UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,

Petitioner

v.

BILLJCO LLC,

Patent Owner

CASE: IPR2022-00310

U.S. PATENT NO. 9,088,868

PATENT OWNER'S PRELIMINARY RESPONSE

PURSUANT TO 35 U.S.C. § 313 AND 37 C.F.R. § 42.107(a)

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I. INTRODUCTION

Petitioner Apple, Inc. ("Petitioner") has not met its burden in demonstrating that U.S. Patent No. 9,088,868 ("the '868 patent") is more likely than not invalid, and, as such, institution should be denied.

Petitioner's contention that the challenged claims of the '868 patent are invalid as obvious lacks merit. Petitioner relies on one primary prior art reference—U.S. Patent Application Publication US 2005/0096044 A1 to Haberman (Ex. 1004). The Petition is facially defective in that it fails to demonstrate "a reasonable likelihood that the Petitioner would prevail with respect to at least one of the claims challenged in the petition" under 35 U.S.C. § 314(a).

Petitioner's obviousness arguments fail because none of the cited references teach or suggest the recited "the first identifier indicative of the mobile data processing system of the mobile application user interface". Petitioner twice attempts to equate an address with this feature. However, the addresses in Haberman and Boger that Petitioner attempts to utilize are no more "indicative of" the "**system**" at that address in each reference than a given street address is "indicative of" whether or what structure is located on that piece of land.

Neither the Petition, nor the declaration submitted by Petitioner's expert, provide an articulated reasoning with a rational underpinning to support a legal conclusion of obviousness. *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007),

quoting In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006). The Petition only provides "mere conclusory statement[s]" (*id.*) that the claims are obvious, and lacks cogent reasoning as to why a person of ordinary skill in the art would modify or combine the cited references in the specific manner that is recited in each of the challenged claims.

Petitioner's expert declaration (Ex. 1002) merely repeats the attorney arguments in the Petition (often verbatim).

In summary, the IPR Petition fails to show a reasonable likelihood that at least one of the challenged claims of the '868 patent is unpatentable. The Board should not institute *inter partes* review of the '868 patent and should deny the Petition in its entirety.

II. ALLEGED GROUNDS OF UNPATENTABILITY

Petitioner alleges the following grounds of unpatentability under 35 U.S.C. § 103 against independent claims 1 and 24 and dependent claims 2, 5, 20, 25, 28, and 43. Pet. 4. All are deficient in meeting the challenged claims.[1]

	Grounds	Reference(s)	Challenged Claims
1.	§ 103	Haberman	1, 2, 5, 20, 24, 25, 28, and 43
2.	§ 103	Haberman in view of Boger	1, 2, 5, 20, 24, 25, 28, and 43
3.	§ 103	Haberman in view of Evans	1, 2, 5, 20, 24, 25, 28, and 43
4.	§ 103	Haberman in view of Boger and Evans	1, 2, 5, 20, 24, 25, 28, and 43

III. THE '868 PATENT

The '868 Patent enables the configuration and performance of location based conditions. The claimed methods and systems recite accepting user input, from a user of a mobile application user interface of a user carried mobile data processing system, for configuring a user specified location based event configuration to be monitored and triggered by the mobile data processing system. The mobile data

[1] Patent Owner appreciates Petitioner's recognition that the claims "should be interpreted according to their plain and ordinary meaning." Pet. 6.

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