

UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT TRIAL AND APPEAL BOARD

MOTOROLA SOLUTIONS, INC.,
Petitioner,

v.

STA GROUP LLC,
Patent Owner.

Case IPR2023-01295
U.S. Patent No. 8,994,830

PATENT OWNER'S SUR-REPLY

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TABLE OF PATENT OWNER’S EXHIBITS

Exhibit No.	Exhibit Name
2001	<i>STA Group LLC v. Motorola Solutions, Inc.</i> , Case No. 2:22-cv-00381 (E.D. Tex.), Dkt No. 187 (Nov. 17, 2023)
2002	Kalley et al. (US 2007/0270172) (“Kalley”)
2003	Shaffer et al. (US 2008/0108339) (“Shaffer ’339”)
2004	December 2023 DocketNavigator Time to Trial Statistics in Patent Cases in the United States District Court for the Eastern District of Texas
2005	<i>STA Group LLC v. Motorola Solutions, Inc.</i> , Case No. 2:22-cv-00381 (E.D. Tex.), Dkt No. 360 (June 3, 2024)
2006	Declaration of Robert Akl, Ph.D.
2007	CV of Robert Akl, Ph.D.
2008	Deposition Transcript of Nathaniel Polish, Ph.D. dated June 19, 2024

I. INTRODUCTION

The Challenged Claims are each patentable over Petitioner's invalidity challenges.

Petitioner's Reply ("Reply," Paper 26) fails to remedy the deficiencies articulated in Patent Owner's Response ("POR," Paper 18). Petitioner cherry picks the arguments it wants to address on Reply while routinely ignoring the most potent criticisms in the POR. The failure to address these arguments demonstrates why the Board should find Petitioner's challenges lack merit. Accordingly, Petitioner has not shown that any Challenged Claim should be found unpatentable; and the validity of the Challenged Patents should be affirmed.

Neither of Petitioner's grounds teach "identifying at least one video feed by selecting the at least one video feed *from the plurality of video feeds* associated with the geographic zone", as recited in the Challenged Claims.¹ Under Ground 1, the Shaffer-Saylor combination describes cameras that each monitor, identify, and select its own, non-plural video feed. Thus, no selection from a plurality of video feeds is possible with this art. Similarly for Ground 2, Gogic expressly prohibits more than one CD from transmitting its feed at any given time such that a plurality of video feeds from which a selection can occur is impossible. Petitioner's Reply fails to

¹ All emphasis added unless otherwise noted.

address either of these positions. Thus, both of Petitioner's grounds fail to render obvious any Challenged Claim.

Regarding the motivations to combine Shaffer-Saylor and Gogic-Opitz, Petitioner's Reply again misses the arguments presented in the POR. The Shaffer-Saylor combination is premised on Petitioner's assertion that Saylor "does not explain *how* to convey notifications to recipients in different networks." Petition, 28; Reply, 7. But Saylor is replete with specific descriptions of how to convey notifications across networks, which Petitioner's declarant readily admitted in deposition. Petitioner's Reply avoids this fact. Petitioner also claims, "Gogic discloses that CDs connect to a base station in a particular area, but does not explain how this is accomplished." Reply, 19-20; Petition 59. This argument again misses the teachings of the prior art, the testimony of Dr. Akl, and the arguments posed in the POR.

Petitioner fails to carry the burden to show any Challenged Claim is unpatentable.

II. CLAIM CONSTRUCTION

Petitioner's Reply section discussing the district court's claim construction for "the one or more video feeds being independent of the selected communication channel" highlights another shortcoming of the proposed Shaffer-Saylor combination in Ground 1. Reply, 2. Namely, Petitioner claims "Saylor's

configurable security network (in the combined system) associates its video feeds with the selected communication channel, regardless of which channel the user selected.” *Id.* The construction requires “the one or more video feeds being capable of being associated with ***more than the selected communication channel.***” Ex. 2005, 20-21. If, as Petitioner suggests, Saylor only “associates its video feeds with the selected communication channel,” this directly contradicts the district court’s construction requiring the “the one or more video feeds being independent of the selected communication channel”, thereby confirming the cited art fails to render any Challenged Claim unpatentable.

