "What had

12   Paterson essentially done is rewrite the

13   bottom part of the software," and that's

14   your command function, 26 command

15   function?

16   MR. JOHNSON: No.

17   A.   Adapting it for a 16-bit machine.

18   Q.   "Improving the way the files were

19   stored and adapting the program to a

20   16-bit machine while copying most of the

21   top part of Kildall's operating system."

22   What do you define as the top part?

23   A.   I'm using this -- I mean, you can

24   say bottom, top, side, whatever. I was

25   thinking of a pancake, you know.

1   Evans

2   Q.   You used the word, "An independent

3   examination of the two systems show some

4   blatant copies, some slight alterations.

5   For instance," and then you go on down.

6   Is that your analysis, or are you

7   reporting somebody else's analysis?

8   A.   Oh, the independent examination is

9   me with David Lefer. The two of us.

10   Q.   And using the words "blatant

11   copies"?

12   A.   Yes.

13   Q.   That's you?

14   A.   Yes.

15   Q.   Because sometimes there are some

16   quotes.

17   A.   Yes, there's no quotes on that.

18   Mr. Paterson himself would agree, I don't

19   know what the argument is about because

20   that's what he said, and he's absolutely

21   accurate.

22   Q.   Going back up a bit starting with

23   the words, "Even if Q DOS."

24   A.   Yes.

25   Q.   "Even if Q DOS and CP/M were 80

584

f1c3ebe2-ca7d-4b1c-88d0-31f34c3cfae9

1   Evans

2   percent different, as Paterson has said,

3   he took almost unaltered Kildall's Int-21

4   mechanism, the heart of his innovation."

5   Did CP/M use Int-21?

6   A.   They copied the API's, yes. That's

7   what Mr. Kildall alleged. And that's what

8   his appendix listed and showed the same --

9   the appendix listed the same language side

10   by side.

11   Let me read you something else from

12   Mr. Bill Gates' encyclopedia: "CP/M had

13   become the standard for the 8-bit machines

14   so the ability to mechanically translate

15   existing CP/M application to run on the

16   16-bit system became one of Paterson's

17   major goals. To achieve this capability,

18   the system he developed mimicked CP/M 80's

19   functions and command structure including

20   its use of file control blocks and its

21   approach to executable files."

22   And this is repeated like a drum

23   roll through the commentaries. I'm not

24   inventing stuff. I'm reporting from the

25   industry.

585

f1c3ebe2-ca7d-4b1c-88d0-31f34c3cfae9

1   Evans

2   Q.   Do you recall if Mr. Paterson ever

3   articulated to you or your researchers or

4   somewhere in the public record that you

5   can point me to that it was 80 percent

6   different?

7   A.   It must be in the notes somewhere,

8   or else I wouldn't have used it. How much

9   more percentage was it?

10   Q.   That implies there is 20 percent

11   the same and 80 percent different.

12   A.   The point I'm making is that the

13   heart of making a computer system useful

14   lies in the way applications are going to

15   be used. Otherwise it's a piece of junk.

16   Q.   Going down to below, on that same

17   line below the prompt, "Paterson copied

18   Kildall's first 36 Int-21 functions into

19   Q DOS," do you believe that that's an

20   accurate statement?

21   A.   Yes.

22   Q.   Starting with, "Gary's design was

23   so good that he actually made it fairly

24   simple for Paterson to rip-off CP/M."

25   A.   Yes.

586

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of March, 2007, I caused to be filed electronically with the court using the CM/ECF system, which will send notification of such filing, and I served a true and correct copy of the within and foregoing document entitled exactly:

DECLARATION OF KAUSTUV M. DAS IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

by the method indicated below and addressed as follows:

D. Michael Tomkins   _____ U.S. Mail
Dietrich Beimiller   _____ Hand Delivery
8420 Dayton Avenue North   _____ Overnight Mail
Seattle, WA 98103   _____ Facsimile
Tel: (206) 547-1000   ___X__ CM/ECF Notification
Fax: (206) 297-5990
Email: aadmt@aol.com
        dbiemiller@dmichaeltomkins.com

DATED this 15th day of March, 2007.

                                    By _____
                                            Bruce E. H. Johnson

CERTIFICATE OF SERVICE

SEA 1962021v1 3910089-000029

587