UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TIKTOK INC..

Petitioner,

v.

CELLSPIN SOFT, INC.,

Patent Owner

IPR2024-00769

U.S. Patent No. 9, 900,766 B2

Before GREGG I. ANDERSON, CYNTHIA M. HARDMAN, and MICHAEL A. VALEK, *Administrative Patent Judges*.

[CORRECTED] PATENT OWNER SUR-REPLY

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TABLE OF EXHIBITS

Number	Description
2001	Declaration of Pavan M. Gajendragad
2002	Petitioner's District Court Disclosures
2003	Cohen
2004	Harrison
2005	Joint Claim Construction Statement
2006	2007 CCNA Cisco Certified Network Association Study Guide
2007	WAPARCH
2008	MMS 1.0 Specification Excerpts
2009	IrDA - OBEX Version 1.3
2010	Book Excerpts
2011	'030 File Wrapper
2012	Book Excerpts
2013	'766 File Wrapper
2014	'121 Patent Notice of Allowance
2015	'381 Patent Notice of Allowance
2016	2003 Bluetooth Specification, Version 1.1
2017	Website Excerpts
2018	MIT Article
2019	Wikipedia Page
2020	Oracle Document

2021	Wikipedia Page
2030	Second Declaration of Pavan M. Gajendragad
2031	www.bluez.org/bluetooth-21-devices/
2032	https://everymac.com/systems/apple/iphone/iphone-faq/iphone-bluetooth-support-by-model.html
2033	www.gsmarena.com/apple_iphone_3g-2424.php
2034	2006 Cisco IOS WAP Gateway document, at page 2 figure 1

I. INTRODUCTION

The Reply filed by Petitioner TikTok fails to overcome the numerous defects as identified in Patent Owner's Response.

II. ARGUMENT

A. The District Court Claim Construction Facts Are Undisputed and Accurately Recounted in Patent Owner's Response

The record below is not in dispute and, despite Petitioner's complaints, the claim construction synopsis provided by Patent Owner is accurate. First, Petitioner acknowledges the fact that it is seeking two different claim constructions in two different forums under same *Phillips* standard. The only "dispute" here centers on the math underlying Petitioner's and Patent Owner's views of what constitutes an individual contested claim term.

In any event, the District Court ruled on the stay well *after* the filing of the Patent Owner Response in the instant matter, and it has zero effect on the agreed-to terms via the normal Local Patent Rule disclosure procedure. At the end of the day, of course, *consistency must still apply*.

In *Cambridge Mobile Telematics, Inc. v. Sfara, Inc*., IPR2024-00952, Paper 12 (P.T.A.B. Dec. 13, 2024), the PTAB denied the petition and provided important guidance on the procedural requirements for IPR Petitions and, in particular, it emphasized the need for *consistency between IPR proceedings and parallel litigation.* The very same result should occur in the instant action.

B. The Claim Construction Positions of the Patent Owner Remain Consistent

Petitioner offers no reason to deviate from the definitions it has previously suggested for a number of terms, not to mention those for which it has previously agreed to in the District Court. Of course, "[c]laim terms must be construed the same way for both invalidity and infringement." *Amgen Inc. v. Hoechst Marion Roussel, Inc.,* 314 F.3d 1313, 1330 (Fed. Cir. 2003); *see also Amazon.com, Inc. v. Barnesandnoble.com, Inc.,* 239 F.3d 1343, 1351 (Fed. Cir. 2001) ("A patent may not, like a nose of wax, be twisted one way to avoid anticipation and another to find infringement").

1. Along With

In its Reply at 9, Petitioner wrongly alleges that: "there is no evidence from the intrinsic record that suggests a reason to depart from that ordinary meaning."

But the Patent Owner Response clearly provided such justification, as it focused on "in addition to" because the text in the '802 application specification at [0047], used similar language. As noted, [0047] says: "along with additional information" and also says "additional information such as …transferred along with." Both the Patent Owner Response and Mr. Gajendragad highlighted that specific disclosure.

The Board should adopt "in addition to" but can also adopt "together with." But "along with" cannot be construed as "inside." In Takahashi, the "User ID" is

embedded "inside" the filename. The User ID of Takahashi is *not* sent "in addition to" the filename, nor is it sent "together with" the file name. The claims plainly require that the User ID and File be separate. In the related IPR2024-00770 and IPR2024-00769, when arguing that a "file" is an "object," Petitioner and its technical expert have taken the directly contradictory position that "filename" is inside a "file header" that is part of the "file data." *See* IPR2024-00770 Reply at 17. If filename is inside the file and inside the file header structure of the file, then filename cannot be "along with," "in addition to" or even "together with" the file, if it is already a part of the file data inside and being part of the file header data. *See* Second Gajendragad [Exh. 2030] at ¶ 74.