III. THE CHALLENGED GROUNDS

A. Ground 1: Claims 1-5, 7-19, and 21-24 Are Not Obvious Over Shaffer in View of Saylor

1. Independent Claims 1 and 15

- a. Shaffer in view of Saylor fails to teach “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone,” as recited in claims 1 and 15**

Claims 1 and 15 recite the step of “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone.” Ex. 1001, 12:28-30, 13:65-67. Petitioner’s Reply makes much of the fact that “PO ***does not dispute*** that Shaffer-Saylor discloses the plurality of video feeds in limitation 1[c],” suggesting that as a result, any form of selection

satisfies this limitation. Reply, 3 (emphasis in original). But this assumption is wrong. The claim requires “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds,” yet all Shaffer-Saylor accomplishes is individual video monitoring devices that are capable of identifying and selecting its own, non-plural video feed. Ex. 2006, ¶¶ 70-71. Thus, Shaffer-Saylor does not teach “identifying at least one video feed by selecting the at least one video feed *from a plurality of video feeds*” because the selection step does not select from a plurality of feeds as claimed. *Id.*, ¶¶ 72-73.

i. Saylor Only Monitors a Single Video Feed

The Petition, Reply, and Petitioner’s declarant all seem to agree. In the Petition, Petitioner clearly argued “Saylor’s central security network monitors *a specific video feed*.” Petition, 37. In the Reply, Petitioner again admitted “one feed is selected when motion is detected *at a particular camera*.” Reply, 3-4. Petitioner’s declarant testified it is each “video or other recording device that’s doing the monitoring....” Ex. 2008, 69:11-22. Simply put, Shaffer in combination with Saylor fails to teach identifying and selecting a video feed from a plurality of video feeds because each video monitoring device merely identifies and selects its single, *i.e.*, non-plural, video feed. Ex. 2006, ¶ 73; Ex. 1011, 16:52-60 (“*an* identified location is monitored by *a* video or other recording device.”).

Petitioner’s novel argument that this requires all video feeds to be first received at a central server before the claimed selection can occur is unfounded. Reply, 3. Patent Owner acknowledges its own claim does not require this structure. However, the Challenged Claims each recite “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds.” Ex. 1001, 12:28-30, 13:65-67. Petitioner’s cited art does not teach this claim element because the cited art wholly fails to render obvious selecting a video feed from a plurality of video feeds as it plainly describes selecting a video feed from only a single feed. Ex. 1011, 16:52-60.

Petitioner also cites Patent Owner’s infringement allegations in the related district court litigation; these citations are nothing more than a red herring. Reply, 3-4, 23. Dr. Pooley’s infringement opinions have no bearing on whether Shaffer or Saylor teach the claimed limitations. *See Becton, Dickinson and Company et al v. B Braun Melsungen AG*, IPR2017-01587, Paper 93, 35 (P.T.A.B. Dec. 12, 2018) (recognizing “the separate issues of patentability and infringement”). Further, these citations reiterate Petitioner’s misunderstanding of the Challenged Claims.

Petitioner believes the first reference to Dr. Pooley’s report undermines Patent Owner’s demonstration that Saylor’s cameras work in a silo. *Id.*, 3 (citing Ex. 1037,

¶ 385)². Specifically, Petitioner accuses Patent Owner of narrowly interpreting the term “selecting” as “limited to a specific, unclaimed process in which video feeds are received at a central server that then selects one feed.” *Id.* For support of its rebuttal, Petitioner quotes Dr. Pooley as saying, “the means by which ‘identifying...by selecting’ the at least one video feed is not limited by the claim language.” *Id.* Dr. Pooley’s analysis was correct; the means of identification and selection are not limited by the claim. However, the claim language still requires the at least one video feed be identified and selected “from the plurality of video feeds.” Ex. 1001, 12:28-30, 13:65-67. This is entirely consistent with Dr. Pooley’s opinion that the selected video feed must come from a plurality of video feeds (*e.g.*, a camera group). Ex. 1037, ¶ 387. Siloed cameras do not select a video feed from a plurality of video feeds, and thus cannot render obvious a claim that expressly requires the identification and selection of at least one video feed from a plurality of video feeds. POR, 14-15.

