

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HESAI TECHNOLOGY CO. LTD.,
Petitioner,

v.

OUSTER, INC.,
Patent Owner.

IPR2023-01421
Patent 11,175,405 B2

Before MEREDITH C. PETRAVICK, KEVIN W. CHERRY and
JON M. JURGOVAN, *Administrative Patent Judges*.

CHERRY, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

Counsel for both parties and Judges Petravick, Cherry, and Jurgovan held a conference call on January 16, 2024. This Order summarizes the conference call.

Petitioner requested the conference call to seek authorization to file a five-page reply to Patent Owner's Preliminary Response (Paper 6).

Ex. 3001. Petitioner contended that good cause exists to file a reply because "it was not foreseeable that Patent Owner would argue the term 'aperture' requires an 'air gap.'" Ex. 3001. Petitioner submitted that "Patent Owner premises its argument on Petitioner's proposed construction in the related ITC Investigation, which included the term 'hole'; but Petitioner did not argue or otherwise propose that a 'hole' must be an 'air gap.'" Ex. 3001.

Patent Owner opposed Petitioner's request, arguing that an "air gap" was simply offered as an example of an aperture, and was not essential to their argument, which rested on Petitioner's ITC construction. Thus, Patent Owner submitted that good cause did not exist for a Reply because Petitioner was fully aware of its own proposed construction when it filed its Petition.

During the conference call, after hearing from both parties, the Board denied Petitioner's request. The Board agreed with Patent Owner. Because Patent Owner is asserting that a hole "must be" an "air gap," there is no good cause for Petitioner to address its own construction that it offered to the ITC.

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