

Filed on behalf of: Capital One, N.A. and Capital One Services, LLC

Entered: November 18, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CAPITAL ONE, N.A. and CAPITAL ONE SERVICES, LLC,
Petitioner,

v.

WAPP TECH CORP.,
Patent Owner.

IPR2025-01325
Patent 8,924,192

**PETITIONERS' AUTHORIZED REPLY TO PATENT OWNER'S
PRELIMINARY RESPONSE**

Exhibit List

Ex.	Description
1001	U.S. Patent No. 8,924,192 (“’192 patent”)
1002	Prosecution History of U.S. Patent No. 8,924,192 (“’192 PH”)
1003	Declaration of Nenad Medvidovic, Ph.D., with <i>curriculum vitae</i>
1004	U.S. Patent Application No. 12/759,543 (“’543 application”)
1005	Certified Translation of Korean Patent Publication No. KR 2003-0049670 (“Lee”)
1006	Korean Patent Publication No. KR 2003-0049670
1007	U.S. Patent Application Publication No. 2005/0102638 (“Jiang”)
1008	U.S. Patent Application Publication No. 2006/0015404 (“Tran”)
1009	U.S. Patent No. 7,813,910 (“Poulin-910”)
1010	Hassan Artail, <i>A Multiplatform Methodology: Developing Mobile Device Applications</i> , 4 IEEE Pervasive Computing 92 (Apr. – June 2005)
1011	Lynne Hall et al., <i>A Development Environment for Intelligent Applications on Mobile Devices</i> , 27 Expert Sys. Applications 481 (2004)
1012	U.S. Patent Application Publication No. 2002/0184610
1013	European Patent Specification No. EP 1 332 439 B1
1014	Stuart J. Barnes, <i>The Mobile Commerce Value Chain: Analysis and Future Developments</i> , 22 Int’l J. Info. Mgmt. 91 (2002)
1015	U.S. Patent Application Publication No. 2004/0192277
1016	Bert de Reyck & Zeger Degraeve, <i>Broadcast Scheduling for Mobile Advertising</i> , 51 Operations Rsch. 509 (2003)

Ex.	Description
1017	Ichiro Satoh, <i>Software Testing For Wireless Mobile Computing</i> , 11 IEEE Wireless Commc'ns 58 (Oct. 2004)
1018	Trevor J. Young, <i>Using AspectJ to Build a Software Product Line for Mobile Devices</i> (Aug. 2005) (Master's thesis, University of British Columbia)
1019	Microsoft Computer Dictionary (5th ed. 2002) (excerpts)
1020	Webster's Unabridged Dictionary of the English Language (2001) (excerpts)
1021	S. Kumar & C. Zahn, <i>Mobile Communications: Evolution and Impact on Business Operations</i> , 23 Technovation 515 (2003)
1022	Anthony Cataldo, <i>Kyocera Shows Portable Video Phone</i> , EDN (May 18, 1999), https://www.edn.com/kyocera-shows-portable-video-phone/
1023	Anita Wilhelm et al., <i>Photo Annotation on a Camera Phone</i> , CHI'04 Extended Abstracts of the 2004 Conference on Human Factors in Computing Systems 1403 (Apr. 2004)
1024	Risto Sarvas et al., <i>Metadata Creation System for Mobile Images</i> , Proceedings of the 2nd International Conference on Mobile Systems, Applications, and Services 36 (June 2004)
1025	Russell Beale, <i>Supporting Social Interaction with Smart Phones</i> , 4 IEEE Pervasive Computing 35 (Apr. – June 2005)
1026	BBC, <i>A History of Mobile Phones and Smartphones</i> , https://www.bbc.co.uk/bitesize/articles/z62gjfr (last visited July 10, 2025)
1027	Nenad Medvidovic, <i>Software Architectural Support for Handheld Computing</i> , 36 Comput. 66 (Sept. 2003)
1028	Tim Kindberg et al., <i>The Ubiquitous Camera: An In-depth Study of Camera Phone Use</i> , 4 IEEE Pervasive Computing 42 (2005)

