

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD., and
SAMSUNG ELECTRONICS, AMERICA, INC.,

Petitioners

v.

FENDGO, LLC,

Patent Owner

Case IPR2024-00113

U.S. Patent No. 11,265,404

PETITIONERS' REPLY TO PATENT OWNER'S RESPONSE

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PETITIONERS' UPDATED EXHIBIT LIST

Exhibit No.	DESCRIPTION
1001	U.S. Patent 11,265,404 (“’404Pat.”)
1002	Declaration of William R. Michalson, Ph.D. (“ <i>Michalson</i> ”)
1003	Curriculum Vitae of William R. Michalson, Ph.D.
1004	File History of U.S. Patent 11,265,404
1005	U.S. Provisional Application 60/643,865
1006	U.S. Application 13/897,353
1007	U.K. Publication GB 2 401 752A (“ <i>Walker</i> ”)
1008	U.S. Patent 6,807,564 (“ <i>Zellner</i> ”)
1009	U.S. Patent 6,839,552 (“ <i>Martin</i> ”)
1010	WIPO Publication WO 2004/056000 A1 (“ <i>Kim</i> ”)
1011	U.S. Patent 6,449,472 (“ <i>Dixit</i> ”)
1012	WIPO Publication WO 03/040995 (“ <i>Chang</i> ”)
1013	U.S. Publication 2006/0217105A1 (“ <i>Kumar</i> ”)
1014	U.S. Publication 2005/0287980 (“ <i>Wood</i> ”)
1015	U.S. Patent 5,712,679A (“ <i>Coles</i> ”)
1016	U.S. Publication 2003/0027547A1 (“ <i>Wade</i> ”)
1017	U.S. Patent 5,771,001 (“ <i>Cobb</i> ”)
1018	WIPO Publication WO2004/042669 (“ <i>Smith</i> ”)
1019	U.S. Publication 2004/0203570 (“ <i>Berger</i> ”)

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1020	WIPO Publication WO1999026208A1 (“ <i>Ahmad</i> ”)
1021	U.S. Patent 6,963,283 (“ <i>Gonzales</i> ”)
1022	U.S. Patent 5,515,419 (“ <i>Sheffer</i> ”)
1023	Steven M. Kaplan, Wiley Electrical and Electronics Engineering Dictionary 697 (2004)
1024	WEBSTER’S NEW WORLD COLLEGE DICTIONARY 1109 (Michael Agnes et al. eds., 4th ed. 2004)
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1032	Summary of all applications in the ’404 patent’s family
1033	Infringement Contentions served in <i>Fendgo LLC v. Samsung Electronics Co., Ltd.</i> , 2:23-cv-00221-JRG (E.D. Tex.) (July 13, 2023)
1034	Complaint in <i>Fendgo LLC v. Samsung Electronics Co., Ltd.</i> , 2:23-cv-00221-JRG (E.D. Tex.) (May 19, 2023)
1035	Order Granting Proposed Docket Control Order in <i>Fendgo LLC v. Samsung Electronics Co., Ltd.</i> , 2:23-cv-00221-JRG (E.D. Tex.) (August 8, 2023)

Exhibit No.	DESCRIPTION
1036	Letter from Jin-Suk Park to Jay Nuttall dated November 1, 2023
1037	Transcript of Deposition of George Edwards, Ph.D., dated October 30, 2024

Petitioners submit this Reply to Patent Owner's (PO) Response (POR) concerning claims 9-15 ("Challenged Claims") of U.S. Patent No. 11,265,404 ("the '404 patent"). PO's arguments should be rejected and the claims found unpatentable and cancelled for at least the reasons set forth in the Petition and accompanying exhibits, the Board's decision to institute *inter partes* review ("Decision"), the cross-examination testimony of PO's expert George Edwards, and the other reasons below.

I. INTRODUCTION

PO makes only three general arguments as to why the Challenged Claims are not unpatentable. First, PO argues that *Walker* and *Martin* "do not disclose transmitting 'owner identification information' along with 'emergency information' as required by claim limitations 9[c], 13[c], and 15[c]." POR at 2, 9-12. This argument should be rejected as to *Walker* because PO did not fully address either of Petitioners' express disclosure or obviousness evidence and arguments with respect to this feature. This argument should also be rejected with respect to *Martin* because, other than a single sentence in the Introduction to the POR, PO did not address any of Petitioners' evidence and arguments related to this limitation.

