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.

BILLJCO LLC,
Patent Owner.

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IPR2022-00310
Patent 9,088,868 B2

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Before THU A. DANG, LYNNE H. BROWNE, and
GARTH D. BAER, *Administrative Patent Judges*.

DANG, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining All Challenged Claims Unpatentable
35 U.S.C. § 318(a)

I. INTRODUCTION

A. Background

In response to a Petition (Paper 2, "Pet.") filed by Apple Inc. ("Petitioner"), we instituted *inter partes* review of claims 1, 2, 5, 20, 24, 25, 28, and 43 ("the challenged claims") of U.S. Patent No. 9,088,868 B2 (Ex. 1001, "the '868 patent"). *See* Paper 8 ("Dec. Inst."). During trial, BillJCo, LLC ("Patent Owner") filed a Response (Paper 20, "PO Resp.")[1], to which Petitioner filed a Reply (Paper 23, "Pet. Reply."). In turn, Patent Owner filed a Sur-reply. Paper 25 ("PO Sur-reply"). An oral hearing was held with the parties on April 14, 2023. A transcript of the hearing has been entered into the record. Paper 32 ("Tr.").

We have jurisdiction under 35 U.S.C. § 6. This Decision is a Final Written Decision under 35 U.S.C. § 318(a) as to the patentability of the claims on which we instituted trial.   Based on the record before us, Petitioner has shown by a preponderance of the evidence that claims 1, 2, 5, 20, 24, 25, 28, and 43 of the '868 patent are unpatentable.

B. Real Parties in Interest

The parties identify themselves as the only real parties in interest. Pet. 1; Paper 3, 2.

C. Related Proceedings

The parties indicate that the '868 patent is the subject of the following district court cases: 1) *BillJCo, LLC v. Apple Inc.*, No. 6:21-cv-00528 (W.D. Tex.) ("District Court Litigation"); 2) *BillJCo, LLC v. Cisco Systems, Inc.*,

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[1] We refer to the public, redacted version of the Response.

No. 2:21-cv-00181 (E.D. Tex.); and 3) *BillJCo, LLC v. Hewlett Packard Enterprise Company*, No. 2:21-cv-00183 (E.D. Tex.). Pet. 1; Paper 3, 2.

D. The '868 Patent

The '868 patent, titled "Location Based Exchange Permissions," issued on July 21, 2015, from Application No. 14/087,313, filed on November 22, 2013. Ex. 1001, codes (54), (45), (21), (22).

The '868 patent relates to "location based exchanges of data between distributed mobile data processing systems [(MSs)] for locational applications." *Id.* at 1:20–24. The '868 patent states that the "[a]dvantages of having a service as the intermediary point between clients, users, and systems, and their associated services, include[] centralized processing, centralized maintaining of data, . . . [and] having a supervisory point of control." *Id.* at 1:39–46. But "[w]hile a centralized service has its advantages, there are also disadvantages." *Id.* at 1:66–67. For example, according to the '868 patent, a centralized service may "suffer from performance and maintenance overhead" and presents concerns about the "privacy" of users' "personal information." *Id.* at 2:6–7, 2:43–53.

To address these alleged disadvantages, the '868 patent states that "[a] reasonable requirement is to push intelligence out to the mobile data processing systems themselves, for example, in knowing their own locations and perhaps the locations of other nearby mobile data processing systems." *Id.* at 2:59–62. Specifically, the '868 patent describes "a new terminology, system, and method referred to as Location Based eXchanges (LBX)." *Id.* at 3:57–59. It is a "foundation requirement" of LBX "for each participating [mobile data processing system] to know, at some point in time, their own whereabouts." *Id.* at 4:9–11. "When two or more MSs know their own

whereabouts, LBX enables distributed locational applications whereby a server is not required to middleman social interactions between the MSs." *Id.* at 4:14–17.

Whereabouts information may be communicated between MSs at great distances from each other provided there are privileges and/or charters in place making such whereabouts information relevant for the MS. *Id.* at 12:53–57. Whereabouts information of others will not be maintained unless there are privileges in place to maintain it. *Id.* at 12:58–59. Whereabout information may not be shared with others if there have been no privileges granted to a potential receiving MS. *Id.* at 12:59–61. Privileges can provide relevance to what whereabouts information is of use, or should be processed, maintained, or acted upon. *Id.* at 12:62–64.

