

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG DISPLAY CO., LTD; SAMSUNG ELECTRONICS CO., LTD.; and
SAMSUNG ELECTRONICS AMERICA, INC.

Petitioners

v.

POLARIS POWERLED TECHNOLOGIES, LLC

Patent Owner

IPR2023-00771

U.S. Patent No. 7,259,521

**PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION TO
STRIKE**

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I. INTRODUCTION

Paragraphs 328-330 of Dr. Kattamis's Reply Declaration are entirely appropriate Reply evidence because they merely elaborate on the invalidity theories set forth in Dr. Kattamis's original declaration, and are directly responsive to arguments raised by PO and its expert in its Response. This is precisely the type of Reply evidence permitted by Rule 42.23(b), the Board's Trial Practice Guide, and which has been repeatedly found appropriate by the Federal Circuit. See *Chamberlain Grp., Inc. v. One World Techs., Inc.*, 944 F.3d 919, 925 (Fed. Cir. 2019) ("Parties are not barred from elaborating on their arguments on issues previously raised."); *Ericsson Inc. v. Intellectual Ventures I LLC*, 901 F. 3d 1374, 1380 (Fed. Cir. 2018) (error to disregard reply argument that "merely expands on a previously argued rationale as to why the prior art disclosures are insubstantially distinct from the challenged claims."); see also Consolidated Trial Practice Guide at 73 ("A party also may submit rebuttal evidence in support of its reply.").

II. THE CHALLENGED PORTIONS OF DR. KATTAMIS'S SUPPLEMENTAL DECLARATION (EXHIBIT 1015) SHOULD NOT BE EXCLUDED

First, the Challenged Portions of Dr. Kattamis's Supplemental Declaration are not improper new arguments because they do not raise a new issue.

The Federal Circuit has made clear that "Parties are not barred from elaborating on their arguments on issues previously raised." *Chamberlain Grp., Inc.*,

944 F.3d at 925; *see also Apple Inc. v. Andrea Elecs. Corp.*, 949 F.3d 697, 706-7 (Fed. Cir. 2020) (“It is unreasonable to hold petitioners to such a high standard that, if they choose to rely on one example of an algorithm, they must either discuss all potential permutations of the variables or risk waiving the opportunity to further discuss other relevant examples in their reply.”).

Here, the opinions in paragraphs 328-330 of Dr. Kattamis’s Supplemental Declaration do not raise any new “issues.” Instead, those opinions merely elaborate on and provide further support for the Petitioner’s argument that a POSA would be motivated to modify *Hayafuji*’s circuit into a differential amplifier. Pet., 68-72 (arguing the modification was an “obvious design choice” and “trivial design change”, citing Kattamis Dec. Ex.[1002] ¶¶213-234). Dr. Kattamis was entitled to further elaborate in Reply on this clearly raised issue.

Second, Dr. Kattamis’s opinions are directly responsive to the arguments raised in Dr. Credelle’s Second, 121-page, Declaration that PO relied on in the POR. *See Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1080 (Fed. Cir. 2015); *Apple Inc.*, 949 F.3d at 706-7 (“the petitioner in an inter partes review proceeding may introduce new evidence after the petition stage if the evidence is a legitimate reply to evidence introduced by the patent owner.”) (internal citations omitted).

In the Petition, Petitioner and its expert demonstrated that a POSA would have been motivated to modify *Hayafuji* via replacement of the addition circuit of

Hayafuji with a differential amplifier circuit. Pet., 69-72 (citing Kattamis Dec. Ex.[1002], ¶¶213-234). In Response, PO argued that a POSA would not have been motivated to “transform what was a **summing** amplifier into **a differential** amplifier.” POR, 54 (citing Second Credelle Dec. Ex.[2011], ¶152) (emphasis supplied). In direct response to Dr. Credelle’s mathematically themed arguments made in the POR, Dr. Kattamis opined that he disagreed because Dr. Credelle failed to recognize “several substantially interchangeable options for performing mathematical operations on signals to achieve cancellation” and explained why this is true in the following paragraphs. Ex.[1015], ¶326-330. Thus, paragraphs 328-330 provide a detailed explanation in direct response to Dr. Credelle’s flawed analysis. Ex.[1015], ¶326-330; Ex.[2011], ¶152.

Moreover, Dr. Kattamis’s deposition testimony does not help PO. Dr. Kattamis merely stated that the “discussions” in paragraphs 328-330 were not in the first declaration. Mot. 3. This is always true of Reply testimony (or else there would be no need for the Reply testimony). PO’s argument seems to be that new testimony in Reply is never permitted. That argument is foreclosed by this Board’s rules and controlling precedent, which establish that new Reply testimony, such as presented here, is appropriate and must be considered. Thus, PO’s motion should be denied.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies on this June 24, 2024, a true and correct copy of the foregoing Petitioner's Reply to Patent Owner's Preliminary Response was served to Patent Owner via electronic mail to:

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