DECLARATION OF JAMES L. OLIVIER

1. My name is James L. Olivier. I am over the age of twenty-one (21) years, of sound mind and capable of making the statements set forth in this Declaration. I am competent to testify to matters set forth herein. All the facts and statements contained herein are within my personal knowledge and they are, in all things, true and correct.

Education and Experience

2. My experience and education are detailed in my curriculum vitae, which is attached as *Appendix 1* to this declaration.

3. I earned a Bachelor's of Science Degree in Electrical Engineering, a Master's Degree in Electrical Engineering, and a Ph.D. degree in Electrical Engineering, all from The Ohio State University. I received my Bachelor's Degree in Electrical Engineering from The Ohio State University in 1983. I received my Master's Degree in Electrical Engineering from The Ohio State University in 1985. My main area of study was computer system design and software engineering. I received my Ph.D. in Electrical Engineering along with a minor in Computer Science, Microelectronics, Semiconductor Fabrication, and Discrete Mathematics from The Ohio State University in 1988.

4.   My area of expertise is in computer system design, software engineering and telecommunications.

5.   I have been working in the field of computer system design and software engineering since my academic career began. A more detailed account of my work experience and other qualifications is listed in my Curriculum Vitae. Cases in which I have testified as an expert either at a trial, hearing, or deposition during the previous five years are listed in *Appendix 2* attached to this declaration.

6.   I personally have studied, conducted research and worked in the field computer system design and software engineering since my graduate school days at The Ohio State University. My Master's Thesis was on Artificial intelligence (AI) and my Ph.D. dissertation was based on computer design and was titled "Concurrent Error Detection in Arithmetic Processors using GAN Codes."

7.   I have been involved in the development of software for computer systems since my work at AT&T Bell Laboratory. Later at DSC, I was the Senior Manager of the ATM systems engineering group developing ATM packet switches for Motorola's Cellular Switches. At Samsung, I was a Principal Engineer for wireless broadband services over UMTS. At Marconi I worked on a number of computer systems for the access market, such as DSL modems, and DSLAMs. At Navini Networks I was responsible for layer 2 and layer 3 network protocols for

their CDMA broadband modems. All of these systems make use of software computer systems.

8.   I am familiar with the knowledge and capabilities of a person of ordinary skill in the art (POSITA) in the area of computer software systems and in particular agent-based computing. Specifically, I am familiar with the understandings of one of ordinary skill in the art prior to and during the period in which U.S. Patent No. 7,949,752 ("the '752 Patent") was allegedly invented, and my testimony herein when referring to one of ordinary skill, and what was known in the art, refers to that period.

Compensation

9.   I am being compensated by the Petitioner at the rate of $495.00 per hour for my assistance with its *Inter Partes* Review (IPR) and, specifically, for my time spent reviewing documents in association with the IPR and in preparing my testimony. Additionally, I am not, and have never been, an employee of Petitioner, and my compensation is not dependent upon the outcome of this proceeding.

Technology Background

10.   It was well known at the time the '752 Patent was filed to charge on a per-unit of time basis for online data access time or inquiry. For example, Internet services providers, such as America Online, charged consumers for online

data access time or inquiry on a per-unit of time basis, such as $9.95 for the first 5 hours, and then $2.95 per hour thereafter. Peter H. Lewis, *New Flat Rate Creates Surge In Use of America Online*, THE NEW YORK TIMES, Dec. 3, 1996, http://www.nytimes.com/1996/12/03/business/new-flat-rate-creates-surge-in-use-of-america-online.html, attached as ***Appendix 3***.

11.   At the time of the '752 Patent, a POSITA would understand that an acceptable cost level (e.g., for server charges) represents a discrete unit of a service resource which can be used up. (e.g., money and/or data access time).

12.   At the time the '752 Patent was filed, a POSITA would understand that a cost per-unit of time represents a discrete quantity that can be used up (e.g., money).

13.   At the time the '752 Patent was filed, a POSITA would know that it was well known to store programs as instructions on a non-transitory computer-readable medium, such as floppy disks. For example, U.S. Patent No. 4,590,557, filed September 12, 1983, issued May 20, 1986 (attached hereto as ***Appendix 4***) teaches that it was well-known to market software in the form of computer-readable media, such as floppy disks. U.S. Patent No. 4,590,557 at 1:21-32.

14.   A POSITA would readily understand that programs, once compiled, are stored as instructions executable by a processor. It is appreciated that user interfaces for enabling a user to create programs were well known at the time the

'752 Patent was filed. JavaBeans are reusable software components which can be manipulated visually by a graphical user interface builder. *See* U.S. Patent No. 6,356,931 (attached hereto as ***Appendix 5***), at 1:5-19, 4:53-5:4.

15.   A POSITA at the time the '752 Patent was filed would understand that the Java code (e.g., the registerMe.java code) could be modified using a text editor. *See* U.S. Patent No. 6,356,931, at 1:5-19.

16.   A POSITA at the time the '752 Patent was filed would understand user interfaces for enabling a user to install or create executable programs were well known at the time the '752 Patent was filed. For example, at the time the '752 Patent was filed, it was well known that the Unix shell provided a user interface that allows users to create, install and run executable programs.

17.   A POSITA at the time the '752 Patent was filed would understand that event handlers were well known. Event handlers were well known programing constructs for use in interfacing computer programs with the users or other exterior generators of events. *See* U.S. Patent No. 5,430,875 (attached hereto as ***Appendix 7***), 1:12- 2:68. Polling was a common method used to implement event handlers. *See* U.S. Patent No. 5,430,875, 1:44 - 61.

18.   At the time the '752 Patent was filed, it was well known to charge users on a per-unit of time basis for access to supercomputers. For example, according to the Alabama Supercomputer Center User Manual, Fifth Edition,

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