

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC., MICROSOFT CORPORATION,  
MICROSOFT MOBILE OY, and  
MICROSOFT MOBILE INC. (F/K/A/ NOKIA INC.),  
Petitioner,

v.

EVOLVED WIRELESS LLC,  
Patent Owner.

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Case IPR2016-01228  
Patent 7,881,236 B2

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PATENT OWNER'S REPLY IN SUPPORT OF ITS REQUEST FOR  
REHEARING PURSUANT TO 37 C.F.R. § 42.71(d)

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**I. The Board both overlooked and misapprehended arguments about Kitazoe cannot show the *only when* behavior**

Petitioners ask the Board to continue to overlook and misapprehend Patent Owner's argument that Petitioners had the burden to show that when Kitazoe had stored Msg3 buffer data and received a UL Grant on the PDCCH, it did not transmit the stored Msg3 buffer data. Indeed, Petitioners assert that the Board considered this argument when it relied upon disclosures in Kitazoe that message 3 is only transmitted when a random access response is received. Opp. at 2-9. That is not Patent Owner's argument, much less the claim limitation.

As Patent Owner argued in its Response, under the properly adopted construction of "if" in limitations 1(e) and 7(e) of the challenged claims, Petitioners were required to show that in all circumstances Kitazoe allegedly disclosed that stored Msg 3 buffer data would be sent "only when" the claim limitations were true. Res. at 38-42. Importantly, the challenged claims do not claim merely transmitting message 3. Rather, they claim what data should be transmitted in certain situations, either stored Msg3 buffer data or new data. Ex. 1001 at 16:50-18:54.

Petitioners' entire opposition rests on the premise that the Board considered and rejected Patent Owner's argument because Kitazoe explicitly defined message 3 to only be sent in response to a random access response. Opp. at 2. That premise is irrelevant because the challenged claims do not claim sending of message 3.

Rather, as argued by Patent Owner, the claims are directed transmitting certain data, stored Msg3 buffer data or new data, in certain situations. Res. 38-42. Thus, Petitioners' premise is wrong. Petitioners' reliance on an incorrect premise demonstrates that: one, the Board overlooked and/or misapprehended Patent Owner's argument; and two, the only conclusion that can be reached upon consideration of the argument is to find the challenged claims patentable.

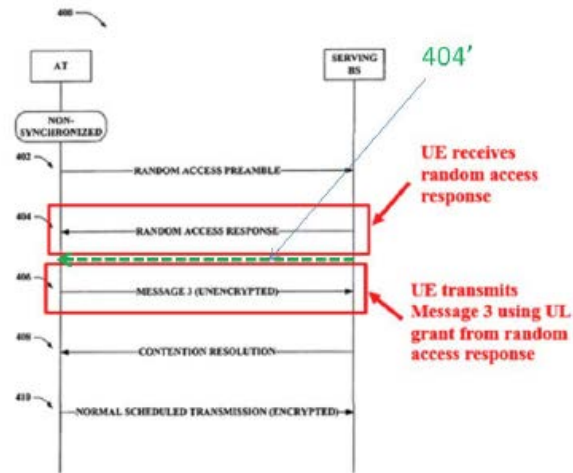
**II. Kitazoe's Disclosure Regarding Transmitting Message 3 Does Not Disclose Transmitting Stored Msg 3 Buffer Data "Only When" the Claimed Conditions are True.**

The Board misapprehended Patent Owner's argument by focusing on Kitazoe's definition of message 3. As Patent Owner argued, Petitioners were required to show that the Kitazoe disclosed that in *all circumstances* the stored Msg 3 buffer data would be transmitted *only when* the two claimed limitations were true. Res. at 38. The definition of message 3 in Kitazoe offers no disclosure as to what data is included in the message 3, much less that stored Msg 3 buffer data will be sent only when the two claimed limitations are true. FWD at 32; Ex. 1005 at 8:32-35. This disclosure cited by Petitioners and relied upon by the Board only discloses that message 3 is sent in response to a random access response. That simply is not the claim limitation at issue here.

In other words, the definition of Kitazoe offers no disclosure that stored Msg 3 buffer data will be sent in its message 3 or that new data would be sent in the

message 3. There simply is no link that the message 3 in Kitazoe only includes stored Msg 3 buffer data. While Petitioners are notably silent on this key issue in their opposition brief and Petition, such proposed linkage would not address whether the message 3 in Kitazoe could ever include new data when there was no stored Msg 3 buffer data as required by the claims under the Board's construction.

Moreover, Kitazoe's definition of message 3 does not preclude sending stored Msg 3 buffer data in response to an UL Grant received on the PDCCH as argued by Patent Owner. Nowhere in Kitazoe, or in the Petition, does Kitazoe disclose it would not transmit a message with the stored Msg 3 buffer data when the device receives the UL Grant on the PDCCH in Patent Owner's hypothetical as shown below in 404':



Res. at 40.

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