UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

GOOGLE INC.,
Petitioner

v.

MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC
Patent Owner

_____

Case IPR2017-00532
Patent 5,894,506

_____

PATENT OWNER MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC'S PRELIMINARY RESPONSE

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

TABLE OF CONTENTS

Page

I. BACKGROUND 1

II. INTRODUCTION 1

III. PROPER CLAIM CONSTRUCTION 3

A. Rules Governing Claim Construction – The *Phillips* Standard Governs. 3

1. When construing claim terms look to claims themselves and then the specification. 4

2. Limitations from the specification can be read into the claims. 4

3. Extrinsic evidence can be relied upon. 4

B. Background on the Technology and the '506 Patent 5

1. Person of ordinary skill in the art would have the following qualifications. 5

2. The '506 Patent is directed to sending and receiving messages in an electronic messaging network. 5

C. Construction of Independent Claim Terms 11

1. Limitation [1.4] is construed as "sending the message code assigned to the selected canned message *from the first terminal* to the network operation center." 11

2. Limitation [1.5] is construed as "*on the network operation center* retrieving the selected canned message from the first file using the message code received from the first terminal." 12

3. The term "text form" of limitation [1.6] means "the canned message retrieved on the network operation center in limitation [1.5]" and the term "message code form" of limitation [1.6] means "the message code received from the first terminal in limitation [1.5]." 13

4. Limitation [1.6] is construed as "*on the network operation center* determining whether the second

DOCKET ALARM

Find authenticated court documents without watermarks at docketalarm.com.

terminal can receive the canned message *as the canned message retrieved by the network operation center* or *as the message code received from the first terminal*.”.....14

5. The combination of limitations [1.4], [1.5], and [1.6] provides that the message code is sent from the first terminal to the network operation center, the network operation center retrieves the selected canned message using the message code, and the network operation center determines the form in which the second terminal can receive the canned message. 15

IV. REFERENCES RELIED UPON BY PETITIONER 17

A. *LaPorta*.....17

B. *Ise* 20

C. *Tett*.....22

D. *Will* 24

V. RELEVANT LEGAL PRINCIPLES AND STANDARDS.....30

VI. GROUND 1 – CLAIMS 1-7 AND 15-17 ARE NOT ARE NOT OBVIOUS OVER *LAPORTA* IN VIEW OF *ISE* AND *TETT*.....32

A. A patent claim is obvious *only if* all of its limitations are taught or suggested by prior art and combined in a manner that contains articulated reasoning and a rational underpinning.....32

B. *LaPorta* in view of *Ise* and *Tett* does not disclose the combination of limitations [1.4], [1.5], and [1.6] of claim 1 and does not disclose the combination of limitations [15.2], [15.3], and [15.4] of claim 15. 32

1. *LaPorta* in view of *Ise* and *Tett* does not disclose limitation [1.6] of claim 1 and does not disclose limitation [15.4] of claim 15. 35

i. (1) *LaPorta's* discussion of message formats is related to the protocol used to deliver the full text message to a particular type of device and not to whether or not the device can receive full text canned messages or message codes, and (2) *LaPorta* only teaches sending a full text

DOCKET ALARM

Find authenticated court documents without watermarks at docketalarm.com.

predetermined message to a receiving device, so it would not make sense for *LaPorta* to determine if a receiving device can also receive a message code. 35

ii. (1) because *Ise* always sends a message from the messaging server in message code form, *Ise* cannot teach or suggest limitation [1.6], (2) because Ise explicitly teaches away from any conversion of a message code to a message as described by *LaPorta*, *Ise* cannot be combined with *LaPorta*, and (3) Petitioner's five reasons for combining *LaPorta* and *Ise* are simply conclusory statements that lack rational underpinning to support the legal conclusion of obviousness. 42

iii. (1) the translated message of *Tett* is not equivalent to the message code of the '506 Patent, (2) because the translated form of the message in *Tett* is not sent to the messaging server, it cannot be the message code form of limitation [1.6], (3) because *Tett* and *Laporta* send the opposite information to their messaging server, *Tett* and *Laporta* cannot be combined without destroying the function of one of them, and (4) Petitioner's four reasons for combining *LaPorta* and *Ise* are simply conclusory statements that lack rational underpinning to support the legal conclusion of obviousness 50

C. *LaPorta* is not prior art. 57

D. *LaPorta*, *Ise*, and *Tett* do not render claims 1-7 and 15-17 obvious. 60

VII. GROUND 2 – CLAIM 18 IS NOT OBVIOUS OVER *LAPORTA* IN VIEW OF *ISE*, *TETT,* AND *WILL*. 61

A. *LaPorta*, *Ise*, *Tett* and *Will* do not render independent claim 15 obvious, because *Will* does not cure *LaPorta*, *Ise*, and *Tett's* defect in not teaching or suggesting limitation [15.4]. 61

B. *LaPorta* in view of *Ise* and *Tett*, and further in view of *Will* do not render dependent claim 18 obvious. 63

DOCKET ALARM

Find authenticated court documents without watermarks at docketalarm.com.

C. *LaPorta* is not prior art. 64
VIII. CONCLUSION 64

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

DOCKET ALARM

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.