

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WAVEMARKET INC. d/b/a LOCATION LABS,
Petitioner,

v.

LOCATIONNET SYSTEMS LTD,
Patent Owner.

Case IPR2014-00199
Patent 6,771,970 B1

Before KRISTEN L. DROESCH, GLENN J. PERRY, and
SHERIDAN K. SNEDDEN, *Administrative Patent Judges*.

DROESCH, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING
37 C.F.R. § 42.71(d)

I. INTRODUCTION

Wavemarket, Inc. d/b/a Location Labs (collectively “Petitioner”) filed a Request for Rehearing of our Decision of May 9, 2014 (Paper 18, “Decision”). Paper 20 (“Req. Reh’g”). Our Decision instituted trial only as to claim 18. Petitioner requests rehearing of our Decision not to review claims 1–17 and 19 of U.S. Patent No. 6,771,970 B1 (“the ’970 Patent”) as

anticipated by Fitch (Ex. 1004), or rendered obvious over Fitch in view of Jones (Ex. 1005), Shah (Ex. 1006), or Elliot (Ex. 1003). Req. Reh'g 1. Patent Owner filed, following authorization (Paper 22), an Opposition to Petitioner's Request for Rehearing. Paper 23 ("Opp. Req. Reh'g").

II. STANDARD OF REVIEW

In its request for rehearing, the dissatisfied party must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed. 37 C.F.R. § 42.71(d). Upon a request for rehearing, the decision on a petition will be reviewed for an abuse of discretion. 37 C.F.R. § 42.71(c).

III. DISCUSSION

Petitioner contends that we misapprehended or overlooked the following matters:

- (a) the Petition asserted that Fitch teaches a "location determination system" as platform 114, which includes location finding system/location manager (LFS/LM) (116/214), which works together with wireless location applications (118 and 226–230) and wireless location interface (WLI) (224) (Req. Reh'g 2–8); and
- (b) method claims 14, 16, and 19 do not recite any particular structure that determines "for each mobile platform one of the remote tracking systems that is capable of locating said mobile platform," (Req. Reh'g 8–11).

A. *Location Determination System Recited in Claim 1 Corresponds to Fitch’s Platform 114, which Includes LFS/LM 116/214 and Wireless Location Applications 118/226–230*

Petitioner asserts that the Decision “misapprehended or overlooked . . . that the Petition did . . . assert that Fitch teaches “*a location determination system*” as platform 114, which includes *inter alia*, LFS/LM (116/214) and wireless location applications (118 and 226–230).” Req. Reh’g 3. Petitioner reproduces a portion of the claim chart from the Petition with added bolding, italics and underlining, and asserts that the claim chart from the Petition demonstrates how platform 114, and each of its components, teaches a “location determination system.” Req. Reh’g 3–5. Petitioner further asserts

“[t]he Petition expressly mapped the “*location determination system*” to several system components “resident on” the platform 114:

- 1) “Location Finding System (LFS)” (116/214)
- 2) “wireless location[] applications” (118 and 226–230)
- 3) “wireless location interface (WLI)” 224[.]

Req. Reh’g 6 (citing Pet. 36–39); *see id.* at 6–8 (citing Ex. 1004, col. 10, ll. 58–66; Pet. 38, 44, 47 and 54). Petitioner further asserts, “as pointed out in the Petition, [] LFS/LM (116/214) **works together with** wireless location[] applications (118 and 226–230) and WLI (224) (as part of platform 114) to selectively prompt LFEs.” *Id.* at 6.

Patent Owner argues that the Petition “did not . . . include any assertion that the ‘location determination system’ of claim 1 is ‘platform 114, which includes *inter alia*, LFS/LM (116/214) and wireless location applications (118 and 226–230).’” Opp. Req. Reh’g 3. Patent Owner contends that although the Petition asserted that the

LFS (116) is “resident on the platform 114,” the Petition never identified network platform 114 as the location determination system of claim 1. *Id.* Patent Owner further contends that the Petition did not include any argument, theory, or explanation of how LFS/LM (116/214) “works together with” or “cooperates with” the wireless location applications (118 and 226–230) and WLI 224, as part of platform 114, to describe the claimed location determination system. *Id.* at 3–4.

