UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YEALINK (USA) NETWORK TECHNOLOGY CO., LTD., and
YEALINK NETWORK TECHNOLOGY CO., LTD.
Petitioner,

v.

Barco NV
Patent Owner.

IPR2024-01439
U.S. Patent No. 11,422,951

RESPONSE TO PATENT OWNER'S SUPPLEMENTAL INFORMATION

PO's effort to turn routine district court motion practice into a secondary considerations admission rests on misstatements and nonexistent facts. The Texas Motion, filed years after the priority date and compelled only by litigation posture, has no relevance to patentability. If anything, its only significance is that it confirms no secondary considerations are present in this IPR.

I. THE TEXAS MOTION HAS LITTLE, IF ANY, RELEVANCE.

Federal Circuit precedent forecloses PO's theory. "[T]he mere fact of licensing, without more, is generally not a strong indication of nonobviousness if it cannot also be shown that the licensees did so out of respect for the patent rather than to avoid litigation expense." *Bosch Auto. Serv. Sols., LLC v. Matal*, 878 F.3d 1027, 1038 (Fed. Cir. 2017). PO offers no such showing because none exists; in fact, Petitioner's Texas Motion states exactly why it was filed: to "avoid needless future litigation." Ex-2036 at 3. And as the Federal Circuit has long recognized, it is often "cheaper to take licenses than to defend infringement suits." *EWP Corp. v. Reliance Universal Inc.*, 755 F.2d 898, 908 (Fed. Cir. 1985).

District courts routinely impose ongoing royalties when, as here, an injunction is unavailable. *Paice LLC v. Toyota Motor Corp.*, 504 F.3d 1293, 1314 (Fed. Cir. 2007). PO's strategic delay in seeking injunctive relief forced Petitioner to request an ongoing royalty. Paper 54 at 2. PO now attempts to recast that routine procedural step as a concession on validity or commercial value. It is neither. A litigant actively

challenging the validity of *every asserted claim of every asserted patent* is not "acquiescing" to anything.[1] Indeed, royalty requests made while expressly disputing validity cannot support nonobviousness. *See Burgess Cellulose Co. v. Wood Flong Corp.,* 431 F.2d 505, 510 (2d Cir. 1970) (licenses with "escape clauses which refused to admit validity of the patents" do not support nonobviousness).

Petitioner's Texas Motion is routine litigation housekeeping, necessitated only by PO's strategic refusal to timely seek an injunction. It is not secondary considerations evidence, and PO cannot inflate it into something it is not.

II. PETITIONER DOES NOT "REQUIRE" THE PATENTS.

PO's claim that the Texas Motion shows Petitioner "requires" the patented technology to compete is unsupported and directly contradicted by the record.

The challenged patents cover only the dongles, or peripheral devices, not their compatible base units that form the core of Petitioner's videoconferencing systems. Petitioner suspended selling dongles in April 2024 but continues selling base units, which remain "perfectly functional without using a dongle." Paper 28 at 29. At the Texas trial, Petitioner's corporate representative, Mr. Cai, testified that suspending dongle sales had no negative impact on Petitioner's base unit sales but, to the contrary, Petitioner saw "more than 30 percent of the business growth" in 2025. *See*

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[1] *See* IPR2024-01436, -01437, -01438, and -01439; EPR Control Nos. 90/015,672, 90/015,673, 90/015675, 90/015,676, 90/015,677, and 90/015,678.

C.A. No. 23-521 (E.D. Tex.), D.I. 253-2 at 460:9-17. He confirmed the dongle is merely a "small and optional accessory to [the] whole system." *Id.* at 460:18-461:1.

There is no evidence Petitioner "requires" the patented features to compete. Mr. Cai explained at trial that customers select Petitioner's products because they want a videoconferencing system, Teams certification, and superior camera, audio, and AI features – not because of any dongle functionality. *Id.* at 459:8-25. PO's own expert agreed that "you wouldn't purchase a dongle unless you were going to purchase a base unit," underscoring that the dongles do not drive demand. Ex-1091 at 146:17-23. Even PO's own licensee Crestron, who sells similar products, testified it was "surprised" anyone would use a dongle. Ex-1090 at 100:25-101:20. Thus, any commercial success does not stem from the dongles or the patented technology.

