

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARASHI VISION (U.S.) LLC (D/B/A INSTA360)
Petitioner,

v.

GOPRO, INC.
Patent Owner.

Patent No. 11,336,832

Inter Partes Review No. IPR2024-01052

**PETITIONER'S OPPOSITION TO PATENT OWNER'S
MOTION TO STRIKE**

The Board should deny GoPro’s motion to strike. Insta360 did not raise a new ground. Instead, it pointed to a combination in the Petition to address a claim construction that was raised for the first time in GoPro’s Response. The Federal Circuit approved this exact approach in *Axionics, Inc. v. Medtronic, Inc.*, 75 F.4th 1374 (Fed. Cir. 2023). Further, Insta360’s one-sentence elaboration of the obvious-to-try rationale properly addressed GoPro’s arguments in its Response.

I. PETITIONER’S REPLY DID NOT RAISE ANY NEW GROUND

A. Background

The Petition stated that “Figure 5 [] of Watanabe discloses *two* examples of visual content including distortions.” (Paper 2, 48.) The first example was “51” (“an image captured by the image sensor” as described in Watanabe) and the second example was “54” (an image with added distortion). (EX1006, FIG. 5, 11:7-9, 11:37-39.) Watanabe made clear that “an image shot using a (super) wide-angle lens such as a fisheye lens is recognized to have distortion caused by aberration” (EX1006, 9:33-35.) Thus, the Petition mapped *both* examples to “the visual content” in claim 3. (See Paper 2, 48-49 (“[t]hus, both images 51 and 54 include distortions.”); see also EX1002, ¶152.)

GoPro’s POPR did not mention Watanabe, let alone disputing the mappings above. (See Paper 6.) Nor did it propose any construction for “visual content.” Only in the POR did GoPro first try to limit the “visual content” in claim 3 to

“*original* visual content.” (See Paper 24, 17 (emphasis in the original).) As explained in the Reply, GoPro’s construction is wrong. (See, e.g., Paper 31, 2-3.) Further, as discussed below, the Reply pointed to an existing mapping in the Petition that would still meet GoPro’s new construction. (*Id.*, 22-24.)

B. Argument

The Federal Circuit has made clear that:

where a patent owner in an IPR first proposes a claim construction in a patent owner response, a petitioner must be given the opportunity in its reply to argue and present evidence of anticipation or obviousness under the new construction, at least where it relies on the same embodiments for each invalidity ground as were relied on in the petition.

Axonics, 75 F.4th at 1384. That is exactly the case here.

For the first time in its POR, GoPro contended that “visual content” in claim 3 is limited to “original visual content.” On Reply, Insta360 explained that the Thomason-Pacurariu-Watanabe combination discloses the claims under this new construction. Specifically, a POSITA would have understood—consistent with Watanabe’s explicit disclosure—that an image captured by a wide-angle lens (i.e., “original visual content”) contains distortion. (Paper 31, 19, 22-23.) Thomason further discloses horizon leveling videos captured by an amateur camera. (EX1004, [0002].) And a POSITA would have understood that such a camera

could include a wide-angle lens, which would produce distorted images (e.g., distorted image 51 in Watanabe) to be horizon-leveled. (*Id.*, 10, 22-23.) Insta360 thus demonstrated that the Thomason-Pacurariu system, when processing a distorted image captured by a wide-angle lens, such as the distorted image 51 in Watanabe, discloses claim 3-5 and 13-15 under GoPro's new construction. (*Id.*, 24.)

GoPro's reliance on *Kerry Group Services International Ltd. v. Florida Food Products, LLC*, 2023-2092, 2025 WL 582881 (Fed. Cir. Feb. 24, 2025) is misplaced. Insta360 did not advance a new ground. Rather, its argument based on the Thomason-Pacurariu system when processing a distorted image (Paper 31, 24) is encompassed by the Thomason-Pacurariu-Watanabe combination in the Petition.

GoPro concedes as much. It emphasized in the POR that Thomason discloses video cameras "frequently used by amateurs." (*See* Paper 24, 29.) Its expert Dr. Foroosh agreed that: (1) amateur cameras, such as action cameras, can have different types of lenses and (2) "wide angle camera would introduce some non-linear distortions[.]" (EX1018, 40:8-16, 41:11-17.) The ALJ in the related ITC investigation also found that "GoPro cameras were prevalent at the time of the invention of the '832 patent and [they] included fisheye lenses (i.e., lenses that cause barrel distortion)[.]" (EX1027, 165.) GoPro's own POR and expert testimony thus underscore the obviousness: using the Thomason-Pacurariu

horizon-leveling system for amateur cameras yields distortions in the original visual content. This is not a new ground.

Nor can GoPro claim any prejudice. It had multiple opportunities to address the arguments presented in the Petition and chose not to in its POR. (*See* Paper 6, Paper 24.)

II. INSTA360 WAS RESPONDING TO GOPRO’S ARGUMENTS

GoPro itself invited elaboration on the obvious-to-try rationale of the Voss-Derbanne combination. Insta360 presented this rationale in its Petition (Petition, 62), but GoPro contended that “Petitioner does not articulate what the ‘finite number of identified, predictable solutions’ are[.]” (Paper 24, 43.)

On Reply, Insta360 and its expert offered examples of well-known predictable solutions for storing video data: “For example, video data may be stored as a series of images or in a compressed format, and the associated rotational data can be stored in different formats accordingly.” (Paper 31, 32.)

GoPro incorrectly labeled that *one-sentence* elaboration as a “new theory” and a “new ground” to which it “is unable to fully respond.” (Paper 37, 4-5.) There is no “new rationale.” (*Id.* at 4.) The obvious-to-try rationale was presented in the Petition among other rationales. (*See, e.g.*, Paper 2, 62.) Nor did Insta360 present any “new ground.” The ground remains unchanged: it is still the Voss-Derbanne combination, with no added or removed references. The Reply merely

rebutted GoPro’s challenge with examples of well-known storage methods, which is proper for reply.

GoPro’s attempt to undermine the Voss-Derbanne combination on the premise that it is “limited in the length of its sur-reply” is improper. (Paper 37, 5.) Even if the Board were to strike the exemplary solutions for the obvious-to-try rationale (it should not), it should not strike the obvious-to-try rationale itself. The Petition also presented multiple rationales to combine Voss and Derbanne, which the Board preliminarily agreed with. (*See, e.g.*, Paper 2, 62; DI, 46.)

Insta360 did not present a “new obviousness [to try] theory for [c]laims 10 and 20” as GoPro contends. (Paper 37, 5.) GoPro set up a straw man by mischaracterizing the Voss-Derbanne ground (Ground 3) as a single-reference Voss ground. (*See* Paper 37, 5.) But the Petition was clear: Ground 3 is a Voss-Derbanne combination that discloses claims 1, 2, 7-12, 17-20. (*See, e.g.*, Paper 2, 8.) Importantly, the Petition presented several other rationales for combining Voss and Derbanne, in addition to obvious-to-try. (Paper 2, 62.)

III. CONCLUSION

For the foregoing reasons, Insta360 respectfully requests that the Board deny GoPro’s motion to strike.

IPR2024-01052

Dated: September 3, 2025

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I hereby certify that the attached PETITIONER’S OPPOSITION TO
PATENT OWNER’S MOTION TO STRIKE was served on the below date via e-
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