Second, PO argues that *Walker*, *Zellner*, and *Martin* "do not disclose sending or transmitting 'the emergency information and the specific information to a

specified location’ as required by claim limitations 9[d], 13[d], and 15[c].” *Id.* at 13-17, 18-24. This argument should be rejected because it hinges on PO’s improper attempt to rewrite the claim to require a “*user*-specified location.” PO has not filed a motion to amend and cannot amend the claims through disclaimer.

Third, PO argues that *Martin* does not disclose “send[ing] the emergency information and the specific information ... when the panic button is activated’ as required by claim limitations 9[c], 13[d].” *Id.* at 25. This argument should be rejected because it is based exclusively on attorney argument, which does not address Petitioners’ expert testimony and arguments. *Id.*

II. THE CHALLENGED CLAIMS ARE UNPATENTABLE IN VIEW OF THE *WALKER*-BASED GROUNDS (1A, 1B, 2)

PO challenges Grounds 1A, 1B, and 2 for two reasons. First, PO argues that *Walker* allegedly fails to disclose that the mobile device transmits owner identification information. Second, PO argues that *Walker* does not disclose transmitting the information to a “specified location.” Both arguments should be rejected.

A. *Walker* discloses or suggests the “owner identification information” limitation.

Each of limitations 9[c], 13[c], and 15[c] requires a transmitting unit adapted to transmit image data, audio data, and location data “along with ... owner

identification information.” As explained in the Petition, *Walker* discloses or suggests these limitations. Petition at 11-15, 26, 32-34.

1. *Walker*’s disclosure of creating a file linked to the “device owner’s identity” discloses or suggests this feature.

PO argues that while *Walker* discloses transmitting data such as the time displayed by the mobile device, it provides no disclosure “stating if and how any information identifying the device owner is transmitted.” POR at 10 (citing Edwards ¶¶69). PO and Dr. Edwards take an unduly myopic view of *Walker*.

Walker discloses that after the user presses the eyewitness button, the remote data storage facility creates a file linked with the “device owner’s identity” to record the data transmitted from the mobile device. Petition at 13 (citing *Walker* ¶¶[0092], [0097], [0106]; *Michalson* ¶89). Based on this teaching, “a POSITA would have understood *Walker* to disclose the mobile device transmitting *information to identify the device owner* (‘owner identification information’).” Petition at 13 (citing *Michalson* 90) (emphasis added). That is, Petitioners submit that a POSITA would have understood that some information to identify the owner — “owner identification information”—is transmitted by *Walker*’s mobile device to *Walker*’s data storage facility to enable the data storage facility to link the file with the device owner’s identity. Notably, PO has not provided any proposed claim construction that “owner identification information” must be any specific type of information (e.g.,

the owner's name), nor is there any support in the intrinsic record for such a narrow construction.

The Board recognized and accepted this point in the Institution Decision (based on the same disclosure in *Walker*), where it observed that “[w]ithout [owner identification information], the data storage facility could not associate the transmitted data with the electronic file linked to the ‘device owner’s identity.’” Decision at 30. Petitioners’ expert, Dr. Michalson, reiterated this point on cross-examination, explaining that “there has to be identification of the user to establish the link, in the first place, to the files in the data storage facility. ... In this particular paragraph, it doesn’t reiterate that, but the fact that it’s updating and transmitting data to the data storage facility would mean it would be transmitting it to the files that were previously linked to the user.” EX2002 at 49:15-50:25.

Conspicuously absent in the POR or Dr. Edwards’ testimony is any rebuttal to this evidence, or any plausible explanation of how *else* the database could establish the link between the device owner’s identity and the transmitted data other than including information that identifies the owner within the transmitted data. Moreover, on cross-examination, Dr. Edwards agreed that “there must be something within the transmitted information that allows the data storage facility to create that link.” EX1037 at 69:17-70:1 (Q: “Do you agree that the mobile device must transmit

some information that allow the data storage facility to create the database link between the file and the device owner's identity?" A: "I would agree that there must be something within the transmitted information that allows the data storage facility to create that link.") (objection omitted). That "something" is "owner identification information."

