

Filed: October 1, 2025

Filed on behalf of: Aylo Freesites Ltd

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AYLO FREESITES LTD,
Petitioner

v.

WELLCOMEMAT, LLC,
Patent Owner

IPR2024-00710¹
U.S. Patent No. 8,307,286

**PETITIONER'S AUTHORIZED RESPONSE TO
DIRECTOR REVIEW REQUEST²**

¹ The Board administratively terminated related proceeding IPR2024-01101, consolidating it with IPR2024-00710. Paper 18.

² The USPTO authorized the filing of this Response in an email sent to the parties on September 24, 2025. Ex. 3001.

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The Board's Final Written Decision ("FWD," Paper 41) correctly found that Petitioner ("Aylo") has established by a preponderance of the evidence that claims 13-15 and 17-20 of U.S. Patent No. 8,307,286 ("286 Patent") are unpatentable.

Patent Owner's ("WellcomeMat") Request for Director Review of the FWD (Paper 42, "Request" or "Req.") is without merit and should be denied.

I. WellcomeMat Fails to Specify on Which Basis It Seeks Director Review

As the USPTO's Director Review process web site makes clear, "[r]equests for Director Review of a Board's final decision ... shall be limited to decisions presenting (a) an abuse of discretion, (b) important issues of law or policy, (c) erroneous findings of material fact, or (d) erroneous conclusions of law." USPTO, Director Review Process, § 2.B.³

WellcomeMat fails to acknowledge these four limited bases for Director Review, let alone identify which of the four bases it relies on in seeking Director Review. At the very least, the Request cannot be understood to seek review of the FWD based on an abuse of discretion, important issues of law or policy, or erroneous findings of material fact. *See* Req. at 1 ("The Board's decision rests on legal errors"), 3 ("The Board committed reversible errors of law").

³ <https://www.uspto.gov/patents/ptab/decisions/director-review-process>

II. The Board Properly Compared the Prior Art to the Claim Limitations

The Board properly interpreted the challenged claims in light of the '286 Patent specification and found that the prior art taught the challenged claims. The Board's references to the specification are entirely proper and required by Federal Circuit precedent. WellcomeMat is thus incorrect that the Board based its findings on a comparison between the prior art and embodiments of the '286 Patent specification instead of on a comparison to the claim limitations. Req. at 3-7.

To start, WellcomeMat cites *TQ Delta, LLC v. Dish Network LLC* for the alleged proposition that a validity inquiry cannot compare the prior art to preferred embodiments disclosed in the specification. Req. at 3 (citing *TQ Delta*, 929 F.3d 1350, 1357 (Fed. Cir. 2019)). But *TQ Delta* makes no reference to disclosed preferred embodiments, let alone to comparing disclosed embodiments to the prior art.⁴ Indeed, in *TQ Delta* the Federal Circuit looked to the challenged patent's specification numerous times to interpret the claim language "reinitialize." 929 F.3d at 1357-58 (interpreting "reinitialize" based in part on "the specification provid[ing] an overview of the transceiver initiation process."). The Federal Circuit then explicitly found that the prior art uses the same process described in the challenged

⁴ The word "embodiment" only appears once in *TQ Delta*. 929 F.3d at 1361.

patent’s specification—further showing WellcomeMat’s argument is wrong. *Id.* at 1361 (“[W]hile **Bowie** does not provide a list of the types of parameters it stores, ... [t]hese include bit allocation parameters and fine gain parameters, which **the ’404 patent** uses for the same process.” (emphasis added)).

Moreover, the Federal Circuit has repeatedly indicated that the patent specification plays a vital role in the invalidity analysis, since “claims must be read in view of the specification, of which they are a part.” *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996) (citing *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979 (Fed. Cir. 1995) (en banc); *see also Trs. of Columbia Univ. v. Symantec Corp.*, 811 F.3d 1359, 1363 (Fed. Cir. 2016).

