PAPER NO.___

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

STARBUCKS CORPORATION ET AL.

Petitioners

v.

FALL LINE PATENTS, LLC

Patent Owner

CASE IPR2019-00610

PATENT 9,454,748

PATENT OWNER'S SUPPLEMENTAL BRIEF RE CLAIM CONSTRUCTION FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 9,454,748 CHALLENGING CLAIMS 1, 2, 5, 7, AND 19-22

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I. Introduction

This paper is submitted pursuant to the Board's authorization to the parties to provide additional briefing in connection with claim construction issues concerning GPS and device independent or indifferent tokens. Each party is directed to address the four questions set out below.

II. General Comments

All of the text that follows related to claim construction should be understood to be offered for use only in the context of the current *inter partes* review and in light of the prior art of record. Answers should be understood to be reflective of the state of art technology as it existed as of the earliest priority date of the '748 patent, i.e., Jan. 1, 2002.

A. The Operating Instruction System (OIS)

Claims in the '748 patent that call for a tokenized questionnaire require an operating instruction system ("OIS") on the recipient device that can process the tokens of the questionnaire, e.g., Patent Owner's Response ("Response"), p. 10, EX1001 at 7:47-58, *Id.* at 2:18-26. The OIS overlays the native operating system on

each different type of remote device so that the same tokenized questionnaire can be executed without change on each such device. EX2006, ¶26. The OIS implements the internal branching logic of the questionnaire and executes those tokens that are executable. EX1001, 8:31-37, and 4:66 - 5:2.

The OIS handles the interface between the questionnaire and the hardware of the device the OIS is installed on. *Id*. Failure to support a broad access to the hardware of the host device is specifically identified in the '748 patent as one weakness of prior art approaches. *Id* at 2:26-31.

A GPS receiver is an example of the sort of hardware that Java running on wireless devices ("J2ME", Response pp. 12-14) was not equipped to access at the time of the invention. In order to encourage wide acceptance of J2ME, the language had limited capabilities and was designed to accommodate the "lowest common denominator" of such devices. EX 2006, ¶32. The lowest common denominator among such portable devices would not have included a GPS receiver as a standard feature. EX2006 §§32-33.

B. The Questionnaire

A tokenized questionnaire is one to which the instant system has assigned device independent "tokens" to its elements. See EX1001 at 8:15-17, "This series of questions or statements will have been constructed on computer 22 and reduced to tokenized form for transmission to the handheld 28." See also, EX1001 at 8:40-43

(describing how tokens are " assigned" to questions). This patent contemplates that there will be a layer that overlays the operating system on each different type of remote device so that the same questionnaire can be executed without change on that device. Each questionnaire prepared according to the teachings of the '748 patent is then device independent. (e.g., Response, p. 6, EX1001 at 7:47-58).

C. The Interaction between a Questionnaire and the OIS

The tokens in a questionnaire are device independent or indifferent: there is an OIS that has been programmed to interpret the tokens in the questionnaire and execute them. When a questionnaire has a token that corresponds to a request for information from a hardware device, the OIS receives that token and interacts with the hardware (as it has been programmed to do) to obtain the requested information.

III. Response to the Board's Questions

1. Is there any requirement of device independence for step (f) in claim 1? If so, what is that requirement? Must step (f) in claim 1 be performed by executing device indifferent tokens?

In the context of the prior art of record and as of the date the invention was made, if the questionnaire contain a token that requests that the OIS automatically obtain and enter the GPS coordinates into the questionnaire, that token must be device independent. Step 1(f) may be initiated by a device independent token embedded in the questionnaire. The token is interpreted and executed by the OIS.

If the questionnaire requests automatic retrieval and entry of the GPS coordinates that request (token) must be device independent. EX 2006, ¶¶47-49, 52. The OIS controls the automatic collection of GPS data from the device. EX 2006, ¶27.

2. Does step (c) of claim 1 require that all tokens produced by tokenizing the questionnaire be device indifferent?

All of the tokens in the questionnaire in claim 1 must be device indifferent, otherwise the same questionnaire could not be executed without change on each device adapted to work according to the claimed invention. EX1001 at 7: 47-58. Response p. 6. EX 2006, ¶26.

3. Is there any requirement of device independence for steps (d3) in claim 19 and step (a)(4)(ii) in claim 21? If so, what is that requirement? Must steps (d3) in claim 19 and step (a)(4)(ii) in claim 21 be performed by executing device independent tokens? and

As previously indicated, in the context of the prior art of record and as of the date the invention was made, if the questionnaire contains a token that requests that the OIS automatically obtain and enter the GPS coordinates into the questionnaire, that token must be device independent.

Steps 19(d3) and 21(a)(4)(ii) may be initiated by a device independent token that has been embedded in the questionnaire. If the questionnaire requests automatic retrieval and entry of the GPS coordinates that request (token) must be device

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