Considering both example sentences for "together with" in the Merriam Dictionary, it is clear that: (i) Bill was not hidden "inside" the merchandise, and (ii) He was not "inside" several colleagues.

The context in the '802 disclosure is very clear that all the things envisioned by the patentee to be sent "along with" cannot be "inside" the file name. *See* Second Gajendragad [Exh. 2030] at ¶ 75.

A proper application of the intrinsic evidence from the '802 application and/or the Merriam Dictionary definition of "along with" as "in addition to" thus reveals the inadequacy of Petitioner's Ground Two of Takahashi and Na.

2. Object

In its Reply at 5, Petitioner purports to distinguish between "new data object" and "object." Of course, the operative term to construe here is "object," unless Petitioner now wants the Board to construe the terms "new" or "data." The arguments from Petitioner are mere attorney argument, and the obvious term to be construed in the "new data object" phrase is simply "object."

In its original Response, Patent Owner cited to the 2005 Microsoft Dictionary, the Bluetooth OBEX specification, Wikipedia, and other sources. Petitioner, on the other hand, has not cited any authority that says "Object" and "file" are the same, other than their own attorney arguments.

Further, Petitioner tries to rely on MTP to refute Patent Owner's position, but such arguments fail. The Microsoft 2006 document clearly says that, even in MTP, *the Object is different from a File*. Still further, in MTP, "object" has three (3) separate components. *See* TTI-1040, 18; *see also* Second Gajendragad [Exh. 2030] at ¶¶ 77-78.

It is abundantly clear to POSITA that even in MTP, there are different definitions for "file" and "object."

On its Reply at 8, Petitioner says that Patent Owner "is incorrect and misstates the teaching in the figure." Of course, Patent Owner does NOT misstate anything about the figure in question, because it is clear that with "Object Push"

you can push both small data and file. But with "File Push" you can only send files, not small amount of data, encapsulated as an object. Hence "Object Push" and "File Push" are different. More importantly, for an "Object Push" to send the file, the file is first converted to an Object. *See* Second Gajendragad [Exh. 2030] at ¶ 79. In any event, Petitioner does not propose any definition for "object."

Petitioner's new theory asserts, without any evidence, that filename is used as a reference (pointer) to the "file data" in the file header. It further asserts that somehow "[t]his mapping applies to CellSpin's constructions because a file is a structure for organizing data, and it has value (the picture) and an identifier (filename)." Without any evidence, Petitioner further states that the value "file data" in the file is either "referenced" or is an "intra-object references" by the "filename" inside the file header as required by MTP definition. This assertion is unsupported and incorrect. For example, there is zero evidence that says any file format (*e.g.* RFC of JPEG or RFC of PNG) uses "filename" as a "reference" or a "intra-object references" (pointer) to "file data" in the "file header." Petitioner offers no evidence because none exists. There is NO file type where "file-data" is referenced (or is considered "intra-object references") by a filename in the file header, and Petitioner fails to show otherwise. *See* Second Gajendragad [Exh. 2030] at ¶ 80.

Given the correct construction of "object," there is no need to evaluate the Petition any further. Petitioner offers zero evidence of Object creating, as "file" is different from an "object." Further, Petitioner has not shown any evidence of "filename" being considered the "intra-object references" inside the file header by any file format.

C. Mr. Gajendragad

Petitioner points out that Mr. Gajendragad was mistakenly identified as "Dr. Gajendragad" by Patent Owner. This fact is simple noise and does not have any bearing on the merits.

Petitioner further makes much of the fact that Mr. Gajendragad is an acquaintance of the named inventor of the challenged patents. While this is obviously true and readily admitted, it is likewise irrelevant to the merits. Plainly, the experience of Mr. Gajendragad speaks for itself, and his opinions are set forth with specificity and subject to cross examination. It is telling here that Petitioner failed to elicit any testimony from Mr. Gajendragad which contradicts or undermines his opinions.

Again, every statement from Mr. Gajendragad is backed by solid evidence and exhibits. The same cannot be said for Petitioner expert, who has himself abandoned his original theories and came up with new theories..

