

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD**

APPLE INC.,
Petitioner

v.

BILLJCO LLC,
Patent Owner

CASE: IPR2022-00426
U.S. PATENT NO. 8,761,804

PATENT OWNER'S RESPONSE
PURSUANT TO 35 U.S.C. §§ 316(a)(8)

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	PETITIONER'S UNPATENTABILITY GROUNDS.....	1
III.	THE '804 PATENT	2
IV.	PETITIONER'S CITED PRIOR ART.....	7
	A. Himmelstein	7
	B. Myr	11
	C. Evans	12
V.	LEVEL OF ORDINARY SKILL IN THE ART	13
VI.	CLAIM CONSTRUCTION	13
	A. "Beaconed By The Sending Data Processing System"	15
	B. "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 ..."	18
VII.	NEITHER PETITIONER'S GROUNDS 1 OR 2 RENDER THE CHALLENGED CLAIMS UNPATENTABLE AS OBVIOUS.....	19
	A. GROUND 1: Himmelstein In Combination With Myr Fails To Render Any Challenged Claim Obvious	20
	1. Himmelstein In Combination With Myr Fails To Disclose The "Beaconed By The Sending Data Processing System" Limitation.....	20
	2. Himmelstein And Myr Fail To Disclose The "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	23
3. Petitioner's Reasons For Combining Himmelstein With Myr Are Insufficient	28
B. GROUND 2: Petitioner's Ground 2 Is Inapplicable.....	31
VIII. OBJECTIVE INDICIA OF NON-OBVIOUSNESS DEMONSTRATES THE PATENTABILITY OF THE CHALLENGED CLAIMS	32
A. Copying	33
1. Petitioner's Access to the '804 Patented Technology.....	33
2. Petitioner's Devices Embody The Challenged Claims	35
B. Commercial Success.....	38
C. Licensing	39
D. The Nexus Between The Challenged Claims And The Objective Evidence of Non-Obviousness	40
IX. CONCLUSION.....	42

TABLE OF AUTHORITIES

Cases:

DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc., 567 F.3d 1314 (Fed. Cir. 2009)	30, 31
Fox Factory, Inc. v. SRAM, LLC, 944 F.3d 1366 (Fed. Cir. 2019)	40
Graham v. John Deere Co. of Kan. City, 383 U.S. 1, 86 S.Ct. 684 (1966)	19
In re Gartside, 203 F.3d 1305 (Fed. Cir. 2000)	19
In re Warsaw Orthopedic, Inc., 832 F.3d 1327 (Fed. Cir. 2016)	20
Institut Pasteur & Universite Pierre Et Marie Curie v. Focarino, 738 F.3d 1337 (Fed. Cir. 2013)	39
J.T. Eaton & Co. v. ATl. Paste & Glue Co., 106 F.3d 1563 (Fed. Cir. 1997)	41
Lectrosonics, Inc. v. Zaxcom, Inc., IPR2018-01129, Paper 33 at 33 (PTAB Jan. 24, 2020)	41
Liqwd, Inc. v. L'Oreal USA, Inc., 941 F.3d 1133 (Fed. Cir. 2019)	33
Panduit Corp. v. Dennison Mfg. Co., 774 F.2d 1082 (Fed. Cir. 1985)	33
Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005) (en banc)	13, 14, 15
Thorner v. Sony Computer Entm't Am. LLC, 669 F.3d 1362 (Fed. Cir. 2012)	13

Transocean Offshore Deepwater Drilling Inc. v. Maersk Drilling USA, Inc., 699 F.3d 1340 (Fed. Cir. 2012)	32
United States v. Adams, 383 U.S. 39, 86 S.Ct. 708 (1966)	19
WBIP, LLC v. Kohler Co., 829 F.3d 1317 (Fed. Cir. 2016)	32, 33, 38, 41

Other Authority:

35 U.S.C. § 103	19
37 C.F.R. § 42.100(b)	13

All **emphasis** supplied unless otherwise noted.

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.