UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TESLA, INC.,
Petitioner

v.

RELINK US LLC,
Patent Owner

Case IPR2024-00389
U.S. Patent 9,793,755

PATENT OWNER'S SUR-REPLY

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PATENT OWNER'S APPENDIX OF EXHIBITS

Exhibit	Description
EX2001	Declaration of Dr. David S. Ricketts
EX2002	Dr. David S. Ricketts Curriculum Vitae
EX2003	E. Serban and H. Serban, "A Control Strategy for a Distributed Power Generation Microgrid Application With Voltage- and Current-Controlled Source Converter," in IEEE Transactions on Power Electronics, vol. 25, no. 12, pp. 2981-2992, Dec. 2010.
EX2004	The Authoritative Dictionary of IEEE Standard Terms, Seventh Edition (2000), p. 468.
EX2005	McGraw-Hill Dictionary of Scientific and Technical Terms, Third Edition (1984), p. 65.
EX2006	Selected Excerpt from Prosecution History of U.S. Appl. No. 13/092,916
EX2007	USPTO Documents & transaction history for US Patent 8,159,178
EX2008	Website Printout entitled "Function | Definition, Types, Examples, & Facts | Britannica," available at https://www.britannica.com/science/function-mathematics
EX2009	Rashid, Muhammad H., editor. Power Electronics Handbook: Devices, Circuits, and Applications Handbook. Third Edition, Butterworth-Heinemann, an imprint of Elsevier, 2011.
EX2010	Assignment Records for US Patent 9,793,755

I. PETITIONER'S REPLY CONFIRMS THAT THE PETITION SHOULD BE REJECTED ON THE MERITS BECAUSE THE "FUNCTION OF" LIMITATION IS NOT DISCLOSED OR SUGGESTED

Petitioner requested additional briefing to purportedly address "Patent Owner's implicit claim construction position concerning [the] 'adjust an output power as a function of the frequency of the voltage source'" limitation. EX1030. Petitioner's reply, however, does not address the meaning of this limitation highlighting the fact that the Petition fails on the merits.

Indeed, Petitioner does not address, and implicitly concedes, what Patent Owner's expert established – that the word "function" has a well understood plain and ordinary meaning. EX2001, ¶¶ 47-49. Moreover, as the POPR established, the Petition failed to address the "function of" limitation under the well-established plain and ordinary meaning and offered no explanation of how this limitation is met by the asserted references. *See, e.g.,* POPR, 42-43, 60. Under the well understood meaning of the term, all grounds fail on the merits, and, in Reply, ***Petitioner does not dispute any of this***. Despite seeking a Reply on this issue, Petitioner does not address the meaning of the limitation, does not address how any reference suggests the limitation, and does not point to any explanation in the Petition demonstrating the limitation is satisfied by the cited references. Petitioner effectively concedes all

arguments by Patent Owner concerning this limitation in Reply which applies to all grounds of the Petition.

Rather than addressing the merits, Petitioner asks the Board to disregard the limitation because it is purportedly "at odds" with a statement in Patent Owner's complaint. Petitioner's argument is incorrect. Moreover, the basis for Petitioner's argument is a red herring around the phrase "trip and discontinue." *See* Reply, 5. The complaint states that the accused solar ***inverter*** tripped or adjusted output power. Reply, 5. In the purportedly inconsistent statement in the POPR, Patent Owner demonstrated Somani's different functionality related to a solar ***panel***. *Id.* A solar inverter and a solar panel are two different components. POPR, 54-56. As the claims specifically require an "inverter," Somani's functionality regarding a solar panel is irrelevant to the claims and there is no inconsistency between the POPR and the complaint. Regardless, there is nothing in the complaint that alters the plain and ordinary meaning of the word "function" or negates the fact that the Petition glosses over this limitation because the art does not teach or suggest it.

Moreover, Patent Owner has never contended that every possible trip of even a solar inverter satisfies the claims; the claims are clear that the inverter must be "configured to adjust an output power ***as a function of a frequency***." Patent Owner has never ignored this clear limitation, and Petitioner's attempt to do so in the Petition is what the POPR highlights. In the district court case, Patent Owner

contends that when the accused products "trip and discontinue or adjust" their output power, they do so "***as a function of a frequency***," because the claims include and require that limitation.