2. It would have been obvious for *Walker*'s mobile device to transmit owner identification information.

Petitioners also presented an obviousness theory. Petitioners presented two reasons why, even if not expressly disclosed, it would have been obvious to a POSITA for the mobile device to transmit owner identification information in the manner recited in 1[c], 13[c] and 15[c]. Petition at 13-15 (citing *Michalson* ¶¶91-103). First, as already explained, *Walker* discloses that the data storage facility creates a link between the file for recording the transmitted data to the device owner's identity. Second, *Walker* is generally concerned with identifying the individuals at the scene of a crime or other event. Petition at 13-14 (citing *Walker* ¶¶[0001], [0040]-[0041], [0043], [0048]-[0049]); *Michalson* ¶¶93-94). Thus, it would have been obvious to transmit owner identification information because a POSITA would have understood that (1) doing so would have allowed the remote storage facility to link the recorded information with the device owner's identity, and (2) it would have advanced *Walker*'s objective to identify individuals present at

the scene of the emergency. Moreover, there were well-known techniques for transmitting such information. Petition at 14 (citing *Michalson* ¶¶95-97).

a. PO did not address both of Petitioners’ motivations to modify *Walker*.

PO does not acknowledge, much less rebut, Petitioners’ first argument for why this limitation would have been obvious. That is, PO does not address Petitioner’s point that a POSITA would have been motivated to transmit the device owner’s identity along with the other transmitted information (even if *Walker* does not already expressly disclose doing so) to create the link with the “device owner’s identity.”

Nor does PO dispute that *Walker* is generally concerned with identifying the individuals at the scene of a crime and that transmitting the owner identification information would advance that goal. Rather, PO argues that “there is no motivation for Walker to provide owner identification information in tandem with the emergency information, as no emergency services are alerted when the user presses the ‘eyewitness button,’” and *Walker* is purportedly limited to “***retroactively investigating an incident.***” POR at 11 (emphasis in original); *see also id.* at 12 (“Petitioners and their expert ignore that *Walker* utilizes the ‘device owner’s identity’ ‘to lookup and access files in the future which have previously been recorded by the device owner.’”). This argument should be rejected because *Walker*

is not limited to retroactive investigations. Even if it were, however, PO never explains why identifying the owner of the device would not advance *Walker*'s objective for retroactively investigating an incident.

Walker does not disclose anywhere that it may be used only for retroactive investigations. As Dr. Michalson noted, *Walker* explains that “[t]he invention additionally **enables police** to locate all individuals who activate this function of the device, within a selected range of times and distances of any crime scene, thereby aiding police in locating and interviewing potential witnesses to a crime.” *Michalson* ¶93 (cited at Petition 13) (emphasis added); *Walker* ¶[0041]. Indeed, *Walker* expressly contemplates using the mobile device to contact emergency services. *Walker* ¶[0125] (in one embodiment, “the device may be used in emergency situations to monitor, record and transmit such data to the relevant emergency services, simultaneously as the user conducts a video call and/or video conference communication with emergency services.”); *see also id.* ¶¶141, 142 claims 94, 95, 100. To be sure, while *Walker*'s disclosure may aid police in retroactive investigations, nothing in *Walker* suggests that its invention is limited to retroactive investigations.

PO argues that “Walker recognizes that notifying authorities by a mobile phone is inefficient ‘as a deterrent to criminal activity’ due to the ‘strong possibility

that an attacker may take the device from [the victim] before she is able to explain her circumstances to the emergency services.” POR at 11 (citing *Walker* ¶¶[0031], [0034]). But PO is taking *Walker*’s disclosure out of context. The paragraphs cited by PO are in the section titled “THE PROBLEMS ADDRESSED BY THIS INVENTION.” *Walker* ¶[0021]. Paragraph 31 of *Walker* merely states that, “**present devices and technology**,” i.e., the prior art devices and technology, do not provide victims with “sufficient protection.” *Id.* ¶[0031] (emphasis added). And this is why *Walker* explains in paragraph [0034] cited by PO, that “criminals do not **currently** view mobile communications handheld devices as a deterrent to criminal activity.” *Id.* ¶[0034] (emphasis added).

