

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,

Petitioner,

v.

WIRELESSWERX IP LLC,

Patent Owner.

IPR2023-00850

Patent No. 8,315,203

PATENT OWNER'S RESPONSE

UNDER 37 C.F.R. § 42.120

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I. INTRODUCTION

The Board should not cancel any Challenged claims 1-30 of U.S. Patent No. 8,315,203 (“the ’203 Patent”) because Petitioner does not demonstrate that any claim is unpatentable. Petitioner does not adequately explain how a person of ordinary skill in the art (“POSITA”) would approach the problems in the art solved by the ’203 Patent. Additionally, Petitioner has failed to adequately demonstrate that the cited references render obvious every element of the Challenged Claims, including the requirements for “the system narrows the plurality of nodes for use by the user at a first elevational level to the most practically near node to the user, such that a node at another elevational level, even though physically closer to the user at the first elevational level is excluded as being a node the most practically near to that user, and a different node at the elevational level of the user is selected as the most practically near to that user.”

Accordingly, PO requests that the Board find Petitioner has failed to demonstrate that the Challenged Claims are unpatentable.

II. THE ’203 PATENT (EX. 1001)

A. Overview

The ’203 patent relates to developing a map of a multi-dimensional space for use by a user.

The '203 patent describes “[a] wireless communication device” that is “operable to detect a plurality of location nodes” and “periodically interrogates its environment and determines which location node is most practically near.” Ex. 1001, 6:47–50. “The wireless communication device then communicates to that location node, and requests that any additional data information relevant to the specific location associated with that location node be sent back to the wireless communication device.” Ex. 1001, 6:50–54.

Figure 1 of the '203 patent, reproduced below, illustrates a system to determine the relatively precise location of a user.

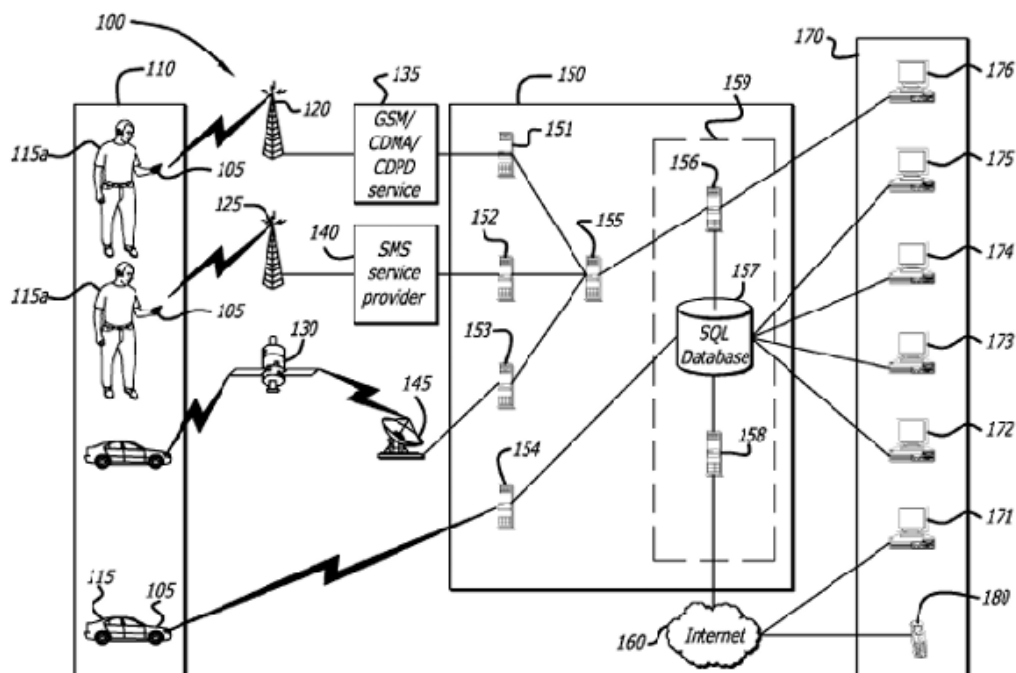


Fig. 1 of EX. 1001

As shown in Figure 1, “[a] plurality of vehicles 110 has at least one transponder or subscriber device 105 that can be tracked and allows the functionality to remotely control functionality of the vehicle 115 or an individual 115a.” Each transponder or subscriber device 105 connects with a communication network, and “sends event information to the backend control system 150 and responds to commands sent to the transponder or subscriber device 105 by the backend control system 150 through the communications network.” Ex. 1001, 9:42–46. As shown in Figure 1, communications networks include “a cellular network including multiple cellular base stations 120 and service providers 135,” “a cellular network including multiple cellular base stations with SMS receivers 125 and service providers 140,” and “a satellite network including multiple satellite receivers and transmitters 130 and satellite ground stations 145.” Ex. 1001, 9:31–38. The ’203 patent also discloses that “transponder or subscriber device 105 receives radio signals from a GPS constellation satellite 130 allowing the transponder or subscriber device 105 to process positioning information.” Ex. 1001, 10:21–24.

