

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

UNILOC 2017 LLC,
Patent Owner.

IPR2019-00702
Patent 7,969,925 B2

Before SALLY C. MEDLEY, JEFFREY S. SMITH, and GARTH D. BAER,
Administrative Patent Judges.

MEDLEY, *Administrative Patent Judge.*

JUDGMENT
Final Written Decision
Determining All Challenged Claims Unpatentable
35 U.S.C. § 318(a)

I. INTRODUCTION

Apple Inc. (“Petitioner”) filed a Petition for *inter partes* review of claims 1–20 of U.S. Patent No. 7,969,925 B2 (Ex. 1001, “the ’925 patent”). Paper 1 (“Pet.”). Uniloc 2017 LLC (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). Upon consideration of the Petition and Preliminary Response, we instituted *inter partes* review, pursuant to 35 U.S.C. § 314, as to claims 1–20 based on all challenges set forth in the Petition. Paper 7 (“Decision to Institute” or “Dec.”).

Subsequent to institution, Patent Owner filed a Patent Owner Response (Paper 9, “PO Resp.”), Petitioner filed a Reply to Patent Owner’s Response (Paper 10, “Pet. Reply”), and Patent Owner filed a Sur-reply (Paper 11, “Sur-reply”). On May 21, 2020, we held an oral hearing. A transcript of the hearing is of record. Paper 16 (“Tr.”).

In our Scheduling Order, we notified the parties that “any arguments not raised in the [Patent Owner] response may be deemed waived.” *See* Paper 8, 7; *see also* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,766 (Aug. 14, 2012) (“The patent owner response . . . should identify all the involved claims that are believed to be patentable and state the basis for that belief.”). Patent Owner argues that it “does not concede, and specifically denies, that there is any legitimacy to any arguments in the instant Petition that are not specifically addressed” in its Patent Owner Response. PO Resp. 21 n.11. We decline to speculate as to what arguments Patent Owner considers illegitimate in the Petition. Any arguments for patentability not raised in the Patent Owner Response are deemed waived.

For the reasons that follow, we conclude that Petitioner has proven by a preponderance of the evidence that claims 1–20 of the ’925 patent are unpatentable.

A. Related Matters

Patent Owner indicates that the '925 patent is the subject of the following currently pending court proceeding: *Uniloc USA, Inc. et al. v. Apple Inc.*, Case No. 4-19-cv-01696 (N.D. Cal.). PO Resp. 3.

B. The '925 Patent

The specification of the '925 patent describes “a method for establishing a direct data transfer session between mobile devices over a digital mobile network system that supports data packet-based communications.” Ex. 1001, 1:61–64. According to the '925 patent, a separate data server is not required to provide a known location from which a recipient retrieves data. *Id.* at 1:64–67. Rather, “a mobile device initiating a data transfer opens a listening port defined by an underlying data packet based network protocol.” *Id.* at 1:67–2:2. Initiating mobile device sends an invitation message containing the network address, including the listening port of the initiating device, to a target mobile device through a page-mode messaging service supported by the digital mobile network system. *Id.* at 2:2–7. Initiating mobile device further utilizes and incorporates a unique identification number associated with the target mobile device into the invitation message to locate and contact the target mobile device within the wireless mobile network. *Id.* at 2:7–11. “Once the initiating mobile device receives a response from the target mobile device at the listening port, the two mobile devices are able to establish a reliable virtual connection through the underlying data packet-based network protocol in order to transfer data directly between the two mobile devices.” *Id.* at 2:12–17.

An example digital mobile network system is illustrated in Figure 1 reproduced below.

