

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MERCEDES-BENZ USA, LLC,

Petitioner,

v.

DAEDALUS PRIME LLC,

Patent Owner.

Case No.: IPR2023-01343

U.S. Patent No. 8,898,494

PATENT OWNER'S AUTHORIZED RESPONSE TO
PETITIONER'S DIRECTOR REVIEW REQUEST

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I. INTRODUCTION

Authorization for this Response was provided by email, dated February 10, 2025. Ex. 3100. The Board's Final Written Decision ("FWD") decision correctly found that Petitioner, MB USA, failed to prove that Bose (EX1005) discloses a "comparison" of bus workload to a bus workload threshold, as recited by claim 1, and, additionally, properly construed the term "workload" as recited in the claims of the '494 Patent. Accordingly, MB USA's Request for Director Review should be denied.

II. ARGUMENT

A. Standard of Review

Requests for Director Review are governed by 37 C.F.R. § 42.75. Such Requests of a Board's FWD are limited to decisions presenting (a) an abuse of discretion, (b) important issues of law or policy, (c) erroneous findings of material fact, or (d) erroneous conclusions of law. USPTO, *Director Review Process*, WWW.USPTO.GOV, <https://www.uspto.gov/patents/ptab/decisions/director-review-process> (last visited Feb. 13, 2025).

The present Request alleges no abuse of discretion or erroneous conclusions of law and identifies no important issues of law or policy requiring the Director's intervention or guidance. Instead, MB USA's complaint is that the Board disagreed with its allegations concerning the teachings of Bose and the construction of a

claim term. *See* Request at 2, 9. Such matters do not warrant review by the Director and, even if such a review were conducted, the Board’s decisions in each instance are well supported by the record in this proceeding and should not be disturbed.

B. The Board Correctly Determined That MB USA Failed To Prove Bose Discloses a “Comparison” Between Bus Workload and Bus Workload Threshold, as Required by Claim 1

After reviewing all the evidence presented by the parties and conducting a thorough oral hearing on the matter, FWD at 2, 16-17; Tr. of Nov. 13, 2024, the Board concluded that MB USA had failed to prove “that Bose anticipates claim 1 or that claim 1 would have been obvious in light of Bose.” FWD at 17. Now, MB USA seeks to distance itself from admissions made during oral argument and alleges that Board “fail[ed] to read Figure 3 with full consideration of its accompanying description, erroneously concluding that the ‘only disclosure of a comparison in Bose that [the Board has] been shown is the comparison of $\text{Power}_{\text{Total}}$ to $\text{Power}_{\text{Max}}$ in step 303.’” Request at 5 (quoting FWD at 25). Not only is this reading of the FWD wrong, MB USA’s attempt to repudiate statements made during oral argument should not be rewarded.

As noted in the FWD, the Board specifically questioned MB USA as to its allegations concerning Bose and the “comparison” step in claim 1:

[THE BOARD]: The comparison that you’re relying on *takes place in Box 311*, Figure 3. Is that right?

[COUNSEL]: That's what we're showing here.

FWD at 21-23 (quoting Tr. at 17:2-20) (emphasis in FWD). In the face of this admission, the Board correctly noted that Box 311 does *not* show such a comparison. FWD at 24 (“Step 311, in contrast to showing a comparison, refers to assigning the ‘power budget/mode to satisfy overall power budget and optimal performance,’ and updating the Decision History Table.”).

Seeking to somehow disavow its admissions, MB USA now alleges that the necessary “comparison” is taught in Bose’s *description* of Figure 3. Request at 7-8. But the entire text of Bose which MB USA now relies on in its Request is explicitly reproduced in the FWD, showing, contrary to MB USA’s allegations, the Board was fully familiar with Bose’s “Figure 3 [and gave] full consideration [to] its accompanying description.” Request at 5; FWD at 24-25. Indeed, the Board noted that the fault with Petitioner’s case was not only the absence of disclosure in Bose, but also its failure to justify the opinions expressed by its expert:

Nowhere does Petitioner or its expert point to an explicit disclosure in Bose of making a comparison of the claimed “bus workload and a bus workload threshold.” Instead, Petitioner relies on its expert’s opinion as to what a person of ordinary skill might have known, without any additional supporting evidence.

FWD at 25. Moreover, the Board had before it Dr. Brogioli’s unrebutted testimony

explaining why no comparison was necessarily present in Bose. Ex. 2001 at 50 (citing Bose at 2:62-65; 8:6-10; 12:49-54).

In short, the Board was fully cognizant of the extent of MB USA's "comparison" arguments and gave them ample consideration. The fact the MB USA disagrees with the Board's decision is not grounds for the Director to review or reverse the Board's decision.

C. The Board Correctly Determined That White Does Not Teach Monitoring And Receiving Workload, as Required by Claim 1

MB USA complains the Board improperly construed the term "workload" and, as a result, failed to conclude that the challenged claims were invalid in view of White. Request at 8 *et seq.* Not so.

First, MB USA should be reminded that not only does the '494 patent define "workload" consistent with the Board's decision, so too do *both* experts in this case. Ex. 2001 at ¶¶ 36-38; *and see* Ex. 1001 at 8:20-22; 9:49-57 (recognizing workload as "activity of hardware," "a number of instructions executed or to execute," "use of a processing element," and "an amount [of] time core 505 is active during a period of time"); 9:61-63 ("workload is measured as a number of active cycles over a period of time (i.e., a total number of cycles for measurement)"); Ex. 2002 at 34:14 – 36:9 (MB USA's declarant, Mr. Wyatt, acknowledging that "workload" would be understood as activity over time). The Request's discussions about how a workload might be determined, rather than

what a workload is, Request at 9, are not germane to this point and, besides, were already fully explored and considered by the Board. Tr. at 24:22 – 26:11; FWD at 29-30.

Second, given the Board’s correct understanding of workload, MB USA’s case for unpatentability in view of White was unwinnable: “[I]n contrast to workload, the current voltages and frequencies received by the power management logic in White are operating conditions that do not reflect the ‘amount of activity over a period of time.’” FWD at 28 (citing Brogioli Dec. at ¶¶ 64–66); POR at 44-45; PO Sur-reply at 7. Quite simply, “White’s frequency and voltage monitoring and adjustments do not result in the power management logic receiving the bus workload as recited in claim element 4[a].” FWD at 31. Dr. Brogioli’s testimony in this regard was ample support for the Board’s decision. Mr. Wyatt, in contrast, “[did] not provide any evidentiary support for this statement[s].” *Id.*

III. CONCLUSION

For at least these reasons the Request for Director Review should be denied.

Respectfully submitted,

Dated: February 14, 2025

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing:

PATENT OWNER'S AUTHORIZED RESPONSE TO
PETITIONER'S DIRECTOR REVIEW REQUEST

was served on 2/14/2025, by filing this document through the P-TACTS System as well as by delivering a copy via email directed to the attorneys of record for the Petitioner at the following addresses:

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The parties have agreed to electronic service in this proceeding.

Respectfully submitted,

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