

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,

Petitioner,

v.

DH INTERNATIONAL LTD.,

Patent Owner.

PTAB Case No. IPR2024-01322

Patent No. 9,022,294

PATENT OWNER'S SUR-REPLY

September 22, 2025

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TABLE OF AUTHORITIES**Cases**

<i>Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.</i> , 776 F.2d 281, 294 (Fed. Cir. 1985)	4
<i>Carella v. Starlight Archery & Pro Line Co.</i> , 804 F.2d 135, 138 (Fed. Cir. 1986)	4
<i>Upjohn Co. v. Mova Pharm. Corp.</i> , 225 F.3d 1306, 1311 (Fed. Cir. 2000)	4

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TABLE OF EXHIBITS

Exhibit	Title
1001	U.S. Patent No. 9,022,294 to Gaillard <i>et al.</i> (“’294 Patent”)
1002	Prosecution History of U.S. Application No. 12/603,085
1003	Declaration of Stuart Lipoff (“ <i>Lipoff</i> ”)
1004	Curriculum Vitae of Stuart Lipoff
1005	U.S. Patent No. 6,941,156 to Mooney (“ <i>Mooney</i> ”)
1006	U.S. Patent No. 6,909,705 to Lee <i>et al.</i> (“ <i>Lee 705</i> ”)
1007	U.S. Patent No. 6,697,638 to Larsson <i>et al.</i> (“ <i>Larsson</i> ”)
1008	U.S. Patent No. 7,278,581 to Ong (“ <i>Ong</i> ”)
1009	U.S. Patent No. 8,862,393 to Zhou <i>et al.</i> (“ <i>Zhou</i> ”)
1010	U.S. Patent No. 6,931,266 to Miyoshi <i>et al.</i> (“ <i>Miyoshi</i> ”)
1011	U.S. Patent No. 6,526,287 to Lee (“ <i>Lee 287</i> ”)
1012	U.S. Patent No. 6,845,097 to Haller <i>et al.</i> (“ <i>Haller</i> ”)
1013	DH International Ltd v. Google LLC, No. 1-23-cv-01116, Order Dismissing Case (WDTX Dec. 15, 2023)
1014	Reply Declaration of Stuart Lipoff
2001	Declaration of Safwan Zaheer (“ <i>Zaheer</i> ”)
2002	Prosecution History of U.S. Application No. 7,628,333
2003	Bluetooth Specification Version 1.1, Part K:3 Cordless Telephone Profile.

On Reply, Petitioner accuses Patent Owner's arguments for elements [1.a], [1.e], [1.f], and [1.h] did not address the express mappings in the Petition" Paper 19 (Reply) p.1, but Petitioner has not provided express mappings in the Petition. Further, Petitioner's Expert is not an expert on Bluetooth, and his determination of what is an activation cue is improper and irrelevant.

I. Close Proximity Claim Term.

Petitioner discusses the Close Proximity Claim Term in their Reply. *See* Reply, pp. 6-7. The term "close proximity" has to have a meaning, as it limits the claim. Petitioner's Expert asserted that:

[C]laims 8 and 16 explain that "close proximity" is "within a range to receive the activation cue to initiate the wireless data exchange." Ex. 1001, claims 8, 16. No further construction is warranted in light of this plain language. No further construction is warranted in light of this plain language.

Exh. 1014, ¶28. On page 6 of the Reply, Petitioner makes a similar assertion that close proximity is within a range to receive the activation cue to initiate the wireless data exchange, citing the '294 Patent and claims 8 and 16. The assertions misconstrue the claims language. Using claim 8 and an example, what is claimed is "said first communication link where the cellular phone is conveyed toward a close proximity of the first external data exchange device and within a range to receive the

activation cue....” Exh. 1001, 19-20:65-1. The claim requires (1) a close proximity AND (2) within a range. Petitioner and their expert ignore the “and” in the claims and combine both elements in a single range element. Thus, close proximity is being improperly read out of the claims. Even if an argument exists for proximity being the same and range, the claim element is “close proximity” and not simply proximity. “Close proximity” must be given a meaning in the claims, and it must be different from the range term used in the claims. The Board should adopt the definition provided by the Patent Owner in the Patent Owner’s Response.

II. GROUND 1: OBVIOUSNESS OF CLAIMS 1-20 BY MOONEY

A. Mooney fails to disclose all the elements within the printed publication.

Petitioner fails in its express mappings to identify where all the elements are found within the printed publication as required by 35 U.S.C. § 311(b). 35 U.S.C. § 311(b) (“A petitioner in an inter partes review may request to cancel as unpatentable 1 or more claims of a patent only on a ground that could be raised under section ... 103 and only on the basis of prior art consisting of patents or printed publications.”). Petitioner improperly relies on Expert speculation.

The mapping of element [1.a] in the Petition, *see* Pet., pp.16-17, relies on their expert declaration, *see* Exh. 1003, ¶84. In paragraph 84 of Exh. 1003, the

Declaration relies on the Expert's view of what a POSITA would know rather than the text of the printed patent.

The mapping of element [1.e] is based upon unsupported assertions that the “294 Patent explains that its transceiver, like Mooney's receiver, is a cue receiver.” Pet., p. 26 Fn.4. The term “cue receiver” is not found in Mooney. Further, element [1.e] in the Petition, *see* Pet., pp.27-28, relies on their expert declaration, *see* Exh. 1003, ¶100, that misconstrues a Bluetooth call setup and using call quality of the communication link in an established connection as an activation cue. *See* POR, pp.25-28. In paragraph 100 of Exh. 1003, the Declaration relies on the Expert's view of what a POSITA would know rather than the text of the printed patent. The quality of a Bluetooth call that has been established is not an activation queue, and such a determination is only found in the Petitioner's Declaration and not in *Mooney* as required by 35 U.S.C. § 311(b).

