

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

VIZIO, INC.,

Petitioner

v.

MULTIMEDIA TECHNOLOGIES PTE. LTD.,

Patent Owner.

Case No. IPR2024-00722

U.S. Patent No. 9,232,168

PATENT OWNER PRELIMINARY RESPONSE

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. BACKGROUND	3
A. The '168 Patent.....	3
B. Petitioners' Cited References	6
1. Lider (Ex. 1005).....	6
2. Eibl (Ex. 1006)	8
III. PETITIONER'S PROPOSED CLAIM CONSTRUCTION VIOLATES 37 CFR § 42.104(b)(3).....	8
IV. EVEN IF PETITIONER'S PROPOSED CLAIM CONSTRUCTION WAS PROPER, THE PRIOR ART DOES NOT TEACH "A DIFFERENT USER INTERFACE DEVICE" UNDER ITS ORDINARY AND CUSTOMARY MEANING.....	13
V. CONCLUSION	15

EXHIBIT LIST	
2001	Claim Construction Order in <i>Multimedia Technologies PTE. Ltd. v. LG Electronics Inc.</i> , No. 2:22-cv-0494-JRG-RSP (E.D. Tex. June 30, 2024)
2002	VIZIO's Claim Construction Brief in <i>Multimedia Technologies PTE. Ltd. v. VIZIO, Inc.</i> , No. 2:23-cv-00124-JRG-RSP (E.D. Tex. Aug. 1, 2024)
2003	Exhibit A to VIZIO's Claim Construction Brief in <i>Multimedia Technologies PTE. Ltd. v. VIZIO, Inc.</i> , No. 2:23-cv-00124-JRG-RSP (E.D. Tex. Aug. 1, 2024)

I. INTRODUCTION

Multimedia Technologies PTE. Ltd. (“Multimedia” or “Patent Owner”) submits this Preliminary Response to VIZIO, Inc.’s (“VIZIO” or “Petitioner”) Petition challenging claims 1-7 and 10-15 of U.S. Patent No. 9,232,168 (the “’168 Patent”).

The Board should deny institution because VIZIO’s Petition does not comply with 37 CFR § 42.104(b)(3)’s requirement to set forth “[h]ow the challenged claim is to be construed.” While it is ordinarily acceptable for a Petitioner to construe all terms according to their “ordinary and customary” meaning to those skilled in the art, here, a District Court found the term “a different user device” to be indefinite under its ordinary and customary meaning. Ex. 2001, 21-25. Thus, when Petitioner proposes that the term “a different user device” be accorded its ordinary and customary meaning, Petitioner proposes that the term is indefinite. *Compare Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) with *Ebates Performance Marketing, Inc. d/b/a Rakuten Rewards v. International Business Machines Corp.*, IPR2022-00439, Paper 11 at *8-9 (PTAB October 3, 2022) (denying institution because Petitioner violates 37 CFR § 42.104(b)(3) by proposing a construction that it knows to be invalid). An indefinite construction is improper in an IPR. *Cochlear*

Bone Anchored Solutions AB v. Oticon Medial AB, 958 F.3d 1348, 1359 (Fed. Cir. 2020) (“Where a claim contains a requirement that must be met by any device or process within its scope, and the meaning of that requirement is entirely unknown, the claim cannot be compared to the prior art for purposes of an invalidity analysis, and so that analysis cannot be conducted.”).

In addition, even if Petitioner’s proposed construction was proper, the District Court’s claim construction analysis explicitly states that, under its ordinary and customary meaning, a “‘user interface device’ cannot be any one of a navigation bar, a menu, a button, a captioned picture, or any arbitrary element of the user interface.” Ex. 2001, 24. VIZIO’s Petition, however, explicitly relies on prior art navigation bars, menus, and other user interface elements for the claimed “different user interface device.” Pet., 29-33. Prior art navigation bars, menus, and user interface elements obviously cannot suggest the claimed “user interface device” if these elements must be excluded from the scope of the term “user interface device.”

For these reasons, the Board should decline institution.

II. BACKGROUND

A. The '168 Patent

The '168 Patent describes “[a]n intelligent television [that] can provide various interfaces for navigating processes associated with providing content.” Ex. 1001, abstract. According to the '168 Patent, “[t]here is a need for an Intelligent TV with intuitive user interfaces and with seamless user interaction capability.” Ex. 1001, 1:66-67. In an exemplary embodiment that seeks to provide the needed intuitive user interfaces, “the user may select the movies user interface device 2204, shown in user interface 2200 of FIG. 22A. This selection then causes a new user interface to be provided.” Ex. 1001, 45:19-23.