Petitioner next argues a “trigger” event satisfies the claimed step of “selecting” at least one video feed, arguing “PO’s infringement allegations in district court likewise rely on a ‘trigger’ event for selecting.” Reply, 4 (citing Ex. 1037, ¶ 429). This argument relates to Saylor’s siloed cameras identifying and selecting a

² Petitioner cites Ex. 1037, ¶ 387, but quotes Ex. 1037, ¶ 385.

video feed when a “trigger” event such as motion occurs. *Id.*, 3; POR, 15-16. Once again, Petitioner’s argument ignores the language of the claim. Saylor’s cameras can only select their own feed from the single (*i.e.*, non-plural) monitored video feed, regardless of what triggers the selection of that feed. POR, 16 (“With each video device monitoring its own feed, Saylor fails to disclose any element that ***selects*** a video feed from the plurality of video feeds.” (emphasis in original)). Thus, Saylor’s individual cameras fail to render obvious the limitation “identifying at least one video feed by selecting the at least one video feed ***from the plurality of video feeds*** associated with the geographic zone,” as recited in claims 1 and 15.

ii. Petitioner’s New Argument is Unavailing

Recognizing its fault and the fault of its chosen references, Petitioner finally shifts to an entirely new theory regarding Saylor’s “personalized alarm services.” Reply, 4. According to Petitioner, these services select a video feed from the video feeds that detected motion and “send[s it] to a user/entity based on the stored rules/preferences.” *Id.* First this argument represents a shift in Petitioner’s invalidity theories that should be disregarded. *See Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016) (“It is of the utmost importance that petitioners in the IPR proceedings adhere to the requirement that the initial petition identify ‘with particularity’ the ‘evidence that supports the grounds for the challenge to each claim’”); *see also Henny Penny Corp. v. Frymaster LLC*,

938 F.3d 1324, 1330 (Fed. Cir. 2019). Additionally, Petitioner cites no evidence in support of this new argument, rendering it unsubstantiated attorney argument which cannot be used as evidence to support the conclusion of invalidity. *See Icon Health & Fitness, Inc. v. Strava Inc.*, 849 F.3d 1034, 1046 (Fed. Cir. 2017) (“Attorney argument is not evidence or explanation in support of a conclusion.”); *Invitrogen Corp. v. Clontech Lab., Inc.*, 429 F.3d 1052, 1068 (Fed. Cir. 2005) (“Unsubstantiated attorney argument regarding the meaning of technical evidence is no substitute for competent, substantiated expert testimony.”); *In re Payne*, 606 F.2d 303, 315 (CCPA 1979) (citing *In re Lindner*, 457 F.2d 506, 508 (CCPA 1972)) (“Arguments of counsel unsupported by competent factual evidence of record are entitled to little weight.”). Thus, even if considered, this new position cannot be sufficient to find the Challenged Claims unpatentable.

Shaffer-Saylor fails to render obvious the limitation “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds” as recited in each independent Challenged Claim. Ex. 1001, 12:28-30, 13:65-67. Accordingly, Petitioner’s first ground fails to render any Challenged Claim unpatentable.

b. There is no motivation to combine Shaffer with Saylor

i. Shaffer and Saylor are fundamentally at odds

Petitioner's Reply argument regarding the motivation to combine Shaffer with Saylor again misses the mark. To reiterate the example from the Patent Owner Response that the Reply ignored, Saylor could include a security system at a home in City A with the settings such that the system would contact the police department in City B in the case of an alarm condition. Ex. 2006, ¶¶ 51-52; Ex. 2008, 60:19-61:1 ("Saylor looks at its database and its rules and policies and decides who to reach out to."), 71:20-72:3. This is counter to Shaffer's system, which establishes communication on a region-by-region basis. Ex. 2006, ¶ 48; Ex. 2008, 27:10-28:2 (stating that Shaffer's Figure 2's "set up is that the networks that are available to endpoint 70 are 61 and 60 and not 63" because networks 60 and 61 are in the endpoint's geographic zone, while network 63 is not); Ex. 1004, Abstract, ¶¶ [0001]. [0005]-[0006].

