

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ROKU, INC. and VIZIO, INC.,
Petitioners,

v.

ANCORA TECHNOLOGIES, INC.,
Patent Owner.

Case IPR2021-01406
U.S. Patent No. 6,411,941 B1

PATENT OWNER'S RESPONSIVE BRIEF ON REMAND

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LIST OF EXHIBITS

EXHIBIT NO.	TITLE
1001	U.S. Patent No. 6,411,941 to Mullor et al. (“941 Patent”)
1002	Image File Wrapper of U.S. Patent No. 6,411,941 (“File History”)
1003	Declaration of Andrew Wolfe, Ph.D. (“Wolfe Decl.”)
1004	U.S. Patent No. 4,658,093 (“Hellman”)
1005	U.S. Patent No. 5,892,906 (“Chou”)
1006	U.S. Patent No. 5,933,498 (“Schneck”)
1007	Reserved
1008	Reserved
1009	Reserved
1010	Reserved
1011	Claim Construction Order, <i>Ancora Techs., Inc. v. Apple Inc.</i> , No. 4:11-cv-06357 (N.D. Cal. Dec. 31, 2012) (ECF No. 107).
1012	Final Claim Constructions of the Court, <i>Ancora Techs., Inc. v. LG Elecs., Inc.</i> , No. 1:20-cv-00034 (W.D. Tex. June 2, 2020) (ECF No. 69).
1013	Supplemental Claim Construction Order, <i>Ancora Techs., Inc. v. LG Elecs., Inc.</i> , No. 1:20-cv-00034 (W.D. Tex. Aug. 19, 2020) (ECF No. 93).
1014	Joint Claim Construction and Prehearing Statement, <i>Ancora Techs., Inc. v. TCT Mobile (US), Inc.</i> , No. 8:19-cv-2192 (C.D. Cal. July 17, 2020) (ECF No. 49)
1015	European Patent Application No. EP 0766165A2 (“165 Application”)
1016	U.S. Patent No. 5,724,425 (“425 Patent”)
1017	U.S. Patent No. 6,138,236 (“236 Patent”)
1018	U.S. Patent No. 5,802,592 (“592 Patent”)
1019	U.S. Patent No. 5,835,594 (“594 Patent”)
1020	Telephonic Markman Hearing, <i>Ancora Techs., Inc. v. TCT Mobile (US), Inc., et al.</i> , No. 8:19-cv-2192 (C.D. Cal. Oct. 15, 2020) (ECF No. 60)
1021	Telephonic Markman Hearing, <i>Ancora Techs., Inc. v. TCT Mobile (US), Inc., et al.</i> , No. 8:19-cv-2192 (C.D. Cal. Oct. 15, 2020) (ECF No. 69)
1022	Complaint, <i>Ancora Techs., Inc. v. TCL Corp., et al.</i> , No. 4:19-cv-00624 (E.D. Tex. Aug. 27, 2019) (ECF No. 1)

1023	U.S. Patent No. 5,734,819 (“Lewis”)
1024	File Wrapper of <i>Ex Parte</i> Reexamination of U.S. Patent No. 6,411,941, Control No. 90/010,560 (“’560 Reexam File Wrapper”)
1025	Order Re: Joint Stipulation Re Stay Pending <i>Inter Partes</i> Review, <i>Ancora Techs., Inc. v. Vizio, Inc.</i> , No. 2:21-cv-08534 (C.D. Cal.) (ECF No. 78)
1026	Order Granting Joint Motion to Stay Pending <i>Inter Partes</i> Review, <i>Ancora Techs., Inc. v. Roku, Inc.</i> , No. 6:21-cv-00737 (W.D. Tex.) (ECF No. 33)
1027	Order Granting Joint Motion to Stay Pending <i>Inter Partes</i> Review, <i>Ancora Techs., Inc. v. Nintendo Co., Ltd., et al.</i> , No. 6:21-cv-00738 (W.D. Tex.) (ECF No. 46)
1028	Board Email Authorizing Motion For Additional Discovery, May 27, 2022
1029	Plaintiff’s Responsive Claim Construction Brief, <i>Ancora Techs., Inc., et al. v. LG Electronics, et al.</i> , Case No. 1:20-cv-00034-ADA (W.D. Tex., April 10, 2020) (ECF No. 50)
1030-1032	<i>Intentionally Left Blank</i>
1033	Declaration of Andrew Wolfe, Ph.D., in Support of Petitioners’ Reply to Patent Owner’s Response
1034	Transcript of the Deposition of Miki Mullor, July 12, 2022 (Confidential)
1035	Transcript of the Deposition of David Martin, Ph.D., July 14, 2022
1036	Plaintiff’s Opening Claim Construction Brief, <i>Ancora Techs., Inc., et al. v. LG Electronics, et al.</i> , Case No. 1:20-cv-00034-ADA (W.D. Tex., March 20, 2020) (ECF No. 44)
1037	Denon DP-35F/DP-45F Instruction Manual, Nippon Columbia Co., Ltd.
1038	Excerpt from <i>Dictionary of Computing</i> , 4 th ed., Oxford University Press, 1996
1039	U.S. Patent No. 5,568,552 to Davis
1040	Guttman, B., et al., <i>Computer Security</i> , National Institute of Standards and Technology, 1995)
1041	Kaliski, B., “PKCS #1: RSA Encryption,” RFC 2313, The Internet Society, Network Working Group, March 1998
1042	U.S. Patent No. 5,724,425 to Chang et al.
1043	U.S. Patent No. 5,935,246 to Benson