Preferred embodiments disclosed in the specification are particularly relevant, as the Federal Circuit has repeatedly recognized that “it is unlikely that an inventor would define the invention in a way that excluded the preferred embodiment, or that persons of skill in this field would read the specification in such a way.” *Hoechst Celanese Corp. v. BP Chemicals Ltd.*, 78 F.3d 1575, 1580-81 (Fed. Cir. 1996); *see also Oatey Co. v. IPS Corp.*, 514 F.3d 1271, 1276-77 (Fed. Cir. 2008) (citing *Verizon Servs. Corp. v. Vonage Holdings Corp.*, 503 F.3d 1295, 1305 (Fed. Cir. 2007); *Invitrogen Corp. v. Biocrest Mfg., L.P.*, 327 F.3d 1364, 1369 (Fed. Cir. 2003)) (“We normally do not interpret claim terms in a way that excludes embodiments disclosed in the specification.”); *Accent Packaging, Inc. v. Leggett & Platt, Inc.*, 707 F.3d

1318, 1326 (Fed. Cir. 2013) (citing *On-Line Techs., Inc. v. Bodenseewerk Perkin–Elmer GmbH*, 386 F.3d 1133, 1138 (Fed. Cir. 2004) (“We have held that a claim interpretation that excludes a preferred embodiment from the scope of the claim is rarely, if ever, correct.”); *Vitronics*, 90 F.3d at 1583-84; *Modine Mfg. Co. v. United States Int’l Trade Comm’n*, 75 F.3d 1545, 1550 (Fed. Cir. 1996) (overruled on unrelated grounds) (“[A] claim interpretation that would exclude the inventor’s device is rarely the correct interpretation; such an interpretation requires highly persuasive evidentiary support ...”).

Against this backdrop, the Board reviewed the ’286 Patent specification to gain an understanding of the claim language and then performed a proper comparison between the prior art and the claim limitations. Significantly, the Board did not attempt to narrow claim scope using the specification or read limitations from the specification into the claims. In fact, the Board did the opposite, finding that a **broad** claim scope was justified based on the specification, *i.e.*, that the claims broadly encompass the disclosed embodiments.

The Board’s references to the ’286 Patent specification merely reinforce its conclusions regarding claim breadth. Critically, WellcomeMat does not dispute that the ’286 Patent embodiments referenced by the Board are within the scope of the challenged claims. And because WellcomeMat does not dispute that the prior art discloses these same embodiments, the prior art’s disclosures are necessarily also

within the scope of the challenged claims and render them invalid. WellcomeMat's argument is thus baseless, amounting to nothing more than complaining that the prior art teaches exactly what the '286 Patent discloses and claims.

A. Limitation 13.1

Limitation 13.1 recites “providing a computer system having at least one computer-readable medium comprising a video editing environment, and being disposed at a server side of a public network.” The Board concluded that “the plain and ordinary meaning of limitation 13.1 ... is clear” (FWD at 12), finding that the claimed “video editing environment” (or “VEE” for shorthand) is “an environment for editing video with cue points, implemented by software, hardware and software, a web page, or ‘in any other useful way’ on the server side of a public network” based on the '286 Patent specification (Ex. 1001, 24:56-62) and WellcomeMat's own arguments as to the meaning of the term VEE (Patent Owner Response (“POR,” Paper 24) at 9). FWD at 12 (emphasis added). The Board further “clarif[ied]” that “the claimed VEE is not limited to any particular type of software, hardware, application program, cue point server, application server, or configuration,” noting as its rationale both experts' agreement and the '286 Patent specification's description that “[l]oading the VEE may involve executing an application invoking various software and/or hardware commands ... [and] may load as a script in the background of a webpage, as a server-level application.” FWD at 13 (citing Ex.

1001, 12:65-13:6) (emphasis added). As such, the Board construed the claimed VEE as encompassing an environment for editing video with cue points implemented via a webpage script loaded as a server-level application. WellcomeMat entirely omits this important part of the Board's analysis.

Turning to the Fegan reference, the Board concluded that Fegan describes an environment for editing video with annotations via webpage scripts running on a web server (in the form of PHP scripts) and thus satisfies the VEE portion of limitation 13.1. FWD at 23. In support of this conclusion, the Board referenced its construction of the claimed VEE by again citing to 12:65-13:6 of the '286 Patent specification and noting that the VEE was broadly claimed to encompass a webpage script loading as a server-level application—which is precisely what Fegan discloses, PHP scripts loading as server-level applications. FWD at 22.

