

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOTOROLA SOLUTIONS, INC.,

Petitioner,

v.

STA GROUP LLC,

Patent Owner.

CASE: IPR2023-01292

U.S. PATENT NO. 7,324,802

PATENT OWNER SUR-REPLY

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TABLE OF PATENT OWNER'S EXHIBITS

Exhibit No.	Description
Ex. 2001	<i>STA Group LLC v. Motorola Solutions, Inc.</i> , Case No. 2:22-cv-00381 (E.D. Tex.), Dkt. No. 187
Ex. 2002	Entity, MERRIAM WEBSTER COLLEGIATE DICTIONARY (11th ed. 2003)
Ex. 2003	December 2023 DocketNavigator, Time to Trial Statistics in Patent Cases in the United States District Court for the Eastern District of Texas
Ex. 2004	Claim Construction Order, <i>STA Group LLC v. Motorola Solutions, Inc.</i> , Case No. 2:22-CV-00381-JRG (E.D. Tex.)
Ex. 2005	Deposition Transcript of Mr. Williams
Ex. 2006	Institution Decision, Case IPR2018-01083, Paper 10, Entered January 10, 2019
Ex. 2007	Declaration of Dr. Robert Akl
Ex. 2008	<i>Curriculum Vitae</i> of Dr. Robert Akl

I. INTRODUCTION

The '802 Patent clearly recognizes that an entity comprises a group of users. To prevent information loss, the claimed communication system receives and manages messages from different entities over a plurality of dedicated channels. An operator—which the claims recite separately from an entity—sits between each entity to respond to the messages received from the entities. A person of skill in the art would have understood that an operator is *not* part of an entity but rather interfaces with each entity as consistent with the specification and problem that the '802 Patent solves.

By reading the claims in a vacuum, Petitioner's approach led to the nonsensical result that all disputed terms are the same. Namely, Petitioner concludes that "a dispatcher (an example of an operator) is a user and that users (including a dispatcher) can be entities, which is a broad term that includes individuals." Paper 22, 6. This hindsight-driven approach is not supported by the specification or prior art references. Thus, Petitioner fails to carry the burden to show that the Challenged Claims are unpatentable.

II. *OHEL* FAILS TO RENDER THE CHALLENGED CLAIMS OBVIOUS

First, *Ohel* fails to render claim 1 obvious because *Ohel*'s dispatcher is not an operator. The problem solved by the '802 Patent supports this plain reading. Rather than address the specification, Petitioner applies a heightened standard to require the

claim to explicitly recite the problem and solution—which is improper. As outlined below, Petitioner’s arguments fail to disturb this conclusion.

Second, *Ohel* fails to render claim 7 obvious because *Ohel* does not inform an operator of the time of receipt of a message. Petitioner’s expert, Mr. Williams, acknowledged that this claim element is not disclosed. However, both Mr. Williams and Petitioner fail to articulate why it would have been obvious to inform the dispatcher of the time of receipt in view of *Ohel*’s disclosure.

Third, *Ohel* fails to render claim 11 obvious because Petitioner failed to analyze claim element 11[h]. Even considering Petitioner’s newly presented theories, *Ohel* does not render claim 11 obvious. Specifically, the analysis of claim 1, which Petitioner relies on for claim 11, recites different claim limitations for different functions. Thus, Petitioner’s reliance on its prior analysis of claim 1 does not remedy its failure in ignoring claim element 11[h] in the Petition.

A. *Ohel*’s Dispatcher Is Not an Entity as Recited by Claim 1

The problem solved by the ’802 Patent supports the plain reading that *Ohel*’s dispatcher is not an entity. *See* Paper 18, 17 (“[T]he ’802 Patent solve[s] an issue located at the operator sitting between at least two different entities—the operator simultaneously receives messages from different channels dedicated to different entities, creating confusion.”). The problem and solution are explicit, and thus Petitioner cannot—and does not—dispute Patent Owner’s description of the

problem, nor the technological context which gives rise to the problem. *See* Paper 22, 6-10. Instead, Petitioner’s “main problem” is that “no claim requires an ‘operator sitting between at least two different entities’ or an operator simultaneously receiving messages.” Paper 22, 6 (citing Ex. 1033, 53:5-17, 54:5-19). But, again, this is not the standard; claims are read in light of the specification.

