

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CUB ELECPARTS INC.

Petitioner,

v.

ORANGE ELECTRONIC CO., LTD.

Patent Owner.

IPR2024-00744
Patent No. 8,031,064 C3

**PATENT OWNER'S SUR-REPLY TO PETITIONER'S
REPLY TO PATENT OWNER'S PRELIMINARY RESPONSE**

TABLE OF EXHIBITS

Exhibit	Description
2001	Mitchell1, “Tire Pressure Monitoring Systems Guide,” 2007 (excerpt)
2002	File History – <i>Ex Parte</i> Reexamination No. 90-012,430
2003	File History – <i>Ex Parte</i> Reexamination No. 90-013,169
2004	File History – <i>Ex Parte</i> Reexamination No. 90-014,362
2005	IPR2021-00383, Decision Denying Institution (Paper 8)
2006	U.S. Patent No. 6,927,679 to Taguchi et al. (“Taguchi”)
2007	U.S. Publication No. 2006/0208864 to Nantz et al. (“Nantz”)
2008	U.S. Patent No. 6,920,785 to Toyofuku
2009	Appeal Notice, Taiwan IP Court to the Supreme Administrative Court
2010	Certified Translation of Appeal Notice (Ex-2009)
2011	Reply Brief filed January 30, 2006 in U.S. Application No. 10/716,121
2012	September 2024 Email from Board

The Board authorized Petitioner to submit a 7-page Reply to Patent Owner's Preliminary Response (Paper 6, "POPR"), limited to addressing the POPR's § 325(d) analysis on the cumulative nature of the cited art (*i.e.*, the analysis of Becton, Dickinson factors (a), (b) and (d) found in pages 28-40 of the POPR). Ex-2012. Petitioner's Reply (Paper 9), however, exceeds the Board's authorization in both size¹ and scope², and should therefore be disregarded.

In its § 325(d) analysis, the POPR explains that the Tang/Lemense combination "add[s] nothing materially different from the art of record" and "still

¹ Although the Reply appears to satisfy the 7-page limit authorized by the Board, this is because the Reply utilizes a 13/13.5-point Times New Roman font throughout, single-spaced footnotes, and single-spaced and non-indented block quotes, all in violation of 37 C.F.R. § 42.6(a)(ii)-(iii). *See, e.g.*, Reply at 2-4, 6. This is the third time Petitioner has violated these rules (*see, e.g.*, POPR at 1, fn 1 and Paper No. 8 (less than 14-point font in 16 pages of text)), despite Patent Owner previously pointing out Petitioner's font violation. POPR at 1 (fn1). Had Petitioner complied with the 14-point font size and line spacing requirements, the Reply would exceed the 7-page limit.

² Reply does not cite or respond to the POPR's § 325(d) analysis on pages 28-40.

fail[s] to show the ‘judging consistency’ and ‘old identification’ limitations deemed missing from the art of record, for the same reasons repeatedly identified by the Office—and unaddressed by the Petition—in confirming patentability of the Challenged Claims.” POPR at 30.

Regarding the material *old identification* limitation, the POPR states that Ground 1 is cumulative because it “does not cite to any portion of any reference,” but “offers only unsupported attorney argument that ‘[t]ypically, an OEM tire pressure sensor (that is ‘the old tire pressure detector’) has only the ID programmed into it as part of the factory installation.’” POPR at 30 (quoting Petition at 63, 66). Petitioner’s Reply does not address or respond to this point.

Instead, the Reply mischaracterizes the POPR’s § 325(d) evaluation as being based on “Tang’s universal sensor... including plural manufacturer’s codes, thus allegedly being cumulative to Nantz.” Reply at 1. Not so; the POPR’s § 325(d) analysis does not mention Tang’s manufacturer’s codes, but responds directly to the Petition and its absence of any citation to the art for this feature. POPR at 30. Thus, the Reply’s straw man arguments regarding Tang’s plural manufacturing codes are irrelevant. Anyway, it is Petitioner and not Patent Owner that relies on Tang’s manufacturing codes in its flawed analysis for *other* claim limitations, incorrectly synonymizing these codes with Lemense’s detector ID. Petition at 45;

Ex-1007 at 6 (“Note that the Tang patent uses the term ‘manufacturers’ codes’ while the Lemense patent uses the term ‘ID code.’ Both terms relate to the identical sensor identification code”). The POPR simply replies to this misrepresentation of the art. POPR at 48-49, fn2.

The Reply also raises new arguments, including that because Lemense teaches reading *an* ID from the old sensor, this means that the sensor stores “only” that ID.³ Reply at 3. First, this new argument is not responsive to the POPR’s § 325(d) analysis and the Reply simply ignores that Lemense has already been considered and applied by the Office on multiple occasions, including all three reexaminations and the Autel IPR. POPR at 19, 28. Second, Lemense’s teaching is also cumulative with Nantz, which too discloses reading a singular ID (“an ID”) from the old sensor. Ex-2007 at [0030]; *see also* POPR at 12 (quoting Ex-2004 at

³ Petitioner’s “new matter”/support argument (Reply at fn1) is also a *new* argument beyond the authorized scope of the Reply, and is irrelevant to both the § 325(d) analysis and the request for *inter partes* review where such challenges are not permitted. Further, contrary to the Reply’s *new* argument otherwise, the ‘064 Patent (unlike the cited references) does provide support for replaceable detectors that store only a single ID. *See, e.g.*, Ex-1001 at 4:29-32.

