UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC., ZTE (USA) INC., Petitioners

v.

INVT SPE LLC, Patent Owner

Case No. 2018-01474 U.S. Patent No. 7,206,587

PATENT OWNER'S PRELIMINARY RESPONSE



TABLE OF CONTENTS

I.	Preliminary Statement					
II.	Factual Background Of The '587 Patent					
	A.	Over	Overview of Cellular Communications Technology			
	B. Overview Of The '587 Patent					
III.	Clair	n Cons	struction	on	14	
IV.	Summary Of The Asserted References					
	A.		14			
	B.	Piret			16	
V.	Lega	ıl Stano	lard		18	
VI.	The Petition Fails To Demonstrate A Reasonable Likelihood Of Demonstrating that the Challenged Claim is Unpatentable Under Ground 2.					
	A.	The Asserted References Fail To Disclose [1] A Coding Device That Encodes The Information [2] Such That The Most Significant Bit Is Less Susceptible to Errors				
		1.		Petition Improperly Equates "Digitize" With code."	21	
		2.	That	her <i>Bender</i> Nor <i>Piret</i> Disclose "A Coding Device Encodes The Information To Obtain A Code d."	25	
			i.	Bender Does Not Disclose "A Coding Device That Encodes The Information To Obtain A Code Word."	26	
			ii.	Piret Does Not Disclose "A Coding Device That Encodes The Information To Obtain A Code Word."	29	
			iii.	The Petition Fails To Demonstrate That "A Coding Device That Encodes The Information" Is Inherent In The Asserted References	29	



_

		3.	Enco Signi Susce	der Bender nor Piret Discloses "The Coding Device des The Information Such That The Most ficant Bit Of The Plurality Of Bits Is Less eptible To Errors In A Propagation Path Than Other Of The Plurality Of Bits."	31	
			i.	Bender Does Not Identify The Most Significant Bit Of The SNR Value	31	
			ii.	Piret Does Not Identify The Most Significant Bit Of The SNR Value.	34	
	B.	The Petition Fails to Demonstrate That A POSITA Would Have Been Motivated To Combine <i>Bender</i> And <i>Piret</i> To Achieve The Claimed Invention With A Reasonable Expectation Of Success.				
		1.		Petition Relies On Unsupported, Conclusory Expert mony	36	
		2.		Asserted References Contradict The Petition's And inger's Characterization	40	
		3.	The Petition Fails To Identify Any Motivation To Modify <i>Bender</i> To Encode The SNR Value According To <i>Piret</i> .			
			i.	Bender And Piret Are Concerned With Different Data Types.	43	
			ii.	The Petition Fails To Explain Why A POSITA Would Have Applied A Speech Encoding Scheme To Non-Speech Data.	45	
		4.	Have	Petition Fails To Explain How A POSITA Would Modified The Asserted References To Achieve The ned Invention.	46	
		5.		Motivation To Combine Is Based On Improper sight	47	
VII.				nvestigation Will Be Resolved Before Any Trial Petition	49	
VIII.	Conc	lusion			51	



TABLE OF AUTHORITIES

	Page(s)
Cases	
Apple Inc. v. Contentguard Holdings, LLC, Case No. IPR2015-00448, Paper 9 (P.T.A.B. Jul. 10, 2015)	47
Apple Inc. v. Uniloc Luxembourg S.A. et al., IPR2015-00161, Paper 18 (P.T.A.B. May. 8, 2015)	39
Apple Inc. v. Uniloc Luxembourg S.A., IPR2017-02041, Paper 10 (P.T.A.B. Mar. 8, 2018)	39
Apple Inc. v. Uniloc Luxembourg S.A., IPR2017-02202, Paper 8 (P.T.A.B. May. 1 2018)	39
Apple Inc. v. Valencell, Inc., IPR2017-00316, Paper 9 (P.T.A.B. Jul. 20, 2017)	39
CFMT, Inc. v. Yieldup Int'l Corp., 349 F.3d 1333 (Fed. Cir. 2003)	18
General Plastic Industrial Co., Ltd. v. Canon Kabushiki Kaisha, Case No. IPR2016-01357 (P.T.A.B. Sept. 6, 2017)	50, 51
Graham v. John Deere Co. of Kansas City, 383 U.S. 1 (1966)	18
Harmonic Inc. v. Avid Tech., Inc., 815 F.3d 1356 (Fed. Cir. 2016)	49
<i>In re Fritch</i> , 972 F.2d 1260 (Fed. Cir. 1992)	48
<i>In re Kahn</i> , 441 F.3d 977 (Fed. Cir. 2006)	
In re Magnum Oil Tools Int'l, Ltd., 829 F.3d 1364 (Fed. Cir. 2016)	



IPR2018-01474 Patent 7,206,587

In re NTP, Inc., 654 F. 3d 1279 (Fed. Cir. 2011)	18
In re Nuvasive, Inc., 842 F.3d 1376 (Fed. Cir. 2016)	42
In re Nuvasive, Inc., 842 F.3d at 1381–82	45
In re Robertson, 169 F.3d 743 (Fed. Cir. 1999)	30
<i>In re Royka</i> , 490 F.2d 981 (CCPA 1974)	18
In the Matter of Certain LTE- AND 3G-Compliant Cellular Communications Devices, Inv. No. 337-TA-1138	49
Initiative for Medicines, Access & Knowledge (I-MAK), Inc. v. Gilead Pharmasset LLC, Case No. IPR2018-00390, Paper No. 7 (P.T.A.B. Jul. 19, 2018)	19
Intel Corp. v. Godo Kaisha IP Bridge 1, Case No. IPR2018-00662, Paper 7 (P.T.A.B. Aug. 31, 2018)	43
Inventergy, Inc. v. Apple Inc., 1-17-cv-00196 (D. Del. Feb. 24, 2017)	49
INVT SPE LLC v. Apple Inc., 2-17-cv-03738 (D.N.J. May 25, 2017)	49
INVT SPE LLC v. ZTE Corporation et al., 2-17-cv-06522 (D.N.J. Aug. 29, 2017)	49
KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398 (2007)	47
NHK Spring Co., LTD., v. Intri-Plex Technologies, Inc., Case No. IPR2018-00752 (P.T.A.B. Sept. 12, 2018)50,	51



DOCKET

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.

