

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

AMAZON.COM, INC., AMAZON WEB SERVICES, INC., and
AMAZON.COM SERVICES LLC,
Petitioner,

v.

B.S.D. CROWN, LTD.,
Patent Owner.

IPR2025-00057
Patent 8,934,887 B2

Before COKE MORGAN STEWART,¹ *Deputy Under Secretary of
Commerce for Intellectual Property and Deputy Director of the United
States Patent and Trademark Office.*

ORDER

¹ John A. Squires, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, is recused and took no part in this decision. The Director delegated his authority in a Notice of Delegation. See <https://www.uspto.gov/sites/default/files/documents/delegation-of-authority-ptab.pdf>

Amazon.com, Inc., Amazon Web Services, Inc., and Amazon.com Services LLC (“Petitioner”) filed a request for Director Review of the Decision on Remand (Paper 24, “Remand Decision”) denying institution. *See* Paper 25 (“DR Request”). B.S.D. Crown, Ltd. (“Patent Owner”) filed an authorized response to the request. Paper 26.

This is Petitioner’s second request for Director Review. In an earlier request, Petitioner argued that the Board erred in adopting Patent Owner’s claim construction and did so based on erroneous findings of fact. *See* Paper 14, 1; Paper 13 (Decision Denying Institution, dated May 29, 2025 (“May DDI”)). The claim term in dispute was “at least one of the display, the audio, and the hardware (HW) action” (the “disputed limitation”), which appears in claim 1, among other claims. Paper 14, 1; Ex. 1001, 13:40–57. Petitioner argued the Board erred in construing that term to require a “conjunctive reading”—where *all three* of the display, the audio, and the HW action must be sent from a server to a mobile device. Paper 14, 9–13 (arguing the Board misinterpreted the intrinsic evidence and construed the claims in a way that excludes the patent’s embodiments, including the embodiment described in Figure 2).

After considering the parties’ arguments, Director Review was granted, the May DDI was vacated, and the case was remanded to the Board. *See* Paper 16 (“Director Review Decision”), 2–3. The Director Review Decision determined that the Board’s claim construction was based on erroneous factual findings, explaining that “Petitioner is correct that the Board appears to have misapprehended Figure 2 of the challenged patent,” which the Board relied on to support its construction. *Id.* at 2 (“Figure 2 shows the mobile device receiving only audio data and video data, not audio

data, video data, and an HW [(hardware)] action, as the Board found.”). The Director Review Decision instructed the Board to allow further briefing on the relevant claim construction issue and to construe the claims on remand. *Id.* at 3.

In its Remand Decision, the Board again concluded that the disputed limitation demands a “conjunctive” construction under *SuperGuide Corp. v. DirecTV Enterprises, Inc.*, 358 F.3d 870 (Fed. Cir. 2004). Remand Decision 13–29. The Board stated, among other things, that it “did not misapprehend Figure 2” and found that the specification and Figure 2 both “reinforce [a] conjunctive construction.” *Id.* at 3 n.1, 25. Applying its “conjunctive” construction, the Board again denied institution. *See, e.g., id.* at 34–35.

In the DR Request, Petitioner argues that the Board contradicts the Director Review Decision’s finding and “doubles down on the same erroneous, already-rejected findings of fact.” DR Request 1. According to Petitioner, the Board continues to ignore that Figure 2’s “server sends only *two* components of information” to the mobile device *Id.* at 7–8. Petitioner further contends that the Board’s claim construction excludes the patent’s eleven embodiments because “none of them requires the server to send ‘a video/display, audio, and a HW action’ to the mobile device.” *Id.* at 9–11.

Patent Owner responds that the Board addressed Petitioner’s arguments on remand. Paper 26, 7–15 (“The Board carefully considered each argument presented . . . and concluded that the presumption against ordinary meaning was not rebutted by Petitioner.”). According to Patent Owner, “the Board followed the Director’s instruction to the letter by addressing Figure 2 of the [challenged] patent balanced with the ‘other portions of the Specification’ to determine if the presumption against the

ordinary meaning was rebutted.” *Id.* at 12–13 (citing Remand Decision 3 n.1, 5–7, 24–28).

Having considered the DR Request and Patent Owner’s response, it appears that the Board’s claim construction excludes some of the embodiments disclosed in the challenged patent’s specification, and thus, the Remand Decision warrants review by a Delegated Rehearing Panel (“DRP”). Director Review of the Remand Decision, therefore, is delegated to a DRP, to determine whether the Board misapprehended or overlooked any issues, including: (1) whether the Board misapplied *SuperGuide*, in view of Figure 2 and Petitioner’s argument that a conjunctive construction would exclude all the patent’s disclosed embodiments; and (2) whether the Board erred in construing the disputed limitation. If the DRP determines that the Board erred in its prior claim interpretation, the DRP shall construe the claims and, as appropriate, decide whether Petitioner met its burden sufficient to institute trial in this matter.

Absent good cause, the DRP shall issue a decision within 30 days of this Order.

Accordingly, it is:

ORDERED that the request for Director Review is delegated to a DRP.

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