There is therefore no inconsistency between Petitioner's statements and its Texas Motion – its base units have independent value without any dongle, which the testimony of PO's expert and Crestron confirms. Ex-2035 simply shows Petitioner paused sales while damages "remained unclear" and will resume only after the verdict and absent injunction. The Texas Motion is not "proof" of patent necessity.

PO relies on *Liqwd, Inc. v. L'Oreal USA, Inc.*, 941 F.3d 1133 (Fed. Cir. 2019), which addresses copying, and requires "circumstantial evidence regarding changes to a competitor's design." *Id.* at 1138. But there are no design changes with Petitioner's WPP30, and more importantly, copying is not at issue in this IPR.

III. IF ANYTHING, THE TEXAS MOTION CONFIRMS THE LACK OF SECONDARY CONSIDERATIONS.

The Texas Motion does not support PO's secondary considerations arguments. To the contrary, it undercuts them.

First, PO claims several hundreds of millions of Euros, in both revenue and profit, from its "commercialization of the invention claimed in the '951 patent." Paper 20 at 70-71. But the Texas jury awarded only $907,360 for all accused infringement across all *six* asserted patents – not hundreds of millions, not tens of millions, not even one million dollars. Ex-2036 at 4-5. PO's own lead counsel argued to the jury that "at least 29,000" dongles were at issue. *Id.* at 5. Yet PO's own damages request was just $3,172,704, nowhere close to the vast economic value PO asserts in this IPR. Ex-1091 at 239:13-16. The record thus confirms that whatever commercial performance PO touts is simply not driven by the patented features.

Second, the Texas Motion itself establishes the limited value of the patented technology. It explains that any ongoing royalty should be at most $54 per dongle, a downward apportionment from the Crestron License because that agreement covered twenty patents – far more than are at issue here. Ex-2036 at 4-5. This $54 maximum aligns with the jury's verdict. *Id.* at 3-6. Yet PO never performed any such apportionment when presenting the Crestron License as supposed "industry acquiescence." That failure is fatal, because it is "difficult to determine the extent to which the licensing agreement was a result of the novel features in [patent at issue],

as opposed to the other patents involved." *Merck & Cie v. Gnosis S.P.A.*, 808 F.3d 829, 838 (Fed. Cir. 2015); *see, e.g.*, *BillJCo, LLC v. Apple Inc.*, No. 2023-2189, 2025 WL 1417957, at *3 (Fed. Cir. May 16, 2025) (Board properly gave little weight to license that included more patents than challenged patents, finding no nexus between the license and the claimed invention); *Shoes by Firebug LLC v. Stride Rite Children's Grp., LLC*, 962 F.3d 1362, 1372-73 (Fed. Cir. 2020) (same); *In re Cree, Inc.*, 818 F.3d 694, 703 (Fed. Cir. 2016) (same).

PO's reliance on *Ancora Techs., Inc. v. Roku, Inc.,* 140 F.4th 1351 (Fed. Cir. 2025), is misplaced. Ancora involved a single-patent license and expressly limited its holding to that context: "[l]icenses to the challenged patent … do not require a nexus with respect to the specific *claims* at issue." *Id.* at 1362 (emphasis added). PO cannot stretch *Ancora* to erase the Federal Circuit's clear guidance that licenses "cannot by themselves overcome a convincing case of invalidity without showing a clear nexus to the claimed invention." *ABT Sys., LLC v. Emerson Elec. Co.*, 797 F.3d 1350, 1361 (Fed. Cir. 2015). Indeed, for decades, the Federal Circuit has warned that licenses "must be carefully appraised" because parties enter into them for reasons unrelated to patent strength. *EWP Corp.*, 755 F.2d at 908.

IV. CONCLUSION – THE TEXAS MOTION DOES NOT SUPPORT PO.

The record, including PO's own witnesses, refutes every inference PO asks the Board to draw. Board should accord PO's supplemental briefing no weight.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 2, 2026, I caused a true and correct copy of the foregoing Response on Patent Owner's Supplemental Information at the following service addresses of record:

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