

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.

Petitioner

v.

UNILOC 2017 LLC,

Patent Owner.

IPR2018-01093

PATENT 7,944,353 B2

PATENT OWNER SUR-REPLY

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I. INTRODUCTION

Uniloc 2017 LLC (“Uniloc” or “Patent Owner”) submits this Sur-Reply to Petition IPR2018-01093 for *Inter Partes* Review (“Pet.” or “Petition”) of United States Patent No. 7,944,353 B2 (“the ’353 Patent” or “EX1001”) filed by Apple, Inc. (“Petitioner”).

II. PETITIONER’S REPLY UNDERSCORES DEFICIENCIES OF THE PETITION

A. Claim 1

Petitioner’s Reply underscores the deficiencies of the Petition concerning the ordered process set forth in claim 1, which among other requirements includes the following ordered steps:

- (1) “repeatedly analyzing the input data to *determine an event context*”,
- (2) “assessing a criticality of *the determined event context*”, and
- (3) “*responsive to the assessment of criticality*, determining a reporting response.”

1. Petitioner’s reliance on Lemelson’s “medical alert” remains deficient.

For the requirement “determin[ing] an event context”, Petitioner confirms in its Reply that it relies on Lemelson’s alleged teaching of “analyzing a user’s biometrics or medical history data to determine an abnormal medical condition.” Reply (Paper 13) at 2 (citing Paper 8 at 15-17). For the distinct claim requirement of “assessing a criticality of the determined event context”, Petitioner further confirms its reliance on the alleged teaching in Lemelson that “the computer detects a variance of predefined degree between the person’s current and normal medical conditions.” *Id.* (citing Paper 8 at 17-18).

Petitioner has the burden of proof, yet it points to nothing in Lemelson expressly disclosing that determining an abnormal medical condition is an inquiry that is separate from, and antecedent to, detecting a variance of a predefined degree. The passages in Lemelson Petitioner points to in its Reply do not support, and rather refute, Petitioner's contrived interpretation. See Reply at 3.

First, Petitioner offers a single block quotation from Lemelson, reproduced in its fuller context below, which *expressly refutes* Petitioner's theory:

The warning unit carried by the person further includes a medical monitoring system that monitors and generates signals defining selected current medical conditions of the person wearing the warning unit. The portable warning unit computer controller memory includes data defining abnormal medical conditions. The computer is programmed to compare the signals generated by the medical monitoring system to the data stored in memory defining abnormal medical conditions. If a variance of predefined degree exists between the person's current and normal medical conditions, the computer generates and causes the transmission circuit to transmit signals defining the variance to the command control center. ... The command control center determines the severity of the emergency and dispatches the proper emergency assistance.

EX1003, Lemelson at 4:29-49; *see also* Reply at 4 (offering a partial quotation of the same); Paper 12 (Response) at 6-8 (further explaining why this passage refutes Petitioner's theory).

The above passage does not disclose determining an abnormal medication condition exists, and only thereafter *separately* accessing whether there is a variance of a predefined degree. On the contrary, the passage reveals that an abnormal medication condition is *itself* detected as "a variance of a predefined degree between

the person’s current and normal medical conditions.” *Id.* No other condition is disclosed for detecting an abnormal medical condition; and Petitioner provides no basis to conclude otherwise.

Second, Petitioner also fails to prove its theory in pointing to a distinct passage of Lemelson stating that “[i]f the system detects abnormal medical signs for an individual and the individual is in need of medical attention, an emergency transmission is made.” Reply at 4 (quoting EX1003, Lemelson at 7:42-54). This *single* “if” clause does not expressly require Petitioner’s contrived interpretation—i.e., that determining an abnormal medical condition as an inquiry that is separate from and antecedent to detecting a variance of a predefined degree. Indeed, the “if” clause makes no mention of detecting a variance of a predefined degree.

This latter “if” clause also does not support an inherency theory. *Id.* In the absence of any explicit description in Lemelson of how the “if” clause is executed, a plausible interpretation is that certain abnormal medications are predefined as being of sufficient variance that they necessitate medical attention. *See* EX1003, Lemelson at 4:29-49. It follows that detecting the existence of such a condition (i.e., a variance predefined as necessitating medical attention) does not expressly or inherently disclose the distinct steps of “determine[ing] an event context” and, only thereafter, and as a distinct step, “assessing a criticality of *the [previously] determined event.*”

Finally, Petitioner retreats from its own interpretation of Lemelson and points, instead, to Lemelson’s “severity” determination executed remotely by a command and control center *only after it receives* what Petitioner characterizes as a *reported*

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