

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

CPC PATENT TECHNOLOGIES PTY, LTD.,
Patent Owner.

IPR2022-00602
Patent 9,665,705 B2

Before SCOTT A. DANIELS, BARRY L. GROSSMAN, and
AMBER L. HAGY, *Administrative Patent Judges*.

GROSSMAN, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background and Summary

Apple Inc. (“Petitioner” or “Apple”) filed a Petition for *inter partes* review of claims 1, 4, 6, 10–12, and 14–17 (collectively, the “challenged claims”) of U.S. Patent No. 9,655,705 B2 (Ex. 1001, “the ’705 patent”). Paper 1 (“Pet.”). CPC Patent Technologies PTY, Ltd. (“Patent Owner” or “CPC”) timely filed a Preliminary Response to the Petition. Paper 7 (“Prelim. Resp.”). With our authorization, Petitioner filed a Preliminary Reply (Paper 8 (“Prelim. Reply”)) addressing the issue of discretionary denial raised in the Preliminary Response and Patent Owner filed a Prelim. Sur-Reply (Paper 9 (“Prelim. Sur-Reply”)).

We concluded that Petitioner satisfied the burden, under 35 U.S.C. § 314(a), to show that there was a reasonable likelihood that Petitioner would prevail with respect to at least one of the challenged claims. Accordingly, on behalf of the Director (37 C.F.R. § 42.4(a)), and in accordance with *SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348, 1353 (2018), we instituted an *inter partes* review of all the challenged claims, on all the asserted grounds. Paper 11 (“Dec. Inst.”).

Patent Owner filed a Response. Paper 17 (“PO Resp.”). Petitioner filed a Reply. Paper 20 (“Reply”). Patent Owner filed a Sur-reply. Paper 26 (“Sur-reply”).

Petitioner submitted eighty exhibits. *See* Exs. 1001–1091¹ (some consecutive exhibit numbers were *not* used; *e.g.*, there are no exhibits

¹ Exhibit 1091 is a demonstrative exhibit used at the final hearing. It is not an evidentiary exhibit. *See* PTAB Consolidated Trial Practice Guide, 84 (Nov. 2019 (“TPG”)) (“Demonstrative exhibits used at the final hearing are aids to oral argument and not evidence”).

numbered 1056–1064); *see also* Paper 28 (Petitioner’s Updated Exhibit List stating that Exhibit numbers 1056–1064 were “Intentionally left blank.”). Petitioner relies on the Declaration testimony of Andrew Sears, Ph.D. *See* Exs. 1003, 1090.

Patent Owner submitted sixteen exhibits. *See* Exs. 2001–2016²; *see also* Paper 29 (Patent Owner’s Updated Exhibit List). Patent Owner relies on the Declaration testimony of William C. Easttom III, D. Sc., Ph.D. *See* Exs. 2013, 2014.

A hearing was held June 29, 2023. (Paper 30) (“Transcript or “Tr.”).

We have jurisdiction under 35 U.S.C. § 6. We enter this Final Written Decision pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73.

Petitioner has the burden of proving unpatentability of a claim by a preponderance of the evidence. 35 U.S.C. § 316(e).

Based on the findings and conclusions below, we determine that Petitioner has proven that claims 1, 4, 6, 10–12, and 14–17 are unpatentable.

B. Real Parties-in-Interest

Apple identifies itself as the sole real party-in-interest. Pet. 62.

CPC also identifies itself as the sole real party-in-interest. Paper 4, 2.

C. Related Matters

Petitioner and Patent Owner each identify the following two district court proceedings as related matters: (1) *CPC Patent Technologies Pty Ltd. v. Apple Inc.*, Case No. 6:21-cv-00165-ADA (W.D. Tex.); and (2) *CPC Patent Technologies Pty Ltd. v. HMD Global Oy*, Case No. 6:21-cv-00166-ADA (W.D. Tex.) (the “HMD W.D. Texas case”). Pet. 62; Paper 4, 2.

² Exhibit 2016 is a demonstrative exhibit used at the final hearing. It is not an evidentiary exhibit. *See id.*

The first listed case, between the same parties involved in this *inter partes* review proceeding, however, has been transferred to the Northern District of California. *See In re Apple Inc.*, 2022 WL 1196768 (Fed. Cir. Apr. 22, 2022); *see also* Ex. 3002 (Text Order granting Motion to Change Venue). The case is now styled *CPC Patent Technologies Pty Ltd. v. Apple Inc.*, No. 5:22-cv-02553 (N.D. Cal.) (the “Apple N.D. California case”). *See* Ex. 3003 (PACER Docket for the transferred case); Prelim. Resp. 1, fn 1 (Patent Owner acknowledging the transfer from the Western District of Texas to the Northern District of California).

