

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

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

v.

BARCO N.V.,
Patent Owner.

IPR2025-00491
Patent 10,684,972 B2

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

DECISION
Denying Patent Owner's Request for Discretionary Denial

Barco, N.V. (“Patent Owner”) filed a request for discretionary denial (Paper 7, “DD Req.”) in the above-captioned case, and Yealink (USA) Network Technology Co., Ltd. and Yealink Network Technology Co., Ltd. (collectively, “Petitioner”) filed an opposition (Paper 15, “DD Opp.”). With authorization, Patent Owner filed a supplemental brief (Paper 16, “DD Reply”), and Petitioner filed a response (Paper 17, “DD Sur-reply”).

After considering the parties’ arguments and the record, and in view of all relevant considerations, discretionary denial of institution is not appropriate in this proceeding. This determination is based on the totality of the evidence and arguments the parties have presented.

In particular, Petitioner provides persuasive reasoning, supported by evidence, that discretionary denial under 35 U.S.C. § 325(d) is not appropriate. In determining whether to discretionarily deny a petition under § 325(d), Office policy requires a determination of “(1) whether the same or substantially the same art previously was presented to the Office or whether the same or substantially the same arguments previously were presented to the Office; and (2) if either condition of first part of the framework is satisfied, whether the petitioner has demonstrated that the Office erred in a manner material to the patentability of challenged claims.” *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 at 8 (PTAB Feb. 13, 2020) (precedential) (“*Advanced Bionics*”).

Petitioner provides persuasive evidence that the Office erred in a manner material to the patentability of the challenged claims. Patent Owner asserts that the patent examiner allowed the claims because the prior art the examiner relied on failed to disclose “hosting a unified communication” as claimed. DD Req. 7–8. However, Petitioner persuasively asserts that “the

Examiner never discussed any unified communication software,” *id.*, and the patent examiner appears to have failed to appreciate that “[u]nified communication is a term of art” referring to services such as Skype that are well known in the art. DD Opp. at 5 (citing Ex. 1006); *see also* Ex. 1001, 22:29–31. In addition, the challenged patent issued recently, in 2020. Ex. 1001. Early challenges to patents favor robust, predictable patent rights and weigh against discretionary denial. These considerations weigh against discretionary denial. Although Patent Owner also argues that the Petition should be denied for improperly relying on applicant admitted prior art (“AAPA”), Petitioner persuasively argues that the AAPA is discussed only “to demonstrate that a [person of ordinary skill in the art] would have understood the prior art to teach certain claim limitations.” DD Sur-reply 2 (emphasis removed).

Although certain arguments are highlighted above, the determination not to exercise discretion to deny institution is based on a holistic assessment of all of the evidence and arguments presented. Accordingly, the Petition is referred to the Board to handle the case in the normal course, including by issuing a decision on institution addressing the merits and other non-discretionary considerations, as appropriate.

In consideration of the foregoing, it is:

ORDERED that Patent Owner’s request for discretionary denial is *denied*;

FURTHER ORDERED that the Petition is referred to the Board; and

FURTHER ORDERED that neither party shall file a request for rehearing or Director Review of this decision until the Board issues a decision on institution.

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