Figure 19A, reproduced below, illustrates “an exemplary mesh network 4001 of nodes 4000 in communication with base stations 4004 and, in turn, in communication with control centers 4008.” Ex. 1001, 31:29–32.

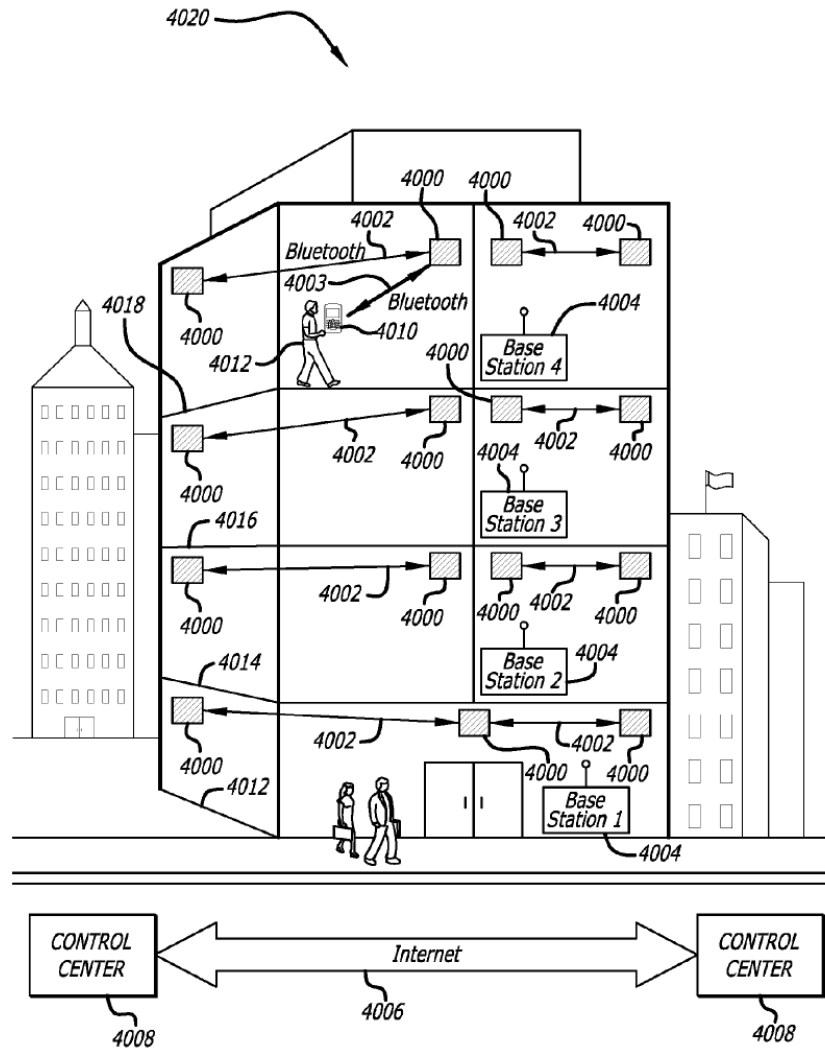


FIG. 19A

As shown in Figure 19A, “[e]ach zone includes a plurality of spaced-apart nodes 4000, where the nodes 4000 are arranged in a multi-dimensional sense about the zone.” Ex. 1001, 31:57–59. “[t]he nodes 4000 housed in the building 4020 are distributed in four separate mesh networks 4001.” Ex. 1001, 31:60–62. “Each mesh network 4001 is located in one of four specific zones,” namely “the first floor 4012, the second floor 4014, the third floor 4016, and the fourth floor 4018 of the building 4020.” Ex. 1001, 31:62–65. “The mapping of the geographical space is affected in

a three-dimensional sense, selectively being defined by x, y and z axes or coordinates, which in some embodiments may correspond to latitude, longitude, and elevation.” Ex. 1001. “When a mobile device 4010 determines its most practically near node 4000, the mobile device 4010 will download from that node 4000 the location information of that node 4000.” Ex. 1001, 33:9–12. “The mobile device 4010 can use this location information in order to generate and display a two- or three-dimensional map of the mobile device’s 4010 position within a geographical area and/or zone,” Ex. 1001, at 33:12–20.