Affording the claim terms their undisputed and well-understood meaning, the Petition fails on the merits, a point the Reply does not dispute.

II. THE OFFICE PROPERLY ALLOWED THE CLAIMS OVER TWO SUBSTANTIALLY SAME SERBAN REFERENCES

The POPR demonstrates that the Board should exercise its discretion to deny under § 325(d). The Reply does nothing to change that.

Serban Paper: In a conclusory parenthetical with no citation or explanation, Petitioner misrepresents that the Serban Paper does not describe the controllers of the Serban patent. Reply, 2. However, as shown in the POPR's comparison chart for claim 1[d], each of the Serban Patent, Serban Pub., and Serban Paper have a "controller" or "control structure" implementing the same control techniques. POPR, 14. *See* Reply, 2. Petitioner cannot rebut this showing, so ignores it. With respect to the Serban Paper, Petitioner does not allege or demonstrate material error. *See* POPR, 22.

Serban Patent: Petitioner does not dispute that the Serban Patent is substantially similar to Serban. Instead, Petitioner argues that the Examiner "fail[ed] to consider key disclosure outside claims 1-20." Reply, 4. However, the Reply does

not and cannot address Petitioner's explanation that the alleged "AC power port" functionality of the Serban Patent *is* in claims 1-20. Nevertheless, the Examiner *did* consider material outside claims 1-20 (POPR, 22) and correctly determined that Serban does not teach the "AC power port" limitation, i.e., the limitation of 1[c]. POPR, 21. Petitioner likewise does not address that the prosecution history demonstrates that the Examiner did identify an "AC power port" in the prior art, as the Examiner expressly stated. POPR, 21.

Secondary References: The "secondary references" would have had no impact on the Examiner's decision to issue the claims. POPR, 18. Petitioner does not even attempt to rebut this.

Somani: Again, in Reply, Petitioner's leading reason to avoid § 325(d) is that it tacked on Somani-based grounds. This gamesmanship should not be rewarded, as it requires the Board to retread the same Serban-based references as applied to the same claims—the precise scenario that § 325(d) is intended to avoid. It is especially true here, given the exceeding weakness of the Somani grounds.

III. PETITIONER'S ATTEMPTED END-RUN OF § 325(D) SHOULD BE REJECTED

In Reply, Petitioner does not shy away from demonstrating that a key purpose of including Somani is an attempt to avoid § 325(d). But, as explained in the POPR, this leads to multiple problems under § 314(a), many of which the Reply leaves

unaddressed. *See* POPR 23-26. In Reply, Petitioner does not dispute that it includes a "catch-all" ground that includes theories that are unexplained. *See* POPR 25. With respect to the Somani provisional, while parallel citations may be appropriate in some circumstances—such as where the disclosures are substantially the same—Petitioner cannot justify its reliance on portions of Somani with no corresponding citations to the provisional; nor can it justify citing to very different disclosures of the Somani provisional without explanation. *See* POPR, 24-25, 45-48.

By tacking on the Somani grounds, Petitioner also performed much analysis in uncounted claim tables. Petitioner's citation to *Panasonic v. Cellspin*, IPR2019-00131, on this point is instructive. There, the Board recognized the table of "Common Claim Limitations," but never indicated the analysis did not apply to the word count, contrary to Petitioner's implication otherwise. Paper 11, 6, fn.3. And more importantly, the petitioner there offered a section ***explaining*** why the claim limitations were common and addressed them all together in the brief. *Id.*, Paper 1, 24-25. Here, there is no analysis in the brief—it is instead in the tables.

As set forth above, Petitioner's Reply further exemplifies why the Petition should be denied both discretionarily and on the merits.

Dated: June 25, 2024

/s/ Richard C. Lin
Richard C. Lin (Reg. No. 56,682)

CERTIFICATE OF SERVICE

Petitioner has consented to e-mail service in this proceeding. Pursuant to 37 C.F.R. §42.6, the undersigned certifies that on June 25, 2024, a copy of the foregoing document was served by email upon the following counsel at the below email addresses:

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Dated: June 25, 2024

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