Thus, contrary to WellcomeMat's argument (Req. at 4-5 (citing FWD at 22)), the Board did not reach its conclusion by improperly comparing Fegan directly to embodiments disclosed in the '286 Patent specification. Rather, the Board **first** construed the claimed VEE, as recited in limitation 13.1, as encompassing server-side webpage scripts as described in, for example, the '286 Patent at 12:65-13:6, and **then** compared Fegan to limitation 13.1, as construed.

As mentioned, the Board also found that the VEE was described broadly in the '286 Patent as encompassing an environment implemented via a webpage. FWD

at 12 (citing Ex. 1001, 24:56-62). The Board further looked to embodiments of the '286 Patent and found limitation 13.1 covered “a VEE providing a web page interface to a client’s web browser to permit client interaction with the server-side VEE (a VEE GUI)” and that both experts agreed. *Id.* at 29-31 (additionally citing Ex. 1001, 13:48-49, 13:59-67, 13:3-6, 14:8-13, and claim 26). On this basis, the Board found that Fegan’s disclosure of editing annotations using a web browser-based user interface satisfies limitation 13.1. FWD at 27-33.

Again, contrary to WellcomeMat’s argument (Req. at 5 (citing FWD at 29)), the Board did not reach its conclusion by improperly comparing Fegan directly to embodiments disclosed in the '286 Patent specification. Rather, the Board **first** construed the claimed VEE, as recited in limitation 13.1, as encompassing a web browser-based interface provided by a web server as described in, for example, the '286 Patent at 24:56-62, and **then** compared Fegan to limitation 13.1, as construed.

Therefore, the Board’s citations to the '286 Patent specification in support of its conclusion that Fegan satisfies limitation 13.1, are proper.

B. Limitation 13.4

WellcomeMat’s arguments concerning limitation 13.4 are similarly unavailing. Limitation 13.4 recites “receiving a cue point editing command over the network from a remote client terminal ... using the computer system.” The Board concluded that the claimed cue point editing command could be sent via a web form

based on “the ’286 disclosure of modifying cue point information via a web form to send updated cue point information to the server for storage.” FWD at 39-41 (crediting Petitioner’s expert, Dr. Houh); *see also id.* at 42-43 (citing Ex. 1001, 23:16-23 and 27:40-57 (describing that “the method may only generate and/or save the cue point after the client submits the information” and “the client may be required to submit the form over the network to server computer before the cue point editor has the information it needs to generate the cue point.”))).

Based on this understanding, the Board found that Fegan satisfies this limitation, as “selecting the ‘Update’ button shown in [Fegan’s] Fig. 7 results in a command to edit the annotation being sent over the network from the client-side to the server-side of Fegan’s computer system.” FWD at 37. The Board rejected WellcomeMat’s arguments and credited the testimony of Petitioner’s expert, Dr. Houh, as to what operation occurs in Fegan following user selection of the “Update” button. FWD at 36-39. The Board agreed with Petitioner that Fegan’s disclosed web form arrangement “mirrors the ’286 disclosure” of modifying cue point information via a command sent using a web form. FWD at 39. In this regard, the Board agreed with Petitioner’s expert that the ’286 Patent discloses the use of web forms with “Submit” or “Save”-type buttons to transmit the cue point editing command from a client to the server and that Fegan teaches the same kind of arrangement with its web form’s “Update” button. FWD at 37-39.

Thus, contrary to WellcomeMat’s argument that the Board’s “comparison” between Fegan and the ’286 Patent specification is “off-the-mark” (Req. at 6 (citing FWD at 39)), the Board’s approach was entirely proper. The Board **first** looked to the ’286 Patent to understand the scope of the claimed cue point editing command and how it may be received server-side via transmission by a client web form and **then** compared Fegan to this understanding of limitation 13.4.

WellcomeMat’s arguments that the Board improperly compared Fegan to client-side web forms disclosed in the ’286 Patent specification also fall flat. Req. at 6-7 (citing FWD at 42, 39, 42-43). The Board did not ignore the claimed server-side operations required by the challenged claims. Rather, the Board discounted WellcomeMat’s arguments that Fegan only disclosed client-side operations by recognizing that the ’286 Patent described server-side operations such as receiving a cue point editing command at the server, occurring in response to client-side operations such as clicking a button on a web form in a client’s web browser. FWD at 37-43. On that basis, the Board agreed with the Petition that a POSITA would have understood the user selection of an “Update” button in a web form in Fegan to result in a command being sent from the client and received by the server, just as selecting a “Submit” or “Save”-type button does the same in the ’286 Patent. FWD at 39-43. Again, the Board did not improperly compare Fegan directly to the ’286 Patent disclosure—rather, the Board found that the challenged claims encompass

receiving a command transmitted via a web form and concluded that Fegan describes this same web form functionality. Therefore, the Board's citations to the '286 Patent specification in support of its conclusion that Fegan satisfies limitation 13.4 are proper.

