

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

BROADPHONE LLC,
Patent Owner

Case: IPR2024-00155
U.S. Patent No. 10,341,811

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

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Ex. No.	Description	Previously Submitted
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Ex-1002	Declaration of Kevin Almeroth, Ph.D.	X
Ex-1003	Curriculum Vitae of Kevin Almeroth, Ph.D.	X
Ex-1004	Prosecution History of U.S. Patent No. 10,341,811	X
Ex-1005	U.S. Patent No. 6,269,246 (“ <i>Rao-I</i> ”)	X
Ex-1006	U.S. Patent No. 8,477,731 (“ <i>Nanda</i> ”)	X
Ex-1007	U.S. Patent Application Publication 2001/0022558 (“ <i>Karr</i> ”)	X
Ex-1008	U.S. Patent No. 7,116,987 (“ <i>Spain-II</i> ”)	X
Ex-1009	U.S. Patent No. 6,782,265 (“ <i>Perez-Breva-II</i> ”)	X
Ex-1010	U.S. Patent No. 6,393,294 (“ <i>Perez-Breva-I</i> ”)	X
Ex-1011	U.S. Patent No. 6,944,465 (“ <i>Spain-I</i> ”)	X
Ex-1012	T Suzuki, et al., The Moving-body Position Detection Method; JP Patent Application (shown as 63-195800), August 1988	X
Ex-1013	M. Hellebrandt, et al., Estimating Position and Velocity of Mobiles in a Cellular Radio Network, IEEE Trans. On Vehicular Technology, Vol. 46, No. 1, pp. 65-71	X
Ex-1014	I Gaspard, et al., Position Assignment in Digital Cellular Mobile Radio Networks (<i>e.g.</i> , GSM) Derived from Measurements at the Protocol Interface, IEEE Journal, pp. 592-596, March 1997	X
Ex-1015	J. Jimenez et al., Mobile Location Using Coverage Information: Theoretical Analysis and Results, COST 259 TD (98), April 1999	X
Ex-1016	U.S. Patent No. 7,848,765 (“ <i>Phillips</i> ”)	X

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I. INTRODUCTION

Petitioner Samsung Electronics, Co., Ltd. (“Samsung”) replies to Patent Owner’s Response (Paper No. 15, “Response” or “POR”) filed by Broadphone LLC (“Broadphone”). Broadphone’s Response does not substantively dispute the unpatentability of challenged Claims 1, 4, 5, 8, 15, 18, 19, 22, 24, and 25. As such, those claims are unpatentable for the reasons provided in the Petition and the Board’s Institution Decision. Broadphone limits its Response to two dependent claims, Claims 14 and 28. As discussed in more detail below, Broadphone’s response advances arguments that are divorced from the claims and inconsistent with the evidence. All of the challenged claims should be found unpatentable and canceled.

II. CLAIM CONSTRUCTION

The Petition explained that “[f]or purposes of this proceeding, no special constructions are necessary to assess whether the challenged claims are unpatentable over the asserted prior art, and thus Petitioner applies their plain meanings.” Pet. at 4. In the Response, Broadphone agreed that no formal claim construction was necessary but added that “Claims 1 and 15 of the ’811 patent require, not just a generalized determination of the location of the claimed portable RF communications device, but specifically ‘determination of whether the portable RF communications device is within proximity of the device-specific target location.’” POR at 5 (citing Ex-1001, cls. 1, 15). Regarding the “device-specific target location”

term, Broadphone stated that “[a]s explained by Dr. Cooklev [Broadphone’s expert], the plain meaning requires a target location that is specific to a particular device, not a location that is generally applicable to numerous devices.” *Id.* (citing Ex-2003 (Cooklev Declaration), ¶34). Broadphone’s interpretation of the claim term should be rejected because it is vague and, to the extent capable of being understood, inconsistent with the intrinsic record.

