

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIANT TECHNOLOGY LLC

Petitioners,

v.

INTENT IQ, LLC

Patent Owner.

IPR2024-00422

Patent 7,861,260*

Authorized Response to Director Review Request

*Viant Technology LLC was joined as a party to this proceeding via a Motion for Joinder in IPR2025-00129.

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Pursuant to the e-mail dated November 14, 2025, Petitioner submits this “Authorized Response to Director Review Request.” Ex. 3100, 1. Contrary to Patent Owner’s two contentions in its Director Review Request, the Final Written Decision: (1) did not rely upon Mr. Lett’s economic testimony in finding the Challenged Claims obvious; and (2) the *KSR* rationale articulated in the Final Written Decision is entirely consistent with the evidence and arguments made in the Petition.

I. The Board Relied Upon Multiple Basis When Motivating the Obvious Combination

The obviousness combination underpinning the Final Written Decision (FWD) is based on a combination of, *inter alia*, Baig and Costa. The Board found that Baig disclosed a “content server that discovers wireless users within the physical vicinity of each other at a WiFi hotspot.” FWD (Paper 47), 21. “The VCSP content server includes programs and data for hosting a VCSP website.” *Id.* “When a user at a hotspot logs onto the VCSP website, the user automatically becomes part of the vicinity-based user group, and then can access VCSP webpages to participate in or receive an offered service.” *Id.*, 22. The Board found that “Costa teaches various devices that can be connected to a public wireless hotspot, including laptop computers, PDAs and STBs.” *Id.*, 27. “A person having ordinary skill in the art would have incorporated Costa’s STB into Baig’s system.” *Id.*, 28. “Petitioner persuasively argues that including a STB in Baig’s system would beneficially allow

one to use the STB to share music, video games, and advertisements with customers at a public establishment.” *Id.*, 42. “Here, we find that the preponderance of the evidence supports that the POSA would have had good reason to use a STB in Baig’s system.” *Id.*

Patent Owner argues that, in reaching its determination of obviousness, the Board relied on the Petitioner’s expert’s (Mr. Lett’s) “‘unqualified’ testimony regarding economic benefits in finding that the proposed navigation of the STB to Baig’s social media website would be economically beneficial to ‘share music, video games, and advertisements with customers at a public establishment.’” Director Review Request (“DRR”), 13 (citing FWD, 42 and Mr. Lett’s declaration, Ex. 1002, ¶160). The Board, however, did not.

As an initial matter, the characterization of Mr. Lett’s testimony is Patent Owner’s alone. Mr. Lett did not employ the phrase “economically beneficial,” nor otherwise reference economics. Likewise, the Board did not reference “economically beneficial” reasons or economics for its finding of obviousness. Indeed, the testimony Patent Owner complains of articulates “a number of teachings, suggestions and motivations” for the proposed combination. Patent Owner provides no explanation of why these teachings constitute “‘unqualified’ testimony regarding economic benefits.” The testimony Patent Owner complains of reads:

160. There are a number of teachings, suggestions, and motivations in the prior art that would have led a POSA to modify Baig and combine Baig with Costa in the ways that I have described. See Section IV (referring to obviousness rationale (G)). A POSA would have been motivated to combine Baig and Costa in this way because the combination provides the additional benefit of having a wider range of device types available at a particular access point. For instance, returning to the coffee shop example provided by Baig, including a set-top box in the devices available at Baig's coffee shop would have allowed individuals operating other devices 102 (e.g., phones, laptops, etc.) to view multimedia content, such as television content, via a television connected to the set-top box. Ex. 1007, Abstract, ¶¶ [0006], [0039], [0101]; Ex. 1011, ¶¶ [0006], [0035]-[0036], [0042], Fig. 1. A POSA would have recognized that entertainment in a public venue such as a retail business is often beneficial to engage the user's interest and maintain their presence at that location.

Ex. 1002, ¶160.

The FWD includes a lengthy discussion articulating multiple reasons why the Board determined the combination of Baig and Costa was obvious. FWD, 28-44. For example, the Board quoted an entirely different portion of Mr. Lett's declaration than that reproduced above and agreed that "the combination of Baig and Costa would have been obvious because the combination merely combines known prior art elements according to known methods to yield predictable results." FWD, 28

(citing Ex. 1002, ¶162). At no point in agreeing with this rationale did the Board rely on the testimony of which Patent Owner complains. *Id.*

Only page 42 of the FWD references the testimony that Patent Owner characterizes as “unqualified.” FWD, 42 (citing Ex. 1002, ¶160). The Board cites, among other citations, to the entirety of paragraph 160 and its “number of teachings, suggestions and motivations” for the proposed combination in support of its determination that “Petitioner persuasively argues that including a STB in Baig’s system would beneficially allow one to use the STB to share music, video games, and advertisements with customers at a public establishment.” FWD, 42 (citing Pet. 12; Ex. 1007 ¶¶ 54, 62, 90, 94, 95, 103, 107, 108; Ex. 1002 ¶¶ 160, 163). Additionally, the Board made no reference to economic benefits in supporting its determination.

