

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RUIZ FOOD PRODUCTS, INC.,
Petitioner,

v.

MACROPOINT LLC,
Patent Owner.

Case IPR2017-02016
Patent 8,275,358 B1

Before MEREDITH C. PETRAVICK, TREVOR M. JEFFERSON, and
NATHAN A. ENGELS, *Administrative Patent Judges*.

JEFFERSON, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background

Ruiz Food Products, Inc. (“Petitioner”)¹ filed a Petition (Paper 2, “Pet.”) requesting *inter partes* review of claims 1–30 of U.S. Patent No. 8,275,358 B2 (Ex. 1001, “the ’358 patent”). MacroPoint LLC. (“Patent Owner”) filed a Preliminary Response (Paper 6, “Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a). Under 35 U.S.C. § 314(a), an *inter partes* review may not be instituted “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” For the reasons that follow, we institute an *inter partes* review as to all challenged claims of the ’358 patent.

B. Related Proceeding

The parties identify one pending district court case: *MacroPoint, LLC v. Ruiz Food Prods., Inc.*, 6:16-cv-01133 (E.D. TX). Pet. 3; Paper 5, 1. Ruiz Food Products, Inc. filed a related Petition for *Inter Partes* Review regarding U.S. Patent No. 9,429,659 in IPR2017-02018. Pet. 3; Paper 5, 1.

C. The ’358 Patent (Ex. 1001)

The ’358 patent is directed to systems and methods for providing notification to and receiving consent from a user whose mobile device's location is to be obtained. Ex. 1001, 1:9–11. Figure 1, below, provides an exemplary system for providing user notification and receiving user consent to obtain location information of a mobile associated with a user. *Id.* at 3:1–3.

¹ The Petition identifies FourKites, Inc. as a real party in interest. Pet. 3.

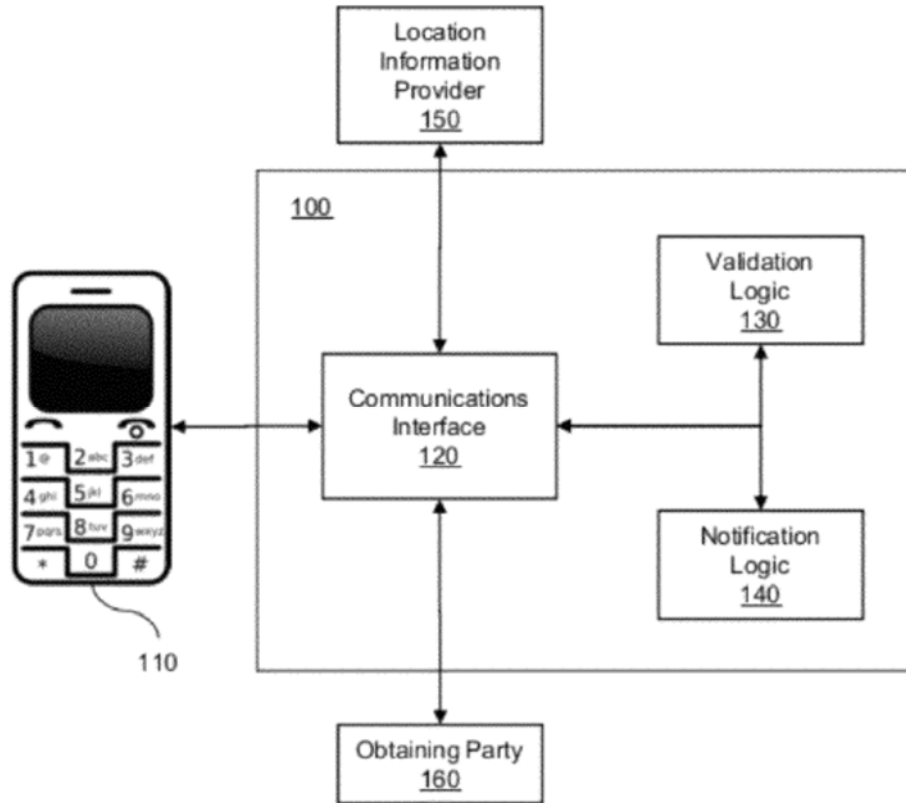


Figure 1 of the '358 patent depicts system 100 for providing user notification and receiving a user's consent to obtain location information of mobile device 110. *Id.* at 3:56–68. Communications interface 120, which can be associated with a telephone number, may participate in telephone calls with mobile device 110. *Id.* at 3:61–67; 4:1–2. During the telephone call, validation logic 130 identifies mobile device 110 by an identifier that is received from and associated with mobile device 110. *Id.* at 4:3–26. The '358 patent specification states that:

In one embodiment, where the communications interface 120 is associated with a toll free number as discussed above, the validation logic 130 is configured to identify the mobile device 110 at least in part by obtaining the telephone number associated with the mobile device 110 via automatic number identification

(ANI). In other embodiments, the identifier is an identifier other than a telephone number.

Id. at 4:11–18.

System 100 in Figure 1 transmits an automated voice message to mobile device 110, which can either have an automated voice message notifying the user that the user’s consent would “result in location information of the mobile device 110 being disclosed” or have an automated voice message directing the user to a web address location for notification that the user’s consent would “result in location information of the mobile device 110 being disclosed.” *Id.* at 4:27–40.

After the automated voice message is transmitted to mobile device 110, communications interface 120 receives data from mobile device 110 that indicates whether the user has provided consent to sharing the location information of mobile device 110. *Id.* at 4:44–50. For example, mobile device 110 can transmit data indicating that the user provided consent by, for example, pressing a button or speaking a particular word or phrase. *Id.* at 4:51–5:4.

Upon receiving data indicating user consent for obtaining the location information of the mobile device 110, the communications interface 120 transmits a request for the location information of the mobile device 110 to a location information provider 150. The request includes the mobile device’s identifier, and location provider 150 can be any party that has access to that mobile device’s location information. *Id.* at 5:13–32. Once communications interface 120 receives the location information, it then communicates the location information to obtaining party 160. *Id.* at 5:33–35.

D. Illustrative Claims

Petitioner challenges claims 1–30 of the '358 patent, with claims 1, 13, and 19 independent. Claim 1 is illustrative and reproduced below:

1. A computer implemented method for receiving consent from a user of a mobile device to obtaining location information of the mobile device, the method comprising:

participating in a telephone call with the mobile device;

within the telephone call, identifying the mobile device at least in part by obtaining an identifier associated with the mobile device;

transmitting to the mobile device during the telephone call an automated voice message communicating to the user of the mobile device at least one of:

a notice including information indicating that consenting to the obtaining of the location information of the mobile device would result in the location information of the mobile device being disclosed, and

a location at which to find the notice, wherein the location at which to find the notice is represented by a web address corresponding to a website where, during the telephone call, the user can find the notice indicating to the user that consenting to the obtaining of the location information of the mobile device would result in the location information of the mobile device being disclosed; and

receiving from the mobile device during the telephone call a signal including data indicating consent for obtaining the location information of the mobile device.

Ex. 1001, 15:18–44.

E. The Alleged Grounds of Unpatentability

The information presented in the Petition sets forth the grounds of unpatentability of claims 1–30 of the '358 patent as follows (*see* Pet. 7):

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