Ex.	Description
1029	<i>App</i> , Britannica, https://www.britannica.com/technology/mobile-app (last visited July 10, 2025)
1030	U.S. Patent Application No. 11/449,958
1031	U.S. Provisional Application No. 60/689,101
1032	Matt Curtin, <i>Write Once, Run Anywhere: Why it Matters</i> (Apr. 9, 1998)
1033	Memorandum from the Chief Admin. Pat. Judge on Guidance on USPTO's Recission of "Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation" (Mar. 24, 2025), https://www.uspto.gov/sites/default/files/documents/guidance_memo_on_interim_procedure_recission_20250324.pdf ("Interim Procedure for Discretionary Denials")
1034	United States District Courts – National Judicial Caseload Profile (for period ending June 30, 2025), https://www.uscourts.gov/data-news/data-tables/2025/06/30/statistical-tables-federal-judiciary/c-5 ("Caseload Stats")
1035	U.S. District Courts – Table C-5. Median Time Intervals from Filing to Disposition of Civil Cases Terminated (for period ending June 30, 2025), https://www.uscourts.gov/data-news/data-tables/2025/06/30/statistical-tables-federal-judiciary/c-5 (printed July 31, 2025) ("Median Time Intervals")
1036	Lex Machina, District Judge Amos Louis Mazzant III: Federal District Court & Patent Cases Statistics (retrieved Oct. 28, 2025) ("Judge Mazzant Cases Statistics")
1037	RESERVED
1038	USPTO, Patent Trial and Appeal Board, https://www.uspto.gov/about-us/organizational-offices/patent-trial-and-appeal-board (last visited Oct. 15, 2025)

Ex.	Description
1039	<i>Reforming the Patent Trial and Appeal Board—The PREVAIL Act and Proposals to Promote U.S. Innovation Leadership: Hearing Before the Subcomm. on Intell. Prop., U.S. Sen. Comm. on the Judiciary</i> , 118th Cong. (Nov. 8, 2023) (statement of Joseph Matal, Clear IP, LLC)
1040	Memorandum Opinion and Order, <i>WAPP Tech Ltd. P’ship v. JPMorgan Chase Bank, N.A.</i> , No. 4:23-cv-01137 (E.D. Tex. Dec. 3, 2024), Dkt. No. 83
1041	Brief for the Federal Respondent in Opposition, <i>Gesture Tech. Partners, LLC v. Apple Inc.</i> , No. 24-1280 (U.S. Sept. 26, 2025), https://www.supremecourt.gov/DocketPDF/24/24-1280/378057/20250926164730081_24-1280_Gesture_Opp.pdf
1042	Sarah Perez, <i>Capital One Debuts New Apps To Accept Check Deposits By Phone</i> , TechCrunch (Dec. 3, 2012, 9:21 A.M. PST), https://techcrunch.com/2012/12/03/capital-one-debuts-new-apps-to-accept-check-deposits-by-phone/ (last visited Oct. 31, 2025)
1043	Jeffrey Kopchik, <i>Remote Deposit Capture: A Primer</i> , Supervisory Insights, (2009), https://www.fdic.gov/bank-examinations/remote-deposit-capture-primer-summer-09-article-2.pdf
1044	U.S. Patent No. 7,245,765 (“Myers”)
1045	Manual of Patent Examining Procedure (MPEP) ch. 900 (Mar. 2014), https://www.uspto.gov/web/offices/pac/mpep/old/e9r0/mpep-0900.pdf
1046	USPTO, USPC Class 703 – Data Processing: Structural Design, Modeling, Simulation, and Emulation (Jan. 2011), https://www.uspto.gov/web/patents/classification/uspc703/sched703.pdf
1047	USPTO, USPC Class 709 – Electrical Computers and Digital Processing Systems: Multicomputer Data Transferring (Jan. 2011), https://www.uspto.gov/web/patents/classification/uspc709/sched709.pdf

Ex.	Description
1048	USPTO, USPC Class 715 – Data Processing: Presentation Processing of Document, Operator Interface Processing, and Screen Saver Display Processing (Feb. 2011), https://www.uspto.gov/web/patents/classification/uspc715/sched715.pdf
1049	USPTO, USPC Class 345 – Computer Graphics Processing and Selective Visual Display Systems (Jan. 2011), https://www.uspto.gov/web/patents/classification/uspc345/sched345.pdf
1050	Manual of Patent Examining Procedure (MPEP) ch. 2100 (Mar. 2014), https://www.uspto.gov/web/offices/pac/mpep/old/e9r0/mpep-2100.pdf
1051	[Model] Order Focusing Patent Claims and Prior Art to Reduce Costs (E.D. Tex.), https://www.txed.uscourts.gov/sites/default/files/forms/ModelPatentOrder.pdf (last visited Oct. 27, 2025)
1052	Transcript of Case Management Conference, <i>Wapp Tech Ltd. P'ship v. Apple Inc.</i> , No. 4:25-cv-00230 (E.D. Tex. Oct. 27, 2025) (“CMC Tr.”)
1053	USPTO, USPC Class 345 – Computer Graphics Processing and Selective Visual Display Systems: Classification Definitions (Jan. 2011), https://www.uspto.gov/web/patents/classification/uspc345/defs345.pdf
1054	Order, <i>Wapp Tech Ltd. P'ship v. Apple Inc.</i> , No. 4:25-cv-00230 (E.D. Tex. Oct. 29, 2025), Dkt. No. 85 (“Claim Narrowing Order”)
1055	Exhibit A-15a to Defendant’s Invalidity Contentions, Invalidity of U.S. Patent No. 8,924,192 over Nokia 3650 User Guide, <i>WAPP Tech Ltd. P'ship v. JPMorgan Chase Bank, N.A.</i> , No. 4:23-cv-01137 (E.D. Tex.)
1056	Exhibit H to Plaintiff’s First Amended Complaint, <i>Wapp Tech Ltd. P'ship v. Apple Inc.</i> , No. 4:25-cv-00230 (E.D. Tex. Aug. 15, 2025)

Capital One submits this authorized Reply to Paper 7 (“POPR”). The POPR’s arguments conflict with facts and precedent. The Petition’s merits remain strong.

