

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

SOUNDCLEAR TECHNOLOGIES LLC,
Patent Owner

U.S. Patent No. 11,244,675
Issue Date: February 8, 2022
Title: WORD REPLACEMENT IN OUTPUT GENERATION FOR
DETECTED INTENT BY VOICE CLASSIFICATION

Inter Partes Review No. IPR2025-00673

PATENT OWNER'S CONTINGENT MOTION TO AMEND

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PATENT OWNER EXHIBIT LIST

Exhibit No.	Description
2001	Docket Printout <i>SoundClear Techs. LLC v. Amazon.com, Inc. et al.</i> , CA No. 1:24-cv-01283 (EDVA)
2002	Order from Judge Anthony Trenga, dated January 10, 2025 (Dkt. 84), from <i>SoundClear Techs. LLC v. Amazon.com, Inc. et al.</i> , CA No. 1:24-cv-01283 (EDVA)
2003	Scheduling Order, dated September 23, 2024 (Dkt. 34), from <i>SoundClear Techs. LLC v. Amazon.com, Inc. et al.</i> , CA No. 1:24-cv-01283 (EDVA)
2004	Final Scheduling Order, dated October 18, 2024 (Dkt. 55), from <i>SoundClear Techs. LLC v. Amazon.com, Inc. et al.</i> , CA No. 1:24-cv-01283 (EDVA)
2005	Judge Anthony Trenga's median time to trial, available at https://law.lexmachina.com/shared/eyJzaGFyZWRFcGFnZV9pZCI6MTI3OTMxfQ.aA_aRw.A2n-SunBPfmUP2aka341_-3f27g
2006	Excerpts from the Motion to Stay hearing transcript, dated March 26, 2025, from <i>SoundClear Techs. LLC v. Amazon.com, Inc. et al.</i> , CA No. 1:24-cv-01283 (EDVA)
2007	Joint proposed scheduling order (Dkt. 48), from <i>SoundClear Techs. LLC v. Amazon.com, Inc. et al.</i> , CA No. 1:24-cv-01283 (EDVA)
<i>Exhibit Numbers 2008-2009 not used</i>	
2010	May, L., The Evolution of AI in Language Processing and its Impact on IP/Patents; May 9, 2025
2011	Median Time to Disposition in Cases Terminated After Hearing or Submission, UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT, available at https://www.cafc.uscourts.gov/wp-content/uploads/reports-stats/FY2024/MedianDispositionTimeMerits.pdf .
2012	U.S. Patent No. 11,069,337

2013	Motion to Dismiss, dated September 13, 2024 (Dkt. 32), from <i>SoundClear Techs. LLC v. Amazon.com, Inc. et al.</i> , CA No. 1:24-cv-01283 (EDVA)
2014	11,244,675 Prosecution History
2015	Defendant's Invalidity Contentions, from <i>SoundClear Techs. LLC v. Amazon.com, Inc. et al.</i> , CA No. 1:24-cv-01283 (EDVA)
2016	Declaration of Patent Owner Expert Dr. Joseph C. McAlexander
2017	Transcript of Deposition of Petitioners' Expert Dr. Richard Stern
2018	Plaintiff SoundClear's Response Brief in Opposition to Defendants' Motion to Dismiss Under Rule 12(b)(6) (Dkt. 35), from <i>SoundClear Techs. LLC v. Amazon.com, Inc. et al.</i> , CA No. 1:24-cv-01283 (EDVA)
2019	Plaintiff SoundClear's Motion Under Rule 59(e) To Alter or Amend Judgment and Order Granting Motion to Dismiss (Dkt. 65), from <i>SoundClear Techs. LLC v. Amazon.com, Inc. et al.</i> , CA No. 1:24-cv-01283 (EDVA)
2020	Transcript of Deposition of Petitioner's Expert Dr. Richard Stern in IPR2025-00565

I. INTRODUCTION

Patent Owner SoundClear Technologies LLC (“SoundClear” or “Patent Owner”) submits this Contingent Motion to Amend claim 5 of U.S. Patent No. 11,244,675 (EX-1001, “the ’675 patent”). If the Board finds claim 5 unpatentable as written, SoundClear respectfully requests that the Board grant this Contingent Motion to Amend and issue claim 8 as a substitute for claim 5.

