

# EXHIBIT 9

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Paper 9  
Entered: October 3, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE, INC.,  
Petitioner,

v.

AGIS SOFTWARE DEVELOPMENT, LLC,  
Patent Owner.

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Case IPR2018–00817  
Patent 9,445,251 B2

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Before TREVOR M. JEFFERSON, CHRISTA P. ZADO, and  
KEVIN C. TROCK, *Administrative Patent Judges*.

TROCK, *Administrative Patent Judge*.

DECISION  
Denying Institution of *Inter Partes* Review  
35 U.S.C. § 314

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## I. INTRODUCTION

Apple, Inc. (“Petitioner”) filed a request for *inter partes* review of claims 1–35 (the “challenged claims”) of U.S. Patent No. 9,445,251 B2 (Ex. 1001, “the ’251 patent”). Paper 1 (“Pet.”). AGIS Software Development, LLC (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”).

Under 35 U.S.C. § 314, an *inter partes* review must not be instituted “unless . . . the information presented in the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). Upon considering the evidence presented and the arguments made, we determine that Petitioner has not demonstrated a reasonable likelihood that it would prevail in showing the unpatentability of at least one of the challenged claims. Accordingly, we do not institute an *inter partes* review.

### A. *Related Proceedings*

Petitioner advises that the ’251 patent is the subject of a civil action involving Petitioner, *AGIS Software Development LLC v. Apple Inc.*, No. 2:17-cv-00516-JRG (E.D. Tex.). Petitioner also advises the ’251 patent is asserted against third parties in four other cases: *AGIS Software Development LLC v. Huawei Device USA Inc. et al.*, No. 2:17-cv-00513 (E.D. Tex.); *AGIS Software Development LLC v. LG Electronics, Inc.*, No. 2:17-cv-00515 (E.D. Tex.); *AGIS Software Development LLC v. ZTE Corporation et al.*, No. 2:17-cv-00517 (E.D. Tex.); *AGIS Software Development LLC v. HTC Corporation*, No. 2:17-cv-00514 (E.D. Tex.). Petitioner further advises that it is filing IPR petitions challenging U.S.

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Patent Nos. 9,408,055, 8,213,970, and 9,467,838, which are asserted in the above litigations.

Patent Owner acknowledges the same proceedings. Paper 5, 2–3.

*B. The '251 Patent*

The '251 patent specification (the “Specification”) describes a communications method and system using a plurality of cellular phones each having an integrated Personal Digital Assistant (PDA), Global Positioning System (GPS) receiver, and Advanced Communication Software (ACS) for the management of a plurality of people through the use of a remote server on a communications network. Ex. 1001, 1:33–42. The Specification describes rapidly establishing an ad hoc network of devices (e.g., smartphones, PDAs, or personal computers) with users, such as first responders in an emergency situation, logging onto a network using the network’s name and security key (a common “password” for everyone). *Id.* at Abstract, 4:4–15. Once logged on, the user’s devices exchange each other’s identity, location, and status information via the remote server. *Id.* at 5:13–22. Each cellular phone/PDA/GPS user device is identified on a map display of the other network participant users’ phone devices by a display symbol that is generated on each user phone display to indicate each user’s own location and identity. *Id.* at 7:52–56. These symbols are user-selectable and are positioned on a geographical map of an interactive display with georeferenced entities. *Id.* at 6:18–23, 6:59–6:66, Fig. 1. Each symbol is placed at the correct geographical location on the user display and is correlated with the map on the display and is transmitted and automatically displayed on the other network participants’ PC and PDA devices. *Id.* at 7:56–60. Network users communicate or send data to another network user

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by selecting the user's symbol and the desired action using a software switch. *Id.* at 7:9-17.

Figure 1 of the '251 patent is set out below.

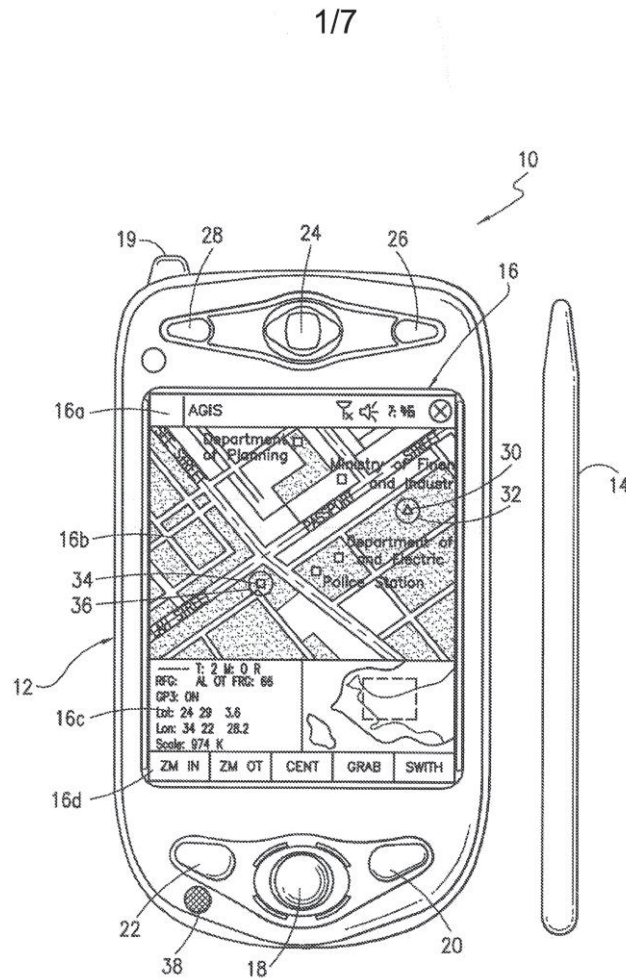


FIG. 1

Figure 1, shown above, depicts a user's digital device 10 (cellular phone/PDA/GPS) having a touch screen 16 displaying a geographical map 16b with georeferenced entities 30, 34. *Id.* at 4:48-49, 6:19-23, 6:59-7:8.

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