UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZTE (USA) INC., HTC CORPORATION, HTC AMERICA, SAMSUNG ELECTRONICS CO., LTD., and SAMSUNG ELECTRONICS AMERICA, INC., Petitioners,

v.

Evolved Wireless LLC,

Patent Owner

Case IPR2016-00757[1]

Patent 7,881,236 B2

PATENT OWNER'S RESPONSE TO PETITIONERS' PETITION FOR *INTER PARTES* REVIEW OF UNITED STATES PATENT NO. 7,881,236

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[1] IPR2016-01345 has been consolidated with this proceeding.

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Patent Owner Evolved Wireless, LLC submits this Response to the above-captioned Petition for *Inter Partes* Review of U.S. Patent No. 7,811,236 ("Pet.," Paper 1).

I. Introduction

The Petition has many failings. First, even using Petitioners' unreasonably broad "if" claim construction, its purportedly-invalidating prior art (the "321 reference, Exhibit 1003) fails to show two limitations of the challenged independent claims. For one limitation, 1(c), Petitioners' Declarant made a mistake in interpreting the prior art. For a second limitation, 1(f), his analysis of an algorithm in the 321 reference skipped over a step that disproves his point. Accordingly, the Petition does not create a prima facie case of invalidity.

Second, the Board's claim construction is incorrect. It is inoperative, and it further fails to match the independent, not-litigation-driven, analysis of a child patent to the '236 patent provided by the USPTO's examiner. Most importantly, though, the Board's claim construction does not match the logic of the claims or read the claims as a person of ordinary skill in the art would read them. That person's reading is based on computer programming and hardware specification tools, where, for example, the word "if" has a specialized meaning when options for an "if not" event are specified.

Third, using the correct "only if" construction, it is seen that Petitioners' 300 reference (Exhibit 1002), fails to fill the gap in its primary reference, the 321 reference (Exhibit 1003). The 300 reference shows only a simple case in the random access procedure that is at issue, and because the reference does not

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