

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC, CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS,
VERIZON CORPORATE SERVICES GROUP INC.,
T-MOBILE USA, INC., SPRINT LLC F/K/A SPRINT CORP.,
AND AT&T SERVICES, INC.,

Petitioners,

v.

Headwater Research LLC,

Patent Owner.

Case: IPR2024-00943

U.S. Patent No. 8,589,541
Issue Date: Nov. 19, 2013

Title: Device-Assisted Services for Protecting Network Capacity

PETITIONERS' REPLY

Petitioners filed a Petition requesting institution of *inter partes* review of claims 1, 91-152, 158, and 159 of U.S. Patent No. 8,589,541 (EX-1001, “’541 patent”). Paper 1. Patent Owner filed a statutory disclaimer with the U.S. Patent and Trademark Office disclaiming certain claims of the ’541 patent claim, including claim 1 and claims not challenged in this proceeding, EX-3001, but it did not file a Preliminary Response. The Board instituted review pursuant to 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a). Paper 10.

I. Petitioners Have Established the Unpatentability of the Challenged Claims

For at least the reasons set forth in the Petition, Petitioners have met their burden of establishing that the challenged claims are unpatentable. *See* Paper 1. At institution, the Board credited Petitioners’ arguments and the unrebutted testimony of Petitioners’ expert, Dr. Wolfe, regarding the unpatentability of claim 1 and its dependent claim 91, concluded that Petitioners demonstrated that Rao/Fadell teaches or discloses all limitations of claims 1 and 91, and correctly determined that a person having ordinary skill in the art would have combined Rao and Fadell with a reasonable expectation of success. Paper 10, 19-28.

After institution, Patent Owner did not make any substantive arguments, or submit any evidence, leaving Petitioners’ arguments and expert testimony unrebutted. Accordingly, the Board should maintain its initial findings regarding the

unpatentability of claims 1 and 91 and, for the reasons set forth in the Petition, cancel all challenged claims as unpatentable.

II. Patent Owner Forfeited All Substantive Arguments to the Contrary

Patent Owner has forfeited any argument that any claim is patentable by not filing a Patent Owner Response. As explained in the Scheduling Order, because Patent Owner did not raise specific arguments in a Response, any specific challenges by Patent Owner to Petitioners' grounds are deemed waived. *See* Paper 11 at 9 (cautioning Patent Owner that "[a]ny arguments not raised in the response may be deemed forfeited"); *see, e.g., Werner Co. v. Louisville Ladder, Inc.*, IPR2019-00336, Paper 34 at 39 (Aug. 24, 2020) ("Patent Owner's arguments made for the first time in its Sur-reply are waived because they were not made in the Patent Owner Response, and Petitioner relied on their absence to its detriment and was deprived of the chance to present arguments and evidence in its Reply to rebut Patent Owner's assertions.").

III. Conclusion

For the reasons above, and in the Petition, Petitioners have established all challenged claims of the '541 patent are unpatentable, and respectfully request that the Board cancel each challenged claim.

Date: March 18, 2025

Respectfully submitted,

/Erika H. Arner/

Erika H. Arner, Lead Counsel

Reg. No. 57,540

CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(c)(1), the undersigned hereby certifies that the foregoing **Petitioners' Reply** contains 435 words, excluding parts exempted under § 42.24(c), as measured by the word-processing system used to prepare this paper.

Dated: March 18, 2025

By: /Daniel C. Tucker/
Daniel C. Tucker, Reg. No. 62,781
Counsel for Petitioners

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Petitioners'**
Reply was served on March 18, 2025, via email directed to counsel of record for
Patent Owner at the following:

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Dated: March 18, 2025

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