An illustration of an embodiment of the '868 patent's Whereabouts Data Record (WDR) is depicted in Figure 11A, reproduced below:
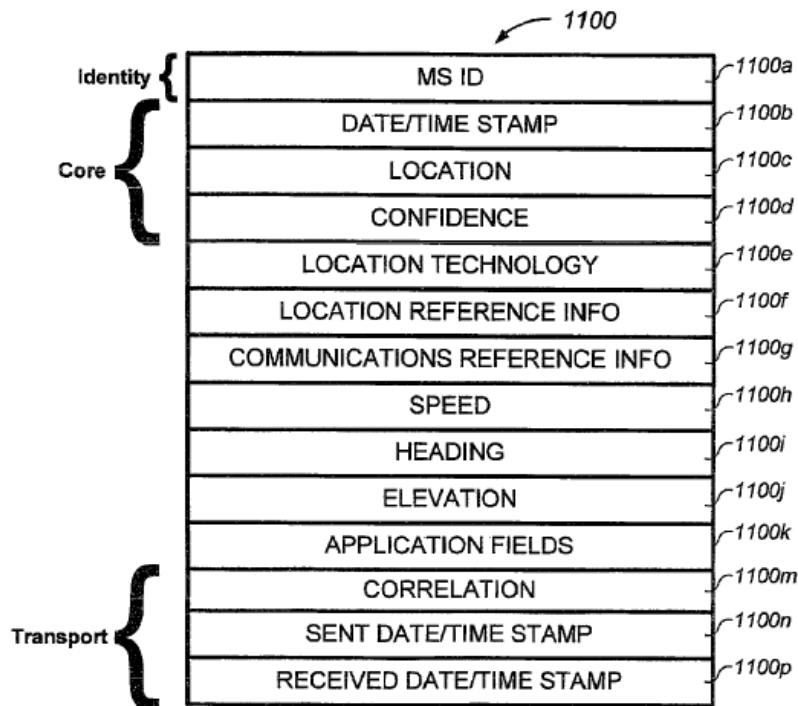
Figure 11A shows WDR 1100 comprising WDR fields 1100a–1100p. As shown in Figure 11A, MS ID field 1100a is set with "Unique MS identifier of the MS" invoking whereabout data insertion. *Id.* at 32:27–28. This field is used to distinguish the MS WDR on queue from other originated WDRs. *Id.* at 32:28–30.

An illustration of an embodiment of the '868 patent's Granting Data Record (GDR) is depicted in Figure 35A, reproduced below:
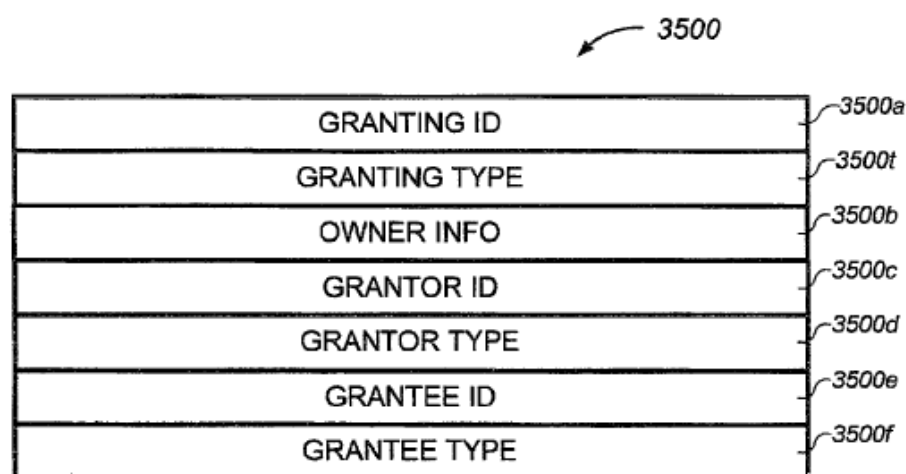

Figure 35A shows GDR 3500 comprising GDR fields 3500a–3500f. In Figure 35A, GDR 3500 is the main data record for defining a granting of permissions or charter. *Id.* at 142:54–55. Granting ID field 3500a contains a unique number generated for record 3500 to distinguish from all other records maintained. *Id.* at 32:28–30. Granting type field 3500t distinguishes the type of permission or charter for: a grantor granting all privileges to a grantee, grantor granting specific privilege(s) and/or grants of privileges (permission(s)) to a grantee, and a grantor granting enablement of a charter to a grantee. *Id.* at 142:66–143:8. Owner info field 3500b provides the owner (creator and/or maintainer) of GDR 3500. *Id.* at 143:8–19. Grantor

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