UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOOGLE LLC,
Petitioner,

v.

AGIS SOFTWARE DEVELOPMENT, LLC,
Patent Owner.

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Case IPR2018–01083
Patent 9,445,251 B2

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Before TREVOR M. JEFFERSON, CHRISTA P. ZADO, and
FREDERICK C. LANEY, *Administrative Patent Judges*.

LANEY, *Administrative Patent Judge*.

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

I. INTRODUCTION

Petitioner Google LLC ("Google") filed a request for *inter partes* review of claims 1, 2, 4–6, 8, 10, 12, 22–24, 27, 29, 31, 32, and 35 (the "challenged claims") of U.S. Patent No. 9,445,251 B2 (Ex. 1001, "the '251 patent"). Paper 2 ("Pet."). Patent Owner AGIS Software Development, LLC ("AGIS") filed a Preliminary Response. Paper 7 ("Prelim. Resp."). Google filed a Reply. Paper 9.

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 Google 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

As required by 37 C.F.R. § 42.8(b)(2), each party identifies various judicial or administrative matters that would affect or be affected by a decision in this proceeding. Pet. 2–4; Paper 4, 2–4 ("AGIS's Mandatory Notices").

B. THE '251 PATENT

The '251 patent specification ("Specification") generally discloses a method and communication system to quickly set up and provide ad hoc, password protected, digital and voice communication networks among users of integrated handheld cellular/PDA/GPS phones ("integrated device" or "device"). Ex. 1001, 1:33–46. The Specification discloses that there is a

need to be able to set up ad hoc digital and voice networks easily and rapidly across different groups of users such as military, first responder, and other public and private emergency groups. Ex. 1001, 2:8–19. According to the Specification, users' integrated devices need "to be able to rapidly coordinate their activities eliminating the need for pre-entry of data into a web and or identifying others by name, phone numbers or email addresses so that all intended participants that enter the agreed ad hoc network name and password are both digitally and voice interconnected." *Id.* at 2:8–17; *see also id.* at 3:48–51 (same). Although previous systems may have allowed for voice and data communications among separate first-response entities (e.g., police and fire departments), they did not have the ability to cross communicate "without a substantial degree of immediate coordination." *Id.* at 2:20–37. The invention, therefore, endeavors "to quickly establish user specific password protected private ad hoc voice and data networks to enable both data and voice communications up and down [first responders'] chain of command and simultaneously with different, not pre-known, organizations responding to a disaster." *Id.* at 2:37–44.

The disclosed system includes a plurality of Internet Protocol ("IP") capable integrated devices each having an Advanced Communication Software ("ACS") application program. *Id.* at 2:57–59. The plurality of integrated devices, in conjunction with a remote Server, provides the ability to establish an ad hoc network of devices so that the devices can either broadcast to a group or selectively transmit to each other. *Id.* at 2:57–3:1. "The Server is used to establish an ad hoc network within certain groups using an ad hoc event name and password." *Id.* at 3:43–45, 5:13–24. A user of an integrated device establishes the ad hoc communication network or

joins an existing ad hoc communication network by entering the remote Server's IP address, an ad hoc event name such as "Katrina," and a password in an appropriate prompt on the user's device. *Id.* at 3:52–55, 10:46–60. The user may also enter the user's name and phone number. *Id.*

Upon establishing or joining an existing communication network, the user's device commences reporting information to the remote server, including the user's IP address and GPS derived location. Ex. 1001, 10:61–11:2. Initially, when only one device has joined the network, the remote server retains the information reported by the device. *Id.* at 11:2–4. When additional devices join the network by using the same ad hoc event name and password and report their information to the remote server, the remote server can use the network participant devices' IP addresses to pass location information automatically between the devices. *Id.* at 11:4–10. "This can occur even though the ad hoc network participants have not entered other network participant's names, telephone number or Email addresses and do not have the other network participants' IP addresses, phone numbers or Email addresses." *Id.* at 11:10–14. Once a user or users leave the network, "no data concerning the network participants need be retained." Ex. 1001, 2:17–19.

According to the Specification, the ACS application program also provides for a geographical map that displays georeferenced entities on a user's device display. *Id.* at 6:17–23. The map is displayed on a touch screen that the device user may interact with using his/her finger or a stylus. *Id.* at 5:34–44. The map may display symbols depicting permanent geographical locations and buildings. *Id.* at 6:43–45. The map may also display symbols, such as a triangle or square, that represent participants of

the communication network. *Ex. 1001*, 6:59–62. The latitude and longitude of the device corresponding to a particular symbol displayed on the map are related by software to x and y coordinates on the map. *Id.* at 7:4–8. Accordingly, the location of the symbol on the map corresponds to the device's physical location provided by the device's GPS location data. *Id.* at 5:48–58, 7:2–8. In addition, a database may associate the latitude and longitude of a particular symbol displayed on the map with a specific cell phone number, IP address, and email address. *Id.* at 6:66–7:2.

One feature of the disclosed system is that a user may initiate contact with another user by selecting with a stylus the symbol on the user's map corresponding to the user to be contacted. *Ex. 1001*, 8:64–9:8. The device of the initiator detects the x and y coordinates of where the stylus touched the display screen, and software translates the x and y coordinates to latitude and longitude. *Id.* The software then searches the device database of the initiator device for information corresponding to the latitude and longitude, such as an associated phone number or IP address. *Id.* The software then initiates appropriate contact, for example, by initiating a phone or Voice over IP ("VoIP") call to the device of the user to be contacted. *Id.*

C. CHALLENGED CLAIMS

Google challenges claims 1, 2, 4–6, 8, 10, 12, 22–24, 27, 29, 31, 32, and 35 of the '251 patent. Claims 1 and 24 are independent and are substantially similar. Claim 1 is illustrative.

> 1. A computer-implemented method comprising:
>> [1a] with a first device, receiving a message from a second device, wherein the message relates to joining a group;
>> [1b] based on receiving the message from the second device, participating in the group, wherein participating in the

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