The proposed amendment resolves a clerical error in connection with the proper article used to provide an antecedent basis for the term “predetermined voice.” It also ensures that claim 8 overcomes the prior art. Proposed claim 8 defines a whisper in the same way the specification does. That is, by reciting the comparison of a peak frequency to a threshold. Appendix A (“Appx. A”). The December 24, 2025 Declaration of Joseph McAlexander supports the amendments. *See* EX-2016 (“McAlexander Dec.”). The prior art does not disclose, or render obvious, the determination of whether a voice is a whisper in the context of the recited voice classification. It certainly does not disclose doing so based upon comparing a peak frequency to a threshold.

II. STATEMENT OF RELIEF REQUESTED

Patent Owner respectfully requests preliminary guidance on this Contingent Motion to Amend pursuant to 37 C.F.R. § 42.121(a)(1)(ii).

In the event the Board finds claim 5 unpatentable, Patent Owner requests that the Board consider substitute claim 8. *See* Appx. A.

III. THE SUBSTITUTE CLAIM MEETS ALL STATUTORY AND REGULATORY REQUIREMENTS OF 35 U.S.C. § 316 AND 37 C.F.R. § 42.121

The proposed contingent substitute claim 8 meets the statutory and regulatory requirements set forth in 35 U.S.C. § 316(d) and 37 C.F.R. § 42.121. *See also Lectrosonics, Inc. v. Zaxcom, Inc.*, IPR2018-01129, Paper 15 (PTAB Feb. 25, 2019) (precedential) (providing information and guidance on motions to amend). The Board “must determine whether the motion to amend meets the statutory and regulatory requirements set forth in 35 U.S.C. § 316(d) and 37 C.F.R. § 42.121.” *See Lectrosonics*, Paper 15 at 4. A “patent owner bears the burden of persuasion to show, by a preponderance of the evidence, that the motion to amend complies” with the applicable statutory and regulatory requirements. 37 C.F.R. § 42.121(d)(1).

A. Listing of Proposed Substitute Claim

Patent Owner submits the substitute claim pursuant to 37 C.F.R. § 42.121(b). *See* Appx. A.

B. One Substitute Claim is Reasonable

Patent Owner proposes one substitute claim of a dependent claim. Claim 8 is written to incorporate the proposed amendments of claim 5 into claim 1. *See*

Lectrosonics, Paper 15 at 4-5 (“There is a rebuttable presumption that a reasonable number of substitute claims per challenged claim is one (1) substitute claim.”); 37 C.F.R. § 42.121(a)(3); *see also* 35 U.S.C. § 316(d)(1)(B). Thus, the one substitute claim is reasonable.

C. The Substitute Claim Responds to Unpatentability Grounds

Proposed claim 8 responds to Petitioners’ unpatentability Grounds 1A, 1B, 2A, 2B, 4, and 5 pursuant to 35 C.F.R. § 42.121 (a)(2)(i). *See Lectrosonics*, Paper 15 at 5-6. Petitioners’ Grounds 1A, 1B, 2A, 2B, 4, and 5 each challenge claim 5. Proposed claim 8 narrows the scope of claim 5 to the whisper determination process disclosed in the specification. *See infra* § III.E. The amendment would overcome Petitioners’ prior art references, including Shin, Shimomura, and Schuster. EX-1003, EX-1004, EX-1016. Grounds 1A, 1B, 2A, 2B, 4, and 5 each rely on Shin, Shimomura, or Schuster to allegedly disclose the limitations of original claim 5. *See Pet.*, 5. Proposed claim 8 would define a whisper in the same way the specification does. That is, based on the specific manner in which the specification teaches determining whether a user’s vocal chords have been vibrated for the purpose of voice classification. None of the prior art discloses such elements. Schuster mentions “whispers” but only in connection with switching modes of operation. And even then, it does not expressly or inherently disclose the comparison of a peak frequency to a threshold.

