UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.

Petitioner

v.

UNILOC LUXEMBOURG, S.A.

Patent Owner

IPR2018-00289

PATENT 8,872,646

PATENT OWNER RESPONSE TO PETITION

PURSUANT TO 37 C.F.R. §42.120

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I. INTRODUCTION

Uniloc Luxembourg S.A. (the "Uniloc" or "Patent Owner") submits this Response to Petition IPR2018-00289 for *Inter Partes* Review ("Pet." or "Petition") of United States Patent No. 8,872,646 ("the '646 patent" or "EX1001") filed by Apple, Inc. ("Petitioner"). The instant Petition should be denied in its entirety for the reasons set forth herein.

II. THE '646 PATENT

The '646 patent is titled "Method and System For Waking Up A Device Due To Motion." The '646 patent issued October 28, 2014, from U.S. Patent Application No. 12/247,950 filed October 8, 2008.

The '646 patent observes that battery life has become increasingly important for mobile devices, particularly given that the more applications a mobile device has, the faster the battery of the mobile device depletes. It thus could be difficult to balance maximum battery life with an optimal user experience. EX1001, 1:12−20. The '646 Patent teaches an innovative solution to determine whether a measured device motion is sufficient enough to warrant waking up a mobile device from an idle, battery-saving state to an active state. *See, e.g., id.*, Abstract; 1:24−25; 1:56−63.

According to a particular embodiment, when a device enters an idle state using a low-power mode, it nevertheless maintains sufficient power to monitor at least one sensor. *Id.*, 2:10−27. This design may help ensure that when the device is picked up to be used by a user, the device can automatically transition from the idle state to an active state. By initiating the transition from the idle state to the active state without requiring user input, the user experience may be enhanced. *Id.*, 2:34−41.

The patent uses the word "glitch" to refer to actual motion data deemed to not fit the signature of human motion indicative of someone preparing to interface with a device. *See, e.g.*, EX1001 at Abstract; 1:59−63; 2:35−51; 4:61−5:2. While a "glitch" is within the operational range of the sensor, it does not warrant waking up the device from an idle state to an active state. *Id*. The '646 patent provides multiple examples of events that may cause such a "glitch" measurement, such as "a mere jostle or bump" (4:62; *see also* 1:63), "the table on which the device is resting is shaken" (2:46−47), "the purse is jostled" (2:47), "a little jostle of a desk or table on which the device is laying" (4:63−64), "a heavy step nearby" (4:64), etc.

Motion data determined to be a "glitch" does not warrant waking up the device from an idle state to an active state. *Id*. at 4:61−66. In contrast, motion data determined to correspond to other movement (*e.g.*, as a result of a device being picked up by a user intending to user the device) may warrant automatically awaking the device from an idle state to an active state. *See, e.g., id*. at Abstract; 4:66−5:2. Power usage may be reduced by designing the device to automatically evaluate whether motion data is or is not associated with a user preparing to intentionally engage with the device. *See, e.g., id.*, Abstract; 2:46−51.

III. THE PETITION FAILS TO PROVE OBVIOSNESS

Petitioner has the burden of proof to establish entitlement to relief. 37 C.F.R. § 42.108(c) ("review shall not be instituted for a ground of unpatentability unless . . . there is a reasonable likelihood that at least one of the claims challenged . . . is unpatentable"). The Petition should be denied as failing to meet this burden.

The Petition raises the following obviousness challenges:

Ground	Claims	Reference(s)
1	1, 3, 5−7, 9−11, 13−15, 17, and 20	Pasolini[1], Goldman[2], McMahan[3], and Mizell[4]
2	8, 16, and 18	Pasolini, Goldman, McMahan, Mizell, and Park[5]

A. The Petition fails to resolve the level of ordinary skill in the art

To prevail on its theory of obviousness, Petitioner has the burden to prove that "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made *to a person having ordinary skill in the art to which said subject matter pertains*." 35 U.S.C. § 103. Consistent with that statutory framework, and as reiterated by the Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007) ("KSR"), the factual inquiries for determining obviousness under 35 U.S.C. § 103 are enunciated in *Graham v. John Deere Co.*, 383 U.S. 1 (1966) as follows:

> (A) Determining the scope and content of the prior art;
>
> (B) Ascertaining the differences between the claimed invention and the prior art; and
>
> (C) *Resolving the level of ordinary skill in the pertinent art.*

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[1] EX1003, U.S. Patent No. 7,409,291
[2] EX1004, Goldman, "Using the LIS3L02AQ Accelerometer"
[3] EX1005, U.S. Patent No. 7,204,123
[4] EX1007, David Mizell, "Using Gravity to Estimate Accelerometer Orientation"
[5] EX1014, U.S. Patent No. 7,028,220

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