UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIZIO, INC.,
Petitioner,

v.

MULTIMEDIA TECHNOLOGIES PTE. LTD.,
Patent Owner.

Case IPR2024-00723
U.S. Patent No. 9,578,384

PATENT OWNER'S SUR-REPLY

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I. INTRODUCTION

For the reasons discussed below and previously in the Patent Owner Response, Challenged Claims 2 and 5 recite a specific order of steps. The Petition never alleged that the prior art performed the steps in the order recited. The Board should thus confirm their patentability.

II. THE PRIOR ART DOES NOT SUGGEST THE CLAIMED ORDER OF STEPS RECITED BY CLAIMS 2 AND 5

The Patent Owner Response explained that claims 2 and 5 recite a specific order of steps that must be performed in the order written. Paper 20, 11-14. Petitioner's Reply agrees that at least the "first selection," "second selection," and "third selection" must be performed in that order, but argues that the remaining "fourth selection" and the "fifth selection" "lead[] to a branching path depending on the user's action." Paper 23, 8. But this is not what claims 2 and 5 say – Petitioner's argument is inconsistent with the explicit claim language.

The relevant steps recited in claim 2 are:

> "receiving a fourth selection of an episode in the digest view; and in response to the fourth selection, providing a player to present the episode to the user;
>
> receiving a fifth selection of a user interface device to play the movie or single show; and in response to the fifth selection, providing a player to present the movie or single show to the user;"

’384 Patent, claim 2.

“[R]eceiving a fifth selection of a user interface device to play the movie or single show” is ***not*** a conditional step – claim 2 does not condition “receiving a fifth selection of a user interface device to play the movie or single show” on whether the third selection is for a series or for a movie or single show. Instead, claim 2 is explicitly written such that the fifth selection always occurs. By contrast, claim 2 explicitly requires “provid[ing] the digest view” only “if the selection in the collection view is for a series,” and requires “provid[ing] the detail view” only “if the selection in the collection view is for a movie or single show.” The omission of any condition from the “fifth selection” when conditions are found in other claim steps is a strong indication that the applicants intended the claims to perform the “fifth selection” without a condition. *Liebel-Flarsheim Company v. Medrad, Inc.*, 358 F. 3d 898, 909 (Fed. Cir. 2004) (“The omission of reference to a pressure jacket in many of the claims of the applications that matured into the ’669 and ’261 patents is a strong indication that the applicants intended those claims to reach injectors that did not use pressure jackets.”). The language of claims 2 and 5 simply do not match Petitioner’s “branching path” theory. Thus, the claim steps must be read in order, not in the alternative.

Petitioner’s reliance on the embodiment shown in Fig. 18 is unavailing. It is axiomatic that each claim need not cover every embodiment. *SIMO Holdings Inc.,*

v. Hong Kong uCloudlink Network Technology LTD, 983 F.3d 1367, 1378-79 (Fed. Cir. 2021). Here, claim 1 – without the fourth and fifth selections – already recites the branching path shown in Fig. 18: "the order includes a master view at a top level, a collection view at a second level, either a digest view or detail view at a third level, and a player view at a fourth and bottom level." Claims 2 and 5, by their explicit language, recite a further embodiment of presenting an episode based on a fourth selection of an episode and then presenting a movie or single show based on a fifth selection of a movie or single show.

Furthermore, the discussion of the functionality of the "user interface device" in col. 46-47 of the '384 Patent provides written description support for what the claim language explicitly requires. The '384 Patent provides ***examples*** of how a user interface device may select between a series, a movie, or a single show. Paper 20, 13-14. Contrary to the Reply at 10-15, Multimedia has not imported any limitations from the specification into the claims. Rather, the claim language of claim 2 and claim 5 themselves require the order of steps by their logic and grammar, and the specification's disclosure of navigation using the user interface device provides the written description support of how the claimed embodiment required by the order of steps works. The order of steps is required by the logic and grammar of claim 2 and 5 and consistent with the teachings of the specification.

The Patent Owner Response explained that the theories presented in the Petition do not match the required order of steps. Paper 20, 26-28. The Reply does not dispute that the theories presented in the Petition do not meet the order of steps. Paper 23, 26. Instead, the Reply raises a new and different theory for the first time, using teachings never cited by the Petition. This is improper and distinguishable from the cases cited by the Reply's footnote 5. The Reply raises a new and different argument, not "expand[s] a previously raised argument." *Rembrandt Diagnostics, LP v. Alere, Inc.*, 76 F.4th 1376, 1383-84 (Fed. Cir. 2023). Furthermore, the Reply's reliance on Dr. Surati's testimony is also improper. Dr. Surati testified as to Netflix's current functionality, not the functionality prior to the Critical Date.

The Petition never addressed how the prior art suggests performing the "fifth selection" after the "fourth selection." Petitioner thus has not met its burden of showing the claimed order of steps to be obvious.

