UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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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

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**PATENT OWNER'S SUR-REPLY**

Case No. IPR2023-01084

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**EXHIBIT LIST**

| Exhibit No. | Description of Document |
|---|---|
| 2001 | Joint Motion to Dismiss, *Jawbone Innovations, LLC v. Apple Inc.,* No. 6:21-cv-00984-ADA, Dkt. 110 (W.D. Tex. Dec. 23, 2022) |
| 2002 | Declaration of Akbar M. Sayeed, Ph.D. |
| 2003 | CV of Akbar M. Sayeed, Ph.D. |

## I. CLAIM CONSTRUCTION

In its attempt to broaden "filter that describes a relationship for speech" to cover virtually any filter, Petitioner ignores both the specification and the testimony of Dr. Sayeed.

As explained in the POPR, and supported by Dr. Sayeed, a POSITA would read the claims and specification to understand that the filter at issue, as in every embodiment in the patent, alters the magnitude of a signal based on the relative responses to speech of the microphones. POPR, 10-13.

Petitioner first elevates semantics over substance, arguing that the words of the construction do not appear in the specification. Reply, 1. But there is no requirement that a construction must appear in the specification in the same words.

Petitioner next argues that the construction would read out preferred embodiments. Reply, 2. Petitioner's argument is based on the idea that the delay filter or calibration filter are embodiments of the claims. *Id.* They are not. The actual claimed embodiments uniformly make use of the β(z) filter as the "filter that describes a relationship for speech." POPR, 10-12. Indeed, the specification defines β(z) as that filter. *Id.*, '213 Patent, 5:31-32. In contrast, the delay filter and calibration

filter[1] are ***components*** of the filter in one of the described embodiments. *Id*.; *see also* '213 Patent, 6:1-11. It would be torturous to interpret the filter of the claims as covering only one component of the filter explicitly defined in the specification.

Finally, Petitioner argues that the patent's definition of the β(z) filter being composed of delayed and calibrated signals somehow works to broaden the term. Reply, 2-3. But the delay, applied to a signal that is then used to form the filter, does not support a construction that would allow a simple delay to meet the limitation.

## II. PETITIONER'S VALIDITY ARGUMENTS

While the Board limited the parties' Reply and Sur-reply to "only the issue of claim construction," Ex. 1017, Petitioner further argues that Avendano's delay meets the proper construction of the filter term. Reply, 3. As explained in the POPR, the Avendano delay merely delays a signal and does not alter its amplitude. POPR, 14-17.

Petitioner next steps far outside the claim construction context to repair its Visser/Avendano combination argument. Reply, 3 n.1. As explained in the POPR, Petitioner explicitly limited its combination to the w21 and w12 filters. POPR, 17;

[1] Petitioner argues that a calibration filter might meet the proper construction of "filter that describes a relationship for speech." Reply, 2. That is not relevant here, as Petitioner did not raise such a theory in its Petition.

Pet. 18-21, 27. The Board should decline to consider Petitioner's revision to its argument, especially when made in a Reply that was limited to claim construction issues.

## III. CONCLUSION

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

Respectfully submitted,

Dated: November 3, 2023 By: /*Peter Lambrianakos* /

Peter Lambrianakos (Reg. No. 58,279)
Lead Counsel for Patent Owner
FABRICANT LLP
411 Theodore Fremd Avenue,
Suite 206 South
Rye, New York 10580
Tel. 212-257-5797
Fax. 212-257-5796
Email: plambrianakos@fabricantllp.com

## CERTIFICATE OF SERVICE

A copy of the foregoing Patent Owner's Sur-Reply has been served on Petitioner's counsel of record as follows:

Lisa Nguyen
Email: lisa.nguyen@allenovery.com
Email: AO_Meta_Jawbone@allenovery.com
Eric Lancaster (*Pro Hac Vice* to be filed)
Email: eric.lancaster@allenovery.com
**ALLEN & OVERY LLP**
550 High Street
Palo Alto, California 94301

David Tennant
Email: david.tennant@allenovery.com
Alan Billharz
Email: alan.billharz@allenovery.com
Colby Davis
Email: Colby.davis@allenovery.com
**ALLEN & OVERY LLP**
1101 New York Avenue NW
Washington, D.C. 20005

Daniel Margolis (*Pro Hac Vice* to be filed)
Email: daniel.margolis@allenovery.com
Grace Wang
Email: grace.wang@allenovery.com
**ALLEN & OVERY LLP**
1221 Sixth Avenue
New York, New York 10020

***Attorneys for Meta Platforms, Inc.***

November 3, 2023 By: /*Peter Lambrianakos* /
Peter Lambrianakos (Reg. No. 58,279)
Lead Counsel for Patent Owner

FABRICANT LLP
411 Theodore Fremd Avenue,
Suite 206 South
Rye, New York 10580
Tel. 212-257-5797
Fax. 212-257-5796