

July 9, 2009

VIA ECFS AND ELECTRONIC MAIL

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Re: Notice of Written Ex Parte Presentation  
In the Matter of Petition for Rulemaking and Request for Declaratory  
Ruling Filed by the Coalition United to Terminate the Financial Abuses of  
the Television Transition, LLC  
MB Docket No. 09-23

Dear Ms. Dortch:

A written ex parte presentation dated July 7, 2009 by Funai Electric Co., Ltd. and Funai Corporation, Inc. (collectively, "Funai") incorrectly claims "[a]lthough Mr. Glidden states that he is filing on his own behalf, he apparently is employed by Sun Microsystems on its Java DTV project"<sup>1</sup> and wrongly cites a web site that correctly lists this employment as "past".

Of course, I have no authority to speak on behalf of a former employer and make no such claim.

Funai also asserts without substantiation that "the Commission should not adopt Mr. Glidden's suggestion that there should be a policy preference for royalty-free standards because such a policy preference would chill incentives for innovation"<sup>2</sup>.

Funai's view appears not shared by Leonardo Chiariglione, the convenor of MPEG, a central element of the ATSC standard in issue in this docket. In contemplating his 2008 nomination for "European Inventors of the Year Award" by the European Patent Office, Chiariglione stated:

"I fear that the virtuous circle ... whereby the reward from innovation is used to create more innovation may be coming to an end. I believe MPEG should enlarge its portfolio of standards by offering some that are expected to be royalty free and typically less performing and with less functionality next to those that are state of the art, more performing and with more functionality."<sup>3</sup>

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1 See Funai Written Ex Parte Presentation, July 7, 2009, at 3 n.10. Perhaps Funai seeks to discredit by innuendo through comments such as "[t]he Glidden Reply Comments mention Java DTV ... but do not mention Mr. Glidden's association with that project". On the contrary, I would be delighted if the Commission considered my professional experience of note, including my former employment at Sun Microsystems, where I was also associated with OMS Video, an initiative to develop a royalty-free video codec, DReaM-CAS, a royalty-free conditional access system, and other standards initiatives, royalty free, royalty agnostic, and royalty bearing.

2 Funai at 4 n.14.

3 Leonardo Chiariglione, "The missed award speech",  
<http://www.chiariglione.org/leonardo/publications/epo2008/index.asp>

Chiariglione described "a vitally important system that is working, but spluttering, and sometimes doing more harm than good", acknowledged that "fair – reasonable – non discriminatory" used to be meaningful words when standards were designed for the needs of one industry whose members generally shared the business model according to which the standard would be used", and observed that "more than one MPEG standard did not have the acceptance it deserved because the licensing terms, perfectly acceptable and probably "fair and reasonable" for certain business models were rejected by those who had different ideas in mind."

According to Chiariglione:

"[T]he problem is not "how many cents, tens of cent or euros of licensing fee is fair and reasonable" but "how can licensing be fair and reasonable without specifying a business model." .... [T]he matter is terribly important for the future of MPEG, the digital media industry and humankind at large."

Given that such leading voices<sup>4</sup> have reached views so categorically different from those of Funai concerning the positive connections between royalty free standards, standards business models, and innovation, there is good reason for the Commission to doubt Funai's claim that "[t]he record also overwhelmingly contradicts commenter Rob Glidden's claims that greater Commission involvement in the standards process is warranted because "America pays more for less in DTV standards" and because current DTV licensing practices are not working."

Sincerely,

/s/

ROB GLIDDEN

[www.robglidden.com](http://www.robglidden.com)

cc: Sherrese Smith  
Rick Chessen  
Rudy Brioché  
Rosemary Harold  
Robert Ratcliffe  
Eloise Gore  
Steven Broeckart  
Alison Neplokh  
Kiersten Kamman  
Mary Beth Murphy  
Brendan Murray

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4 Funai's view appears to also ignore the countless innovations built on royalty free standards, the World Wide Web and the Open Internet to name but two examples. See for example, "It was the standardisation around HTML that allowed the web to take off. It was not only the fact that it is standard but the fact that it is open and royalty-free. If HTML had not been free, if it had been proprietary technology, then there would have been the business of actually selling HTML and the competing JTML, LTML, MTML products." Tim Berners-Lee, quoted in Standards and the Future of the Internet, Declaration 25th February 2008, at <http://www.openforumeurope.org/press-room/press-releases/standards-and-the-future-of-the-internet/>