

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HOME DEPOT U.S.A., INC.
Petitioner

v.

H2 Intellect LLC.
Patent Owner

Inter Partes Review No.: IPR2025-00480
U.S. Patent No. 8,433,296

**PETITIONER'S REPLY TO
PATENT OWNER'S PRELIMINARY RESPONSE**

INDEX OF EXHIBITS

Exhibit No.	Description
1001	U.S. Patent No. 8,433,296 (the “ 296 patent ”).
1002	Declaration of David H. Williams.
1003	File History of U.S. Patent No. 8,433,296.
1004	U.S. Patent App. Pub. No. 2006/0149630 (“ Elliott ”).
1005	U.S. Patent App. Pub. No. 2002/0161633 (“ Jacob ”).
1006	File History of U.S. Pat. No. 11,948,171.
1007	U.S. Patent No. 6,108,650 (“ Musk ”).
1008	<i>H2 Intellect LLC v. The Home Depot, Inc., et al.</i> , Infringement Contentions, November 1, 2024.
1009	Macromedia Dreamweaver UltraDev Support Center - Defining Dynamic Content, https://web.archive.org/web/20060715033222/https://www.adobe.com/support/ultradev/content/url_parameters/url_parameters04.html (Jul. 15, 2006).
1010	U.S. Patent App. Pub. No. 2003/0142631 (“ Silvester ”).
1011	U.S. Patent App. Pub. No. 2007/0088852 (“ Levkovitz ”).
1012	U.S. Patent App. Pub. No. 2008/0032703 (“ Krumm ”).
1013	Apple launches official iPhone, iPod touch Web apps directory. https://appleinsider.com/articles/07/10/11/apple_launches_official_iphone_ipod_touch_web_apps_directory (Oct. 11, 2007).
1014	Five Killer Apps for Palm Centro (and Treo) Smartphones, https://www.cbsnews.com/news/five-killer-apps-for-palm-centro-and-treo-smartphones/ (Oct. 1, 2007).
1015	<i>H2 Intellect LLC v. The Home Depot, Inc., et al.</i> , Infringement Contentions, Exhibit A, November 1, 2024.
1016	Papers of H. Bentley Hahn: The Man Who Invented the 5-Digit ZIP Code, https://jfk.blogs.archives.gov/2021/07/01/papers-of-h-bentley-hahn-the-man-who-invented-the-5-digit-zip-code/ (July 1, 2021).
1017	Geofencing, Techopedia, https://www.techopedia.com/definition/14937/geofencing (last visited February 10, 2025).
1018	Jonathan P. Munson & Vineet K. Gupta, Location-Based Notification as a General-Purpose Service, Proceedings of the 2nd International Workshop on Mobile Commerce 40 (2002).

Exhibit No.	Description
1019	What We Do, Locating What's Important To You, Cell-Loc, http://web.archive.org/web/20030411221815/http://cellloc.com/what_locating.html (last visited February 10, 2025).
1020	Alan Cohen, "Location, Location, Location," PC Mag., available at https://books.google.com/books?id=eIvagv988JgC&pg=PA82#v=onepage&q&f=false (last visited February 10, 2025).
1021	U.S. Patent No. 7,133,685.
1022	U.S. Patent No. 7,164,986.
1023	U.S. Patent No. 8,536,999.
1024	U.S. Patent Publication No. US 2008/0094256.
1025	U.S. Patent No. 8,010,134.
1026	U.S. Patent Publication No. US 2006/0116817.
1027	U.S. Patent No. 10,380,636.
1028	Get parameters in url, https://www.drupal.org/forum/support/module-development-and-code-questions/2007-10-03/get-parameters-in-url (Oct. 3, 2007).
1029	Petitioner's Stipulation
1030	U.S. Patent App. Pub. No. 2010/0312646 (" Gupta ")

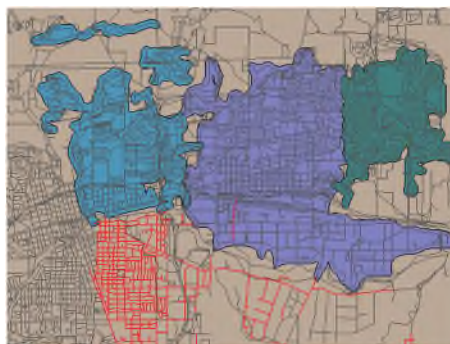
PO seems to propose a distinction between *using* pre-existing boundaries and *establishing* preexisting boundaries by alleging that “the plain language of limitation 1[b]... does not exclude using pre-existing boundaries but does require that the method ‘establish[]’ those boundaries as part of the claimed method.” EX3001, 2. This unexplained distinction contradicts the claim’s plain language and the intrinsic evidence.