First, WAPP disingenuously argues that “no prior ’192 Patent challenger has asked for a product-by-process construction for Claim 60” (POPR, 26). WAPP’s own counsel produced documents to Capital One on October 8, 2025 showing that at least one other challenger took just that position. For example, JP Morgan’s invalidity claim charts served in earlier litigation explicitly argued that limitation 60[b] was “directed to the process of developing ... the application,” cited product-by-process legal precedent, and contended that patentability should be judged only “on the product itself” not “on its method of production.” Ex.1055, 13. Other invalidity charts included the same text.

The court in the JP Morgan case did not decide one way or another whether to construe the limitation to be a product-by-process claim. Thus WAPP’s footnote accusing Capital One of not demonstrating why a *different* outcome is warranted is also baseless; there is no contrary previous finding to address. POPR, 26 n.9.

Second, WAPP’s argument that claim 60’s software authoring platform “should be interpreted in its structural sense” by “default” (POPR, 27), contradicts its own infringement contentions. WAPP contends defendants’ “mobile applications that they develop ... are configured to enable a user to modify a photo on the mobile device” (product) and “mobile applications are developed using a software authoring

platform ...” (alleged product developed by a specific process). Ex.1056, 63-64. Its district court complaint similarly contends that Capital One’s “application is a ‘system comprising an application configured to enable a user to modify a photo on a mobile device’ and it was developed using ‘a software authoring platform configured to simultaneously visually emulate, via one or more profile display windows, a plurality of hardware characteristics indicative of performance of the mobile device when executing the application.’” Ex.2001, ¶28 (footnote omitted).

Accordingly, consistent with WAPP’s cited case, when “the patentee has demonstrated” that claim language connotes a **process** of manufacture, and not structure, as WAPP has consistently done, the patentee (WAPP) should be held to its word. *In re Nordt Dev. Co.*, 881 F.3d 1371, 1375 (Fed. Cir. 2018); *see also Aylus Networks, Inc. v. Apple Inc.*, 856 F.3d 1353, 1359-60 (Fed. Cir. 2017) (patentees prohibited from arguing different interpretations for infringement and validity). Limitation 60[b] recites the process for developing the recited application; it is not due patentable weight.

Third, Federal Circuit precedent forecloses WAPP’s “backdoor” written description allegations (POPR, 2, 28, 32-33). *See, e.g., Arthrex, Inc. v. Smith & Nephew, Inc.*, 35 F.4th 1328, 1344-45 (Fed. Cir. 2022) (Board may consider and determine priority in IPR proceedings). No further response is needed.

Fourth, WAPP’s reliance on *Maxlite* omits subsequent relevant events in that

case. POPR, 22 (citing *Maxlite, Inc. v. Jiaxing Super Lighting Elec. Appliance Co.*, IPR2020-00208, Paper 10 (PTAB June 24, 2020)). Although institution was initially denied, on rehearing the Board reversed and granted institution. IPR2020-00208, Paper 14 (PTAB June 1, 2021). The reversal decision acknowledged the language and proposition WAPP relies on here was not based on Federal Circuit precedent. *Id.* 6. The Board then found the petitioner had identified a specific limitation lacking written description and an ancestral application; therefore the burden of production shifted to the patentee to show written description to demonstrate “that each of the limitations of the challenged claims” was entitled to an earlier effective filing date of an ancestral application. *Id.* 8. The patentee did not, and thus the Board found the claims not entitled to an earlier priority date. *Id.*

Here, Capital One’s Petition identified the specific limitation (the “application”) and the ancestor applications that fail to provide priority support for the challenged claims. *See* Pet.42-46. The burden of production thus shifted to WAPP to show written description for each limitation of the challenged claims, to be entitled to an earlier priority date. WAPP failed to do so: its allegations of written description address only the recited “application” and fail to mention the “software authoring platform.” POPR, 34-36. WAPP has not shown it is entitled to priority to defeat Grounds 2A-2C.

The Petition shows claims 60-69 are obvious; the Director should institute.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 18th day of November, 2025, a true and correct copy of the foregoing **Petitioners' Authorized Reply to Patent Owner's Preliminary Response** was served by electronic mail on Patent Owner's lead and backup counsel at the following email addresses:

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