B. Claim Construction

According to 37 C.F.R. §42.100(b), in an *inter partes* review, claim terms are construed using the same standard used in a civil action under 35 U.S.C. 282(b), including construing the claim in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent.

The ordinary and customary meaning of a term may be evidenced by a variety of sources, including the words of the claims themselves, the specification, drawings, and prior art. However, the best source for determining the meaning of a claim term is the specification – the greatest clarity is obtained when the specification serves as a glossary for the claim terms. The words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the

specification. *In re Zletz*, 893 F.2d 319, 321, 13USPQ2d 1320, 1322 (Fed. Cir. 1989); *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir.2004)

In accordance with these principles, Patent Owner submits that the terms of the '203 Patent are clear on their face, except the following claim term which should be construed as follows:

a. The most practically near node

“The most practically near node” was not a commonly known term when the '203 application was filed.

In construing a claim term, we look to the words of the claim itself. *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed.Cir.1996). If the claim term has a plain and ordinary meaning, our inquiry ends. *Id.* If, however, the claim term does not have an ordinary meaning, and its meaning is not clear from a plain reading of the claim, “we turn to the remaining intrinsic evidence, including the written description, to aid in our construction of that term.” *Telemac Cellular Corp. v. Topp Telecom, Inc.*, 247 F.3d 1316, 1326 (Fed.Cir.2001). As we have said, “the specification is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.” *Vitronics*, 90 F.3d at 1582. The construction that stays true to the claim language and most naturally aligns with the patent's description of the invention will be, in the end, the

correct construction. *Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1250 (Fed.Cir.1998).

With these principles in mind, since “the most practically near node” does not have an ordinary meaning, The construction of the term “the most practically near node” must align with the patent's description of the invention.

The specification of the '203 Patent describes the most practically near node:

The most practically near node is defined as the node that is located at the closest accessible location to the movable entity. For example, a wireless communication device located on the second floor of a multi-story building may be closest to a location node located on the ceiling of the first floor and may be next closest to a location node located on the second floor. Although the location node on the first floor is actually closer in distance to the movable entity than the location node on the second floor, since the location node on the first floor is not easily accessible to the movable entity located on the second floor, the location node on the second floor will be considered the most practically near node to the movable entity. Ex. 1001, 6: 55-67.

The intrinsic record thus clearly indicates the '203 Patent 's precise conception, which here must control the construction.

Patent Owner reserves the right to propose further constructions if necessary.

III. LEVEL OF ORDINARY SKILL IN THE ART

For purposes of this Response, PO adopt Petitioner's proffered level of ordinary skill in the art because it comports with the technology and claims of the '203 Patent as well as the asserted prior art.

IV. THE ASSERTED PRIOR ART

A. Wrappe (Ex. 1005)

Wrappe is titled as "Methods and Apparatuses for Beacon Assisted Position Determination Systems," EX1005, Abstract.

Wrappe relates to "microcell beacon assisted position determination." Ex.1005, ¶ [0009]. Wrappe explains when "there are a number of stores and shops in a commercial complex" and "a conventional hybrid position determination system is used, the position solution of the mobile station may not be precise enough to accurately determine which store the mobile station is in." Thus, Wrappe's "microcell beacons are placed to aid the position determination." Ex.1005, ¶ [0046].

One or more microcell beacons are used to provide precise location fixes in highly blocked environments where there are commercial and/or safety-based applications. EX1005, ¶ [0034]. The mobile station is assumed to be at the position that is indicated by the microcell beacon station when the GPS signals are not available (or having a signal strength below a threshold value). The center of the coverage area of the microcell beacon station is used as the position solution for the mobile station. When beacon signals from more than one microcell beacon station

are received, the centers of the coverage areas of the microcell beacon stations can be weighted according to the corresponding signal strength to determine an estimate of the position of the mobile station. Further, the microcell beacon may also broadcast the transmission strength level so that a range to the microcell beacon can be estimated from the transmission strength level and the received signal strength level at the mobile station. EX1005, ¶ [0043].

B. Belcea (Ex. 1006)

Belcea, titled “System and Method for Accurately Computing the Position of Wireless Devices inside High-rise Buildings,” discloses a “network of wireless devices including Mobile Terminals, Wireless Routers and Controllers within a three-dimensional deployment structure such that communication, identification and position calculations can be achieved with high accuracy regardless of the building structure.” Ex.1006, 1:24-33.

