

By: Thomas Engellenner
Pepper Hamilton LLP
125 High Street
19th Floor, High Street Tower
Boston, MA 02110
(617) 204-5100 (telephone)
(617) 204-5150 (facsimile)

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

CALLWAVE COMMUNICATIONS, LLC
Patent Owner

Case No. IPR2014-00920
U.S. Patent 6,771,970

**LOCATIONNET SYSTEMS, LTD'S
PATENT OWNER RESPONSE**

TABLE OF CONTENTS

	Page(s)
I. INTRODUCTION	1
II. ALLEGED GROUNDS	2
III. LEVEL OF ORDINARY SKILL IN THE ART	9
IV. CLAIM CONSTRUCTION	9
A. “a property that is predetermined for each mobile platform”	10
B. “said location determination system is arranged to determine an appropriate one of the plurality of remote tracking systems”	11
C. “map database”	11
D. “mobile platforms”	12
E. “a location determination system”	12
F. “a communication system”	12
G. “a plurality of remote tracking systems”	13
H. “each remote tracking system belongs to a different company and supervises a different group of mobile platforms”	13
V. TECHNICAL OVERVIEW OF THE ‘970 PATENT	14
VI. TECHNICAL OVERVIEW OF THE ASSERTED PRIOR ART	17
A. Fitch – “Multiple Input Data Management For Wireless Location-Based Applications” (Ex. 1105)	17
B. Roel-Ng – “System and Method For Informing Network of Terminal-Based Positioning Method Capabilities” (Ex. 1107)	19
C. Elliot – “Anytime/Anywhere Child Locator System” (Ex. 1110)	20

VII. PETITIONER’S ASSERTED GROUNDS FAIL TO RENDER THE CHALLENGED CLAIMS OBVIOUS	21
A. The Combination of Fitch and Roel-Ng Does Not Disclose An Element of All The Independent Claims: “adapted to determine the location of a respective mobile platform according to a property that is predetermined for each mobile platform”	21
B. The Teaching of Roel-Ng Is Contrary To The Intended Purpose And Principle of Operation of Fitch.....	26
C. Petitioner’s Articulated Rationale And Teachings For A Finding Of Obviousness Based On The Combination of Fitch and Roel-Ng Is Not Sufficient And Refuted By The Evidence	33
D. The Combination of Fitch, Roel-Ng, and Elliot Does Not Disclose A “Map Database” As Required By Claims 2-7, 15, and 17 And “Correlating The Location Of Each Mobile Platform With A Map Database” As Required By Claims 15 and 17.	36
E. The Combination of Fitch and Roel-Ng Does Not Disclose “each remote tracking system belongs to a different company and supervises a different group of mobile platforms” As Required By Claim 13.....	38
VIII. THE IPR IS BARRED BECAUSE PETITIONER FILED THE PETITION MORE THAN ONE YEAR AFTER PETITIONER’S PRIVIES WERE SERVED WITH A COMPLAINT ALLEGING INFRINGEMENT OF THE ‘970 PATENT.....	40
A. The Applicable Law Supports A Finding of Privity	40

B.	Petitioner Was In Privity With Its Customers Sprint, AT&T, and T-Mobile At The Time Each Was Served With A Complaint Alleging Infringement of The ‘970 Patent	44
1.	Petitioner Licensed Its “Family Locator” Service to Sprint, AT&T, and T-Mobile.....	44
2.	Petitioner Has A Contractual Obligation To Indemnify Sprint, AT&T, and T-Mobile For Patent Infringement of The ‘970 Patent Based On The Family Locator Service	45
3.	Petitioner Filed The Petition More Than One Year After Sprint, AT&T, and T-Mobile Were Served With Complaints Alleging Infringement of The ‘970 Patent	49
C.	Petitioner Was In Privity With Its Customers Sprint, AT&T, and T-Mobile As Of June 9, 2014 – The Filing Date of The Petition.....	50
1.	Petitioner and Its Customers Sprint, AT&T, and T-Mobile Were All Represented By Shared Counsel From Dentons Prior To June 9, 2014	51
2.	Petitioner and Each of Sprint, AT&T, and T-Mobile Operated Pursuant To A Joint Defense/Common Interest Agreement Prior to June 9, 2014	53
3.	Petitioner’s Representations Confirm That Petitioner Exercised Control and Funding of The District Court Proceedings Against Sprint, AT&T, and T-Mobile Prior to June 9, 2014	57
IX.	CONCLUSION.....	60

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>Asahi Glass Co., Ltd. v. Toledo Eng'g Co.</i> , 505 F. Supp. 2d 423 (N.D. Ohio 2007)	42, 43
<i>In re Am. Acad. of Sci. Tech. Ctr.</i> , 367 F.3d 1359 (Fed. Cir. 2004)	9
<i>In re Hoeksema</i> , 399 F.2d 269 (CCPA 1968)	35
<i>In re Ochiai</i> , 71 F.3d 1565 (Fed. Cir. 1995)	33
<i>KSR Int'l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007)	33, 35
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005) (<i>en banc</i>)	9, 10
<i>Synopsys, Inc. v. Mentor Graphics Corporation</i> , IPR2012-00042, Paper 60 (PTAB Feb. 19, 2014)	41
<i>VMware, Inc. v. Good Technology Software, Inc.</i> , IPR2014-01324, Paper 28 (PTAB Feb. 20, 2015)	41
STATUTES	
35 U.S.C. §103	3
35 U.S.C. § 315(b)	2, 40, 60
OTHER AUTHORITIES	
37 C.F.R. § 42.8(b)(2)	49
37 C.F.R. § 42.100(b)	9

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.