Walker’s disclosed mobile device **solves** the purported problem identified by PO by automatically transmitting the information (image, audio, location, and owner identification information) that the victim would have otherwise had to provide orally over the phone. In the section titled “WHAT THE INVENTION DOES,” *Walker* states that “[t]he present invention provides a mobile communications handheld device and remote data recording and storage system which, in a single action, enables a user of the mobile communications handheld device to press a recessed eyewitness button or shout a voice command, which instantly initiates a series of actions, immediately capturing and transmitting streaming video and sound

and environmental data detected by various sensors to a remote data storage facility.” *Walker* ¶[0038]. “The invention *thus provides a strong deterrent to criminal activity*, increasing both personal and public safety through acting as a digital mobile eyewitness and crime prevention tool, linking the identity and behaviour of a recorded individual or individuals to a specific place at a specific time and to the physical presence of the user at the location at that time, within moments of pressing the eyewitness button.” *Walker* ¶[0040] (emphasis added)).

Even if *Walker*’s disclosure were limited to retroactive investigations, PO does not explain why that means a POSITA would not have been motivated to modify *Walker* as argued in the Petition. PO never explains why, for example, information identifying the owner would not have been helpful in retroactive investigations.

b. PO did not dispute that a POSITA would have known how to modify *Walker* to transmit owner identification information.

PO does not dispute Dr. Michalson’s testimony, corroborated by *Chang*, that there were well-known techniques for modifying *Walker* in a manner that would meet the claims. PO argues that *Chang* is “not part of the express Ground,” (POR at 12), but that is of no moment. PO has offered no argument or evidence that techniques for transmitting owner identification information along with the video,

sound, and other data *were not* within the general knowledge of a POSITA. *See Koninklijke Philips N.V. v. Google LLC*, 948 F.3d 1330, 1337 (Fed. Cir. 2020) (“Google properly alleged that a skilled artisan would have known about pipelining and been motivated to combine pipelining with SMIL 1.0 the Board relied on expert evidence, which was corroborated by Hua, in concluding that pipelining was not only in the prior art, but also within the general knowledge of a skilled artisan. Moreover, Philips offered no evidence to rebut the conclusion that a skilled artisan would have known about pipelining.”).

B. *Walker* discloses or suggests the “specified location” limitation.

Each of limitations 9[d] and 13[d] requires sending the information “to a specified location.” As explained in the Petition, *Walker* discloses or suggests these limitations. Petition at 22-23 (citing *Michalson* ¶¶138-139).

PO asserts that *Walker* does not meet this limitation because, according to PO, the claimed “specified location” requires that the user of the mobile device be able to specify the location. *See* POR at 13-14 (“[T]he entirety of the ’404 patent’s disclosures establish that the ‘specified location’ recited in claim 9 can be chosen by the user.”). This argument should be rejected because PO is attempting to rewrite the claim to require a “user-specified location.” *Resonate Inc. v. Alteon Websystems, Inc.*, 338 F.3d 1360, 1364 (Fed. Cir. 2003) (“the written description is not a substitute

for, nor can it be used to rewrite, the chosen claim language”). The claim does not require a “*user*-specified location,” and the ’404 patent specification does not support a departure from the plain meaning of the claim.

PO relies on the ’404 patent’s disclosure at column 6, lines 20-53, but nothing in that disclosure mentions the user, let alone requires that the user be able to specify the location to which the information is transmitted. It merely states that the alleged invention “communicates the emergency information ... through a TCP/IP connection on the phone,” and that the alleged invention “may also use an MMS (Multimedia Message Service) system.” ’404*pat.*, 6:20-29. PO also cites Dr. Edwards, who states “[a]s discussed in Section VII.1, the ‘specified location’ of claim 9(d) is intended to be flexible.” *Edwards* ¶71. There is no “Section VII.1” in Dr. Edwards’ declaration, so it is not clear what Dr. Edwards refers to. Assuming Dr. Edwards meant to refer to Section VII.B.1, Dr. Edwards did not discuss the “specified location” term there or otherwise provide evidence to support his assertion that it is “intended to be flexible.” At any rate, even if Dr. Edwards had actually provided an opinion on this issue, PO cannot rewrite a claim (i.e., rewrite “specified location” as “*user*-specified location”) based on expert testimony.

