

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TCT Mobile (US) Inc., Huizhou TCL Mobile Communication Co., Ltd., and
Shenzhen TCL Creative Cloud Technology Co., Ltd.,

Petitioners,

v.

ANCORA TECHNOLOGIES INC.,

Patent Owner.

U.S. Patent No. 6,411,941 B1

Case No. IPR2020-01609

**PATENT OWNER'S PRELIMINARY RESPONSE TO PETITION
FOR *INTER PARTES* REVIEW UNDER 37 C.F.R. § 42.107**

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List of Exhibits

Exhibit No.	Description	Date	Identifier
2001	'941 Reasons for Allowance	3/28/2002	
2002	Central District of California Claim Construction Order in <i>Ancora Techs., Inc. v. TCT Mobile, Inc. et al.</i> , 8:19-cv-02192 (CACD)	11/12/2020	
2003	Email from Canavera to Lorelli RE: CC Chart, including attachment	7/17/2020	

I. Introduction

Pursuant to 37 C.F.R. § 42.107, Patent Owner, Ancora Technologies, Inc. (“Patent Owner”), submits the following Preliminary Response to the Petition for *Inter Partes* Review of U.S. Patent No. 6,411,941 (“the ‘941 Patent”).

The Patent Trial and Appeal Board (the “Board”) should deny the Petition for two reasons. *First*, Petitioner treats the claims as a “nose of wax” and asserts completely inconsistent constructions in this proceeding and in the parallel district court proceeding. Here, Petitioner asserts the claims should be interpreted according to their “plain and ordinary meaning” and that it “does not believe that any claim constructions are needed.” Paper No. 1, p. 21. But in the parallel district court litigation, Petitioner adopted *some* of the prior district court claim constructions, disputed *others* with constructions of its own, and asserted *new* constructions for previously-unconstrued claim terms Petitioner described as “most significant.” It cannot be that the same claim terms require construction (and have been construed) in the district court at Petitioner’s urging, but not in this proceeding. The claim terms are the same, they are subject to the same claim construction standard, and Petitioner offers no reason for departing from the prior district court constructions. Because Petitioner takes inconsistent positions in the two proceedings and has failed to apply the district court constructions (or its own) to the prior art, the Board should deny the petition.

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