

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SZ DJI Technology Co., Ltd.,
Petitioner

v.

Textron Innovations Inc.
Patent Owner.

IPR2023-01107

U.S. Patent No. 10,275,950

**PETITIONER'S REPLY TO PATENT OWNER'S
PRELIMINARY RESPONSE**

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Patent Owner (“PO”) asserts inconsistent interpretations of “*transceiver*” limitations [9C.1]/[9C.2] and [13D]/[13F]/[13G] and the “*only accessible*” limitation [9D]/[13H] before the Board and before the district court. PO applies a broad interpretation of these terms in the district court to show alleged infringement but in this IPR argues that the plain meaning of the terms is narrow to avoid invalidity over Petitioner’s Warner/Wakusu/Shavit and Ucezkaj/Jaing grounds. PO’s gamesmanship is improper. “A patent may not, like a ‘nose of wax,’ be twisted one way to avoid [invalidity] and another to find infringement.” *Amazon.com, Inc. v. Barnesandnoble.com, Inc.*, 239 F.3d 1343, 1351 (Fed. Cir. 2001) (internal quotation omitted); *see also Ericsson v. Intellectual Ventures II LLC*, IPR2014-00915, Paper 37 at 8 (PTAB Dec. 7, 2015).

A. PO’s Inconsistent Position on “*Transceiver*” Limitations

The independent claims recite a “*transceiver*” having “*a transceiver identity associated with the pilot identification*” [9C.1]/[13D] that is configured to “*associat[e]*” received flight information “*with the pilot identification information associated with the transceiver identity*” [9C.2]/[13F] and “*transmit[]*” the received information “*with the associated pilot identification information to a database*” [9C.2]/[13G]. For limitations [9C.1]/[13D], the Petition established the combination of Warner/Wakutsu/Shavit and Uczekaj/Jiang (1) stores “*pilot identification information*” in a database of the pilot device and as a result of the storage the

“transceiver identity” is *“associated with the pilot identification”* and (2) transmits *“pilot identification information”* in a message including the *“transceiver identity”* and as a result the *“transceiver identity”* is *“associated with the pilot identification”*. (Pet., 29-31, 37-38, 63-64, 71.) For limitations [9C.2]/[13F]-[13G], the Petition established, for example, to create and transmit an 802.11 message containing flight data and *“pilot identification information”*, the transceiver must associate (relate) that flight information with the pilot identification information and with the MAC ID for the device. (Pet., 31-33, 38-39, 64-66, 71-72.)

PO argues—incorrectly—for limitations [9C.1]/[13D] that the “Petition does not explain how such storage or transmission forms an association between the MAC address and pilot identification information.” (POPR, 41, 46-47, 55, 60.) And for limitation [9C.2]/[13F]-[13G], PO incorrectly contends that the Petition fails to adequately explain how the *“pilot identification information”* is associated with the *“received information”*. (POPR, 41-43, 55-56, 60.) PO offers no explicit construction for either term but implicitly applies a narrow interpretation that both limitations require some active, yet unspecified, step to achieve association between the *“pilot identification”* and the *“transceiver identifier”* and to achieve association between the *“pilot identification”* and the *“received information.”* PO’s IPR interpretation is in direct contradiction to its position in the district court.

In the district court litigation, PO treats both limitations broadly.

Specifically, PO alleges (1) the RC controller has a transceiver ID, (2) a user enters his or her DJI account login credentials into a mobile device attached to the RC controller, and (3) data such as telemetry data, obstacle avoidance data, or broadcast data is transmitted; and therefore the accused product meets limitations [9C.1]/[13D] and [9C.2]/[13F]-[13G]. (DJI-1012, 87-94, 133-151.) The infringement contentions **do not** allege any active step by the RC controller to associate the transceiver ID with the pilot's DJI account login credentials or associate the pilot's DJI account login credentials with the transmitted data. (*See Id.*) In fact, PO makes no allegation that the pilot's DJI account login credentials are even transmitted with the data. (*See Id.*)

PO's narrow interpretation of these limitations is further inconsistent with the cursory disclosure for these limitations in the '950 specification. As noted by the petition, "[t]he '950 patent does not disclose the 'transceiver identity' or the steps required to associate data with the transceiver identity." (Pet., 29.) And for limitation [9C.2]/[13F]-[13G], the specification merely states "the system includes a portable wireless transceiver that receives and transmits flight performance data and/or pilot information associated with the flight performance data to the wireless database." (DJI-1001, 2:7-11.) Again, the '950 patent, like the infringement allegations, provides no disclosure of an explicit affirmative action that associates "*pilot identification information*" with flight information other than as part and parcel of

transmission of both to the database.

B. PO's Inconsistent Position on “*Only Accessible*” Limitation [9D]/[13H].

The Petition established that the “*stored flight performance*” data in both its Warner/Wakutsu/Shavit and Uczekaj/Jiang grounds is accessible only through entry of “*pilot identification information*” such as the pilot’s credentials (e.g., username and password) and thus both grounds meet limitations [9D]/[13H]. (See Pet., 33-35, 39, 66-68, 72.) PO argues that Petition’s analysis is deficient because the “Petition previously maps ‘the name of the pilot entered into the pilot table/EFB’ as the ‘*pilot identification information*’” for limitation [9F]/[13E] but maps the pilot’s user’s credentials to “*pilot identification information*” for limitation [9D]/[13H]. (POPR, 44-47, 57-60.) Again, PO offers not explicit construction of “*pilot identification information*” but implicitly interprets the independent claims to require the identical information be used as “*pilot identification information*” in each limitation. For example, claim 9 recites:

[9C.1] *the transceiver having a transceiver identity associated with **pilot identification information**, [9C.2] the transceiver being configured ... for transmitting the received information with the thus **associated pilot identification information** to the database; ...*

[9D] *wherein the stored sensed flight performance is only accessible with the **associated pilot identification information** ...*

[9F] *wherein the **pilot identification information** is entered directly into the input device of the transceiver.*

Independent claim 13 is a method claim with corresponding limitations [13D]-[13H].

PO does not apply this strict identity interpretation of “*pilot identification information*” in the “*transceiver*” and “*only accessible*” limitations in its infringement contentions. For example, PO alleges that “DJI account login credentials” are “*pilot identification information*” (which is consistent with the Petition’s mapping of user login credentials to “*pilot identification information*”). (See, e.g., DJI-1012, 87, 133-134.) PO, however, also alleges the flight log showing just the pilot’s name (and not the username as part of the account login credentials) meets both the limitation [9C.2]/[13F] and [9D] recitation of “*pilot identification information.*” (See DJI-1012, 92, 96, 145.) And as noted above, PO makes no attempt in its infringement allegations to allege that any “*pilot identification information*”, let alone the pilot’s DJI account login credential, is transmitted with flight data for limitation [9C.2]/[13G]. PO’s narrow view of “*pilot identification information*” in its claims is further inconsistent with and unsupported by the limited disclosure in the specification. As noted in the Petition, the specification provides no written description support for limitations [9D]/[13H]. (Pet., 33.)

Given its broad infringement allegations, PO cannot dispute that the combinations of Warner/Wakutsu/Shavit and Uczekaj/Jiang disclose the “*transceiver*” limitations and “*only accessible*” limitations.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 5, 2024, a true copy of Petitioner's Reply to Patent Owner's Preliminary Response were served in its entirety on the following parties via Electronic Mail:

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