

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

EIGHT KHZ, LLC,
Patent Owner.

IPR2023-01003
Patent 9,226,090 B1

Before JUSTIN T. ARBES, LYNNE H. BROWNE, and
SCOTT RAEVSKY, *Administrative Patent Judges*.

ARBES, *Administrative Patent Judge*.

ORDER
Authorizing Additional Briefing
37 C.F.R. § 42.20(d)

On October 29, 2024, the Board held a hearing in this proceeding.¹
See Paper 39. During the hearing, the parties presented arguments regarding the meaning of the following phrases in the independent claims of the challenged patent:

Claim	Claim Language
1	“designating, with a computer system, <i>a sound localization point in empty space that is away from and proximate to the listening person such that the sound localization point simulates an origin of the binaural sound at the empty space that the listening person hears during the telephone call</i>” “adjusting, with the computer system, the binaural sound captured at the earphone of the talking person so <i>the binaural sound originates during the telephone call from the sound localization point in empty space that is away from and proximate to the listening person</i>”
8	“designate, for the first individual, <i>a sound localization point that simulates a location in empty space from where an origin of a voice of the second individual occurs</i> for the first individual through the electronic earphone such that <i>the sound localization point in empty space is located away from and proximate to the first individual</i>” “execute the electronic call such that <i>the origin of the voice of the second individual appears to the first individual to originate from a fixed location that is the sound localization point in empty space</i> while the first individual moves and changes a location and a head orientation with respect to the sound localization point”

¹ A court reporter transcribed the hearing, and the transcript will be entered in the record when it is available.

Claim	Claim Language
15	“a second <i>wearable electronic device</i> that a second person wears and that <i>captures a binaural voice</i> of the second person during an electronic phone call with the first wearable electronic device that the first person wears” “a processor that executes the instructions to <i>adjust the binaural voice</i> of the second person during the electronic phone call in order to <i>position a sound localization point of the binaural voice to a location that is away from and proximate to the first person, wherein the sound localization point represents an origin of the binaural voice of the second person to the first person</i>”

Patent Owner argues that the above phrases require processing with head-related transfer functions (HRTFs), and Petitioner disagrees. *See* Paper 19 (Patent Owner’s Response), 36–49; Paper 22 (Petitioner’s Reply), 2–9 (“[T]he independent claims include no language limiting the term [‘away from and proximate to’] to any specific method, let alone HRTFs [T]he [S]pecification merely identifies HRTFs as an exemplary method of localizing sound, not the only method.”); Paper 35 (Patent Owner’s Sur-Reply), 5 (“The parties disagree on whether the claims require HRTF processing and whether [the] prior art teaches such processing.”), 7–10 (disagreeing with Petitioner that “there is no language in the independent claims requiring HRTF processing”); Paper 53 (e.g., slides 25, 87); Ex. 1056 (e.g., slides 23–24 (“Primary Dispute: Whether Independent Claims Require HRTFs . . .”). Many of the arguments in the parties’ papers, however, are interspersed with discussions of the asserted prior art references (Bedingfield and Andrea), the state of the art, and related declarant testimony. *See Centripetal Networks, LLC v. Palo Alto Networks, Inc.*, No. 2023-1654, 2024 WL 4639207, at *4 (Fed. Cir. Oct. 31, 2024)

(“[d]iscerning the path followed [by the Board in reaching a decision] is made more difficult when . . . claim construction and application are not clearly separated”).

To ensure a clear record and due consideration of the parties’ arguments, we request additional briefing as to the meaning of the claim language identified above. *See* 37 C.F.R. § 42.20(d). The briefing shall be directed *solely* to the issue of claim interpretation and, specifically, whether the claim language requires HRTF processing. The briefing may not address whether the asserted prior art references teach or suggest the limitations of the claims. The briefing should identify (1) the specific claim language that allegedly does or does not require HRTF processing, (2) support in the claims and Specification for the party’s interpretation, and, if applicable, (3) supporting extrinsic evidence in the record. No new evidence may be submitted, and citations to evidence must reflect arguments previously made in the parties’ papers.

Accordingly, it is

ORDERED that the parties are each requested to file a supplemental brief, limited to seven pages and addressing only the above-identified claim interpretation issues, by November 12, 2024.

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FOR PETITIONER:

Lisa K. Nguyen
David M. Tennant
Grace I. Wang
Alan M. Billharz
Jeremy Rashid
PAUL HASTINGS LLP
lisanguyen@paulhastings.com
davidtennant@paulhastings.com
gracewang@paulhastings.com
alanbillharz@paulhastings.com

FOR PATENT OWNER:

Erick S. Robinson
Patrick M. Dunn
Homayoon Rafatijo
Jayne C. Piana
BOCHNER PLLC
erobinson@bochner.law
patdunn64@gmail.com
hrafatijo@bochner.law
jpiana@bochner.law

Jayme Partridge
Brian Strand
SPENCER FANE LLP
jpartridge@spencerfane.com
bstrand@spencerfane.com