In particular, it is unclear what type of location Broadphone is referring to when it refers to a location that is “specific to a particular device” and that is not “generally applicable to numerous devices.” One possibility is that Broadphone is referring to a user-selected location, but Dr. Cooklev made clear during deposition that that was not his understanding, and that a user-selected location may or may not be a device-specific target location. Ex-1079 (Cooklev Dep. Tr.) at 51:9-54:9. When asked whether two different devices can share the same device-specific target location, Dr. Cooklev cryptically said that “it depends.” *Id.* at 109:7-21. When asked to explain what would qualify as “numerous devices” under his construction, he said it was “clear” but was unable to explain what he meant. *Id.* at 110:16-112:16, 113:12-22. When asked to explain how a location can be “specific to a particular device,” he again could not explain. *Id.* at 114:5-116:22, 123:4-124:14. When asked to provide a single example of a target location that is specific to a particular device under his understanding, he could not. *Id.* at 117:5-122:13. And in fact, under

Broadphone’s and Dr. Cooklev’s understanding of the term, Dr. Cooklev himself repeatedly asserted that the boundaries of the claim element are not “crisply defined.” *Id.* at 120:3-8, 120:14-15, 121:4-11, 146:21-147:1.

What is relevant to this proceeding, however, is whether a device-specific target location can be a location that applies to more than one device. To the extent Broadphone’s construction is intended to argue that a device-specific target location cannot be a location that applies to more than one device, it is inconsistent with the intrinsic record. For example, the specification of the ’811 Patent contemplates a system that may utilize more than one portable RF communications device. *See, e.g.,* Ex-1001 at 9:7-14 (discussing a mobile telephone, or equivalent units, measuring signal strengths). The specification also explains that one device may register reference fingerprints in a database related to selected locations while a different device monitors a device’s current location. *See id.* at 12:53-58 (“[O]ne might even reach the case where Registering is done on a first device, Monitoring is done on a second device, Storing is done in an offsite facility, and Determining is done in a different offsite facility.”). The specification also considers storing captured signal strength information in a remote database or transferring captured signal strength information to a different device. Ex-1001 at 7:2-6 (“The device needs a means for remembering this signal strength (preferably with the antennas’ IDs), and this means may be on the device per se, kept at a remote storage (or even

transferred from the current device to the owner's next cell phone).”).

During prosecution of the ’811 Patent, Broadphone associated the claimed proximity features (i.e., determining if a device is within proximity of a device-specific location) to features in the specification where a “mobile telephone (*or an equivalent unit*) upon observing an identical list of service antennas with substantially identical respective signal strengths—can reasonably conclude that it is within a predetermined proximity of *the original user-selected location*.” Ex-1004 (’811 Patent Prosecution History) at 128 (citing now Ex-1001 at 9:10-14) (emphasis added). Broadphone also noted the specification’s reference to “selected location” in discussing the claimed “device-specific target location.” Ex-1004 at 136 (citing now Ex-1001 at 6:19-23 (“Determining if the portable RF communications device of the Monitoring step is at the selected location of the Registering step by electronically comparing measurements in the Monitoring step with the stored at least two measurements of the Recording step.”)).¹ Thus, a device-

¹ Despite Broadphone’s reliance on this passage for support for the claimed “device-specific target location” during prosecution, Dr. Cooklev refused to say whether this passage provided an example of a device-specific target location. Ex-1079 at 54:10-63:6.

specific target location appears to simply refer to a user-selected location.² As detailed above, the ’811 Patent specification explains that different devices can be used between the Registering step and Monitoring step. *See* Ex-1001 at 12:53-58. And indeed, during cross-examination, Dr. Cooklev reluctantly agreed that there are situations where two different devices can share the same device-specific target location. *See* Ex-1079 at 109:7-21 (“I think that there could be situations in which that could be true.”).

III. ALL OF THE CHALLENGED CLAIMS ARE UNPATENTABLE

A. Broadphone Waived Any Argument That Ground 1 Does Not Teach the Limitations of Claim 1 and Claim 15

As an initial matter, implicit in Broadphone’s argument is the tacit concession that the combination of *Spain-I* in view of *Hunzinger* and *Nanda* (Ground 1) meets the limitations of Claim 1 and Claim 15. Broadphone’s Response does not argue

² Further, the specification’s explanation that a user can stand in a location where a desired action is to take place to associate that action with that location (*see* Ex-1001 at 18:46-54), which Broadphone implied is relevant to the term in its leading questions to its expert (*see* Ex-1079 at 129:8-130:6), is consistent with the understanding that a device-specific target location refers to a user-selected location, and does not preclude the scenario where multiple devices select the same location for desired actions.

that any limitations of Claim 1 or Claim 15 are not met by the proposed combination of *Spain-I* in view of *Hunzinger* and *Nanda* (*see generally* POR), but instead argues that the combination cannot meet the limitations of Claims 14 and 28 (*see* POR at 5-8). Accordingly, Broadphone has waived any argument that Ground 1 does not teach the limitations of Claim 1 and Claim 15. And with respect to the limitations of Claims 14 and 28, all of Broadphone’s arguments are without merit.