Indeed, the Board’s determination that “Petitioner persuasively argues that including a STB in Baig’s system would beneficially allow one to use the STB to share music, video games, and advertisements with customers at a public establishment” is not based in economic benefits. FWD, 42. Rather, this determination speaks to the expanded capabilities provided to Baig’s website accessed via Costa’s STB through the combination. *See* Ex. 1002, ¶¶160, 163.

II. The Final Written Decision Relied Upon a *KSR* Rationale Articulated and Supported in the Petition

Patent Owner further argues that “the Petition’s *KSR* rationale relied on the ‘known method’ of ‘*connecting the STB to an AP*’ (Pet. 11 (emphasis added)), and the Board identified no allegation by Petitioner that *navigating an STB at a public establishment to a social media website was* a known method or otherwise justified by *KSR*.” DRR, 14 (emphasis in original). However, this argument overlooks contrary and unrebutted arguments provided in the Petition and supported by Mr. Lett. Further, Patent Owner provides no basis for the burden it seeks to place on Petitioner.

First, beyond the example provided by Costa, Mr. Lett explained that “[i]t was well known to a POSA during the relevant time frame that a set-top box may be Internet-enabled and capable of displaying webpage content,” and the Petition cited to this testimony in support of its obviousness argument. Ex. 1002, ¶164; Pet., 12 (citing same). Mr. Lett cited to *five* different prior art references (Exs. 1027 to 1031) as support for this fact. Ex. 1002, ¶164. Neither Patent Owner nor its expert addressed this statement or any of the contemporaneous corroboration. *See generally*, POR (Paper 14); Sur-Reply (Paper 35); Ex. 2001. Therefore, the FWD’s citation to this testimony in support of its obviousness finding based on the Petition’s *KSR* rationale stands unrebutted. *See* FWD, 28 (citing Ex. 1002, ¶164).

In sum, Patent Owner admits that Costa teaches adding a STB to Baig’s public hotspots. DDR, 3 (“Costa...taught in relevant part the simple fact that it is possible for wireless networks ‘such as a public hotspot’ to include a STB”). And it is unrebutted that “[i]t was well known to a POSA during the relevant time frame that a set-top box may be Internet-enabled and capable of displaying webpage content”—like Baig’s VCSP webpage. Ex. 1002, ¶164; Pet., 12 (citing same); FWD, 28 (citing same). This should end the inquiry.

However, without citation to any supporting case law, Patent Owner seeks to impose a higher standard on Petitioner by requiring Petitioner to prove “that navigating an STB at a public establishment to a social media website was a known method or otherwise justified by *KSR*.” DDR, 14. However, the FWD directly addresses why this argument is not consistent with the legal requirements to establish obviousness. *See* FWD, 41-42. Specifically, the Board explained that “Patent Owner does not focus on any technical reasons why a person having ordinary skill in the art would not have been able to combine the teachings from the two references.” *Id.* No where in Patent Owner’s Director Review Request does Patent Owner provide any reasoned basis—much less citation to case law—supporting its contrary arguments.

Yet, even if Petitioner were required to meet this elevated burden, the Petition provided this explanation. As noted above, it is undisputed that it was obvious to

connect Costa's STB to Baig's public hotspot and that the STB would have been "Internet-enabled and capable of displaying webpage content," so the only missing piece required of Patent Owner's proof is motivation to direct the STB to Baig's particular web page. Baig itself provides that motivation. In just one of the paragraphs cited in the Petition and FWD, Baig explains that:

[A] bidding system for advertisers provides the ability to create a bidding system for advertisers, thus enabling the advertisers to bid for rights to advertise at a prime hotspot for a particular time of the day for a particular audience either at one or more vicinity-based hotspots in the mesh network of the VCSP 202. Alternatively, a location based video gaming service enables users to play video games with others in their vicinity.

Ex. 1007, [0062]; Pet., 11-12 (citing same); FWD, 42 (citing same). These benefits do not depend on the type of device through which one or more users access Baig's website. *See id.*

Accordingly, the FWD provided a complete basis under *KSR* for combining Baig and Costa based on the evidence provided in the Petition. Patent Owner's attempt to require more from the Petition is both unsupported and fails on the merits.

III. Conclusion

For at least the foregoing reasons, Patent Owner has failed to articulate any reasonable basis for the Director to review the FWD. Over the course of 16 pages, the Board methodically identified and responded to each and every one of Patent

Owner's arguments regarding the Baig and Costa combination, and did so with citation to extensive evidence. FWD, 31-47. Thus, Patent Owner's Request should be denied.

Respectfully submitted,

Dated: November 21, 2025

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e)(4), the undersigned certifies that on November 21, 2025, a complete and entire copy of this Authorized Response to Director Review Request was provided via email, to the Patent Owner by serving the email correspondence addresses of record as follows:

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