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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WAVEMARKET, INC. D/B/A LOCATION LABS
Petitioner

v.

LOCATIONET SYSTEMS, LTD.
Patent Owner

Case No. IPR2014-00199
U.S. Patent 6,771,970

Before KRISTEN L. DROESCH, GLENN J. PERRY, and SHERIDAN K. SNEDDEN, *Administrative Patent Judges*.

DROESCH, *Administrative Patent Judge*.

PATENT OWNER'S REQUEST FOR REHEARING PURSUANT TO 37 C.F.R. § 42.71(d)

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I. INTRODUCTION

LocatioNet Systems, Ltd. ("Patent Owner") respectfully requests rehearing under 37 C.F.R. § 42.71(d) of the Patent Trial and Appeal Board's ("Board's") May 7, 2015 Final Written Decision (Paper 56; "Final Decision") as to claim 18 of United States Patent No. 6,771,970 ("the '970 Patent"; Ex. 1001). This request for rehearing is filed within 30 days of the entry of final decision.

In its Final Decision, the Board found claim 18 of the '970 Patent unpatentable on the ground of anticipation over Elliot (Ex. 1003). In so finding, the Board misapprehended or overlooked the intrinsic evidence supporting the proper construction for the claim terms "map database" and "map engine for manipulating said map database." Moreover, the Board misapprehended or overlooked the evidentiary standard for admissible expert testimony regarding issues of invalidity, the substance and disclosure of the prior art, or how a person of ordinary skill in the art would understand the prior art under the Federal Rules of Evidence and well-established case law. Petitioner relied solely on the inadmissible testimony of its declarant, Dr. Rosenberg, to support its attorney arguments; therefore, Petitioner failed to carry its burden to prove that the teachings of Elliot anticipate claim 18. Accordingly, Patent Owner respectfully requests that the Board revisit the arguments tendered by both Petitioner and Patent Owner, and conclude that claim 18 is not anticipated by Elliot.

II. STATEMENT OF PRECISE RELIEF REQUESTED

Patent Owner respectfully requests that the Board reconsider its Final Decision and hold that Petitioner has failed to establish that claim 18 of the '970 Patent is unpatentable.

III. THE RELIEF REQUESTED SHOULD BE GRANTED

A. The Board Misapprehended or Overlooked The Intrinsic Evidence For Construing The Claimed "Map Database"

The Final Decision states:

> Turning to the intrinsic evidence, the '970 Patent Specification utilizes the term "map database" in the following contexts: (a) "maps stored in the database (5)," (b) "a map from said at least one map database," (c) "[t]he map database may include maps formatted as at least one of the following: Raster Map in various scales, vector maps and air photo," (d) "[a] map database (5) in formats such as Raster, Vector, Topographic or aerial photographs;" and (e) "accessing a map database (5)." Ex. 1001, col. 2, ll. 32, 46-48, col. 4, ll. 15-17, col. ll. 3-6.

See Final Decision at 7-8. It appears that the Final Decision focused on select passages from the '970 Patent Specification describing what is contained in a "map database" rather than what a "map database" is or what a "map database" does. Based on this evidence, the Board found that "the broadest reasonable construction

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