UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,

Petitioner

v.

LBT IP I LLC,

Patent Owner

Case No. IPR2020-01189
U.S. Patent No. 8,497,774

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

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I. INTRODUCTION

Patent Owner's Response (Paper 17, "*Response*") turns on two primary issues. First, Patent Owner argues *Sakamoto* does not teach "a schedule of repeating events or any updating of such schedule," a requirement Patent Owner contends is "implicitly required by" limitations [1(e)] and [8(c)] of the claims of the '774 Patent. Patent Owner's Motion to Amend (Paper 16, "*Motion to Amend"*) at 21; *see also Response* at 9,12. Second, Patent Owner argues that "a multitude in the context of the '774 Patent is necessarily more than two" and that *Sakamoto's* two thresholds are therefore insufficient to form a multitude. *Response* at 14. As discussed below, the Board rejected these arguments at the institution stage, and Patent Owner offers nothing new compelling a different result in a final written decision.

II. CLAIM CONSTRUCTION

A. "Multitude"

In its Preliminary Response (Paper 8, "*POPR*") Patent Owner argued that *Sakamoto's* disclosure of two thresholds was insufficient to teach the claimed "multitude of threshold values." *POPR* at 15–17. Responsive to this argument, the Board interpreted "multitude" to be synonymous with "plurality" based on substantially identical dictionary definitions for the two terms and one dictionary that defined "plurality" as "multitude." Paper 9 ("*Institution Decision*") at 11–12. As best understood, Patent Owner's proposed interpretation for the claim term

"multitude" is "necessarily more than two." *Response* at 14, 16. Such an interpretation lacks any support in the intrinsic or extrinsic evidence, and the Board should maintain the interpretation of "multitude" as being synonymous with "plurality."

1. Prosecution History Disclaimer Must Be "Clear and Unequivocal"

In support of its proposed interpretation of "multitude," Patent Owner argues that prosecution history disclaimer should apply. *Response* at 14–16. In particular, Patent Owner argues the original applicant for the '774 Patent ("Applicant") disclaimed a system with only two threshold values for intermittently activating or deactivating the location tracking circuitry. *Id.* In support of this argument, Patent Owner relies upon Applicant's amendment to incorporate as-filed claim 17, which recited "the power level compris[ing] 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." *Id.* Patent Owner argues that, by incorporating this limitation into rejected claim 8 to overcome the 35 U.S.C. § 102 rejection thereof as anticipated by U.S. Patent No. 7,826,968 to Huang et al. (Ex. 2011, *Huang*), Applicant limited the scope of the claim term "multitude" to "necessarily greater than two." *Response* at 14–16. Per Patent Owner, *Huang* discloses two thresholds.

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