This example clearly describes the differences between the references and undermines Petitioner's suggested motivation to make this combination. Saylor teaches discrete notification transmission rules that are predetermined according to the "personalized alarm services" discussed in Petitioner's Reply. Reply, 4; Ex. 1011, 1:17-22 ("The present invention relates generally to the field of security systems, in particular to a system and method for connecting a security system to a

wireless communication system to automatically inform an owner and other authorized entities *in a manner predetermined by the user* when alarm situations and/or alarm worthy situations occur.”); Ex. 2006, ¶¶ 51-52; Ex. 2008, 60:19-61:1, 71:20-72:3. Shaffer’s disclosure is squarely directed towards forming communication groups based on the position information of the endpoint. Ex. 1004, Abstract (“A method for communicating using position information includes communicating on a first communication network at a first location using one or more first communication parameters of the first communication network and, upon moving from the first location to a second location, receiving position information identifying the second location [and] adjusting the one or more first communication parameters to one or more second communication parameters based on the second location and communicating on a second communication network at the second location using the one or more second communication parameters.”), ¶¶ [0001]. [0005]-[0006]. These two communication regimes—alerts sent to a predetermined list of recipients (*i.e.*, a closed group of recipients) versus creating communication groups based on endpoint position information (*i.e.*, an open group of participants)—are fundamentally at odds with one another such that a POSITA would not have been motivated to combine these references. Ex. 2006, ¶¶ 47-54.

Further evidencing why a POSITA would not have been motivated to make the combination, Saylor provides clear, detailed mechanisms for notifying users of

alerts. This contradicts Petitioner's assertion in its Reply that Saylor nowhere "specifically identifies the user-specified manner" of executing notifications and instead "leaves the specified manner up to the POSITA." Reply, 7; Ex. 1011, 1:17-22. Petitioner's Reply expressly undermines this very point, confirming "Saylor teaches various methods of notification (*e.g.*, emails, text messages)." Reply, 8. The argument that Saylor fails to identify the user-specified manner is misguided.

The notion that Saylor requires Shaffer to execute notifications to recipients, such as "responders," in other networks is also misguided. Reply, 7-8, 9. In response to the question "Saylor discloses how to convey notifications to *recipients in different networks* in a myriad of ways, right?" Petitioner's own declarant admitted "Saylor discloses that you can do it in lots of different ways and that *it lists a bunch of examples*." Ex. 2008, 54:6-11, 53:2-8. The disclosed examples include notifications over the Internet, phone calls (POTS), emails, text messages, pager notifications, PDA messages, instant messages, and more. *See* Ex. 1011, 6:22-32 ("Alert notifications may be communicated via the Internet 150, POTS 152, wireless communication portals, voice portals, and/or other methods."), 7:40-48 ("Central security server 130 may then alert users and other identified entities...via a voice alarm, text message, and other notifications [such as] email or other form of electronic communication"), 11:24-28 ("Methods of notification may include cell

phone, regular phone, pager, PDA, email, instant messenger, or other form of communication.”); Ex. 2008, 52:9-54:5.

As Dr. Akl previously testified, a home in City A could have notifications settings set to contact the police department in City B in the case of an alarm condition. Ex. 2006, ¶¶ 51-52. In this scenario, the myriad of notification methods and manners expressly disclosed in Saylor contradict the need Petitioner concocts to combine these references. Simply put, there is no motivation to combine Shaffer and Saylor and Petitioner’s ground 1, therefore, fails to render any Challenged Claim unpatentable.

ii. The Petition fails to support the combination

Petitioner next argues that PO “ignores the motivation described in the Petition,” however, Petitioner misquotes or miscites the Petition and supporting evidence. Reply, 10-11. The detail Patent Owner supposedly overlooked was “the Petition’s detailed explanation regarding why these disclosures establish a motivation to combine Shaffer with Saylor’s network security system.” *Id.*, 11. Petitioner cannot credibly say Patent Owner ignored the entirety of the motivation to combine section, yet this is precisely what it claims. *Id.*