In conclusion, the Board's references to the '286 Patent specification are proper, and Director Review on this issue should be denied.

III. The Board Did Not Improperly Rely on Arguments Not Made in the Petition

The Petition argued that Fegan teaches the server-side computer system having at least one computer-readable medium of claim 13, since Fegan's servers and databases "run server-side software such as MYSQL, PHP, and JavaScript using the remote server's memory/storage." Petition ("Pet.," Paper 1) at 34 (internal quotations omitted, emphasis added)). WellcomeMat concedes as much. Req. at 8; POR at 39. Yet although claim 13 specifies that the computer system's computer-readable medium comprises the VEE, WellcomeMat argues that the Petition's reliance on Fegan's PHP scripts should be limited to the computer-readable medium only and not to the VEE that it comprises or any of the operations WellcomeMat alleges are performed by the VEE. Req. at 7-10. This is illogical. The Petition also repeatedly cited to Fegan's Figure 7, which shows a web form for editing annotations with an "Update" button provided via a server-side PHP script. *E.g.*, Pet. at 45

(describing that limitation 13.4 is met by the “editable fields” and “‘update’ button for saving annotation edits to the server” of Fegan’s Figure 7), 35 (citing to Fig. 1-7 of Fegan as disclosing the VEE of limitation 13.1). WellcomeMat is thus being pedantic in arguing that the specific word “PHP” only appears once in the Petition.

A petitioner’s reply is “proper if it is responsive and simply **expands on** previously raised arguments,” and the Board should also “not ... parse arguments on reply with too fine of a filter.” *Rembrandt Diagnostics, LP v. Alere, Inc.*, 76 F.4th 1376, 1384 (Fed. Cir. 2023) (citing *Ericsson Inc. v. Intellectual Ventures I LLC*, 901 F.3d 1374, 1380-81 (Fed. Cir. 2018)) (quotations omitted, emphasis added); *Ericsson*, 901 F.3d at 1381 (petitioner is not raising an argument for the first time in its reply where it merely “**expands** the same argument made in its Petition,” *e.g.*, by “merely **expand[ing] on** a previously argued rationale” (emphasis added)); *Chamberlain Group, Inc. v. One World Technologies, Inc.*, 944 F.3d 919, 924-25 (Fed. Cir. 2019) (citing *Interactive Gift Express, Inc. v. CompuServe Inc.*, 256 F.3d 1323, 1347 (Fed. Cir. 2001)) (“Parties are not barred from **elaborating on** their arguments on issues previously raised.” (emphasis added)); *see also id.* at 924-25 (a IPR party “merely **clarifying** its earlier position” is not raising a new issue (emphasis added)).

Petitioner’s Reply arguments concerning PHP are both (i) a proper expansion of the same arguments presented in its Petition and (ii) a proper rebuttal to

WellcomeMat's POR arguments. *First*, as explained above, the Petition explicitly mapped Fegan's disclosed servers and databases to the claimed computer system (Pet. at 34) and further argued that Fegan's web forms, such as shown in Figure 7, teach the claimed VEE (*id.* at 35) and cue point editing command (*id.* at 45). Petitioner's Reply arguments concerning Fegan's disclosure of PHP scripts elaborated on the Petition by explaining what PHP is and how Fegan's web forms, such as in Figure 7 with its "Update" button, make use of PHP scripts and satisfy the claim limitations. Petitioner's Reply (Paper 28) at 8-9, 20-21, 24-27, 29-32. These reply arguments are wholly proper under *Rembrandt Diagnostics*, *Ericsson*, and *Chamberlain Group* as an elaboration of the Petition's arguments.

The Board explicitly addressed this exact issue and arrived at the same conclusion. FWD at 49 n.19. Relying on *Rembrandt Diagnostics*, the Board found that Petitioner's Reply (including its references to PHP and the web forms in Figures 5 and 7) was **not** a new argument but rather "**expands on the Petition's argument** that Fegan discloses the use of PHP scripts to execute server-side software." FWD at 49 n.19 (citing Pet. at 34, 43-46) (emphasis added).

