

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SNAP, INC.,
Petitioner

v.

BLACKBERRY LIMITED,
Patent Owner

Case No. IPR2019-00714
Patent No. 8,825,084

DECLARATION OF PATRICK McDANIEL, PH.D.

TABLE OF CONTENTS

I.	INTRODUCTION AND SCOPE OF WORK	5
II.	QUALIFICATIONS	6
III.	MATERIALS CONSIDERED	10
IV.	PERSON OF ORDINARY SKILL IN THE ART	11
V.	BACKGROUND OF THE '084 PATENT	12
	A. '084 Patent Overview (Ex. 1001).....	12
	B. The Prosecution History of the '084 Patent.....	15
VI.	INTERPRETATION OF THE '084 PATENT CLAIMS AT ISSUE.....	20
	A. "action spot"	21
	B. "determine at least one action spot within a predetermined distance from the current location of the first mobile device"	22
VII.	ANALYSIS OF GROUND 1: ALLEGED OBVIOUSNESS IN VIEW OF WINKLER AND ALTMAN	24
	A. Overview Of Prior Art.....	25
	i. Winkler.....	25
	ii. Altman.....	29
	B. Ground 1 Deficiencies	29
	iii. The Petition Presents Inconsistent Mappings For "The At Least One Action Spot" Of Independent Claims 1 And 9	29
	iv. The Petition Has Not Shown That Winkler's Map Elements Correspond To Activity That "Is Occurring" Under The '084 Patent's Definition of "Action Spot"	34

v.	The Petition Has Not Shown Winkler’s Map Elements Correspond To A Location Where At Least One Second Mobile Device Has Engaged In At Least One Documenting Action ...	38
vi.	The Petition Has Not Shown That The Alleged Winkler-Altman Combination Would Have Set A “Predetermined Distance” Before Determining “The At Least One Action Spot”	41
vii.	The Petition Conflates The Distance From A Tagged Location / Map Element With A Distance From Current Location Of A First Mobile Device	44
viii.	Winkler’s Color-Changing Map Element Is Not A “Graphical Item Identifying A Direction, Relative To The Current Location [Of A First Mobile Device], In Which To Travel In Order To Arrive At The Determined At Least One Action Spot” As Recited In Claim 9	47
VIII.	ANALYSIS OF GROUNDS 2 AND 3: ALLEGED OBVIOUSNESS IN VIEW OF LEMMELA AND CROWLEY (GROUND 2) / IN VIEW OF LEMMELA, CROWLEY, AND WINKLER (GROUND 3).....	50
A.	Overview Of Prior Art.....	51
ix.	Lemmela.....	51
x.	Crowley	53
B.	Grounds 2-3 Deficiencies	54
xi.	Winkler Does Not Disclose A Server Configured To “Receive Data Indicative Of A Current Location Of A First Mobile Device” As Recited In Independent Claim 1	54
xii.	The Petition Has Not Shown That Lemmela’s Groups Of Virtual Location-Based Posts Correspond To Activity That “Is Occurring” Under The ’084 Patent’s Definition of “Action Spot”	60
xiii.	Lemmela Does Not Provide An “Activity Level” As Recited In Independent Claims 1 And 9.....	65

xiv.	Winkler’s Color-Changing Map Element Is Not A “Graphical Item Identifying A Direction, Relative To The Current Location [Of A First Mobile Device], In Which To Travel In Order To Arrive At The Determined At Least One Action Spot” As Recited In Claim 9	69
IX.	LEGAL STANDARDS	71
A.	Obviousness.....	72
XI.	ADDITIONAL REMARKS.....	76

I, Patrick D. McDaniel, of State College, Pennsylvania, declare that:

I. INTRODUCTION AND SCOPE OF WORK

1. I have been retained by Fish & Richardson P.C. as an expert witness on behalf of BlackBerry Limited (“Blackberry” or “Patent Owner”). I understand that Snap, Inc. (“Snap” or “Petitioner”) filed a petition for *inter partes* review (“IPR”) of claims 1-2, 5-6, 9-10, 12-13, and 15 of U.S. Patent No. 8,825,084 (“the ’084 patent”), and the case was assigned case no. IPR2019-00714.

2. I have been asked to provide my independent analysis of the ’084 patent in light of the materials cited below and my knowledge and experience in this field during the relevant period. I have been asked to consider what a person of ordinary skill in the art at the time of the invention of the ’084 patent (a “POSITA”; refer to ¶¶16-17) would have understood from the teachings of the ’084 patent, including scientific and technical knowledge related to the ’084 patent. I have also been asked to consider whether the references cited in the Petition anticipate or render obvious the inventions described by claims 1 and 9 of the ’084 patent. I have been told that this is only a preliminary stage of this proceeding, and accordingly, I address at this stage only certain aspects of the Petition and only some of my analysis of the cited grounds. I reserve the opportunity to address other issues and provide further analysis at a later date should it become necessary.

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.