There is also no other basis to narrow the claim in the manner suggested by PO. “Generally, a claim is not limited to the embodiments described in the

specification unless the patentee has demonstrated a ‘clear intention’ to limit the claim's scope with ‘words or expressions of manifest exclusion or restriction.’” *i4i Ltd. P’ship v. Microsoft Corp.*, 598 F.3d 831, 843 (Fed. Cir. 2010), *aff’d*, 564 U.S. 91 (2011). In general, the ’404 patent specification is agnostic about who specifies the location. In fact, PO’s proposed rewrite excludes an embodiment from the claims. The ’404 patent discloses that “the panic button of the present invention can automatically contact 911 upon a press or series of presses of the button, or upon a [codeword].” ’404pat., 6:56-59; *see also id.*, 5:47-50 (“The system can be linked in with an emergency assistance number such as 911...”), *id.*, 7:4-6 (“Location information for the present invention can be an x-y coordinate or close to it that the phone obtains and transmits to 911.”). This embodiment does not contemplate that the user can specify the location to which the information is sent—911 is 911—and PO’s proposed rewrite would improperly exclude it. *See Eko Brands, LLC v. Adrian Rivera Maynez Enterprises, Inc.*, 946 F.3d 1367, 1373 (Fed. Cir. 2020) (“But ARM ignores other embodiments in the specification, which clearly show that a ‘brewing chamber’ is not fully enclosed. ... Accepting ARM’s construction would exclude such a preferred embodiment from the scope of the claim.”).

Finally, PO argues that “‘specified’ is a verb, and implies that the location was selected by the user.” POR at 17. “Specified location” is a noun-phrase, and the

claims and specification simply do not require that it be a “*user*-specified location.” See ’404pat., 6:56-59, 5:47-50, 7:4-6; *Michalson* ¶¶140, 330 (POSITA would have understood that user or system designer may specify the location). Notably, even Dr. Edwards apparently does not subscribe to this argument, as he does not address it, and the Board should give it little weight. See *Icon Health & Fitness, Inc. v. Strava, Inc.*, 849 F.3d 1034, 1046 (Fed. Cir. 2017).

To the extent PO wanted to rewrite the claims to require that a user specify the location to which the information is transmitted, PO could have filed a motion to amend. See *Resmed, Inc. v. New York University*, IPR2022-00989, Paper 69 n.9 (Dec. 4, 2023) (“To be clear, Patent Owner could have filed a motion to amend the claim language, but did not do so. ... [C]onstruing claim language does not equate to rewriting the claim.”). And PO cannot rewrite the claims through disclaimer. See *CUPP Computing AS v. Trend Micro Inc.*, 53 F.4th 1376, 1383-84 (Fed. Cir. 2022) (ruling that the patentee could not create a prosecution disclaimer in the IPR proceeding itself and thereby rely on it for the narrow claim construction, the court held that the Board “is not required to accept a patent owner’s arguments as disclaimer when deciding the merits of those arguments.”).

Walker discloses that the information is transmitted to a specified location (e.g., a data storage facility) as opposed to merely broadcast. Petition at 22-23 (citing

Michalson ¶¶138-139). More particularly, *Walker* discloses transmitting information through, for example, email or by an electronic messaging service, and these mechanisms “would have required a recipient location to be selected or specified, for example, by the system designer or the user (e.g., by inputting a phone number or an email address).” Petition at 22-23 (citing *Michalson* ¶140, EX1023). This is consistent with how the ’404 patent describes transmitting to a “specified location.” ’404pat., 6:40-42 (“MMS is one method enabling the present invention to obtain video/audio information and send the data to a specified location.”); *see also id.*, 7:41-44 (describing transmission “to the emergency personnel”), 3:4-21 (describing transmitting data “to the authorities”), 6:44-53 (describing transmission through “regular e-mail”).