D. The Claim is Valid under § 101

The claims of the '675 patent recite specific, tangible improvements to a specific device (output-content control device). Such improvements to devices that use specific processes for achieving those results are eligible at Step One.¹ And a parallel District Court proceeding, relying on factual testimony, confirmed that the claims are also valid at Step Two. That testimony was provided by Petitioners'

¹ *Contour IP Holding LLC v. GoPro, Inc.*, 2024 U.S. App. LEXIS 22825, *11-12 (Fed. Cir. 2024); *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016); *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1314-15 (Fed. Cir. 2016); *CardioNet, LLC v. InfoBionic, Inc.*, 955 F.3d 1358, 1373 (Fed. Cir. 2020); *Mentone Solutions LLC v. Digi Int'l Inc.*, 2021 U.S. App. LEXIS 33793, *8 (Fed. Cir. 2021); *Uniloc USA, Inc. v. LG Elecs. USA, Inc.*, 957 F.3d 1303, 1306–07 (Fed. Cir. 2020); *Customedia Techs., LLC v. Dish Network Corp.*, 951 F.3d 1359, 1364 (Fed. Cir. 2020); *Orbcomm Inc. v. Calamp Corp.*, Civil Action No. 3:16CV208, 2016 U.S. Dist. LEXIS 96264, *7-10, *19-20 (E.D. Va. July 22, 2016) (rejecting the argument that “a method for monitoring the location and status of feels of vehicular construction equipment” entailed “nothing more than the abstract idea of gathering, storing, processing, and transmitting data” because they improved a “particular apparatus”).

Director of Audio Technology. EX-2018; EX-2019. Indeed, the recited voice-controlled device is a concrete, specific hardware item. It is not abstract. The use of distance calculation to classify voices in connection with such voice-control devices was not conventional as of the priority date of the '675 patent. The manner in which the patent improved that device was unique and unconventional. And the concept of calculating a specific distance between two points (a user and a device) is not abstract.

The District Court agreed that the '675 patent is valid on the present record. EX-2002.

E. The Substitute Claim Does Not Broaden the Claim Scope or Introduce New Subject Matter

Claim 8 would not enlarge the scope of original claim 5 or introduce new subject matter. It thus complies with 37 C.F.R. § 42.121 (a)(2)(ii). *Lectrosonics*, Paper 15 at 7 (“[A] proposed substitute claim adding a novel and nonobvious feature or combination to avoid the prior art in an instituted ground of unpatentability will not enlarge the scope of the claims.”).

Claim 8 would retain all of the original limitations of claim 5, except for changing “the predetermined voice” to “a predetermined voice” to resolve the manner in which an antecedent basis is introduced. *See* Pet., 37-38.

Claim 8 would recite additional narrowing elements. That is, determining a voice to be a whisper “based whether a peak frequency is equal to or lower than a

threshold.” Appx. A. Original Claim 5, by comparison, does not recite the definition of “whisper.” *See* EX-1001, 22:3-7 (“The output-content control device according to claim 1 wherein the voice classifying unit is further configured to determine the voice to be the predetermined voice when the voice spoken by the user is a whisper.”). It recites that the voice classifying unit determines a voice to be a predetermined voice when that voice is a whisper. *Id.* Claim 8 would further incorporate the specification’s definition of whisper. That definition is based on how a determination is made as to whether a user speaks using vocal chord vibration. Specifically, a voice is determined to be a whisper or not a whisper “by using a peak frequency [that] is equal to or higher than a predetermined intensity in the spectrum as a feature value.” *Id.*, 10:14-16. The specification explains how that operation is performed: “For example, the voice classifying unit 42 determines the voice as a whisper to classify to the first voice V1A when the peak frequency is equal to or lower than the threshold, and determines the voice as not a whisper to classify to the second voice V1B when the peak frequency is larger than the threshold.” *Id.*, 10:17-22.

