Filed: August 9, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MISSION INTEGRATED TECHNOLOGIES, LLC
Petitioner

v.

JOSHUA CLEMENTE,
Patent Owner

Case No.: IPR2023-01285
Patent 11,174,677

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE TO PETITION

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EXHIBITS

Exhibit No.	Description
1001	U.S. Patent No. 11,174,677 ("the '677 patent")
1002	File History of the '677 patent
1003	U.S. Provisional Application No. 62/770,022 claiming benefit for the '677 patent
1004	Declaration of Fahmi Alubbad ("Alubbad")
1005	Paid invoice to Genovese Productions, LLC by Mission Integrated Technologies ("MIT") for a video shoot of MIT's Articulated Rapid Entry System ("ARES") in July 2017
1006	MIT's *Technical Offer* to the Kingdom of Saudi Arabia for two Armored Assault Vehicles with ARES by MIT dated June 12, 2017
1007	*ARES PROMO 6* ("the ARES 6 video") posted on YouTube on October 11, 2017
1008	Screenshot of search on YouTube that yields the ARES 6 video (Ex. 1007)
1009	Screenshot of current YouTube webpage that features the ARES 6 video (Ex. 1007)
1010	Screenshots taken from the ARES 6 video (Ex. 1007) with red annotations added
1011	Screenshot of the Inventor and Patent Owner ("Joshua Clemente") of the '677 patent featured in the ARES 6 video (Ex. 1007)
1012	Screenshot of MIT's homepage of October 22, 2017, taken from the Internet Archive using the Wayback Machine
1013	Screenshot of MIT's homepage of November 30, 2018, taken from the Internet Archive using the Wayback Machine
1014	MIT's ARES Marketing Brochure created on October 31, 2017 ("the Oct. 2017 brochure") with red annotations added
1015	True and Correct copy of document properties for the Oct. 2017 brochure (Ex. 1014)

Exhibit No.	**Description**
1016	True and Correct copy of MIT's President's ("Tim Clemente") email dated November 8, 2017, sending the Oct. 2017 brochure (Ex. 1014) to a potential client
1017	Screenshot of webpage showing MIT's exhibition site at Milipol Paris 2017 ("Milipol 2017")
1018	Screenshot of a Milipol 2017 Exhibition webpage showing that MIT was an Exhibitor at Milipo1 2017
1019	*ARES Elevated Tactics System* ("the Elevated ARES video") posted on YouTube on November 13, 2018
1020	*Curriculum Vitae* of Matthew Hayduk
1021	Declaration of Matthew Hayduk ("Hayduk")
1022	Screenshot of search on YouTube that yields the Elevated ARES video (Ex. 1019)
1023	Screenshot of current YouTube webpage that features the Elevated ARES video (Ex. 1019)
1024	Screenshots taken from the Elevated ARES video (Ex. 1019) with red annotations added
1025	MIT's initial Operating Agreement and Written Statement of Organization ("Initial Agreement") dated October 7, 2013
1026	Written Consent of the Member of MIT dated December 15, 2023, in which Tim Clemente was fired as MIT's President by Alubbad
1027	Email dated December 18, 2023, by Tim Clemente confirming receipt of Written Consent of the Member of MIT removing Tim Clemente as President of MIT
1028	MIT Contract with Miami-Dade County, Florida dated August 31, 2021, for an ARES Tactical Assault System signed by Alubbad
1029	Email chain, dated June 8-9, 2023, between Miami-Dade Police Department and Alubbad for extending a warranty of ARES Tactical Assault System sold to Miami-Dade County (Ex. 1028)
1030	Letter dated November 15, 2023, from the US Department of State addressed to Alubbad as CEO of MIT providing MIT with a register for International Traffic in Arms Regulations (ITAR)

Exhibit No.	Description
1031	Email chain from Tim Clemente to Alubbad dated May 29, 2018, regarding a reminder for renewal of ITAR
1032	Work for Hire Agreement between MIT and Adept Inc. signed by Alubbad as Managing Member of MIT dated November 28, 2022
1033	Employment Agreement with MIT and Kevin Burnett signed by Alubbad with MIT's seal on January 10, 2023
1034	Statement of Work Agreement between MIT and Retiina, LLC for ARES Control System Development Project signed by Alubbad as Managing Member of MIT dated June 3, 2021, with MIT's seal
1035	Work for Hire Agreement between MIT and Retiina, LLC for command, control and communication software for ARES signed by Alubbad as Principle of MIT dated June 3, 2021, with MIT's seal
1036	Work for Hire Agreement between MIT and Wulco, Inc. for the integration of ARES system onto trucks signed by Alubbad as Managing Member of MIT dated March 2, 2022, with MIT's seal
1037	Appointment of Noel Matchett as Empowered Official for MIT as required by ITAR administered by the US Depart. of State signed by Alubbad as CEO and Owner's Rep dated May 2, 2022, with MIT seal
1038	Special Written Consent of Members of MIT dated July 12, 2022 signed by Tim Clemente, indicating one of MIT's patents was erroneously record listing Joshua Clemente as sole inventor (annotate in yellow)
1039	Email chain of August 8, 2023 between Thomas Brown and his secretary Tarteasha Williams and Andrew Melick regarding defective POA filed with the IPR and a telephone call placed with the PTAB
1040	IPR2023-01285-Payment Receipt Notice dated August 7, 2023
1041	IPR2023-01285-Patent Review Petition Filing Receipt dated August 7, 2023
1042	Second Declaration of Fahmi Alubbad
1043	Declaration of Thomas E. Brown
1044	Consultant Agreement between IT and Keith Billiot signed by Alubbad as Managing Member of MIT dated May 7, 2022

