

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RUIZ FOOD PRODUCTS, INC.,
Petitioner,

v.

MACROPOINT LLC,
Patent Owner.

Case IPR2017-02018
Patent 9,429,659 B1

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

ENGELS, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background

Ruiz Food Products, Inc.¹ (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1–30 of U.S. Patent No. 9,429,659 B1 (Ex. 1001, “the ’659 Patent”) pursuant to 35 U.S.C. §§ 311–319. Paper 2 (“Pet.”). MacroPoint LLC (“Patent Owner”) filed a Preliminary Response to the Petition. Paper 6 (“Prelim. Resp.”).

Section 314(a) of Title 35 of the United States Code provides that an *inter partes* review may not be instituted “unless . . . the information presented in the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). We determine that the Petition shows that there is a reasonable likelihood that Petitioner would prevail with respect to at least one of the challenged claims. We institute an *inter partes* review of claims 1–30.

We base our findings and conclusions at this stage of the proceeding on the evidentiary record developed thus far. This is not a final decision as to the patentability of claims for which *inter partes* review is instituted. We will base our final decision on the record as fully developed during trial.

B. Related Proceedings

Petitioner states that the ’659 Patent is subject to litigation in *MacroPoint, LLC v. Ruiz Food Prods., Inc.*, 6:16-cv-01133 in the Eastern District of Texas. Pet. 4. In addition, Petitioner states that the ’659 Patent is

¹ The Petition identifies FourKites, Inc. as a real party in interest, in addition to Ruiz Food Products, Inc. Pet. 3–4.

related to U.S. Patent No. 8,275,358, which is subject to a petition requesting *inter partes* review in IPR2017-02016. Pet. 4.

C. The '659 Patent

The '659 Patent is titled “Machine or Group of Machines for Monitoring Location of a Vehicle or Freight Carried by a Vehicle” and issued on August 30, 2016. Ex. 1001, [45], [54]. The '659 Patent states that the invention “relates to a machine or group of machines for monitoring location.” Ex. 1001, 1:7–8.

As examples of applications that monitor location information, the '659 Patent states that freight-hauling services, courier services, and other logistics and freight-service providers benefit from monitoring the location of vehicles in their fleets. Ex. 1001, 1:14–26. According to the '659 Patent, conventional systems for monitoring vehicle locations have relied on global positioning systems (GPS) installed in each vehicle. Ex. 1001, 1:26–31.

The '659 Patent states that alternative methods for monitoring locations of vehicles include locating devices such as mobile phones (Ex. 1001, 1:43–50) and correlating the devices with a vehicle (*see, e.g.*, Ex. 1001, 2:9–31). Among other embodiments, the '659 Patent states that location of devices in a cellular network generally involves two positioning techniques, “1) techniques that require the device to incorporate a global positioning system (GPS) receiver, and 2) techniques that use some form of radiolocation from the device’s network and do not require the device to incorporate a GPS receiver.” Ex. 1001, 7:8–13.

The '659 Patent also describes a correlation logic that correlates a vehicle and a device. Ex. 1001, 5:7–40. In some embodiments, the correlation logic includes a database that correlates the vehicle and the

device based at least in part on the vehicle being associated with at least one user who is also associated with the device and the vehicle. Ex. 1001, 5:7–24. As an example, the '659 Patent describes an embodiment, in which a vehicle is associated with a driver of the vehicle who is also associated with the telephone number of a device. Ex. 1001, 6:20–48.

In addition, the '659 Patent states that use of location-information technologies raises privacy concerns and that various governmental and business organizations have developed rules and guidelines to protect users' privacy. Ex. 1001, 1:52–62. "For example, the International Association for the Wireless Telecommunications Industry (CTIA) has developed Best Practices and Guidelines for Location-Based Services (the 'CTIA Guidelines') The Guidelines provide a framework based on two principles: user notice and consent." Ex. 1001, 1:58–64.

D. Illustrative Claim

Claims 1, 2, 12, and 23 are independent claims, each of which is directed to "a machine or group of machines." Claim 1, reproduced below, is illustrative of the challenged claims.

1. A machine or group of machines for monitoring location of at least one of a vehicle or freight carried by the vehicle, comprising:

a mobile device comprising a GPS receiver, a display, a microprocessor and a wireless communication transceiver coupled to the GPS receiver, the mobile device comprising the GPS receiver programmed to receive data sent by a plurality of GPS satellites, calculate location information of the mobile device comprising the GPS receiver and transmit the location information;

a server comprising a central processing unit, a memory, a clock, and a server communication transceiver that

receives the location information of the mobile device comprising the GPS receiver, and the central processing unit programmed to:

receive a request for information regarding the location of the vehicle or the freight carried by the vehicle;

request location information of the mobile device comprising the GPS receiver from a location information provider;

receive a signal that indicates that consent was given to transmission of location information;

receive from the location information provider location information of the mobile device comprising the GPS receiver, wherein the location information of the mobile device comprising the GPS receiver originated from a device other than the mobile device comprising the GPS receiver itself; and

estimate the location of the vehicle or the freight carried by the vehicle based at least in part on the location information of the mobile device comprising the GPS receiver; and

communicate the location of the vehicle or the freight carried by the vehicle to cause a representation of the location of the vehicle or the freight carried by the vehicle.

E. Asserted Grounds of Unpatentability

Ground 1: The Petition challenges claims 1–30 under 35 U.S.C. § 103(a) as being obvious in view of U.S. Patent No. 7,130,630 to Enzmann et al. (Ex. 1004). Pet 8.

Ground 2: The Petition challenges claims 5, 17, and 26 under 35 U.S.C. § 103(a) as being obvious in view of Enzmann and U.S. Patent No. 8,045,995 to King et al. (Ex. 1005). Pet. 8.

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