

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

**REQUEST FOR DIRECTOR REVIEW UNDER 37 C.F.R. § 42.75 OF
A FINAL WRITTEN DECISION**

March 12, 2026

TABLE OF CONTENTS

TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES	ii
TABLE OF EXHIBITS	iii
I. LEGAL STANDARD FOR DIRECTOR REVIEW.....	1
II. ARGUMENT.....	2
A. Petitioner Failed to Prove the <i>Mooney</i> or <i>Mooney</i> and <i>Lee</i> references taught two ranges as required by dependent claims 8 and 16.	2
1. Petitioner provides no evidence of “close proximity” being closer than “a range.”	2
2. The Board adopted an erroneous meaning of “close proximity”	3
B. The Petitioner failed to establish that the activation cue is received as required by the independent claims.	4
1. <i>Mooney</i> fails to disclose all the elements within the printed publication.....	6
2. Dialing a phone number along with the quality of the resulting connection is not an activation cue.	7
CERTIFICATE OF SERVICE	a
CERTIFICATE OF COMPLIANCE	b

TABLE OF AUTHORITIES

Cases

<i>Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.</i> , 821 F.3d 1359 (Fed. Cir. 2016)	1
--	---

Statutes

35 U.S.C. § 103	1
35 U.S.C. § 311(b)	5, 6
35 U.S.C. § 316	1
35 U.S.C. § 318	1

Regulations

37 CFR § 42.75	1
----------------------	---

Other Authorities

<i>USPTO website, Director Review process USPTO, 2(B)</i>	1
---	---

TABLE OF EXHIBITS

Exhibit	Title
1001	U.S. Patent No. 9,022,294
1002	Prosecution History of U.S. Application 12/603,085
1003	Declaration of Stuart J. Lipoff
1004	CV of Stuart J. Lipoff
1005	U.S. Patent No. 6,941,156 (Mooney)
1006	U.S. Patent No. 6,909,705 (Lee)
1007	U.S. Patent No. 6,697,638 (Larsson)
1008	U.S. Patent No. 7,278,581 (Ong)
1009	U.S. Patent No. 8,862,393 (Zhou)
1010	U.S. Patent No. 6,931,266 (Miyoshi)
1011	U.S. Patent No. 6,526,287 (Lee)
1012	U.S. Patent No. 6,845,097 (Haller)
1013	ORDER Dismissing DHI v. Google, 1-23-cv-1116
1014	Reply Declaration of Stuart Lipoff
1015	Petitioner's Demonstratives
2001	Declaration of Safwan Zaheer
2002	Prosecution History of U.S. Patent No. 7,628,333
2003	CTP_SPEC_V11
2004	Patent Owner's Demonstratives
3001	Email String Regarding Sur-Replies
3002	Petitioner's Email requesting authorization to file a motion to strike
3100	Email regarding Director Review Request

Pursuant to 37 CFR § 42.75, Patent Owner DH International Ltd. (“PO”) submits this Request for Director Review of the Board’s Final Written Decision (“FWD”) under 35 U.S.C. § 318(a), finding claims 1-20 of U.S. Patent No. 9,022,294 (the “’294 Patent”) unpatentable in Grounds I and II. The Board committed legal errors by finding that Petitioner met their burden and that each claim element was established in the Mooney Reference, individually or when combined with the Lee Reference under 35 U.S.C. § 103.

I. LEGAL STANDARD FOR DIRECTOR REVIEW

“Requests for Director Review of the Board’s final decision under 35 U.S.C. § 318 ... shall be limited to decisions presenting (a) an abuse of discretion or ... (b) erroneous conclusions of law.” *See USPTO website, Director Review process | USPTO, 2(B)*. An abuse of discretion is found if a decision (1) is clearly unreasonable, arbitrary, or fanciful; (2) is based on an erroneous conclusion of law; (3) rests on clearly erroneous fact finding; or (4) involves a record that contains no evidence on which the Board could rationally base its decision. *Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1367 (Fed. Cir. 2016). Petitioner has the burden of proving unpatentability by a preponderance of the evidence in an IPR. 35 U.S.C. § 316(e) (The statute requires a preponderance of the evidence for instituted IPRs.

II. ARGUMENT

A. **Petitioner Failed to Prove the *Mooney* or *Mooney and Lee* references taught two ranges as required by dependent claims 8 and 16.**

Dependent claims 8 and 16 both require “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 to initiate the wireless data exchange.” *See* claims 8 and 16 (*italics added*). The Board improperly adopted Petitioner’s single distance and ignored the additional claim limitations when it stated:

We agree with Petitioner that the plain meaning of “close proximity” is ‘within a range to receive the activation cue to initiate the wireless data exchange, and no further constructions is warranted.

FWD, 23. Nothing in the patent supports that a close proximity is closer than a range to receive the activation cue. The claim language actually supports the opposite interpretation, with the range element being closer than the close proximity.

1. **Petitioner provides no evidence of “close proximity” being closer than “a range.”**

The Petition simply states:

Mooney discloses or renders obvious claim 8 because Mooney’s first data transceiver (a cue receiver) receives “quality” Bluetooth signals (an activation cue) from a

“piconet front end” and “base unit” (first external data exchange device) when in close proximity to the base unit.