Petitioner’s responses to Patent Owner’s criticisms of the apparent motivation to combine reveal the Petition’s analysis was indeed lacking. For example, Petitioner claims, without citation to the Petition, that “Shaffer itself discloses storing IP

addresses in a computer—specifically, the IS itself, which is what provides IP addresses “to a group of endpoints[.]” Reply, 11 (citing Ex. 1004, ¶¶ [0039]-[0040]). In reality, these paragraphs of Shaffer fail to describe providing any IP address to any endpoint, much less a group of endpoints. Ex. 1004, ¶¶ [0039] (“IS 120 may communicate with endpoints using multicast IP addresses *assigned to* an endpoint of a communication network, [or] a group of endpoints” and “a group of endpoints may be *combined into* a virtual talk group for communication using a particular IP address”), [0040] (“The multicast IP addresses can be *used to enable IS* 120 to provide the functionality described above”).

Petitioner next claims, again without citation to the Petition, that “Saylor expressly discloses that its central server can store ‘address information, and other profile information’ in an address book to use for communication. Reply, 11 (citing Ex. 1011, 8:36-41). Other than confirming Patent Owner’s argument above that Saylor does teach the method of communication, this new argument fails to show why a POSITA would have been motivated to combine these references.

Finally, Petitioner claims “Shaffer’s IS sends the relevant IP address to Saylor’s server for storage and use for needed communication, exactly consistent with the disclosures of both Saylor and Shaffer.” Reply, 11 (citing Petition, 28). The cited page of the Petition merely recites the argument debunked above that Saylor “does not explain *how* to convey notifications to recipients in different networks.”

Petition, 28 (emphasis in original). For the reasons identified above, including the fact that Saylor provides a myriad of examples of precisely how to convey notifications to recipients in different networks, this argument falls flat. *See* Ex. 1011, 6:22-32, 7:40-48, 11:24-28; *see also* Ex. 2008, 52:9-54:5, 53:2-8, 54:6-11. Petitioner’s apparent motivation to combine, which “ignores the express disclosure in the art,” cannot stand. Reply, 11.

2. Ground 1 Dependent Claims

Because independent claims 1 and 15 are patentable, each claim depending therefrom is patentable. *Ortho-McNeil Pharmaceutical, Inc. v. Mylan Labs, Inc.*, 520 F.3d 1358, 1365 (Fed. Cir. 2008); *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992). Further evidence of non-obviousness undermines Petitioner’s claim that the following dependent claims are unpatentable, which should be upheld irrespective of the outcome of the independent claims.

a. Claims 3, 17

Petitioner’s Reply analyzes claims 3 and 17 by rehashing the arguments Patent Owner’s response upended. Reply, 16-17. Patent Owner pointed out that “[t]he Petition fails to address this limitation, pointing only to the analysis of claim 2, which lacks any indication that Saylor’s database is used ‘to identify a plurality of members of an emergency response team’, as claimed.” POR, 35. Petitioner’s analysis for ground 2 states “it would have been obvious to also associate video feeds with the

particular user selecting the channel based on the user's location." Petition, 43. Nothing in this analysis explains how Saylor's database, or Shaffer's IS, renders obvious "accessing a database to identify a plurality of members of an emergency response team" as recited in claims 3 and 17. Thus, Petitioner has not established these claims are unpatentable.

Petitioner also ignores the criticism that plagues its declarant's report. Reply, 16-17. Patent Owner pointed out that the P.T.A.B. has previously criticized Dr. Polish's approach where his "testimony is not supported because none of the cited references or cited underlying evidence teaches, suggests, or even mentions [the claimed element]." POR, 36 (quoting *Samsung Electronics Co., Ltd. v. Staton Techiya, LLC*, IPR2022-01099, Paper 10 at 17 (P.T.A.B. Jan. 3, 2023)). The only evidence in support of the element "presenting a plurality of video feeds on the display of the mobile communication device" is the unsupported testimony of Dr. Polish. Petition, 44 (citing Ex. 1002, ¶ 115). This is legally insufficient. *Samsung Electronics Co., Ltd. v. Staton Techiya, LLC*, IPR2022-01099, Paper 10 at 17 (P.T.A.B. Jan. 3, 2023).