D. Ground 1: Singh ’129 in View of Singh ’906 Fails

1. The claims of the ’766 Patent do not rely on any disclosure from Singh ’906

The original Petition for Ground One relied on the combination of Singh ’906 and Singh ’129. As noted, Patent Owner has clearly established the fact that there is no reliance on any disclosure from Singh 906 for any Challenged Claim of the ’766 Patent. Now, rather than pointing out what text in Singh 906 was purportedly relied on for any claims of the ’766 Patent, Petitioner offers a new theory about “inherency.” More specifically, Petitioner at page 13 of its Reply now says “the cited passages do not ‘necessarily’ disclose the user identifier” and “identification of other features does not satisfy the written description requirement.” Petitioner has no rebuttal for the fact that the original Response showed that Examiner himself entered that limitation in his NOA and the Examiner clearly understood the specification. In its Reply brief, Petitioner has abandoned all other arguments and now just focuses on the fact that term “user identifier” is not verbatim in the specification and somehow “Jane’s private blog” in the specification should not be considered private, simply because its expert says so. These arguments do not withstand scrutiny. From the perspective of a POSITA, the multiple mentions of “user,” “identifier,” “user publishing information,” “user preferences,” “segment identifier,” “system disclosed herein enables Jane to,”

"publish," and "to Jane private blog," in Singh129 mean exactly what the last two claim limitations recite, as obviously understood by the Examiner. Of course, "the specification need not use the exact claim language" if it conveys possession." *Centrak, Inc. v. Sonitor Technologies, Inc.,* 915 F.3d 1360, 1366 (Fed. Cir. 2019). Just as in the instant case, the *Centrak* specification described components and operations, conveying possession of the claimed invention. Here, the Examiner NOA vindicates that fact.

2. Examiner understanding and deference

In its Reply, the Petitioner fails to address a critical factor in this case; namely, the Examiner's clear understanding of the integrated disclosure, as evidenced by the Notice of Allowance. The Examiner's inclusion of claim limitations is compelling evidence that the Examiner viewed the disclosure as enabling for "user identifier" and user data for "private consumption." In fact, the Examiner's analysis was not a result of hindsight but was based on a careful review of the record. The PTAB functions as a reviewing body, meaning it should afford deference to factual findings made by patent examiners. For example, the Supreme Court in *Teva Pharmaceuticals USA, Inc. v. Sandoz, Inc*., 574 U.S. 318 (2015) held that subsidiary factual findings made in patent claim construction must be reviewed under the "clear error" standard rather than *de novo*. The Court emphasized that when reviewing extrinsic evidence, appellate bodies must defer to

lower factual findings unless clearly erroneous. Of course, the Examiner is presumed to have the perspective of a POSITA, and his views from that perspective are instructive. *See In re Sang Su Lee,* 277 F.3d 1338, 1345 (Fed. Cir. 2002). Further, a factual finding should not be disturbed as long as it was supported by substantial evidence. *See, e.g., Dickinson v. Zurko*, 527 U.S. 150, 164 (1999). In view of the foregoing, the findings of the Examiner should be credibly viewed as supporting the factual determination that the disclosure was properly enabled.

E. Ground 2A: Kahn in View of Bluetooth Fails

1. Pairing was optional in Bluetooth as of 2007, and the Bluetooth 2.1 Specification was non-enabled prior art as of December 2007

By way of its Reply, Petitioner fails to provide any rebuttal to the *Raytheon Technologies Corp. v. General Electric Co.* (2021) Bluetooth 2.1 Specification enablement issue as raised by Patent Owner. Of course, Petitioner has not, and cannot, make a showing that *any* device had actually implemented or enabled the relevant portions of the Bluetooth 2.1 Specification before the December 2007 priority date. This is unsurprising, since no such devices existed. *See* Exhibit 2031; *see also* Second Gajendragad [Exh. 2030] at ¶ 14.

The established priority date for the Challenged Claims is December 2007. The Bluetooth 2.1 Specification was released in July 2007, yet as of August 2008,

"no Bluetooth 2.1 device made it to market." While some devices had Bluetooth 2.1 capable chips in August 2008, the host stacks still ran Bluetooth 2.0, meaning manufacturers had not yet implemented Secure Simple Pairing features. *See* Exhibit 2031. Even the most expensive phone released in July 2008 only supported Bluetooth 2.0 with EDR – not Bluetooth 2.1. *See* Exhibit 2032; *see also* Exhibit 2033; *see also* Second Gajendragad [Exh. 2030] at ¶ 15. As such, the Bluetooth 2.1 Specification should be excluded as **non-enabled prior art.**

This implementation delay demonstrates that merely defining a new technology standard does not make it immediately functional or enabled for practical use. This aligns with *Raytheon Technologies Corp. v. General Electric Co.,* 993 F.3d 1374 (Fed. Cir. 2021) (non-enabled prior art cannot itself establish obviousness). Here, there were no devices in December of 2007 that implemented the Bluetooth 2.1 Specification, and Petitioner has not otherwise shown the Specification to have been enabled. As such, all Petition grounds relying on the Bluetooth 2.1 Specifications and devices fail.

