UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

ROKU, INC.,
Petitioner,

v.

ECOLINK INTELLIGENT TECHNOLOGY, INC.,
Patent Owner.

Case IPR2023-00792
Patent No. 10,692,340

PATENT OWNER'S SUPPLEMENTAL BRIEF

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TABLE OF EXHIBITS

Exhibit No.	Description
2001	U.S. Patent App. Pub. No. 2013/0257611
2002	USPTO Assignment Record for U.S. Patent App. Pub. No. 2013/0257611
2003	Declaration of James Parker in Support of Patent Owner's Response
2004	Transcript of the January 25, 2024 Deposition of Bruce McNair

I. INTRODUCTION

Pursuant to the Board's August 5, 2024, Order ("Order," Paper 24, 3-4), PO provides its supplemental brief regarding Petitioner's inability to meet its burden of proving that Lamb[1] is prior art to Challenged Claims 1, 2, 11, and 12 of the '340 patent ("the Lamb Claims") according to Petitioner's construction of "timed alarm signal": "***a signal transmitted by the [barrier] alarm device whose purpose is to initiate a timer associated with the security panel.***" (Paper 15 at 4, 5, 7, 9 (emphasis added); *see also* Paper 25 at 9:25-10:2, 11:11-12, 7:11-12, 8:9-10.)

II. ARGUMENT

A. The Lamb Claims Are Patentable Because Petitioner Fails To Dispute That Lamb Is Not Prior Art According To Petitioner's "timed alarm signal" Construction. [Ground 1, Claims 1, 2, 11, 12]

1. Petitioner Ignores The Order And Declines To Argue That Lamb Is Prior Art Under Its Construction.

Despite Petitioner's request for supplemental briefing (Paper 25 at 53:16-20; Paper 24 at 3), and the Order's instructions (Paper 24 at 2-3), Petitioner declined to argue that Lamb is prior art to the Lamb Claims under its construction of "timed alarm signal." (*See generally* Paper 26 ("Brief").) Indeed, Petitioner's construction of "timed alarm signal" (*see* Sec. I, *supra*) ***is never mentioned in the Brief***. (*Id*.) Petitioner's failure to argue that Lamb is prior art under its construction of "timed

[1] U.S. Patent Application Publication No. 2016/0247370.

alarm signal" is dispositive that Petitioner cannot meet its burden of showing that Lamb is prior art to the Lamb Claims under Petitioner's construction.

2. Petitioner Raises Irrelevant Arguments That Are Inconsistent With Its Petition And Have Been Waived.

Instead of discussing its construction of "timed alarm signal," Petitioner makes irrelevant arguments regarding claims other than the Lamb Claims (*i.e.*, claims 6 and 16) and a limitation that is not the "timed alarm signal" limitation (*i.e.*, "a memory having processor-executable instructions stored thereon" (the "Memory Limitation").)[2] (*See* Paper 26 at 1-7.) Petitioner's arguments are irrelevant because they do not address the Order, the "timed alarm signal" limitation, Petitioner's construction of the "timed alarm signal" limitation, and Lamb's status as prior art to the Lamb Claims under Petitioner's construction of the "timed alarm signal" limitation. (*Id*.; *see also* Paper 24 at 2-3.)

Petitioner's argument that the Memory Limitation shows that the timer's functionality is not disclosed by Lamb is also belied by the positions Petitioner took in this IPR. (Paper 26 at 1-5.) ***The Petition argues that Lamb discloses the Memory Limitation***. (Paper 2 at 34; *see also id*. at 35-39, 42-44, 53-55; Paper 25 at 14:5-8 ("I think it's noteworthy to understand that Lamb is a priority, is in the priority chain of the '340 patent itself. So you see the very same figures, the very same arrangement

[2] Petitioner also makes irrelevant means-plus-function-related arguments and cites to an irrelevant Section 112, ¶¶ 2, 6 indefiniteness decision. (Paper 26, 1-5.)

of sensors, you know, ***the hardware is all the same***.") (Petitioner's counsel comparing Lamb to the '340 patent, emphasis added).) Petitioner argued that the only thing ***not disclosed*** in Lamb is the unclaimed security panel's timer. (*See* Sec. II(A)(4), *infra*.) In any case, Petitioner waived any argument regarding the Memory Limitation by not including it in its Petition or Reply.[3]

3. Petitioner Does Not Dispute That Its Construction Requires Nothing More Than Transmitting Any Signal From The Barrier Alarm Device.

