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IPR2015-01898, Paper No. 38

IPR2015-01899, Paper No. 38

January 11, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,  
Petitioner,

v.

CORE WIRELESS LICENSING S.A.R.L.,  
Patent Owner.

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Case IPR2015-01898 (Patent 8,434,020 B2)

Case IPR2015-01899 (Patent 8,713,476 B2)

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Held: December 14, 2016

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BEFORE: JAMESON LEE, DAVID C. McKONE, and KEVIN  
W. CHERRY, Administrative Patent Judges.

The above-entitled matter came on for hearing on Wednesday,  
December 14, 2016, commencing at 1:30 p.m., at the U.S. Patent  
and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Case IPR2015-01898 (Patent 8,434,020 B2)

Case IPR2015-01899 (Patent 8,713,476 B2)

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Case IPR2015-01898 (Patent 8,434,020 B2)

Case IPR2015-01899 (Patent 8,713,476 B2)

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P R O C E E D I N G S

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JUDGE CHERRY: Good afternoon. This is the hearing in IPRs 2015-1898 and 1899, Apple Inc versus Core Wireless Licensing S.A.R.L. Counsel, will you please make your appearances.

MR. BAUGHMAN: Your Honor, Steve Baughman and Megan Raymond from Ropes & Gray for petitioner, Apple Inc. We have a representative from Apple, Cyndi Wheeler.

MR. HELGE: Good afternoon, Your Honor. Wayne Helge for the patent owner. I have with me my partner, Walter Davis, and we have representatives, Mr. Burt and Mr. Anderson from the patent owner as well.

JUDGE CHERRY: Thank you. In addition to myself and Judge Lee, we also have Judge McKone remote in the Midwest office in Detroit. So when you speak, please speak into the microphone so that Judge McKone can hear what you are saying. And also, please when you are going through your demonstratives, please refer to the slide number so that Judge McKone can follow along.

Mr. Baughman, you are the petitioner. Would you like to begin.

MR. BAUGHMAN: Thanks, Your Honor. Judge McKone, please feel free to remind me if I stray away from the podium. I apologize in advance.

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1           Good afternoon, may it please the Board, at the outset  
2 we would like to reserve 20 minutes of our time for rebuttal, if we  
3 may.

4           Turning to petitioner's slide 4, particularly given the  
5 time we have today, petitioner is going to rely on the positions  
6 and evidence we have offered the Board in briefing to support our  
7 arguments that the '020 and '476 patents at issue here and in  
8 particular the challenged claims are invalid as obvious over the  
9 permutations of prior art we've laid out on slide 4. As Your  
10 Honors can see, we have a number of demonstratives available in  
11 this case on particular topics, if they should arise, along with a  
12 table of abbreviations showing the source of that information and  
13 a table of contents. But we certainly don't plan to address all of  
14 that today. Instead, what we would propose to do is address in  
15 this opening discussion three topics along with any questions the  
16 Board may have.

17           Turning to slide 5, this afternoon I'll first briefly address  
18 several points on claim construction of terms that respectfully the  
19 patent owner distorts in an attempt to read in a raft of extra  
20 limitations that are not supported by the record here and attempt  
21 to navigate around the prior art. Actually, for a number of them,  
22 patent owner does not even try to link the constructions to an  
23 issue in these trials.

24           Second, I will touch on a few of patent owner's primary  
25 arguments about Schnarel, that's Exhibit 1004, which alone or in  
26 combination renders all the claims obvious.

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1           And then third, my colleague, Ms. Raymond, is going to  
2 address the Nason reference, our second primary prior art  
3 reference.

4           Before we jump into that, I would like to offer to  
5 observations of the kind of evidence the Board has before it and  
6 the kind of evidence it does not. First, we would note that patent  
7 owner has pivoted a bit from some of the arguments raised in the  
8 preliminary response. So as stated in the Board's scheduling  
9 order, that's paper 8 at 3 and 1898, patent owner has waived any  
10 arguments that don't appear in that patent owner response.

11           And the second point we would ask the Board to  
12 consider as you listen to today's arguments is the nature of what  
13 patent owner is urging here. We are starting off with the very  
14 short disclosures of the '020 and '476 patents at issue. They are  
15 about four and a half columns, give or take, before the claims.  
16 And they are simply about GUIs, graphical user interfaces, and  
17 trying to improve navigation among menus, which were already  
18 known.

19           So patent owner's attempt to lard up claim construction  
20 and distinguish the prior art here all go to a level of  
21 implementation detail that is simply absent from the '020 and '476  
22 patents. So as we hear patent owner today arguing about  
23 software sitting on top of an operating system or trying to  
24 delineate between applications and what is or isn't in some  
25 abstracted application layer model, it's helpful to bear in mind  
26 that those things never appear as requirements of the patents.

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