Similarly, the mere fact that the prior art may be modified in the manner suggested does not make the modification obvious unless the prior art suggested the desirability of the modification. *See In re Gordon,* 733 F.2d 900, 902 (Fed. Cir. 1984). Applying this to Bluetooth 2.1, the mere presence of thousands of theoretical configurations in a standard does not mean each one was enabled or

desirable, and the fact that manufacturers required a full year to implement Bluetooth 2.1 features suggests that the specification was not enabling upon release in July 2007.

Moreover, Petitioner is incorrect by suggesting (at 14 of its Reply) that: "[a] paired connection is the default type of connection for Bluetooth 2.1+EDR." Of course, Petitioner fails to offer any evidence or citation to any Bluetooth specification text. On the other hand, Patent Owner has previously shown that "pairing" and "authentication" are one of the 15 options in the Bluetooth connection.

Petitioner fails to recognize the fact that there are *many* types of pairings in Bluetooth: Secure Simple Pairing, Simple Pairing, LMP-Pairing, and Pairing. Not only is pairing OPTIONAL, to opt for what kind of pairing, is also optional. As shown below (TTI 1019, page 10, 20, 25, 26), neither Pairing or Secure Simple Pairing is a default in Bluetooth 2.1, and certainly Petitioner fails to show otherwise. Instead, the Reply merely focuses on Secure Simple Paring, without accounting for the fact that there are many kinds of pairing in the Bluetooth 2.1 Specification. *See* Second Gajendragad [Exh. 2030] at ¶ 59.

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Petitioner's expert erroneously states (at page 16) that "unsecure communications are only present in the Bluetooth 2.1 for backward compatibility," without any citation to the Bluetooth specification and without realizing that the optional security features were *always* present in Bluetooth. Moreover, Petitioner's expert fails to realize that security and pairing are not required for the majority of everyday scenarios, which require openness with Bluetooth beacons, ad sensors, external and industrial sensors, etc. *See* Second Gajendragad [Exh. 2030] at ¶ 60.

Furthermore, the text in the Bluetooth 2.1 Specification for Security Mode 4 (TTI-1019, 1273, 1286) as relied upon by Petitioner actually says as follows (*see* Second Gajendragad [Exh. 2030] at ¶ 16):

> When both devices support Secure Simple Pairing, GAP shall default to requiring an unauthenticated link key and enabling encryption.

First, Petitioner fails to realize that in Bluetooth there are many types of pairings: Secure Simple Pairing, Simple Pairing, LMP-Pairing, and Pairing. Not only is pairing optional, the type of pairing is also itself optional. *See* TTI 1019, page 10, 20, 25, 26 (above) (*see also* Second Gajendragad [Exh. 2030] at ¶ 17).

Second, the conditional "when" (above) means that there are cases where both devices do NOT support Secure Simple Pairing, and Petitioner makes no showing that any device in the cited art supported Secure Simple Pairing (or even Pairing). Indeed, none of the words "pairing," "pair," or "paired" even exist in the cited art. Even today it is a well-known fact that NOT all Bluetooth devices or chips support Secure Simple Pairing or Pairing, because there are number of use cases that don't require it (*e.g.,* field sensors (temperature, location, pressure), advertising beacons, Bluetooth broadcasting, toys, etc.). *See* Second Gajendragad [Exh. 2030] at ¶ 19.

Third, the phrase "shall default" (above) is calling for "unauthenticated" and only encryption, and that too only for Secure Simple Pairing, not every kind of pairing. *See* Second Gajendragad [Exh. 2030] at ¶ 20.

Petitioner's Reply identifies "prevention of eavesdropping, as a motivation to perform Secure Simple Pairing." However, and as pointed out by Patent Owner, the prevention of eavesdropping can be readily achieved by just enabling

encryption. As such, the additional step of Secure Simple Pairing is not reasonable or required. *See* Second Gajendragad [Exh. 2030] at ¶ 21.

Even the US NIST recommendation document that came out almost one year after the priority date ONLY calls for using Security Mode 4 and the "shall default" in Security Mode 4 is still "unauthenticated." First, Petitioner cannot reply on the NIST recommendation because it is NOT prior art. Second, even if it were, NIST is only calling for a Security Mode 4 "shall default" to encryption – NOT Authentication, Authorization, or Pairing. *See* Second Gajendragad [Exh. 2030] at ¶ 22.

Even though none of the terms "pairing," "pair," or "paired" appear in Hiroshi, Kahn, Takahashi, Endsley, and/or Fineberg, Petitioner asserts that their connections are Paired. Of course, this is mere conjecture with zero supporting evidence. *See* Second Gajendragad [Exh. 2030] at ¶ 23.

