

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

APPLE, INC.

Petitioner

v.

UNILOC LUXEMBOURG, S.A.

Patent Owner

---

IPR2018-01028

PATENT 7,881,902

---

**PATENT OWNER PRELIMINARY RESPONSE TO PETITION**

**PURSUANT TO 37 C.F.R. §42.107(a)**

**Table of Contents**

I. INTRODUCTION..... 1

II. THE '902 PATENT ..... 1

III. RELATED PROCEEDINGS ..... 2

IV. THE PETITION SHOULD BE DENIED UNDER 35 U.S.C. §  
325(D)..... 2

    A. *Tsuji* Is One Of Five Listed “References Cited” On The  
    Face Of Petitioner’s *Fabio* Reference, Filed With  
    IPR2018-00424 ..... 3

    B. Petitioner Had The Benefit Of Patent Owner’s  
    Preliminary Response In IPR2018-00389..... 6

V. LEVEL OF ORDINARY SKILL IN THE ART..... 7

VI. PETITIONER DOES NOT PROVE A REASONABLE  
    LIKELIHOOD OF UNPATENTABILITY FOR ANY  
    CHALLENGED CLAIM ..... 8

    A. Claim Construction ..... 8

    B. A POSITA Would Not Have Made The Hypothetical  
    Combination of *Fabio*, *Pasolini*, and *Tsuji* (Claim 8)..... 9

    C. The Petition Fails To Show Claim 5 Is Unpatentable ..... 13

        1. No *Prima Facie* Obviousness For “using a default  
        step cadence window to identify a time frame  
        within which to monitor for a next step” ..... 13

        2. No *Prima Facie* Obviousness For “when the step  
        count is at or above the step count threshold,  
        determining a dynamic step cadence window” ..... 14

        3. No *Prima Facie* Obviousness For “using the  
        dynamic step cadence window to identify the time

frame within which to monitor for the next step” ..... 16

VII. CONCLUSION ..... 17

**List of Exhibits**

<b>Exhibit No.</b>	<b>Description</b>
<b>2001</b>	Declaration of William C. Easttom

## I. INTRODUCTION

Uniloc Luxembourg S.A. (the “Uniloc” or “Patent Owner”) submits this Preliminary Response to Petition IPR2018-01028 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”). The instant Petition is procedurally and substantively defective for at least the reasons set forth herein.

## II. THE ’902 PATENT

The ’902 patent is titled “Human activity monitoring device.” The ’902 patent issued February 1, 2011, from U.S. Patent Application No. 12/694,135 filed January 26, 2010, and is a continuation of U.S. Patent Application No. 11/644,455 filed December 22, 2006.

The inventors of the ’902 patent observed that at the time, step counting devices that utilize an inertial sensor to measure motion to detect steps generally required the user to first position the device in a limited set of orientations. In some devices, the required orientations are dictated to the user by the device. In other devices, the beginning orientation is not critical, so long as this orientation can be maintained. EX1001, 1:23-30. Further, the inventors observed that devices at the time were often confused by motion noise experienced by the device throughout a user's daily routine. The noise would cause false steps to be measured and actual steps to be missed in conventional step counting devices. Conventional step counting devices also failed to accurately measure steps for individuals who walk at a slow pace. *Id.*, 1:31-38.

According to the invention of the ’902 Patent, a device to monitor human

activity using an inertial sensor assigns a dominant axis after determining the orientation of an inertial sensor. The orientation of the inertial sensor is continuously determined, and the dominant axis is updated as the orientation of the inertial sensor changes. *Id.*, 2:10-17.

### III. RELATED PROCEEDINGS

The following proceedings are currently pending cases concerning U.S. Pat. No. 7,881,902 (EX1001).

Case Caption	Case Number	District	Case Filed
<i>Uniloc USA, Inc. et al v. Apple Inc.</i>	2-17-cv-00522	TXED	June 30, 2017
<i>Uniloc USA, Inc. et al v. Samsung Electronics America, Inc. et al</i>	2-17-cv-00650	TXED	September 15, 2017
<i>Uniloc USA, Inc. et al v. LG Electronics USA, Inc. et al</i>	4-17-cv-00832	TXND	October 13, 2017
<i>Uniloc USA, Inc. et al v. HTC America, Inc.</i>	2-17-cv-01629	WAWD	November 1, 2017
<i>Uniloc USA, Inc. et al v. Huawei Device USA, Inc. et al</i>	2-17-cv-00737	TXED	November 9, 2017
<i>Apple Inc. v. Uniloc USA, Inc.</i>	IPR2018-00424	PTAB	Jan. 5, 2018
<i>Uniloc USA, Inc. et al v. Apple Inc.</i>	4-18-cv-00364	CAND	January 17, 2018

### IV. THE PETITION SHOULD BE DENIED UNDER 35 U.S.C. § 325(d)

As the Petition admits, on January 5, 2018, Petitioner filed IPR2018-00424, challenging claims 1-6 and 9-10 of the same patent that is the subject of the instant Petition (the '902 Patent). Further, Petitioner also acknowledges that Patent Owner

# 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.