UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC., MICROSOFT CORP., MICROSOFT MOBILE OY, AND MICROSOFT MOBILE INC.,
Petitioners
v.

EVOLVED WIRELESS, LLC
Patent Owner

Case IPR2016-01229
Patent 7,881,236

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

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Pursuant to 37 C.F.R. § 42.107, Patent Owner Evolved Wireless, LLC submits this Preliminary Response to the above-captioned Petition for *Inter Partes* Review of U.S. Patent No. 7,811,236 ("Pet.," Paper 2).

I. Introduction

The Petition fails to establish a reasonable likelihood that Petitioners would prevail with respect to any claim challenged in the Petition. The failure is manifold. First, the Petition offers unreasonably broad constructions for two limitations of the independent claims of U.S. Patent No. 7,811,236 (the "'236 patent"), Exhibit 1001.

Perhaps recognizing the unreasonableness of its proposed constructions, the Petition also offers narrower constructions, but the Board should deny the Petition under these constructions too. Exhibit 1005 (the Kitazoe reference) satisfies Petitioners' "only when" construction only if one takes one sentence in the reference and declares it to a hard-and-fast definition of the term "random access procedure." This is contrary to the prior art as a whole. The Kitazoe reference cannot show that certain acts happen "only when" certain events occur, because that reference presents only a limited review of the random access procedure that is at issue in the '236 patent, and it does not consider more complex cases (cases that the '236 patent inventors did consider). Accordingly, the conclusion Petitioners draw from the Kitazoe reference is unsupported.

But even more fatal to the Petition is its reliance on Niu, Exhibit 1012. Niu is used solely for obviousness grounds. Niu is not analogous art, yet it underlies both

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