

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICROSOFT CORPORATION, MICROSOFT MOBILE INC., SAMSUNG  
ELECTRONICS AMERICA, INC. AND SAMSUNG ELECTRONICS CO. LTD.,  
Petitioners

v.

FASTVDO LLC,  
Patent Owner

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Case IPR2016-01179  
Patent 5,850,482

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**PATENT OWNER FASTVDO LLC's  
PRELIMINARY RESPONSE**

## TABLE OF CONTENTS

I. Introduction.....	1
II. Background.....	3
a. About U.S. Patent No. 5,850,482 (the “‘482 patent” or “Meany”).....	3
b. Petitioners Challenge Three Independent Claims of the ‘482 Patent .....	4
c. The Petition is Fundamentally Flawed Because Petitioners Fail to Apply Their Own Claim Constructions in the Challenges .....	8
III. Argument .....	13
a. The Petition Fails to Establish a Reason to Combine Three Embodiments of Kato.....	14
b. Kato Fails to Disclose a “first data block of a storage medium” that is “error protected” as Required in Claims 5, 16, and 28 .....	26
c. There is No Reason to Combine Kato with Wei.....	31
d. The Stevenson Declaration is Entitled to No Weight .....	35
IV. Conclusion.....	37

## TABLE OF AUTHORITIES

### Cases

<i>Arendi S.A.R.L. v. Apple Inc.</i> , --- F.3d ---, 2016 WL 4205964 (Fed. Cir. 2016).....	15
<i>Continental Can Co. v. Monsanto Co.</i> , 948 F.2d 1264 (Fed. Cir. 1991) .....	11
<i>Corning Incorporated v. DSM IP Assets B.V.</i> , Case No. IPR2013-00048 (PTAB May 9, 2014) (paper 94) .....	36
<i>Heart Failure Technologies, LLC v. Cardiokinetix, Inc.</i> , Case No. IPR2013-00183 (PTAB July 13, 2013) (paper 12) .....	25
<i>In re Fine</i> , 837 F.2d 1071 (Fed. Cir. 1988) .....	12
<i>In re Oelrich</i> , 666 F.2d 578 (CCPA 1981) .....	11
<i>In re Rambus, Inc.</i> , 694 F.3d 42 (Fed. Cir. 2012).....	8
<i>In re Rijckaert</i> , 9 F.3d 1531 (Fed. Cir. 1993) .....	10
<i>KSR Int’l Co. v. Teleflex, Inc.</i> , 550 U.S. 398 (2007) .....	14, 18, 32
<i>LG Display Co., Ltd. v. Innovative Display Technologies LLC</i> , Case No. IPR2014- 01092 (PTAB Jan. 13, 2015) (paper 9).....	32
<i>MEHL/Biophile Int’l Corp. v. Milgraum</i> , 192 F.3d 1362 (Fed. Cir. 1999).....	10
<i>Net MoneyIN, Inc. v. Verisign, Inc.</i> , 545 F.3d 1359 (Fed. Cir. 2008) .....	14
<i>Omron Oilfield &amp; Marine, Inc. v. MD/TOTCO, a Division of Varco, L.P.</i> , Case No. IPR2013-00265 (PTAB Oct. 31, 2013) (paper 11) .....	8
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005) .....	8
<i>TRW Automotive U.S. LLC v. Magna Electronics Inc.</i> , Case No. IPR2014-01355 (PTAB Nov. 19, 2015) (paper 21) .....	18

### Statutes

35 U.S.C. § 314(a) .....	1, 2, 13, 37
--------------------------	--------------

### Other Authorities

M.P.E.P. § 2112 (IV) .....	10
Office Patent Trial Practice Guide, 77 Fed. Reg. 48756 (Aug. 14, 2012).....	36

### Rules

37 C.F.R. § 42.65(a).....	2, 36
37 C.F.R. § 42.104(b) .....	1, 12
Fed. R. Evid. 705 .....	36

...

## **LIST OF PATENT OWNER'S EXHIBITS**

### **Exhibit**

### **Description**

2001

Patent Owner FastVDO LLC's Power of Attorney

## I. Introduction

The Petition for *inter partes* review of U.S. Patent No. 5,850,482 (“the ‘482 patent” or “Meany”) should be denied and no trial instituted because there is no “reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a).

The Petition presents grounds for challenge against claims 1-3, 5-6, 12-14, 16-17, and 28 of the ‘482 patent. Petitioners specifically challenge claims 1-3, 5, 12-14, 16, and 28 of the ‘482 patent as allegedly obvious over U.S. Patent No. 5,392,037 to Kato (“Kato”) alone, and further challenge dependent claims 6 and 17 as allegedly obvious over Kato in view of U.S. Patent No. 5,243,629 to Wei (“Wei”).

But the Petition itself is fundamentally deficient under 37 C.F.R. § 42.104(b) for failing to apply its own proposed (and incorrect) claim constructions in the challenges of each claim.

Substantively, each of Petitioners’ challenges fails for a variety of reasons. While an obviousness challenge requires a *reason* that a person of ordinary skill in the art (“POSITA”) would have implemented a specific modification or combination of teachings, the Petitioners instead rely on impermissible hindsight, alleged common sense, and attorney argument couched as “expert” testimony.

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