Apple Inc. v. Uniloc 2017 LLC IPR2019-0000702 (U.S. Pat. No. 7,969,925) Petitioner's Demonstrative Exhibits

May 21, 2020

DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

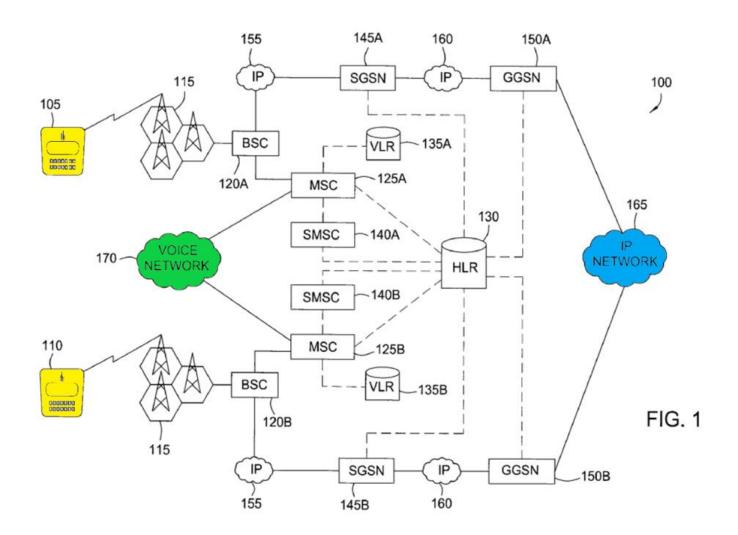


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The '925 Patent



'925 patent, Fig. 1 (Ex. 1001).

The '925 Patent

- The '925 patent is directed toward a "Peer-to-Peer Mobile Data Transfer Method and Device"
 - Data transfers are made without the need for a server to store data

SUMMARY OF THE INVENTION

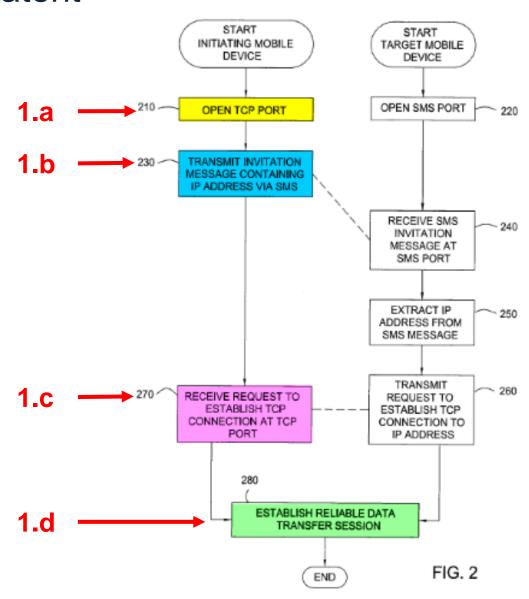
The present invention provides a method for establishing a direct data transfer session between mobile devices over a digital mobile network system that supports data packet-based communications. Under the present invention, no separate data server need be used to provide a known location from which a recipient retrieves data such as multimedia content. Instead, a mobile device initiating a data transfer

'925 patent, 1:61-67 (cited in Petition at 7).

The initiating mobile device does not know the target's IP address

In order to provide direct data transfer capabilities between mobile devices, an initiating mobile device must have knowledge of the IP address (and possibly, a port) of the target device in order to establish a direct data transfer. Current mobile multimedia messaging solutions, such as MMS do not provide direct data transfer capabilities because the initiating mobile device is not able to obtain the receiving mobile device's IP address. In essence, servers such as the MMSC

The '925 Patent



'925 Patent, Claim 1

| 1.pre | A method of establishing a direct data transfer session between mobile devices that support a data packet-based communications service over a digital mobile network system, the method comprising: |
|-------|---|
| 1.a | opening a listening software port on an initiating mobile device to receive communications through the data packet-based communications service; |
| 1.b | transmitting an invitation message to a target mobile device through a page-mode messaging service, wherein the invitation message comprises a network address associated with the initiating mobile device, and wherein the target mobile device is located by providing a unique identifier to the page-mode messaging service; |
| 1.c | receiving a response from the target mobile device at the listening software port on the initiating mobile device; and |
| 1.d | establishing a data transfer session through the data packet-based communications service between the initiating mobile device and the target mobile device, wherein the data transfer session is established in a peer-to-peer fashion without a server intermediating communications through the established data transfer session between the initiating mobile device and the target mobile device. |

