

EXHIBIT H

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Paper 9
Entered: October 3, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner,

v.

AGIS SOFTWARE DEVELOPMENT, LLC,
Patent Owner.

Case IPR2018-00818
Patent 9,408,055 B2

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 1–54 (the “challenged claims”) of U.S. Patent No. 9,408,055 B2 (Ex. 1001, “the ’055 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 ’055 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.). Pet. 2. Petitioner also advises the ’055 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. 8,213,970, 9,467,838, and 9,455,251, which are asserted in the above litigations. *Id.*

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

B. The '055 Patent

The '055 patent specification (the “Specification”) generally discloses rapidly establishing an ad hoc network of devices (e.g., smartphones, PDAs, or personal computers) with users, such as first responders, logging onto a network using the network’s name and security key (a common “password” for everyone). Ex. 1001, Title, Abstract, 10:55–57 (devices sign in with “the same ad hoc event name and password”). Once logged on, the users’ devices exchange each other’s location information via a remote server, and each participant’s location is displayed as a user-selectable symbol correctly positioned on an interactive display of a georeferenced map. *Id.* at 6:47–7:40; Fig. 1. Users may communicate or send data to another user by selecting the user’s symbol and the desired action. *Id.*

Figure 1 of the '055 patent is set out below.

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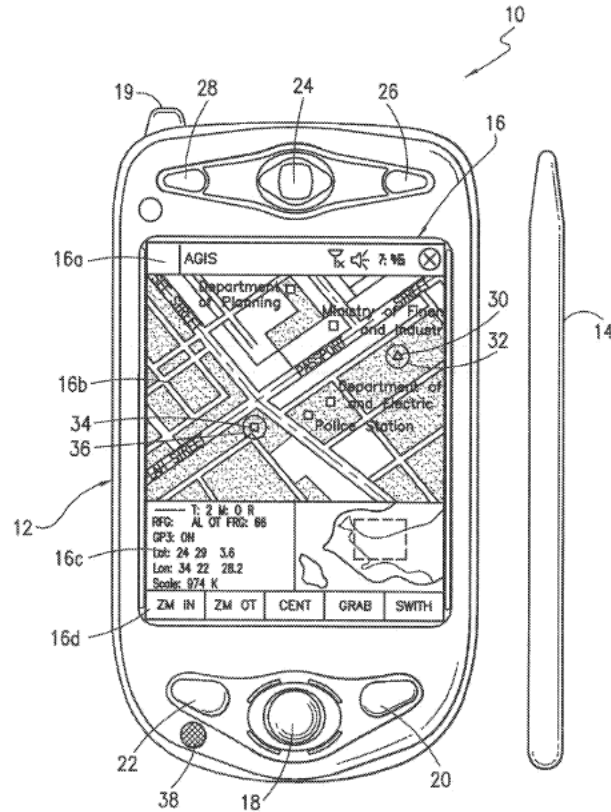


FIG. 1

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 5:21-42, 6:49-65.

C. Challenged Claims

Petitioner challenges claims 1-54 of the '055 patent. Claims 1, 28, 41, and 54 are independent and are substantially similar with some slight differences. Claim 1 is illustrative.

1. A method comprising:
performing by a first device:
obtaining contact information of a plurality of second devices, wherein the contact information comprises respective telephone numbers of the second devices;

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