

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BRYCER, LLC, and BRYCER MANAGEMENT, INC.,
Petitioners

v.

TEGRIS, INC.,
Patent Owner.

Case No. IPR2023-01196
Patent No. 11,126,966

Before KAREN I. SWEENEY, *Trial Paralegal*

**PATENT OWNER'S SUPPLEMENTAL OBJECTIONS TO
DEMONSTRATIVE EXHIBITS**

Patent Owner pursuant to paper 40 submits the following explanation regarding its objections to Petitioners' EX1042.

I. Regarding new arguments in EX1042, slides 15, 16, 17, 18, 44, 53, 55, 56, 57, 58, 59, 60, 61, 72, 73, 74, 75, 76, 81, 86:

1. New Arguments re Chauhan

- Chauhan EX1016 was cited by Petitioner as disclosing part of [8a] and [8b] but not discussed. Pet., pp., 29, 34.

New Arguments:

- EX1042, slide 58 applies Chauhan to [8d] and [8e]
- EX1042, slide 74 applies Chauhan to [8d]
- EX1042, slide 86 applies Chauhan to [8f] combined with Sweeney and McKinney

2. New Arguments re Sweeney

- Sweeney was cited by Petitioner as disclosing part of [8d]. Pet., pp. 42, 46-47. Pet. argued Sweeney discloses [8d] "notice to owners" citing its disclosed access to inspection reports, the ability to query stored inspection reports, and generate reports citing Sweeney EX1006 [0017], [0039], [0042].

New Arguments:

- EX1042, slide 16 recites Sweeney EX1006 [0043] and Fig. 2
- EX1042, slide 61 applies Sweeney to [8d] and [8e]

- EX1042, slide 72 combines Sweeney with Building Reports EX1024 and McKinney EX1020 to argue obviousness of [8d]
- EX1042, slide 76 argues that Sweeney discloses [8d] “standard format description of the type of inspection”
- EX1042, slide 86 applies Sweeney to [8f] and combines it with McKinney and Chauhan

3. New Arguments re McKinney

- At Pet., pp. 53, 59-60, Petitioners cite McKinney and Sweeney for [8f] as rendering obvious the asset owner selecting an inspector within proximity of an asset citing McKinney monitoring contract renewal status for wastewater systems citing EX1020, [0001], [0045], [0063], [0064] and [0080].
- Also at Pet., p. 60, Petitioners cite Sweeney for contractors may be restricted on bidding on contracts based on proximity to the asset citing EX1006, [0007], [0043]-[0044].

New Arguments:

- EX1042, Slide 17 includes new cites to McKinney [0003], [0057]
- EX1042, Slide 55 combines McKinney with Campion (EX1007) and applies them to [8d] and [8e].
- EX1042, Slide 56 applies McKinney to [8d] and [8e] citing new paragraphs EX1020 [0056]-[0057]

- EX1042, Slide 72 combines McKinney with Building Reports EX1024 and applies them to [8d]
- EX1042, Slide 73 combines McKinney with Lloyd '150 EX1021 and applies them to [8d]
- EX1042, Slide 81 applies McKinney [8e] citing new paragraphs [0057] and [0058]
- EX1042, Slide 86 combines McKinney with Sweeney and Chauhan for [8f]

4. Petitioners' New Arguments re Campion EX1007

- At Pet., p. 53, Petitioners cite Campion EX1007 re [8f] arguing it was known in the art to include instructions for inspector to enter information when inspecting an asset citing 3:18-22, 11:61-12:17, Fig. 9.
- Also, at Pet., p. 66, Petitioners cite Campion EX1007 re [8i] re publishing reports in a format acceptable to a fire inspection jurisdiction. 2:11-16, Figs 11A-11D.

New Arguments:

- EX1042, slide 15 includes new Campion cites Fig. 5 and 1:27-40, 2:12-33, 9:37-41, 17:23-27
- EX1042, slide 44 includes new Campion cites 1:18-37, 2:6-28
- EX1042, slide 55 applies Campion to [8d] and [8e] and combines it with Key and McKinney.

5. Petitioners' New Arguments re Cober EX2008

- Petitioners do not cite this reference in the Petition.

New Arguments:

- EX1042, slide 60 re [8d] and [8e] applies Cober [0071], [0504], [0505]

6. Petitioners' New Arguments re Lloyd 150 EX1021

- Petitioners did not argue Lloyd in connection with Claim 8. See Pet., pp. 29-67.
- Pet. p., 26 cites Lloyd '150 for disclosing a method for compliance verification for fire/life safety systems. EX1021, Abs., 1:32-52; 2:28-58; 5:56-6:26, 21:23-22:13.