'925 Patent, Claim 2

| 2.pre | The method of claim 1 further comprising: |
|-------|--|
| 2.a | opening a second listening software port on the initiating mobile device to receive invitation messages through the page-mode messaging service; |
| 2.b | receiving, at the second listening software port and through the page-mode messaging service, a message from another mobile device inviting the initiating mobile device to establish a data transfer session, wherein such message comprises a network address associated with the other mobile device; and |
| 1.c | transmitting a response to the network address associated with the other mobile device, wherein the response acknowledges the ability to establish a data transfer session. |

'925 patent at 2:1-15; Petition at 8

Claim Construction

| Claim Term | Petitioner's Construction | Patent Owner's Construction |
|---|--|---|
| "opening a software listening port" (claims 1,8,15) | associating a port identifier with a process | opening a listening software port for a specific target mobile device |

Petition at 21-22; Reply at 2-8; Patent Owner Response at 7-9; Patent Owner Sur-reply at 3-4

Decision, 13, 25-26.

 Petitioner's construction is consistent with the claim language and context

opening a listening software port [associating a port identifier with a process] on an initiating mobile device to receive communications through the data packet-based communications service

See, e.g., Petition, 21-22 and 10-17. PO continues its second attack by asserting

Reply at 10-11

Petitioner's construction is supported by expert testimony

- "opening a listening software port" (claims 1, 8, and 15) / "opening a second listening software port" (claims 2, 9, and 16)
- 51. A POSITA would understand each of these limitations means "associating a port identifier with a process," which is the ordinary meaning of these phrases to that POSITA. As is well known in the art and as established above in Sections VI.C.2&3, opening a listening port means associating a port identifier with a process, as that is what enables the device to receive messages at that port and route them to the correct process. Ex. 1015 at 13 ("Both TCP and

Ex. 1002 ¶ 51 (cited in Petition at 21-22) [Declaration of Dr. Henry Houh]

Petitioner's construction is supported by documentary evidence

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port
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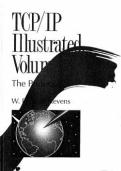
The portion of a socket that specifies which logical input or output channel of a process is associated with the data.

Ex. 1010 at 90 (cited in Petition at 21) [RFC 793, TCP specification]

Well-known sockets are a convenient mechanism for a priori associating a socket address with a standard service. For instance, the

Ex. 1010 at 20 (cited in Petition at 21) [RFC 793, TCP specification]

Petitioner's construction is supported by documentary evidence



Similarly, many different applications can be using TCP or UDP at any one time. The transport layer protocols store an identifier in the headers they generate to identify the application. Both TCP and UDP use 16-bit port numbers to identify applications. TCP and UDP store the source port number and the destination port number in their respective headers.

Ex. 1015 at 13 (cited in Petition at 21) [TCP/IP Illustrated Vol. 1 – The Protocols]

Petitioner's construction is supported by documentary evidence

More than one user process at a time can be using any of the user-accessible protocols (UDP, TCP, PEX, or SPP). This requires that a given protocol box, the UDP box for example, must identify the user process (A or B) that is sending data when the UDP software passes this data down to the IP layer. This is one example of *multiplexing*. Conversely, when the UDP software receives data from the IP layer, it must be able to identify the user process to receive the data. This is *demultiplexing*. For these examples, both UDP and TCP have a 16-bit port number that identifies the user process. We discuss this field in the next chapter.

Ex. 1013 at 22 (cited in Petition at 21) [Unix Network Programming]

Petitioner's construction is supported by documentary evidence

9.2.3.24.4 Application Port Addressing 16 bit address

This facility allows short messages to be routed to one of multiple applications in the TE (terminal equipment), using a method similar to TCP/UDP ports in a TCP/IP network. An application entity is uniquely identified by the pair of TP-DA/TP-OA and the port address. The port addressing is transparent to the transport, and also useful in Status Reports.

