

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.

Petitioner

v.

UNILOC LUXEMBOURG, S.A.¹

Patent Owner

IPR2018-00424

PATENT 7,881,902

PATENT OWNER SUR-REPLY TO PETITIONER'S REPLY

¹ The owner of this patent is Uniloc 2017 LLC.

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I. INTRODUCTION

Uniloc 2017 LLC (“Uniloc” or “Patent Owner”) submits this Sur-Reply to Petitioner’s Reply in IPR2018-00424 for *Inter Partes* Review (“Pet.” or “Petition”) of United States Patent No. 7,881,902 (“the ’902 Patent” or “EX1001”) filed by Apple, Inc. (“Petitioner”).

II. PETITIONER FAILS TO ESTABLISH UNPATENTABILITY FOR ANY CHALLENGED CLAIM

The Petition fails to established unpatentability for the following grounds it raised under 35 U.S.C. § 103:

Ground	Claims	Reference(s)
1	1-2	<i>Mitchnick</i> ²
2	3	<i>Mitchnick</i> and <i>Sheldon</i> ³
3	4	<i>Mitchnick</i> and <i>Sheldon</i> and <i>Tanenhaus</i> ⁴
4	5-6, 9-10	<i>Fabio</i> ⁵ and <i>Pasolini</i> ⁶

A. Ground 4 Fails

1. The cited *Fabio* and *Pasolini* references fail to disclose “using a default step cadence window to identify a time frame within which to monitor for a next step” (Claim 5)

The cited *Fabio* and *Pasolini* references fail to disclose “using a default step cadence window to identify a time frame within which to monitor for a next step”

² EX1007, U.S. Patent Publication No. 2006/0084848

³ EX1009, U.S. Patent No. 5,957,957

⁴ EX1008, U.S. Patent No. 6,469,639

⁵ EX1006, U.S. Patent No. 7,698,097

⁶ EX1005, U.S. Patent No. 7,463,997

as required by Claim 5. The Petition relies solely on *Fabio* for the requirement of “using a default step **cadence window**.” Specifically, the Petition points to *Fabio*’s “validation interval” (TV) as allegedly disclosing the claimed “cadence window.” However, this is incorrect. The claimed “cadence window” is used to “monitor for a *next* step.” Even if the *Fabio*’s “validation interval” (TV) could be considered a “cadence window” (which it is not), *Fabio*’s “validation interval” (TV) is used for a *prior* step – not the *next* step as claimed. Also, in its Institution Decision, the Board stated that is “not persuaded that *Fabio*’s validation window TV in first counting procedure 110 teaches or suggests using a “default cadence window.” Institution Decision at 42.

a) Petitioner fails to prove *Fabio*’s validation interval (TV) maps onto Petitioner’s own definition for “cadence window”

The Petition, as well as the Reply, incorrectly defines the “cadence window” as a “window of time since a last step was counted that is looked at to detect a new step.” See Petition at 9-10; Reply at 8, 11. This definition ignores the term “cadence” and treat the words as though they merely reference a “window” without regard to a “cadence.” Both the common definition of cadence (usually referring to a repetitive rhythmic pattern) and the specification describe a “cadence” as looking at *multiple* motion cycles (not just a single cycle) to determine a particular rhythmic pattern. See e.g., *Id.* at 3:18-32, 38-54; 6:65-7:14. Indeed, the specification describes the cadence window as a rolling average of previous detected cycles. *Id.* at 3:66-4:10.

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