

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS AMERICA, INC. and
SAMSUNG ELECTRONICS CO., LTD.,
Petitioners,

v.

COLLISION COMMUNICATIONS, INC.,
Patent Owner.

Case No. IPR2024-01248
U.S. Patent No. 9,814,071 B2

AUTHORIZED RESPONSE TO DIRECTOR REVIEW REQUEST

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The Director Review process “provides a mechanism to correct [clearly erroneous fact finding] errors at the institution stage, for example, to avoid unnecessary trials for patent owners.” Director Review Process, §2.B; *Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1367 (Fed. Cir. 2016). But Samsung’s motion neither identifies any Board errors (clear or otherwise) nor seeks to avoid any unnecessary trial.

Samsung tries faulting the Board for committing “clear erroneous findings,” but the fault lies with Samsung’s Petition. First, Samsung wrongly criticizes the Board for not adopting certain positions, but Samsung’s Petition **never** even advanced those positions in the first place. Stranger still, Samsung then somehow tries to blame the Board for adopting positions that Samsung’s Petition actually **did** forward. In reality, Samsung’s motion does not seek review concerning the findings on its Petition, it seeks to completely rewrite (and contradict) that Petition.

And any such review would not somehow “avoid unnecessary trials” because the scheduled trial in the first-filed and ongoing parallel district court proceeding will finish six months **before** any FWD in the requested IPR. (*See, e.g.*, IPR2024-01248, Paper 10, 1-2.)

I. Samsung’s Burden

Samsung asserts the Board made “clearly erroneous fact findings” concerning Grounds 1-3 (challenged claims 1-11, 16, 21) and Ground 4 (only

claim 21). To meet its burden here, Samsung must first identify the supposedly misapprehended matter and where it previously raised that matter in the Petition. *See* 37 C.F.R. § 42.71(c)-(d). Further, to establish the alleged clearly erroneous fact finding, Samsung must show that the “finding is not supported by substantial evidence.” *Twi Pharmaceuticals v. Merck*, IPR2023-00049, Paper 15, 2-3.

Samsung’s motion does neither. It cannot because Samsung’s Petition did not raise the matters that are the subject of the purported erroneous findings, and those findings are supported by substantial evidence, including the Petition itself.

II. Ground 4: Samsung Improperly Argues The Board Somehow Erred By Applying And Adopting The Petition’s Own Positions

Samsung’s Request seeks review “with respect to Grounds 4-5” in their entirety, but attempts to identify a “clearly erroneous factual finding” for only Ground 4’s allegations concerning a single claim, independent claim 21. (Request at 1, 6-7). Even for this one claim, the Request fails to identify any clear error.

The Board found that Grounds 4 and 5 (based on *Baum*) against independent claim 1 and its dependent claims 2-11 and 16 did not support institution because the Petition failed to establish the required reasonable likelihood that *Baum* taught limitation 1b. (ID at 24-28). Samsung does not challenge or dispute this finding.

Instead, Samsung’s Request argues that the Board clearly erred by applying this undisputed finding regarding limitation 1b to independent claim 21. **But this**

is exactly what the Petition argues the Board should do. Namely, the Petition asserts that the analysis for claim 21 is the exact same as the claim 1 analysis for all limitations (including missing limitation 1b) except for limitation 1a (which was not the basis of the Board’s denial). (Pet. at 77). Indeed, the Petition’s **entire** claim 21 analysis is the following two sentences and chart, which assert that claim 1’s indisputably missing claim limitation 1b “mirrors” claim 21’s limitation 21a:

Claim 21 mirrors the above claim as set forth in the following chart, except that the steps in claim 21 are broader than those in claim 1, because they omit limitation 1a. Baum thus renders these claims obvious for the same reasons as above.

Claim Limitation	Corresponding Claim Limitation(s)
21pre	1pre
21a	1b
21b	1c
21c	1d

(Pet. at 77). The Board’s analysis did exactly what the Petition itself advocated:

Petitioner relies on the [*Baum*] arguments and evidence presented in the context of claim 1 when addressing claim 21. Specifically, Petitioner relies on arguments and evidence directed to limitations 1b when addressing limitation 21a. Thus, the deficiency identified in the Petition regarding claim also applies to the Petition’s analysis of independent claim 21.

(ID at 28). Samsung cannot now somehow establish the Board admitted clear error by (1) adopting the **very same position the Petition itself advocated;** or (2) by failing to make a distinction that the Petition not only never argued, but **the Petition asserted did not exist.** *E.g., SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348,

1355 (2018) (“in an inter partes review the petitioner is master of its complaint”).

And Samsung’s newly alleged distinction simply does not exist. Like claim limitation 1b—and as the Petition itself asserts—claim limitation 21a requires each transmitting node to transmit a parameter-estimating signal on an unshared said parameter channel, specifically requiring “receiving a plurality of parameter-estimating signals each on an unshared parameter channel from a corresponding transmitting node.” (EX1001, claim 21).

III. Grounds 1-3: Samsung Wrongly Faults The Board For Not Addressing A Theory Samsung Did Not Present In Its Petition

Samsung next complains that the Board did not address a theory in which *Jin*’s “**phase differences and radio channel parameters**” somehow satisfied limitation 1d’s “unique estimated signal parameters.” But as the Board thoroughly described (and supported) in its decision, the Petition presented no such theory. Rather, as the Board correctly identified and addressed, the Petition instead asserted that 1d’s “unique estimated signal parameters” were taught by *Jin*’s supposed disclosure of a “**unique pilot parameter**.” (ID, 17-19; Pet., 34).

The Board’s ID fully addressed and—with substantial support and evidence—rejected this theory (the only one presented in the Petition) because (1) although *Jin* discloses a “pilot pattern,” it does not mention or disclose the relied-upon “unique pilot parameter”; (2) *Jin*’s “pilot pattern” is not estimated and thus

could not satisfy 1d's "unique estimated signal parameters" in any event; and (3) the Petition is ambiguous and lacks particularity on limitation 1d because its reliance on some unknown "unique pilot parameter" is unexplained, unsupported, and inconsistent with the rest of the Petition. (ID at 16-20).

Samsung does not even allege, much less prove, that these findings lack substantial evidence. It could not because the findings are fully supported by the Board's analysis and cites to the Petition and *Jin* (e.g., ID at 16-20; Pet. at 34). And such support is confirmed by Samsung's Request itself, which (1) admits that the Petition identified limitation 1d's "unique estimated signal parameters" as *Jin*'s "unique pilot parameter" (**not** the now asserted "phase differences and radio channel parameters"); and (2) does not (and cannot) identify any Petition passage asserting or explaining to the Board that this "unique pilot parameter" somehow means "phase differences and radio channel parameters." (E.g., Request at 9).

Unable to identify the required lack of substantial evidence, the Request instead resorts to blaming the Board for not being able to somehow divine Samsung's unstated and unexplained current theory. But contrary to Samsung's attempt to shift the blame from its Petition to the Board, a "petitioner may not rely on a vague, generic, and/or meandering petition and later fault the Board for failing to understand what the petition really meant." *Netflix, Inc. v. DivX, LLC*, 84 F.4th 1371, 1377 (Fed. Cir. 2023).

Respectfully submitted,

Dated: April 28, 2025

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CERTIFICATE OF SERVICE

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