

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.

Petitioner

v.

UNILOC LUXEMBOURG, S.A.

Patent Owner

IPR2018-00294

PATENT 6,736,759

PATENT OWNER PRELIMINARY RESPONSE TO PETITION

PURSUANT TO 37 C.F.R. §42.107(a)

Table of Contents

I.	INTRODUCTION	1
II.	THE '759 PATENT	1
III.	LEVEL OF ORDINARY SKILL IN THE ART	2
IV.	THE REDUNDANT CHALLENGE IN GROUNDS 7-9 AGAINST ARE PROCEDURALLY AND SUBSTANTIVELY DEFICIENT	3
V.	PETITIONER DOES NOT PROVE A REASONABLE LIKELIHOOD OF UNPATENTABILITY FOR ANY CHALLENGED CLAIM.....	4
A.	Claim Construction.....	5
B.	(Ground 1) No <i>Prima Facie</i> Obviousness for “a display unit configured for displaying real-time data provided by said electronic positioning device and said physiological monitor” (Claim 1).....	6
C.	(Ground 1) No <i>Prima Facie</i> Obviousness for “said display unit separate from said data acquisition unit” (Claim 1)	10
D.	(Ground 3) The Deficiency of the Ground 1 Challenge of Claim 1 Taints the Ground 3 Challenge of Independent Claim 29.....	14
E.	Ground 7 Fails to Present <i>Prima Facie</i> Obviousness of Claim 1.....	15
1.	“a data acquisition unit comprising an electronic positioning device and a physiological monitor, said data acquisition unit configured to be worn by a subject performing a physical activity”	16
2.	“a display unit configured for displaying real-time data provided by said electronic positioning	

device and said physiological monitor” (Claim 1).....17

F. [All Grounds] The Petition Should Also Be Denied As
To Challenged Dependent Claims 2-28 and 30-32.23

VI. THE SUPREME COURT IS CURRENTLY REVIEWING
THE CONSTITUTIONALITY OF INTER PARTES
REVIEW23

VII. CONCLUSION23

TABLE OF EXHIBITS

Exhibit No.	Description
2001	Declaration of William C. Easttom

I. INTRODUCTION

Uniloc Luxembourg S.A. (the “Uniloc” or “Patent Owner”) submits this Preliminary Response to Petition IPR2018-00294 for *Inter Partes* Review (“Pet.” or “Petition”) of United States Patent No. 6,736,759 (“the ’759 patent” or “EX1001”) filed by Apple, Inc. (“Petitioner”). The instant Petition is procedurally and substantively defective for at least the reasons set forth herein.

II. THE ’759 PATENT

The ’759 patent is titled “Exercise Monitoring System and Methods.” The ’759 patent issued May 18, 2004, from U.S. Patent Application No. 09/436,515 filed November 9, 1999.

The inventors of the ’759 patent observed that while more and more people were exercising to improve general health and fitness, monitoring typical measurements of physical fitness and progress, such as weight loss, often failed to meet expectations. This often resulted in a lack of motivation, which in turn leads to a cessation of exercise. EX1001, 1:17-20.

The inventors also observed that while athletes of all ages are usually able to overcome motivational hurdles, athletes often have difficulty in accurately measuring their progress. Many athletes also do not know how to train effectively for maximal improvement. For example, competitive runners may have difficulty determining whether their training pace on a given day is too fast or too slow. While running on a track or treadmill may allow the runner to monitor speed, speed alone is often an inadequate way to monitor optimal training levels. Additionally, human nature often demands instantaneous feedback for motivation and encouragement.

EX1001, 1:27-37.

The '759 Patent teaches an innovative exercise monitoring system, as well as training and analytical methods useful for subjects performing physical activities. As an example, certain disclosed embodiments provide real-time data and feedback useful to individuals (such as athletes) performing a physical activity. The monitoring system may include an electronic positioning device (such as a GPS device) and/or a physiological monitor (such as an oximeter or a heart rate monitor).

EX1001, 6:36-44.

A particular embodiment of the monitoring system includes both an electronic positioning device and a physiological monitor (such as an oximeter or heart rate monitor) as part of an integrated monitoring system. Such an integrated monitoring system allows velocity, pace, and/or distance traveled information provided by the electronic positioning device to be used in conjunction with data provided by the physiological monitor. In this manner, exercising subjects can monitor, control and/or analyze their performance while exercising at any location. EX1001, 6:61-7:4. The teachings of the '759 Patent also provide analytical and training methods which utilize data provided by: (a) a physiological monitor; (b) an electronic positioning device (such as a GPS device); or (c) the combination of an electronic positioning device and a physiological monitor (such as a heart rate monitor or an oximeter). EX1001, 7:5-10.

III. LEVEL OF ORDINARY SKILL IN THE ART

The Petition alleges that “[a] person having ordinary skill in the art (PHOSITA) as of the '759 Patent priority date in November 1999 would have had

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.