1. Petitioner Relies on A Heightened Standard

Petitioner improperly inserts its own heightened standard, requiring the problem and solution to be explicit in the claims. When the claims are read in light of the specification, a POSITA would have understood that the claims recite a system to address the identified problem (*i.e.*, operator confusion caused by simultaneously receiving messages from different channels). Specifically, the ’802 Patent describes the shortcomings of conventional systems:

The receipt of multiple radio messages at one time creates confusion for an operator who needs to reply/act on each incoming radio message. To avoid this confusion, the operator mutes all the channels except one, so as to clearly follow one channel. This results in the operator being able to follow the channel that is not a muted channel, while the message on the muted channels is lost.

Ex. 1001, 1:25-31.

To solve this issue, the invention of the ’802 Patent “prevents the loss of radio messages that would otherwise be lost if the operator of a conventional emergency

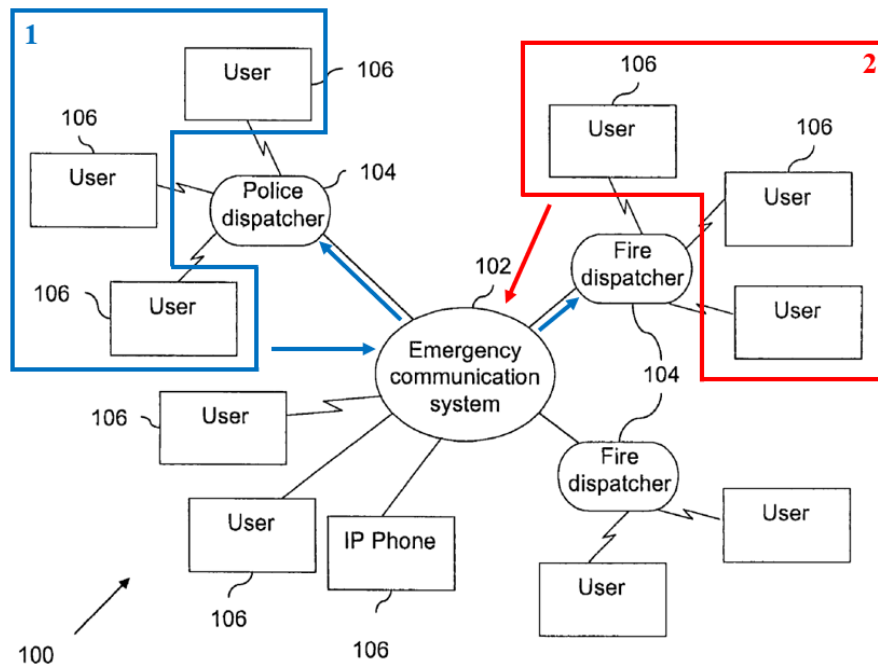
communication system muted one of the channels in the case of overlap in the incoming radio messages.” *Id.*, 6:53-56; *see also id.*, 1:46-49. The plain reading of the claims addresses this situation when “the second message overlap[s] with the first message in time.” *Id.*, cl. 1. A POSITA would have read the claims and understood that the system is designed to specifically solve issues that the operators face. Without addressing this clear disclosure, Petitioner focuses on a simple example to argue that “PO’s flawed argument relies on modifying ’802 Figure 1 to include associations and connections that are not disclosed.” Paper 22, 6-10 (citing Paper 18, 17-19).

