

EXHIBIT 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner

v.

MAXELL, LTD.
Patent Owner

Case No. IPR2020-00407
U.S. Patent No. 6,748,317

**PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 6,748,317**

3. **“a device for getting a location information of another portable terminal from said another terminal via connected network” and “a device for retrieving a route from said present place to said destination”**

Claim 10 recites “a device for getting a location information of another portable terminal from said another terminal via connected network” and Claims 15 and 18 recite “a device for retrieving a route from said present place to said destination.” *'317 Patent* (Ex. 1001), 11:40-42; 12:21-22; 12:36-37. Both Petitioner and Patent Owner agree in current parallel litigation that these terms should be construed pursuant to 112-6. *Joint Claim Construction and Prehearing Statement*, (Ex. 1011), 2; *Opening Claim Construction Brief*, (Ex. 1012), 28.

As has been permitted previously, Petitioner proposes this Board adopt the claim constructions advanced by Patent Owner in the parallel district court litigation for these claimed phrases. *See Western Digital Corporation v. Spex Technologies, Inc.*, IPR2018-00084, (2018) (finding Petition based on claim constructions urged by Patent Owner satisfies the claim construction requirements and that Petitioner is not required to express its subjective agreement regarding correctness of the proffered claim construction or take ownership of the construction); *see also General Electric v. Vestas*, IPR2018-00928 (clarifying that while the petitioner does not have “to express its subjective agreement regarding [the] correctness of its proffered claim constructions,” the Petitioner nevertheless “cannot expressly disagree with the proffered constructions”) (citing *Western Digital*).

For both “a device for getting a location information of another portable terminal from said another terminal via connected network” and “a device for retrieving a route from said present place to said destination,” Patent Owner has identified the device for data communication 76 as the proposed structure. *Opening Claim Construction Brief*, (Ex. 1012), 28-29. In support, Patent Owner identified the following disclosures in the ’317 Patent in support of this corresponding structure: Abstract, 1:10-15, 2:23-26, 2:51-3:1, 3:43-66, 4:14-39, 5:17- 21, 5:64-6:4, 6:9-18, 8:17-9:39, 9:40-63, 10:29-34, Figures 5-7, 9, 10. *Joint Claim Construction and Prehearing Statement*, (Ex. 1011), 8, 10.

As Patent Owner has asserted in the parallel litigation, the Board should adopt “a CPU and a device for data communication 76 of a portable terminal; or equivalents thereof” is the structure performing the claimed functions of getting location information of another portable terminal from said another terminal via connected network and retrieving a route from said present place to said destination. *Opening Claim Construction Brief*, (Ex. 1012), 28.

IV. THERE IS A REASONABLE LIKELIHOOD THAT THE CHALLENGED CLAIMS OF THE ’317 PATENT ARE UNPATENTABLE

A. Ground 1: Hayashida in view of the Knowledge of a PHOSITA renders claims 1-3, 5, 15, and 17 obvious

Overview of the Prior Art

IPR2020-00407
U.S. Patent No. 6,748,317

CERTIFICATION OF WORD COUNT

The undersigned certifies pursuant to 37 C.F.R. §42.24 that the foregoing Petition for *Inter Partes* Review, excluding any table of contents, mandatory notices under 37 C.F.R. §42.8, certificates of service or word count, or appendix of exhibits, contains 12,584 words according to the word-processing program used to prepare this document (Microsoft Word).

Dated: January 13, 2020

BY: /s/ Adam P. Seitz
Adam P. Seitz, Reg. No. 52,206

COUNSEL FOR PETITIONER

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