

UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT TRIAL AND APPEAL BOARD

MOTOROLA SOLUTIONS, INC.
Petitioner

v.

STA GROUP LLC
Patent Owner

CASE: IPR2024-00207
U.S. PATENT NO. 8,145,249 B2

**PATENT OWNER'S SUR-REPLY TO PETITIONER'S
AUTHORIZED REPLY**

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I. INTRODUCTION

In the Authorized Reply (“Reply”) to the Patent Owner’s Preliminary Response (“POPR”), Petitioner attempts to re-characterize the alleged Botha System and Mixed McDonald System to argue that the Botha System and Mixed McDonald System are not cumulative in view of Löppönen, which was cited during prosecution of the ‘249 Patent. For the reasons discussed below, the Botha System and Mixed McDonald System are substantially the same as Löppönen under 35 U.S.C. § 325(d). Therefore, the Board should deny institution.

II. THE PETITION STILL FAILS TO SHOW A PLURALITY OF AUDIO COMMUNICATION STREAMS, EACH COMPRISING AUDIO FROM A PLURALITY OF USERS

A. The alleged Botha System does not disclose, teach, or suggest at least a plurality of streams, which themselves comprise a plurality of users

Petitioner’s Reply argues that the Botha System has “*multiple* two-way radio systems.” Reply, 3 (emphasis in original). Petitioner again cites to the fictional embodiment of the alleged Botha System on pages 34-36 of the Petition in making its conclusion. As stated in the POPR, the alleged Botha System shows a single stream (i.e., a single talkgroup) made of a plurality of communications from individual participants, *not* a plurality of streams *each* comprising communications from a plurality of users.

Petitioner attempts to make up for Botha's deficiency by arguing that mixing of multiple radios occurs at a proxy (997). Reply, 3. However, Botha clearly discloses that each proxy (997) mixes only *one* stream of a plurality of users, *not* a "plurality of . . . streams, [each comprising] communications from a plurality of users." POPR, 20-21. Specifically, Botha discloses that audio mixing is performed at an endpoint, by the endpoint itself or a proxy (997) acting on its behalf, to create a single multicast channel from the plurality of individual participants' communications. Ex. 1004, 7:7-21. As such, Botha fails to mix a plurality of streams *each* comprising communications from a plurality of users.

B. The alleged Mixed McDonald System does not disclose, teach, or suggest at least a plurality of streams, which themselves comprise a plurality of users

Petitioner alleges that PO is wrong because PO "fails to take into consideration that in the Mixed McDonald System there can be *multiple* talk groups with each talk group having *multiple* communication units." Reply, 5 (emphases in original). Petitioner again argues that audio received from mobile radios (148, 150) is equivalent to mixing a plurality of communications streams, each communication stream comprising communications from a plurality of users. Reply, 5. As discussed in the POPR, Radenkovic and McDonald do not receive a plurality of *communications streams* each comprising communications from a *plurality of users*. POPR, 22-23. At most, a plurality of streams, each comprising a *single* user

communication, is made into a single stream. POPR, 22-23. Accordingly, the Mixed McDonald System fails to mix a plurality of streams *each* comprising communications from a plurality of users.

III. THE ALLEGED PRIOR ART SYSTEMS FAIL IN THE SAME MANNER AS THE LÖPPÖNEN REFERENCE FAILED DURING PROSECUTION, MAKING THESE REFERENCES CUMULATIVE

A. Petitioner’s “plurality of users” arguments relying on Botha are still substantially the same as those made during examination with respect to Denman, Lillie, and Löppönen

Botha remains “substantially the same art previously presented to the Office.” *Advanced Bionics, LLC v. Med-El Electromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 at 7 (PTAB Feb.13, 2020) (precedential). Botha’s disclosure and the alleged Botha System from the Petition mirror the disclosure of Löppönen, which was overcome during prosecution of the ’249 Patent. The Reply relies on the above-discussed misinterpretation of Botha to allege distinctions from Löppönen.

As discussed above and in the POPR, Botha, like Löppönen, discloses hearing all traffic from a group. POPR, 29-34. The “group” of Botha resides on Channel 110-D, is delivered from Channel 110-D to the “phone proxy,” and is heard by the Phone 160. Ex. 1004, 13:18-31, 49-51; Petition, 37. Botha fails as a reference in the same manner as Löppönen was found to fail. There is no disclosure of a *plurality* of *streams*, which themselves each comprise a plurality of communications from a *plurality of users* to be transmitted to an endpoint. Botha only teaches creating a

single multicast channel from a plurality of communications from *individual* users. Even if, *arguendo*, this plurality of singular user streams is “mixed” at the phone proxy (997), this would still only be *one* stream comprising a plurality of communications from individuals, *not* a plurality of streams which *each* comprise a plurality of user communications.

Accordingly, the Board should deny institution under 35 U.S.C. § 325(d) because “the same or substantially the same prior art or arguments previously were presented to the Office,” and the prior art and related arguments were overcome.

B. Petitioner’s “plurality of users” arguments relying on Radenkovic and McDonald are still substantially the same as those made during examination with respect to Denman, Lillie, and Löppönen

The alleged Mixed McDonald System is “substantially the same art previously presented to the Office.” *Advanced Bionics*, IPR2019-01469, Paper 6 at 7. The arguments made by Petitioner in favor of the alleged Mixed McDonald System correspond directly to the Office Action’s reliance on Löppönen, which was overcome during prosecution of the ’249 Patent. The Reply has not overcome the argument of the POPR.

As discussed in the POPR, McDonald discloses data packets of talkgroups (A or B) being directed to endpoints, just as Löppönen is directed towards group-addressed packets being transmitted to an endpoint (MS, MS2). POPR, 35-38. McDonald does not offer anything new in view of Löppönen. Instead, McDonald

discloses a single stream from one talkgroup (148 and 150), as shown in Figure 1. McDonald fails to disclose receiving a *plurality* of communications *streams* each comprising communications from a *plurality of users*.

Petitioner relies on Radenkovic for supplying the mixing function. Petition, 52-53, 62; Reply, 5. Even if McDonald and Radenkovic could be rationally combined, the resultant communications stream would merely comprise audio from individual users and would not be a combination of a plurality of communication streams, each comprising communications from a plurality of users. Radenkovic does not, then, remedy the cumulative nature of McDonald.

Accordingly, the Board should deny institution under 35 U.S.C. § 325(d) because “the same or substantially the same prior art or arguments previously were presented to the Office,” and the prior art and related arguments were overcome.

IV. CONCLUSION

Petitioner attempts to discredit the POPR by alleging the POPR relies on “mere attorney argument.” Reply, 4. However, the POPR relies on the plain language of Botha, McDonald, and Radenkovic as evidence, not as “attorney argument.” In view of the above, Petitioner has failed to demonstrate there is a reasonable likelihood it would prevail with respect to at least one of the claims challenged in the Petition. Therefore, the Board should deny institution.

Respectfully submitted by

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CERTIFICATE OF SERVICE

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