We agree with the Patent Owner that the Petition provides the following quotation from Fitch: “[a] Location Finding System (LFS)(116) in accordance with the present invention is resident on the platform (114).” Opp. Req. Reh’g 3; Pet. 36 (quoting Ex. 1004, Abs.) We further agree that the Petition did not include the following assertions: (1) platform 114, which includes LFS/LM (116/214) and wireless location applications (118 and 226–230), describes the claimed location determination system; and (2) LFS/LM (116/214) “works together with” or “cooperates with” wireless location applications (118 and 226–230) and WLI 224, as part of platform 114. Opp. Req. Reh’g at 3–4. In its Request for Rehearing, Petitioner does not point to where each matter now argued was previously addressed in the Petition, particularly where Petitioner asserted or “made clear” that wireless location applications (118 and 226–230) and wireless location interface (224) are resident on platform 114, or are part of platform 114. *See* Req. Reh’g 3–8. We cannot misapprehend or overlook assertions in the Petition that were not presented.

Nonetheless, Petitioner’s newly presented assertions are not supported by Fitch. In particular, Petitioner’s assertion that wireless location

applications 226, 228, and 230, WLI 224, and LFS or LM 214, depicted in Figure 2, are resident on platform 114, depicted in Figure 1, and “cooperate” or “work together”, is not supported by Fitch’s disclosure. Fitch describes two embodiments, the first depicted in Figure 1 and the second depicted in Figure 2.

Figure 1 of Fitch is reproduced below:

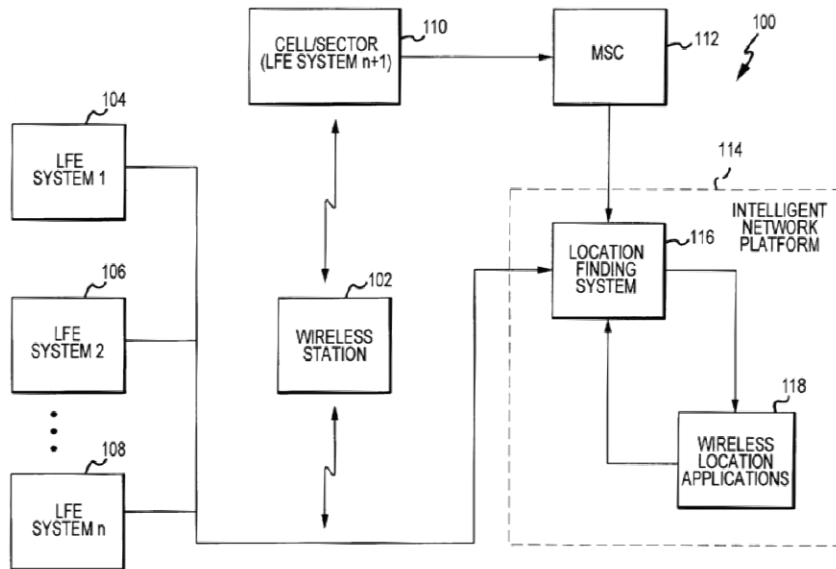


Figure 1 illustrates wireless telecommunications network 100, including mobile switching center (MSC) 112, wireless stations 102, network platform 114, location finding system (LFS) or location manager (LM) 116, wireless location applications 118, and location finding equipment (LFE) systems 104, 106, 108, and 110. Ex. 1004, col. 4, l. 64–col. 5, l. 9; Abs. Fitch further describes LFS or LM 116 and a number or wireless location applications 118 illustrated in Figure 1 as being resident on network platform 114. *Id.*

Figure 2 of Fitch is reproduced below:

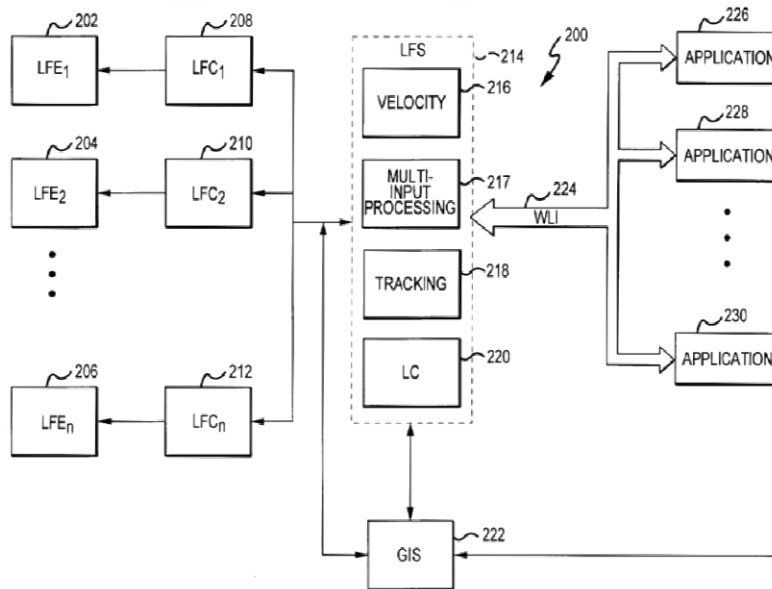


Figure 2 illustrates location-based services system 200, including LFS or LM 214; LFCs 208, 210, 212; LFEs 202, 204, and 206; wireless location applications (WLAs) 226, 228, 230; and wireless location interface (WLI) 224. *Id.* at col. 6, ll. 30–35; col. 7, ll. 31–33; col. 10, ll. 58–63. Fitch describes that LFS or LM 214 further includes a location cache (LC) 220, and velocity 216, multi-input processing 217, and tracking 218 facilities. *Id.* at col. 7, ll. 42–44; col. 8, ll. 34–38; col. 10, ll. 19–48. Contrary to Petitioner’s assertions, Fitch is silent regarding WLAs 226, 228, and 230, and WLI 224 being resident on a platform 114, or any other platform that includes LFS or LM 214. At best, Fitch discloses that it is the overall location-based services system 200, which includes wireless location interface 224 and wireless location applications 226, 228, 230. *Id.* at col. 10, ll. 58–66. Petitioner does not assert, in its Request for Rehearing or in its Petition, that it would have been obvious to modify LFS or LM 214, wireless location applications 226, 228, 230, and WLI 224 of Figure 2 such

that these components would be resident together on a network platform and “cooperate” or “work together.”

B. Method Claims 14, 16, and 19 Do Not Recite Structure That Determines “For Each Mobile Platform One of the Remote Tracking Systems That is Capable of Locating Said Mobile Platform.”

Petitioner asserts that the Decision “misapprehends or overlooks . . . that [claims 14, 16, and 19] are method claims untethered to any specific structure, and erroneously assumed that Fitch’s wireless station 102 must include the functionality of wireless location applications 226–230.” Req. Reh’g 9–10. Petitioner’s arguments focus on just one sentence in the analysis addressing claims 14, 16, and 19. In the Decision, we made the following statements:

Petitioner does not direct us to evidence sufficient to demonstrate that Fitch describes determining for each wireless station 102 (i.e., mobile platform) one of the LFEs 104, 106, 108, 110, 202, 204, and 206, that is capable of locating wireless station 102. *Moreover*, Petitioner does not assert that Fitch’s wireless station 102 includes the functionality of wireless location application 226, 228, and 230.

Decision 23 (emphasis added).

We disagree with Petitioner’s assertion that we assumed that Fitch’s wireless station 102 must include the functionality of wireless location applications 226–230. Although we agree with Petitioner that the determining step itself does not need to be tethered to specific structure or hardware (*See* Req. Reh’g 9), the determining step is otherwise tied to the structures recited in claim 1. The determining step is performed “for each *mobile platform*” and is utilized to ascertain “*one of the remote tracking systems* capable of locating said *mobile platform*.” We are not persuaded

that we abused our discretion in explaining that Petitioner does not direct us to evidence sufficient to demonstrate that Fitch describes determining, for each wireless station 102 (i.e., mobile platform), one of the LFEs 104, 106, 108, 110, 202, 204, and 206 (i.e., remote tracking systems) that is capable of locating wireless station 102 (i.e., mobile station). Decision 23.

In the above-quoted portion of our Decision, we addressed a potential argument that Petitioner could have made in the Petition. For example, if Petitioner had asserted that wireless station 102 included the functionality of wireless location applications 226, 228, 230, then Petitioner could have also asserted that Fitch teaches determining *for each wireless station 102*, one of the LFEs that is *capable of locating said wireless station 102*.

IV. DECISION ON REHEARING

Petitioner's Request for Rehearing is *denied*.

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