FIG. 3 (reproduced below) shows a deployment of the “vertical” infrastructure in a high-rise building and includes a number of Intelligent Access Points (IAP) 122-1 to 122-n, and a system of Vertical Routers (VR) 124-1 to 124-n, dispersed among a number of floors of an example building. Due to the fact that radio signal penetration is almost impossible through the concrete floors in the example building, a system of Vertical Routers 124-1 to 124-n is used to achieve communication between the Local Control and each floor of the building. Ex-1006, 6:17-21.

During the installation phase, the Routers database is loaded with the position (i.e., floor, x, y, and so forth) of each Horizontal and Vertical Router. In the same phase, the building maps are loaded in the building database. Ex-1006, 10: 61-64.

During the operating phase, The Mobile Terminals can determine their respective locations using Algorithms such as Time of Flight (TOF) data and Received Signal Strength Indicator (RSSI) data and a scoring process to identify the correct floor on which they are located. Ex-1006, 11:20-38.

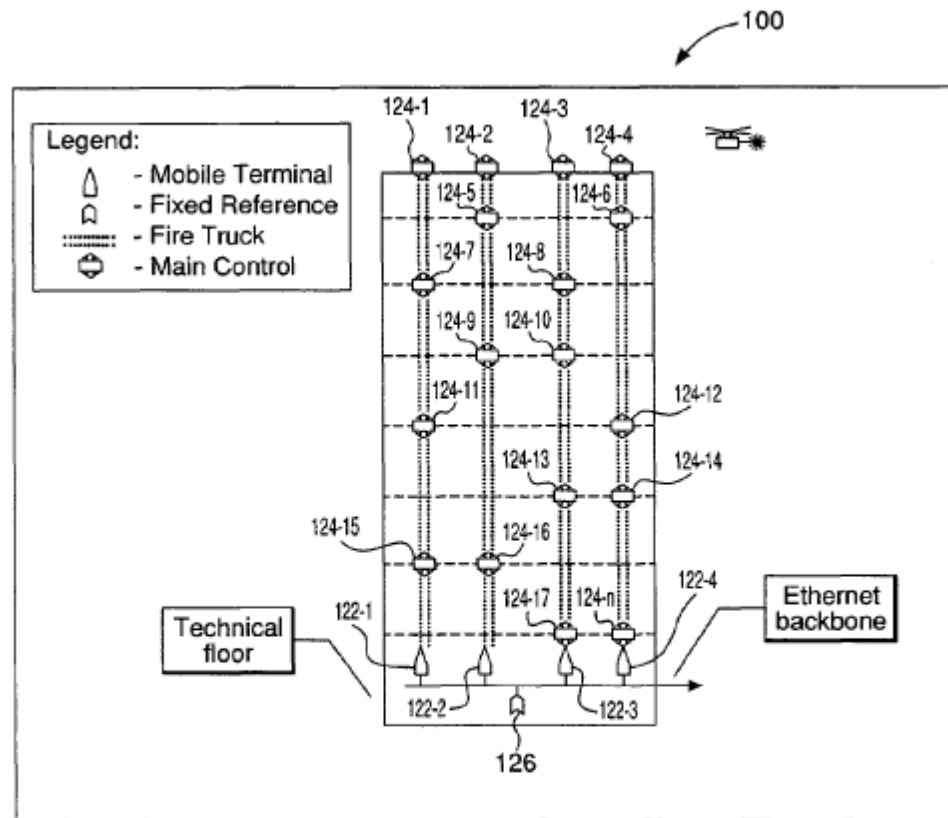


FIGURE 3

C. Christopher (Ex. 1007)

Christopher, titled “System and Method for Tracking Shopping Behavior” describes a method. The method comprises emitting an RF interrogation signal using an interrogator relay unit (“IRU), receiving, at the IRU, location data from an RFID tag in response to the RF interrogation signal; transmitting the location data, identification information of the IRU, and timestamp data to a remote server using the IRU; and generating a behavior report using the transmitted location data, the identification information, and the timestamp data. Ex-1007, ¶ [0006]

To provide better customer service, the ViewPoint system 1320 may keep records of mobile device behavior such as purchase history and past searches. Ex-1007, ¶ [0076]. The ViewPoint system 1320 may also send inventory related data to mobile device 1360 based on the purchase history of mobile device. Ex-1007, ¶ [0077].