Taking this one step further on Reply, Petitioner blames Patent Owner for not disproving this faulty declaration testimony, claiming "PO does not dispute Dr. Polish's testimony, and Dr. Akl provides no evidence contradicting it." Reply, 17. The Federal Circuit has plainly held, the burden of persuasion in an IPR "never shifts

to the patentee.” *DynamicDrinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015). Thus, Petitioner’s failure to provide evidence in support of its claim and its attempt to shift the burden to Patent Owner necessarily fails. *Id.* Claims 3 and 17 should, therefore, be upheld.

b. Claims 7, 21

Claims 7 and 21 recite (a) “monitoring an audio signal generated in proximity to a video camera,” (b) “processing the audio signal to identify an audio event,” and (c) “based on the identified audio event, providing access to the first video feed to a plurality of mobile communication devices in a group of mobile communication devices....” Referring to the third part of this claim, Patent Owner pointed out that “Petitioner relies on its declarant to create a notification logic structure that is not actually taught in the prior art reference.” POR, 37; Ex. 2006, ¶¶ 100-102. Dr. Polish’s testimony “cannot take the place of a disclosure in a prior art reference when that disclosure is required as part of the unpatentability analysis.” *Samsung Electronics*, IPR2022-01099, Paper 10 at 17-18. Thus, his testimony alone cannot be used to render claims 7 and 21 obvious. *Id.* at 19.

Instead of addressing the limitation directed to notification logic, Petitioner’s Reply focuses only on the proximity of a sound sensor to a front door. Reply, 17. For example, Petitioner argues that Dr. Polish cites Exhibit 1008 “for this exact point,” namely “that it would have been obvious to put a sound sensor next to a front

door to detect breaking glass.” *Id.* (citing Ex. 1002, ¶ 120).³ Like Shaffer and Saylor, Exhibit 1008 is devoid of any logical structure where access to a video feed is provided in response to an audio event being identified, as recited in claims 7 and 21. *See* Ex. 2006, ¶ 101 (“this sort of logic is not taught by Shaffer, Saylor, or any other reference cited in the Petition or Dr. Polish’s declaration.”); *see also* Ex. 1008.

Petitioner has not established the claimed limitation “based on the identified audio event, providing access to the first video feed” is disclosed or otherwise rendered obvious by the cited art, and therefore has not met its burden to prove claims 7 and 21 unpatentable. Therefore, these claims should be upheld.

B. Ground 2: Claims 1-5, 8-19, and 22-24 Are Not Obvious Over Gogic in view of Opitz

1. Independent Claims 1 and 15

The theme of avoiding and ignoring the arguments fatal to its Petition continues through Petitioner’s second ground.

a. Gogic fails to teach “monitoring a selection of a communication channel by a user of a mobile communication device,” as recited in claims 1 and 15

Petitioner’s response to this limitation ignores the evidence and arguments articulated in the POR. Reply, 17-19. Patent Owner clearly articulated, with the

³ Ex. 1008 is not cited in the Petition. *See* Petition, 45-46.

support of testimony from both Dr. Polish and Dr. Akl, that Gogic’s PTT switch merely requests the transmission privilege in a communication channel that the radio is already in. POR, 39 (citing Ex. 2006, ¶ 122; Ex. 2008, 91:5-92:3 (“You first join the group and then you can press the PTT key to request the floor.”)). Gogic’s disclosure is also quite clear on this point: “the CD is configured to request the transmission privilege through initiation or activation of a push-to-talk (PTT) key or switch.” Ex. 1006, ¶ [0042]. The fact that Gogic’s PTT switch requests the transmission privilege confirms the CD is already in a communication group on which CDs can “transmit information to other group members.” *Id.*; Ex. 2008, 91:5-92:3; Ex. 2006, ¶ 122.

