

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SHENZHEN CHIC ELECTRICS CO., LTD.,

Petitioner,

v.

PILOT, INC.,

Patent Owner.

IPR2023-00810

Patent No. 11,376,971

**PATENT OWNER PILOT, INC.'S RESPONSE TO PETITION
PURSUANT TO 37 C.F.R. § 42.120**

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TABLE OF EXHIBITS

Exhibit	Description
2001	Order Granting Joint Stipulation to Stay Case Pending Resolution of <i>Inter Partes</i> Review of the ‘971 Patent, <i>Shenzhen Carku Technology Co., Ltd. v. Pilot, Inc.</i> , Case No. 2:22-cv-08471-HDV-KS, ECF No. 61 (C.D. Cal. Aug. 30, 2023)

I. INTRODUCTION

Pilot, Inc. (“Patent Owner”) submits this Response to the Petition of Shenzhen Chic Electrics Co., Ltd. (“Petitioner”) seeking *inter partes* review (“IPR”) of claims 1-30 of U.S. Patent No. 11,376,971 (“the ‘971 Patent”). Patent Owner requests that the Board affirm the patentability of all claims of the ‘971 Patent (“the Challenged Claims”) at least because Petitioner fails to show that the Challenged Claims would be obvious to a person of ordinary skill in the art over the primary references, U.S. Patent Application Publication No. 2010/0173182 A1 to Baxter et al. (“Baxter”) (Ex. 1008), U.S. Patent No. 7,345,450 B2 to Krieger et al. (“Krieger450”) (Ex. 1009), Chinese Utility New Model Patent No. CN 202696190 U, with certified translation (“Zhang”) (Ex. 1010), U.S. Patent Application Publication No. 2013/0241498 to Koebler (“Koebler”) (Ex. 1011), International Publication No. WO2012/080996 A1 to JTM Power Limited (“Tracey”) (Ex. 1012), U.S. Patent No. 9,506,446 to Xinfang (“Xinfang”) (Ex. 1013), U.S. Patent Application Publication No. 2013/0154543 to Richardson et al. (“Richardson”) (Ex. 1014), U.S. Patent Application Publication No. 2007/0285049 to Krieger et al. (“Krieger049”) (Ex. 1020), U.S. Patent No. 5,396,162 to Brilmyer (“Brilmyer”) (Ex. 1021), or U.S. Patent No. 5,820,407 to Morse et al. (“Morse”) (Ex. 1022).

The evidence presented by Petitioner is deeply flawed. Petitioner’s expert declaration, signed by Dr. Ricketts, does not consist of substantial evidence.

Petitioner fails to make any showing that there is a motivation to combine the primary references to create the inventions of the claims or that a skilled artisan would be able to reliably do so without undue experimentation.

Patent Owner respectfully requests that the Board dismiss the Petition as it fails to support any grounds of obviousness and does not show that Claims 1-30 are unpatentable.

II. PROCEDURAL SETTING

The '971 Patent is at issue in a single district court action that is presently stayed. *Shenzhen Cariku Technology Co., Ltd. v. Pilot, Inc.*, Case No. 2:22-cv-08471-HDV-KS, ECF No. 61 (C.D. Cal. Aug. 30, 2023), Ex. 2001.

III. TRAVERSAL OF INSTITUTION GROUNDS

As the Board is aware, Petitioner filed a Petition requesting an *inter partes* review of claims 1–30 under 35 U.S.C. §§ 311–319. Paper 1 (“Pet.”). Patent Owner filed a Preliminary Response [Doc. No. 6]. The Board then, noting under 37 C.F.R. § 42.4(a) as authority, instituted an *inter partes* review.

The Board may institute an *inter partes* review only if “the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a) (2018). The “reasonable likelihood” standard is “a higher standard than mere notice

pleading” but “lower than the ‘preponderance’ standard to prevail in a final written decision.” *Hulu, LLC v. Sound View Innovations, LLC*, IPR2018-01039, Paper 29 at 13 (PTAB Dec. 20, 2019) (precedential).