Further, the Petion at 35 (of IPR2024-00768) wrongly asserts, without any evidence, the "a POSITA would have understood and immediately envisaged that camera 50 and mobile phone 40 are 'paired.'" Likewise, the Petion at 33 (of IPR2024-00767) wrongly asserts, without any evidence, that the Hiroshi "mobile phone and the camera must have been 'paired.'"

In its Reply, Petitioner asserts that there was no battery drain issue with Bluetooth because the "pairing process need only happen once for each pair of

devices," yet Petitioner has no answer for why the Bluetooth standards body had to come up with a Bluetooth Low Energy model after the 2.1 version. *See* Second Gajendragad [Exh. 2030] at ¶ 24.

While it is, of course, correct that initial pairing and exchange of link keys is only done once, devices using Bluetooth 2.1 had to expend a lot of battery energy to make sure if the paired devices are still in range (distance), reachable (interference, walls, metals), and measure signal strength (that can lead to longer reconnection times). Hence the battery drain. *See* Second Gajendragad [Exh. 2030] at ¶ 25.

Bluetooth devices utilize a process called signal strength detection to determine if a paired device is still within range. This is done by measuring the Bluetooth Received Signal Strength Indicator (RSSI). The RSSI reflects the strength of the signal received at the receiver's end, allowing devices to estimate the distance between them. If the signal strength falls below a certain threshold, the devices understand that the other is no longer within range and can disconnect. *See* Second Gajendragad [Exh. 2030] at ¶ 26.

Constant RSSI Measurements are performed to check signal strength and distance of paired devices. When a Bluetooth device is paired with another, it periodically checks the strength of the radio signal coming from the paired device at the baseband level. The constant checking of RSSI values from paired devices is

needed to figure out if and when they are out of range. Constant checking is also needed for automatic reconnection when the devices move back within range. This constant RSSI measuring and checking for paired devices keeps going whether the paired devices are in range or out of range. In view of the foregoing, the act of Pairing in Bluetooth 2.1 is NOT a one-time event as suggested by Petitioner. Rather, pairing consumes power constantly because of constant RSSI checks that drain the battery. *See* Second Gajendragad [Exh. 2030] at ¶ 27; *see also* TTI-1019, 202, 327, 764, 813, and 1308.

Finally, Petitioner wrongly asserts that in its Reply that: "Mr. Gajendragad acknowledged at his deposition that his knowledge of pairing was limited" (citing to TTI-1039, 17:8-21:8). This is a clear overstatement, as Mr. Gajendragad diligently answered all questions while occasionally noting that the proper response "depends on the implementation" (because it obviously does). These responses do nothing more than reflect an expert who seeks precision, and the inability to recite the content of a 1400-page specification does not mean knowledge is "limited." *See* Second Gajendragad [Exh. 2030] at ¶ 28.

2. Authentication is NOT part of Pairing

Patent Owner has clearly shown (in its Original Response) that Authentication is different from Pairing, and Pairing does not always mean Authentication is present. Moreover, *both* are optional. *See* Second Gajendragad

[Exh. 2030] at ¶ 29. Now, Petitioner concedes that Authentication in Bluetooth is optional, and offers zero evidence that Authentication was not optional and was always required. Petitioner also necessarily concedes that one can have an un-authenticated Bluetooth connection.

Petitioner's new theory on Authentication is based on using only Secure Simple Pairing. The Reply brief section header says: "Authentication Is Part of Secure Simple Pairing," yet Petitioner fails to realize that in Bluetooth there are many types of pairings: Secure Simple Pairing, Simple Pairing, LMP-Pairing and Pairing. Again, all those are different options and kinds of Pairing in Bluetooth. Not only is pairing OPTIONAL, to opt for what kind of pairing to implement is also optional. This is reflected in TTI 1019, page 10, 20, 25, 26. Petitioner never advances any theory as to how or why a POSITA would only use Secure Simple Pairing. To reiterate, neither Pairing or Secure Simple Pairing was a default in Bluetooth 2.1, and Petitioner has not shown otherwise. *See* Second Gajendragad [Exh. 2030] at ¶ 30.

Again, Petitioner relies on Bluetooth 2.1 for Authentication being present in Secure Simple Pairing, but there is no evidence that this was enabled as of the priority date. *See Raytheon Technologies Corp. v. General Electric Co.,* 993 F.3d 1374 (Fed. Cir. 2021); *see also In re Gordon,* 733 F.2d 900, 902 (Fed. Cir. 1984). To reiterate, the Bluetooth Specification was 1400 pages in length, and offered

countless alternatives and optional features. Petitioner now selectively identifies a specific combination using clear hindsight.

