

EXHIBIT I

EXHIBIT A-2

**Kubala in View of Hammond and Beyer ‘612
For U.S. Patent No. 8,213,970**

Exhibit A-2 – Kubala in View of Hammond and Beyer ‘612

U.S. Pat. Pub. No. 2006/0218232 (“Kubala”) in combination with U.S. Pat. No. 6,854,007 (“Hammond”) and U.S. Pat. Pub. No. 2006/0199612 (“Beyer ‘612”) renders obvious claims 10-13 of the ‘970 patent.

Kubala published on September 28, 2006 and is prior art to the ‘970 patent under at least pre-AIA 35 U.S.C. § 102(b).

Hammond published on February 8, 2005 and is prior art to the ‘970 patent under at least pre-AIA 35 U.S.C. § 102(b).

Beyer ‘612 published on September 7, 2006 and is prior art to the ‘970 patent under at least pre-AIA 35 U.S.C. § 102(b).

It would have been obvious to combine *Hammond*’s teachings with *Kubala* as both *Kubala* and *Hammond* relate to exchanging and tracking recipient-device acknowledgements for electronic messages. A person having ordinary skill in the art would have been motivated to modify *Kubala* with the teachings of *Hammond* in order to increase the chances that a recipient responds to an electronic message that requires response by using the message tracking techniques described in *Hammond*.¹⁰

It would have been obvious to combine *Beyer ‘612*’s teachings with *Kubala* as both *Kubala* and *Beyer ‘612* relate to messaging other individuals using the communications capability of a mobile device. *See e.g., Beyer ‘612* at ¶ 45 (“[T]he operator of cellular phone “one” can address text messages, photographs, and video for transmission to one or more net participants by either touching their symbols and selecting the appropriate soft switch or selecting the appropriate call net.”). Both *Kubala* and *Beyer ‘612* describe transmitting messages that require responses. *See also e.g., id.* at ¶ 37 (“[T]he operator device is capable of initiating a cellular phone call by touch only, and initiating conference calls by touching the geo-referenced map symbols. Furthermore, using a similar symbol touching technique, cellular phone “one’s” application code can send operator selected messages to cause a remote cellular phone to display and optionally announce emergency and other messages and to optionally elicit a response from the remote cellular phone.”).

Beyer ‘612 describes expeditiously initiating communication with nearby users using a geographic map display that displays the location of other users on the geographic map. *See e.g., Beyer ‘612* at ¶ 47 (“[T]he present invention provides for expeditious data exchange and cellular phone and WiFi calls to one or more users by merely touching the display screen location of a remote cellular phone user’s symbol to initiate the call. The same pointing at geo-referenced symbols method is used to send free text, pre-formatted messages, photographs and video.”). *See also e.g., id.* at ¶ 46 (“Another important feature of the present invention is that the operator of cellular phone “one” can, by touching a switch on the display, send a digital message to all the PDA/cellular phones in the communications net or to designated cellular phone(s) represented by their symbols on the geographic displays, an emergency or other preformatted message which may or may not require a response.”). *See also e.g., id.* at ¶ 39 (“The application software includes an application for designating geo-referenced symbols by “hooking” them . . . The operator can then select soft switches . . . to take other

actions that may include making cellular phone calls, conference calls, 800 number calls, sending a free text message or preformatted message, sending photographs or video to the hook symbol, going to the symbol’s web site, automatically filling in the symbol’s E-mail address in an E-mail or dropping the symbol.”).

A person of ordinary skill in the art would have appreciated that providing such map/location functionality together with obtaining other information regarding a recipient device (e.g., the “location and status data” discussed herein) in Kubala would have allowed Kubala’s sender PDA/cell phone to monitor the locations of recipient PDA/cell phones in connection with sending an email, to check if the recipients are nearby and/or in a position to respond to an electronic message. Kubala itself recognizes that “it would be advantageous to provide productivity-enhancing features within e-mail applications.” See Kubala at ¶ 8. A person having ordinary skill in the art would have recognized that Beyer ‘612’s map/location functionality is simply another productivity-enhancing feature in the same e-mail context. This combination would have facilitated interaction among users based on relative position (i.e., based on Beyer ’612’s mapping and location-based communications techniques) and in particular enabling users to send and receive messages to nearby devices as shown on a geographical map displayed by a mobile device). This would have furthered Kubala’s goal of providing features in e-mail applications that reduce the amount of time between the receipt of an important e-mail message by a recipient and the generation of a response to that e-mail message by the recipient. Kubala at ¶ 7.

A person having ordinary skill in the art would have been motivated to modify the combined teachings of *Kubala* and *Hammond* with the location-based communication techniques described in *Beyer ’612* order to facilitate interaction among users based on relative position in addition to user identity by enabling a user to send and receive messages to nearby devices as shown on a geographical map displayed by a mobile device.

Additional reasons to combine *Kubala*, *Hammond*, and *Beyer ’612* are discussed in the accompanying contentions.

Further, a person of ordinary skill in the art would have had a reasonable expectation of success in combining Beyer ‘612 with Kubala (and/or Kubala-Hammond) as Kubala and Beyer ‘612 both involve PDA/cell phones running software. See Beyer ‘612 at ¶ 21.

Claim	‘970 Patent	Prior Art
10[pre]	A method of receiving, acknowledging and responding to a forced message alert	<i>Kubala</i> discloses a method of receiving, acknowledging and responding to a forced message alert from a sender PDA/cell phone to a recipient PDA/cell phone, wherein the receipt, acknowledgment, and response to said forced message alert is forced by a forced message alert software application program.

<p>from a sender PDA/cell phone to a recipient PDA/cell phone, wherein the receipt, acknowledgment, and response to said forced message alert is forced by a forced message alert software application program, said method comprising the steps of:</p>	<p><i>See e.g., Kubala</i> at Abstract (“A method, system, apparatus, or computer program product is presented for processing electronic messages. An electronic message is received for a recipient from a sender, and a data field is detected in the received electronic message that indicates a request by the sender for a response from the recipient for the received electronic message.”).</p> <p><i>Kubala</i> also discloses a plurality of PDA/cell phones that communicate with each other. <i>See id.</i> at ¶¶ 27, 32-33, FIG. 1. In other words, one PDA/cell phone sends an electronic message (i.e. “a sender PDA/cell phone”) and another PDA/cell phone receives it (i.e., a “recipient PDA/cell phone”).</p> <p><i>Kubala</i> also discloses that the communication system was known to “generate return receipts to the sender when the sender’s e-mail message is received at its intended destination or when the recipient opens the e-mail message, thereby providing an acknowledgement that a particular message has been received and/or opened.” <i>See also, e.g., id.</i> at ¶ 6 (“Other prior art solutions have provided the ability to generate return receipts to the sender when the sender’s e-mail message is received at its intended destination or when the recipient opens the e-mail message, thereby providing an acknowledgement that a particular message has been received and/or opened.”). A person of ordinary skill in the art at the time of the invention would have understood that return receipts could be implemented with the enhanced email application described in <i>Kubala</i>, for example, to provide the enhanced e-mail application of <i>Kubala</i> with additional “[p]roductivity-enhancing features.”</p> <p><i>See also, e.g., id.</i> at FIGS. 5-6, 9.</p>
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