

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
HTC CORPORATION AND HTC AMERICA, INC.,
ZTE (USA) INC.,
Petitioners

v.

INVT SPE LLC,
Patent Owner

Case No. IPR2018-01473
U.S. Patent No. 6,611,676

PATENT OWNER'S FIRST AMENDED PRELIMINARY RESPONSE

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Other Authorities

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