Petitioner’s citation to dependent claim 5 of the ’830 Patent is inapposite. Reply, 18. Patent Owner never argued the communication channel could not be a PTT channel, as claim 5 recites. However, just because the communication channel may be a PTT channel does not turn Gogic’s PTT switch into a means for selecting a communication channel. As clearly articulated in the POR, Gogic’s PTT switch is not used to select a communication channel but instead *merely requests the floor in an existing, communication channel*. POR, 39; *see also* Petition, 57-58 (noting Gogic teaches “pushing a button to allow voice communication to be transmitted and releasing the button to allow voice communication to be received” (quoting Ex. 1006, ¶ [0026])); Ex. 2008, 91:5-92:11.

Petitioner's Reply ignores this simple failure of its cited art, opting to confuse the issues and deflect. For example, the Reply characterizes Patent Owner's argument, suggesting "activation of a PTT key is not 'a selection of a communication channel by a user' because the user cannot select a channel that '*exist[s]*' and was set up by a dispatcher." Reply, 18 (emphasis in original). Not so. Activation of a PTT switch is not a selection of a communication channel because activation of a PTT switch merely requests the transmission privilege in an existing communication channel. Ex. 1006, ¶ [0042].

Petitioner's Reply also avoids Patent Owner's argument that Gogic's ad-hoc groups are formed when the dispatcher sets the group membership location criteria defining the communication channel such that the channel is set up to select users, not the other way around. Ex. 2006, ¶ 124. Gogic details this process. Ex. 1006, ¶¶ [0057], [0061]-[0062]. Specifically, "[a] dispatcher 400 identifies the occurrence or presence of an event or condition wherein communications between proximately located users could be beneficial" and sends out an invitation to join a group. *Id.*, ¶ [0057]. "CDs 412, 414, 416 monitor 422, 424, 426 the emergency broadcast channel [and] receive the broad indiscriminant [sic] invitation to join the group." *Id.*, ¶ [0061]. When one or more of these CDs identifies as "qualifying to join the group [it] accordingly accept[s] 440 the invitation." *Id.*, ¶ [0062]. Nothing in this process suggests the user of a mobile communication device *ever* selects a communication

channel as required by the claims. Ex. 2006, ¶ 125. Petitioner’s Reply avoids Gogic’s actual disclosure to salvage its invalidity theory. Reply, 18-19 (citing Gogic once, to discuss the functionality of the CM).

Regarding Gogic’s CM or communication manager 218, Petitioner shifts its theory, suggesting for the first time that “Gogic’s CM monitors the user’s selection of the channel *for talking*...” Reply, 19. This attempt to conflate the claimed step of “monitoring a selection of a communication channel by a user of a mobile communication device” with the CD’s transmission privilege request should be disregarded as new argument at the Reply stage. *Intelligent Bio-Sys.*, 821 F.3d at 1369; *see also Henny Penny*, 938 F.3d at 1330. Even if it is considered, the Petition readily undermines this new position, confirming the CM “determines whether any other ‘group member is currently assigned the transmission privilege’ [and if] not, ‘the requesting user is granted (e.g., floor grant) the transmission privilege’ over the communication channel.” Petition, 58 (citing Ex. 1006, ¶ [0042]; Ex. 1002, ¶ 158). This description of Gogic confirms the requesting user is granted the transmission privilege over the communication channel that the user had already joined. *Id.*; Ex. 2006, ¶¶ 126-127 (“CM 218’s functionality is limited to CDs that are already in the communication group on the communication channel.”).

The ’830 Patent claims “monitoring a selection of a communication channel by a user of a mobile communication device.” Ex. 1001, 12:19-20, 13:56-57. Gogic

fails to render this limitation obvious. Therefore, ground 2 fails to render any Challenged Claim unpatentable.

b. There is no motivation to combine Gogic and Opitz

Patent Owner's response showed how Petitioner's motivation to combine makes a mountain out of a mole hill to elevate the necessity for the combination far beyond what the references teach. For example, Patent Owner rightly pointed out that the initial connection with the base station in Gogic is, at best, of minimum relevance, and more likely, totally irrelevant to the operation of Gogic's system. POR, 41-44; Ex. 2006, ¶ 110 (describing "the initial connection between CD and base station [as] immaterial to Gogic's functionality"). This minor point forms the entire basis for Petitioner's alleged combination. *See* Reply, 19; Petition, 59. This emphasis is misguided.

