

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

UNILOC 2017 LLC,
Patent Owner.

Case IPR2019-00251
Patent 6,993,049 B2

PETITIONER'S MOTION TO FILE SUPPLEMENTAL INFORMATION

PURSUANT TO 37 C.F.R. § 42.123(a)

EXHIBITS

APPLE-1001	U.S. Patent No. 6,993,049 to Davies (“’049 Patent”)
APPLE-1002	Prosecution History of the ’049 Patent (“the Prosecution History”)
APPLE-1003	Declaration of Dr. Charles Knutson
APPLE-1004	Curriculum Vitae of Dr. Charles Knutson
APPLE-1005	U.S. Patent No. 6,704,293 (“Larsson”)
APPLE-1006	IrDA Object Exchange Protocol (“IrOBEX”)
APPLE-1007	Prosecution History of the 7,587,207 Patent (“’207 Prosecution History”)
APPLE-1008	Second Declaration of Dr. Charles Knutson
APPLE-1009	U.S. Patent No. 7,587,207 (“Davies” or the “’207 Patent”)
APPLE-1010	U.S. Patent No. 6,570,857 (“Haartsen”)
APPLE-1011	U.S. Patent No. 6,480,505 (“Johansson”)
APPLE-1012	Specification of the Bluetooth System: Wireless connections made easy, Profiles, Vol. 2, Bluetooth, Dec. 1, 1999 (“BT Profiles”)
APPLE-1013	The New Shorter Oxford English Dictionary on Historical Principles, Vol. 1, Clarendon Press, 1993 (“Oxford Dictionary”)
APPLE-1014	Specification of the Bluetooth System: Wireless connections made easy, Core, Vol. 1, Bluetooth, Dec. 1, 1999 (“BT Core”)
APPLE-1015	U.S. Patent No. 6,683,886 (“Tuijn”)

- APPLE-1016 Internet Archive Capture of
<http://www.bluetooth.com:80/developer/specification/specification.asp> from March 1, 2000
- APPLE-1017 Internet Archive Capture of
<http://www.bluetooth.com:80/developer/specification/core.asp>
from March 1, 2000
- APPLE-1018 Internet Archive Capture of
<http://www.bluetooth.com:80/developer/specification/order.asp>
from March 1, 2000
- APPLE-1019 Internet Archive Capture of
<http://www.bluetooth.com:80/news/archive/archive.asp> from
March 4, 2000
- APPLE-1020 Declaration of Michael Foley

..

Pursuant to 37 C.F.R. § 42.123(a) and Board authorization of August 27, Apple moves to submit Ex. 1020 (Declaration of Dr. Foley) as supplemental information to confirm the public accessibility of Bluetooth (BT) Core (Ex. 1014).

Apple meets both requirements of 37 C.F.R. § 42.123(a). First, Apple requested authorization to file this motion on August 21, which is within one month of the July 22 trial institution date. Second, the supplemental information is relevant to a claim for which trial has been instituted because BT Core (Ex. 1014) is part of instituted Ground 2 challenging claims 11 and 12.

The Board has precedence for granting motions under similar facts. *See, e.g.*, IPR2013-00369, Paper 37, 3-5; IPR2013-00093, Paper 39, 2 (“relates to the claims ... because it is directed to the public accessibility”); IPR2014-01204, Paper 26, 2-5 (“demonstrated online accessibility and attested to the publication and public availability of exhibits”); IPR2018-00643, Paper 18, 3-5 (pertains to “public availability and status as a prior art reference”). Under Rule 42.123(a), “Petitioner need not demonstrate that the supplemental information proffered could not have been obtained earlier” (IPR2014-01204, Paper 26, 4) and “[t]here can be no dispute ... that evidence of a reference’s qualification as prior art ... is relevant to a claim for which trial has been instituted” (IPR2018-00643, Paper 18, 4).

Moreover, Uniloc would not be prejudiced by entry of the supplemental information. Uniloc has not disputed that BT Core (Ex. 1014) is prior art to the

'049 patent, or objected to its inclusion in evidence. Further, ample time remains in the schedule for Uniloc to address the supplemental information – no depositions have been taken and the Patent Owner Response is not due until October 17.

In an email to the Board on August 22, Uniloc professed prejudice, proclaiming that had it “previously argued ... that the same BT Core reference does not qualify as prior art (*see* IPR2018-01092, Paper 8, pp. 2-4).” Not so. In the cited paper (attached as Appendix A), “Patent Owner dispute[d] Petitioner’s allegation that a person of ordinary skill in the art as of January 2002 would ‘readily be familiar with the Bluetooth [] communication standards and implementation of wireless communication using such standards.’” IPR2018-01092, Paper 8, pp. 2-3. Specifically, Uniloc explained that “Petitioner’s definition of POSITA” was incorrect “because the Bluetooth standard was not ratified by the IEEE until June of 2002” and POSITA “would most likely not be familiar with Bluetooth.” *Id.*, pp. 3-4. Uniloc’s dispute over the POSITA definition is *not* an argument that BT Core fails to qualify as a prior art printed publication. On several occasions, Petitioner reached out to Uniloc’s counsel indicating concerns over his inaccurate portrayal of the argument to the Board. Rather than correct the record, Uniloc’s counsel responded with – “the references we cited speak for themselves.” Indeed, they do. Contrary to its statement to the Board, Uniloc did not previously make such an argument.

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.