

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.

Petitioner

V.

PERSONALIZED MEDIA COMMUNICATIONS, LLC

Patent Owner

Case No. IPR2016-00755

U.S. Patent No. 8,191,091

**PATENT OWNER'S PRELIMINARY RESPONSE TO
PETITION FOR INTER PARTES REVIEW
PURSUANT TO 37 C.F.R. § 42**

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. PMC AND THE APPLE LITIGATION	3
III. OVERVIEW OF THE PATENTED INVENTIONS	5
IV. LEVEL OF ORDINARY SKILL IN THE ART	6
V. PRIORITY DATE OF THE CHALLENGED CLAIMS	7
VI. CLAIM CONSTRUCTION	16
A. “decrypting” / “encrypted”	17
B. “an encrypted digital information transmission including encrypted information”	25
C. “locate” / “locating”	26
D. “designated”	27
E. “processor”	28
F. “processor instructions”	29
VII. THE PETITION SHOULD BE DENIED	30
A. Response To Grounds 1-6 And 8: References Dated After November 3, 1981 Do Not Qualify As Prior Art	33
B. Response To Ground 1: Gilhousen Does Not Anticipate Claims 13-15, 18, 20, 23, Or 24.	34
1. Gilhousen fails to teach “receiving an encrypted digital information transmission” as recited in claims 13 and 20	34
2. Gilhousen fails to teach “determining a fashion in which said receiver station locates a first decryption key ...” or “locating said first decryption key ...” as recited in claim 13	36
3. Gilhousen fails to teach “decrypting said encrypted information ...” as recited in claims 13 and 20	38
4. Gilhousen fails to teach “a first instruct-to-enable signal including first processor instructions,” “a second instruct-	

	to-enable signal including second processor instructions,” and related “executing” steps in claim 20.....	39
C.	Response To Ground 3: Mason Does Not Anticipate Claims 13-15, 18, 20, 23, Or 24.	42
1.	Mason fails to teach “receiving an encrypted digital information transmission” as recited in claims 13 and 20.....	43
2.	Mason fails to teach “decrypting said encrypted information ...” as recited in claims 13 and 20.	44
3.	Mason fails to teach “a first instruct-to-enable signal including first processor instructions,” “a second instruct- to-enable signal including second processor instructions,” and related “executing” steps in claim 20.....	44
D.	Response To Ground 5: Frezza Does Not Anticipate Claims 26 Or 30 Because It Fails To Teach Every Element Of The Claims.....	46
1.	Frezza fails to teach “receiving an information transmission including encrypted information” or “decrypting said encrypted information ...” as recited in claim 26.....	47
2.	Frezza fails to teach “detecting the presence of an instruct-to-enable signal” as recited in claim 26.....	48
E.	Response To Ground 7: Kelly Does Not Render Claims 26 Or 30 Obvious Because It Fails To Teach Or Suggest Every Element Of The Claims.....	49
1.	Kelly fails to teach or suggest “receiving an information transmission including encrypted information” or “decrypting said encrypted information ...” as recited in claim 26.....	50
2.	Kelly fails to teach or suggest “detecting the presence of an instruct-to-enable signal” as recited in claim 26.....	51
3.	Kelly fails to teach or suggest “automatically tuning said receiver station to a channel designated by said instruct- to-enable signal” as recited in claim 26.	52

F.	Response To Grounds 2, 4, 6, and 8: The Combinations Of Each Primary Reference with Block Cannot Render Claims 16, 21, or 27 Obvious.	54
1.	None of the combinations with Block teach or suggest “storing information evidencing said step of decrypting” as recited in claims 16, 21, or 27.	55
2.	It would not have been obvious to combine any of the primary references with Block.....	57
G.	Response To Grounds 2, 4, 6, 7, and 8: Secondary Considerations Confirm The Nonobviouness Of The Claimed Inventions.	62
VIII.	CONCLUSION.....	62

TABLE OF AUTHORITIES

Cases

Ex Parte Burgess,
No. 2008-2820, 2009 WL 291172 (B.P.A.I. Feb 06, 2009).....32

Graham v. John Deere Co.,
383 U.S. 1, 15-17 (1966) 31, 62

In re Bond,
910 F.2d 831 (Fed. Cir. 1990)31

In re Lowry,
32 F.3d 1579 (Fed. Cir. 1994)32

In re Rijckaert,
9 F.3d 1531, 1534 (Fed. Cir. 1993)41

KSR Int’l Co. v. Teleflex Inc.,
550 U.S. 398 (2007)..... 31, 32

Microsoft Corp. v. Proxyconn, Inc.,
789 F.3d 1292 (Fed. Cir. 2015)16

Richardson v. Suzuki Motor Co.,
868 F.2d 1226, 1236 (Fed. Cir. 1989)31

St. Jude Med., Inc. v. Access Closure, Inc.,
729 F.3d 1369 (Fed. Cir. 2013)32

Star Scientific, Inc. v. R.J. Reynolds Tobacco Co.,
655 F.3d 1364 (Fed. Cir. 2011)33

Tempo Lighting, Inc. v. Tivoli, LLC,
742 F.3d 973, 977 (Fed. Cir. 2014)16

Verdegaal Bros. v. Union Oil Co. of California,
814 F.2d 628 (Fed. Cir. 1987)31

W.L. Gore & Assoc., Inc. v. Garlock, Inc.,
721 F.2d 1540 (Fed. Cir. 1983)32

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.