

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.

Case No. IPR2024-01052
U.S. Patent No. 11,336,832

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

I. GOPRO DID NOT RAISE A NEW CLAIM CONSTRUCTION

Contrary to Petitioner's assertion, GoPro did not advance a new "claim construction argument" for "configured." Paper 45 ("Mtn."). GoPro applied the plain meaning, consistent with arguments in the POR, to respond to Petitioner's new Reply argument that Voss's disclosure of pillar boxing satisfies the claims.

Claim 1 recites a system that is "configured" to determine a viewing window which "defin[es] extents of the visual content to be included within horizon-leveled visual content" frame-by-frame, and then "generate the horizon-leveled visual content based on the viewing window" by "including a punchout of the extents of the visual content defined by the viewing window."

The Petition's analysis of these limitation was utterly conclusory. *See* Pet. at 70-71, 73-74. Petitioner did little more than assert that the limitations are met because "in Figure 2 of Voss, the inset rectangle defines a portion of the visual content for presentation." Pet., 74; EX1002, ¶208.

GoPro's Patent Owner Response ("POR") showed that Petitioner's cursory analysis fell far short of showing that claim 1 was satisfied. The POR argued that the inner rectangle (225) of Voss identified by Petitioner was not the "viewing window" because the inner rectangle "does not define the extents of horizon leveled content that the system punches out to effectuate horizon leveling of the visual content." POR, 57. GoPro first provided a detailed analysis of the claim, arguing:

The “extents of the visual content” punched out to create the “horizon-leveled visual” is the same “extents” defined by the “viewing window” that is determined in limitation 1[d][i]. And, inclusion of the punchout of these extents is what “effectuates horizon leveling of the visual content.” Thus, put simply, the “viewing window” must bound the same content that is ultimately horizon-leveled. POR, 57.

GoPro then argued that Voss failed to meet these requirements because it teaches that that content of the inner rectangle (the purported “viewing window”) is “transformed to fit an optimal output dimension” of an “output rectangle,” resulting in “*cropping data as necessary*.” POR, 59.

In its Reply, Petitioner did not deny that content from Voss’s inner rectangle is cropped in certain orientations as the device is rotated. Rather, Petitioner introduced an entirely new argument: that in certain *other* device orientations no cropping was necessary, and the entire contents of the inset rectangle were included in the output rectangle with “letter boxing” (also referred to as “pillar boxing”), and that this was sufficient to meet claim 1. Reply, 27-28 (citing EX1007, 10:17-21). This was clearly a new argument: The Petition *never* mentioned “letter boxing” or “pillar-boxing,” and does not even cite to Voss’s disclosure of the same. *Id.*

To justify the inclusion of this new argument, Petitioner also falsely claimed that GoPro was seeking a construction of the term “including” to meaning “equating.” Reply, 1. In reality, the POR did not propose a construction of “including.” The POR merely explained that a system that generates horizon leveled visual content by displaying only a portion of the purported viewing window content as the device

rotates does not satisfy the express claim language. *See* POR, 57-59.

GoPro's Sur-Reply advances the same argument. As it did in its POR, GoPro showed that Voss does not disclose the '832 patent claims because as the device is rotated, it generates output content by "filling," which both parties agree involves cropping and thus does not "include[e] a punchout of the extents of the visual content defined by the viewing window." Sur-Reply, 18-19. GoPro also directly addressed Petitioner's new argument regarding letter boxing. GoPro explained that oscillating between filling and letter boxing as the device rotates does not change the analysis because a system that oscillates between cropping and pillar boxing is not "configured" to generate horizon leveled visual content by "including a punchout of the extents of the visual content defined by the viewing window." Sur-Reply, 19-20. GoPro did not urge any claim construction, contrary to Petitioner's argument.

Petitioner's argument that GoPro did not "discuss the language 'configured'" in its POR (Mtn., 2) is misleading, at best, because it omits to mention that Petitioner did not argue that letter boxing satisfies the '832 patent claims until Reply. While GoPro's POR discussed how Voss's system is not designed to operate in the particular way required by the claims (*i.e.*, is not configured as required by the claims), GoPro could not have anticipated that Petitioner would newly argue in Reply that the claim is satisfied by pillar boxing in only some device orientations.

Petitioner also improperly attempts to use its motion to strike to introduce new

arguments regarding the term “configured.” Petitioner’s citation to *Nevro Corp. v. Boston Scientific Corp.*, 955 F.3d 35, 41-42 (Fed. Cir. 2020), supports GoPro by confirming that “configured to” means “programmed to” operate in a particular way. *Id.* The ’832 system must be programmed to generate horizon leveled visual content by determining a viewing window that defines the extents and punching out the extents. Voss is not because it crops content as the device is rotated. Petitioner’s argument that prior art that embodies the claim “sometimes, but not always,” also fails. Voss is configured differently, it does not embody the invention “sometimes.”

I. GOPRO’S RELIANCE ON EX2004 IS PROPER

Petitioner’s Chinese patent application (EX2004) explains how “existing” solutions at the time of the ’832 patent used only a fixed-size viewing window, and attempted to patent for itself a dynamically changing viewing window size frame-by-frame. Sur-Reply, 5-6. Petitioner claim that GoPro’s reliance on EX2004 in its Sur-Reply is somehow improper is without merit. Mtn., 4. *First*, GoPro’s argument is not new. GoPro made this same argument in both its POR and POPR. POR, 76-77 (arguing that EX2004 demonstrates the nob-obviousness of “dynamically changing ‘view window size’”); POPR, 17 (“The novelty of determining a viewing window as a function of progress, and the lack of similar disclosure in Thomason, is confirmed by a Chinese patent application owned by Petitioner”). *Second*, the Sur-Reply relies upon EX2004 to rebut new opinions in the 65-page expert declaration

Petitioner submitted with its Reply. Petitioner's reply declaration newly argued that Thomason and Pacurariu disclose changing the size of the viewing window frame-by-frame (EX1019, ¶¶48-49); GoPro's Sur-Reply showed these opinions are inconsistent with Petitioner's description of the art in EX2004 (Sur-Reply, 5-6).

II. GOPRO DID NOT RAISE A NEW POSITION ON LOCATION

Claims 10 and 20 recite determining viewing window "location" frame-by-frame. Petitioner's assertion that GoPro has taken "contradictory positions" on whether the window location must change is false. The POR and Sur-Reply are consistent: determining a viewing window location at each frame requires a process allowing for change, even if the location is calculated to be the same across frames in some cases. POR, 35 ("determination of the location of the viewing window requires an algorithmic process that allows for change"); Sur-Reply, 10-11 (same).

III. GOPRO'S PROPER NEXUS AND UNMET NEED POSITIONS

GoPro's POR cited a "direct nexus" because the secondary considerations are specifically for GoPro's Horizon Leveling Feature. POR, 73-74. Petitioner replied that GoPro had not established "any presumption of nexus." Reply, 33-34. GoPro's Sur-Reply addresses this by showing, as it did in its POR, that the evidence is specifically for the Horizon Leveling Feature such that it does establish a presumption of nexus. Further, Petitioner itself invited elaboration on unmet need by arguing in its Reply that there is "no long-felt but unmet need." Reply, 35.

Date: September 30, 2025

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CERTIFICATE OF LENGTH (37 C.F.R. §§ 42.24)

The undersigned hereby certifies that this document is within the 5 pagers authorized by the Board.

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CERTIFICATE OF SERVICE (37 C.F.R. §§ 42.6(E), 42.105(A))

The undersigned hereby certifies that the foregoing document was served in its entirety on September 30, 2025 upon the following parties via Electronic Mail:

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