3. The Kahn Bluetooth link NOT maintained on continuous basis

Petitioner for the first time in its Reply argues: "In the context of the Kahn-Bluetooth combinations, a POSITA would have understood that to mean that the paired Bluetooth connection between the camera and the host device was maintained on a continuous basis." This is a new theory but, in any event, it is factually wrong. *See* Second Gajendragad [Exh. 2030] at ¶ 61.

In fact, Kahn does not even have the word "Bluetooth" in it; thus, the purported Kahn-Bluetooth grounds rely solely on the Bluetooth specification for the Bluetooth connections.

The known FACT is in Bluetooth 2.1 and before, connections (paired or otherwise) were NOT maintained on a continuous basis at ALL. Indeed, Bluetooth 2.1 relies on the connection interval and link supervision timeout to maintain the link connection for a specified amount of time. This was done for many reasons but one of them being the high drain on the battery on the phones with continuous connection for Bluetooth 2.1 and before. *See* Second Gajendragad [Exh. 2030] at ¶ 62.

The Bluetooth specification at the time of the inventions had a default non-continuous connection. The link supervision timeout was 20 seconds as the default,

and 40.9 seconds as a maximum. The Bluetooth-Khan connection was clearly not continuous, and could not have been continuous in 2007. *See* Second Gajendragad [Exh. 2030] at ¶ 63.

Link Supervision Timeout defines how long the Bluetooth device will wait for a response from the other Bluetooth device before assuming the connection is disconnected. The default timeout setting for disconnection in Bluetooth 2.1 (if there is no data from the other device) is 20 seconds. *See* Second Gajendragad [Exh. 2030] at ¶ 33; *see also* TTI-1019 page 578.

The remote control of Hiroshi, even if it implemented Bluetooth 2.1 (which it was not) would NOT maintain paired connection on a continuous basis. The connection would disconnect after 20 seconds of inactivity as a default and a maximum of 40.9 seconds. The assertions to the contrary by Petitioner and its expert are simply wrong, and do not reflect an understanding of basic Bluetooth 2.1 functionality. *See* Second Gajendragad [Exh. 2030] at ¶ 34.

"Connection Interval" determines how often a connection data exchange occurs, and is expressed in multiples of 1.25ms. A shorter interval means more frequent data exchange but also increased power consumption. *See* TTI-1019 page 646, 648. But it is ALWAYS less than the link supervision timeout. *See* Second Gajendragad [Exh. 2030] at ¶ 35.

A POSITA, when combining Kahn with Bluetooth 2.1, would certainly not

make it continuous because the battery on the phone and the camera would not last more than 2 hours. There is no motivation to keep the continuous connection and would make the solution inoperable for most practical applications. In fact, Kahn has a clear recommendation (at [0058]): "Such an implementation would be appropriate, for example, in cameras that exist stand-alone (*i.e.,* disconnected) from the host device for significant periods of time." Even in this text cited by Petitioner, the main recommendation for POSITA is still occasionally connected (*see* Kahn [0055]): "In the currently preferred embodiment, the camera device 310 is a stand-alone unit that is occasionally (or persistently) connected to the host device 320." The POSITA will look at the totality of the recommendation that is contrary to continuous connections, and if POSITA tried to experiment with default standard Bluetooth, the POSITA would have soon found out that the connection is disconnected after no activity is detected after 20 seconds. *See* Second Gajendragad [Exh. 2030] at ¶ 64.

In sum, Petitioner offers false arguments which make no sense in the context of Bluetooth 2.1 as of 2007.

4. Petitioner does not dispute that "timing of acquiring new data is NOT after pairing"

As pointed out by Patent Owner in its original Response, "the third glaring deficiency in Petitioner's analysis is that timing of acquiring new data is NOT after pairing." In its Reply, Petitioner fails to offer any rebuttal. Again, the claims of the

’766 Patent plainly require the data to be captured *after* pairing. Ground 2A fails.

5. Timestamp cannot be a “Signal to Notify,” because the prior GPS Request already notified the phone that camera has a new image

As pointed out by Patent Owner, “timestamp” cannot be a “signal to notify” for a variety of reasons. Petitioner responds with attorney argument without any technical support in an effort to counter the real technical facts raised by Patent Owner. The claims simply *do not* require “re notify” or “retry” “re send” or “send it twice or 15 times.” In fact, neither the claims or the specification even suggest retrying to send the notification if it fails. A POSITA understands what “notification” means, and it does not mean “renotifying” about the same image again and again. *See* Second Gajendragad [Exh. 2030] at ¶ 65.

