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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.
Petitioner

v.

UNILOC LUXEMBOURG S.A. & UNILOC USA
Patent Owner

IPR2018-00199
Patent 7,092,671

PETITIONER'S REPLY

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I.   INTRODUCTION

The Board instituted *inter partes* review of claims 1-16 of U.S. Patent 7,092,671 ("the '671 patent"). Decision at 2, 15, Paper No. 7. Patent Owner's Response (the "POR") proffers legally deficient arguments that are not supported by any expert testimony.

Patent Owner ("Uniloc") proposes a strained construction in attempting to distinguish the claims from the prior art. But its proposed construction is incorrect and overly narrow. The prior art renders the claims obvious even under Uniloc's proposed construction.

Uniloc further asserts that Petitioner Unified's real-party-in-interest ("RPI") certification was lacking. In doing so, Uniloc proposes an incorrect, unreasonable legal standard, relying solely on speculation and attorney argument contradicted by evidence that Unified voluntarily produced. The record demonstrates Uniloc has failed its burden under *Worlds*[1] to put the certification in issue, and even if it has, Unified correctly certified it is the sole RPI.

II.   UNILOC'S CLAIM CONSTRUCTION SHOULD BE REJECTED

Uniloc previously unsuccessfully proposed an interpretation of the "controlling" limitation in claim 9 and similarly in claim 1. Patent Owner's

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[1] *Worlds Inc. v. Bungie, Inc.*, 903 F.3d 1237, 1244 (Fed. Cir. 2008).

Preliminary Response (POPR), 8–15. Uniloc makes another desperate construction attempt, contending that "'controlling the telephone using a handheld computer to cause the telephone to dial the specific telephone number' (as recited in claim 9) should be interpreted as a requirement that is ***separate and apart*** from the distinct step 'transferring the specific telephone number from the handheld computer system to the telephone using a wireless communication."[2] POR, 23 (emphasis added). Uniloc contends that claim 1 should be similarly interpreted. *Id.*, 24.

This construction should be rejected because it is not supported by the claim limitations, specification, or file history. Uniloc has not provided any expert testimony or additional evidence beyond what the Board already considered. And even if adopted, the prior art still renders obvious all limitations of the challenged claims.

A.   THE CLAIMS REBUT UNILOC'S CONSTRUCTION

The claimed "transferring" and "controlling" limitations of claim 9 (and similarly, in claim 1) themselves show that Uniloc's construction should be rejected.

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[2] Uniloc's position should also be rejected because it has not explained what is meant by transfer and control being "separate and apart." The construction does not add clarity to the claim. POR, 23.

The limitations show that there is no requirement for a control command to be issued "separate and apart" from transferring the telephone number, as Uniloc contends. POR, 25. A person of ordinary skill in the art (POSA) would have understood that these recitations may be performed by signals or portions of a signal that are not necessarily "separate and apart" to effectuate both the claimed transfer and control. Second Declaration of Herbert Cohen (Cohen Dec.) (EX1021), ¶¶4, 7-10.

The same result holds true even under the *Phillips* standard, which Uniloc appears to improperly apply. POR, 25, 27. Cohen Dec, ¶5 (EX1021) (explaining that dictionary definitions further illustrate the unreasonableness of Uniloc's proposed construction).

Contrary to Uniloc's assertions, this proper interpretation of the claims does not "conflate" any parts of the claims. POR, 25. The claimed transfer and control still maintain their meaning. That the "transferring" and "controlling" of claim 9 may be listed in different steps does not mean they need to be transmitted "separate and apart." A POSA would have understood that the claimed transfer and control describe functions provided by the handheld computer that do not require specific details about how commands or data are transmitted, *i.e.*, whether they are separate and apart. Cohen Dec, ¶11 (EX1021).

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