The total length of the IE is 4 octets

octet 1,2 Destination port

These octets contain a number indicating the receiving port, i.e. application, in the receiving device.

octet 3,4 Originator port

These octets contain a number indicating the sending port, i.e. application, in the sending device.

Ex. 1014 at 73 (cited in Petition at 21-22) [ETSI 123 040 v3.5.0 (SMS Specification)]

 PO's "construction" imports a limitation into claim 1 rather than construing the words of claim 1

opening a software listening port on an initiating mobile device to receive communications from only a specific target mobile device through the data packet-based communications service

Reply at 2

It is improper for at least this reason

PO's construction is only attorney argument that <u>is not</u> supported by expert testimony

Finally, Petitioner's fatal error is further underscored by its interpretation that the claimed "initiating mobile device" need not listen at its newly-opened and special-purpose "listening software port" for a "response from the target mobile device" in particular, notwithstanding the explicit claim language to the contrary.

See Pet. 22. Petitioner appears to advance such a construction to gap-fill additional

Paper 9 at 7 [PO's Response to Petition]

PO's "construction" is only attorney argument that <u>is not</u> supported by expert testimony

That the port must opened for a specific "target mobile device" identified in an "invitation message" by a "unique identifier" known to the "initiating mobile device" is made explicit in the claim language of each independent claim 1, 8, and 15. Furthermore, that the response must be received from that "target mobile device" at the "listening software port" opened for that very purpose is also made explicit. A construction that is inconsistent with this definitive context cannot be correct, nor can any obviousness theory which applies such a clearly erroneous construction.

Paper 9 at 7
[PO's Response to Petition]
See Paper 10 (Petitioner's Reply) at 2, 8, and 11

- PO has apparently modified its construction
 - In its Response, PO apparently argued that the listening port must be opened in such a way that only responses from a specific target mobile device could be received

That the port must opened for a specific "target mobile device" identified in an "invitation message" by a "unique identifier" known to the "initiating mobile device" is made explicit in the claim language of each independent claim 1, 8, and 15. Furthermore, that the response must be received from that "target mobile device" at the "listening software port" opened for that very purpose is also made explicit. A construction that is inconsistent with this definitive context cannot be

- PO has apparently modified its construction
 - In its Response, PO apparently argued that the listening port must be opened in such a way that only responses from a specific target mobile device could be received

Petitioner's erroneous claim construction for 1.a, 8.a, and 15.a. (i.e., the "opening" limitations) is laid bare in its repeated assertion that "[i]t would have been obvious to a POSITA to configure phone 1 to passively open a TCP port in a listening state with *an unspecified foreign host* so that the TCP/IP response message from the as-yet unknown socket address at phone 2 could be received at phone 1." *See* Pet. 31 (Grounds 1–2) (emphasis added); *see also id.* at 47 (Grounds 3–4) and 60 (Grounds 5–6).

As explained above, certain intrinsic evidence (which the Petition ignores) unambiguously states that the claimed "opening" must be directed to a specified "target mobile device" for the specific purpose set forth in the claim language itself.

- PO has apparently modified its construction
 - Per Dr. Houh, PO's construction can only be accomplished using TCP by specifying a foreign IP address in the listening port open command

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foreign/remote process. Ex. 1010, 11. Alternatively, if a port is to be restricted to a particular foreign process, the OPEN call must specify the foreign socket address (both the IP address of the foreign host and the port number for the process on that host). Ex. 1010, 11.
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- PO has apparently modified its construction
 - But the techniques in the '925 patent are directed to situations where the foreign IP address is not known number) in order to specify those arguments in the TCP OPEN call. However, this is inconsistent with the problem the 925 patent purports to solve, which is that initiating device does not know the target device's network (e.g., IP) address or port number. Ex. 1001, 1:42-51; 4:12-19 ("In order to provide direct data transfer capabilities between mobile devices, an initiating mobile device must have knowledge of the IP address (and possibly, a port) of the target device in order to establish a direct data transfer. Current mobile multimedia message solutions, such as MMS do not provide direct data transfer capabilities because the initiating mobile device is not able to obtain the receiving mobile device's IP address.")

