

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

TESLA, INC.,
Petitioner,
v.
iQAR INC.,
Patent Owner.

Case No. IPR2024-00543
U.S. Patent No. 10,882,399 B2

PATENT OWNER'S PRELIMINARY SUR-REPLY

According to Petitioner, interpreting the '399 patent's claims to require prospective power/speed determinations somehow “depart[s] from plain meaning.” Reply, 2. This is wrong. Petitioner does not consider the claims as a whole. The claims require not only “determining a segment of a vehicle route,” but also “applying calculated electric power” to travel “*along the segment* ... at a calculated speed.” It is these collective limitations that require prospective determinations. If the segment were not determined and power/speed were not calculated in advance, the vehicle could not travel “along” the segment at the calculated speed. Repeatedly changing power/speed while traversing a segment does not entail calculating power/speed needed to travel “along the segment” as required.

Petitioner is also wrong when it argues that the “specification refutes” this straightforward claim interpretation. Reply, 1. The specification plainly describes prospective determinations/calculations. For instance, Figure 2 depicts an ordered process where a route is determined/segmented at steps 201 and 203, power is calculated at step 209, and then calculated power is applied at step 211. Ex. 1001, Fig. 2; *see also* 11:44-50. The specification similarly explains that the patent's system and method determines the vehicle's “*next* segment (or *upcoming* segments)” and calculates power and speed for that segment. *Id.*, 3:55-4:10 (emphasis added). Likewise, “speeds for ... *upcoming* route segments can ... be calculated.” *Id.*, 5:49-55 (emphasis added). Indeed, this is the central purpose of

the '399 patent's system: the patent seeks to improve on “traditional ‘cruise control’ device[s]” that simply “adjust[] the power supplied to the vehicle” based on current conditions. *Id.*, 6:61-7:10. The '399 patent does so by considering and accounting for the “route” over which the vehicle will be traveling. *Id.*, 7:11-18.

Petitioner discounts this clear claim language and specification description because the '399 patent includes alternative embodiments that—in addition to making prospective determinations—are also able to make power/speed determinations for current segments. Reply, 2. But this reference to an additional, alternative feature does not mean that the claims can somehow be broadened to embrace systems that include **only** this feature. Moreover, the Federal Circuit has repeatedly explained that “the mere fact that there is an alternative embodiment disclosed in [a] patent ... **does not out-weigh the language of the claim....**” *August Tech. Corp. v. Camtek, Ltd.*, 655 F.3d 1278, 1285 (Fed. Cir. 2011) (emphasis added); *see also SIMO Holdings Inc. v. Hong Kong uCloudlink Network Tech. Ltd.*, 983 F.3d 1367, 1378 (Fed. Cir. 2021) (claims are not interpreted to cover each and every embodiment)). Here, the claim language itself requires that a route segment must be determined (and power and speed must be calculated) prospectively. *See id.* Construing the claims as Petitioner proposes reads out this requirement. And it would also improperly cause the claims to embrace the very type of prior art system distinguished in the '399 patent.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby confirms that the foregoing paper was caused to be served on July 12, 2024 via email upon the following counsel of record for Petitioner:

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