

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PANASONIC CORPORATION, PANASONIC CORPORATION OF NORTH
AMERICA, GOPRO, INC., GARMIN INTERNATIONAL, INC.,

GARMIN USA, INC.,

Petitioners,

v.

CELLSPIN SOFT, INC.,

Patent Owner.

IPR2019-00131

Patent 9,258,698 B2

PATENT OWNER'S REQUEST FOR DIRECTOR REVIEW

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INTRODUCTION

Following the U.S. Supreme Court’s decision in *United States v. Arthrex, Inc.*, 141 S. Ct. 1970 (June 21, 2021), the U.S. Court of Appeals for the Federal Circuit in appeal no. 2020-1948 ordered on August 2, 2021, that this case be remanded to the U.S. Patent and Trademark Office (“USPTO”) for the limited purpose of allowing the Patent Owner Cellspin Soft, Inc. (“Cellspin”) an opportunity to request Director re-hearing of the April 28, 2020, final written decision finding claims 1–22 of U.S. Patent No. 9,258,698 (“the ’698 patent”) unpatentable. Patent owner now requests such a re-hearing before Mr. Andrew Hirshfeld, who is performing the functions and duties of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO. The Board’s decision violates the Administrative Procedures Act (“APA”) for at least the following reasons: (1) the Board relied on its own new invalidity theory with respect to the Zigbee standard; (2) the Board never addressed the second essential limitation of Cellpsin’s proposed construction for a “paired wireless connection”; (3) the Board failed to construe terms in dispute such as “cryptographic authentication,” “a mobile software application,” and “GUI”; (4) the Board relied on its own new theories in finding claims 5 and 8 obvious.

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