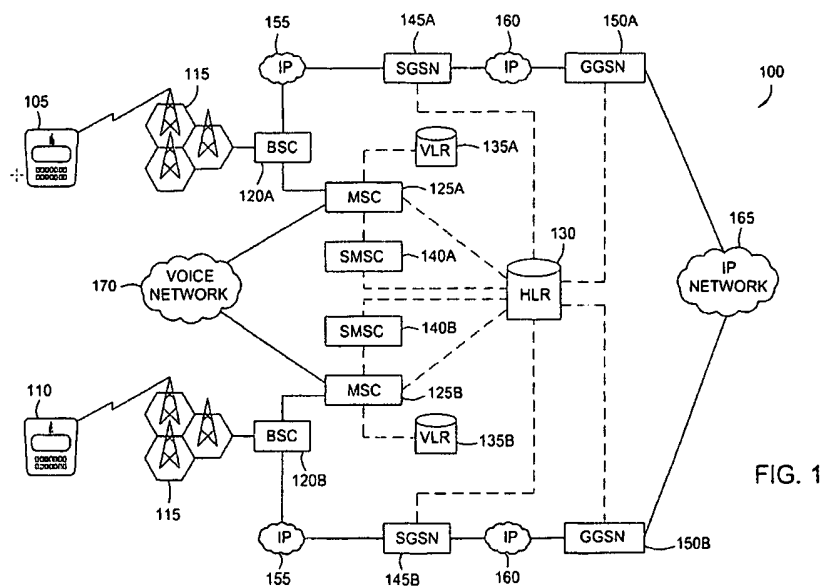


FIG. 1

Figure 1 is a diagram of a Global System for Mobile communications (GSM) mobile networking system 100 including a first mobile device 105 and a second mobile device 110. *Id.* at 2:21–27. As disclosed in the '925 patent, each of the mobile devices 105 and 110 includes a Subscriber Information Module (SIM) card that contains unique identification information that enables the GSM system 100 to locate the mobile devices within the network and route data to them. *Id.* at 2:40–44. The '925 patent further discloses that the GSM system 100 supports a page-mode messaging service, such as Short Message Service (SMS), that relies upon the underlying GSM mechanisms to resolve routing information to locate destination mobile devices. *Id.* at 3:14–18. Through use of a page-mode messaging service, such as SMS, an initiating mobile device transmits its IP address (and a listening port) in an invitation message to a target mobile device through the target device's telephone number. *Id.* at 4:26–31. When the target device receives the invitation message, it is able to contact the initiating mobile device through the received IP address and the two devices can establish a connection for a data transfer session. *Id.* at 4:31–35.

An example flow chart for establishing a data transfer session is illustrated in Figure 2 reproduced below.

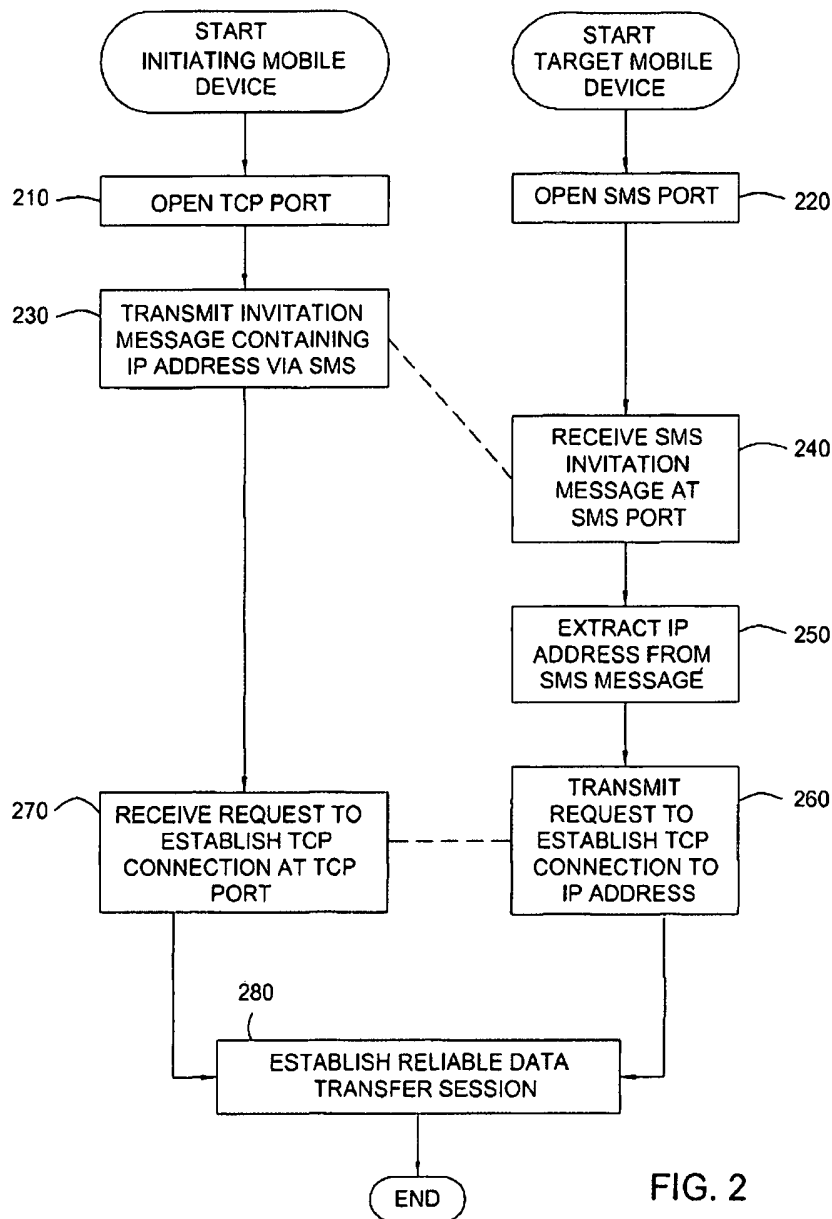


Figure 2 is a flow chart depicting the steps taken by an initiating and target mobile device to establish a direct data transfer session. *Id.* at 4:35–38. At 210, the initiating mobile device opens a TCP port to listen for communications from the target mobile device. *Id.* at 4:38–40. At 220, the

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