
BEFORE THE PATENT TRIAL AND APPEAL BOARD

HESAI TECHNOLOGY CO., LTD.
Petitioner

v.

OUSTER, INC.,
Patent Owner

Patent No. 11,422,236
Inter Partes Review No. 2023-01458

AUTHORIZED RESPONSE TO DIRECTOR REVIEW REQUEST

I. Introduction

Hesai's second Request for Director Review (Paper 19) should be denied. In seeking yet another Director Review, Hesai relies on an unsupported reading of a shorthand phrase "Hall teaches detectors in the *claimed offset arrangement*" from the Decision Granting Director Review. Paper 19, 2 (quoting Paper 14, 8 (emphasis added)). Specifically, Hesai reads "of pixels" into the "claimed offset arrangement" language. But the Director only found that Hall teaches *detectors* in the "claimed offset arrangement." She made no finding about "pixels," much less a finding that pixels are equivalent to "detectors." Thus, she made no finding about a claimed offset arrangement *of pixels*. *Id.* Indeed, the Director simply instructed the Board on remand to consider the disclosures of Hall Figure 22 "that do not relate to the quantity of detectors," – again making no mention of pixels. *Id.* at 9.

On remand, the Board duly followed the Director's instruction, applying "the explicit finding that Hall teaches detectors" but denying institution because Hesai failed to "show that Hall teaches the claimed offset arrangement of pixels." Paper 18, 16-17 n.2, 19. Director Review does not exist so that Hesai can rehash previous arguments; the request should be denied.

II. Argument

The Board correctly determined that Hesai "has not met its burden to sufficiently show that Hall teaches the claimed offset arrangement *of pixels*."

Paper 18, 19 (emphasis added). Hesai contends that 1) the Board annulled an express finding by the Director; and 2) the Board purportedly failed to consider evidence in making its determination. None of Hesai's arguments have merit.

A. The Board correctly applied the Director's findings of fact in denying institution

The Board's decision does not violate *Arthrex*. *Arthrex* establishes the Director's discretionary authority to review decisions by the Board but makes clear "the Director need not review every decision of the PTAB." *United States v. Arthrex, Inc.*, 594 U.S. 1, 27 (2021). Here, the Director reversed the Board's reliance upon a typographical error in Hall's description of Figure 22 to disregard the teachings of Figure 22. Paper 14, 7. The Board followed the Director's guidance, but again, denied institution. Paper 18, 18-19. Unhappy with that result, Hesai resorts to reading additional language into the Director's shorthand phrase "claimed offset arrangement" to imply that she made a finding about a claimed offset arrangement *of pixels*. But as the Board noted, she said "*detectors* in the claimed offset arrangement." Paper 14, 8 (emphasis added). This is consistent with how she summarized Hesai's position (*id.*, 6-8) and how she made her finding (*id.*, 8). In fact, her finding is in the sentence preceding the sentence on which Hesai myopically focuses. *Id.*

Recognizing the meaning of the Director's shorthand phrase, the Board

explained, in detail, that it was applying “the [Director’s] explicit finding that Hall teaches *detectors* in the claimed offset arrangement in determining whether to institute trial.” Paper 18, 17 n.2 (emphasis added). Indeed, the Board explained that in order to conclude that Hall Figure 22 teaches offset detectors, the “Director must have first found (although not explicitly stated) that the small unlabeled, unnumbered circles within larger circle 170 [of Hall Figure 22] equate to the detectors mentioned in Hall’s Specification.” Paper 18, 19 n.3.¹

The Board emphasized that the Director made no finding as to whether each detector in Hall was a pixel, explaining that the “Director’s decision appears careful to attribute the assertions to Petitioner.” *See* Paper 18, 17 n.2 (explaining the Director “included no substantive analysis” or “discussion of the Patent Owner’s arguments on the issue”); *see also* Paper 14, 7-8 (“[D]etectors (i.e., ‘pixels’ *as argued by Petitioner*)....”) (emphasis added).

Thus, because the Director declined to find that Hall’s detectors were pixels, the Board was free to make its own findings on this question. *Arthrex*, 594 U.S. at 27. Likewise, in rejecting Hesai’s argument that “each detector is a pixel,” the Board duly followed the Director’s findings about Hall’s disclosure of detectors,

¹ Here the Board disagreed with Ouster, thereby refuting Hesai’s insinuation that the Board “embraced Patent Owner’s obfuscation.” Paper 19, 9.

and Director Review should be denied.

B. The Board properly considered the evidence in concluding that Hesai failed to show that Hall teaches the claimed offset arrangement of pixels

Hesai next assails the Board’s decision as relying on “factual findings that are not supported by substantial evidence.” Paper 19, 9-11. But again, Hesai is rehashing twice rejected arguments from the Petition. Paper 8, 16-17; Paper 18, 19-21. There was nothing the Board overlooked in reaching its conclusions, and Director Review should be denied.

First, Hesai argues that Hall teaches detectors corresponding to pixels in describing emitter/detector pairs that obtain a time-of-flight measurement, “which is exactly what Hall defines as a ‘pixel.’” Paper 19, 10. There is no dispute that this is how *Hall* defines a “pixel.” Indeed, consistent with the positions in IPR2018-00255, Ouster explained here “[i]n Hall’s lexicon, a ‘pixel’ is a distance measurement.” Paper 6, 40.² But Hall’s teachings have no bearing on what a “pixel” is in the context of the *'236 Patent*. To the extent Hesai is, for the first

² Ouster also explained that Hall obtains “pixels” using paired emitters and detectors, consistent with IPR2018-00255. *See* Paper 6, 10-12. Thus, Hesai’s baseless accusations that Ouster “contradict[ed] its earlier assertions about [Hall]” raise no “critical policy question” requiring Director Review. Paper 19, 13.

time, making a claim construction argument, now is far too late. Moreover, the claim construction implicit in Hesai's position is expressly contradicted by the '236 Patent itself, which explains that "each pixel can include *one or more detectors*." Paper 18, 19 (quoting Ex. 1001 at 5:52-54) (emphasis added). Thus, the Board correctly found that Hall's detectors do not correspond to the claimed pixels.

Second, Hesai accuses the Board of creating a "new" theory in finding that the Petition failed to explain "'how' the resulting combination [of Hall and Borowski] 'would affect the arrangement of detectors' in Hall." Paper 19, 11. Hesai alleges that this "combination would merely 'replace' the *type* of each detector." *Id.* (emphasis in original). Yet in the same paragraph, Hesai admits that this is not a one-for-one replacement, as this combination would "replace each APD with a multi-SPAD pixel." *Id.* And as Hesai admitted, Borowski teaches that each SPAD is a detector. Paper 2, 22. The Board already considered these admissions, as well as Dr. Hesselink's conclusory testimony, and determined that "[t]he Petition contains an insufficient explanation as to why the modification would not affect the arrangement of detectors." Paper 18, 20-21.

III. Conclusion

For the foregoing reasons, the Director should deny Hesai's second request for Director Review and leave the Institution Decision undisturbed.

IPR 2023-01458
US Patent 11,422,236

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2025, I caused a true and correct copy of the foregoing Patent Owner Supplemental Brief to be served electronically on Petitioner at the following email addresses:

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