

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

K/S HIMPP,
Petitioner,

v.

III HOLDINGS 4, LLC,
Patent Owner.

Case IPR2017-00783
Patent 9,191,756 B2

Before SALLY C. MEDLEY, JAMES T. MOORE, and
DAVID C. McKONE, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION
Instituting *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

A. Background

K/S HIMPP¹ (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1–20 of U.S. Patent No. 9,191,756 B2 (Ex. 1001, “the ’756 patent”) pursuant to 35 U.S.C. §§ 311–319. Paper 2 (“Pet.”). III Holdings 4, LLC (“Patent Owner”) has not filed a Preliminary Response to the Petition.

An *inter partes* review may not be instituted “unless . . . the information presented in the petition . . . shows that there is a 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).

Petitioner shows that there is a reasonable likelihood that it would prevail with respect to at least one of the challenged claims. For the reasons described below, we institute *inter partes* review on claims 1–20.

B. Related Proceedings

Petitioner has filed numerous petitions requesting review of several patents of patent owner. Although they are not necessarily related cases, we are aware of IPR2017-00367 (U.S. Patent 8,611,570); IPR2017-00414 (U.S. Patent 8,649,538); IPR2017-00466 (U.S. Patent 7,640,101); IPR2017-00496

¹ An Internet search reveals the acronym K/S HIMPP appears to stand for Kommandit/Selskabet Hearing Instrument Manufacturers Patent Partnership. Petitioner identifies K/S HIMPP as a real party in interest. Petitioner further identifies HIMPP members and affiliates GN Hearing A/S (formerly GN Resound A/S), GN Store Nord A/S, IntriCon Corporation, Sivantos GmbH and Sivantos Inc., Sivantos GmbH and Sivantos Inc., Sonova Holding AG and Sonova AG (formerly Phonak AG), Starkey Laboratories, Inc. (a/k/a Starkey Hearing Technologies), Widex A/S, and William Demant Holding A/S as real parties in interest. Pet. 2.

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(U.S. Patent 8,761,421); IPR2017-00563 (U.S. Patent 6,694,034); IPR2017-00564 (U.S. Patent 6,694,034); IPR2017-00781 (U.S. Patent 8,654,999); and IPR2017-00782 (U.S. Patent 8,654,999).

C. The '756 Patent

The '756 patent is titled “System and Method for Locating a Hearing Aid” and issued on November 17, 2015. Ex. 1001, (45), (54).

i. Priority

The '756 patent claims priority to provisional Application No. 61/583,902, filed January 6, 2012 (“the '902 application”). The '756 patent was filed as Application 13/708,140 on December 7, 2012.

ii. Disclosure

The '756 patent discloses a system for locating lost hearing aids. *Id.* at 1:14–15.

Figure 2 of the '756 patent is reproduced below.

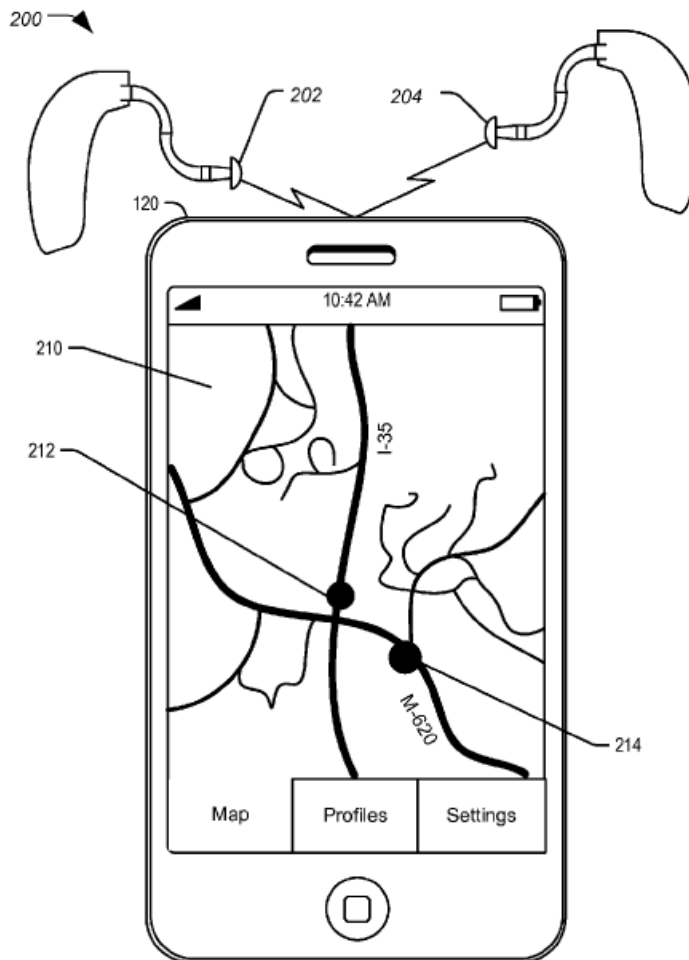


FIG. 2

Figure 2 is a pictorial diagram of an embodiment of the '756 patent. Ex. 1001, 1:50–53. Figure 2 illustrates a graphical user interface of a hearing aid locator application displayed as a map on the display interface of the electronic device. *Id.*

As described in the Specification, a hearing aid communicates with an electronic device through a wireless communication channel. The electronic device inferentially tracks the current location of the hearing aid while the communication channel is maintained. The location is inferred from the

location of the electronic device as it is tethered by the communications channel, which is short range. The electronic device executes an application that runs in the background and checks the current location of the electronic device using a global positioning system (GPS) as the electronic device continues to receive communication from the hearing aid. The GPS coordinates then are stored as the last known location of the hearing aid in the memory of the electronic device. *Id.* at 2:3–13.

As discussed above, the electronic device communicates with the hearing aid via a short range wireless protocol (such as Bluetooth®) and uses a GPS circuit to determine the current location of the electronic device and to infer the last known location of the hearing aid from the electronic device's current location. A user also may access the last known location of the hearing aid as needed, allowing the user to determine a location where the user may have lost the hearing aid. *Id.* at 2:14–24.

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