After considering the Petition and the evidence of record, including the Declaration of Dr. Ricketts (Ex. 1023), and for the reasons explained in the institution Decision (Paper 12, Nov. 8, 2023 (“Decision”)), the Board determined that Petitioner had shown a reasonable likelihood that it would prove at least one of the challenged claims obvious. The Board then instituted *inter partes* review of claims 1–30 on all challenges, identified as:

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1–30	103	Baxter ¹
10	103	Baxter, Zhang ²
14, 15, 29	103	Baxter, Tracey ³
18–30	103	Baxter, Xinfang ⁴
29	103	Baxter, Xinfang, Tracey
1–4, 6, 7, 9–13, 16–28, 30	103	Krieger450 ⁵
5	103	Krieger450, Koebler ⁶
8, 10, 16, 30	103	Krieger450, Richardson ⁷
14, 15, 29	103	Krieger450, Morse ⁸
18–30	103	Krieger450, Krieger049 ⁹
29	103	Krieger450, Krieger049, Morse

The ‘971 Patent lists on its face all these applied primary references, as well as many more. Casting aside the United States Patent and Trademark Office

(“USPTO”) Examiner’s hard work, the Board found a reasonable likelihood that the claims will be found invalid as obvious considering these previously reviewed and considered references. Doing so is a waste of party and USPTO resources, and the Examiner’s decision to allow the claims should be upheld and the Petition dismissed.

Just as important, at least Patent Owner maintains open applications, and the Board’s analysis of the prior art and arguments may be instructive in allowing the USPTO to, in the future, examine claims in these pending applications. Accordingly, Patent Owner request that the Board proceed with denying the Petition, and failing that, conduct any appropriate analysis it deems necessary and then (without hearing) issue a Final Written Decision, finding that all claims remain valid. Indeed, that is the correct decision as Petitioner has failed to present competent evidence of unpatentability, including failing to present viable reasons to read the prior art references as supporting the proffered obviousness grounds.

For instance, Patent Owner believes there is a lack of proof that elements of limitation 1(a), when properly construed, is shown by any applied reference Baxter or Kreiger450. Specifically, Petitioner skips back and forth between Figures 2 and 9 of Baxter to cobble together the required “microcontroller” that is coupled to a “voltage regulator” of the independent claims. However, a “voltage regulator” is commonly understood by artisans as a circuit designed to automatically maintain a constant voltage in a system. The Petition does not seem to make this connection

and no arguments in the Petition or other evidence presented show where such a commonly understood device resides or the device can supply power to both a microcontroller and battery.

At a minimum, the Board should properly interpret “voltage regulator” as part of a Final Written Decision. It should then explain how that definition is met, if it can be met, by the Petitioner-identified circuits of Baxter or Kreiger⁴⁵⁰. In the end, Patent Owner believes that if the Board applies a plain and ordinary meaning to the term “voltage regulator,” which is exactly what a skilled artisan would have applied to that term as there is no reason in the intrinsic record to apply any other definition, the Board will find that no circuits of Baxter or Kreiger⁴⁵⁰ identified by Petitioner in the Petition can reasonably be held to meet the limitation.

IV. CONCLUSION

For the reasons stated above, institution of the IPR should be denied.

Respectfully submitted,

Dated: February 1, 2024

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CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(d), the undersigned certifies that this **PATENT OWNER PILOT, INC.'S RESPONSE TO PETITION PURSUANT TO 37 C.F.R. § 42.120** complies with the type-volume limitation of 37 C.F.R. § 42.24(b) because it contains 984 words, as determined by the word-processing program used to prepare the brief, excluding the parts of the brief exempted by 37 C.F.R. § 42.24(a)(1).

Respectfully submitted,

Date: February 1, 2024

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105(a) and (b), I certify that on February 1, 2024, a true and accurate copy of **PATENT OWNER PILOT, INC.’S RESPONSE TO PETITION PURSUANT TO 37 C.F.R. § 42.120** was served on the following counsel for Petitioner via email, pursuant to Petitioner’s consent to email service:

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