Trials@uspto.gov
Tel: 571-272-7822

Paper 9
Entered: October 3, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner,

v.

AGIS SOFTWARE DEVELOPMENT, LLC,
Patent Owner.

Case IPR2018–00817
Patent 9,445,251 B2

Before TREVOR M. JEFFERSON, CHRISTA P. ZADO, and KEVIN C. TROCK, *Administrative Patent Judges*.

TROCK, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Apple, Inc. ("Petitioner") filed a request for *inter partes* review of claims 1–35 (the "challenged claims") of U.S. Patent No. 9,445,251 B2 (Ex. 1001, "the '251 patent"). Paper 1 ("Pet."). AGIS Software Development, LLC ("Patent Owner") filed a Preliminary Response. Paper 6 ("Prelim. Resp.").

Under 35 U.S.C. § 314, an *inter partes* review must not be instituted "unless . . . the information presented in the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a). Upon considering the evidence presented and the arguments made, we determine that Petitioner has not demonstrated a reasonable likelihood that it would prevail in showing the unpatentability of at least one of the challenged claims. Accordingly, we do not institute an *inter partes* review.

A. Related Proceedings

Petitioner advises that the '251 patent is the subject of a civil action involving Petitioner, *AGIS Software Development LLC v. Apple Inc.*, No. 2:17-cv-00516-JRG (E.D. Tex.). Petitioner also advises the '251 patent is asserted against third parties in four other cases: *AGIS Software Development LLC v. Huawei Device USA Inc. et al.*, No. 2:17-cv-00513 (E.D. Tex.); *AGIS Software Development LLC v. LG Electronics, Inc.*, No. 2:17-cv-00515 (E.D. Tex.); *AGIS Software Development LLC v. ZTE Corporation et al.*, No. 2:17-cv-00517 (E.D. Tex.); *AGIS Software Development LLC v. HTC Corporation*, No. 2:17-cv-00514 (E.D. Tex.). Petitioner further advises that it is filing IPR petitions challenging U.S.

Patent Nos. 9,408,055, 8,213,970, and 9,467,838, which are asserted in the above litigations.

Patent Owner acknowledges the same proceedings. Paper 5, 2–3.

B. The '251 Patent

The '251 patent specification (the "Specification") describes a communications method and system using a plurality of cellular phones each having an integrated Personal Digital Assistant (PDA), Global Positioning System (GPS) receiver, and Advanced Communication Software (ACS) for the management of a plurality of people through the use of a remote server on a communications network. Ex. 1001, 1:33–42. The Specification describes rapidly establishing an ad hoc network of devices (e.g., smartphones, PDAs, or personal computers) with users, such as first responders in an emergency situation, logging onto a network using the network's name and security key (a common "password" for everyone). *Id.* at Abstract, 4:4–15. Once logged on, the user's devices exchange each other's identity, location, and status information via the remote server. *Id.* at 5:13–22. Each cellular phone/PDA/GPS user device is identified on a map display of the other network participant users' phone devices by a display symbol that is generated on each user phone display to indicate each user's own location and identity. *Id.* at 7:52–56. These symbols are user-selectable and are positioned on a geographical map of an interactive display with georeferenced entities. *Id.* at 6:18–23, 6:59–6:66, Fig. 1. Each symbol is placed at the correct geographical location on the user display and is correlated with the map on the display and is transmitted and automatically displayed on the other network participants' PC and PDA devices. *Id.* at 7:56–60. Network users communicate or send data to another network user

by selecting the user's symbol and the desired action using a software switch. *Id*. at 7:9–17.

Figure 1 of the '251 patent is set out below.

1/7

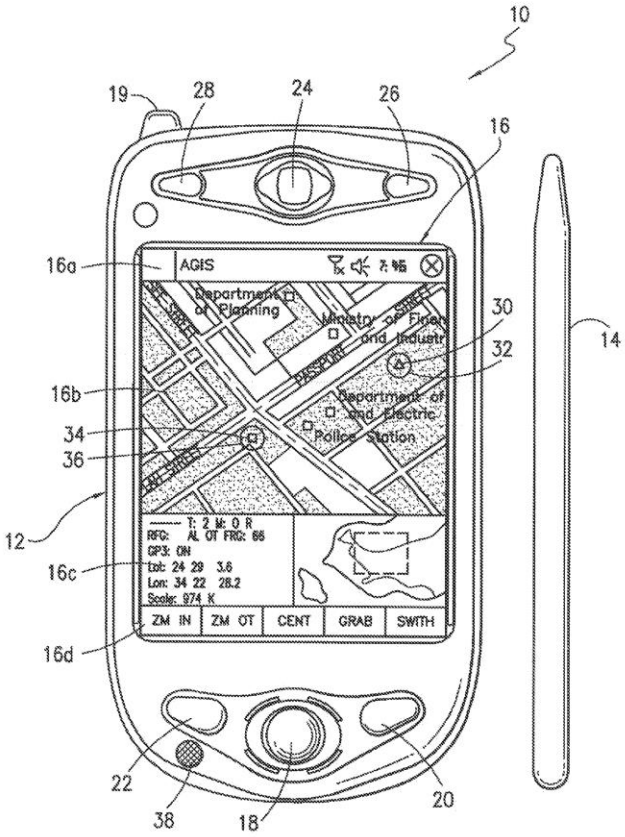

FIG. 1

Figure 1, shown above, depicts a user's digital device 10 (cellular phone/PDA/GPS) having a touch screen 16 displaying a geographical map 16b with georeferenced entities 30, 34. *Id*. at 4:48–49, 6:19–23, 6:59–7:8.

C. Challenged Claims

Petitioner challenges claims 1–35 of the ’251 patent. Claims 1 and 24 are independent and are substantially similar—the principal difference being that claim 1 recites a computer-implemented method and claim 24 recites a system. Claim 1 is illustrative.

> 1. A computer-implemented method comprising:
>
> with a first device, receiving a message from a second device, wherein the message relates to joining a group;
>
> based on receiving the message from the second device, participating in the group, wherein participating in the group includes sending first location information to a server and receiving second location information from the server, the first location information comprising a location of the first device, the second location infor mation comprising a plurality of locations of a respective plurality of second devices included in the group;
>
> presenting, via an interactive display of the first device, a first interactive, georeferenced map and a plurality of user-selectable symbols corresponding to the plurality of second devices, wherein the symbols are positioned on the first georeferenced map at respective positions corresponding to the locations of the second devices, and wherein the first georeferenced map includes data relating positions on the first georeferenced map to spatial coordinates;
>
> sending, from the first device to the server, a request for a second georeferenced map different from the first georeferenced map, wherein the request specifies a map location;

DOCKET ALARM

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.