2. Figure 1 Is Consistent with Patent Owner’s Position

Patent Owner’s position does not rely on the modification of Figure 1—the problem and solution of the ’802 Patent are explicitly laid out in the specification. Modified Figure 1 is merely an example illustration of the problem and solution as applied to the system. *See* Paper 18, 17 (“Figure 1 is helpful to illustrate the type of system to which Mr. Williams refers with various types of different units.”). Also, in contrast to Petitioner’s statements, Patent Owner never limited the claims to only the embodiment of Figure 1. Paper 22, fn. 1 (arguing that “the ’802 patent makes clear that the claims are not to be limited to described embodiments”).

Moreover, this example is supported by the specification. *See* Paper 22, 7-8. First, Figure 1 illustrates, as stated in the specification, that “a plurality of radio

messages is *simultaneously* received by emergency communication system 102 from separate *users 106*.” Ex. 1001, 4:6-8. Next, the “emergency communication system 102 plays a single radio message at one time and stores the remaining radio messages, thereby avoiding loss of the remaining radio.” *Id.*, 4:14-26. Although the example of Figure 1 follows this disclosure, which Patent Owner cited (Paper 18, 17-18), Petitioner concludes, without explanation, that Patent Owner’s description “is not supported by the cited portions of the specification.” Paper 22, 7.



Ex. 1001, Fig. 1 (annotated).

Petitioner also ignores the specification to conclude that dispatchers “are connected via respective dedicated channels to the communication system.” Paper 22, 8-9; *see also id.* (annotating Figure 1 to circle purported dedicated channels). The specification provides no disclosure that could be construed to suggest the lines

Petitioner circles in green are the dedicated channels recited in the claims. Recognizing this lack of support, the Petitioner states, “two users and one IP phone are shown to be connected to the communication system via channels that *could plausibly be called dedicated*.” Paper 22, 8-9. Based on the lines in Figure 1 being “*plausibly*” a dedicated channel, Petitioner contends, “the only conclusion ... is that a dispatcher is an entity from which the claimed communication system may receive a message on a dedicated channel.” *Id.* at 9. Thus, Petitioner fails to refute Patent Owner’s conclusion that the specification differentiates between a dispatcher and entity and fails to establish any support for its position regarding dedicated channels.

3. *Ohel*’s “Overtalk” is Fundamentally Different than What the ’802 Patent Identifies and Solves

The differences between the problem and solution of the ’802 Patent and *Ohel* further support Patent Owner’s position. *See* Paper 18, 19-23. Petitioner does not respond to Patent Owner’s characterization of *Ohel*’s problem and solution other than in a single footnote. Paper 22, fn. 2. Petitioner, instead, applies the same flawed approach in concluding the claims and specification do not explicitly recite specific language, such as a “multi-party communication channel.” *Id.* at 9. As Dr. Akl explained in his declaration, a POSITA would have understood that the ’802 Patent’s system manages “messages received simultaneously on *multiple* different multi-party communication channels.” Ex. 2007, ¶56. *Ohel*, in contrast, addresses

dispatcher “overtalk” that affects individual officers on a single multi-party communication channel within a single entity. Paper 18, 19-21.

4. The Specification Differentiates Between a Dispatcher and an Entity

Rather than read the claim language in light of the specification, Petitioner, again, relies on its made-up heightened standard to conclude that a “dispatcher” is an “entity.” Specifically, Petitioner asserts that “[n]othing in the intrinsic record *disclaims* a dispatcher (or user) from the scope of ‘entity.’” Paper 22, 1-2 (emphasis added); *see also* Paper 22, 1 (“No language in any claim narrows its scope to exclude a dispatcher.”), 2 (“At no point during prosecution did the Applicant disclaim a ‘dispatcher’ from the scope of ‘entity.’”) (citing Ex. 1003 at 44-46). This standard is improper. As detailed below, Petitioner’s evidence fails to disturb the conclusion that the intrinsic record differentiates between an “entity” and a “dispatcher.”

