

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

GOPRO, INC., GARMIN INT'L. AND GARMIN USA, INC.  
Petitioners

vs.

CELLSPIN SOFT, INC.,  
Patent Owner

---

Case IPR2019--01108  
Patent No. 9,258,698

---

**PATENT OWNER'S PRELIMINARY RESPONSE  
UNDER 37 C.F.R. § 42.107**

The undersigned, acting on behalf of the patent owner, Cellspin Soft, Inc. (“Cellspin”), and, pursuant to 37 U.S.C. § 42.120107(a) and 35 U.S.C. § 316313, respectfully responds in opposition to the petition of GoPro, Inc., Garmin International, Inc. and Garmin USA, Inc. (collectively “Petitioner”) for Inter Partes Review (“IPR”) and request that institution be denied, including because Petitioner fails to establish a reasonable likelihood that it would prevail on any claim.

Dated: August 22, 2019

Respectfully submitted,

/s/ John J. Edmonds

John J. Edmonds, Reg. No. 56,184  
**EDMONDS & SCHLATHER, PLLC**  
355 South Grand Avenue, Suite 2450  
Los Angeles, CA 90071  
Telephone: 213-973-7846  
Facsimile: 213-835-6996  
Email: [pto-edmonds@ip-lit.com](mailto:pto-edmonds@ip-lit.com)

Stephen F. Schlather, Reg. No. 45,081  
**EDMONDS & SCHLATHER, PLLC**  
2501 Saltus Street  
Houston, TX 77003  
P: 713-234-0044  
F: 713-224-6651  
E: [sschlather@ip-lit.com](mailto:sschlather@ip-lit.com)

## TABLE OF CONTENTS

EXHIBIT LIST .....	5
I. INTRODUCTION .....	7
II. SUMMARY OF ARGUMENTS .....	8
III. SUPPORTING EVIDENCE .....	9
IV. LEGAL PRINCIPLES .....	9
IV. THE '698 PATENT .....	10
V. THE LEVEL OF ORDINARY SKILL IN THE ART .....	13
VI. ANALYSIS .....	14
A. Claim Construction .....	14
B. Claim Construction Summary .....	29
C. Prior Art Relied Upon by Petitioner .....	29
1. Mashita .....	29
a. Mashita's local wireless link termination issue .....	34
b. Mashita teaches away from a cellular phone using HTTP .....	39
2. Onishi .....	41
3. Hiraishi .....	42
D. Non-obviousness of Claims 1,3-5,7,8,10-13 and 15-20 over Mashita, Onishi, and Hiraishi .....	43
1. "Limitation C" – No paired Connection .....	43
2. "Limitation C" – No Cryptographic Authentication .....	42
3. "Limitation D" – No Established Paired Connection .....	49
4. "Limitation G" – No Data Transfer Request .....	51
5. "Limitation H – No Established Paired Connection .....	53
6. "Limitation J" – No HTTP Upload of New-Media .....	54
7. "Limitation K" – No GUI Deletion of New-Media File .....	57
7. N73 .....	61
8. Z520A .....	61
E. Response to Dr. Strawn's Overview of the State of the Art and the Knowledge of a Person of Ordinary Skill in the Art .....	61
F. Lack of Motivation to Combine Mashita, Onishi and Hiraishi .....	63
G. Claim 5 and Claim 8 – No Single Application Performing Steps .....	64
H. Claim 6 – Mobile Application Performing All Steps Lacking .....	67
I. Conclusions regarding independent claims 1, 5, 8, and 13 .....	68
J. Dependent Claims 3, 4, 7, 10, 11, 12, 15, 16, 17, 18, 19, and 20 .....	68
VII. THIS PROCEEDING AND ANY INVALIDITY RULINGS	

BASED THEREON ARE UNCONSTITUTIONAL, INCLUDING  
UNDER THE FIFTH AND FOURTEENTH AMENDMENTS.....69

VIII. CONCLUSION.....71

## TABLE OF AUTHORITIES

### Cases

<i>Allscripts Healthcare Solutions, Inc. et al. v. Uniloc Luxembourg S.A.</i> , IPR2015-01615, Paper 13 at p. 9 (Feb. 17, 2016) .....	36
<i>KSR Int'l Co. v. Teleflex Inc.</i> , 550 U.S. 398, 418 (2007).....	36
<i>Perreira v. Dep't of Health and Human Serv.</i> , 33 F.3d 1375, 1377 n.6 (Fed.Cir. 1994).....	37
<i>Tre Milano, LLC v. TF3, Ltd.</i> , IPR2015-00649, Paper 37 (P.T.A.B. May 2, 2016) .....	37
<i>Eldred v. Ashcroft</i> , 537 U.S. 186, 203,206 (2003) .....	55
<i>Concrete Pipe &amp; Prods. of Cal. v. Construction Laborers Pens. Trust</i> , 508 U.S. 602, 617-18 (1993) .....	56
<i>In re Murchison</i> , 349 U.S. 133, 136 (1955).....	56
<i>Brown v. Duchesne</i> , 60 U.S. 183, 197 (1857) .....	56
<i>Horne v. Dept' of Ag.</i> , 135 S. Ct. 2419, 2427 (2015).....	56
<i>Celgene Corp. v. Peter</i> , No. 18-1167 (Fed. Cir. July 30,2019).....	56

### Statutes

35 U.S.C. § 313 .....	2
35 U.S.C. § 42.107.....	2

# 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.