UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GARMIN INTERNATIONAL, INC.,
Petitioner,

v.

BLACKBIRD TECH LLC d/b/a BLACKBIRD TECHNOLOGIES,
Patent Owner.

Case IPR2017-01058
Patent 6,434,212

PATENT OWNER BLACKBIRD TECHNOLOGIES'
PRELIMINARY RESPONSE

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I. INTRODUCTION

The Petition for *inter partes* review of U.S. Patent No. 6,434,212 ("the '212 Patent") should be denied and no trial instituted because there is no "reasonable likelihood" that Petitioner Garmin International, Inc. would prevail with respect to at least one of the challenged claims. 35 U.S.C. § 314(a).

Petitioner challenges the claims of the '212 Patent on four obviousness grounds. However, the prior art references asserted by Petitioner stem from vastly different fields of endeavor and address very different problems without any explanation as to how the references could be analogous prior art. Therefore, each of Petitioners obviousness grounds fails because each relies on a combination of reference that cannot legally be combined. (*See infra* Part III.A). Even if these asserted references were combinable (they are not), Petitioner also fails to present legally-sound reasons *why* a PHOSITA would have been motivated to combine the asserted prior art in the first place, instead relying on conclusory statements and the assumptions of its expert. (*See infra* Part III.B). These problems with the Petition alone mandate its denial.

Even putting aside the inability to combine the references, the prior art combinations do not teach all of the elements of the challenged claims of the '212 Patent. Specifically, Petitioner's references do not disclose or suggest the multiple calibration process that is central to accurate distance calculations claimed in the

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