Petitioner and Patent Owner also each identify the following two pending *inter partes* review proceedings as related matters: (1) IPR2022-00600, challenging claims in Patent 8,620,039; and (2) IPR2022-00601, challenging claims in Patent 9,269,208, which is the “parent” of the ’705 patent. *See* Ex. 1001, code (63). A final written decision in the 00600 IPR is due October 17, 2023. A final written decision in the 00601 IPR is being issued simultaneously with this Decision in the case before us.

D. The ’705 Patent

We make the following findings concerning the disclosure of the ’705 patent.

The ’705 patent discloses a system “for providing secure access to a controlled item.” Ex. 1001, Abstr. The “controlled item” can be, for example, the locking mechanism of a door or an electronic lock on a personal computer. *Id.* at 1:43–46.³ The system uses a database of “biometric signatures” (*id.* at 2:32), such as a fingerprint (*id.* at 7:36) for determining authorized access.

³ Citations are to column:line[s] of the ’705 patent.

Figure 2 from the '705 patent is reproduced below.

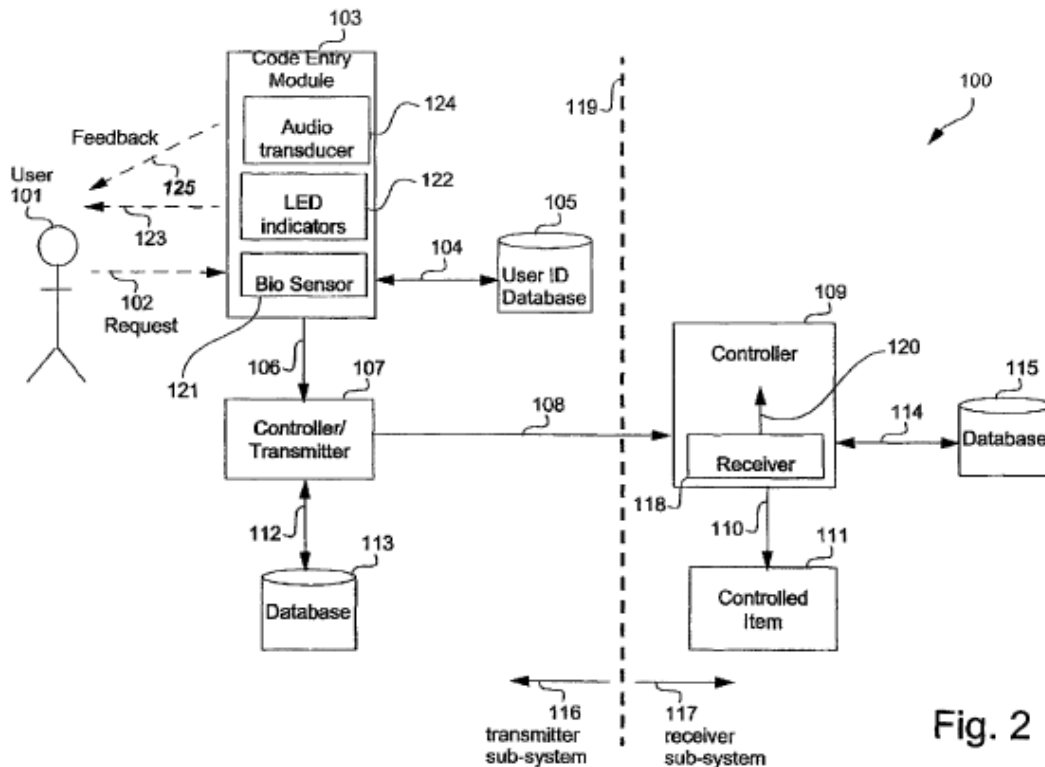


Fig. 2

Figure 2 is a functional block diagram of an arrangement for providing secure access according to the system disclosed in the '705 patent. Ex. 1001, 5:18–19.

As described in the written description of the '705 patent, and as illustrated generally in Figure 2, user 101 makes a request to code entry module 103. *Id.* at 5:56–57. Code entry module 103 includes biometric sensor 121. *Id.* at 5:57–58. If biometric sensor 121 is a fingerprint sensor, for example, then the request “typically takes the form of a thumb press” on a sensor panel (not shown) on code entry module 103. *Id.* at 5:60–63. “Other physical attributes that can be used to provide biometric signals include voice, retinal or iris pattern, face pattern, [and] palm configuration.” *Id.* at 1:30–32; *see also id.* at 16:45–49 (claim 4 stating “the biometric sensor

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