Exhibit No.	Description
1045	Letter dated November 8, 2021, from the US Department of State addressed to Alubbad as Chief Executive Officer of MIT providing MIT with a register code as a manufacturer and exporter for International Traffic in Arms Regulations (ITAR)
1046	Letter dated June 8, 2020, from the US Department of State addressed to Alubbad as Chief Executive Officer of MIT providing MIT with a register code as a manufacturer and exporter for International Traffic in Arms Regulations (ITAR)
1047	Export License, (License Number 050712040) issued on January 24, 2020 from the U.S. State Department providing MIT with approval to export its ARES system to the Presidency of State Security Kingdom of Saudi Arabia with Alubbad as Applicant
1048	Email from Alubbad dated June 8, 2023, to Kallman Worldwide, Inc. attaching an Application for Pavilion Space at Milipol, Paris 2023 and indicating that payment of $31,075 was mailed in the form of a MIT check
1049	Milipol Exhibit Application attached to Email (Ex. 1048) showing Alubbad as the party to receive the $31,075 Invoice
1050	2023.11.24 - J. Clemente Answer and Counterclaim (w exhibits)
1051	2024.01.03 - Amended Complaint
1052	2024.01.17 - Josh's Answer to Amended Complaint & Counterclaim
1053	2023.12.13 - Answer to Counterclaim
1054	**2024.07.10 – Jury Verdict in Case No. 1:23-cv-01608 (E.D. Va.) invalidating claims 1-8 and 10-17 of the '677 patent**

I. MANDATORY NOTICE- Lead and Back-up Counsel and Service Information

Lead and back-up counsel are identified in the signature block at the end of this petition. Bo Xiao (Reg. No. 77, 872) of WHDA, LLP has been added as co-counsel in compliance with 37 C.F.R. § 42.8b(3). Service may be made upon such counsel by directing paper to the indicated addresses (including email).

II. JURY VERDICT (Ex. 1054)- Case No. 1:23-cv-01608 (E.D. Va.) invalidating claims 1-8 and 10-17 of the '677 patent

Claims 1-8 and 10-17 of the '677 patent were invalidated in a Jury Verdict (Ex. 1054) dated July 10, 2024 in the U.S. District Court in the Eastern District of Virginia. The Patent Owner did not file a motion for judgment as a matter of law within 28 days after the entry of judgment, as required by Rule 50(b) of the Federal Rules of Civil Procedure.

Therefore, it is submitted that the District Court's invalidity ruling is final and no longer subject to appeal, which effectively invalidates claims 1-8 and 10-17 of the '677 patent claims in question. In addition, it is respectfully submitted that the Patent Trial and Appeal Board (PTAB) is bound by this verdict made by the Jury.

Further, it is submitted that the Jury did not consider the validity of claim 9 of the '677 patent, since no infringement was alleged.

III. CLAIM 9 IS ANICIPATED by the ARES 6 VIDEO (Ex. 1007) and the ELEVATED ARES VIDEO (Ex. 1019).

Claim 9 recites "*wherein the inclinable access structure further comprises a ramp*." In the ARES 6 video (Ex. 1007, at 48-54 secs) Joshua Clemente, '677 Patent Owner, recites that "anyone familiar with elevated tactics systems knows that the status quo today is a ramp". Similarly, in the Elevated ARES video (Ex. 1019, at 48-54 secs) Joshua Clemente, '677 Patent Owner, recites that "anyone familiar with elevated tactics systems knows that the status quo today is a ramp".

Thus, one of ordinary skill in the art viewing the ARES 6 video (Ex. 1007, at 48-54 secs) and/or the Elevated ARES video (Ex. 1019, at 48-54 secs) would readily understand that it is well known or conventional to include a ramp with an inclinable access structure in an elevated access tactical system.

The conventionality of using a ramp with an inclinable access structure of an elevated access system is also supported by the disclosure of the '677 patent (Ex. 1001).

Specifically, the '677 patent recites

> **Conventional elevated access systems** exist which may be mounted or dismounted from various suitable vehicles in order that the vehicle may be used in a variety of functions (e.g. so that the vehicle's utility is not limited). When mounted to a suitable vehicle, such systems generally include a base structure connected to the vehicle at a plurality of points and **an access structure including a ramp** or

> stairway, which can be inclined with respect to the base structure, providing personnel access to between ground level and points some height above the ground. (Emphasis added).

Ex. 1001, the '677 patent at 1:34-43.

In view of the above, it is respectfully submitted that the ARES 6 video (Ex. 1007, at 48-54 secs) and the Elevated ARES video (Ex. 1019, at 48-54 secs) each anticipates the features of claim 9, since both videos disclose or suggest the features of claim 9 regarding "*wherein the inclinable access structure further comprises a ramp*."

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, undersigned hereby certifies that, pursuant to 37 CFR §§ 42.6(e) and 42.105(a), a copy of this PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE TO PETITION is being deposited on August 9, 2024, with FedEx Express (a commercial overnight delivery service), for overnight delivery, to the Patent Owner, Pro se, in a box addressed to:

Joshua F. Clemente
2006 Vista Ln APT B.
Austin, TX 78703

August 9, 2024

/Thomas E. Brown/

Thomas E. Brown
WHDA, LLP