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Paper 41
Date: June 27, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

BILLJCO LLC,
Patent Owner.

IPR2022-00426
Patent 8,761,804 B2

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

BAER, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. BACKGROUND

Apple Inc. ("Petitioner")[1] filed a Petition (Paper 4, "Pet.") requesting an *inter partes* review of claims 1 and 10–12 ("the challenged claims") of U.S. Patent No. 8,761,804 B2 (Ex. 1001, "the '804 patent"). BillJCo, LLC ("Patent Owner") filed a Preliminary Response (Paper 8, "Prelim. Resp.") to the Petition. Pursuant to 35 U.S.C. § 314, we instituted this *inter partes* review as to all of the challenged claims and all grounds raised in the Petition. Paper 16 ("Institution Dec.").

Following institution, Patent Owner filed a Response. Paper 28 ("PO Resp."). Petitioner filed a Reply to Patent Owner's Response (Paper 34, "Pet. Reply"), and Patent Owner filed a Sur-reply (Paper 36, "PO Sur-reply"). On April 14, 2023, we held an oral hearing. A transcript of the hearing is included in the record. Paper 40.

We have jurisdiction under 35 U.S.C. § 6. This decision is a Final Written Decision issued pursuant to 35 U.S.C. § 318(a). For the reasons we discuss below, we determine that Petitioner has proven by a preponderance of the evidence that claims 1 and 10–12 are unpatentable.

B. RELATED PROCEEDINGS

The parties indicate that the '804 patent is the subject of the following district court cases: *BillJCo, LLC v. Apple Inc.*, No. 6:21-cv-00528 (W.D. Tex.); *BillJCo, LLC v. Cisco Systems, Inc.*, No. 2:21-cv-00181 (E.D. Tex.)

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[1] Cisco Systems, Inc., Hewlett Packard Enterprise Co., and Aruba Networks, LLC were originally parties to this proceeding, but have now been terminated. Paper 14; Paper 25.

("ED Litigation"); and *BillJCo, LLC v. Hewlett Packard Enterprise Company*, No. 2:21-cv-00183 (E.D. Tex.). Pet. 1; Paper 6, 2.

C. Real Party in Interest

The parties identify themselves as the real parties in interest. Pet. 1; Paper 6, 2.

D. The '804 Patent

The '804 patent "relates generally to location based services for mobile data processing systems, and more particularly to location based exchanges of data between distributed mobile data processing systems for locational applications." Ex. 1001, 1:20–24. The '804 patent's claims recite a "sending data processing system," that accesses four types of information associated with the sending data processing system: "identity information," "application information," "location information," and "reference information." *Id.* at 117:60–118:7. The four types of accessed information are combined into a "broadcast unidirectional wireless data record" that the sending data processing system transmits to "receiving mobile data processing systems in a wireless vicinity of the sending data processing system." *Id.* at 118:24–52.

E. Challenged Claims

Of the challenged claims, claim 1 is independent. Claim 1 is reproduced below.

> 1. A method by a sending data processing system, the method comprising:
>
> accessing, by the sending data processing system, identity information for describing an originator identity associated with the sending data processing system;
>
> accessing, by the sending data processing system, application information for an application in use at the sending data processing system;

accessing, by the sending data processing system, location information associated with the sending data processing system;

accessing, by the sending data processing system, reference information for further describing the location information associated with the sending data processing system;

preparing, by the sending data processing system, a broadcast unidirectional wireless data record including:

the identity information for describing the originator identity associated with the sending data processing system,

the application information for the application in use at the sending data processing system,

the location information associated with the sending data processing system, and

the reference information for further describing the location information associated with the sending data processing system;

maintaining, by the sending data processing system, a configuration for when to perform beaconing of the broadcast unidirectional wireless data record; and

transmitting, by the sending data processing system, the broadcast unidirectional wireless data record for receipt by a plurality of receiving mobile data processing systems in a wireless vicinity of the sending data processing system wherein the broadcast unidirectional wireless data record is beaconed by the sending data processing system in accordance with the configuration for when to perform beaconing, and wherein the broadcast unidirectional wireless data record includes at least:

the identity information for describing the originator identity associated with the sending data processing system wherein the identity information is for an alert determined by each receiving mobile data processing system of the plurality of receiving mobile data processing systems that the each receiving mobile data processing system is in the wireless vicinity of the sending data processing system,

> the application information for the application in use at the sending data processing system,
>
> the location information associated with the sending data processing system to be used by the each receiving mobile data processing system for determining their own location relative to the location information, and
>
> the reference information for further describing the location information associated with the sending data processing system for describing to the each receiving mobile data processing system useful information associated with the sending data processing system.

Ex. 1001, 117:60–118:52.

F. Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability. Pet. 15.

Claims Challenged	35 U.S.C. §[2]	References/Basis
1, 10–12	103	Himmelstein[3], Myr[4]
1, 10–12	103	Himmelstein, Myr, Evans[5]

II. PRELIMINARY MATTERS

A. Level of Ordinary Skill

Petitioner argues that a person of ordinary skill in the art would have had "a bachelor's degree in computer science, computer engineering, or an equivalent, as well as two years of professional experience, and a POSITA would have had a working knowledge of hardware and software for location

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[2] Because the challenged claims of the challenged patent have an effective filing date before March 16, 2013, we apply the pre-AIA ("America Invents Act") version of § 103. Leahy-Smith America Invents Act ("AIA"), Pub. L. No. 112-29, 125 Stat. 284, 285–88 (2011).
[3] U.S. 7,123,926 B2, Oct. 17, 2006 (Ex. 1005, "Himmelstein").
[4] U.S. 2003/0014181 A1, published Jan. 16, 2003 (Ex. 1006, "Myr").
[5] U.S. 6,327,535 B1, Dec. 4, 2001 (Ex. 1007, "Evans").

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