

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RØDE MICROPHONES, LLC AND
FREEDMAN ELECTRONICS PTY LTD,
Petitioners

v.

ZAXCOM, INC., Patent
Owner.

IPR2025-00557

Patent 12,051,444

PRELIMINARY SUR-REPLY

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A. “master timecode generator” and “master timecodes”

Ex-1003 (“Strub”) does not teach that the “recording units 105-108 of Strub can transmit their audio to other recording units.” Paper 13 at 1, Paper 1 at 33. “Transmit” and “transmitter” are not referenced in relation to units 105-108 – these units are record only units. Ex-1003, 8:7-11:31. The first mention of a “transmit”-related term in the Detailed Description of the Invention is at Ex-1003, 12:9 relating to unit 300 (Fig. 3). Paper 1 at 33 incorrectly relies on various Strub excerpts to prove units 105-108 can transmit audio. Ex-1003, 8:10-29, 8:50-53, and 25:35–49 do not reference transmission at all. Ex-1003, 12:31–43 pertains to recording unit 300, not recording units 105-108, and recording unit 300 is not shown in Fig. 1. Ex-1003, 35:54–36:9 and 37:18-40 state that a recording unit “can include a transmitter,” (*id.*, 35:54) without reference to units 105-108. Fig. 2 confirms that unit 200 does not have a transmitter. The only Strub unit taught with a transmitter is recording unit 300. *Id.*, Fig. 3.

Second, Paper 13 at 2 completely mischaracterizes the teachings of Strub in stating “the recording unit ... transmits synchronization pulses to **synchronize the clocks of the other recording units to its own clock**” (emphasis added) while citing to Ex-1003, 38:29-37. Petitioners omit the sentence that follows this cited excerpt, i.e., “[s]]ynchronizing **analog visual data acquisition devices** ... is referred to as “genlocking.” *Id.*, 38:37-39 (emphasis added). That is, the

synchronization pulse of Strub synchronizes video, not audio, and any such synchronization pulses would be used by the visual data acquisition devices of Strub (e.g., video data acquisition device 302), not the recording unit clock, which Petitioners state is a part of system controller 301 (not device 302). Paper 1 at 28. Further, genlocking obviously requires the device outputting the video, i.e., video data acquisition device 302 (not the recording unit system controller) to receive the synchronization pulses, otherwise its output video cannot be synchronized before it is transmitted from, e.g., video data acquisition device 302 to system controller 301. Ex-1003, Fig. 3. Accordingly, the master clock residing in system controller 301 never “sees” or uses the synchronization pulses as the system controller 301 only receives the synchronized video - not the original synchronization pulses. As such, it cannot use such pulses to synchronize its clock. Further, audio is processed in an entirely different module from video, i.e., audio data acquisition device 303. *Id.*, Fig. 3.

Further, Petitioners assertion that Woo (Ex-1004) “teaches that a slave timecode generator can be synchronized to a master timecode generator using a ‘jam-sync’ process, that ‘forces’ a slave timecode generator to follow the time codes from the timecode generator” is also facially incorrect. It is well known by a POSA that jam-sync merely matches two clocks at a single point in time. Once jam-synced, the slave device continues to operate from its own internal clock

without further control from the master. Zaxcom's invention anticipated these problems and intentionally incorporated master timecode generator control of the local timecode generators including the control of the local timecode generator speed to ensure that the output of the local timecode generator continuously mimics the output of the master timecode generator. Ex-1001, 10:29-32, 11:29-45, 15:26-29.

B. “locally generated audio” & “local audio device wearable by a creator of said locally generated audio” (Petitioners’ Sections B and C)

Paper 13 at 3 incorrectly states that “[i]n some embodiments local audio device 102 need not be worn, since microphone 312 may be worn instead. Ex. 1001, FIG. 3A, 10:43-47.” The cited excerpt states nothing of the sort, as indicated by its plain language. The fact that the local audio input device can be worn does not in any way infer that the local audio device is not simultaneously worn. The ‘444 Patent (Ex-1001) makes clear that the creator of audio typically wears both the local audio device *and* the local audio input device. *Id.*, 10:43-47 and 11:3-7. Nowhere does the Specification refer to a local audio device that is not worn.

Petitioners also mischaracterize the ‘444 Patent (Ex-1001) in stating “[t]he specification does not preclude a local audio device worn by one person from receiving audio being created by a different person ... the device may be ‘worn by news announcers,’ and it is commonly understood that news announcers may

interview other persons who speak and generate the audio. *Id.*, 8:59-61.” Again, the cited excerpt does not state this. Ex-1001, 8:9 states that “[s]uch audio device may be manufactured in the form of body-packs, such as those typically worn by news announcers, performers, and the like.” Petitioners state no support for the assertion that “it is commonly understood that news announcers may interview other persons who speak and generate the audio.” Even if this is true, which Zaxcom does not concede, this does not mean that the interviewee is speaking into a microphone attached to the news announcer’s bodypack as inferred by the Petitioners.

Petitioners also state “whether the audio is ‘suitable for use as an independent track of audio’ is an intended purpose or use for the ‘locally generated audio’ rather than the actual meaning of the term itself” but fail to explain why other than stating “independent track of audio” appears only once in the ‘444 Patent. Paper 13 at 4. Petitioners fail to address the numerous ‘444 Patent statements that require local audio to be usable as an independent track of audio. Ex-1001, Abstract, 14:23-24, 15:21-24, 17:31-33, 43:30-31, 44:38-40, Claims 1-7, 9-10, 12-20, 22-24, and 26-27. Further, Zaxcom’s Preliminary Response is replete with arguments, expert testimony, and Specification support that shows that the claimed invention of the ‘444 Patent (Ex-1001) is directed to multitrack recording, and a POSA understands that multitrack recording inherently requires independent audio tracks for each performer. Paper 7 at 15-23; Ex-2017, ¶31; Ex-2019, ¶13.

Additionally, the claim construction standard articulated in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc) requires that claim terms are given their ordinary and customary meaning as understood by a POSA at the time of the invention and in the context of the entire patent disclosure. *Id.* at 1312-14.

Petitioners also ignore the fact that the audio of Strub is locally “heard” or “received” by a recorder, and not generated, or created, as required by the ‘444 Patent. Ex-1003, 22:16-23. That is, Strub teaches recording the ambient sound that surrounds each microphone, which may incidentally include the audio generated by the individual participating in the aforementioned activities. Petitioners statement that “each recording by each different recording unit...is ‘an independent track of audio’ since the recording devices are worn by different people, are not co-located, would receive and record the sound differently and would therefore be independent” is a complete misstatement and mere speculation not based on anything cited in Strub. *See Par Pharm., Inc. v. Twi Pharms.*, 773 F.3d 1186 (Fed. Cir. 2014). (“Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient”); *see also Arendi S.A.R.L. v. Apple, Inc.*, 832 F.3d 1355, 1360 (Fed. Cir. 2016) (conclusory assertions even if “common sense” cannot supply a missing claim limitation”).

Dated: August 16, 2025

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CERTIFICATE OF SERVICE

The undersigned certifies that on August 16, 2025, a complete and entire copy of the foregoing “Preliminary Sur-Reply” is being served on the petitioners at the electronic addresses shown below per consent.

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