Petitioner does not dispute that its construction of "timed alarm signal" (*i.e.*, "a signal transmitted by the [barrier] alarm device whose purpose is to initiate a timer associated with the security panel") (Paper 15 at 4, 5, 7, 9; Paper 25 at 7:11-12, 8:9-10, 9:25-10:2, 11:11-12), requires nothing more than transmitting any signal from the barrier alarm device. (*See generally* Paper 26.) In fact, Petitioner's counsel stated the following during oral argument when asked about this issue:

> In any event, there's certainly nothing in the claim to require, for example, the timed alarm signal have a certain flag bit or certain voltage level that's recognized for initiating a timer.

(Paper 25 at 13:19-22.)[4]

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[3] Petitioner also raises irrelevant arguments regarding the security panel's timer and its functionality, even though there is no dispute that structure is not claimed nor positively recited in the Lamb Claims. (Paper 26; *see also* Sec. II(A)(4), *infra*.)

[4] *See also id*. at 12:22-24 ("So whether or not that language in the claim is given weight or not we've shown that there is at least a signal transmitted that initiates the timer.").

Petitioner's construction of "timed alarm signal" is not mentioned in its Brief, and Petitioner never addresses: (i) whether the statement of purpose or intent language of its construction (*i.e.*, "whose purpose is to initiate a timer associated with the security panel") is entitled to patentable weight; and (ii) PO's position that such purpose or intent language is not entitled to patentable weight (*see* Paper 19 at 8-12). (*Id.*)[5] Petitioner's failure to dispute that the statement of purpose or intent language of its construction of "timed alarm signal" is not entitled to patentable weight is also dispositive that Petitioner cannot meet its burden of showing that Lamb is prior art to the Lamb Claims under Petitioner's construction.

4. Petitioner Argues That Lamb Is Prior Art Because It Does Not Disclose The "timed alarm signal" And Does Not Dispute That The Security Panel Is Not Claimed And Is Responsible For Recognizing The Transmitted "timed alarm signal" And Initiating The Security Panel's Timer.

Petitioner argues that Lamb is prior art to the Lamb Claims because Lamb does not disclose the "timed alarm signal." (Paper 15 at 10-12; Paper 2 at 4-7, 13-15; EX2004 at 51:18-52:4, 47:20-52, 96:13-15, 166:12-14).) Petitioner further argues that Lamb does not disclose the "timed alarm signal" because Lamb does not

[5] Petitioner also does not address the Board's note regarding the printed matter doctrine (*see* Paper 24, 3). (*See generally*, Paper 26.) The doctrine is not necessary for the Board to confirm the patentability of the Lamb Claims because Petitioner does not dispute that the purpose or intent language included in its construction is not entitled to patentable weight. (*Id.*)

disclose the unclaimed security panel's timer. (Paper 26 at 1; Paper 25 at 14:8-9, 51:24-52:1, 52:16-17.)

Petitioner ***does not dispute*** that the security panel and its timer are unclaimed and not positively recited in the Lamb Claims. (*See generally* Paper 26; *see also* Paper 25 at 52-53 (Petitioner's counsel failing to respond to the Board's questions regarding whether the Lamb Claims claim only a barrier alarm device and do not claim the security panel and its timer).) Tellingly, Petitioner argues that ***only*** claims 6 and 16 (not the Lamb Claims) "positively recite timer operation limitations." (Paper 26 at 1.) Petitioner also ***does not dispute*** that the security panel is responsible for recognizing, interpreting, and using the "timed alarm signal" transmitted by the barrier alarm device and for initiating the security panel's timer, and that any signal is a "timed alarm signal" as long as the unclaimed security panel initiates a timer:

> And that's what we explained in the briefing, that timed alarm signal is a control signal that when you transmit it, the central security panel recognizes that control signal to start the timer process.