Petitioner further conflates the issue by citing to disclosure regarding “users.” Paper 22, 2. Regardless, even the Petitioner’s citation supports Patent Owner’s position. Paper 22, 2-3. “The invention can operate between any two processes or entities including users, devices, functional systems, or combinations of hardware and software.” Ex. 1001, 7:18-20. The cited disclosure affirms that the invention operates between entities, *which includes* users. A POSITA would not have understood the specification as “stat[ing] that ‘users’ can be entities, as can ‘a

group/locality/unit.” See Paper 22, 2 (citing Ex. 1001, 7:18-20). Petitioner’s expert, Mr. Williams, agreed with the straightforward reading. Ex. 2005 (“This passage said that entities include users; right? A. I would say that’s fair.”).

Further, without any explanation, Petitioner conclusively states that “PO’s interpretation would read out this embodiment” of Figure 1. Paper 22, 2-3. This is not true. The description of Figure 1 does not state whether the dispatchers 104 are a part of the entity. As explained above, the plurality of users makes up the entity and the emergency communication system 102 receives messages from the users. Ex. 1007, 3:64-4:5. The dispatcher, who is *not* part of the entity, is connected to the emergency communication system 102 to “handle the communication for the emergency teams.” Ex. 1007, 3:54-4:5. In view of the specification, Petitioner’s conclusory analysis fails to show that a dispatcher is an entity.

5. Claim Terms Are Presumed to Have Different Meanings

Petitioner continues to apply its own standard to conclude that the claims do not explicitly associate the “user” in claim 6 with an “entity.” Paper 22, 3-4. Again, when properly read in light of the specification, a POSITA would have understood that the user in claim 6 is part of an entity. For example, claim 1 requires “the first dedicated channel being dedicated to receiving messages from a first entity.” Ex. 1001, cl. 1. Relatedly, the “[e]mergency communication system 102 receives messages on a plurality of communication channels” and the “messages can be

received from users 106 from any suitable link or device.” Ex. 1001, 3:63-4:1; *see also id.*, 4:6-8 (“[A] plurality of radio messages is simultaneously received by emergency communication system 102 from separate users 106.”). Rather than address the specification, Petitioner intentionally reads the claims in a vacuum to conclude that the claim language does not “require or suggest in any way that the user be ‘part of an entity,’ as opposed to some other user.” Paper 22, 4; *see In re Marosi*, 710 F.2d 799, 802 (Fed. Cir. 1983) (“[C]laims are not to be read in a vacuum, and limitations therein are to be interpreted in light of the specification.”).

Further, Petitioner argues that Patent Owner uses claim differentiation to require terms to be mutually exclusive. Paper 22, 4-5. This is a mischaracterization. First, despite separately reciting an entity and a user, Patent Owner ***did not*** construe these terms as mutually exclusive; rather, Patent Owner explains that a user is a part of an “entity.” *See* Paper 18, 14. Second, Patent Owner never concluded that an entity and operator are “mutually exclusive” based on claim differentiation alone. Instead, starting with “the common sense notion that different words ... are presumed to indicate that the claims have different meanings and scope,” the entity must be ***distinct*** from the operator. The specification then confirms that the operator is not a part of the entity. *See* Paper 18, 15-23.

Petitioner’s Reply regarding claim differentiation highlights the differences between the parties’ approaches. Patent Owner’s approach is driven by the

specification for each term, which leads to term specific outcomes (e.g., a user is a part of an entity versus an operator that falls outside of an entity). In contrast, Petitioner ignores the specification, only searching for language that explicitly requires or suggests a certain conclusion. Petitioner’s improper approach leads to the nonsensical result that an entity, a user, a dispatcher, and an operator—used and described differently throughout the specification—are the same things and can be used interchangeably. Paper 22, 2 (“The specification states that ‘users’ can be entities.”), 6 (“[A] dispatcher (an example of an operator) is a user and that users (including a dispatcher) can be entities.”), 9 (“[T]he only conclusion ... is that a dispatcher is an entity.”), 15 (“The ’802 patent uses ‘operator’ and ‘user’ interchangeably.”). Petitioner fails to satisfy its burden with this hindsight-driven approach.