- PO has apparently modified its construction
 - It is therefore not possible to open a TCP listening port that is restricted to a target mobile device when that device's IP address is not known
 - 13. Another fundamental problem with Patent Owner's construction is that it is impossible to implement that construction under the conditions discussed in the 925 patent using a TCP connection, which is the only type of connection disclosed in the 925 patent used for implementing ports on the claimed data packet-based communications service and which is specifically required by dependent claims 7, 14 and 20. *See, e.g.*, Fig. 2-3; 1:23-42, 2:21-27, 3:53-4:11, 4:31-5:20.

Ex. 1028 ¶ 13 [cited in Reply at 6]

- PO has apparently modified its construction
 - PO's sur-reply now claims that opening a port "for a specific target device" means only that the *local* port number is not known to any other device

A TCP port can be opened with a passive OPEN call in which an ephemeral port number is used. In fact, this is how a telnet session is established. (Ex. 1015, p. 94, 99). When a client port of a first device is opened, it is assigned with an ephemeral port number that is transmitted to a telnet server port of a second device. (Id). Only the second device knows what that ephemeral port number is, and therefore, only the second device can access the newly opened client port of the first device. That is, the first device opens a telnet client port (i.e., passive OPEN call) for a specific target device.

 PO no longer asserts that a foreign IP address must be specified when the listening port is opened

PO's construction <u>is not</u> supported by the prosecution history

prosecution of a parent application of the '925 patent. See generally Ex. 1004. For example, when addressing the exact same claim language verbatim (i.e., "opening a listening software port on an initiating mobile device to receive communications through the data packet-based communications service"), the patentee explained that this claim language "requires opening a listening software port on an initiating mobile device every time the initiating mobile device desires to establish communications with a particular target mobile device." Id. p. 316 (emphasis added).

Paper 9 at 8-9 (citing 663 patent's file history) [PO's Response to Petition]

The Examiner correctly recognized that there was no such requirement in the claim

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The Examiner and Applicant, Mr. Daniel Lin discussed the current claimInterview of the teachings of Caloud. No agreement was reached and the Examiner advised Applicant that he will formally consider the response filed and examiner also advised Applicant that any amendment of claims may raise new matter that will not be enter.

Ex. 1004 (File History) at 324 (cited in Reply at 5)

 Erroneous statements made during prosecution cannot overcome the plain language of the claims. Intervet Am., Inc. v Kee-Vet Labs., Inc. 887 F.2d 1050, 1054 (Fed. Cir. 1989)

| Claim Term | Petitioner's Construction | Patent Owner's Construction |
|--|---|---|
| "opening a second software listening port" (claims 2,9,16) | no required order/ timing relationship between opening of first and second ports | second software listening port must be opened after first software listening port |

Petition at 20-21; Reply at 12-14; Patent Owner Response at 9-11

Decision, 13, 25-26.

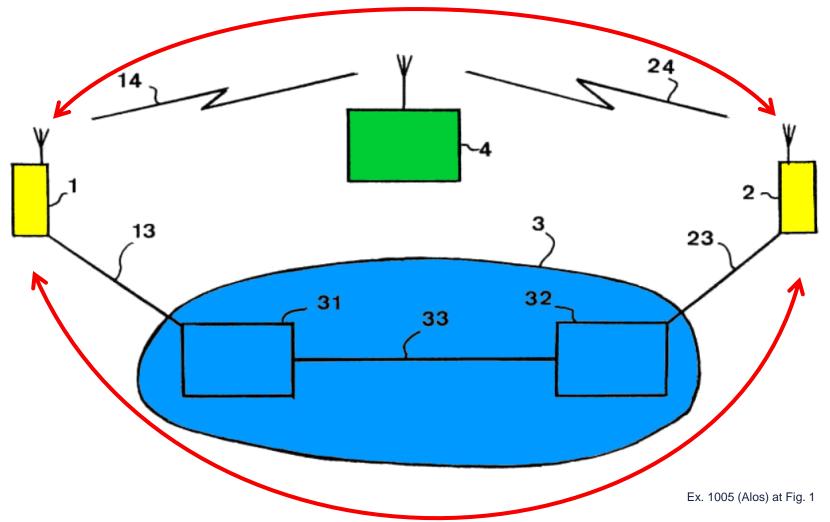
PO relies solely on attorney argument that "second" means opened after the first port is opened

unexplained and unsupported interpretation. Absent from the Petition is any explanation of how opening a "opening a second listening software port" should be understood in the abstract, without reference to the same initiating mobile device having *first* opened the listening software port recited in claim 1. Clearly, the word "second" in this context is an explicit reference to a first port (of claim 1) having been opened previously. PO Response at 10

