

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner
v.

JAWBONE INNOVATIONS, LLC,
Patent Owner

IPR2024-00350
U.S. Patent No. 10,779,080

**PETITIONER'S REPLY TO
PATENT OWNER'S PRELIMINARY RESPONSE**

This reply to PO's preliminary response (Paper 8) ("POPR") addresses PO's reliance on the Board's intervening institution and rehearing decisions in IPR2023-01130 (collectively, the "Intervening Decisions"), which are not applicable here. Particularly, PO fails to address the many differences between the '1130 IPR petition and the Petition (Paper 1), including differences in the challenged patents and claims, prior art combinations, mappings, and disclosure, and expert testimony. Rather, PO implies that the arguments presented here are the same as what the Board has already rejected. POPR at 1. They are not. For at least this reason, it would be improper to rely on the Intervening Decisions to deny institution here.

I. PO IGNORES THE DIFFERENCES IN THE PETITIONS AND CONFLATES THE PROCEEDINGS

The POPR arguments rely almost entirely on the Intervening Decisions, to allege that the Board should deny institution here because "Meta raises essentially the same arguments" as before. POPR at 1. Not so. The Petition differs from the '1130 IPR petition in multiple ways, all of which PO ignores.

On June 27, 2023, Meta filed the '1130 IPR petition challenging U.S. Patent No. 11,122,357 as a "copycat" petition of an IPR filed by Amazon, IPR2023-00251, which the Board had previously instituted. After the Board terminated the Amazon IPR, the Board denied institution of Meta's '1130 IPR petition. Thereafter, Meta submitted a request for rehearing, which the Board denied on February 22, 2024.

Meta filed the Petition (Paper 1) on December 20, 2023. Unlike the '1130 IPR petition, the Petition was not a copycat petition of an earlier IPR proceeding. Consequently, there are significant differences as exemplified in the table below, which the PO ignores with its reliance on the Intervening Decisions.

	'1130 IPR petition	Petition
Different Patents	11,122,357	10,779,080
Different Claims	Two virtual microphones have “substantially similar responses to noise”	The responses to noise of the two virtual microphones that are substantially similar are “linear”
Different Prior Art Combinations	Brandstein + Gannot in all grounds	Brandstein + Ikeda in all grounds
Different Prior Art Mapping	A single mapping of the second virtual microphone to the bottom branch of Brandstein’s GSC	Two alternative mappings of the second virtual microphone, with an additional mapping to Brandstein’s Blocking Matrix (BM). (Petition at 33-35).
Different Prior Art Disclosure	Reliance on Fig. 5.2 of Brandstein and related text	Additional reliance on Figs. 5.3, 5.8, 5.10 of Brandstein and related text. (Petition at 9-11, 23-25, 28-30).
Different Experts	Dr. Stern (for petitioner)	Dr. Johnson (for Petitioner)

A. Different Patents Recite Different Claim Limitations

The '1130 IPR proceeding and this proceeding challenge different patents. The '357 Patent (challenged in the '1130 IPR petition) has two independent claims, the relevant limitation of which recites *first and second virtual microphones... with substantially similar responses to noise*. Here, two of the three independent claims

of the '080 Patent recite something different. They require that the *second linear response of the second virtual microphone is substantially similar to the first linear response to noise of the first virtual microphone*. That is, most claims of the '080 Patent only require that the linear responses of the two virtual microphones are substantially similar, not the total responses as required in the '1130 IPR proceeding. PO does not address these differences and instead relies on the Intervening Decisions as if there are no differences between the patents and claims.

B. The IPRs Rely on Different Prior Art Combinations

The '1130 IPR petition asserted three unpatentability grounds, citing a combination of Brandstein and Gannot (Grounds 1-3), adding Griffiths-Jim for Ground 2, and adding McCowan for Ground 3. None of these same prior art combinations are relied on here. In fact, the Petition does not rely on either Gannot or Griffiths-Jim at all in the grounds, and instead relies on a combination of multiple embodiments in Brandstein and two references not relied on at all in the '1130 IPR (Ikeda and Yang).

