

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 RESPONSE TO PETITION

PURSUANT TO 37 C.F.R. §42.120

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Exhibit No.	Description
2001	Declaration of William C. Easttom (<i>previously filed</i>)

I. INTRODUCTION

Pursuant to 37 C.F.R. §42.120, Uniloc Luxembourg S.A. (the “Uniloc” or “Patent Owner”) submits this 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 ’759 patent observes 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 results in a lack of motivation, which in turn leads to a cessation of exercise. EX1001, 1:17–20.

The ’759 patent also observes 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; EX2001 10–12.

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; EX2001 ¶¶ 10–12.

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

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