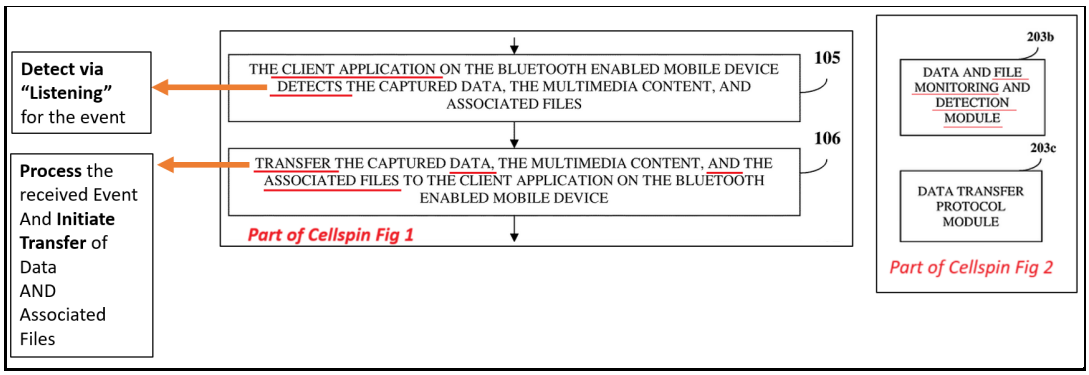
6. Kahn does NO Listening OR Processing of the Signal to Notify (Time Stamp) to transfer.

Kahn with Feinberg does NO Listening OR Processing the Signal to Notify (Extra Thumbnail) to transfer

Even if the Kahn “timestamp” was considered as a “signal to notify” for transfer (which it should not), Kahn is neither listening for nor processing the “time stamp” for transfer (as required by the claims). Similarly in Kahn-Feinberg, Kahn is neither listening for nor processing the “thumbnail” for transfer. *See* Second Gajendragad [Exh. 2030] at ¶ 66.

Petitioner further falsely suggests that the written specification does not

disclose any listening or processing. Of course, the specification clearly discloses (*see* 5:20-23 of the '847 Patent) the listening and processing the events: "A file event listener in the client application 203 listens for the signal from the digital data capture device 201" and module 203b and 203c are doing the listening and processing of the event (*see* Second Gajendragad [Exh. 2030] at ¶ 67):



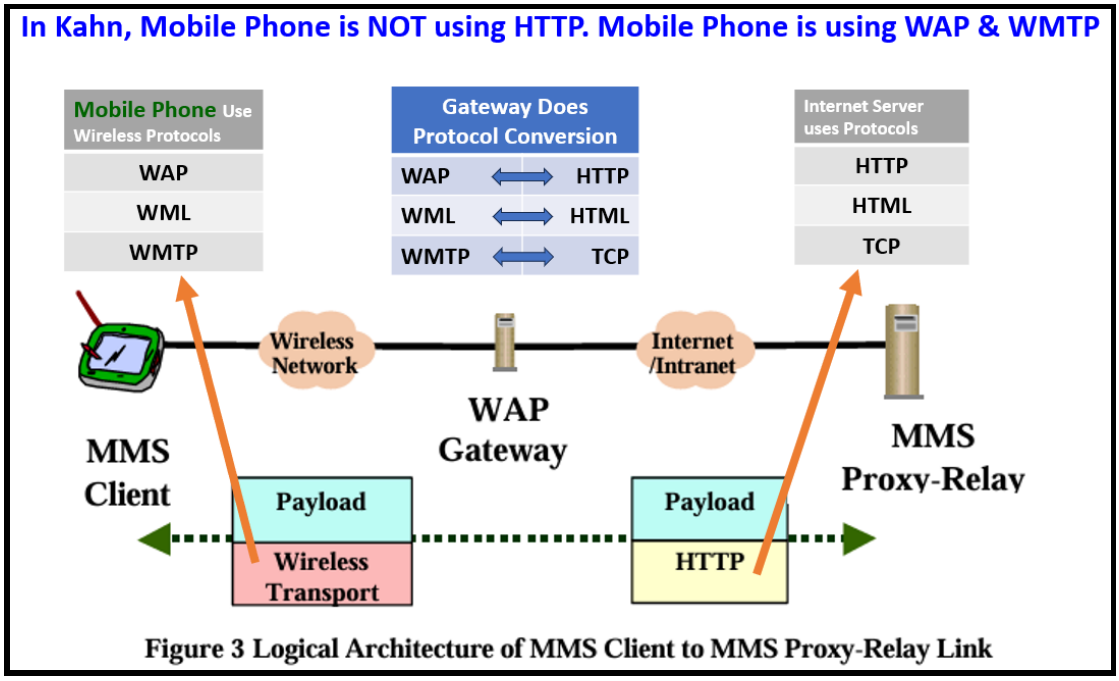
7. Kahn does not satisfy the HTTP limitations