Petition, 50 (*Citing* Lipoff, ¶144). The evidence presented by the Petitioner asserts that data is received upon the *Mooney*’s first data transceiver being in close proximity. No mention is made of the “a range to receive an activation cue” limitation. Rather, Petitioner simply improperly combines the elements “conveyed toward a close proximity” with “a range to receive.” In Petitioner’s Reply on page 6, Petitioner asserts that the close proximity is within a range to receive, without any explanation of where such a flawed interpretation comes from, as a cellular phone within a range to receive an activation cue, does not need any conveyance towards a device.

No evidence in the Petition supports the Board’s decision that close proximity is closer than “a range to receive.” The Board committed legal error by invalidating claims 1-20 when the Petitioner failed to identify where in *Mooney* or *Mooney and Lee* “a close proximity” and “a range” are both described or “close proximity” is described as being closer or within “a range.”

2. The Board adopted an erroneous meaning of “close proximity”

Furthermore, the Board stated that “‘ the claims define “close proximity” of the two devices in functional terms within a range to receive the activation cue to initiate the wireless data exchange’ –not by limiting the physical distance between the devices.” FWD, 24. The claim does not recite the close proximity of the two devices. Rather,

the Board's interpretation ignores the claim language that "the cellular phone is conveyed toward a close proximity." The Board's interpretation is wrong because nothing in the patent supports a cellular phone within a range to receive an activation cue has to be moving....i.e., cellular phone conveyed toward a close proximity. This is an improper interpretation that the Board has explicitly adopted by treating claims 8 and 16 as being in close proximity within "a range." *See* FWD, 24. Even with functional language, the plain meaning of "close proximity" is a distance, as supported by the claim that it requires movement towards an object.

The Board committed a legal error by adopting an unsupported definition of "close proximity" that required movement of the cellular phone within a range to receive the activation cue, rather than the clear meaning that the range is less than close proximity.

B. The Petitioner failed to establish that the activation cue is received as required by the independent claims.

The Petition asserts that receiving "quality" Bluetooth signals is an activation cue from a "piconet front end." Pet. 26. A "cordless telephone link (e.g., Bluetooth signal link of good quality is a link that has been established with the cordless base for a given length of time (e.g., for at least two minutes)." Pet. 26-27; Exh. 2001, ¶70. The Board, improperly adopted the quality measurement and timer assertion of Petition without providing how a measurement and a timer located in a cellular

phone meet the cue receiver being in receipt of the activation cue element of the independent claims. *See* FWD, 12.

The Board stated that “[l]imitation [1.e] does not further limit the form or function of the activation cue.” FWD, 12. But, the independent claims do limit the activation cue with a limitation of “a cue receiver operative...for receiving an activation cue.” i.e., the activation cue must be received at the cue receiver. *See* ‘294 Patent, claims 1, 11, 12, 19.

The transmitter does not transmit a “quality Bluetooth signal,” rather, it transmits a Bluetooth signal to the receiver. There is simply a received Bluetooth signal at the receiver. The determination of quality is a measurement and is not received by the receiver. There is no evidence that the quality measurement occurs in the receiver. A two-minute timer is a timer set in the receiver and not received by the receiver.

The claim language of the independent claims requires the element “a cue receiver operatively linked to said electronic circuit for receiving an activation cue from a source external to said cellular phone.” A measurement of quality in a cellular phone and the expiration of a timer in a cellular phone are the activation cue in Mooney and are not received. The claims require the activation cue to be received. (See any of the independent claims.)

1. *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).

2. 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 actuation 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.

The Petitioner has failed to identify a received activation cue as required by the independent claims, and the Board committed a legal error in the FWD invalidating claims 1-20 under grounds 1 and 2, when the received activation cue in *Mooney* is an internal measurement in the receiver, along with setting a timer in the receiver.

March 12, 2026

Respectfully submitted,

/s/ *Robert Hart*

Robert Hart

Reg. No. 35,184
ADDYHART P.C.
2025 Guadalupe Street, Suite 260
Austin, TX 78705
949.337.0568
robert@addyhart.com

Meredith Martin Addy
Reg. No. 37,883
meredith@addyhart.com
ADDYHART P.C.
10 Glenlake Parkway, Suite 130
Atlanta, Georgia 30328
312.320.4200

Gregory B. Gulliver
Reg. No. 44,138
gbgulliver@addyhart.com
ADDYHART P.C.
401 N. Michigan Ave., Suite 1200-1
Chicago, Illinois 60611
847.984.3020

Counsel for Patent Owner
DH International Ltd.

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies the service of Patent Owner DH International Ltd. served Patent Owner's Request for Director Review of the Final Written Decision 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:

Erika H. Arner
erika.arner@finnegan.com

Kara A. Specht
kara.specht@finnegan.com

Christopher B. Anderson
christoper.anderson@finnigan.com

Safiya Aguilar
safiya.aguilar@finnegan.com

Date: March 12, 2026

By: /s/ *Robert Hart*
Robert Hart

CERTIFICATE OF COMPLIANCE

This Request complies with the type-volume limitations as mandated in 37 C.F.R. § 42.24(a), totaling 10 pages.

Dated: March 12, 2026

By: /s/ *Robert Hart*
Robert Hart