D . Kinnunen (Ex. 1009)

Kinnunen, titled “Location Dependent Services,” describes a method for providing Services to at least one mobile terminal comprising the steps of: associating services with a plurality of service locations in an area the mobile terminal being moveable within the area, providing location information from a plurality of location information sources indicating the location of the mobile

terminal; tracking the mobile terminal relative to the service locations so that the presence of the mobile terminal at a particular service location of a service can be determined; receiving the location information and determining whether the location information from at least one source provides a basis for providing the service; and providing the service to the mobile terminal. Ex-1009, 4: 4-22.

Kinnunen “targets services to suitable mobile terminals or users by using profiles.” Ex-1009, 6:10-11, 6:43-44. “The user and mobile terminal profiles can be used to determine targeting of advertisements.” Ex-1009, 3:41-43.

V. The Petitioner Fails to Demonstrate That Any Challenged Claim is Unpatentable

Petitioner has failed to carry its burden to show a prima facie case of obviousness under 35 U.S.C. § 103 by not properly addressing the Graham factors: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of skill in the art; and (4) objective evidence of non-obviousness, i.e., secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

The Board has held that a failure to identify the differences between the claimed subject matter and the prior art is fatal to an obviousness challenge. See, *Apple, Inc. v. Contentguard Holdings, Inc.*, IPR2015-00355, Decision Denying Institution of *Inter Partes* Review, Paper 9 at 9-10 (P.T.A.B. June 26, 2015 (denying

institution for failure to identify the differences between the claimed subject matter and the prior art).

A. Petitioner Fails to Establish in Ground I that Challenged Claims 1-5 Are Obvious Over Wrappe in View of Belcea

1. Claim 1

Independent claim 1 has been divided into elements for consideration by the Petitioner as follows:

1.[pre] A method for developing a map for use by a user, the user being selectively individuals, vehicles, and other entities, comprising:

1[A] using a geographical zone, the zone selectively being a preconfigured geographical zone,

1[B] the zone including a plurality of spaced apart nodes, wherein the nodes are arranged in a multi-dimensional sense, the location of the plurality of nodes in the multidimensional sense being placed with a structure attached to the ground;

1[C] sending data communications between one or more of the nodes, one or more users, and one or more control stations; and

1[Di] affecting multi-dimensional mapping according to the placement of the nodes and the communications between the nodes and the control stations, wherein the mapping is affected in a three-dimensional sense, selectively being a three-

dimensional sense in the x, y, and z axes or coordinates and the structure is a building, the building having different elevational levels

1[Dii] and there are nodes on different elevational levels whereby there are nodes at multiple different elevational levels,

1[Diii] and wherein the system narrows the plurality of nodes for use by the user at a first elevational level to the most practically near node to the user, such that a node at another elevational level, even though physically closer to the user at the first elevational level is excluded as being a node the most practically near to that user, and a different node at the elevational level of the user is selected as the most practically near to that user.

a. Element 1[Diii]

Wrappe in view of Belcea does not teach the element 1[Diii].

As set forth in II.B.a, “the most practically near node” is defined as the node that is located at the closest accessible location to the movable entity. For example, a wireless communication device located on the second floor of a multi-story building may be closest to a location node located on the ceiling of the first floor and may be next closest to a location node located on the second floor. Although the location node on the first floor is actually closer in distance to the movable entity than the location node on the second floor, since the location node on the first floor is not easily accessible to the movable entity located on the second floor, the location

node on the second floor will be considered the most practically near node to the movable entity.

The '203 Patent discloses an algorithm to obtain “the most practically near node.”

[A]n algorithm 2050, as shown in FIGS. 13A and 13B, located within the wireless communication device 2012 is utilized to determine the location node 2014, 2016, 2018 that is most practically near. Ex1001,26:24-28. The location node selection algorithm 2050 begins with a general wireless communication device discovery 2052 of all location nodes 2014, 2016, 2018 located within communication range. Ex1001,26:31-34. In this step 2062, the wireless communication device determines if more than one floor number is represented within one installation identifier. If there are unequal numbers of location nodes on multiple floors 2064, the wireless communication device eliminates those locations transmitters on the minority floors, i.e., on those floors which have the smaller number of location nodes 2068 sensed. If at this point, only one location node is available, the wireless communication device chooses this location node as the location node that is most practically near. Ex1001,27:44-53. At this point, if more than one location node remains in the list after the above steps then a serial port profile connection is attempted between the wireless communication device and each location node remaining in the list 2072. If the connection is successful, then

the location node is queried for its received signal strength (RSS) for that connection 2074. Ex1001,27:60-65.