- Ground 1: Brandstein and Ikeda
- Ground 2: Brandstein, Ikeda, and McCowan
- Ground 3: Brandstein, Ikeda, and Yang

Therefore, none of the prior art combinations in the grounds of the Petition overlap with the grounds in the '1130 IPR proceeding, and PO ignores the differences by

relying on the Intervening Decisions without addressing these new combinations.

C. The Petition Includes Additional Mapping Not in the '1130 IPR Petition

In the '1130 IPR petition, for the claimed *second virtual microphone* of the '357 patent, Meta provided a single mapping, relying on Brandstein's entire bottom branch of the beamformer structure in Brandstein's Fig. 5.1. '1130 IPR Petition at 28. Here, the Petition relies on two mappings in the alternative: one based on the bottom branch of the beamformer, and one based on the blocking matrix alone, which forms a portion of Brandstein's bottom branch. Petition at 35 (Fig. 5.1 with annotations) and 36 (Fig. 5.1 with different annotations). PO does not address this second mapping in its POPR and instead improperly relies on the Intervening Decisions, even though the decisions never address this mapping.

D. The Petition Relies on Additional Prior Art Disclosure

The '1130 IPR petition relied only on Fig. 5.2 and pp. 89-90 of Brandstein as evidence that Brandstein discloses *substantially similar responses to noise*. '1130 IPR Petition at 28-30. Here, the Petition additionally relies on Fig. 5.3 of Brandstein as evidence that Brandstein discloses linear responses that are *substantially similar*. Petition at 44-46. The Petition also relies on Brandstein's teachings of a modified beamformer structure, namely the GJBF-CNA structure depicted in Fig. 5.8, with responses depicted in Fig. 5.10. Petition at 9-11, 23-25. The '1130 IPR petition

does not rely on or cite these figures and disclosures, and yet PO relies on the Intervening Decisions, which never addressed the GJBF-CNA.

E. Different Experts Testify

Dr. Richard Stern provided testimony for the '1130 IPR petition whereas Dr. Michael Johnson provides testimony here. Particularly, Dr. Johnson testifies (1) why a POSITA would combine the beamformer embodiments of Brandstein together and with Ikeda (*see, e.g.*, EX1003 ¶¶64-85), and (2) how the POSITA would have found it obvious from Brandstein's disclosures, including Fig. 5.3, that the *linear responses to noise* of the two *virtual microphones* are *substantially similar* (*see, e.g.*, EX1003 ¶¶117-122). The '1130 IPR petition does not include this additional testimony, and thus PO's reliance on the Intervening Decisions is inapposite.

II. PO FEIGNS RELEVANCE OF THE INTERVENING DECISIONS

PO alleges that the arguments in the '1130 IPR are the same as here. *See* POPR at 1, 3. They are not, as summarized above. As if recognizing these differences, PO frames the differences as if this Petition was a “paraphrase[] [of] the same arguments in IPR2023-01130.” POPR at 3. However, that is mere attorney argument, as PO presented no comparison of the arguments in the '1130 IPR to those presented here. Indeed, PO cannot because they are different.

For the reasons discussed above, it would be improper to rely on the Intervening Decisions to deny institution here.

Dated: April 23, 2024

Respectfully submitted,

/Grace I. Wang/

Grace I. Wang (Reg. No. 69,892)
Counsel for Meta Platforms, Inc.

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that I caused to be served on the counsel for Patent Owner a true and correct copy of the foregoing Petitioner's Reply to Patent Owner's Preliminary Response by electronic means on the date below at the following address of record:

Peter Lambrianakos
Vincent J. Rubino, III
Alfred R. Fabricant
Enrique W. Iturralde
Richard Cowell
Jacob Ostling
FABRICANT LLP

ptab@fabricantllp.com

Dated: April 23, 2024

Respectfully submitted,

/Grace I. Wang/

Grace I. Wang (Reg. No. 69,892)
Counsel for Meta Platforms, Inc.