F. The ’675 Patent Provides Support for Proposed Claim 8

1. Written Description

Claim 8 would not introduce new subject matter or enlarge the scope of original claim 5, and it is supported by the specification of the ’675 patent. 35

U.S.C. § 316(d)(3); 37 C.F.R. § 42.121(a)(2)(ii); *TurboCare Div. of Demag Delaval Turbomach. Corp. v. Gen. Elec. Co.*, 264 F.3d 1111, 1118 (Fed. Cir. 2001) (“When [an] applicant adds a claim ... the new claim[] ... must find support in the original specification.”); *Fleming v. Cirrus Design Corp.*, 28 F.4th 1214, 1225 (Fed. Cir. 2022) (the “application’s disclosure must ‘reasonably convey’” to a POSITA “that the inventor had possession of the claimed subject matter as of the filing date”) (quoting *Vas-Cath Inc. v. Mahurkar*, 935 F.2d 1555, 1563 (Fed. Cir. 1991)). The “test” for written description is “whether the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date.” *Ariad Pharm., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010). Further, “the description must ‘clearly allow persons of ordinary skill in the art to recognize that [the inventor] invented what is claimed.’” *Id.* (citing *Vas-Cath*, 935 F.2d at 1562-63).

Mr. McAlexander’s Declaration identifies support in the specification for the proposed amended language. Those portions of the specification also demonstrate that the inventor possessed the full invention, as amended, as of the priority date, March 12, 2018. McAlexander Dec., ¶¶167-170; *see* EX-1001.

Proposed Claim 8	Exemplary Support in the '675 Patent for the Amended Language (EX-1001)
8. An output-content control device comprising:	<i>See Original Claim Language Table below.</i>
a voice acquiring unit configured to acquire a voice spoken by a user;	<i>See Original Claim Language Table below.</i>
a voice classifying unit configured to calculate a distance between the user and the output-content control device by a proximity sensor to classify the voice into either a first voice or a second voice based on the calculated distance;	<i>See Original Claim Language Table below.</i>
an intention analyzing unit configured to analyze the voice acquired by the voice acquiring unit to detect intention information indicating what kind of information is wished to be acquired by the user;	<i>See Original Claim Language Table below.</i>
a notification-information acquiring unit configured to acquire notification information which includes content information as a content information to be notified to the user based on the intention information; [[and]]	<i>See Original Claim Language Table below.</i>

Proposed Claim 8	Exemplary Support in the '675 Patent for the Amended Language (EX-1001)
an output-content generating unit configured to generate an output sentence as sentence data to be output to the user based on the notification information, wherein the output-content generating unit is further configured to generate, when the voice is determined to be the first voice, a first output sentence in which at least one word selected among words included in the content information of the notification information is replaced with another word, and to generate, when the voice is determined to be the second voice, a second output sentence which includes all of the intention information and the content information; and	<i>See Original Claim Language Table below.</i>
the voice classifying unit is further configured to determine the voice to be ~~the~~ <u>a</u> predetermined voice when the voice spoken by the user is <u>determined to be</u> a whisper <u>based upon whether a peak frequency is equal to or lower than a threshold.</u>	9:58-10:67; 10:4-8, 10:17-22, 10:48-54, 17:44-67; 19:23-30.

