

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,

Petitioner,

v.

RFCYBER CORP.,

Patent Owner.

Patent No. 10,600,046
Filing Date: June 2, 2015
Issue Date: March 24, 2020

Inventors: Xiangzhen Xie, Liang Seng Koh, and Hsin Pan
Title: METHOD AND APPARATUS FOR MOBILE PAYMENTS

RFCYBER CORP.'S
PRELIMINARY RESPONSE

Case No. PGR2022-00003

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EXHIBIT LIST

Exhibit No.	Description of Document
2001	Joint Motion to Stay All Deadlines and Notice of Settlement (Dkt. 119) in <i>RF Cyber Corp. v. Google LLC</i> , Case No. 2:20-cv-00274-JRG (Lead Case) (E.D. Tex.), dated September 28, 2021.
2002	Order (Dkt. 120) in <i>RF Cyber Corp. v. Google LLC</i> , Case No. 2:20-cv-00274-JRG (Lead Case) (E.D. Tex.), dated September 29, 2021.
2003	Stipulation of Dismissal in <i>RF Cyber Corp. v. Google LLC</i> , Case No. 2:20-cv-00274-JRG (Lead Case) (E.D. Tex.), dated October 18, 2021.
2004	Email from Adam Seitz to Trials@uspto.gov re PGR2021-00028 – Apple’s request to Delay Termination in Order to File a Joinder Motion and Copycat Petition, dated October 19, 2021.
2005	Email from Trials @USPTO.gov to Adam Seitz; Trials re: PGR2021-00028 – Apple’s Request to Delay Termination in Order to File a Joinder Motion and Copycat Petition, dated November 15, 2021.
2006	Joint Motion to Stay All Deadlines and Notice of Settlement (Dkt. 33) in <i>RF Cyber Corp. v. LG Elecs., Inc.</i> , Case No. 2:20-cv-00336-JRG (E.D. Tex.), dated July 30, 2021.
2007	Joint Motion to Dismiss (Dkt. 35) in <i>RF Cyber Corp. v. LG Elecs., Inc.</i> , Case No. 2:20-cv-00336-JRG (E.D. Tex.), dated September 8, 2021.

I. INTRODUCTION

On October 20, 2021, Apple Inc. (“Petitioner” or “Apple”) filed a petition requesting post-grant review of claims 1-17 (“challenged claims”) of U.S. Patent No. 10,600,046 (Ex. 1001, “’046 Patent”). Paper 1. (“Petition” or “Pet.”). At the same time, Apple filed a motion for joinder with PGR2021-00028, which had been instituted on July 23, 2021. Paper 3 (“Motion”). The Declaration of Stephen Gray (Ex. 1003, “Gray Declaration”) accompanied the Petition and Motion. On November 8, 2021, the Board issued a Notice of Filing Date Accorded for the post-grant petition and set the time for filing patent owner’s preliminary response. Paper 4. Patent Owner timely filed an opposition to Apple’s Motion on November 22, 2021 (Paper 5), and Apple filed a reply on December 22, 2021 (Paper 6).

The ’046 Patent issued on March 24, 2020. It became ineligible for PGR on December 24, 2020. 35 U.S.C. § 321 (c).

Before Apple filed its Petition, the Parties in PGR2021-00028 had already jointly moved to terminate the -00028 proceedings due to settlement. PGR2021-00028, Paper 14. Apple’s motion for joinder comes long after the one-month joinder window expired on August 23, 2021. 37 C.F.R. § 42.222(b).

The Board should deny institution because the ’046 Patent is not eligible for PGR. Moreover, as discussed in RFCyber’s Opposition, Apple failed to file a

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