This interface is shown by Fig. 22A:

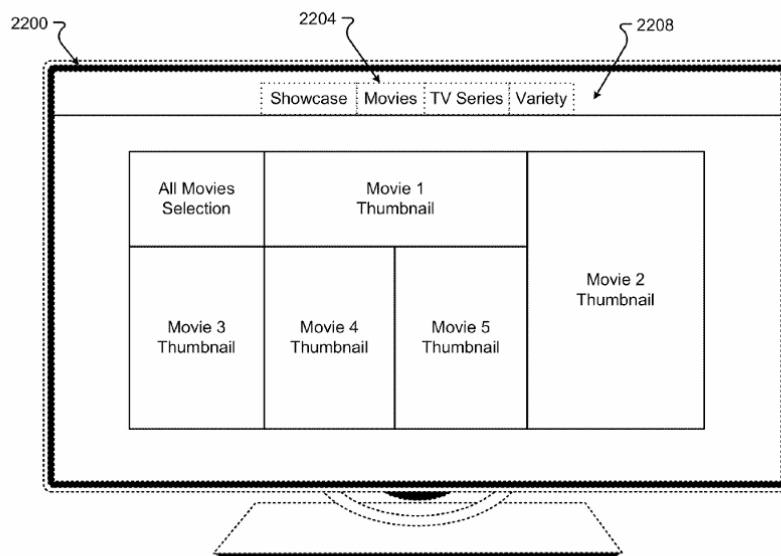


Fig. 22A

In certain instances, a navigation bar may not fit into a banner area: “the navigation bar 2208, in FIG. 22A, is a single banner navigation bar across the top of the screen with only four different user interface devices that may be selected by a user. However, if the content of that navigation bar is too great to be provided over the banner area, as shown in FIG. 22A, the user interface may have to change to another user interface 2212, as shown in FIG. 22B.” Ex. 1001, 45:26-34.

In those instances, the '168 Patent provides an algorithm for displaying the navigation bar in a different manner: “Here, the navigation bar 2216 is displayed vertically as a series of user selectable devices arranged in rows. These rows are provided because the navigation bar could not displayed across the top of a banner

with the amount of information that needs to be provided in the navigation bar.

Therefore, the panel manager 536 can determine the format and characteristics of the user interface, the content in the navigation bar, and/or what other information needs to be provided, in step 2116. These characteristics determine the location of the navigation bar and how the navigation bar may be navigated. In step 2120, the panel manger 536 determines if the user interface, based on its format and characteristics, can contain the navigation bar based on the navigation bar's content and format, in step 2120. In some circumstances, the panel manger 536 must determine the space available for the navigation bar in the banner section of the user interface, or another section of the user interface, and the amount of content that needs to be displayed by the navigation bar. Based on the available space and the amount of space needed, the panel manager 536 can determine if the navigation bar can be displayed in certain situations or in certain locations.” Ex. 1001, 45:32-57.

The modified user interface is shown by Fig. 22B:

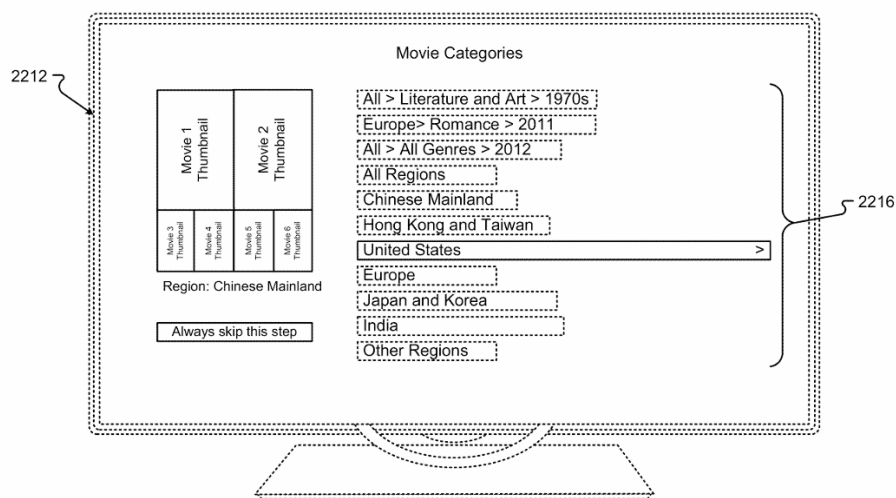


Fig. 22B

B. Petitioner's Cited References

The Petition asserts two grounds of invalidity: Ground 1 challenging claims 1-7 and 10-15 under 35 U.S.C. §103 based on U.S. Patent 9,158,440 to Lider (“Lider”); and Ground 2 challenging claims 1-7 and 10-15 under §103 based on Lider and U.S. Patent Pub. No. 2009/0222771 to Eibl (“Eibl”).