1044 – 1049	<i>Intentionally Left Blank</i>
1050	(Confidential)
1051	(Confidential)
1052	(Confidential)
1053	(Confidential)
1054	(Confidential)
1055	Petitioner’s Demonstratives (Public)
1056	Petitioner’s Demonstratives (Confidential)
1057	Teleconference Transcript (8/15/2025)
2001	Microsoft Corporation’s Request for <i>Ex Parte</i> Reexamination Image File Wrapper, Control No. 90010560
2002	<i>Ancora Techs., Inc. v. Apple, Inc.</i> , 744 F.3d 732 (Fed. Cir. 2014)
2003	Deposition Excerpts of Jon Weissman, <i>Ancora Techs., Inc. v. HTC America, Inc.</i> , Case No. 2:16-cv-01919 (W.D. Wa. Sep. 9, 2019)
2004	Declaration of Ian Jestice, <i>Ancora Techs., Inc. v. HTC America, Inc.</i> , Case No. 2:16-cv-01919 (W.D. Wa. Aug. 26, 2019)
2005	Brief of Appellees HTC America, Inc. and HTC Corporation, <i>Ancora Techs., Inc. v. HTC America, Inc., HTC Corp.</i> , Case No. 18-1404 (Fed. Cir. Apr. 23, 2018)
2006	Declaration of Jon Weissman, <i>Ancora Techs., Inc. v. HTC America, Inc.</i> , Case No. 2:16-cv-01919 (W.D. Wa. Sep. 4, 2019)
2007	Terplan, Kornel, Morreale, Patricia, THE TELECOMMUNICATIONS HANDBOOK, CRC Press, 2000
2008	COMPUTER USER’S DICTIONARY, Microsoft Press, 1998
2009	MICROSOFT COMPUTER DICTIONARY FOURTH EDITION, Microsoft Press, 1999
2010	PC MAGAZINE ENCYCLOPEDIA, available at https://www.pcmag.com/encyclopedia (excerpt, definition of “Agent”)
2011	U.S. Patent No. 6,411,941 File History with Beeble White Paper
2012	Joint Claim Construction Chart, <i>Ancora Techs., Inc. v. TCT Mobile (US) Inc., Huizhou TCL Mobile Commc’n Co., Ltd., and Shenzhen TCL Creative Cloud Tech. Co., Ltd.</i> , Case No. 8:19-cv-02192 (Dkt. #49, 49-1, 49-2)
2013	Declaration of Dr. David Martin, Ph.D., <i>Sony Mobile Commc’ns AB, Sony Mobile Commc’ns, Inc., Sony Elecs. Inc., and Sony</i>

	<i>Corp. v. Ancora Techs., Inc.</i> , IPR2021-00663, Ex. 2015 (PTAB Apr. 23, 2021)
2014	U.S. Patent No. 6,189,146 (Misra)
2015	U.S. Patent No. 5,479,639 (Ewertz)
2016	Decision Denying Institution of Inter Partes Review, <i>Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. v. Ancora Technologies, Inc.</i> , IPR2020-01184
2017	Declaration of Ian Jestice, <i>Ancora Technologies Inc. v. LG Electronics Inc., LG Electronics U.S.A. Inc., Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc.</i> , Case No. 1:20-cv-00034 (Dkt. # 44-8)
2018	Declaration of Dr. David Martin (May 3, 2022)
2019	U.S. Patent No. 5,892,900 (Ginter)
2020	U.S. Patent No. 5,734,819 (Lewis)
2021	U.S. Patent No. 6,153,835 (Schwartz)
2022	<i>Ancora Techs. Inc. v. Apple, inc.</i> , Case No. 4:11-cv-06357 (Dkt. # 171-3) [Apple Inc.'s N.D. Cal. L.R. 3-3 (Invalidity) Disclosures]
2023	Petition, <i>HTC Corp. v. Ancora Techs. Inc.</i> , Case No. CBM2017-00054, Paper 1 (PTAB May 26, 2017)
2024	Institution Decision, <i>HTC Corp. v. Ancora Techs. Inc.</i> , Case No. CBM2017-00054, Paper 7 (PTAB Dec. 1, 2017)
2025	Croucher, "The BIOS Companion" (1997) (Excerpts)
2026	Transcript of Deposition of Dr. Andrew Wolfe (April 22, 2022)
2027	Joint News Release (February 14, 2005)
2028	March 25, 2022 Email from Board regarding IPR2021-01338 and IPR2021-01406
2029	[REDACTED] (Confidential)
2030	Declaration of Miki Mullor
2031	[REDACTED] (Confidential)
2032	[REDACTED] (Confidential)
2033	Reserved
2034	Reserved
2035	AIPLA statistics
2036	Reserved
2037	[REDACTED] (Confidential)