1379). The prior art evidence of record establishes that reading a single ID does not mean that the old detector stores “only” that ID. *Id.*; *see also* POPR at 47-48. To be clear, in all of these references, there is no suggestion of the old sensor storing *only* the old ID as claimed. To compensate for this deficiency, the Petition offers nothing more than unsupported attorney argument that “[t]ypically, an OEM tire pressure sensor (that is ‘the old tire pressure detector’) has only the ID programmed into it as part of the factory installation.” Petition at 63, 66 (quoted by POPR at 30). By omitting any evidence or teaching in the art, the Petition fails to present non-cumulative art as relates to the *old identification* limitation. POPR at 30, 37-38.

Next, regarding the *judging consistency* limitation of Grounds 2 and 3, the POPR explains that the relied upon teachings of Lemense and, in the alternative, Matsui offer no more than the previously considered Toyofuku and Nihei references. POPR at 31-37. In all cases, the prior art’s verification of the input ID omits a consistency check. POPR at 33-34 (Table 3).

With respect to Lemense, Petitioner’s Reply ignores the entirety of the POPR’s § 325(d) analysis (POPR at 31-37), opting instead to present additional straw man arguments formulated loosely from the POPR’s general overview of the reference (POPR at 19-22). Reply at 3-5. At most, the Reply parrots the Petition’s

argument that “because Lemense discloses a service tool that both sets a sensor’s ID and then receives a signal including that ID to confirm the sensor’s functionality, this means that the service tool checks consistency of the ID.” POPR at 35 (citing Petition at 49-50); Reply at 4 (“...interrogation of the new sensor...”). The POPR already addresses this “interrogation” teaching. POPR at 31-32, 35-36, 39-40. As previously explained yet ignored in the Reply, Lemense’s interrogation to confirm the sensor’s functionality is “cumulative of Toyofuku’s previously-cited verification process, which similarly discloses a service tool... that writes an old ID into a new sensor and receives a response signal including the ID to verify completion of the input, and which similarly lacks a consistency check for the ID.” POPR at 32; *see also id.* at 35 (quoting Ex-2004 at 1496). The Reply does not explain how Lemense’s verification is materially different from Toyofuku’s. Reply at 3-5. Indeed, Lemense’s verification is even further removed from the claims because, unlike Toyofuku, it does not even verify input of the ID but only verifies the accuracy of the sensor’s pressure measurement functionality. POPR at 32, 52-53 (quoting Ex-1004 at 3:17-36). On this point, the Reply offers no rebuttal.

Finally, with respect to Matsui, the Reply argues that this reference is not cumulative with Nihei because “Nihei merely returns a confirmation signal, not the

newly programmed ID as in Matsui.” Reply at 6. Petitioner is incorrect; at no point does Matsui suggest that its input verification returns “the newly programmed ID.” Instead, Matsui only discloses that “it is determined whether or not a response has been returned from the transmitter.” Ex-1005 at [0034]. In other words, the verification is based on whether a response is received, not on whether the response includes the newly programmed ID. POPR at 56-58.

Nevertheless, Petitioner argues that the only transmitter signal content described in Matsui includes the transmitter's ID. Reply at 5-6. This content, however, is with respect to a ***different*** signal, *i.e.*, the transmitter's pressure/temperature measurement reporting signal ***sent to the car controller's*** receiver 5 as opposed to the ***distinct*** ID input verification response signal (which does not include any of the measurement or ID content of the reporting signal) ***sent to the setting device*** 8. Ex-1005 at [0021], [0034]. In other words, that the reporting signal includes the ID and measurement data does not mean that all other signals include the same.

Anyway, whether or not Matsui's verification signal includes the newly input ID is irrelevant to the § 325(d) analysis. This is because the previously-considered Toyofuku reference includes the newly input ID in its verification signal. POPR at 33 (citing Ex-2008 at 5:58-67). As the Office has repeatedly

found, such verification of the input ID does not teach a consistency judgment.

POPR at 32, 35-36 (quoting Ex-2004 at 1496 and Ex-2005 at 21).

Nevertheless, Petitioner *newly* argues that Lemense and Matsui are not cumulative with Toyofuku because the latter's programming is via a wired connection and therefore there is no need to verify the input ID. Reply at 7. Petitioner's unsupported attorney argument is without merit; Toyofuku explicitly teaches verification of the newly-input ID, the Office previously considered this verification, and the Office found it deficient not on the basis of wired vs. wireless, but because verifying the ID does not mandate a consistency judgment against the old ID. POPR at 32, 35-36 (quoting Ex-2004 at 1496 and Ex-2005 at 21).

Petitioner's Reply, like the Petition, fails to establish that the Tang, Lemense and Matsui combinations teach anything more than Toyofuku's verification of a newly input ID. A consistency check against the old ID is absent from all. For at least this reason, the Petition's art and analysis is cumulative with those previously considered by the Office on multiple occasions, and the Board should decline to institute review pursuant to § 325(d).

Respectfully submitted,

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September 17, 2024

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the attached Patent Owner's Sur-Reply is being served by electronic mail on the following counsel of record:

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/William Mandir/

Date: September 17, 2024