

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE Inc.
Petitioner

v.

UNILOC USA, INC., UNILOC LUXEMBOURG S.A.
Patent Owners

Cases IPR2017-01804 and IPR2017-01805
U.S. Patent No. 8,724,622

DECLARATION OF TAL LAVIAN, PH.D.

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

Apple Inc.

TABLE OF CONTENTS

I.	INTRODUCTION AND QUALIFICATIONS	1
A.	Qualifications and Experience	1
B.	Materials Considered.....	5
II.	PERSON OF ORDINARY SKILL IN THE ART	6
III.	BASIS FOR MY OPINION AND STATEMENT OF LEGAL PRINCIPLES	8
A.	Claim Construction	9
B.	Anticipation	9
C.	Obviousness.....	9
1.	Motivation to Combine	12
IV.	RELEVANT TECHNOLOGY BACKGROUND	14
A.	The Internet and TCP/IP Protocol Suite.....	15
B.	Voice over IP (VoIP).....	16
C.	Instant messaging (IM).....	19
1.	IETF in RFC 2778 – “A Model for Presence and Instant Messaging”	23
2.	IETF RFC 2779 “Instant Messaging / Presence Protocol Requirements”	24
3.	Prior Art Instant Messaging (“IM”) Systems	24
V.	THE ’622 PATENT	28
A.	The Specification.....	28
B.	The Claims of the ’622 Patent.....	30
C.	Claim Construction	30
1.	“an instant voice messaging application”	30
2.	“client platform system”	36

3.	“communication platform system”	38
4.	“connection object messages”	40
VI.	APPLICATION OF THE PRIOR ART TO THE CLAIMS	42
A.	Brief Description and Summary of the Prior Art	43
1.	Brief Summary of Zydney [Ex. 1003/1103]	43
2.	Brief Summary of Shinder [Ex. 1014/1114]	49
3.	Brief Summary of Appelman [Ex. 1004/1104]	50
4.	Brief Summary of Clark [Ex. 1008/1108]	55
5.	Brief Summary of Hethmon [Ex. 1009/1109]	58
6.	Brief Summary of <i>Microsoft Press Computer Dictionary</i> (1991) [Ex. 1018/1118] and Moghe [Ex. 1019/1119]	61
B.	Zydney and Shinder Render Obvious Claims 3, 6-8, 10, 11, 13, 18-21, 23, 27, 32-35, and 38.	64
1.	Independent Claim 3	64
(a)	Preamble of claim 3: “A system comprising:”	65
(b)	“a network interface connected to a packet- switched network” (Claim 3[a])	65
(c)	“a messaging system communicating with a plurality of instant voice message client systems via the network interface; and” (Claim 3[b])	75
(d)	“a communication platform system maintaining connection information for each of the plurality of instant voice message client systems indicating whether there is a current connection to each of the plurality of instant voice message client systems,” (Claim 3[c])	80
(e)	“wherein the messaging system receives an instant voice message from one of the plurality of instant voice message client systems, and” (Claim 3[d])	83

IPR2017-01804 and IPR2017-01805
U.S. Pat. No. 8,724,622

	(f) “wherein the instant voice message includes an object field including a digitized audio file.” (Claim 3[e])	84
2.	Dependent Claim 6	90
3.	Dependent Claim 7	93
4.	Dependent Claim 8	102
5.	Dependent Claim 10	104
6.	Dependent Claim 11	106
	(a) “wherein, upon receipt of an instant voice message, the communication platform system determines if there is the current connection to one of the plurality of instant voice message client systems identified as a recipient of the instant voice message,”	106
	(b) “and if there is no connection with the one of the plurality of instant voice message client system identified as the recipient, the instant voice message is stored and delivered when the one of the plurality of instant voice message client systems identified as the recipient re-established a connection.”	110
7.	Dependent Claim 13	111
	(a) “wherein each of the instant voice message client systems comprises an instant voice messaging application...”	112
	(b) “[an instant voice messaging application] generating an instant voice message and transmitting the instant voice message over the packet-switched network to the messaging system” ...	113
8.	Dependent Claim 18	119
9.	Dependent Claim 19	120

IPR2017-01804 and IPR2017-01805
U.S. Pat. No. 8,724,622

10.	Dependent Claim 20	123
11.	Dependent Claim 21	128
12.	Dependent Claim 23	128
13.	Independent Claim 27	129
	(a) Preamble of claim 27: “A system comprising:”	130
	(b) “a client device” (Claim 27[a]).....	130
	(c) “a network interface coupled to the client device and connecting the client device to a packet- switched network; and” (Claim 27[b])	131
	(d) “an instant voice messaging application installed on the client device, wherein the instant voice messaging application includes” (Claim 27[c])	133
	(e) “a client platform system for generating an instant voice message and,” (Claim 27[c1])	133
	(f) “a messaging system for transmitting the instant voice message over the packet-switched network via the network interface,” (Claim 27[c2]).....	135
	(g) “wherein the instant voice messaging application includes a document handler system for attaching one or more files to the instant voice message.” (Claim 27[d])	136
14.	Dependent Claim 32	143
15.	Dependent Claim 33	143
16.	Dependent Claim 34	144
17.	Dependent Claim 35	144
18.	Independent Claim 38	145
	(a) “A system comprising:” (Claim 38 Preamble).....	146
	“a client device; and” (Claim 38[a])	146

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.