(Paper 25 at 12:1-3 (emphasis added).)[6]

5. Petitioner Does Not Dispute That Lamb's Barrier Alarm Device Transmits A Signal.

Petitioner cannot show the Lamb is prior art to the Lamb Claims under its construction of "timed alarm signal" because it does not dispute that: (i) Petitioner's

[6] *See also id.* at 12:8-10, 13:22-25.

construction requires nothing more than transmitting a signal from the barrier alarm device (*see* Sec. II (A)(2), *supra*); and (ii) Lamb's barrier alarm device transmits a signal. (*See, e.g.*, Paper 25 at 51:6-7 ("We use the term 'control signal' here because the architecture of Lamb teaches sending a control signal."), 51:16-17, 11:26-12:3, 12:8-10, 12:22-24, 17:5-7; Paper 2 at 13-15, 25-28, 53-55; Paper 15 at 10-12, 14; EX2004 at 159:22-160:12, 167:5).)

B. To The Extent The Board Determines That Petitioner Has Abandoned Its Construction And/Or Adopted PO's Construction, The Board Should Confirm The Patentability Of Claims 1, 2, 11, And 12 Because Petitioner Failed To Explain How The Prior Art Reads On The Claims Under PO's Construction, Admitted The Prior Art Cannot, And Forfeited Its Right To Explain. [Ground 1, Claims 1, 2, 11, 12; Ground 2, Claims 1,11][7]

Petitioner argued only that the Lamb Claims are rendered obvious under Petitioner's construction of "timed alarm signal" and never attempted to show that the Lamb Claims are rendered unpatentable according to PO's proposed constructions. (*See generally* Paper 2; Paper 15.) Throughout this proceeding, PO has contended that a [timed/first/immediate] alarm signal is different than a status signal, a bypass signal, or a disarming signal, and Petitioner has consistently

[7] If the Board determines that Petitioner has belatedly adopted PO's construction, the Board should also confirm the patentability of claims 6 and 16. Claims 6 and 16 recite a "first alarm signal," and Petitioner read Lamb's status signal on the claimed "first alarm signal." Petitioner has now confirmed that a "status signal" is not the same thing as an "alarm signal" (*see* Paper 26, 4), and Petitioner has never explained how Lamb's status signal could read on claims 6 and 16 under PO's construction.

disagreed with PO's position. (*See, e.g.,* Paper 15 at 1-16.) In its Brief, Petitioner now appears to agree with PO that alarm signals are different from these other types of signals (*e.g.,* status and bypass signals). (Paper 26 at 4-7.)

To the extent the Board determines that Petitioner has abandoned its construction and/or belatedly adopted PO's construction, the Board should confirm the patentability of Claims 1, 2, 11, and 12 because Petitioner never explained how the prior art reads on the claims under PO's construction and forfeited its right to offer such an explanation. *Wireless Protocol Innovations, Inc. v. TCT Mobile, Inc*., 2021-2112, 2022 U.S. App. Lexis 19839, at *14-15 (Fed. Cir. July 19, 2022) (holding that petitioner forfeited its right to make arguments regarding patent owner's claim construction positions when it did not raise them in its reply).

To the extent the Board determines that Petitioner has abandoned its construction and/or belatedly adopted PO's construction, the Board should also confirm the patentability Claims 1, 2, 11, and 12 because Petitioner's admissions confirm that the Petition and its use of bypass, status, and disarming signals to read on alarm signals fails under PO's construction. (Paper 26, 4 ("The processor must differentiate amongst the various alarm signal to transmit a timed alarm signal, recognizable by the receiver as a timed alarm signal so that a timer may be initiated, as opposed to other alarm system signals (*i.e*., a bypass signal, a status signal, or immediate alarm signal) that cause different responsive actions at the receiver.").)

III. CONCLUSION

Accordingly, PO respectfully requests that the Board confirm the patentability of all of the Challenged Claims.

Respectfully submitted,

Dated: August 19, 2024

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