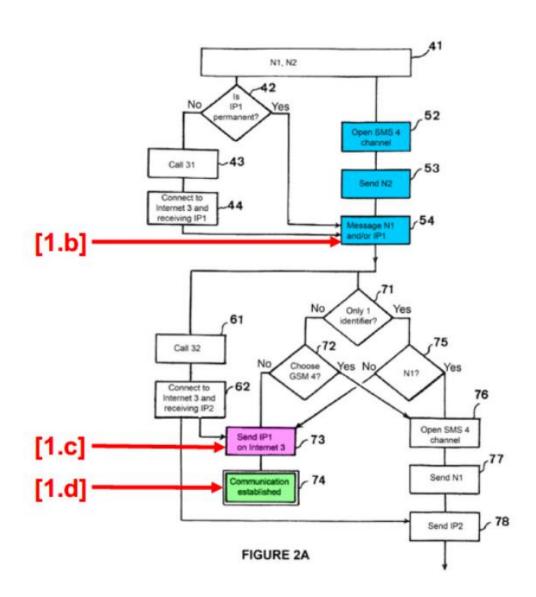
- PO's argument is contrary to Federal Circuit case law
 - 3M Innovative Props. Co. v. Avery Dennison Corp., 350 F.3d 1365, 1371 (Fed. Cir. 2003)
 - "use of the terms 'first' and 'second' is a common patent-law convention to distinguish between repeated instances of an element or limitation"
 - Rejected assertion that first/second imposed serial or temporal limitation
 - See also Altiris and Gillette cases

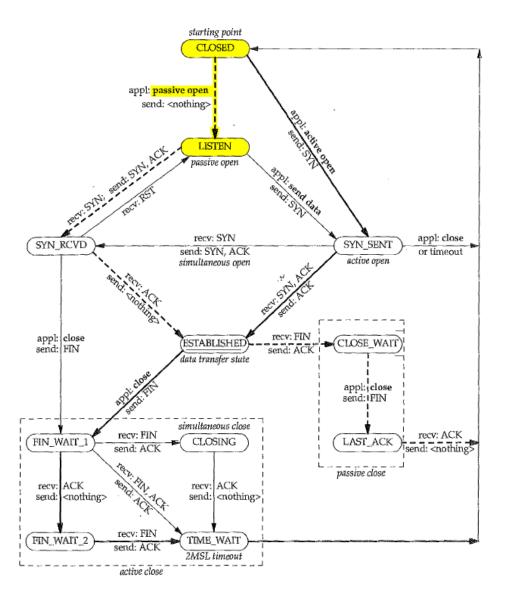
Ground 1 Claims 1, 3-8, 10-15 and 17-20 Are Obvious Over Alos and RFC793

page-mode messaging service (e.g., SMS)



data packet-based communications service (e.g., Internet)





be active or passive. *Id.*; *see also* Ex. 1015 at 84. A passive OPEN call "means that the process wants to accept incoming connection requests rather than attempting to initiate a connection." Ex. 1010 at 20, 19-21, 32, 45-46, 79. If the

connection." *Id.* at 54 (emphasis added). This is illustrated diagrammatically in the TCP state transition diagram in Ex. 1015 at 85, which shows a transition from CLOSED to LISTEN when an application performs a passive open of a TCP port.

Ex. 1002 at ¶ 44 [Declaration of Dr. Henry Houh]

- The PO Response raised only three disputes for Ground 1, claim 1
 - Patent Owner has therefore waived all other arguments on Ground
 1 for claim 1

1. DUE DATE 1

Patent Owner may file—

a. A response to the petition (37 C.F.R. § 42.120). If Patent Owner elects not to file a response, Patent Owner must arrange a conference call with the parties and the Board. Patent Owner is cautioned that any arguments not raised in the response may be deemed waived.