1. Lider (Ex. 1005)

Lider describes “a method [which] includes causing a display of a portion of a data presentation within a view in a graphical interface, where different portions of the data presentation are displayable [and] determining at least one current state of the device, and causing a display of one or more information areas within the

view based on the current state, including determining a display mode from available display modes for each of the information areas.” Ex. 1005, abstract.

For example, Lider Figure 2 shows a user interface that “includes a displayed window 202 within the GUI”:

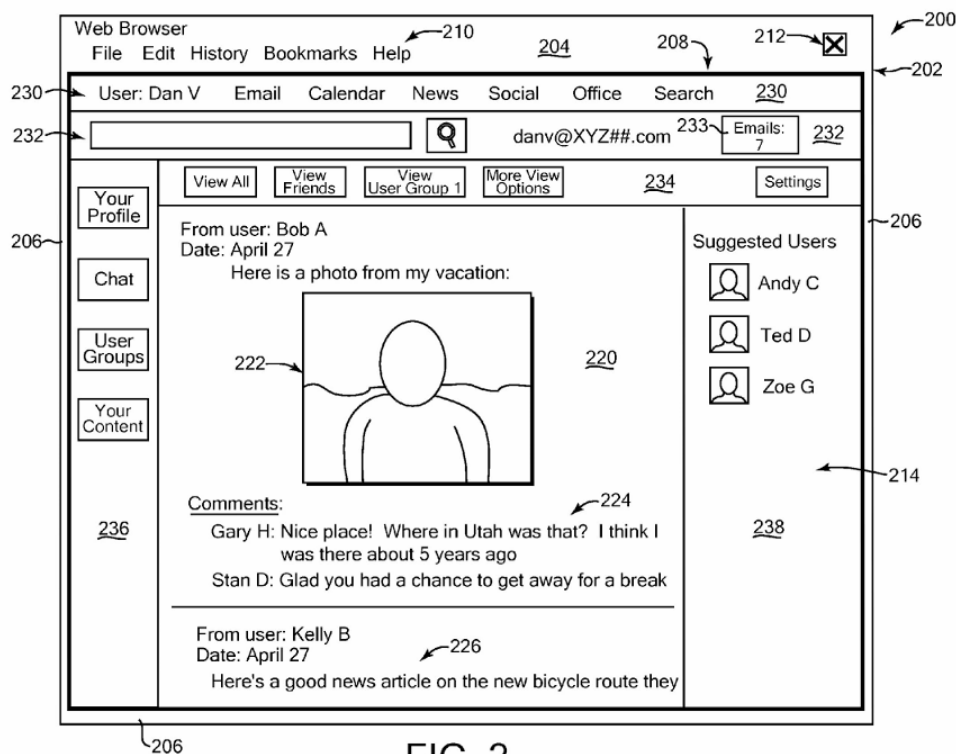


FIG. 2

“The web page 214 displayed in view 208 also includes several ‘information areas’... some information areas are implemented as ‘toolbars’ which include various user-select able controls and information which the user viewing the web page 214 can select or view...In this example, both horizontal and vertical toolbars

are displayed in the view 208. The horizontal toolbars include a function toolbar 230, a search toolbar 232, and a group view tool bar 234. The vertical toolbars include a navigation toolbar 236 and a right side toolbar 238.” Ex. 1005, 7:28-47.

2. Eibl (Ex. 1006)

Eibl describes a measuring device for a display device. Ex. 1006, abstract. The measuring device adapts a display device that can display several dialogs simultaneously. Ex. 1006, [0007]-[0008]. Input fields or drop-down menus may provide trigger types for the measuring device. Ex. 1006, [0028] (“The input fields 10, 11 are drop-down menus. The input field 12 is a checkbox. If the input field 10 or 11 is selected, a list of selection options for the trigger type or the source of the trigger signal of the measuring device 100 is rolled down.”).

