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 IPR2015-01899
Patent 8,713,476 B2

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Before the Honorable JAMESON LEE, DAVID C. McKONE, and KEVIN W.
CHERRY, *Administrative Patent Judges*.

**PETITIONER'S RESPONSE TO
PATENT OWNER'S MOTION FOR OBSERVATIONS ON
CROSS-EXAMINATION OF DR. BRAD MYERS**

Petitioner hereby responds to each of PO's observations on the November 3, 2016 cross-examination testimony of Dr. Brad Myers (Pap. 32):

Responses to Observations #1 and #2. PO's citation to Dr. Myers' testimony is incomplete, misleading, and irrelevant and does not address the subject matter in Ex.1038 ¶25, which PO cites as the basis for relevance. Ex.1038 ¶25 relates to viewing a particular screen, not selecting operations from that viewed screen. PO's observation is also incomplete, ignoring, *e.g.*, Dr. Myers' testimony explaining that selecting "caller log and fax buttons [of Schnarel] … will … *cause the corresponding viewer to be displayed*" and "*that's analogous to '020 and '476…* where when you click on the enter chat room menu item, it…*shows the chat room viewer*," (Ex.2014, 72:6-74:14), which is consistent with Ex.1038 ¶25. *See also* Ex. 1001, 3:42-46; Ex.1004, 10:55-61, 4:24-27; Ex.2014, 14:17-16:13, 31:9-35:8, 36:18-40:18; Ex.1038 ¶¶8-9 (citing Ex.1003¶¶32, 86-91, 125-128; Ex.1028, 6; Ex.1001, 1:64-2:1, 3:58-62; Ex.1018, 197, 187; Ex.1036, Fig. 2A, 8:13-15); Ex.2012, 103:3-7, 127:8-17, 24:21-25:11.

With respect to "management operations" PO ignores Dr. Myer's testimony regarding managing messages by entering a PIN (Ex.1038 ¶26 (citing Ex.1004, 8:50-59, 10:55-61, Fig. 5; Ex.1003 ¶¶17, 39-40; Ex.1001, 2:18); PO Resp. 18; Ex.2014, 74:15-75:16), and that "pressing the caller log button…generally launches the messages application…displays the viewer…[a]nd *it enables the user*

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to do those managing operations," (Ex.2014, 49:7-53:3), including operations such as "move and delete" (Ex.2014, 48:7-15), which is consistent with his other testimony. *See, e.g.*, Ex.1038 ¶26 (and citations therein); PO Resp. 18; *see also* Ex.2014, 45:6-46:3; Ex.2012, 116:8-20. To the extent PO's observations purport to argue the "function" must be completed in a single step, such argument is new, waived, and should be expunged and not considered. To the extent considered, it is incorrect; as Dr. Myers' explained, '020 describes that the "[u]ser doesn't actually have to have already done the functionality, it just has to offer the relevant functionality." Ex.2014, 21:3-22:1, 26:18-28:3.

Response to Observation #3. PO's observation is incomplete and improperly mischaracterizes Dr. Myers' testimony. Dr. Myers explained Schnarel's "viewers, *at least in some embodiments*, are not applications." Ex.1038 ¶10; Ex.1038 ¶11 ("message viewers (*at least in the COM embodiment*) are not individual applications") (citing Ex.1004, 12:50-13:20, 10:55-61, Fig. 7; Ex.2012, 103:3-7); Ex.1038 ¶11 (and citations therein) (Dr. Myers testifying why "caller log"/"fax" are part of message center application); Ex.2014, 66:20-68:6. This is further consistent with Dr. Myers' testimony that "even if the message viewers are themselves individual programs . . . , *they provide functions for the message center application, and are part of the message center application.*" Ex.1038 ¶12 (citing Ex.1004, 10:55-59, Fig. 7; Ex.1003 ¶64-68, 90; Ex.1034, 3; Ex.1035, 3); Ex.2014,

59:18-60:15 (Dr. Myers testifying "to the extent [message viewers] are considered

applications…they're part of the message center application" and "it's the message

center application which is actually launched…[and the viewer] plugins provide

functions…"); *see also id.* 41:12-42:8.

    Response to Observation #4. PO's cited questions regarding the

"reason…for having separate applications" are irrelevant to Dr. Myers' testimony

that, while Schnarel discloses the message viewers are part of the message center

application (Ex.1038 ¶¶10-13), alternatively, "including Schnarel's message

viewers as part of the message center application would be an obvious design

choice and advantageous." Ex.1038 ¶14 (citing Ex.1003 ¶142). PO's citation to Dr.

Myers' testimony is also incomplete and misleading and omits his testimony that

having separate applications results in "a larger and slower application" and "it

would be a simple design choice to build some of the viewers into the message

center application." Ex.2014, 66:11-68:6; *In re Fulton*, 391 F.3d 1195, 1200-01

(Fed. Cir. 2004) (disclosure of other desirable alternatives does not negate a

motivation to combine).

    Responses to Observations #5, #6, #7. PO's citation of testimony is

incomplete, irrelevant, and misleading and omits, *inter alia*, Dr. Myers' testimony

that "*it's clear that the '020 Patent lists PIN -- entering a PIN security number as*

a function that one can initiate. *And the Schnarel reference mentions that if you*

have security enabled, then when you push some of the other buttons, *it will, in fact, also allow you to enter a password or a pass code*." Ex.2014, 74:15-75:13; 75:14-16 ("Q. *And so your opinion is that those are analogous? A. Yes*."); Ex.1038 ¶26 (Ex.1004, 8:50-59, 10:55-61, Fig. 5; Ex.1003 ¶¶17, 39-40, 68-72; Ex.1001, 2:18). PO also incorrectly asserts that "Dr. Myers agreed that there is no disclosure in the '476 patent that a PIN security number is entered…to provide access to some underlying feature." Dr. Myers instead testified that "certainly one of ordinary skill in the art reading [the '020/'476] patents *would assume that you wouldn't bother entering a PIN number unless it was for something*" (Ex.2014, 76:7-18) and one "would not think that [entering a PIN in '476 is] just to unlock the phone, but certainly it could be for a variety of other activities" (Ex.2014, 77:6-77:21). That a user could enter a PIN to turn on password protection is irrelevant. To the extent PO is arguing the "button itself" must be "labeled" in a particular way (Observation #7), such an argument is new, waived, and should be expunged and not considered. To the extent considered, '476 does not require that the button for selecting a function be labeled with certain text. Ex.1001. Moreover, Dr. Myers never testified that "the ultimate alleged function…is to view the caller log," as PO incorrectly asserts, but testified instead that the caller log button "*has at least two operations or actions. One is to cause the user to log in*, and the other is to then launch the application and display the viewer." Ex.2014, 79:10-16.

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