Ex. 1002 ¶ 51; Petition at 21

- The PO Response raised only three disputes for Ground 1, claim 1
 - First, PO argued that the Petition relies solely on software listening port openings that are not specific to a target mobile device
 - Petitioner expressly relies solely an alleged "opening" that is not specific to a "target mobile device"

Petitioner's erroneous claim construction for 1.a, 8.a, and 15.a. (i.e., the "opening" limitations) is laid bare in its repeated assertion that "[i]t would have been obvious to a POSITA to configure phone 1 to passively open a TCP port in a listening state with *an unspecified foreign host* so that the TCP/IP response message from the as-yet unknown socket address at phone 2 could be received at phone 1."

See Pet. 31 (Grounds 1–2) (emphasis added); see also id. at 47 (Grounds 3–4) and 60 (Grounds 5–6).

That argument fails because it is based on an incorrect claim construction

- The PO Response raised only three disputes for Ground 1, claim 1
 - Second, PO argued that the Petition's reliance on the use of wellknown ports/sockets "undermines" its challenge:
 - 2. Petitioner undermines its challenges by acknowledging a POSITA would likely use "well-known" sockets if combining RFC793 with any of the cited primary references

Petitioner further undermines its argument by asserting that a POSITA would likely use an "assumed" port applicable to all devices in general, as opposed to opening a new one specified for a *target mobile device* in particular, if combining RFC793 with any of the primary references. See, e.g., Pet. 28 ("A POSITA would")

PO Response at 13

- PO's argument on well-known ports fails for two reasons:
- First, the Petition also relied on ports that were not well-known

In other implementations, a POSITA would have been motivated to have the initiating device expressly include the TCP port in the invitation message with the IP address. This was a known technique when port numbers were not known in advance. Ex. 1021 at 72 ("6.40.1 Requests. The client originating the request Petition at 29

Additionally, it would have been obvious to a POSITA to include a TCP port number in the SMS invitation message along with the network address IP1 to ensure that the TCP/IP response message from phone 2 was directed to the correct TCP port on phone 1, as established above in Sections V.C.2. and VI.C. Ex. 1002

Petition at 32-33

 PO's failure to address this theory in its Response results in waiver of any argument regarding this implementation

- PO's argument on well-known ports fails for two reasons:
- Second, PO's argument is based on unsupported attorney argument:

A port that is permanently assigned and made available a priori to all devices

in general is not one that even available for "opening" as claimed. This axiomatic

PO Response at 14

 But the undisputed evidence shows that even well-known ports must be opened at a mobile device:

To the extent that this is an argument that a well-known port cannot be opened

because it is available "a priori," such an argument fails because a POSITA

understands that any TCP port must be opened before it can be used. I note that

Patent Owner offers no expert testimony to the contrary. Moreover, the passage of

the Appeal Brief discussed in the POR at 14 flatly contradicts this argument

because it states: "Such well-known TCP ports are not opened by default on

mobile devices because mobile devices do not run servers for data packet based

communications services by default." POR, 14 (citing Ex. 1004, 416) (emphasis

37

- The PO Response raised only three disputes for Ground 1, claim 1
 - Third, PO distinguished between packet-switched and circuitswitched networks, which purportedly demonstrated a deficiency in the Petition:

transmission."). The Applicant further unambiguously stated that "a 'data packet based communications service' as used in claim 1 is a <u>different data transmission</u>

<u>service</u> than . . . circuit based communications service, as distinguished herein." *Id*.

PO Response at 17; see also 18-19

- The PO Response raised only three disputes for Ground 1, claim 1
 - This attorney argument was refuted by <u>unrebutted</u> testimony of Dr. Houh:
 - 29. Moreover, this argument is clearly flawed. As discussed in the Petition, Alos discloses that the wireless connections 13, 23 connect the phones 1, 2 to Internet service providers. Petition, 23. Thus, communications over wireless connections 13, 23 conform to the Internet Protocol, which is indisputably a packet-switched protocol. The implementation of Internet Protocol (ISO level 3)

Ex. 1028 \P 29, cited in Reply at 17-18

- PO did not bother to depose Dr. Houh
- Dr. Houh's testimony was not addressed in the sur-reply