III. PETITIONER’S PROPOSED CLAIM CONSTRUCTION VIOLATES 37 CFR § 42.104(b)(3)

Petitioner proposes that all terms in the ’168 Patent be construed according to their ordinary and customary meaning to those skilled in the art under *Phillips*. Pet., 14 (*citing Phillips*, 415 F.3d at 1303). The District Court in the related litigation, however, found the ordinary and customary meaning of the term “different user interface device” to be indefinite. Ex. 2001, 21-25.

In its Claim Construction Order, the District Court was initially troubled by the lack of antecedent basis for the term “user interface device” in independent claims 1 and 10:

“[Defendant] responds that ‘a different user interface device’ is more akin to the oft-used ‘user interface’ even though the appendage of the word ‘device’ means the inventor intended to claim different things. Yet the claims do not introduce a first ‘user interface device’ which the ‘different user interface device’ must be different from. For that reason, [Defendant] argues that this term lacks antecedent basis and must be found indefinite.”

Ex. 2001, 22.

Upon review of the intrinsic evidence, the Court then determined that the terms “user interface” and “user interface device” have different meanings and a “user interface device” is a subset of a “user interface,” but excluded navigation bars and menus:

“[T]he Court agrees that the claims and the specification both use the terms ‘user interface’ and ‘user interface device’ in a way that imparts different meanings. In addition to the phrases using slightly different wording, claim 1 introduces ‘a user interface’ in the preamble and later introduces ‘a second user interface’ while consistently referring back to their respective antecedents by the proper usage of ‘the user interface’ and ‘the second user interface.’ Both uses identify the ‘user

interface’ as a display in an intelligent television that receives selections from a user. This is supported by the specification... ‘User interface device,’ however, only appears once in claim 1 and the meaning is less apparent. In its briefing, Multimedia suggests it means an alternative to ‘a horizontal navigation bar.’ Yet, the specification provides a different context. With reference to FIG. 22A, ‘four different user interface devices’ are identified in the ‘single banner navigation bar across the top of the screen...that may be selected by a user.’ An example of a ‘user interface device’ is the ‘movies user interface device 2204, shown in user interface 2200 of FIG. 22A.’ And in FIG. 22B, ‘the navigation bar 2216 is displayed vertically as a series of user selectable devices arranged in rows [that] are provided because the navigation bar could not be displayed across the top of a banner with the amount of information that needs to be provided in the navigation bar.’ From that description, the user interface devices appear not to be the navigation bar but are instead each of the user selectable buttons.”

Ex. 2001, 23-24.

Returning to the usage of “user interface device” in the claims, the District Court determined that it could not discern the scope of “user interface device” in a manner consistent with the specification:

“Having heard the parties’ arguments and reviewed the briefing, the Court finds that ‘user interface device’ cannot be any one of a

navigation bar, a menu, a button, a captioned picture, or any arbitrary element of the user interface and still impart meaning. Especially because a menu is also equated with a ‘user interface’ in the specification such that it is indiscernible what subset of the user interface, if any, is the user interface device. Neither party contends that this term has a commonly understood meaning known in the art and it is rendered utterly ambiguous by the inconsistent applications in the intrinsic evidence. Thus, the clear and convincing weight of the evidence shows that the usage of ‘user interface device’ in the claim and in view of the intrinsic evidence, as emphasized by counsel’s argument, has no discernable meaning and therefore fails to inform with reasonable certainty those skilled in the art about the scope of the invention. Accordingly, the Court finds this term to be indefinite.”

Ex. 2001, 24-25.

VIZIO was aware of the District Court’s Claim Construction Order and finding of indefiniteness. Ex. 2002, n.1 (Petitioner representing to the District Court that “VIZIO is aware of this Court’s claim construction ruling in *Multimedia Technologies Pte. Ltd. v. LG Electronics Inc. et al.*, No. 2:22 cv-494, Dkt. 93 (E.D. Tex. June 30, 2024).”); Ex. 2003. Indeed, the Consolidated Trial Practice Guide (“CTPG”) obligates VIZIO to submit the District Court’s construction to the Board. CTPG, 47 (“Submission of a prior claim construction determination is

mandatory under 37 C.F.R. § 42.51(b), if it is relevant information that is inconsistent with a position advanced by the party during the proceeding.”). Nonetheless, VIZIO proposes that “different user interface device” be accorded its ordinary and customary meaning—which it knows the District Court determined to be indefinite—without explaining why the term is definite despite the District Court’s construction or providing an alternate, definite construction. VIZIO has thus not met its burden under 37 CFR § 42.104(b)(3).