The following portions of the specification provide support for the original claim language of independent claim 1 and dependent claim 5, which would be incorporated by substitute claim 8:

Original Claim Language	Exemplary Support in the '675 Patent for the Original Language (EX-1001)
1. An output-content control device comprising:	2:64-3:14; 3:10-56; 4:15-24; 4:58-5:3; 5:14-30; 6:54-56; 9:14-41; 10:32-38; 14:44-15:3; 17:21-67; 18:22-27; 18:23-64; 19:23-45. Figs. 1-2.
a voice acquiring unit configured to acquire a voice spoken by a user;	2:66-3:4; 3:61-67; 4:1-5; 9:58-64; 16:45-48; 17:25-32. Figs. 1-2, and 9.
a voice classifying unit configured to calculate a distance between the user and the output-content control device by a proximity sensor to classify the voice into either a first voice or a second voice based on the calculated distance;	3:61-67; 9:58-11:4; 11:5-8; 11:53-56; 16:64-67; 17:21-28; 19:23-25. Figs. 2 and 9.
an intention analyzing unit configured to analyze the voice acquired by the voice acquiring unit to detect intention information indicating what kind of information is wished to be acquired by the user;	3:55-67; 4:15-5:3; 5:50-6:23; 6:49-54; 7:31-65; 9:14-41; 11:5-21; 16: 41-57; 17:21-32. Figs. 2-3, and 9.
a notification-information acquiring unit configured to acquire notification information which includes content information as a content information to be notified to the user based on the intention information; and	3:55-67; 5:4-13; 9:1-56; 17:21-43. Fig. 2.

Original Claim Language	Exemplary Support in the '675 Patent for the Original Language (EX-1001)
an output-content generating unit configured to generate an output sentence as sentence data to be output to the user based on the notification information, wherein the output-content generating unit is further configured to generate, when the voice is determined to be the first voice, a first output sentence in which at least one word selected among words included in the content information of the notification information is replaced with another word, and to generate, when the voice is determined to be the second voice, a second output sentence which includes all of the intention information and the content information.	3:55-67; 6:56-7:56; 8:48-67; 9:42-57; 11:53-16:30; 17:1-20; 18:1-19:22; 20:42-49. Figs. 2, 4-6, and 9.
5. The output-content control device according to claim 1, wherein	2:64-3:14; 3:10-56; 4:15-24; 4:58-5:3; 5:14-30; 6:54-56; 9:14-41; 10:32-38; 14:44-15:3; 17:21-67; 18:22-27; 18:23-64; 19:23-45. Figs. 1-2.
the voice classifying unit is further configured to determine the voice to be the predetermined voice when the voice spoken by the user is a whisper.	9:64-10:22; 17:44-67; 19:23-30.

For example, the specification discloses that the voice classification unit classifies the first voice as whisper as a result of analysis. McAlexander Dec. ¶168; EX-1001, 9:65-10:1. The voice classifying unit classifies the voice as a second voice when it is determined not to be a whisper. McAlexander Dec. ¶168; EX-1001, 10:1-4. A whisper is defined as “an unvoiced voice spoken without vibrating the vocal chords or one in which a peak frequency is equal to or lower than a threshold.” McAlexander Dec. ¶168; EX-1001, 10:4-8. The voice classifying unit performs the classification of a voice as a whisper or not a whisper. McAlexander Dec. ¶168; EX-1001, 10:47-53.

2. Enablement

The Federal Circuit, in *Amgen*, explained that “the specification must enable the full scope of the invention as defined by its claims. The more one claims, the more one must enable.” *Amgen Inc. v. Sanofi*, 598 U.S. 594, 610 (2023). Claim elements are enabled by the written description when any person skilled in the art can make and use the invention “without undue experimentation.” *In re Wands*, 858 F.2d 731, 737 (Fed. Cir. 1988).

