

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RUIZ FOOD PRODUCTS, INC.,

Petitioner

v.

MACROPOINT LLC,

Patent Owner

U.S. Patent No. 9,429,659

Case No.: IPR2017-02018

**PATENT OWNER'S PRELIMINARY RESPONSE
PURSUANT TO 37 C.F.R. § 42.107**

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	1. Enzmann fails to disclose a machine for “monitoring location of at least one of a vehicle or freight” or a server programmed to “receive a request for information regarding the location of a vehicle or freight” and “estimate the location of the vehicle or the freight” (claims 1, 2, 12 and 23).....	16

2. A POSITA would not have been motivated to modify Enzmann by substituting a vehicle for the network user.....18

3. Enzmann fails to disclose or suggest an indication of consent in the form of receipt of location information from location information provider (claim 7).....20

B. Ground 2: Claims 5, 7 and 26 Are Not Rendered Obvious Under 35 U.S.C. § 103 By Enzmann in View of King27

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Patent Owner MacroPoint LLC (“Patent Owner”), pursuant to 35 U.S.C. § 313 and 37 C.F.R. § 42.170, respectfully requests that the Patent Trial and Appeal Board (“Board”) deny institution of IPR2017-02018. This filing is timely made within three months of the date of the Notice according the Petition a filing date. Notice, Paper 3.

I. INTRODUCTION

The ’659 patent claims are directed to a system for monitoring the location of at least one or a vehicle of freight carried by the vehicle, and require a server that is programmed to estimate the location of the vehicle or freight based on the location of mobile device. Such estimation is made possible, according to the ’659 patent, by correlating the vehicle or freight and the mobile device, in addition to associating a user with the mobile device (to obtain consent for monitoring). Ex. 1001 at 5:7-41.

Enzmann is directed to a system for monitoring *only* the location of a mobile device and associated user—not also a vehicle—after receiving consent from a user to monitor the user’s location. As such, Enzmann fails to disclose the correlation of a vehicle with a mobile device as required by the claims.

Recognizing this deficiency, Petitioner suggests that it would be obvious to substitute a vehicle or freight for the network user in Enzmann to arrive at the

challenged claims of the '659 patent. However, Petitioner's proposed substitution would not arrive at the challenged claims because a user—not a vehicle—must provide consent for transmission of location information. Thus, while Petitioner's proposed substitution would permit estimation of a vehicle's location as required by the claims, it would sacrifice the association of the network user and the mobile device, thereby eliminating the opportunity for a user to provide consent (and the server to receive consent as required by the claims).

For at least these reasons, Patent Owner respectfully requests that the Board deny institution of Grounds 1-3 of the Petition on the merits, and decline to institute *inter partes* review of the '659 patent.

II. OVERVIEW OF U.S. PATENT NO. 9,429,659

A. Summary of the '659 Patent

The '659 patent generally is directed to a machine, or group of machines, that tracks the location of a vehicle or freight carried by the vehicle. Ex. 1001 at Abstract. Figure 1 of the '659 patent, reproduced below, depicts the machine or group of machines comprising a system 100 (including a communications interface 120 and a correlation logic 170), a communications device 110, a requesting party 160, a receiving party 165, a location information provider 150, and a network 155. *Id.* at 4:24-31. The location information provider “has access to the location of the

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