III. THE CHALLENGED CLAIMS ARE UNPATENTABLE IN VIEW OF THE ZELLNER-BASED GROUNDS (3A AND 3B)

As explained in the Petition, *Zellner* discloses limitations 9[d] and 13[d]. Petition at 43-47, 52 (citing *Michalson* ¶¶238-261, 279). With respect to the “specified location” limitation, Petitioners explained that “*Zellner* discloses that the information is transmitted to a specific location (i.e., the ESC) as opposed to merely broadcast, and that the user may program the portable IP device with information about the ESC, including the name, IP address, telephone number, email, and name of a contact person at the ESC,” and that “[a] POSITA would have understood such

programming to comprise specifying the ESC to which the information is transmitted.” Petition at 47 (citing *Michalson* ¶¶259-260).

PO concedes that *Zellner* discloses that the user may program the device with the pertinent data about the ESC to which the information is transmitted. POR at 19. Nevertheless, PO argues that “this still limits *Zellner* to an ESC and does not allow the user to specify any location.” *Id.* at 19-20. This argument is nothing more than the same improper attempt to rewrite “specified location” as “*user*-specified location” as PO propounded with respect to the *Walker*-based grounds and should be rejected for the same reasons discussed in Section B. If anything, here, PO attempts to revise the claim even further to require that the user be able to specify *any* location to which the information is sent. The ’404 patent simply does not disclose or require that the “specified location” must be freely configured or changed.

PO also argues that *Zellner* does not “dynamically transmit owner identification information during an emergency, but rather relies on pre-existing data.” POR at 20. As explained in the Petition, *Zellner* discloses “transmitting personal information about the user such as a name or address, which can be recorded in text or audio,” and this meets the claimed “owner identification

information.” Petition at 40 (citing *Michalson* ¶¶223-224). PO simply ignores this evidence.

IV. THE CHALLENGED CLAIMS ARE UNPATENTABLE IN VIEW OF THE *MARTIN*-BASED GROUNDS (4A AND 4B)

PO challenges Grounds 4A and 4B for three reasons. First, PO argues in a single sentence that *Martin* allegedly fails to disclose a mobile device that transmits owner identification information. Second, PO argues that *Martin* does not disclose transmitting the information to a “specified location.” Third, PO argues that *Martin* does not disclose transmitting the image, audio, and location data “along with” the owner identification information. All three arguments should be rejected.

A. *Martin* discloses or suggests transmitting a “user profile” during the communication session.

PO summarily argued in the Introduction section of the POR that *Martin* does not “disclose transmitting ‘owner identification information’ along with ‘emergency information’ as required by claim limitations 9[c], 13[c], and 15[c].” POR at 2. Other than this single sentence in the Introduction, however, PO did not make any argument or provide any supporting evidence. *Cf.* POR at 21-25 (arguing that *Martin* does not disclose claim limitations 9[d] and 13[d]). PO’s argument should be rejected because it is contradicted by the record evidence.

As explained in the Petition, *Martin* discloses a “user profile,” which includes, for example, “the name of the user of wireless device 100, the medical record of the

user, the type of vehicle owned by the user, and/or the vehicle's license plate number.” and that it is sent “to establish the wireless communication session” or during the communication session. *Martin*, 4:36-42; *see also id.*, claim 43 (“The method of claim 42, further comprising the step of transmitting the user profile to the called party during the wireless communication session.”); Petition at 55-58, 64-65 (citing *Michalson* ¶¶340-342). A POSITA would have understood that the user of the device is, at least sometimes (if not most times), the owner of the device. *Michalson* ¶¶305-306. PO does not acknowledge, much less rebut, this evidence.

B. *Martin* discloses or suggests defining a relationship between a keystroke and a called party, i.e., a “specified location.”

