

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TESLA INC.,
Petitioner

v.

CHARGE FUSION TECHNOLOGIES, LLC,
Patent Owner

Case No. IPR2025-00032
Patent No. 11,563,338

**PETITIONER'S REPLY TO
PATENT OWNER'S PRELIMINARY RESPONSE**

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I. INTRODUCTION

Pursuant to the Board’s March 6, 2025, email, Petitioner submits this Reply to Patent Owner’s Preliminary Reply (Paper 8, “POPR”).

II. NO § 325(d) DISCRETIONARY DENIAL

Patent Owner (PO) contends Ferro “cannot be meaningfully distinguished from Hafner,” ignoring Petitioner’s discussion of Ferro’s *dynamic attribute*, which is not disclosed in Hafner and is otherwise mapped for every challenged independent claim. *Cf. POPR*, 67-69, with *Petition* (Paper 1), 83, 26-29 (*citing Ferro*, Fig. 9, [0142], [0112], [0113], [0115]), 74, 68-69 (*citing Ferro*, [0114]). Because Petitioner relies upon teachings not disclosed in Hafner (unlike PO alleges), Ferro is “materially different from Hafner.” *Petition*, 83.

PO also ignores four references **not** applied during prosecution but relied on for all independent claims: Donnelly, Oyobe, Letendre, and Zeigler. *Petition*, 82-83. These references are non-cumulative and materially different from any prosecution art, which PO fails to address. *Cf. POPR*, 66-70, with *Petition*, 83.

Because the combination is not the same or substantially the same as considered during prosecution, part one of *Advanced Bionics* is not met and the Board should accordingly not deny under § 325(d). *Petition*, 83-84.

III. IMPROPERLY NARROWING THE *AMOUNT OF CHARGE*

PO alleges because Letendre is “unable to specify 70% charge amount,” but rather specifies desired miles of charge, Letendre does not teach *an amount of charge may be specified*. *POPR*, 48-49. PO is improperly narrowing the format of the claimed *amount of charge* to a percentage ratio. The ’338 Patent discloses a user specifying the *amount of charge* by specifying a desired travel distance: “...the user may indicate a desired charging level (and/or a desired charging level may be automatically calculated) **based on a desired distance of travel**.” *Petition*, 38 (citing ’338 Patent, 19:49-57). PO does not contend the claimed *amount of charge* is ambiguous or the ’338 Specification provides an express definition. Instead, PO cherry-picks disclosure from a specific embodiment, thereby improperly importing claim limitations. *POPR*, 46-47; *Inergy Tech., Inc., v. Force Mos Tech. Co., LTD.*, IPR2024-00093, Paper 13, 9-10 (PTAB May 21, 2024) (citing *In re Bigio*, 381 F.3d 1320, 1325 (Fed. Cir. 2004) (“counseling the Board not to import limitations”).

PO also ignores the Petition’s mapping of **Ferro’s amount of charge preference or** Letendre’s mileage amount specified in the modified system. *Petition*, 38, 40. Thus, PO fails to address the entire mapping. *POPR*, 47 (incorrectly stating Petition “solely relies” on Letendre for the *amount of charge*).

IV. MISREPRESENTATION OF PETITIONER'S MAPPINGS

PO repeatedly fails to accurately represent the Petition's mappings. PO misquotes limitation 10[h], instead quoting claim language from 10[i], and then alleges Petitioner fails to map with particularity. *POPR*, 56-57. Rather, Petitioner's 10[h] mapping cross-references, in part, limitation 1[l], which has identical claim language. *Petition*, 66, 89-90. PO makes a similar error for the limitation 10[i] argument, instead quoting limitation 10[j]. *POPR*, 57; *Petition*, 91, 66. For limitation 19[h] and *first value*, PO contends Petitioner's cross-referenced limitation 1[g] does not recite the *first value*. *POPR*, 57. PO ignores limitation 19[h]'s claimed *the first value*'s antecedent basis is in limitation 19[g], which discusses the mapping of a *first value* vs. *current value* recited in limitation 1[g]. *POPR*, 57 (*citing Petition*, 68). Further, Petitioner's cross-referencing does provide particularity, given the citations "are to the section in this Petition mapping the claim," not to the claim language itself. *Cf. POPR*, 34, *with Petition*, 16, FN 4.

PO argues no motivation to combine is provided regarding Oyobe, Zeigler, and Galvez-Ramos, ignoring the Petition's various motivations. *POPR*, 36, 55-56; *Petition*, 19 (stating "motivations for Claims 1[a], 1[c] are incorporated" for 1[e]), 46-53 (providing motivation and modification explanation for combining Zeigler and combining Galvez-Ramos). PO again misrepresents the Petition's mappings.

Dated: March 11, 2025

Respectfully submitted,

BY: /s/ Jennifer C. Bailey
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COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE ON PATENT OWNER
UNDER 37 C.F.R. § 42.6

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on March 11, 2025, the foregoing *Petitioner's Reply To Patent Owner's Preliminary Response* was served via electronic filing with the Board and via Electronic Mail on the following practitioners of record for Patent Owner:

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