I. The Obviousness Case Is Not “Strong”

Petitioners rewrite history in claiming their obviousness case was “strong.”

First, Petitioners never contended their obviousness case was predictable or involved only minor modifications. *See generally* Paper 3; Paper 32. Petitioners’ expert devoted 30 pages of analysis to Claim 1, never once stating that the combination was strong or required minor modifications. EX1003 at 44-73.

Second, the Board never “agreed” that “Petitioner’s obviousness case is both straightforward and compelling.” Pet. Br. 5. It simply found that the combination “account[s] for all of the limitations of [C]laim 1 and that Petitioner has shown an *adequate* motivation to combine,” Paper 49 at 42—a far cry from finding the case “strong.” The Federal Circuit likewise never “agreed” the case was strong, which is why Petitioners cite nothing from the Court’s decision in support. Indeed, if the Federal Circuit agreed that Petitioners’ obviousness case was “strong,” it would have affirmed despite the Board’s other errors as to nexus. *See S. Alabama Med. Sci. Found. v. Gnosis S.P.A.*, 808 F.3d 823, 828 (Fed. Cir. 2015).

Third, Petitioners try to recast the Petition in asserting that the “obviousness case required nothing more than a minor modification” of the asserted art. Pet. Br. 3-5. Petitioners’ lengthy, attorney-argument-only explanation proves otherwise. These include, as the Board found, the need to (1) “modify Hellman’s system to provide the non-volatile memory area ... as the non-volatile memory storing the

BIOS,” Paper 49 at 36; (2) “use ... [Hellman’s] update unit 36[] to set up a verification structure (memory location in non-volatile memory 37 as defined by hash value H) in the erasable, non-volatile memory of the BIOS (non-volatile memory 37 provided as EEPROM, storing BIOS as taught by Chou),” *id.* at 38-39; and (3) use Hellman’s “authorization and billing unit 13 [to] cooperate with the update unit 36 to act as the ‘agent,’” *id.* at 40-41. Simply put, Hellman/Chou requires multiple, intricate modifications to both references to reach the ’941 patent’s claims, nothing like cases finding a “strong” showing of obviousness, as in *Agrizap, Inc. v. Woodstream Corp.*, in which the “only difference between the Gopher Zapper [prior art] and the asserted claims, as conceded by Agrizap, is the type of switch used to complete the circuit.” 520 F.3d 1337, 1344 (Fed. Cir. 2008).

Indeed, even Petitioners conceded that their combination required a significant “modification” of the asserted art: “to provide a BIOS in [Hellman’s] computer (base unit 12) and to store the BIOS in the nonvolatile memory 37 (*e.g.*, EEPROM), as disclosed by Chou.” Paper 3 at 28. It took Petitioners *six pages*—citing 21 paragraphs of expert testimony—to explain a POSITA’s motivations to make the claimed modification. *Id.* at 28-33; *see* Paper 32 at 19 (combination requires “Hellman-Chou’s modified BIOS EEPROM”).

Petitioners also cite *Soverain Software LLC v. Newegg Inc.*, 705 F.3d 1333 (Fed. Cir. 2013) to argue that “[t]he lack of market demand for ... Patent Owner’s

invention further demonstrates its obviousness.” Pet. Br. 5. Setting aside that the record shows [REDACTED] in market demand from [REDACTED], Petitioners misstate the law. *Soverain* held only that the patent owner’s objective evidence lacked nexus to the patents at issue, **not** that such evidence affirmatively established obviousness. *Soverain*, 705 F.3d at 1346.

