

DOCKET NO.: 337722-000232

Filed on behalf of Apple Inc.

By: Larissa S. Bifano, Reg. No. 59,051
Joseph W. Wolfe, Reg. No. 73,173
Zachary Conrad, Reg. No. 77,682

DLA Piper LLP (US)
33 Arch Street, 26th Floor
Boston, Massachusetts 02110-1447
Email: Larissa.Bifano@dlapiper.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner

v.

BILLJCO LLC,
Patent Owner

IPR2022-00310

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

Mail Stop **Patent Board**
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. CLAIM CONSTRUCTION	2
A. No construction is necessary	2
1. “Location Based Event Configuration”	2
2. “Identifier Data . . . For A Wireless Data Record”	4
III. HABERMAN RENDERS OBVIOUS THE CHALLENGED CLAIMS OF THE ’868 PATENT	5
A. Haberman’s Preferences are “A User Specified Location Based Event Configuration”	5
1. Haberman’s Preferences are not Optional	7
B. Haberman discloses “identifier data . . . for a wireless data record”	8
1. Haberman’s User Grants the Sender a Right	8
C. Haberman discloses the claimed “first identifier”	9
1. Haberman’s IP address is the first identifier	10
2. Haberman’s GPS information is the first identifier	11
D. Haberman discloses the claimed “second identifier”	12
E. Haberman discloses the claimed “third identifier”	13
IV. THE COMBINATION OF HABERMAN AND BOGER RENDERS OBVIOUS THE CHALLENGED CLAIMS	14
V. NO NEXUS BETWEEN THE CHALLENGED CLAIMS AND OBJECTIVE INDICIA OF NON-OBVIOUSNESS	16
A. Copying	16
B. Commercial Success	17

C. Licenses18

VI. CONCLUSION.....20

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<u>Cases</u>	
Chemours Company FC, LLC v. Daikin Industries, Ltd. 4 F.4th 1370 1378 (Fed. Cir. 2021).....	18
Cirrus Design Corporation v. Fleming, 2021 WL 54778 (PTAB, Jan. 6, 2021)	17
EWP Corp. v. Reliance Universal Inc., 755 F.2d 898, 908 (Fed.Cir.1985).....	18, 19
Fleming v. Cirrus Design Corp., 28 F.4th 1214, 1224 (Fed. Cir. 2022)	17
In re Huang, 100 F.3d 135, 140, 40 USPQ2d 1685, 1690 (Fed. Cir. 1996)	18
Iron Grip Barbell Co., Inc. v. USA Sports, Inc., 392 F.3d 1317, 1325 (Fed. Cir. 2004).....	16, 18
SIBIA Neurosciences, Inc. v. Cadus Pharm. Corp., 225 F.3d 1349, 1358 (Fed.Cir.2000).....	19

Exhibits

Exhibit	Description
1001	U.S. Patent No. 9,088,868
1002	Declaration of Dr. Thomas La Porta
1003	Prosecution History of U.S. Patent No. 9,088,868
1004	U.S. Patent Publication No. 2005/0096044 to Haberman et al.
1005	U.S. Patent Publication No. 2002/0159401 to Boger
1006	U.S. Patent No. 6,327,535 to Evans et al.
1007	<i>BillJCo, LLC v. Apple Inc.</i> , Case No. 6:21-cv-00528-ADA, Dkt. 27, Agreed Scheduling Order.
1008	Thom Tillis letter to Andrew Hirschfeld dated November 2, 2021.
1009	“How reliable are trial dates relied on by the PTAB in the Fintiv analysis?”, Andrew Dufresne et al., 1600ptab.com (October 29, 2021).
1010	<i>Fintiv, Inc. v. Apple Inc.</i> , 6:21-CV-00926-ADA, Dkt. 41 2, Order.
1011	Erik Fuehrer letter to Brian R. Michalek dated November 23, 2021
1012	May 26, 2022 Order Granting Apple Inc’s Petition for Writ of Mandamus

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.