

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TESLA, INC.,
Petitioner

v.

AUTONOMOUS DEVICES, LLC,
Patent Owner

Case: IPR2024-00745
U.S. Patent No. 11,663,474

**PATENT OWNER'S MOTION TO STRIKE PORTIONS OF
PETITIONER'S REPLY**

I. INTRODUCTION

Pursuant to authorization granted via email April 29, 2025, PO moves to strike portions of Petitioner’s Reply (Paper 19) containing new argument and evidence. PO’s Response (Paper 13) presented arguments regarding claims 56 and 57—which received barely over two pages of discussion in the Petition (Paper 2) regarding Ground 1A (Buibas-Sinyavskiy) (Pet., 41-44), and even less than that regarding Ground 2C (Grotmol-Buibas) (*id.*, 80-82). As explained below in Section III, many of the arguments/evidence found in the Reply are simply not found in the Petition.

II. LEGAL STANDARDS

“It is of the utmost importance that petitioners in the IPR proceedings adhere to the requirement that the initial petition identify ‘with particularity’ the ‘evidence that supports the grounds for the challenge to each claim.’” *Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016) (citing 35 U.S.C. §312(a)(3)). In an IPR, a reply may only respond to arguments raised in the corresponding opposition, patent owner preliminary response, patent owner response, or decision on institution. 37 C.F.R. § 42.23(b). When a petitioner’s reply “raises new issues, is accompanied by belatedly presented evidence, or otherwise exceeds the proper scope of reply,” the appropriate remedy is a motion to strike. PTAB Consolidated Trial Practice Guide (“TPG”), 80 (Nov. 2019).

III. ARGUMENT

A. New argument and evidence are improper under 37 C.F.R. § 42.23(b)

Petitioner introduced several new arguments and pieces of evidence that were not presented in the Petition nor are responsive to arguments raised in the Patent Owner Response. *See, e.g.*:

- Reply at 9 (stating “a POSITA would have understood, or at least found obvious, that a network merge in Buibas would involve a merge of the neural networks themselves—including but not limited to the weights of the networks.”). The Petition’s discussion of claim 56 in Ground 1A contains only one statement about what a POSITA would have found obvious: “Accordingly, it would have been understood and obvious to a POSITA that the parents to a merged network that forms a partition of a brain image on the first device can be trained on separate devices, e.g., a second device and a third device, by respective users ... such that the inputs to the offspring brain image on the first device are correlated with commands [] for operating both the second device and the third device.” Pet., 42. That statement in the Petition has nothing to do with obviousness of merging neural networks themselves, including, but not limited to, weights.

- Reply at 10 (citing Ex. 1031 at 8:33-45 and stating “[t]his understanding is further supported by a related patent application, filed by a co-inventor of Buibas, that explains how the ‘entire designs’ of networks are copied and

the networks themselves are merged.”). Petitioner was free to include in the Petition whatever arguments or supporting evidence it wanted regarding network merges, but the above argument and evidence are new. Petitioner should not be allowed to supplement its cursory arguments after PO’s Response has identified their flaws.

- Reply at 12-15 (new argument and evidence regarding Buibas’ “partitioned neuromorphic apparatus” with reference to Buibas Fig. 11D, and also citing Figs. 11A and 11C). While the Petition mentioned Buibas’s disclosure of a “partition” of a brain image (Pet., 41-42), it is silent regarding a “partitioned neuromorphic apparatus” and does not cite or discuss Buibas Fig. 11D. The Reply’s arguments/evidence regarding the “partitioned neuromorphic apparatus” of Fig. 11D (beginning at page 12 of Reply, “To this point...” and continuing to the end of Section II.A.3 on page 15) are improper new argument/evidence. Petitioner had ample opportunity in its Petition to cite and discuss any desired portion of Buibas.

- Reply at 15 (argument about “non-interleaved merges in which the system produces a partitioned brain image comprised of individual parent networks integrated into separate portions of the offspring image”). The Petition states that ““non-interleaved’ network merges can be used ‘to combine capabilities of two (or more) parents or to add a capability to one of the parent network,” Pet., 42, but does not say anything about “individual parent networks integrated into separate portions of the offspring image.” Therefore, the above Reply argument is a new argument.

- Reply at 16-17 (new argument and evidence regarding “re-training”).

The Reply states at the bottom of page 16 that “[a] POSITA would have known how to perform re-training if desired, and Buibas explains that continual training can be performed to further improve performance of the brain image.” That argument is not found in the Petition’s discussion of claim 56 for Ground 1A.

- Reply at 18-19 (“[M]erely because a ‘merge’ at its lowest/most granular level is carried out by combining weight vectors does not mean that the merge does not also provide a combined set of instruction sets at the output of the merged network.”). The Petition mentions network merges but does not state that a network merge provides a combined set of instruction sets at the output.

- Reply at 19 (stating that “a POSITA would have understood and found obvious from Buibas that merging weight vectors serves to combine the capabilities of the parents by weighting connections between the input and output neurons such that the output neurons would be configured to produce outputs corresponding to the capabilities of the parents, e.g., instructions sets for operating a second device and additional instruction sets for operating a third device”), 21 (“Based on Buibas’ teachings, a POSITA would have recognized, and found obvious, that when the parents to a merged brain image are networks that have been trained by different users on different devices (i.e., a second device and a third device), the instruction sets produced by the merged brain image are instruction sets for operating each of

the different devices by different users.”). The Petition’s discussion of claim 56 in Ground 1A contains exactly one statement about what would have been “obvious,” and a simple look at it shows that it is quite different from the above new arguments about what a POSITA would have allegedly understood and found obvious.

- Reply at 24 (new argument and evidence regarding what Petitioner is relying on for obviousness). The Petition relied on modifying Grotmol’s system in view of Buibas. Pet., 81 (“To the extent it is argued or determined that Grotmol does not expressly disclose ... , these features nonetheless would have been obvious when further considering the teachings of *Buibas*.”) (emphasis added). The Reply mentions Grotmol’s disclosures and now (changing course) relies on *Grotmol*’s disclosures for obviousness. Reply at 24 (“As Dr. Janet explains, this *predictable* situation would have been expected and *obvious* to a POSITA reviewing *Grotmol*’s *disclosure*, as it would allow multiple devices to gain the benefit of *Grotmol*’s *capabilities* for sharing and updating training configurations. [] The *predictable* result would be ...”) (emphases added). This is a new obviousness argument.

IV. CONCLUSION

For the reasons set forth above, PO requests the Board to strike the arguments and portions of evidence set forth above.

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Respectfully submitted,

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CERTIFICATION OF SERVICE

The undersigned hereby certifies that a copy of this **PATENT OWNER'S MOTION TO STRIKE PORTIONS OF PETITIONER'S REPLY** has been served on Petitioner via email on the following counsel of record for Petitioner:

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