

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZTE (USA), INC.
Petitioner

v.

CYWEE GROUP LTD.
Patent Owner

Case IPR2019-00525
Patent No. 8,552,978

PATENT OWNER PRELIMINARY RESPONSE

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2004	Expert Declaration of Dr. Joseph LaViola, Ph.D., in Support of Patent Owner Preliminary Response
2005	<i>Curriculum Vitae</i> of Dr. Joseph LaViola, Ph.D.
2006	Order (Doc. 153), <i>Cywee Group Ltd. v. Samsung Elecs. Co., Ltd.</i> , C.A. No. 2:17-CV-00140-WCB-RSP (E.D. Tex., Aug. 14, 2018)
2007	Memorandum Opinion (Doc. 55), <i>CyWee Group Ltd. v. Motorola Mobility LLC</i> , C.A. No. 17-780-RGA (D. Del., Dec. 21, 2018)
2008	File History of U.S. Application No. 10/396,439
2009	File History of U.S. Application No. 12/413,722
2010	File History of U.S. Application No. 13/367,058
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I. SUMMARY

Petitioner has challenged the patentability of Claims 10 and 12 of U.S. Patent No. 8,552,978 (the “‘978 Patent”) based solely on obviousness grounds. Petitioner cannot meet its burden of showing that any of the claims are unpatentable over the asserted combination for at least the following reasons:

- Petitioner’s challenges rely on two different combinations of references—*Zhang* in view of *Bachmann*, and *Liberty* in view of *Bachmann*—neither of which teaches or suggests all the claim limitations.
- The *Bachmann* (Ex. 1004) device is not a “3D pointing device;” it is not a handheld device used to control actions on a display and does not point to anything at all. *Bachmann* merely measures movements of an articulated rigid object such as limbs of a human body. Tellingly, neither Petitioner nor the Board alleges that *Bachmann* discloses a “3D pointing device.” As such, *Bachmann* is not analogous art to the ‘978 Patent. *See infra* Section VI.
- Petitioner’s challenges based on the combination of *Zhang* (Ex. 1005) and *Bachmann* and the combination of *Liberty* (Ex. 1006) and *Bachmann* rely on references that would not be combined by one of ordinary skill in the art. Dr. Joseph LaViola, a PHOSITA with extensive experience in the relevant art, has concluded that one of skill in the art would not be motivated to combine the references because they provide no reason for why they can be combined and,

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