B. Ground 1 Demonstrates That Claims 14 and 28 are Obvious

Broadphone alleges that the Petition’s Claim 14 theory fails to explain how the *Spain-I-Hunzinger-Nanda* combination would have involved a “device-specific location” meeting the requirements of Claim 1. POR at 7; *see also id.* (arguing the same issue impacts Claim 28). In particular, Broadphone contends that the Petition’s Claim 14 theory posits a modification of the *Spain-I-Hunzinger-Nanda* combination which adds a server that collects and stores fingerprint data from multiple devices in a single database. POR at 6 (citing Pet. at 60). Broadphone argues that the database of locations and fingerprints of the proposed combination would be applicable to multiple devices “which directly undermines the Petition’s contention that the stored locations would be device-specific.” POR at 7. Similarly, Broadphone argues that the database in the prior art would not “involve a database of device-specific locations as the claim language recites.” *Id.* Broadphone is not correct.

Broadphone’s argument appears to be based on the mistaken belief that the

claims require “a database of device-specific locations.” *Id.* That is simply not correct. Rather, the claims require a determination as to “whether [a] portable RF communications device is within proximity of [a] device-specific target location” and doing so by comparing against signal strengths. Ex-1001 at 26:60-27:5; *see also id.* at 28:18-29. The claim does **not** say that the signal strengths are device-specific, as Broadphone appears to suggest. Nor are Broadphone’s other claim construction arguments correct, as discussed above. *Supra* Section II. As a result, the entire premise of Broadphone’s argument is faulty, and no further consideration is needed.

In any event, however, a careful review of the Petition further demonstrates the error in Broadphone’s argument. In the Petition’s analysis of Claim 1, the Ground 1 combination of *Spain-I-Hunzinger-Nanda* teaches all limitations of that claim. *See* Pet. at 6-53. For example, the Petition’s Claim 1 analysis explains that:

Spain-I’s MU performs processes causing a determination whether it is currently “at a particular location or not.” (Ex-1011, 4:23-25, 4:43-47; Ex-1005, 3:10-18; §§IX.A.1(pre)-1(a).) The MU electronically compares fingerprint information (including signal strength parameters (e.g., number(s))) for the MU’s monitored location first communication signals (§IX.A.1(a)) with stored fingerprint information for particular target location(s) second communication signals (from second antenna stations) to determine a “closest” match. (§§IX.A.1(a), *infra* IX.A.1(b)(2).) Upon a “match” (or

close match) the “corresponding location in the database is then chosen as the location of the mobile unit.” (Ex-1011, 5:61-6:4, 8:1- 26; §§IX.A.1(pre)-1(a); Ex-1002, ¶120.)

See Pet. at 13. *Hunzinger* discloses a location determining system/process where a mobile device (with “position location technology”) enables a user to choose locations for their specific device and the device performs related actions when it determines it is at such device-specific target locations. See Pet. at 17 (citing Ex-1054 at Abstract, FIGS. 1A-4, 1:38-2:6, 2:10-44, 3:4-67, FIG. 2; see also Ex-1002, ¶132). Further, *Nanda* discloses systems/processes that determine whether a mobile device is “in the vicinity of” a location by comparing fingerprint information that is collected/measured while the MU is at a target location chosen by the user. See Pet. at 21 (citing Ex-1006 at FIGS. 1A-1B, 2:16-59, 3:48-4:14, 5:50-7:28, 8:29-36; Ex-1002, ¶¶69-75, 139-146). The Petition explains that “in light of *Hunzinger* and *Nanda*, a POSITA would have been motivated, and found obvious, to configure the MU in the *Spain-I* system/process with mechanisms/features consistent with the user chosen location and location-based action features like that taught/suggested by *Hunzinger* (and *Nanda*) to cause a determination to detect proximity of device-specific target locations.” See Pet. at 26; see also Ex-1002, ¶¶147-157. The Petition further explains that “a POSITA would have appreciated the advantages/benefits/teachings associated with *Hunzinger*’s (and *Nanda*’s)