To argue that Wrappe-Belcea teaches 1[Diii], Petitioner proffers that:

Wrappe explains “the signal transmission strength of the microcell beacons and the distribution of the microcell beacons are adjusted during the installation process such that the beacon signals identifying one of the stores covers substantially the store.” Citing Ex-1005 ¶46. In Figure 5, “beacon signals for store 511-517 have coverage areas 531-537 respectively so when mobile stations 501 receives a signal beacon signal for a store, the mobile station can identify the store from the beacon signal.” Id. Thus, a POSITA would have understood Wrappe discloses the mobile station determining the closest beacon in a store so the mobile station can receive a signal for a store. (Citing Ex-1002 ¶¶167-168) Pet. 34.

It is apparent that the system of Wrappe does not narrow the plurality of nodes for use by the user, since mobile stations 501 only receives a signal beacon signal for a store at a time, there is no other nodes’ signals the mobile stations 501 receives. Therefore, Wrappe does not teach the element 1[Diii], particularly, Wrappe does not disclose the limitation “the system narrows the plurality of nodes for use by the user at a first elevational level to the most practically near node to the user, such that a node at another elevational level, even though physically closer to the user at the first elevational level is excluded as being a node the most practically near to that

user, and a different node at the elevational level of the user is selected as the most practically near to that user.”

Belcea does not remedy the deficiency of Wrappe. Petitioner contends that Belcea explains “Mobile Terminals can determine their respective locations using algorithms” such as those described in U.S. Patent Application Ser. No. 10/861,121, published as U.S. Patent Publication No. 2004/0246926 to Belcea (“Belcea ’926”), which is incorporated by reference in its entirety. (citing Ex-1006, 11:26-33). Belcea teaches using “Time of Flight (TOF) data and Received Signal Strength Indicator (RSSI) data and a scoring process to identify the correct floor on which they are located.” (citing Ex-1006, 11:35-38). Pet. 36.

Belcea ’926 discloses using a “wireless floor-indicating router (FIR) 106 [] in the stairwell 102 and by the elevator shaft 104 at each floor” because signals do not travel well through floors and walls. Ex-1008 ¶43. Belcea ’926 discloses “all FIRs deployed on the same floor are on the same line of the matrix, regardless [of] the position on the floor.” Id. ¶55. Belcea ’926 discloses “filtered data can be compared for finding the floor where is located the FIR that provides to the targeted mobile device the smallest TOF and the best RSSI simultaneously.” Id. ¶47. Thus, a POSITA would have understood Belcea teaches to identify the nodes on a floor. (citing Ex-1002 ¶¶169-171). A POSITA would have been motivated to implement these teachings with Wrappe to ensure the user device is connected to the beacon of

a store the user is actually in, for example a store on the same floor as the user as opposed to a different store on a different floor. Id. ¶172. Pet. 36.

The cited portions of Belcea show that Belcea can identify the correct floor on which the user is located. Belcea “uses both TOF and RSSI for identifying the floor where the firefighter is located. The RSSI and TOF values received from all routers are filtered before being used for the evaluation of the floor number. Although the RSSI and TOF data may not show the correct distance to the firefighter, the filtered data can be compared for finding the floor where is located the FIR that provides to the targeted mobile device the smallest TOF and the best RSSI simultaneously.” Ex.1008, ¶ [0047].

Since Time of Flight (TOF) is the measurement of time taken to travel a distance in order to determine distance, providing to the targeted mobile device the smallest TOF means the system of Belcea narrows the plurality of nodes for use by the user to “the most near node” to the user, which is distinct from “the most practically near node.” The ‘203 patent presents an example to illustrate the distinction: “For example, a wireless communication device located on the second floor of a multi-story building may be closest to a location node (the most near node) located on the ceiling of the first floor and may be next closest to a location node located on the second floor. Although the location node on the first floor is actually closer in distance to the movable entity than the location node on the second floor,

since the location node on the first floor is not easily accessible to the movable entity located on the second floor, the location node on the second floor will be considered the most practically near node to the movable entity.” Ex. 1001, 6: 55-67.

Mr. Andrews testifies that Belcea ’926 discloses that “all FIRs deployed on the same floor are on the same line of the matrix, regardless the position on the floor.” Ex-1008, ¶55. Belcea ’926 explains that this is because “the signals loose energy when passing through floors and walls, a FIR 106 may not be able to communicate with a firefighter [from the Rapid Intervention Crew] that is not on the same floor as the FIR 106.” Id. ¶43. Further, Belcea ’926 discloses that “filtered data can be compared for finding the floor where is located the FIR that provides to the targeted mobile device the smallest TOF and the best RSSI simultaneously.” Id. ¶15. Based on these teachings, a POSITA would have understood that Belcea teaches to first identify the nodes on a specific floor, disregard nodes on other floors, and then perform location determinations using only the nodes on the specific floor desired. Ex. 1002 ¶ 171; Pet. 38.