Second, Petitioner's Reply references to PHP are also a proper response to WellcomeMat's POR arguments, and the Board agreed that these arguments were permitted rebuttal. In its POR, WellcomeMat **disputed** that Fegan's PHP scripts, as referenced in the Petition, are executed server-side:

Petitioner and its expert assert there may be server-side software such as MYSQL or **PHP**. Pet., 34 (citing Fegan, [0010]); Houh Decl., ¶154. But **Fegan does not disclose that** MYSQL or **PHP programming is executed server-side** to perform annotation editing per limitation 13.1.

POR at 39 (emphasis added). The Board, again referencing *Rembrandt Diagnostics*, correctly concluded that Petitioner's Reply arguments properly responded to the POR, including WellcomeMat's argument that PHP is not executed server-side and does not result in transmitting a command over the network. FWD at 49 n.19 ("The Reply is also proper rebuttal to Patent Owner's Response argument," since *Rembrandt Diagnostics* holds that a "reply argument [is] not improper if it ... is offered to explain, repel, counteract, or disprove the evidence of the adverse party" (internal quotations omitted)).

Because these arguments were presented in the Petition, and were properly expanded on in the Reply and made in rebuttal to WellcomeMat's POR arguments pursuant to *Rembrandt Diagnostics*, *Ericsson*, and *Chamberlain Group*, Director Review of this issue should be denied.

IV. The Board Did Not Ignore WellcomeMat's Citations to Prosecution History

WellcomeMat accuses the Board of failing to consider the prosecution history when construing the VEE. Req. at 10-12. WellcomeMat argues that the prosecution

history supports its “propos[al] that the claimed ‘video editing environment’ means ‘a server-side video editing environment application for editing cue points that enables remote cue point editing by a client over a public network, as opposed to local cue point editing using a local client application.’” Req. at 10 (citing Sur-reply at 2). WellcomeMat is wrong, both in its characterization of its claim construction arguments and in its belief that the Board ignored its prosecution history citations.

First, WellcomeMat mischaracterizes the position it presented in the IPR—it expressly did **not** seek a construction for the claimed VEE, and certainly did not argue for disclaimer based on the prosecution history. Rather, WellcomeMat’s POR included a section entitled “Claim Construction,” which blanketly asserted that “Patent Owner interprets all claim terms in accordance with their ordinary and customary meaning consistent with the intrinsic evidence.” POR at 4.

Second, during WellcomeMat’s presentation at the oral hearing, the Board specifically acknowledged it **had** reviewed and considered WellcomeMat’s citations to the prosecution history but **rejected** them, finding such citations relevant towards non-challenged claim 1 only and inapplicable towards challenged claim 13:

JUDGE MURPHY: Well one of the difficulties I have, right, to me this comes down to a claim construction issue. Because Claim 1 includes the receipt of the cue point editing command, and the modifying step as being configured within the VEE.

Claim 13 does not recite it that way. And that's Petitioner's point as I understand it.

...

And that's [*i.e.*, Claim 13 is] a broader implementation than Claim 1. **And I also want to make a record, I did read, more than once, your citations to the prosecution history.** ... Because you're [*i.e.*, WellcomeMat is] basing your claim construction argument on that. That was addressing Claim 1, not Claim 13. ... I want to understand why Claim 13 is not broader than Claim 1 in that aspect which is what Petitioner is saying.

Record of Oral Hearing (Paper 39), 44:8-45:2 (emphases added), 45:3-20 (discussing "page 111 of the prosecution history" and referencing Ex. 1010 ('286 Patent prosecution history)); *see also* POR at 13-14 (citing Ex. 1010, pp. 111-13).

Therefore, far from "ignoring" the prosecution history, the Board in fact explicitly acknowledged its consideration of WellcomeMat's citations to the prosecution history but **rejected** them as inapplicable and irrelevant to the challenged claims. As such, Director Review of this issue should be denied.

V. **Conclusion**

WellcomeMat's Director Review Request is unavailing and should be denied.

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a true and correct copy of this Petitioner's Response to Patent Owner's Request for Director Review to be served via electronic service by email at the following addresses:

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