

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner

v.

HBCU MESSAGING US LP,
Patent Owner

IPR2025-0104
U.S. Patent No. 11,653,183

PATENT OWNER'S AUTHORIZED PRELIMINARY SUR-REPLY

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
Submitted Electronically via PTAB E2E

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TABLE OF AUTHORITIES

Cases

Assocs. v. Garlock, Inc.,
842 F.2d 1275 (Fed. Cir. 1988)..... 1

Revvo Technologies, Inc. v. Cerebrum Sensor Technologies, Inc.,
IPR2025-00632, Paper 20 (PTAB Nov. 3, 2025) 2

TABLE OF EXHIBITS

Exhibit	Description
Ex 2031	Jan. 26, 2026 Email from Anna Schmit, District Court Law Clerk

A. Introduction

Apple continues to mischaracterize the record and its own actions regarding claim construction. Apple now asserts that any problems are mooted by the District Court's *Markman* ruling. (Reply at 1, 4.) Both those assertions are false.

Apple knew Patent Owner's proposed constructions, as well as its own, well in advance of its Petition filing, and still: (1) offered different constructions of key terms before the District Court and the Board (see Exs. 2023, 2024); and (2) chose to remain silent even during the entire briefing process. Apple's approach violates the most basic principles of patent law and of simple fairness. *W.L. Gore & Assocs. v. Garlock, Inc.*, 842 F.2d 1275, 1279 (Fed. Cir. 1988).

B. "bearer"

It makes zero difference that Apple was not the party that originally asked to construe "bearer." (Reply at 1-2.) Once it was proposed for construction, Apple did **not** offer "ordinary meaning" or otherwise offer no construction was necessary. Instead, it proposed its own unique construction of the term. Further, it was not until **after** the district court issued its preliminary ruling and **after** argument at the *Markman* hearing that Apple acquiesced to plain and ordinary meaning. Even then, the ruling may well be temporary, given that the Parties and Court expect to further address at least one other term. (Ex. 2031 Jan. 26, 2026 Email from Anna Schmit, District Court Law Clerk.) Thus this issue is far from moot.

C. “wherein . . . when”

Apple asserts that no “wherein . . . when” terms are recited in the ’183 patent. (Reply at 1.) That assertion is wrong. Claim 3 of the ’183 patent recites “*wherein* the server, in response to receipt of the second information, sends the second response to the sending mobile phone *when* the phone number of the second receiving mobile phone has an active status.” (Ex. 1001 at claim 3, emphasis added; *see also* claim 4.) This term is still live for construction and will be addressed further at the summary judgment stage. (See Ex. 2031 Jan. 26, 2026 Email from Anna Schmit, District Court Law Clerk.)

D. Denial Is Appropriate for the Same Reasons IPR Nos. 2025-1486, -1488, and -1493 Were Denied

Apple’s attempt to distance these Petitions from the three related petitions the Director recently denied in view of *Revvo Technologies, Inc. v. Cerebrum Sensor Technologies, Inc.* IPR2025-00632, Paper 20 (PTAB Nov. 3, 2025) (*see* Ex. 1125) is unavailing. In particular, the Director denied IPR2025-1493 because, among other reasons, “intrinsically similar issues, where the involved patents are in the same family, will be addressed by the district court.” (IPR2025-1488, Paper 15 at 1 fn. 2 (Feb. 18, 2026).)

Likewise, this IPR proceeding, if it were to be instituted, would address issues intrinsically similar to those before the District Court in claim construction and otherwise. For this exact same reason, the Petition should be denied.

Respectfully submitted,

Dated: March 3, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on March 3, 2026, I caused a true and correct copy of
PATENT OWNER'S AUTHORIZED PRELIMINARY SUR-REPLY to be
served via electronic mail on the following counsel for Petitioner:

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