

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.

Petitioner

v.

UNILOC 2017 LLC

Patent Owner

IPR2019-00701

PATENT 8,018,877

PATENT OWNER SUR-REPLY

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I. INTRODUCTION

Uniloc 2017 LLC (“Uniloc” or “Patent Owner”) submits this Sur-Reply in IPR2019-00701 for *Inter Partes* Review (“Pet.” or “Petition”) of United States Patent No. 8,018,877 (“the ‘877 Patent” or “Ex. 1001”) filed by Apple Inc. (“Petitioner”).

II. PETITIONER’S REPLY UNDERSCORES DEFICIENCIES OF THE PETITION

Petitioner’s Reply underscores the deficiencies of the Petition’s reliance on Kirmse, Chambers, RSIP, Cordenier, and TURN and its failed mappings to the limitations recited in claims 1-20 of the ‘877 Patent.

Petitioner’s Reply not only ignores the clear requirement that “In an inter partes review . . . , the *petitioner* shall have the *burden* of proving a proposition of unpatentability by a preponderance of the evidence” (35 U.S.C. § 316(e)), but also fails Patent Owner’s unambiguous rebuke of Petitioner’s Grounds 1-3, as explained in detail in Patent Owner’s Response. POR, pp. 5-15.

A. **Petitioner’s reliance on Kirmse as disclosing “transmitting a request to a server to allocate a network address and port associated with the server to use in a data exchange session with a participating mobile device” remains deficient (Ground 1) (Independent Claims 1, 8, 15)**

Patent Owner’s Response explains that the Petition fails to show the above-identified limitation, as recited in the claims. POR, pp. 6-8. Petitioner’s Reply (p. 1) confirms its reliance on Kirmse for the above-identified limitations (citing

Petition at pp. 16 and 18-19) and asserts that Patent Owner's Response rebutting the Petition's assertion of Kirmse ignores that Kirmse also teaches processing requests to "start" a game. Reply, p. 2.

The Petition contends, and the Institution Decision indicated, that the Petitioner had met the low threshold of institution for showing, that because Kirmse purportedly teaches to "start" a game, it teaches allocation of a session identifier. E.g., Reply, pp. 1-3. However, there is no disclosure in Kirmse that starting a game comprises allocating a session identifier, and neither Petitioner nor the Institution Decision cite to any such disclosure. In fact, in Kirmse, many games exist regardless of whether particular players are playing, and unused sessions exist to distribute to players as needed. Ex. 1005, 5:54-65. Indeed, Kirmse describes "invoking" a game numerous times throughout the specification, which denotes that the game already exists. See, e.g., Ex. 1005, 6:21-35 (describing invoking of game client).

In fact, contrary to the Petitioner's allegations in its Reply that Kirmse's alleged disclosure of "an embodiment in which a player starts a multiplayer game" is pertinent to this recitation, e.g., Reply, p. 1, of the only four uses of the term "start" in the Kirmse Specification, only one is relevant to the portion of Kirmse relied upon in the Reply for this recitation. Kirmse, states, in relation to Kirmse Fig. 4:

At step S2, the inviter's game client connects to a game server to join or start a game. In response, the game server serves up an active game

(S3) and provides (S4) the inviter with enough information, such as IP address and port number, so the inviter can play the game.

Kirmse, 7:32-36 (emphasis added). This clearly teaches servicing of an active game in response to either joining or starting a game. The service of an active game encompasses providing the inviter with *existing* connection details, and providing of the inviter with the *existing* connection details, in contrast to the claim recitation of receiving a request to *allocate* a session identifier.

The Petitioner hypocritically contends that Patent Owner has somehow waived the argument that starting a game does not disclose allocation of a session identifier. Reply, p. 3. However, a review of the Petitioner's three pages of argument on pages 18-20 of the Petition clearly shows that the *Petitioner does not argue that starting a game discloses allocation of a session*. Not only does Petitioner fail to raise this argument in its attempt to map this claim recitation onto Kirmse on pages 18-20 of the Petition (of which 1 page is Kirmse Fig. 4, which contains no argument), Petitioner does not even use the word "start" in its entire Ground 1 Analysis section (Petition, Section VI.C., pp. 17-34). And yet Petitioner complains that Patent Owner waives the right to rebut an argument never raised in the Petition. Further, Patent Owner notes that it has asserted since the POPR that "according to the disclosure of Kirmse, "the game server serves up an active game (S3) and provides (S4) inviter with enough information, such as IP address and port

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