B. *Ohel* Does Not Render Obvious Claim 7

The Petition asserts that “*Ohel discloses* ‘informing an operator the time of receipt.’” Petition, 36. However, as Mr. Williams clarified, *Ohel does not* disclose this element. Ex. 2005, 99:18-23. Neither does *Ohel* render this element obvious. Petitioner failed to articulate why it would have been obvious to inform the *dispatcher* of the time of receipt in view of *Ohel*. Ex. 2007, ¶73; see Paper 18, 26.

Mr. Williams’ analysis fares no better as he fails to provide any reasoning behind his obviousness position. Petitioner responds that Mr. Williams’ failure “is

not surprising because claim 7 does not recite a ‘dispatcher’ so it was unnecessary to analyze.” Paper 18, 15. Here, Petitioner intentionally ignores the issue. When asked, “[w]hy would an *operator or a dispatcher of Ohel* need to be told when it interrupted an officer’s other transmission,” Mr. Williams stated that he has not “done specifically that analysis, but it would seem to be a reasonable thing to do.” Ex. 2005, 99:18-100:20. Notably, Petitioner complains about Patent Owner’s use of an ellipses but then omits “an operator” in citing the deposition transcript.

As explained in the Patent Owner Response, the Single Reference Obviousness Standard is not “it doesn’t seem *unreasonable*,” nor is it the slightly higher bar of “it would seem to be a reasonable thing to do.” Ex. 2005, 100:19-20, 100:16. Accordingly, Petitioner fails to make a showing to meet the proper standard and therefore fails to establish obviousness of claim 7 in view of *Ohel*.

C. *Ohel* Does Not Render Obvious Claim Element 11[h]

The Petition and Mr. Williams ignored claim element 11[h] and thus failed to establish that all elements of claim 11 are taught by *Ohel*. *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (“obviousness requires a suggestion of all limitations in a claim”). Petitioner now, in reply, attempts to remedy this failure by providing additional theories using an incorrect standard.

Claim element 11[h] recites “playing the stored message having the highest priority.” Petition, xiii. Petitioner does not mention, let alone address, this language

in its analysis of claim 11. *Id.* at 41-42. Additionally, Mr. Williams admits that he does not address claim element 11[h]. *See* Ex. 2005, 103:4-5 (“Are elements 11H and 1G the same? A. No, not exactly the same”), 105:3 (“So in Paragraph 193, you talk about differences between Claim 11 and Claim 1, but you don’t mention Element 11H; is that right? A. ***That’s correct.***”).

Rather than apply the correct obviousness standard, Petitioner argues that “there is no material difference between limitations 1[g] and 11[h].” Paper 22, 16. Petitioner failed to include this analysis regarding the differences between 1[g] and 11[h] in the Petition. Paper 1, 41-42. However, even when considered, this argument still fails. The language of claim element 1[g] is different than claim element 11[h], which Petitioner’s expert acknowledges. *See* Ex. 2005, 103:4-5 (“Are elements 11H and 1G the same? A. No, not exactly the same”). The obviousness standard is not whether there is a “material difference.” Thus, Petitioner fails to remedy its original failure to render claim element 11[h] obvious.¹

¹ Petitioner likewise fails to address claim element 11[h] in Ground 2. Thus, *Nigawara* fails to render claim element 11[h] obvious for the same reasons that *Ohel* does not render claim element 11[h] obvious.

III. *NIGAWARA* FAILS TO RENDER THE CHALLENGED CLAIMS OBVIOUS

First, *Nigawara* fails to render claim 1 obvious because *Nigawara* does not determine which messages are stored and subsequently played based on one or more assigned priorities. *Second*, *Nigawara* fails to render claim 11 obvious because *Nigawara* does not use a queue as recited. Notably, Petitioner does not refute Patent Owner’s explanation of the technology. Rather, Petitioner mischaracterizes Patent Owner’s position and fails to establish that *Nigawara* renders claim 11 obvious.

