

Exhibit 2110

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 IPR2014-00199
Patent 6,771,970

Petitioner's Opposition to Patent Owner's Motion for Additional Discovery

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The Patent Owner chose to make the argument in its Preliminary Response that the Petition was defective for failure to identify the real party-in-interest. Instead of seeking discovery on the issue in a timely fashion, prior to the filing of its Preliminary Response, the Patent Owner chose to roll the dice and based its argument on nothing more than mere speculation. The Board correctly recognized the deficiencies of the Patent Owner's argument, and rejected it. Ignoring the guidance offered by the Office regarding the timing of such discovery and the limitations and guidance provided by the Board in its Order authorizing the Motion (*i.e.*, authorizing a Motion for discovery only on the issue of real party-in-interest), the Patent Owner now attempts to resurrect its failed position after-the-fact by seeking untimely, overly broad and excessively burdensome discovery. The Board should reject the Patent Owner's Motion.

I. BACKGROUND

On December 12, 2012 the Patent Owner filed multiple lawsuits in the District Court alleging infringement of US 6,771,970 ("the '970 patent). The pending litigation names, *inter alia*, AT&T, T-Mobile and Sprint as defendants ("the Defendants")¹. To date, the Petitioner (Location Labs, Inc.) has not been named as a defendant or served with a complaint for patent infringement in

¹ See, Petition for Inter Partes Review, IPR2014-00199, Paper No. 1, Section I.B.

(Related Matters): hereafter "District Court Actions."

connection with the '970 patent. On November 27, 2013, *less than one year from the date that the Defendants were served with a complaint for infringement of the '970 patent*, Petitioner filed a Petition for *Inter Partes* Review of the '970 patent, and by its Decision of May 9, 2014, the Patent Trial and Appeal Board ("Board") instituted the current proceedings. The Petition identifies the real party-in interest, Location Labs, Inc., and affirmatively states on the record that "no party exercised control or could exercise control over Location Labs' participation in this proceeding, the filing of this petition, or the conduct of any ensuing trial."

II. MATERIAL FACTS IN DISPUTE

The Patent Owner's Motion of July 16, 2014 (Paper No. 31; "Motion") contains no unambiguous assertions of material facts. To the extent that the statements made by the Patent Owner in section II. ("Factual Background") could be construed as assertions of "material fact," Petitioner denies the statements made therein, for at least the reasons to be explained below.

III. PATENT OWNER SEEKS DISCOVERY FOR AN ISSUE THAT HAS ALREADY BEEN DECIDED – PATENT OWNER'S LACK OF DILIGENCE

The Patent Owner argued in its Preliminary Response filed March 17, 2014 (Paper No. 12) that the petition should be rejected pursuant to 37 C.F.R. § 42.8(b)(1) "because Petitioner has failed to identify each of the real parties in interest." Preliminary Response, pp. 1-4. In its Decision instituting *inter partes*

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