

DOCKET NO.: 337722-000255

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

IPR2022-00426

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. “Beaconed By The Sending Data Processing System”	2
2. “Transmitting . . . The Broadcast Unidirectional Wireless Data Record for Receipt By A Plurality Of Receiving Mobile Data Processing System In A Wireless Vicinity Of The Sending Data Processing System”	5
III. HIMMELSTEIN IN COMBINATION WITH MYR RENDERS OBVIOUS THE CHALLENGED CLAIMS OF THE ’804 PATENT	6
A. The Combination of Himmelstein and Myr Discloses “Beaconed By The Sending Data Processing System”	7
B. The Combination of Himmelstein and Myr Discloses “Transmitting ... The Broadcast Unidirectional Wireless Data Record For Receipt By A Plurality Of Receiving Mobile Data Processing System In A Wireless Vicinity Of The Sending Data Processing System ...”	9
C. Motivation to Combine Myr with Himmelstein.....	12
IV. NO NEXUS BETWEEN THE CHALLENGED CLAIMS AND OBJECTIVE INDICIA OF NON-OBVIOUSNESS.....	15
A. Copying	16
B. Commercial Success.....	19
C. Licenses	20
V. CONCLUSION.....	21

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Cable Elec. Prods., Inc. v. Genmark, Inc.</i> , 770 F.2d 1015, 1028 (Fed. Cir. 1985)	18
<i>Chemours Company FC, LLC v. Daikin Industries, Ltd.</i> , 4 F.4th 1370 1378 (Fed. Cir. 2021)	19
<i>Cirrus Design Corporation v. Fleming</i> , 2021 WL 54778 (PTAB, Jan. 6, 2021)	16
<i>EWP Corp. v. Reliance Universal Inc.</i> , 755 F.2d 898 (Fed.Cir.1985)	20
<i>Fleming v. Cirrus Design Corp.</i> , 28 F.4th 1214, 1224 (Fed. Cir. 2022)	16
<i>Graham v. John Deere Co.</i> , 383 U.S. 1, 148 USPQ 459 (1966)	12
<i>In re Huang</i> , 100 F.3d 135, 40 USPQ2d 1685 (Fed. Cir. 1996)	19
<i>Iron Grip Barbell Co., Inc. v. USA Sports, Inc.</i> , 392 F.3d 1317 (Fed. Cir. 2004)	16, 20
<i>In re Keller</i> , 642 F.2d 413, 208 USPQ 871 (CCPA 1981)	7
<i>KSR Intern. Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007)	12
<i>Liqwd, Inc. v. L'Oreal USA, Inc.</i> , 941 F.3d 1133 (Fed. Cir. 2019)	16, 17
<i>L’Oreal USA, Inc. v. Olaplex, Inc.</i> , (Fed. Circ. 2021)	17, 18

In re Merck & Co., Inc.,
800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986)7

SIBIA Neurosciences, Inc. v. Cadus Pharm. Corp.,
225 F.3d 1349 (Fed.Cir.2000)20

Exhibits

Exhibit	Description
1001	U.S. Patent No. 8,761,804 (“the ’804 Patent”)
1002	Prosecution History of U.S. Patent No. 8,761,804
1003	Curriculum Vitae of Darrell D.E. Long
1004	Declaration of Darrell D.E. Long, dated January 14, 2022
1005	U.S. Patent No. 7,123,926 (“Himmelstein”)
1006	U.S. Patent Application Publication No. 2003/0014181 (“Myr”)
1007	U.S. Patent No. 6,327,535 (“Evans”)
1008	U.S. Patent No. 8,600,341
1009	Prosecution History of U.S. Patent No. 8,600,341
1010	U.S. Patent Application Publication No. 2007/0030824 (“Ribaldo”)
1011	<i>BillJCo, LLC v. Apple Inc.</i> , Case No. 6:21-cv-528, Apple, Inc.’s Opening Claim Construction Brief, Dkt. No. 32 (W.D. Tex. Dec. 2, 2021)
1012	<i>BillJCo, LLC v. Apple Inc.</i> , Case No. 6:21-cv-528, Agreed Scheduling Order, Dkt. No. 27 (W.D. Tex. Sept. 11, 2021)
1013	<i>BillJCo, LLC v. Cisco Sys., Inc.</i> , Case No. 2:21-cv-181, <i>BillJCo, LLC v. Hewlett-Packard Enterprise Co. and Aruba Networks</i> , Case No. 2:21-cv-183, Docket Control Order, Dkt. No. 44 (E.D. Tex. Oct. 25, 2021)
1014	Dufresne, A., et al., <i>How Reliable are Trial Dates Relied on by the PTAB in the Fintiv Analysis?</i> (Oct. 29, 2021)
1015	<i>Fintiv, Inc. v. Apple Inc.</i> , Case No. 6:21-cv-926-ADA, Order (Oct. 4, 2021)
1016	<i>BillJCo, LLC v. Cisco Sys., Inc.</i> , Case No. 2:21-cv-181, Cisco

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.