- PO's attorney arguments have failed to overcome the evidence in the Petition demonstrating that claim 1 is obvious over the combination of Alos and RFC793
 - PO's claim construction of "opening a software listening port" limitation is flawed
 - PO relies on attorney argument rather than evidence
 - PO has modified its construction and no longer argues that a passive open with an unspecified foreign host is not sufficient
- The only other argument raised in the POR is that the second software listening port must be opened after the first (POR at 21)
 - This argument fails because it is based on a flawed construction of "second"
- PO has therefore failed to overcome the evidence in the Petition that establishes the unpatentability of all challenged claims of Ground 1

Ground 5 Claims 1, 3-8, 10-15 and 17-20 Are Obvious Over Lee, SMS Specification, and RFC793

Ground 6
Claims 2, 9 and 16 Are Obvious
Over Lee, SMS Specification, RFC793 and WMA

Grounds 5 and 6

- Only issues raised with respect to Grounds 5 and 6 in PO Response and Sur-reply were claim constructions for "opening a software listening port" and "opening a second software listening port"
- All other arguments are therefore waived
- Because Petitioner's constructions are correct, all challenged claims are unpatentable on this basis alone

Questions?

Additional Slides

Packet Headers

TCP Header Format

TCP Header Format

Note that one tick mark represents one bit position.

Figure 3.

Ex. 1010 at 24 [TCP Specification]

3.1. Internet Header Format

A summary of the contents of the internet header follows:

Example Internet Datagram Header

Figure 4.

Ex. 1022 at 20 [IP Specification]

- Petitioner's construction is consistent with the claim language and context
- Petitioner's construction is supported by expert testimony and documentary evidence

but are not necessarily unique as between hosts. Ex. 1010 at 19. To define a unique address, the TCP port is concatenated with the IP address to form what is known as a "socket address" or simply "socket," which uniquely identifies a particular process on a particular host (a communication end point) across the network. *Id.* Two active interconnected sockets thus uniquely and fully define a

Common to distinguish instances of an elements using ordinals; intent to impose order must be clear

*1371 Looking next to the written description, it clearly only discusses a single "preferred" embodiment in which the "setting" step occurs after the "testing" step and before the "booting normally" step. Nowhere, however, is there any statement that this order is important, any disclaimer of any otherorder of steps, or any prosecution history indicating a surrender of any other order of steps. Symantec makes

the patterns be created sequentially. The use of the terms "first" and "second" is a common patent-law convention to distinguish between repeated instances of an element or limitation. See, e.g., Anchor Wall Sys., Inc. v. Rockwood

3M Innovative Props. Co, v. Avery Dennison, 350 F.3d 1365, 1371 (Cited in Reply at 13)

prior to the "booting normally" step. Both experts indeed testified that it was technologically possible to achieve the invention's purpose by performing the "setting" step before, during, or after the "booting normally" step. In this regard,

For all the reasons stated above, we conclude that the court erred in construing the method claims as requiring the "setting" step to occur prior to the "booting normally" step. Instead, we construe the claims as allowing the "setting" step to occur at any time.

To make it abundantly clear that the reference to "first," "second," and "third" blades was not a serial or numerical limitation, the claim does not follow a consecutive order (*i.e.*, it does not discuss the second blade after the first). The claim is thus clearly not using the ordinals—first, second, third—to show a consecutive numerical limit but only to distinguish or identify the various members of the group. The case law of this court supports this reading of the claim language "first, second, and third." *See 3M Innovative Props. Co. v.*

Gillette Co. v Energizer Hldgs., Inc., 405 F.3d 1367, 1373 (Cited in Reply at 13)

Altiris Inc. v. Symantec Corp., 318 F.3d 1363, 1371 (Cited in Petition at 20-21)

- Petitioner's construction is consistent with the claim language and context
- Petitioner's construction is supported by expert testimony and documentary evidence

Recall that the end points for communication are two user processes, one on each system. With an internet, the two systems can be located on different networks, connected by one or more gateways. This requires three levels of addressing.

- A particular network must be specified. As we've seen earlier in this chapter, a
 given host can be connected to more than one network.
- Each host on a network must have a unique address.
- Each process on a host must have a unique identifier on that host.

