

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. 8,326,611

Filing Date: October 26, 2009

Issue Date: December 4, 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. IPR2023-01128

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EXHIBIT LIST

Exhibit No.	Description of Document
2001	Joint Motion to Dismiss, <i>Jawbone Innovations, LLC v. Apple Inc.</i> , 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, 9-13.

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 $\beta(z)$ filter as the “filter that describes a relationship for speech.” POPR, 10-12. Indeed, the specification defines $\beta(z)$ as that filter. *Id.*, ’611 Patent, 5:31-32. In contrast, the delay filter and calibration

filter¹ are *components* of the filter in one of the described embodiments. *Id.*; *see also* '611 Patent, 6:1-16. 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 $\beta(z)$ 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. 18-22, 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

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CERTIFICATE OF SERVICE

A copy of the foregoing Patent Owner's Sur-Reply has been served on
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