mechanisms for enabling a MU user to choose device-specific target location(s) from which location information is collected for comparison with current location information to cause a determination of whether the MU is at, entered, or left the device-specific target location in order to trigger corresponding selected actions.” *See* Pet. at 26. The proposed *Spain-I-Hunzinger-Nanda* combination also explains that previously stored fingerprint information and corresponding signal strength information may be stored in a database located on the MU. Pet. at 30.

Regarding Claim 14, the Petition explains that, in addition to storing a fingerprint database on the MU itself, *Spain-I* also describes configurations where the fingerprint database may be stored at the location server remotely from the MU, and the remote server performs comparison operations to “search for the closest matching fingerprint.” *See* Pet. at 60 (citing Ex-1011 at FIG. 3, 6:9-30; Ex-1005 at FIG. 3, 4:28-58; Ex-1009 at 5:22-42; Ex-1010 at 5:20-41); *see also* Ex-1002, ¶212. Likewise, *Nanda* describes similar features where a mobile device creates/sends fingerprint(s) to a remote database for location determination processes. Pet. at 58 (citing Ex-1006 at 12:14-31; Ex-1002, ¶212). The Petition then states that in light of these teachings/suggestions a POSITA would have been motivated to configure *Spain-I* such that the MU provides fingerprints when building the remote database at device-specific target locations for storage and subsequent location determination analysis. *See* Pet. at 59. Such a modification “would have predictably resulted in

the system/processes automatically performing determining whether the MU is within proximity of the device-specific target location at a location remote (e.g., server 30) from the MU, consistent with features disclosed/suggested by *Spain-I* and *Nanda*.” *Id.* The Petition further explains that the modified system/processes would have provided the benefits of reducing processing/storing requirements of the MU, in accordance with known fingerprint-based location applications. *Id.* These teachings of *Spain-I* and *Nanda* indicate an MU can contribute reference fingerprints to a remote database where the location determination can then be performed for that MU. Thus, the Petition’s analysis (Pet. at 58-59) does not require multiple MUs to perform location determination, as Broadphone incorrectly contends. *See* POR at 7 (alleging multiple devices using the proposed system).

The Petition’s Claim 14 analysis does explain, as an additional motivation, that *Nanda* considers such a remote database/server configuration would have enabled the use of “fingerprints from multiple mobile devices,” which would have allowed for a “much larger database of available access points than would be found in a single mobile device.” *See* Pet. at 60 (citing Ex-1006 at 12:14-31). The Petition notes that:

Such teachings would have motivated a POSITA to consider/configure the modified *Spain-I* system/processes such that the remote server receives signal strength data from multiple MUs to build a robust remote fingerprint

database, consistent with features contemplated by *Spain-I-Nanda*. (Supra; Ex-1002, ¶215.)

Pet. at 60. The Petition explains that such features would have allowed the modified *Spain-I* system/processes to create/maintain a remote database of fingerprints using signal strength data from multiple MUs, thus beneficially expanding applications of the modified *Spain-I* system/processes. Pet. at 60 (citing Ex-1002, ¶215). Specifically, the pertinent portion of *Nanda* relied on for the above point states that the database “could receive fingerprints from multiple mobile devices and have a much larger database of available access points than would be found in a single mobile device.” Ex-1006 at 12:26-29. But this is entirely consistent with the meaning of a device-specific target location. *Supra* Section II. For this additional reason, Broadphone’s arguments should be rejected.

As an example, if two MUs created fingerprints at the same target location and those fingerprints were then stored in the same remote database, that location would be a device-specific target location for each of those MUs, as each of those MUs would have selected that location. *Supra* Section II. Dr. Cooklev agreed that this type of scenario is possible in the context of the ’811 Patent:

Q: But you're not saying that two different devices can't share the same device-specific target location, are you?

