UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,
Petitioner

v.

UNILOC LUXEMBOURG S.A.
Patent Owner

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Case No. IPR2018-00294
Patent No. 6,736,759

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PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

Table of Contents

I.   INTRODUCTION

Having made a conscious decision not to depose Petitioner's expert, whose opinions Patent Owner ("PO") misconstrued in its Preliminary Response, PO's Response turns primarily on the same arguments preliminarily rejected by the board in its Institution Decision. Because those arguments here suffer the same flaws as before, they should again be rejected.

PO did, however, elaborate on its position that displaying data in "real-time" requires a level of immediacy so precise that it would exclude a system designed to read from and display data from multiple sensors. In advocating for this narrow construction, PO ignores the claim language and intrinsic record and accuses both Petitioner and the Board of misapplying the Federal Circuit's prior claim construction. For these and the reasons explained below, PO's arguments should be rejected.

II.   ARGUMENT

A.   Ground 1: Claim 1 is Obvious over Fry in view of Newell.

i.   *"Displaying real-time data" does not exclude displaying new data from multiple sensors*

PO's primary argument is that *Fry* does not teach "real-time" display of GPS data. *Response*, 5-11. In support, PO argues that "intervening processing blocks . . . between storing [new] GPS data and ultimately displaying that data" preclude the

Fry system from satisfying the claimed "real-time" display. *Id*. at 11. But these "intervening processing blocks" on which PO's argument depends are simply the steps by which other sensor data is processed so that all sensor data, including GPS, can be displayed in "real-time" accounting for only the processing limitations of the system. There is no intentional delay imposed on the display of GPS or any sensor data in the *Fry* system. Instead, the *Fry* system reads all sensors and updates the display as quickly as its processing limitations permit. Yet, this is precisely what is claimed.

Claim 1 explicitly allows for the possibility that data from multiple sensors could be read and then displayed, as Fry discloses. Claim 1 requires a "display unit displays real-time data comprising at least one of a subject's location, altitude, velocity, pace, and distance traveled." *See, e.g.*, '759 Patent (Ex. 1001) at 28:13-16. The claim's reference to displaying "real-time data comprising <u>at least one of</u>" the listed parameters explicitly allows for the possibility that data from two or more sensors could be read and displayed—exactly as disclosed in Fry. PO's view, in contrast, would entirely, and improperly, eliminate the "at least" language from claim 1. This unduly narrows the claim to a situation where real-time could only be met by the separate and immediate update of each sensor. In other words, it would expressly read out the scenario where multiple sensors are read sequentially and displayed in real-time after the data to be displayed has been measured. This is far

outside the broadest reasonable interpretation of real-time under the Federal Circuit's definition and the plain reading of Claim1.

Advancing its narrow view, PO first suggests the Board allegedly misinterpreted the Federal Circuit's construction of "real-time," arguing the Board conflated the Federal Circuit's narrow example of non-real-time display (i.e., storing sensor data for review after an activity) with its broader construction (i.e., displaying without intentional delay). *Response*, 5-7. The Board did no such thing. It correctly acknowledged that *Fry* reads multiple sensors before immediately updating the display and concluded this process does not introduce intentional delay. *Institution Decision*, 12. *Fry* is not only starkly different from the Federal Circuit's example of non-real-time display in which the data is stored until the activity completes, but *Fry* also stands apart from hypothetical systems that introduce intentional delay, such as an exercise monitor that updates its display once every 30 minutes to preserve power. Put simply, the Board correctly applied the Federal Circuit's construction, not merely a single example, to *Fry's* teachings.

Far narrower than the Board's or the Federal Circuit's construction, PO argues that *any* intervening steps after capturing GPS data, including reading other sensors, constitutes an intentional delay. *Response*, 8-9 ("Fry's deliberate design choice to not update the display with the GPS data *until after* servicing a handful of other time-

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