

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,

Petitioner,

v.

JAWBONE INNOVATIONS, LLC,

Patent Owner.

Patent No. 8,321,213

Filing Date: October 26, 2009

Issue Date: November 27, 2012

Inventor: Nicolas Petit, Gregory Burnett, and Zhinian Jing

Title: ACOUSTIC VOICE ACTIVITY DETECTION (AVAD) FOR
ELECTRONIC SYSTEMS

PATENT OWNER'S SUR-REPLY

Case No. IPR2023-01083

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<i>O.I. Corp. v. Tekmar Co.</i> , 115 F.3d 1576 (Fed. Cir. 1997)	1
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EXHIBIT LIST

Exhibit No.	Description of Document
2001	Joint Motion to Dismiss, <i>Jawbone Innovations, LLC v. Amazon.com, Inc.</i> No. 3:22-cv-06727-TLT, Dkt. 106 (N.D. Cal. July 24, 2023)

I. CLAIM CONSTRUCTION

Petitioner's Reply (Paper 11) mischaracterizes Patent Owner's proper construction of "filter, wherein the filter is formed" as "not a construction." Reply, 1. But the POPR explained that the filter of claim 1 is an "adaptive filter comprising a signal ratio," as opposed to the "filter that describes a relationship for speech" of claim 14. In other words, despite the Reply's argument, the construction does not "parrot the claim term" but instead properly clarifies the term's meaning.

Petitioner's only substantive argument as to the adaptive nature of the filter relies on claim differentiation. Reply, 2. According to Petitioner, the recitation in claim 9 of "wherein the filter is an adaptive filter" precludes claim 1 from being limited to an adaptive filter. But claim differentiation "cannot alter a definition that is otherwise clear from the claim language, description, and prosecution history." *O.I. Corp. v. Tekmar Co.*, 115 F.3d 1576, 1582 (Fed. Cir. 1997).

The POPR explained in detail that both the specification and additional language of claim 1 shows that the claim 1 filter is the disclosed adaptive filter formed as a ratio of the delayed first signal and calibrated second signal. POPR, 12-13. The specification's discussion of "delay filters" does not render the construction invalid. Indeed, the "delay filter" would be used to delay the first signal, and thus cannot be the filter at issue. Further, Petitioner does not explain how a delay filter could even be formed as a ratio. Reply, 2. Similarly, the calibration filter ($\alpha(z)$) is

used to calibrate the other signal used to form the filter of claim 1. POPR, 13. In sum, the specification lays out the exact method for generating the filter of claim 1, differentiating it from the calibration and delay filters on which Petitioner relies.

Petitioner next attacks “comprising a signal ratio.” Reply, 2-3. Petitioner does not challenge the POPR’s (and the specification’s) explanation that applying a delay or a calibration to a signal results in a *signal*. *Id.*; *see also* POPR, 12-14, 21-22. The filter of claim 1, which is explicitly formed by applying a calibration to one signal and a delay to another, is thus composed of the ratio of the two signals.

Petitioner instead relies on the specification’s description of a different filter. Reply, 2-3. As explained in the POPR, that filter, which can be composed of a ratio of scalars, is the “filter that describes a relationship for speech” and is claimed in claim 14. POPR, 12-14. Petitioner ignores the specification’s and claims’ distinction between the two.

Petitioner also argues that the use of the term “quantity” must mean that the ratio can be scalar values. Reply, 2-3. But Petitioner provides no evidence that a POSITA would understand “quantity” to mean a scalar value, or anything other than a signal generated by applying a calibration or delay to another signal.

Finally, Petitioner elevates semantics over substance, arguing the words “signal ratio” do not appear in the specification. Reply, 3. But it is beyond dispute

that, for example, the filter formed as a result of Equation 3 in the specification is a ratio of signals. POPR, 13; '213 Patent, 6:1-11.

II. PETITIONER'S VALIDITY ARGUMENTS

While the Board limited the parties' Reply and Sur-reply to "only the issue of claim construction," Ex. 1009, Petitioner further argues that its combination meets the proper construction of the filter term. Reply, 3. As explained in the POPR, the Hou divide unit merely applies a constant gain to a signal. POPR, 19-21.

III. CONCLUSION

For the reasons set forth in the POPR, the Board should deny institution.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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