A: I think the answer is, it depends.

Q: So there are situations where two different devices can share the same device-specific target location, correct?

A: I think I haven't said it here, but I think it depends.

Q: So I asked you whether there are situations where that could be true. What do you mean by "it depends"?

A: I mean, the context of the '811 patent, I think that there could be situations in which that could be true.

See Ex-1079 at 109:7-21; *see also supra* Section II. Broadphone’s argument that a server which collects and stores fingerprint data from multiple devices in a single database cannot have device-specific target locations is not correct and should be rejected.

IV. THE TESTIMONY OF DR. COOKLEV IS NOT CREDIBLE AND SHOULD BE GIVEN NO WEIGHT

Because Dr. Cooklev’s testimony is inconsistent and evasive, it deserves no weight in this proceeding. *See Ultratec, Inc. v. CaptionCall, LLC*, 872 F.3d 1267, 1275 (Fed. Cir. 2017) (remanding to the Board to consider the impact of an expert’s inconsistent testimony on his credibility); *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1368 (Fed. Cir. 2004) (“[T]he Board is entitled to weigh the declarations and conclude that the lack of factual corroboration warrants discounting the opinions

expressed in the declarations.”). For example, during cross-examination, Dr. Cooklev was asked to give examples that a POSITA would consider to be a device-specific target location, but was unable to provide even one example. *See, e.g.*, Ex-1079 at 50:15-59:6, 62:1-63:8, 117:5-122:13. When questioned whether it would be possible for two different devices to share the same device-specific target location, Dr. Cooklev responded that “it depends.” *See* Ex-1079 at 109:7-21. On redirect, counsel for Broadphone attempted to clarify Dr. Cooklev’s testimony by having him read a portion of the ’811 Patent specification (Ex-1001 at 18:46-54) and leading him to confirm this as an example of a device-specific target location. *See* Ex-1079 at 129:8-130:6. Dr. Cooklev read the aforementioned portion and, in conclusory fashion, agreed that this portion was an example of a device-specific target location. *Id.* However, on re-cross, Dr. Cooklev could not explain why this portion of the specification constituted such a device-specific target location. *See* Ex-1079 at 130:11-137:11, 141:13-142:11.

Additionally, when questioned regarding paragraph 34 of his declaration, Dr. Cooklev was unable to explain why a location that is generally applicable to numerous devices cannot be a device-specific target location or how a location can exist that is specific to a particular device and not applicable to other devices. *See* Ex-1079 at 108:4-115:14, 115:18-122:13, 123:4-126:5, 126:18-127:5. Moreover, Dr. Cooklev could not articulate what meaning of “device-specific target location”

he applied in his analysis. *See id.* Tellingly, on multiple occasions, Dr. Cooklev himself asserted that the boundaries of the claim element are not “crisply defined.” Ex-1079 at 120:3-8, 120:14-15, 121:4-11, 146:21-147:1. At one point, Dr. Cooklev stated that a user-selected location may or may not be a device-specific target location. *Id.* at 51:9-54:9. Dr. Cooklev’s testimony was also entirely evasive regarding his understanding of certain prior art references (e.g., *Nanda*), the scope of the challenged claims, and the meaning of particular claim terms. *See, e.g.*, Ex-1079 at 86:7-91:11, 120:19-121:3, 121:12-122:2.

Accordingly, Dr. Cooklev’s contradictory and evasive testimony should be accorded no weight. *Ultratec*, 872 F.3d at 1275; *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d at 1368.

V. CONCLUSION

For the reasons set forth above, in the Petition, and the Board’s Institution Decision, the Board should reject Broadphone’s arguments and find the challenged claims unpatentable.

Dated: November 12, 2024

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(d), the undersigned certifies that the foregoing Petitioner’s Reply contains, as measured by the word-processing system used to prepare this paper, 3,079 words. This word count does not include the items excluded by 37 C.F.R. § 42.24.

Respectfully submitted,

Dated: November 12, 2024

By: /Naveen Modi/
Naveen Modi
Reg. No. 46,224
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2024, a copy of the foregoing
Petitioner’s Reply was served by electronic means upon the following:

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