

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS AMERICA, INC.

Petitioner

v.

UNILOC LUXEMBOURG, S.A.¹

Patent Owner

IPR2018-01664

PATENT 8,872,646

PATENT OWNER PRELIMINARY RESPONSE TO PETITION

PURSUANT TO 37 C.F.R. §42.120

¹ The owner of this patent is Uniloc 2017 LLC.

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I. INTRODUCTION

Uniloc 2017 LLC (“Uniloc” or “Patent Owner”) submits this Preliminary Response to Petition IPR2018-01664 for *Inter Partes* Review (“Pet.” or “Petition”) of United States Patent No. 8,872,646 (“the ’646 patent” or “EX1001”) filed by Samsung Electronics American, Inc. (“Petitioner”). The instant Petition should be denied in its entirety for the reasons set forth herein.

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

The Board should exercise its discretion under 35 U.S.C. § 314(a) and 35 U.S.C. § 325(d) to deny this follow-on Petition. Petitioner has previously filed a petition against this same patent in IPR2018-01383 on July 11, 2018, which seeks joinder to IPR2018-00289. The instant follow-on Petition, filed on September 6, 2018, acknowledges that Petitioner had filed a previous petition and motion for joinder in its IPR2018-01383. Pet. 15 at n.7.

The Board should exercise its discretion to deny the instant Petition because:

First, Petitioner was already aware of all of the asserted prior art in the instant Petition at the time Petitioner filed the earlier petition in IPR2018-01383². This is demonstrably shown by comparing the instant Petition with the previously filed petition in IPR2018-01383:

- In the **instant Petition**, Petitioner asserts the following five references (Pasolini, Goldman, McMahan, Mizell, and Park):

² See *LG Elecs. Inc. v. Core Wireless Licensing S.A.R.L.*, IPR2016-00986, Paper 12 at 6–7 (“*LG Elecs.*”), Fourth factor.

Challenge	Claim(s)	Ground
Challenge #1	22	35 U.S.C. § 103 over U.S. Patent No. 7,409,291 to Pasolini <i>et al.</i> (“Pasolini”) in view of <i>Using the LIS3L02AQ Accelerometer</i> , Ron Goldman, Sun Microsystems Inc. Dated February 23, 2007 (“Goldman”); U.S. Patent No. 7,204,123 to McMahan <i>et al.</i> (“McMahan”); <i>Using Gravity to Estimate Accelerometer Orientation</i> , David Mizell, Proceedings of the Seventh IEEE International Symposium on Wearable Computers (ISWC ’03) 2003 (“Mizell”); and U.S. Patent No. 7,028,220 to Park <i>et al.</i> (“Park”).

Pet. at 16 (highlighting added).

- In **IPR2018-01383**, Petitioner asserted the exact same references:

Challenge	Claims	Ground
Challenge #1	1, 3, 5-7, 9-11, 13-15, 17, and 20	35 U.S.C. § 103 over U.S. Patent No. 7,409,291 to Pasolini <i>et al.</i> (“Pasolini”) in view of <i>Using the LIS3L02AQ Accelerometer</i> , Ron Goldman, Sun Microsystems Inc. Dated February 23, 2007. (“Goldman”), U.S. Patent No. 7,204,123 to McMahan <i>et al.</i> (“McMahan”), and <i>Using Gravity to Estimate Accelerometer Orientation</i> , David Mizell, Proceedings of the Seventh IEEE International Symposium on Wearable Computers (ISWC ’03) 2003. (“Mizell”)
Challenge #2	8, 16, and 18	35 U.S.C. § 103 over Pasolini, Goldman, McMahan, Mizell, and U.S. Patent No. 7,028,220 to Park <i>et al.</i> (“Park”)

IPR2018-01383, Paper 1 at 18 (highlighting added).

Second, as expressly admitted by Petitioner itself, the newly challenged claim

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