The mapping of element [1.f] in the Petition, *see* Pet., pp.29-30, and 32-34, 46, relies on their expert declaration, *see* Exh. 1003, ¶¶ 103, 109-110, and 135. In paragraphs 103, 109-110 of Exh. 1003, the Declaration relies on the Expert's view of what a POSITA would know rather than the text of the printed patent as required by 35 U.S.C. § 311(b).

The mapping of element [1.h] in the Petition, *see* Pet., p.46, relies on their expert declaration, *see* Exh. 1003, ¶¶ 134. In paragraph 134 of Exh. 1003, the

Declaration relies on the Expert's view of what a POSITA would know rather than the text of the printed patent as required by 35 U.S.C. § 311(b). No underlying facts or data on which the opinion is based are provided. *See* 37 C.F.R. § 42.65(a) ("Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight."). And Federal Circuit decisions have also explained this potential. *See Upjohn Co. v. Mova Pharm. Corp.*, 225 F.3d 1306, 1311 (Fed. Cir. 2000) ("Lack of factual support for expert opinion to factual determinations, however, may render the testimony of little probative value in a validity determination.") (quoting *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 294 (Fed. Cir. 1985)); *Carella v. Starlight Archery & Pro Line Co.*, 804 F.2d 135, 138 (Fed. Cir. 1986) ("Although in some circumstances unsupported oral testimony can be sufficient to provide prior knowledge or use, it must be regarded with suspicion and subjected to close scrutiny.").

B. Dialing a phone number along with the quality of the resulting connection is not an activation cue.

The Patent Owner in the POR explained, using the Bluetooth specification, how the Bluetooth connection occurs when the handset comes within range of the cordless telephone base unit. *See* POR, pp.25-28. Communication has been established between the handset and the cordless telephone base unit in *Mooney*. Making a call has nothing to do with being in range of the base station, as the

registration of the handset has to have occurred for digits to be entered and a call to be made.

Further, Petitioner fails to explain how measuring a communication link over a period of time, where the measurement of the communication link is not received to determine the quality of the signal, rather it is a measurement generated in the handset, is receiving an activation queue as required by the claims. In Petitioner's Reply, they assert that:

Mooney's multimodal phone includes a first transceiver (a cue receiver) that receives "quality" Bluetooth signals (an activation cue) from a "piconet front end" and "base unit" (source external to the phone). Pet., 26-28.

Reply, p.12.

The communication link is being measured at the handset, and that measurement is being asserted by Petitioner as "an activation cue being received." *See* Exh. 1001, 19:25-26. The determination of quality is not a sent or received activation cue. A communication link is what is received and by calling the communication link a quality communication link, the same element that is received is being used for two different claim elements. The Quality of that communication link is not received; it is a parameter that is generated and fails to describe the activation cue of the '294 patent that has to be received.

When discussing element [1.f], Petitioner asserts that:

Patent Owner's hypothetical – that “[t]he change of state ... may never occur[] [i]f the setup of the call path is not successful due to the far-end phone refusing to accept” (POR, 33) – also misses the mark because it presumes that the state is selected after the call is established, which is not the case as explained in Section III.B

The state change in claim 1 occurs after reception of the activation cue; otherwise, the cellular phone would always be in the second state. To change states, an activation cue must be received. Petitioner asserts that the quality of the communication link that is measured at the cellular phone is a “received” activation cue in Section III.B of their Reply. That communication link is only established after a call is established between the devices. *See* POR, 27 (“two-minute ... timer is not set before activation of the link and only after activation of a call over the Bluetooth link”). If the communication link is not set up, there is no quality measurement (no activation cue) associated with the communication link.

Further, an activation cue is received, but Petitioner and their expert seem to be using a measurement of signal quality in the handset to make determinations. Petitioner is asserting that the activation cue is both a signal of insufficient quality (used to switch from Bluetooth to cellular) and a signal of sufficient quality (used to switch from cellular to Bluetooth). If quality is an activation signal (which Patent

Owner denies), the activation cue in the patent cannot be both an insufficient quality signal and a sufficient quality signal.

III. GROUND 2: OBVIOUSNESS OF CLAIMS 1-20 BY MOONEY AND LEE

The Petitioner, on page 26 of their Reply, asserts that “Lee’s ‘discovery and/or registration process’ is not about updating the location of the device; it is about a device’s internal logic determining whether to use a cellular or Bluetooth network...the logic determines to connect to a Bluetooth or cellular network based on Bluetooth signal availability.” Reply 26. But, as explained in the POR, the Bluetooth specification describes that there is no “Bluetooth signal available” without a signal FROM THE handset. The Bluetooth handset sends the signal or page to the gateway (telephone base unit). See POR, p.26. There may be a virtual communication link (L2CAP connectionless channel), but there is no “Bluetooth signal” that exists until after a call is made and a communication link is established.

Furthermore, when Mooney is combined with Lee, the elements that Mooney fails to describe are not described by Lee.

IV. CONCLUSION

As set forth in Patent Owner’s POPR, POR, and above, none of the cited prior art, either alone or in combination, includes all of the limitations of any of the claims, and therefore, the patentability of the ’294 Patent should be confirmed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies service of Patent Owner DH International Ltd. served this Patent Owner's Sur-Reply on the counsel of record for Petitioner Google LLC by filing this document through the P-TACTS, as well as delivering a copy via electronic mail to the following:

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CERTIFICATE OF COMPLIANCE

This Petition complies with the type-volume limitations as mandated in 37 C.F.R. § 42.24, totaling 1,666 words. Counsel has relied on the word count feature provided in Microsoft® Word for Windows Version 26100.6584.

Dated: September 22, 2025

By: /s/ *Robert Hart*
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