Patent Owner respectively submits that the language of the limitation 1[Diii], “wherein the system narrows the plurality of nodes for use by the user at a first elevational level to the most practically near node to the user, such that a node at another elevational level, even though physically closer to the user at the first elevational level is excluded as being a node the most practically near to that user,

and a different node at the elevational level of the user is selected as the most practically near to that user” shows that a user can communicate with nodes on different floors and remove nodes that located not the same floor of the user. On the contrary, in Belcea ’926, a user can only communicate with nodes located on the same floor of the user, Belcea ’926 need not remove nodes that located not the same floor of the user.

Thus, Belcea does not disclose the element 1[Diii], particularly, Belcea does not disclose the limitation “the system narrows the plurality of nodes for use by the user at a first elevational level to the most practically near node to the user, such that a node at another elevational level, even though physically closer to the user at the first elevational level is excluded as being a node the most practically near to that user, and a different node at the elevational level of the user is selected as the most practically near to that user.”

Therefore, Wrappe in view of Belcea does not teach the element 1[Diii].

b. Wrappe in view of Belcea does not render claim 1 obvious.

Petitioner fails to undertake a Graham analysis, because Petitioner’s combination of Wrappe and Belcea lacks evidence of crucial limitations of claim 1, such as the element 1[Diii]. Although Petitioner asserts “a POSITA would have been motivated to integrate Wrappe and Belcea to achieve several predictable benefits (Pet., 19-21), since Petitioner fails to undertake a Graham analysis, the motivation

of combination is problematic. Therefore, combination of Wrappe and Belcea does not render claim 1 obvious because it has not established its *prima facie* case, since “obviousness requires a suggestion of all limitations in a claim.” *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003).

2. Claims 2-5

Claims 2-5 depend from claim 1 and are not obvious over Wrappe in view of Belcea for at least the same reasons.

B. Petitioner Fails to Establish in Ground II and III that Challenged Claims 6-30 are Obvious Over Wrappe in view of Belcea and Christopher

1. Claims 6, 29 and 30

Independent claims 6, 29 and 30 have been divided into elements for consideration by the Petitioner as follows:

6/29/30[Pre] A method of communicating data between at least one selected communication transponder and at least one selected mobile communication device comprising:

6/29/30[A] using a [preconfigured] geographical zone, wherein the zone includes a plurality of spaced apart communication transponders; the transponders including a transmitter and receiver and wherein at least one of the transponders permits communication with a mobile device of a user;

6/29/30[B] sending data communication between pluralities of the transponders in a network communication protocol with each other, applying the plurality of transponders in the network with each other to define the zone,

6/29/30[C] communicating between at least one transponder to the mobile user and between at least one transponder; the communication between the mobile device of the user and the least one transponder being effected (SIC) by at least one of Bluetooth or a Wi-Fi protocol thereby to determine the location of the user in the zone through such communication;

6/29/30[D] arranging the transponders at locations in the zone, and the respective locations of the plurality of transponders in the zone being placed within a building structure;

30[Di] arranging the transponders in a multidimensional sense about the zone, the transponders being distributed in separate mesh networks, and the mesh networks being in different specific zones, and wherein different mesh networks of transponders are associated with a dedicated base station;

6/29/30[E] obtaining and analyzing data related to the location of the mobile user according to the placement of the transponders in the zone;

6/29/30[F] enabling selected mobile communication devices to be in communication with at least one selected communication transponder when the devices are within range of the selected transponder;

6[G] the mobile user receiving selection parameter data from multiple transponders, and utilizing the selection parameters, such that the system narrows the plurality of transponders to the most practically near transponder, such most practically near transponder not necessarily being the transponder physically closest to the mobile user;

29[G] effecting a location transponder selection by a general wireless communication of multiple location transponder located within communication range in the zone, obtaining unique location transponder radio addresses, searching for wireless devices of at least one subclass, the subclasses being selected to include specific types of wireless communication devices, selectively cell phones, pagers, PDAs, and laptop computers, or by searching for at least one specific wireless device operating in a specific mode;

6/29/30[H] associating respective users of respective mobile devices with a respective profile of the respective user of the respective mobile device;

6/29/30[I] – sending a targeted message to a selected mobile device of a selected user from the selected communication transponder when the selected mobile device is in range; and

6/29/30[J] tailoring the targeted message to the profile of the user associated with the mobile device.

a. The combination of Wrappe, Belcea and Christopher does not teach the limitation 6[G]

The limitation 6[G] recites “the mobile user receiving selection parameter data from multiple transponders, and utilizing the selection parameters, such that the system narrows the plurality of transponders to the most practically near transponder, such most practically near transponder not necessarily being the transponder physically closest to the mobile user.”