New Arguments:

- EX1042, slide 15 cites to new sections of Lloyd '150 2:9-22, 7:24-42
- EX1042, slide 53 applies Lloyd '150 to [8d] and [8e] citing new section 6:5-21
- EX1042, slide 57 applies Lloyd '150 to [8d] and [8e] citing new section 7:1-32.
- EX1042, slide 73 applies to [8d] combines Lloyd 150, Key and McKinney

7. Petitioners' New Arguments re Buildingreports.com EX1024

- At Pet., p. 38, Petitioners cite regarding [8b] "EX1024, 1" without any explanation.

- Also, at Pet., p. 45, argue [8d] that Buildingreports.com EX1024, 4 that discloses inspection types in sample reports for users.

New Arguments:

- EX1042, slide 72 re [8d] asset owner notice content combines buildingreports.com with Sweeney and McKinney.

8. Petitioners' New Arguments re Woodings EX1025

- At Pet. p., 46, Petitioners argue regarding [8d] that Woodings EX1025 [0006] discloses tracking information regarding regulated assets and the need for providing compliance certification.
- Also, at Pet. p. 60, Petitioners regarding [8f] cite Woodings EX1025 Abst., [0294], [0341] for selecting an inspector base on verifications/representations.

New Arguments:

- EX1042, slide 59 regarding [8d] and [8e] cites Woodings EX1025 [0006]
- EX1042, slide 75 regarding [8d] standard format notice cites Woodings [0006]

9. Petitioners' New Arguments re Shamsi EX1022

- Petitioners did not apply this reference to any element of claim 8. See Pet. pp. 29-67.
- At Pet. p. 26, Petitioners cite EX1022, pp. 304-305 for referring to “fire hydrant”.

New Arguments:

- EX1042, slide 18 combines Shamsi with ESRI White Paper EX1026

10. Petitioners' New Arguments re ESRI White Paper EX1026

- Petitioners did not apply this reference to any element of claim 8. See Pet. pp. 29-67
- Pet. p. 26 cites EX1026, pp. 17-18 for referring to "fire hydrant".

New Arguments:

- EX1042, slide 18 combines Shamsi with ESRI White Paper.

It is unfair to the other party to bring a new twist or angle into a party's case at such a late stage of the proceeding. That would include different characterizations of the evidence and different inferences drawn from the evidence." *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033 (PTAB Oct. 23, 2013) (Paper 118) at p. 3.

II. Regarding PO's objections to EX1042, slides 5-39, 41-67, 71-78, 80-83, and 85-104 (the "Text Slides") for being written text, according to this Board in *CBS*

Interactive Inc.:

Demonstrative slides are visual aids to a party's oral presentation. For instance, figures, charts and diagrams may serve as visual aids. However, written text setting forth various statements, characterizations, and assertions go beyond serving as visual aids, as they constitute additional briefings themselves... There is no proper basis for presenting such additional 'briefings' as demonstrative exhibits, *especially if such demonstrative exhibits are to be kept in the official record.*" *Id.* at pp. 3-4 (Emphasis added).

The Text Slides predominantly consist of a reproduction of text from one or more of the '966 Patent, the cited references, deposition testimony and various declarations.

In various instances, the presented text is prejudicial, argumentative and/or misleading (e.g., slide 31 which incorrectly insinuates that the highlighted portion of the specification is support and/or the only support for the highlighted claim language, when in fact the specification specifically and more relevantly states: “FIG. 5 shows a method for using a web enabled inspection registry. At block 510 an owner / inspecting authority is notified that an inspection is needed on an owned asset.” (‘966 Patent at 8:15-17). Slide 37 is prejudicial in that it misrepresents PO’s response. Notably, the Patent owner’s response references claim element 8(f), however the slide fails to highlight that section of the Response and omits element 8(f) from the right side of the slide. Slide 39 is argumentative as it presents text from caselaw, which presumably and allegedly supports one or more of Petitioners’ positions.). Additionally, slides 66 and 83 are duplicates. These are just a few examples of the subtle and not so subtle issues with Petitioners’ 215 slides that PO is required to decipher only days before the Oral Hearing – an onerous and overly burdensome task. (See. *CBS Interactive Inc.* at 4).

For the foregoing reasons, PO respectfully requests that the Board strike EX1041 and EX1042 from the record.

Date: October 23, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing PATENT OWNER'S SUPPLEMENTAL OBJECTIONS TO DEMONSTRATIVE EXHIBITS was served on the above referenced date via email on the following attorneys for the Petitioners:

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