

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 IPR2024-00114

Patent 11,265,404

PATENT OWNER SUR-REPLY

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Patent Owner Fendgo LLC (“Patent Owner”) respectfully submits this Sur-Reply to Petitioners’ Reply (Paper 16, “Reply”) regarding U.S. Patent No. 11,265,404 (Ex. 1001, “’404 patent”).

I. Introduction

Petitioners bear “the burden of proving a proposition of unpatentability by a preponderance of the evidence.” 35 U.S.C. § 316(e). Petitioners have failed to meet that burden here.

First, Petitioners fail to establish that the “ready itself” limitation of 1[d] lacks written description support in the ’353 application. Thus, the ’404 Patent is entitled to a priority date earlier than January 30, 2019.

Second, because the ’404 Patent has a priority date that is earlier than January 30, 2019, Petitioners references cited in support of its invalidity argument are not prior art.

Accordingly, Petitioners have failed to establish the unpatentability of the challenged claims.

II. Petitioners’ Reply Mischaracterizes Patent Owner’s Arguments

Petitioners argue that Patent Owner tackles a straw man in addressing their argument that the ’353 application does not disclose the panic button “ready[ing] itself” upon activation. Reply at 6.

Petitioners hone in on the safety switch example that Patent Owner provides as a means through which the panic button is readied to perform the panic button functions, claiming that “this argument misrepresents Petitioners’ actual position.” *Id.* However, the safety switch is merely an example, among others, provided in the disclosure of the ’353 Application of the various ways for the panic button to be readied to perform its functions. POR at 6; *see also, e.g.*, Ex. 1006 at 17 (“A voice activation unit may be provided which activates the panic button using a codeword”); *id.* at 19 (“the pocket in one embodiment holding the vial of pepper spray in position such that it is ready to be used with only minimal steps such as the removal of a protective cap or cover.”) (emphasis added); *see also id.* at 15, 19-20.

Petitioners also argue that the speech recognition process that readies the panic button to trigger the device does not disclose the full scope of limitation 1[d], which requires “a panic button, adapted to, when [1] activated, [2] ready itself to perform” [3] two functions: “dialing a public or private network for an emergency purpose” and “activating the transmitting unit.” Reply at 7. However, as disclosed in the ’353 Application, one of the embodiments of the invention teaches that pressing the panic “button can start the speech recognition process... to trigger the device.” Ex. 1006 at 25. And only when the right voice command is provided does the system “trigger the device.” *Id.* The ’353 Application further provides that “trigger[ing]” the device, as can be done by voice command, “can trigger the

image/audio data and location information being obtained” and “the image data and location information [being] transmitted.” *Id.* at 24. Thus, the ’353 Application discloses that the panic button readies itself to perform the functions outlined in limitation 1[d].

Petitioners also argue that the ’353 Application “does not disclose that ‘activating’ the panic button causes the panic button to ‘ready itself’ to do anything.” Reply at 8. However, the disclosure is clear, when the “user holds down [the panic button] for a predetermined time period,” it can cause the panic button to “start the speech recognition process,” which in turn readies the panic button to perform its requisite functions, outlined in limitation 1[d], upon activation via a “special code word.” Ex. 1006 at 25.

Thus, Petitioners have failed to establish that the challenged claims of the ’404 patent are not supported by the written description of the ’353 application. Therefore, because the chain of priority is not broken, the challenged claims of the ’404 patent are entitled to claim priority to the January 14, 2005 filing date of U.S. provisional application no. 60/643,865. This filing date is before the prior art dates that Petitioners rely on in their Petition. Namely, September 14, 2006 for DiPerna964 and October 29, 2019 for Strack. Accordingly, Petitioners have failed to establish that the challenged claims of the ’404 Patent are invalid over DiPerna964 and Strack.

III. Conclusion

As discussed above, Petitioners have failed to establish the unpatentability of the challenged claims. Accordingly, the Board should find the challenged claims of the '404 patent valid.

Date: December 23 2024

Respectfully submitted,

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CERTIFICATION UNDER 37 C.F.R. § 42.24

Under the provisions of 37 C.F.R. § 42.24, the undersigned hereby certifies that the foregoing document contains 700 words, and thus complies with the word-count limits of 37 C.F.R. § 42.24.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing PATENT OWNER SUR-REPLY was served on December 23, 2024 by filing this document through the P-TACTS platform as well as by delivering a copy via the delivery method indicated to the attorneys of record for the Petitioners as follows:

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