As discussed in Section V.A.1.a, the combination of Wrappe and Belcea does not teach the limitation “most practically near transponder, such most practically near transponder not necessarily being the transponder physically closest to the mobile user,” thus the combination of Wrappe and Belcea does not teach the limitation 6[G].

Petitioner does not argue that Christopher cures the deficiencies noted above with respect to Wrappe and Belcea regarding limitation 6[G]. Instead, Christopher is cited for teaching the limitation 6/29/30[H] – associating respective users of respective mobile devices with a respective profile of the respective user of the respective mobile device (see, e.g., Petition, 62-63, 77).

Therefore, the combination of Wrappe, Belcea and Christopher does not teach the limitation 6[G].

b. The combination of Wrappe, Belcea and Christopher does not teach the limitation 6/29/30[C]

Petitioner contends that Wrappe teaches communication between the beacons and mobile device— “microcell beacons use short range data transmitters [] for local area data communication, such as Bluetooth or Wi-Fi [to broadcast information].” Ex-1005, ¶35. Wrappe’s “microcell beacon station may receive data from a mobile station (e.g., through Internet).” Id. ¶48. Wrappe explains “microcell beacons can provide information such as street address, identity of the site in which the microcell beacons are installed, zone identification information.” Id. ¶45. Thus, Wrappe’s beacon’s Bluetooth or Wi-Fi communications with the mobile station can be used to determine the location of the mobile station. Ex-1002 ¶224. Pet.54-55.

The cited portions of Wrappe show that at least one transponder (microcell beacon) can communicate with the mobile user, but do not show communicating at least one transponder. In fact, microcell beacons do not communicate with each other.

Wrappe discloses microcell beacons do not communicate with each other as follows:

In one embodiment of the present invention, the signal transmission strength of the microcell beacons and the distribution of the microcell beacons are adjusted during the installation process such that the beacon signals identifying one of the

stores covers substantially the store. Thus, when the mobile station enters the store, the dominant beacon signals received at the mobile station identifies the store. For example, the beacon signals for store 511-517 have coverage areas 531-537 respectively so that when mobile stations 501 receives a signal beacon signal for a store (e.g., store 515 when the mobile station is in area 535), the mobile station can identify the store from the beacon signal (e.g., the store ID broadcast by beacon 545). Ex. 1005 ¶ [0046].

Since each beacon signal is limited to the respective area of the stores, microcell beacons do not communicate with each other.

Petitioner does not argue that Belcea and Christopher cures the deficiencies noted above with respect to Wrappe regarding the limitation 6/29/30[C], particularly the limitation “communicating between at least one transponder.”

Therefore, the combination of Wrappe, Belcea and Christopher does not teach the limitation 6/29/30[C].

c. Wrappe in view of Belcea and Christopher or Kinnunen Does Not Render Claims 6, 29 and 30 Obvious

Petitioner fails to undertake a Graham analysis, because Petitioner’s combination of Wrappe, Belcea and Christopher or Kinnunen lacks evidence of crucial limitations of claims 6, 29 and 30, lacks evidence of crucial limitations of claim 1, such as the elements 6[G], 6/29/30[C]. Therefore, combination of Wrappe,

Belcea and Christopher or Kinnunen does not render claims 6, 29 and 30 obvious because it has not established its prima facie case, since “obviousness requires a suggestion of all limitations in a claim.” *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003).

2. Claims 2-5 and 7-28

Claims 2-5 depend from claim 1, and claims 7-28 depend from claim 6, and are not obvious over Wrappe, Belcea and Christopher or Kinnunen for at least the same reasons.

VI. CONCLUSION - CLAIMS 1-30 ARE PATENTABLY DISTINCT FROM THE PETITION PRIOR ART

Claims 1-30 are patentably distinct over the prior art of record. As explained herein, the Petition Prior Art does not describe all of the elements of claims 1-30.

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Respectfully submitted,
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Date: March 6, 2024

/Jacob B. Henry/
Jacob B. Henry

CERTIFICATE OF SERVICE

I hereby certify that all counsel for Petitioner who have appeared in this case are being served on this day of March 6, 2024, with a copy of the foregoing document via e-mail.

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