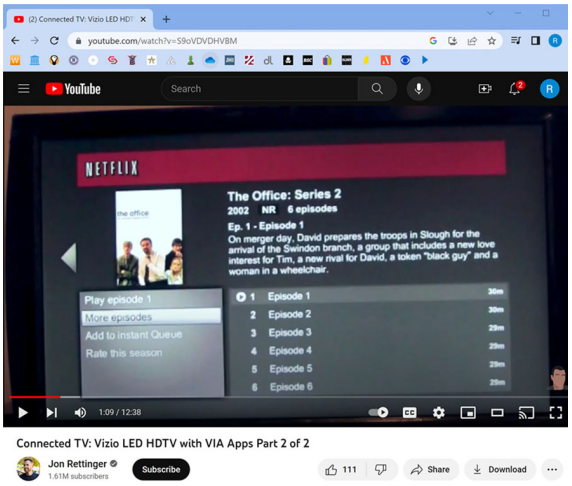
III. THE PRIOR ART DOES NOT SUGGEST CLAIMS 1, 2, AND 11

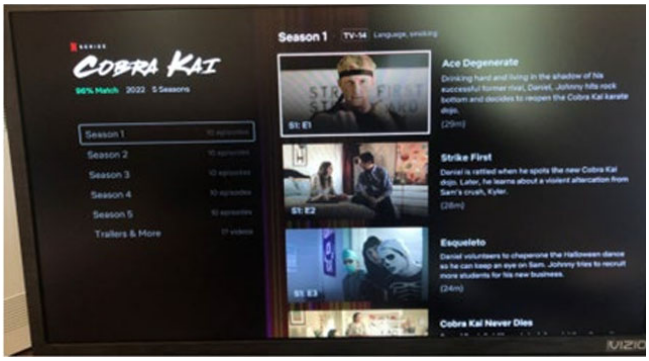
As explained in the Patent Owner Response, "providing either a detail view or a digest view of VOD content" should be construed as providing either a detail view that is not a digest view or providing a digest view that is not a detail view. Paper 20, 14-17, 19-26. This is the unambiguous meaning of the word "either": "either" means "presenting a view that is either a detail view or a digest view, not presenting a view that can be both a detail view and a digest view. The word 'either'

requires that the provided 'detail view' and 'digest view' are mutually exclusive and precludes providing any view that can be both a detail view and a digest view in response to the third selection." Paper 20, 15. The Reply argues against this construction but never explains how else to construe the word "either." Paper 23, 2-6. Nor could it, because even Petitioner's expert agrees that, under the plain language, "either" does not mean "both." Paper 20, 17. Petitioner has not proffered ***any*** construction for this term, so Patent Owner's plausible construction should be adopted. *Ultramercial, Inc. v. Hulu, LLC,* 722 F.3d 1335, 1349 (Fed. Cir. 2013) ("the district court should[] require the defendant to establish that the only plausible construction was one that[] rendered the [claim unpatentable].").

The Reply's argument that Fig. 35 of the '384 Patent permits both views under the claim language is also wrong. Paper 23, 20. Not every embodiment needs to be claimed. *SIMO Holdings*, 983 F.3d at 1378-79. Here, Fig. 35 provides one embodiment of a digest view that does not implicate the "either / or" language recited by the claims. The '384 Patent shows other example digest views, such as Fig. 18, that does implicate the "either / or" language recited by the claims and does not show information about a single episode. '384 Patent, 45:32-42. The word "either" is unambiguous on its own, and embodiments in the '384 Patent support this reading.

Nor are Multimedia's Infringement Contentions from the underlying VIZIO litigation inapposite with this construction. There, the identified digest view includes information about each of multiple different episodes in the digest, rather than only the details of single episode or show, as in the prior art, and as shown below. *Compare* Ex.1011, 1:09 (TechoBuffalo 2 screen, left, asserted "digest view") *with* Ex.1023 (Multimedia's Infringement Contentions), 7 (right, accused "digest view":





Given that providing either a detail view or a digest view excludes providing a view that is both a detail view and a digest view, the Patent Owner Response explained that the Petition failed to show this element obvious because every alleged digest view provided by the prior art was also a detail view. Paper 20, 19-26. Thus, the prior art provides ***both*** a detail view ***and*** a digest view, rather than ***either*** a detail view ***or*** a digest view as claimed. *Id*. The Reply argues against Patent

Owner's proposed construction, but provides no explanation for how the prior art suggests this element if "providing either a detail view or a digest view of VOD content" is properly construed to exclude providing views that are both detail views and digest views.

Petitioner thus has not met its burden to show how "providing either a detail view or a digest view of VOD content" is obvious under the proper construction.

IV. CONCLUSION

For the reasons in the Patent Owner Response and above, Petitioner has not shown by a preponderance of the evidence that the challenged claims are unpatentable.

Respectfully submitted,

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Date: June 27, 2025

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITS

This Sur-Reply consists of 1,771 words, excluding table of contents, table of authorities, certificate of service, this certificate, or table of exhibits. The Sur-Reply complies with the type-volume limitation of 5,600 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: June 27, 2025

CERTIFICATE OF SERVICE

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

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