

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LENNOX INDUSTRIES INC.,

Petitioner,

v.

ROSEN TECHNOLOGIES LLC,

Patent Owner

Case No. IPR2023-00718

U.S. Patent No. 7,185,825

**PATENT OWNER'S AUTHORIZED SUR-REPLY IN SUPPORT OF
PRELIMINARY RESPONSE**

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I. INTRODUCTION

Patent Owner Rosen Technologies LLC (“Patent Owner”) submits this authorized sur-reply in opposition to Petitioner Lennox Industries Inc.’s (“Petitioner”) arguments raised in its authorized Reply to Patent Owner’s Preliminary Response. Petitioner’s arguments made in its reply should be rejected as they overlook the clear guidance of the specification in relation to Claim 11 and the cases with which Petitioner cites are inapplicable. In addition, Patent Owner withdraws its arguments based on *Fintiv* in light of recent events in the parallel District Court litigation.

II. PATENT OWNER WITHDRAWS ITS ARGUMENTS BASED ON THE *FINTIV* FACTORS

Because the Northern District of Texas litigation involving the ‘825 Patent has been effectively stayed, Patent Owner withdraws its arguments based on the *Fintiv* factors. On September 12, 2023, the U.S. District Court for the Northern District of Texas administratively closed Case No. 3:22-cv-00732, the litigation between the parties’ involving the ‘825 Patent. The administrative closure was made in lieu of a stay. The administrative closure moots many of Patent Owner’s arguments made based on the *Fintiv* factors. Patent Owner, therefore, withdraws its arguments based on the *Fintiv* factors.

III. CLAIM 11 REQUIRES THE “REAL TIME CLOCK” AND “RECEIVER” BE DIRECTLY COUPLED.

Petitioner incorrectly argues that nothing in the specification or the claims requires that the “receiver” and “clock” be “directly coupled”. Reply at 5. Again, none of the references cited by petitioner disclose a “real time clock” which is “coupled” to the “receiver” as is required by Claim 11. For example, neither Rosen nor Cacciatore disclose a “receiver adapted to receive current time and date information from an external source”, let alone one which is coupled to a “real time clock.” See EX1004 and EX1005. While Carey does disclose a receiver, Carey’s “receiver” is not “coupled” to the “real time clock” but is instead coupled to the “microprocessor”. EX1007 at ¶ 0009. For example, Carey states that the “microprocessor 20 includes a digital input port pin, for decoding the time signal from the receiver 24.” *Id.* at ¶ 0008. Carey further states that “[i]f microprocessor 20 decodes a WWVB broadcast time code signal at step 150, the minutes, hours, day, and year information are stored into the microprocessor’s RAM memory.” *Id.* at ¶ 0009. Carey further states that “[a]t step 160, the subroutine loads the time information from RAM memory into the local clock controlled by the microprocessor and adjusts the hour value to correspond to the time zone in EEPROM memory and daylight savings time.” *Id.* As such, Carey does not disclose a “receiver being coupled to said real time clock, such that the time and date information thereof is updated from said receiver” but instead discloses a “real time

clock” which “loads the time information from RAM memory”. In other words, Carey discloses a system where the real time clock receives time and date information from RAM memory rather than a receiver as required by Claim 11. For the same reasons, Petitioner’s reliance on *SafeTCare Mfg., Inc. v. Tele-Made, Inc.* 497 F.3d 1262 (Fed. Cir. 2007) and *Silicon Graphics, Inc. v. nVidia Corp.*, 58 F. Supp. 2d 331 (D. Del. 1999) also fails. Here, unlike those cases, Claim 11 requires that the “real time clock” be “coupled” to the “receiver” so as to update the time and date information in the real time clock. EX1001 at Claim 11. In contrast, *Carey* discloses a system where the real time clock receives information not from the receiver, but from the RAM. EX1007 at ¶ 0009. Thus, *Carey* does not disclose a “real time clock” “coupled” to the “receiver” so as to update the time and date information as required by Claim 11, and neither *SafeTCare* nor *nVidia* support Petitioner’s arguments. As such, the combination of references relied upon by Petitioner does not render claim 11 obvious.

IV. CONCLUSION

The Board should deny the Petition as the proposed prior art reference and combinations thereof claim to render the claims of the ’825 Patent obvious under 35 U.S.C. § 103.

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE

Per 37 C.F.R. §42.24(a) and (d), the undersigned hereby certifies that the Petition complies with the type-volume limitation of 37 C.F.R. §42.24(a)(i) because, exclusive of exempted portions, it contains 665 words as counted by the word-processing program used to prepare it.

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that the above-captioned Mandatory Notice was served on counsel of record for the Petitioner by filing this document through the Patent Review Processing System as well as by delivering a copy via electronic mail to:

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