II. Petitioners Ignore Federal Circuit Confirmation of the High-Value Agreements’ Nexus to the ’941 Patent

In attacking the [REDACTED] (the Federal Circuit plainly considered [REDACTED], contrary to Petitioners’ claim it “did not disturb” the Board’s decision to disregard) agreements, Petitioners ignore that the Federal Circuit held that these agreements “should have been given more, if not controlling, weight in the Board’s obviousness determination.” *Ancora Techs., Inc. v. Roku, Inc.*, 140 F.4th 1351, 1362-64 (Fed. Cir. 2025). Petitioners speculate that these licenses might have resulted from “business decisions to avoid litigation” but the Federal Circuit expressly rejected this argument, finding that business decisions and acquiescence to the patent “amount to the same thing, a considered reluctance to run the risk of larger financial consequences from infringement.” *Id.* at 1363.

The Federal Circuit also already found that the “license payments [REDACTED] [REDACTED] also far exceeded the cost of litigation,” that these sophisticated companies “were fully aware of the relevant prior art,” and that they paid their respective substantial sums late in their respective litigations. *Id.* Such “clear

evidence that substantial license fees were paid for licenses to a specific patent late in a litigation should be given the significance that their magnitude deserves.” *Id.*

And *In re Antor Media Corp.*, 689 F.3d 1282 (Fed. Cir. 2012), and *EWP Corp. v. Reliance Universal Inc.*, 755 F.2d 898 (Fed. Cir. 1985), are irrelevant, as unlike here, they concerned failures to establish nexus for objective evidence.

III. Petitioners Establish No Nexus to the Low Value Agreements

The “low value” agreements do not undercut the high-value licenses, as Petitioners fail to establish any nexus between the licenses and the patent. Again, and critically, it is *Petitioner’s* burden to establish a nexus between the low-value agreements and the ’941 patent’s strength with relevant evidence as speculation alone cannot substantiate Petitioners’ burden. *Quanergy Sys., Inc. v. Velodyne Lidar USA, Inc.*, 24 F.4th 1406, 1418 (Fed. Cir. 2022). And here, Petitioners cannot meet that burden, a reality demonstrated by the fact that they do nothing other than pointing to the license value amounts. *See* Pet Br. 8.

This lack of any evidence explaining the reasons Ancora (much less the counterparties) entered the low-value agreements demonstrates why Petitioners cannot establish nexus: because unlike high-value agreements, *Ancora*, 140 F.4th at 1363, parties enter low-value agreements for reasons *unrelated* to patent strength. *See Iron Grip Barbell Co. v. USA Sports, Inc.*, 392 F.3d 1317, 1324 (Fed. Cir. 2004). And here, Petitioners did nothing to obtain any evidence regarding the actual

reasons. They took Ancora's deposition but never once asked *why* the agreements were signed because they knew the facts would be unhelpful to their position. EX1034 at 18-24, 26-27, 91. That deliberate choice is fatal.

None of Petitioners' cases dictate otherwise. *Cole Kepro Int'l, LLC v. VSR Indus., Inc.* does not require industry-wide acquiescence to establish nexus; unlike here, it did not involve *high-value* agreements (let alone three of them) with a strong nexus to the patent. 695 F. App'x 566 (Fed. Cir. 2017). Petitioners mis-read *Navico Inc. v. ITC*, 696 F. App'x 989 (Fed. Cir. 2017), which merely affirmed the ITC's obviousness holding without clarifying the referenced "positive and negative evidence." Petitioners' additional case citations similarly fail to support their position as they found little nexus. *See Ohio Willow Wood Co. v. Alps S., LLC*, 735 F.3d 1333, 1344 (Fed. Cir. 2013); *Shoes by Firebug LLC v. Stride Rite Children's Grp., LLC*, 962 F.3d 1362, 1372 (Fed. Cir. 2020). None address three licenses with the evidentiary weight confirmed by the Federal Circuit like those of record here.

Finally, even if one were to consider all of the agreements together [REDACTED] the average sum paid per licensee is *still* [REDACTED], well in excess of [REDACTED] cost of litigation. EX2035, EX2031, EX2032, EX1050, EX1052, EX1053, EX1054, EX1051; PO Resp. 69; Pet. Reply 25-26. Accordingly, the strong high-value licensing evidence is "controlling," and conclusively establishes the non-obviousness of the '941 patent.

Respectfully submitted,

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Dated: September 12, 2025

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CERTIFICATE OF SERVICE

The undersigned certifies in accordance with 37 C.F.R. § 42.6(e) that on September 12, 2025, a copy of the foregoing **PATENT OWNER'S RESPONSIVE BRIEF ON REMAND**, was served via electronic mail on the attorneys listed below:

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