A. *Nigawara* Does Not Render Obvious Claim 1

Petitioner fails to render claim 1 obvious because *Nigawara* does not “determin[e] which message out of the first message and the second message should be stored and subsequently played based on ... *one or more priorities assigned* to the first and the second message.” Ex. 1001, limitation 1[d]. Instead, *Nigawara*’s memory 10 stores all messages—without assigning priority—and then waits for a signal 100 from the message signal selection unit 101 to identify the message with the highest priority that is played. Ex. 1007, 4:16-30; *see* Paper 18, 43-44. Petitioner acknowledges how *Nigawara* works but fails to articulate why identifying a message to play teaches or suggests the affirmative step of “determining which message out of the first message and the second message should be stored based on ... *one or*

more priorities assigned” when priorities are not assigned to the messages. Therefore, *Nigawara* fails to render claim 1 obvious.

B. *Nigawara* Does Not Render Obvious Claim 11

Petitioner claims that Patent Owner does not dispute *Nigawara* “at least renders obvious storing the message having lower priority in a queue.” Paper 22, 27 (citing Petition, 80). This is incorrect. As a common theme, Petitioner fills its Reply with false statements claiming Patent Owner does not dispute certain limitations. The Board should ignore these false statements. Regarding claim element 11[f], Patent Owner repeatedly states that *Nigawara* does not render claim 11 obvious. Paper 18, 54 (“*Nigawara* does not store messages ‘in a queue on the basis of the determination and the prioritization.’”), 55 (Petitioner’s “expert makes clear that *Nigawara* does not store messages in a queue as recited in claim 11.”), 56 (“These fundamental differences in operation show that *Nigawara* cannot render claim 11 obvious.”).

Next, Petitioner mischaracterizes Patent Owner’s position. Patent Owner *does not* argue that “*Nigawara* cannot use a queue *because* messages are stored before priority is determined.” Paper 22, 27. Instead, Patent Owner explains that *Nigawara* does not use a queue; the message output memory stores all messages and then waits for a signal 100 from the message signal selection unit 101, identifying

the message with the highest priority. Ex. 1007, 4:16-30; Ex. 2007, ¶¶117-118. The messages are not stored based on priority as required by claim 11.

Tellingly, Petitioner does not refute Patent Owner's description of *Nigawara*. See Paper 18, 54-55 (detailing *Nigawara* and the absence of any queue). Petitioner responds that the "claims do not require storing messages 'in a specific order' or preclude 'an incoming signal to identify the highest priority message.'" Paper 22, 27-28. As recited in claim 11, a POSITA would have understood that a "queue" *is* a specific order, and Petitioner's own expert agrees. See Ex. 1002, ¶291 ("[A]ny queue is essentially multiple data elements, stored in some sort of sequence for later use."). In claim 11, that order is determined by priority. Ex. 1001, cl. 11.

Further, Petitioner appears to suggest a new theory that, based on an "incoming signal to identify the highest priority message," *Nigawara* somehow stores messages in a queue. Paper 22, 27-28. Petitioner fails to explain how an incoming signal that identifies the highest priority messages renders obvious "storing the message having lower priority in a queue on the basis of the determination and the prioritization." Ex. 1001, cl. 11. Accordingly, Petitioner failed to satisfy its burden to prove that *Nigawara* renders obvious claim 11.

IV. CONCLUSION

Petitioner failed to satisfy its burden that the Challenged Claims are invalid, and the Board should confirm the patentability of the Challenged Claims.

Dated: October 30, 2024

Respectfully submitted,

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Certification of Word Count Under 37 C.F.R. § 42.24(d)

The undersigned hereby certifies that the foregoing contains 3,461 words according to the word count of the word-processing software used to prepare the foregoing.

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CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2024, a true and correct copy of the foregoing was caused to be served on the following counsel of record for Petitioner by electronic mail at the following addresses:

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