Because VIZIO advances an indefiniteness construction, the Board should deny institution of the Petition for failing to comply with 37 CFR § 42.104(b)(3). *See* 37 CFR § 42.104(b)(3) (The Petition must set forth “[h]ow the challenged claim is to be construed.”); *Ebates*, IPR2022-00439, Paper 11 at *8-9 (PTAB October 3, 2022) (denying institution because Petitioner violates 37 CFR § 42.104(b)(3) by proposing a construction that it knows to be invalid). Here, like in *Cochlear Bone*, a factfinder has determined that the scope of a claim term is unknown, and the Board cannot conduct an invalidity analysis that requires comparing a claim of unknown scope with the prior art. *Cochlear Bone*, 958 F.3d at 1359 (“Where a claim contains a requirement that must be met by any device or process within its scope, and the meaning of that requirement is entirely unknown, the claim cannot be compared to the prior art for purposes of an invalidity analysis,

and so that analysis cannot be conducted.”). Under these circumstances, institution should be denied. *Id.*

IV. EVEN IF PETITIONER’S PROPOSED CLAIM CONSTRUCTION WAS PROPER, THE PRIOR ART DOES NOT TEACH “A DIFFERENT USER INTERFACE DEVICE” UNDER ITS ORDINARY AND CUSTOMARY MEANING

Even if Petitioner’s proposed construction was proper, the Petition nonetheless fails to show that the prior art teaches or suggests “a different user interface device.” As discussed in Section III above, in finding the term “a different user interface device” indefinite, the District Court expressly rejected any argument that “a different user interface device” means a navigation bar, a menu, or any other element of a user interface. Ex. 2001, 24 (“[T]he Court finds that ‘user interface device’ cannot be any one of a navigation bar, a menu, a button, a captioned picture, or any arbitrary element of the user interface”). Thus, prior art navigation bars, menus, and user interface elements cannot teach or suggest “a different user interface device.”

The Petition, however, exclusively relies on prior art navigation bars, menus, and user interface elements to suggest the claimed “different user interface device.” Pet., 29-33. For example, the Petition alleges that Lider suggests a “different user interface device” because it discloses “horizontal and vertical toolbars” and other

“panels and windows”: “Lider discloses displaying ‘a different user interface device’ than a horizontal navigation bar by *disclosing ‘both horizontal and vertical toolbars’* are displayed within the view 208’, and that ‘[o]ther types of information areas besides toolbars can be displayed in the view 208, *such as ‘windows or panels’* displaying controls and/or status information...in any desired configuration and/or position within the view 208.” Pet., 29. But Lider’s toolbars, windows, and panels are obvious types of navigation bars, menus, and user interface elements, and thus cannot be “different user interface devices” under its ordinary and customary meaning. The Petition also alleges “Lider further discloses rendering ‘a different user interface device’ by teaching the display of a ‘reduced display form’ of a *toolbar* that fits within the bounds of a view.” Pet., 30-31. This again is an example of a navigation bar or menu, which was definitively excluded from the construction of “different user interface device” by the District Court.

The Petition simply does not identify any prior art element corresponding to the claimed “different user interface device” other than navigation bars, menus, and other user interface elements. But these elements are not “user interface devices” under the term’s ordinary and customary meaning as found by the District Court. Thus, the Petition has not shown that the prior art discloses or suggests a “different user interface device” as claimed.

V. CONCLUSION

For the reasons set forth above, the Board should deny institution because the Petition violates 37 CFR § 42.104(b)(3) by proposing an indefinite construction for the term “different user interface device” and fails to show that the prior art teaches or suggests this element.

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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITS

This Patent Owner's Preliminary Response (the "POPR") consists of 2,636 words, excluding table of contents, table of authorities, certificate of service, this certificate, or table of exhibits. The POPR complies with the type-volume limitation of 14,000 words as mandated in 37 C.F.R. § 42.24. In preparing this certificate, counsel has relied on the word count of the word-processing system used to prepare the paper (Microsoft Word).

Respectfully submitted,

/Minghui Yang/

Date: August 26, 2024

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the following documents were served by electronic service, by agreement between the parties, on the date below:

**PATENT OWNER'S PRELIMINARY RESPONSE
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