

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HESAI TECHNOLOGY CO., LTD.

Petitioner

v.

OUSTER, INC.

Patent Owner

U.S. Patent No. 11,422,236

Inter Partes Review No. IPR2023-01458

PETITIONER'S SUPPLEMENTAL BRIEF

The “first” argument in Ouster’s brief (paper 16) boils down to the mere opinion of Ouster’s counsel being different from that of the sworn testimony of Dr. Hesselink. Ouster’s counsel apparently read columns 3-4 of Hall and then opined on whether a single detector of Hall can correspond to a pixel. But Dr. Hesselink, an experienced expert, also reviewed columns 3-4 of Hall (and so much more) and then detailed why a skilled artisan would have recognized the time-of-flight measurement achieved at each detector provides a “pixel.” Only one of them submitted such reasoning under oath and now willingly subjects himself to cross-examination. This record evinces a reason to institute review, not shun it.

To be clear, there are two likely reasons why Ouster failed to proffer testimony that each of Hall’s detectors did not serve as a pixel. First, as explained in the request for Director Review, those with skill in this industry knew that Hall’s device was actually implemented in a manner contrary to Ouster’s attorney argument. Paper 13, pp. 14-15 (“four facts no one disputes” and citing to IPR2018-00255, Paper 59, 4-5 and 29-37). Reality refutes Ouster’s feigned ignorance of its own patent. *Id.*

Second, Hall’s disclosure contradicts Ouster’s attorney argument. Hall explains that “each” emitter/detector pair is used to “record[] the time-of-flight” and calculate dimension data based on the time-of-flight and angular alignment of “each” pair. EX1004, 5:10-15. Hall then dives into its “preferred” implementation—where “just one” laser and “only the desired detector is powered up at any one time.” *Id.*,

5:19-19 and 33-35. Significantly, this individual distance calculation (based on the time-of-flight recorded at an individual detector) is exactly what Hall defines as a “pixel.” *Id.*, 1:15-24 (“can be considered a pixel”). And this preferred implementation is confirmed in Hall’s FIG. 9A, in which single detector “diode” cooperates with the corresponding emitter to gather a time-of-flight distance measurement. *Id.*, FIG. 9A, 5:65-67, 1:21. For these reasons and in this full context, it makes perfect sense why all of Hall’s depicted embodiments always provide a perfect 1:1 correspondence between emitters and detectors—each detector is “preferably” acting in isolation to detect a single “pixel” in response to its paired emitter. *Id.*, FIGS. 13-22; 1:15-24, 5:5-15, 5:19-20, 5:32-34. Indeed, Hall expressly claimed it. *Id.*, 8:5-13 (“angularly separated”), 5:14-15 (“time-of-flight and angular alignment of *each pair*”), 2:7-9 (“goal” to “maximize the number of pixels”).

Ouster ignored all of it. Its out-of-context reliance on the “possible” alternative embodiment in Hall’s column 4:63-67 leads to Ouster’s flawed argument that “Hall does not teach any arrangement of pixels.” Paper 16, 2. Dr. Hesselink did not suffer from such tunnel vision. He plainly understood the full context of Hall and connected it (in detail) to the underlying facts and data already known to a POSITA. EX1003, ¶¶22-23 (time-of-flight measurement), ¶¶28-31 (describing the commercial embodiment of Hall), ¶¶32-36 (comparing Hall to other devices that used the “same design principals”), ¶73 (Hall’s “angular spacing between each

emitter-detector pair”), ¶105 (citing to Hall’s column 1), ¶¶112-113, pp. 65-67 (“a POSITA would have found it obvious to arrange the pixels in this manner”). Ouster’s bare attorney argument is an attempt to pull the wool over the Board’s eyes. The Board need not wear it. A PTAB trial is the cure to any doubt here.

The “second” argument in Ouster’s brief (paper 16) is simply a demand for this Board to improvidently overrule the Director’s Decision. Ouster’s key premise—that “Hall does not teach the claimed arrangement of detectors” (paper 16, 2)—is literally the opposite of the Director’s words. Dir. Dec., 8 (“Thus, on this record, Hall teaches detectors in the claimed offset arrangement.”), 7 (“I agree with Petitioner that ...”). The Board should not adopt Ouster’s invitation for defiance.

Finally, Ouster’s “third” argument again ignores that, on this record, the evidence of a motivation to combine is one-sided and hefty. Dr. Hesselink’s testimony on the known motivations was fulsome—articulating multiple benefits of implementing Borowski’s suggestion to improve Hall and citing other publications corroborating this traditional knowledge. EX1003, ¶¶105-115, ¶¶33-36, pp. 64-67. Ouster submitted no exhibits. The only “conclusory” positions dwell with Ouster.

The purpose of IPR is to “protect the public’s ‘paramount interest in seeing that patent monopolies ... are kept within their legitimate scope.’” *Cuozzo Speed Techs., LLC v. Lee*, 579 U.S. 261, 279-80 (2016). A denial of review here, on this record, would necessarily forsake this purpose. Here, a PTAB trial is fitting and just.

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Respectfully submitted,

Date: August 27, 2024

/Michael T. Hawkins/

Michael T. Hawkins, Reg. No. 57,867

Fish & Richardson P.C.

Counsel for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e)(4), the undersigned certifies that on August 27, 2024, a complete and entire copy of this Petitioner's Supplemental Brief was provided by email, to the Patent Owner by serving the email correspondence addresses of record as follows:

Nicoletta Kennedy
Megan Bussey
Kilpatrick Townsend & Stockton LLP
701 Pennsylvania Avenue, NW Suite 200
Washington, D.C. 20004

Phillip Morton
Eamonn Gardner
Cooley LLP ATTN: Patent Group
1299 Pennsylvania Ave. NW Suite 700
Washington, D.C. 20004

Email: nkennedy@kilpatricktownsend.com
mbussey@kilpatricktownsend.com
pmorton@cooley.com
egardner@cooley.com

/Diana Bradley/

Diana Bradley
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
(858) 678-5667