Petitioner does not dispute what Patent Owner illustrated in its Original Response, and specifically regarding Khan Fig 5C, Fig 5D, Fig 5A, Fig 5G and how all these figures show the use of WAP and WMTP for upload and login. Rather, Petitioner only points out that in the institution decision, the Board said Patent Owner purportedly "reads Kahn too narrowly." Of course, the institution decision is not binding on this point, including because the Board did not have the benefit of Mr. Gajendragad showing in great detail how the specification talks about WAP and how the WMTP is part of the WAP architecture. Moreover, Patent Owner responded to that issue in its Original Response and explained that the

Board's misunderstanding was based on the fact that Board was not able to find WMTP anywhere else in the Text, and WMTP is part of WAP architecture. Mr. Gajendragad explained that in 2004, WMTP was part of the WAP stack and how the drafter of Kahn plainly assumes that the POSITA in 2004 was familiar with the WAP Stack and WMTP was the transport protocols for WAP.

As Patent Owner further explained in its Original Response, under no reading of Kahn would a POSITA mistake a transport protocol of WAP WMTP with HTTP for both login and upload (as shown in great detail for 5A, 5C, 5D, and 5G images in Kahn). Now, Petitioner asserts that WAP Gateways were used in the prior art, as Mr. Gajendragad noted in his deposition. Of course, Patent Owner agrees that WAP gateways were used in 2007, but this does not help Petitioner. Rather, it reinforces the point made in the Original Response; namely, that in Kahn, the use of gateway further illustrated that Mobile phone is NOT using HTTP, even if the image server uses HTTP. The claim requires the mobile software to use HTTP for upload. In the WAP gateway scenario, the mobile phone will use WAP and not HTTP. The WAP gateway will do the translation. The claims, on the other hand, require the mobile device to use HTTP. Below, Patent Owner has annotated the image relied on by Petitioner to showcase what protocols are use where and how the translation works on the WAP Gateway. Support for this WAP to HTTP translation can be found in Exhibit 2034 at page 2 figure 1. *See* Second

Gajendragad [Exh. 2030] at ¶ 52):



F. Ground 2B: Kahn in View of Feinberg and Bluetooth Fails

1. Kahn was insufficient, and Petitioner's new theory also fails

Patent Owner previously pointed out the obvious fact that Khan does not teach creating a data object that has a signal to notify for transfer. Now, Petitioner seeks to purportedly "preempt any suggestion that Kahn was not sufficient."

The claim is clear: "said processor further configured to create a new-data object, wherein the new-data object comprises: signal to notify, wherein the signal to notify corresponds to the acquiring of the new-data for transfer." Now, Petitioner suggests that the GPS in the header is *not* a signal for transfer. But by the same token, Kahn also plainly *does not say* that the additional "thumbnail" in

the header is a signal for transfer, and Petitioner has not pointed to any text in Kahn or Feinberg to suggest otherwise. *See* Second Gajendragad [Exh. 2030] at ¶ 68.

Similarly, Kahn also does NOT say "timestamp" in the header is a signal for transfer, and Petitioner points to no evidence to the contrary. *See* Second Gajendragad [Exh. 2030] at ¶ 69.

If GPS is just metadata, then so too are the thumbnail and timestamp. There is NO text in Kahn or Feinberg relating them to a "signal to notify for transfer." *See* Second Gajendragad [Exh. 2030] at ¶ 70.

2. Kahn with Feinberg does NO Listening OR Processing the Signal to Notify (Extra Thumbnail) to transfer

Patent Owner reiterates that even if the Feinberg "Extra Thumbnail" was considered as a "signal to notify" for transfer (which it should not), the Kahn-Feinberg combination is neither listening for nor processing the "Extra Thumbnail in the header" for transfer (as required by the claims). Of course, Petitioner has not cited to any text in either Kahn or Feinberg that shows listening for or processing for thumbnails as a signal to notify for transfer.

G. No Circumvention

Petitioner complains that the images in the Response are actually designed as tricks to "circumvent the word count limit." Of course, a review of the images quickly dispels such notion, as each image simply reflects facts which are otherwise stated in the brief or is offered for the convenience of the Board (as

opposed to pulling the same from the cited exhibit). None of the images contain argument, and Petitioner's objection lacks merit.

//

Date: May 26, 2025

Respectfully submitted,

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CERTIFICATION OF WORD COUNT

The undersigned hereby certifies that the foregoing complies with the type-volume limitations of 37 C.F.R. § 42.24 and contains 5,538 words, excluding those portions exempted under 37 C.F.R. § 42.24(a)(1).

Dated: May 26, 2025

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CERTIFICATION OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105(b), the undersigned certifies that on May 26, 2025, a copy of the foregoing document was served by electronic mail on the following:

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