PO’s unexplained distinction is inconsistent with the ’296 patent’s detailed description, which explicitly describes that a user can ‘establish’ a plurality of perimeters by using pre-existing boundaries. EX1001, 8:46-48 (“The perimeters established can be based on map features, such as streets, rivers, landmarks, or any of the other various map features.”), 8:62-65 (“Some embodiments employ pre-defined areas, or allow selection of areas based on predetermined factors, and present sponsors a choice from among previously established options.”), 4:27-30 (“Sponsor A’s reserved geographic area 143 illustrates an embodiment in which a perimeter can be defined by streets, county boundaries, city boundaries, landmarks, or other features commonly found on maps.”). The POPR’s unexplained distinction would improperly exclude these disclosed embodiments. *See Cupp Computing AS v. Trend Micro Inc.*, 53 F.4th 1376, 1381 (Fed. Cir. 2022) (“[A] claim interpretation that excludes a preferred embodiment from the scope of the claim is rarely, if ever, correct.”). Accordingly, the ’296 patent makes clear that the

use of pre-existing boundaries satisfies the “establishing” limitation. To the extent that PO’s unexplained distinction is temporal, PO fails to provide any reason that **when** those perimeters are established is relevant to limitation 1[b].

It is undisputed that the Petition relies on Jacob’s disclosure of the existence and use of pre-existing perimeters defining geographic areas (e.g., city, village, suburb borders). Paper 8, 30 (“Petitioner also asserts, with reference to Jacob, that the ‘outline of City B is a perimeter that defines the geographic area of City B; similar reasoning applies for Suburb A and Village C.’ Pet., 22 (citing Jacob, Fig. 3).”). The Petition therefore correctly maps these disclosures in Jacob to the “establishing” limitation 1[b].

Moreover, the Petition’s reliance on Jacob’s use of zip codes also satisfies limitation 1[b]. As PO concedes, “ZIP codes...are collections of addresses.” Paper 8, 20 (citing EX2039, 5). The ’296 patent makes clear that “perimeters can also be defined by...a physical address.” EX1001, 8:48-51. PO’s own exhibit shows that a collection of addresses (i.e., ZIP codes) are perimeters that define geographic areas:



EX2032, 2. The purple region, for example, corresponds to a first ZIP code, which is a collection of addresses with a perimeter—it constitutes a geographic area. PO’s other argument—ZIP codes are not perimeters because they are not polygonal or contiguous—excludes disclosed embodiments because circles are not polygons and some cities have non-contiguous borders (e.g., New York City, NY; Racine, WI). *See* Paper 8, 21; EX1001, 4:31 (geographic area can be “a city . . . an ellipse, circle, oval”). Therefore, the Petition also shows, through Jacob’s use of ZIP codes to target users with advertisements, that the Elliott-Jacob combination discloses limitation 1[b].

Accordingly, PO’s attempt to distinguish between “using” and “establishing” pre-existing boundaries is an unsupported argument that fails to align with the intrinsic evidence. The ’296 patent explicitly discloses embodiments that “establish[]” perimeters by selecting pre-existing boundaries. PO’s arguments that Jacob’s use of city boundaries and zip codes as geographic areas somehow falls short of “establishing” these perimeters not only contradicts its own statements but reads out disclosed embodiments for establishing perimeters. Therefore, based on the plain language of the claim and the explicit teachings of the specification, PO’s implicit attempt to misconstrue “establish” to avoid the clear teachings of Jacob must fail.

Date: September 15, 2025

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CERTIFICATE OF SERVICE

The undersigned certifies pursuant to 37 C.F.R. §§ 42.6(e) that on September 15, 2025 a true and correct copy of this brief and any new exhibits was served by emailing a copy of same to the following:

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