Typically a host address consists of a network ID and a host ID on that network. The identification of the user process on a host is often done with an integer value assigned by the protocol. For example, the TCP/IP protocol suite uses a 32-bit integer to specify a combined network ID and host ID, and both TCP and UDP use 16-bit port numbers to identify specific user processes. The XNS protocol suite uses a 32-bit network ID, a

- Petitioner's construction is consistent with the claim language and context
- Petitioner's construction is supported by expert testimony and documentary evidence

Port 1. An entrance to or an exit from a network.

2. The physical or electrical interface through which one gains access. A point in the computer or telephone system where data may be accessed. Peripherals — like call accounting devices — are connected to ports. The two most common ports are the parallel and serial ports.

3. The interface between a process or program and a communications or transmission facility.

4. To move a process, program or subroutine from one processor to controller to another ("port it over").

5. Network access point for data entry or exit. In Internet terms, it is the identifier (16-bit unsigned integer) used by Internet transport protocols to distinguish among multiple simultaneous connections to a single destination host.

Ex. 1020 at 3 (cited in Petition at 21) [Newton's Telecom Dictionary, 11th Ed.]

- Petitioner's construction is consistent with the claim language and context
- Petitioner's construction is supported by expert testimony and documentary evidence
- Petitioner's construction uses "associate" in the same way the independent claims use it

transmitting an invitation message to a target mobile device through a page-mode messaging service, wherein the invitation message comprises a network address associated with the initiating mobile device, and wherein the target mobile device is located by providing a unique identifier to the page-mode messaging service;

Ex. 1001 at 5:52-57, 6:34-39, 7:19-24 (cited in Reply at 21) [925 Patent]

- Petitioner's construction is consistent with the claim language and context
- Petitioner's construction is supported by expert testimony and documentary evidence
- Petitioner's construction uses "associate" in the same ways the independent claims use it and PO's Response uses it

service) supported by the digital mobile network system. The initiating mobile device may further utilize and incorporates a unique identification number (e.g., telephone number, PIN number, etc.) associated with the target mobile device into the invitation message to locate and contact the target mobile device within the wireless mobile network. Once the initiating mobile device receives a response from

PO's Response at 2

PO's Construction of "opening" limitation Conflates Purpose with Manner

accordance with the present invention. Initially, the initiating mobile device opens a TCP port to listen for communications from the target mobile device 210. The target mobile device

'925 Patent at 4:38-40 (cited in Reply at 3)

is nonsense. An equally plausible understanding of the passages relied on by Patent Owner is that they explain why the listening software port is opened, not the manner in which it is opened. For example, if one turns on one's mobile phone to receive an expected call from a child, that does not mean that the mobile phone is or must be configured to receive a call from only that child. Indeed, this latter understanding is compelled when one realizes as explained in further detail below that configuring the listening software port for only the target mobile device is not possible under the circumstances and using the TCP/IP connection discussed in those passages. A POSITA would not understand those passages to clearly set

Ex. 1028 (Houh Decl.) ¶ 11 (cited in Reply at 3)

PO Conflates an ISP Server with a Multimedia Server

SUMMARY OF THE INVENTION

The present invention provides a method for establishing a direct data transfer session between mobile devices over a digital mobile network system that supports data packet-based communications. Under the present invention, no separate data server need be used to provide a known location from which a recipient retrieves data such as multimedia content. Instead, a mobile device initiating a data transfer

'925 Patent at 1:61-67 (cited in Relay at 18)

The second terminal 2 is arranged to receive the first message 6 containing the first network address. Upon receipt of the first message 6 containing the first network address, the second terminal 2 is arranged to connect or log on to the data network 3, via the telecom network 4 using communication channel 9, thereby establishing communication channel 11.

Data network communication channels like the first communication channel 10 and the second communication channel 11 may be established by logging on to a server 15, whereby the server 15 is arranged to communicate a network address to the terminal that is logging on. In the case of the data network being an IP-network, the network address is an IP-number.

Cordenier (Ex. 1007) at 7:2-15 (cited in Reply at 18)

content." POR, 20 (citing 925 patent, 1:54-67). However, server 15 in

Cordenier's is a server that provides a temporary IP address for communications

over GPRS, not a "separate data server" for multimedia content. Ex. 1007, Fig. 6,

Ex. 1028 (Houh Decl.) ¶ 30 (cited in Reply at 18)