As explained in the Petition, *Martin* discloses limitations 9[d] and 13[d]. Petition at 58-63 (citing *Michalson* ¶¶309-332). With respect to the “specified location” limitation, Petitioners explained that *Martin* discloses defining or creating a relationship between a keystroke sequence and a called party (i.e., the called number)—for example, “911.” *Martin*, 2:23-27, 4:22-25, 4:45-50, Fig. 5 (step 502); *Michalson* ¶327. The called party may be a public safety answering point (PSAP), an undercover law enforcement operation center, and/or other parties. Petition at 62 (citing *Martin*, 6:29-34, 6:43-46, 7:18-25; *Michalson* ¶328). A POSITA would have understood the step of defining or creating the relationship between the keystroke

sequence and the called number to constitute specifying the location to which the various data would be transmitted. Petition at 62 (citing *Michalson* ¶330).

PO argues that *Martin* does not meet this limitation because “[a] POSITA would not understand these systems to include a ‘specified location’ configurable by the user” as “Martin favors long-term storage capabilities or otherwise depends on prior associations between the user device and called party, as opposed to a flexible system that shares all the necessary emergency and owner identification information on-the-fly without any requirement for a ‘user profile’ or otherwise maintenance of a database for reference and retrieval at a later time.” POR at 24 (citing *Edwards* ¶87). PO’s argument, thus, hinges on improperly rewriting the claim to require a “*user*-specified location” (as opposed to merely a “specified location,” which is all that the claim requires) as PO advocated with respect to the *Walker*- and *Zellner*-based grounds, and should be rejected for the same reasons explained above in §§B and III.

C. *Martin* discloses or suggests transmitting the claimed image, audio, and location data contemporaneously during a communication session.

PO also argues, without any support from its expert, that “the Petition does not establish that the image data, audio data, and location data are collected and transmitted at the same time and together, such as when a panic button is pressed.”

POR at 24. PO asserts that *Martin*'s Figure 3 "is clear that certain information, such as location information and images, are transmitted sequentially rather than at the same time together." *Id.* at 24-25. PO made this same argument in the Patent Owner Preliminary Response ("POPR"). POPR at 16-18. The Board rejected it in the Institution Decision, explaining that "we do not find any language requiring image data, audio data, and location data to be sent at the same time. Limitations not appearing in the claims cannot be relied upon for patentability." Decision at 45. PO did not add any evidence to the record on the issue. Moreover, as explained by Dr. Michalson on cross-examination, even though *Martin*'s flow chart in Figure 3 shows an order of steps, "this is a scenario in which you're capturing information that's being reported to a third party in the event of an emergency, so it has to be being transmitted contemporaneously in the flow of that emergency. So these -- these boxes in this flow chart are occurring at computer speeds, so they'd only be throttled by the bandwidth of that communication session." EX2002 at 65:13-21; *see also id.*, 61:23-66:4 (explaining that *Martin* discloses "a single communications path" and thus, "by definition, [the data] would be sequentially being transmitted through that path. But you've opened a communication system, so all the data that is being transferred in that session is being transferred contemporaneously.").

V. PO DID NOT ADDRESS PETITIONERS' CHALLENGES TO CLAIMS 10-12 AND 14 ON ANY INDEPENDENT BASES

PO did not make any arguments about the remaining Challenged Claims apart from those addressed above. PO has waived any arguments that were not raised in its POR. Paper 12 at 9 (“Patent Owner is cautioned that any arguments not raised in the response may be deemed waived.”). Thus, Petitioners submit that they have carried their burden with respect to those claims.

VI. CONCLUSION

The Board should find the challenged claims unpatentable and cancel them.

Date: November 18, 2024

Respectfully submitted,

/Ali R. Sharifahmadian/

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Counsel for Petitioners

CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that the foregoing Petitioners' Reply to Patent Owner's Response contains 4,377 words, excluding those portions identified in 37 C.F.R. §42.24(c), as measured by the word-processing system used to prepare this paper.

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CERTIFICATE OF SERVICE

I certify that on November 18, 2024, I caused a true and correct copy of the foregoing Petitioners' Reply to Patent Owner's Response to be served on the Patent Owner via electronic mail to Patent Owner's counsel of record below:

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