First, Dr. Akl opined that even though this initial connection between CD and base station is "immaterial," Gogic goes on to provide examples of how this initial connection would be made. Ex. 2006, ¶ 110. Gogic explains "CDs 102, 104, and 106 transmit and receive communication signals from base stations 108 and/or 110, generally *depending on their proximity to each base station*." Ex. 1006 at ¶ [0031]. Petitioner's position that "'proximity' is *not* a technique by which the CDs connect to the base station" is particularly confusing considering this is precisely how Petitioner's secondary reference, Opitz, makes the initial connection between users

and base stations. Reply, 20 (emphasis in original). Specifically, the Petition explained “as the vehicle radio user 110 [of Opitz] ‘approaches [a] certain geographic region[],’ the vehicle ‘begins receiving signals’ from the base stations (transmitters) in that region.” Petition, 59 (citing Ex. 1007, 3:50-62). Thus, Gogic expressly teaches how CDs and base stations are initially connected in the exact same way the initial connection occurs in Opitz.

Further, Gogic discloses that base stations transmit on “a common channel that is regularly monitored by CDs 412, 414, 416, etc.” *Id.* (quoting Ex. 1006, ¶ [0060]). Once these CDs receive a transmission on this common, regularly monitored channel, they establish a connection with the base station to form an ad hoc group. *Id.*, ¶ 111 (“the initial connection between CD and base station is made when the CD receives the invitation and returns its acceptance through MSC/BSN (base station) 408.” (citing Ex. 1006, ¶¶ [0060], [0062] Fig. 4)).

Finally, Dr. Akl opined that Gogic’s disclosure of “a standard audio call mode from a CD to a base station” provides yet another example of a way a POSITA would know how to make an initial connection between CD and base station. Ex. 2006, ¶ 113 (citing Ex. 1006, ¶ [0037]). Petitioner’s declarant also affirmed that in the context of Gogic, “a POSITA would certainly know a variety of ways to make such an initial connection to a base station.” Ex. 2008, 106:17-107:5. Thus, Petitioner’s premise for combining Gogic and Opitz is flawed.

Accordingly, a POSITA would not be motivated to combine these references, which is fatal to Petitioner's second ground.

c. Gogic fails to teach “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone,” as recited in claims 1 and 15

Petitioner's Reply again demonstrates it conflates CDs with video streams, the precise criticism made in the POR. Reply, 23. Without support, Petitioner argues “given Gogic's express disclosure of multiple CDs in its ad-hoc network, it is clear that the Petition does not rely on the *same* CD for both the ‘mobile communication device’ and the ‘video feed.’” *Id.* (emphasis in original). As the POR pointed out, the Petition makes this distinction anything but “clear.” POR, 52-54 (“the Petition paints the art with a broad brush, such as referring to CDs as both mobile communication devices and video feeds and further referring to video feeds as ‘other group members,’ hoping the Board will connect the dots Petitioner was unable to string together with the references themselves.”).

When the ambiguity is removed, Petitioner's cited art indisputably fails to render the Challenged Claims obvious. Both challenged independent claims 1 and 15 recite “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone.” Ex. 1001, 12:28-30, 13:65-67. While more than one CD, including CDs with video

capabilities, can undoubtedly be in Gogic's ad hoc communication groups (Reply, 24 ("the 'ad-hoc group' is formed amongst all of the CDs based on 'location-based membership criteria'")), *only one CD can hold the transmission privilege at any given time*. Ex. 1006, ¶ [0042]; Ex. 2008, 92:4-11; Ex. 2006, ¶ 149. This express limitation on the number of video feeds that can be transmitted at any given time to a single video feed forecloses the possibility that a plurality of video feeds exists in the first place (from which to select at least one video feed) as required by each independent claim. Ex. 2006, ¶¶ 150-151; Ex. 2008, 92:12-93:5. This impossibility, which Petitioner failed to consider in its Reply, is fatal to Petitioner's challenge.

Thus, Petitioner's ground 2 fails to render any Challenged Claim unpatentable.

IV. CONCLUSION

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

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Respectfully submitted,

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CERTIFICATE OF SERVICE

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