

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,  
Petitioner,

v.

LBT IP I LLC,  
Patent Owner.

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IPR2020-01189  
Patent 8,497,774 B2

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Before JOHN A. HUDALLA, SHEILA F. McSHANE, and  
JULIET MITCHELL DIRBA, *Administrative Patent Judges*.

HUDALLA, *Administrative Patent Judge*.

ORDER  
Conduct of the Proceeding  
*37 U.S.C. § 42.5*

A conference call in the above proceeding was held on August 21, 2023, between respective counsel for the parties and Judges Hudalla, McShane, and Dirba. The purpose of the call was to discuss procedures for the remand of this case from the Court of Appeals for the Federal Circuit. *See Papers 41, 42.*

In particular, the Federal Circuit vacated and remanded our obviousness determinations with respect to claims 8, 10, 13, and 15 of the '774 patent. Paper 42, 13. The court's decision hinged on its construction of "multitude of threshold values" in the following limitation of claim 8:

wherein the battery power level monitor measures a power level of the charging unit and adjusts a power level applied to location tracking circuitry responsive to one or more signal levels, the power level comprising a *multitude of threshold values* determined by a user or system administrator to intermittently activate or deactivate the location tracking circuitry to conserve power of the charging unit in response to the estimated charge level of the charging unit.

Ex. 1001, 16:53–61 (emphasis added). The court stated that "[t]he plain and ordinary meaning of multitude in the '774 patent does not encompass two threshold values." Paper 42, 11. Further clarifying its construction, the court stated that "multitude does not include two but must include as few as five threshold values." *Id.* at 13. Thus, the court vacated our determination that Sakamoto's two battery power level thresholds teach the claimed "multitude of threshold values." *Id.*

The court also noted that we did not address Petitioner's alternative argument that Sakamoto teaches at least four threshold values—two battery level thresholds and two GPS signal level thresholds. Paper 42, 13. Accordingly, the court remanded this case to us to determine "whether multitude encompasses three or four threshold values and whether the two

sets of threshold values disclosed in Sakamoto teach a multitude of threshold values.” *Id.*

Petitioner only has put forth a single unpatentability theory for which it contends that Sakamoto teaches more than two threshold values, i.e., that Sakamoto’s two battery level thresholds and two GPS signal level thresholds together teach the recited “multitude of threshold values.”<sup>1</sup> *See* Paper 25, 15–19. Accordingly, we ask the parties to brief whether—as a matter of claim construction—the “threshold values” in the recited “multitude of threshold values” are limited to battery power level threshold values or else whether they may also include signal level threshold values. The panel feels this issue may be dispositive given the present posture of the case. A schedule for simultaneous opening and responsive claim construction briefs is set forth below. No new evidence may be submitted except file histories for patent applications related to the ’774 patent (if necessary).

It is hereby

ORDERED that Petitioner and Patent Owner are each authorized to file one opening brief limited to addressing the construction of “a multitude of threshold values” in claim 8 and whether the recited “threshold values”

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<sup>1</sup> During the call, Petitioner sought leave to develop further unpatentability theories based on Sakamoto to address the possibility that a “multitude of threshold values” might include 3–7 thresholds. Patent Owner countered that this was unnecessary given that Patent Owner had already argued in its Response that a “multitude” was more than two (*see* Paper 17, 14–17) and given that Petitioner had already put forth a new responsive unpatentability theory in its Reply (*see* Paper 25, 15–19). We agree with Patent Owner and do not anticipate opening the record on remand to further unpatentability theories.

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are limited to battery power level threshold values or else whether they may also include signal level threshold values;

FURTHER ORDERED that each opening brief shall be seven pages or less in length and filed no later than September 6, 2023;

FURTHER ORDERED that Petitioner and Patent Owner are each authorized to file one responsive brief limited to addressing the arguments in the other party's opening brief;

FURTHER ORDERED that any responsive brief shall be seven pages or less in length and filed no later than September 20, 2023; and

FURTHER ORDERED that Petitioner and Patent Owner shall not file any additional evidence with their briefs with the exception of file histories for related patent applications.

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