UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FACEBOOK, INC., WHATSAPP, INC.,
Petitioner

v.

UNILOC USA, INC. and UNILOC LUXEMBOURG S.A.,
Patent Owner.

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Case IPR2017-01668
Patent 8,724,622

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PETITIONERS' SUPPLEMENTAL BRIEF

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I. CLAIM CONSTRUCTION OF "INSTANT VOICE MESSAGE"

A. Petitioners' Construction Is Correct.

Petitioners' construction, "a data structure including a representation of an audible message," accurately captures the meaning of "instant voice message" reflected in the specification and claims, for purposes of the disputed issues in these proceedings[1] and under the BRI standard applicable to these proceedings.

The specification provides multiple embodiments of instant voice messages. In every embodiment, the instant voice message is a data structure including a representation of an audible message.

For example, in a "record mode," the instant voice message is an "audio file" containing recorded sound data. ('622, 8:9-11 (an IVM client "records the user's speech into a digitized audio file **210** (i.e., instant voice message) . . ."), 18:6-7 ("transmits the recorded audio file **210** (instant voice message) . . .").) The audio file is a data structure constituting the instant voice message.

The specification also describes that in the "record mode," documents or files can be attached to the instant voice message (*i.e.*, attached to the audio file). First, the user's device creates "the instant voice message (audio file **210**)." (*Id.*, 13:27-

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[1] It has not been disputed, for example, that the voice container in Zydney satisfies the "instant" limitation. (*See*, *e.g.*, IPR2017-01667, Petition at 27-28 (quoting Zydney, 1:21-22, 16:14-15, 15:8-13, 10:19-11:3, 16:1-12).)

35.) Before transmitting the audio file, the user can review it "as well as attach one or more files (i.e., documents)." (*Id*., 13:32-33.) "The attachment of one or more files is enabled conventionally via a methodology such as 'drag-and-drop' and the like, which invokes the document handler **306** to make the appropriate linkages to the one or more files and flags the messaging system **320** that the instant voice message also has the attached one or more files." (*Id*., 13:33-38.)

In an "intercom mode" embodiment, "instead of creating an audio file **210**, one or more buffers (not shown) of a predetermined size are generated." (*Id*., 11:36-38.) "The one or more buffers are used to automatically write successive portions of the instant voice message." (*Id*., 21:10-12; *see also id*., 21:42-45.) The buffered portions form a data structure constituting the instant voice message, instead of an audio file.

The claims of the related patents likewise reflect that the instant voice message is a data structure including a representation of an audible message. For example, '433 patent claim 9 recites functions for "generating an instant voice message," "transmitting the instant voice message," and "attach[ing] one or more files to the instant voice message." Dependent claims further recite functions such as creating a "link between the instant voice message and the one or more files" (claim 14) and

buffering "each of a plurality of successive portions of the instant voice message into the one or more buffers" (claim 18).

Claims of the parent '622 patent (from which the '433 patent is a continuation) recite that the instant voice message includes various fields. The specification states that a "message object" is created and transmitted that comprises an object field, which may contain "a digitized instant voice message," as well other fields. ('622, 14:3-42.) The claims, however, recite that the "instant voice message" itself "includes" the various fields: "the instant voice message includes an object field including a digitized audio file" (claim 3), "the instant voice message includes an action field . . ." (claim 4), "the instant voice message includes an identifier field including a unique identifier associated with the instant voice message" (claim 6), "the instant voice message includes a source field . . ." (claim 7), "the instant voice message includes a destination field . . ." (claim 8). Thus, the claimed "instant voice message" is a data structure that may include an audio file as well as other data.

These specification teachings and claim recitations consistently reflect that the "instant voice message" is a data structure that can be created, transmitted, and stored, and one or more files can be attached to it. In each instance, the item that is created, transmitted, and stored and may have files attached to it—the "instant voice message"—is a data structure. The intrinsic evidence does not limit the type of data

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