

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

BLACKBERRY LTD.,
Patent Owner.

Case IPR2017-00912
Patent 8,745,149 B2

PETITIONER'S REPLY

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	CLAIM CONSTRUCTION	1
A.	The Board Should Adopt the Plain and Ordinary Meaning of “Automatically,” which Is “by Itself with Little or No Direct Human Control”	2
1.	The Intrinsic and Extrinsic Evidence Supports Petitioner’s Plain and Ordinary Meaning	2
2.	PO’s Construction Should Be Rejected Because It Is Inconsistent with the Intrinsic Record and Vague	6
B.	“Automatically” Does Not Modify “Displaying”	8
III.	THE CHALLENGED CLAIMS ARE OBVIOUS	11
A.	<i>Graham</i> Discloses Communicating Mixed Media Messages via SMS Instant Messages	11
B.	It Would have been Obvious to Communicate Mixed Media Messages via non-SMS Instant Messaging Based on <i>Deshpande</i>	14
C.	<i>Graham</i> Discloses the “Automatically Changing” and “Displaying” Limitations Under Any Construction.....	15
1.	<i>Graham</i> Discloses the “Automatically Changing” and “Displaying” Limitations Under Petitioner’s and the Board’s Interpretations.....	15
2.	<i>Graham</i> Discloses the “Automatically Changing” and “Displaying” Limitations Under PO’s Construction	16
3.	PO Previously Argued During Foreign Prosecution that the Patent Application Publication Leading to <i>Graham</i> Discloses Automatically Displaying Changed Time Information.....	20

D.	The <i>Graham-Toshio</i> Combination Discloses the “Automatically Changing” and “Displaying” Limitations Under Any Construction	22
1.	PO Does Not Contest That the <i>Graham-Toshio</i> Combination Discloses the “Automatically Changing” and “Displaying” Limitations Under Petitioner’s and the Board’s Interpretations.....	22
2.	The <i>Graham-Toshio</i> Combination Discloses the “Automatically Changing” and “Displaying” Limitations Under PO’s Construction.....	23
E.	The <i>Graham-Milton</i> Combination Discloses the “Automatically Changing” and “Displaying” Limitations Under Petitioner’s and the Board’s Interpretations	25
F.	The “Displaying” Limitation Is Also Obvious Under PO’s Construction	26
G.	<i>Milton</i> Is Analogous Art.....	27
1.	The ’149 Patent and <i>Milton</i> are from the Same Field of Endeavor	27
2.	The ’149 Patent and <i>Milton</i> Relate to the Same Problem of Indicating Time Information	29
IV.	CONCLUSION.....	30

TABLE OF AUTHORITIES

	Page(s)
Federal Cases	
<i>Application of Glasser</i> , 363 F.2d 449 (CCPA 1966).....	24
<i>Belden Inc. v. Berk-Tek LLC</i> , 805 F.3d 1064 (Fed. Cir. 2015)	14
<i>In re Bigio</i> , 381 F.3d 1320 (Fed. Cir. 2004)	28
<i>HTC Corp. v. IPCOM GmbH & Co.</i> , 667 F.3d 1270 (Fed. Cir. 2012)	8
<i>Innovention Toys, LLC v. MGA Entm't, Inc.</i> , 637 F.3d 1314 (Fed. Cir. 2011)	29
<i>Powell v. Home Depot U.S.A., Inc.</i> , 663 F.3d 1221 (Fed. Cir. 2011)	6
<i>In re Power Integrations, Inc.</i> , No. 2017-1304, 2018 WL 1370551 (Fed. Cir. Mar. 19, 2018)	7
<i>Tehrani v. Hamilton Medical, Inc.</i> , 331 F.3d 1355 (Fed. Cir. 2003)	6
<i>Unwired Planet, LLC v. Google Inc.</i> , 841 F.3d 995 (Fed. Cir. 2016)	28
Other Authorities	
William Strunk, Jr. & E.B. White, <i>The Elements of Style</i> 30 (4th ed. 2000)	8

LIST OF EXHIBITS

- Ex. 1001 U.S. Patent No. 8,745,149
- Ex. 1002 Declaration of Dr. Dan R. Olsen Jr.
- Ex. 1003 CV of Dr. Dan R. Olsen Jr.
- Ex. 1004 File History of U.S. Patent No. 8,745,149
- Ex. 1005 RESERVED
- Ex. 1006 U.S. Patent No. 5,631,949 (“*Milton*”)
- Ex. 1007 JP Patent Application No. H03-89639 (“*Toshio*”)
- Ex. 1008 RESERVED
- Ex. 1009 U.S. Patent No. 6,661,434 (“*MacPhail*”)
- Ex. 1010 File History of U.S. Patent No. 9,385,973
- Ex. 1011 BlackBerry’s Opposition to Motion to Dismiss in *BlackBerry LTD. v. BLU Prods., Inc.*, Case No. 1:16-cv-23535 (S.D. Fla.)
- Ex. 1012 International Publication No. WO 01/24036 (“*Appelman*”)
- Ex. 1013 Caroline Rose et al., “Inside Macintosh Volume 1” (1985)
- Ex. 1014 U.S. Patent No. 8,554,859
- Ex. 1015 RESERVED
- Ex. 1016 RESERVED
- Ex. 1017 RESERVED
- Ex. 1018 Deposition Transcript of Dr. George T. Ligler (March 2, 2018)

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.