The additional detail of claim 8 would satisfy the enablement requirement. The additional elements are sufficiently enabled by the specification in view of the

factors set forth in *In re Wands*.² The specification describes how the voice classifying unit of the output-content control device determines a voice to be a whisper or not a whisper. Claim 8 would limit the whisper to one that is determined based on “whether a peak frequency is equal to or lower than a threshold.” Appx. A. The specification provides an example to explain how that can be accomplished. The voice acquiring unit receives voice input. McAlexander Dec. ¶171; EX-1001, 9:58-60. The voice classifying unit determines if a voice is a whisper or not a whisper. McAlexander Dec. ¶171; EX-1001, 9:65-10:8. It does by, for example, performing a Fourier-transformation on the time waveform. McAlexander Dec. ¶171; EX-1001, 10:9-12. The specification provides more detail as to how the Fourier transformation can be used. McAlexander Dec. ¶171. It can be used to produce a spectrum indicating the intensity of the voice input. McAlexander Dec. ¶171; EX-1001, 10:9-12. The voice classifying unit then analyzes a peak frequency in that spectrum. McAlexander Dec. ¶171; EX-1001, 10:9-12. It then determines if the peak frequency is equal to or lower than a predetermined intensity. McAlexander Dec. ¶171; EX-1001, 10:12-16. The voice classifying unit then determines the voice to be a whisper when the peak frequency

² Patent Owner reserves the right to respond to any specific challenges raised under *In re Wands* by the Board or Petitioner in a subsequent brief.

is equal to or lower than a threshold value. McAlexander Dec. ¶171; EX-1001, 10:16-24. If the peak frequency is “larger” than a threshold value, the voice is determined to not be a whisper. *Id.*

IV. THE SUBSTITUTE CLAIM IS PATENTABLE OVER THE ART

Petitioners bear the burden to show the unpatentability of the substitute claims by a preponderance of the evidence. *See Lectrosonics*, Paper 15 at 3-4; *Aqua Prods., Inc. v. Matal*, 872 F.3d 1290, 1295-96 (Fed. Cir. 2017) (en banc). Petitioners will not be able to meet their burden because substitute claim 8 introduces a limitation that is not found in the prior art of record in the Petition. The additional prior art cited in the Petition—Aoyama³, Iwase, and Kristjansson—at best disclose how to introduce specific words, not detecting a whisper. EX-1010; EX-1017; EX-1013. Neither Shin nor Shimomura were cited in the prosecution history. *See* EX-2014. And even the unamended version of claim 5 was issued over Schuster—which was cited during prosecution. None of the prior art references disclose or suggest the added limitations regarding detecting a whisper, let alone using the process now recited in proposed claim 8.

³ Notably, during prosecution of the '675 patent, the Examiner explicitly allowed the claims over the Aoyama reference.

A. Shin and Shimomura Do Not Classify Voices as Described in the Substitute Claim

Shin does not disclose any attempt to identify whether a voice is a whisper or not a whisper, let alone in connection with any voice classification.

McAlexander Dec. ¶172; *see* EX-1003. It is only concerned with distance. The Petition asserts that “a POSITA would have understood Shin’s disclosure to encompass receiving and processing as wide a range of speech as possible including whispered speech.” Pet., 38 (citing EX-1002, ¶132). But it acknowledges that Shin’s device “did not explicitly support processing whispered speech.” *Id.*, (citing EX-1002, ¶¶133-37). And it provides no basis for the attorney argument about what a POSITA would have understood.

Substitute claim 8 would be patentable over the prior art. Mostly notably, Shin does not disclose that a whisper is determined based on whether a peak frequency is equal to or lower than a threshold. *See* McAlexander Dec. ¶173; Appx. A.

Substitute claim 8 would overcome Shimomura for the same reasons. The “speech synthesis unit” described in Shimomura does not disclose a processor that would be able to determine a whisper, let alone based on whether a peak frequency is equal to or lower than a threshold. *See* McAlexander Dec. ¶173; *see* EX-1004.

In fact, the Petition admits of a failure to address whisper determination in any regard. It simply relies on the irrelevant assertion that “[a] whisper is a form of

speech.” Pet., 58 (citing EX-1002, ¶198). A car is a form of transportation. That does not mean it was invented at the same time as the horse-drawn carriage.

B. Schuster Does Not Classify Voices as Described in the Substitute Claim

The closest applicable disclosure in the prior art simply mentions whisper. The Petition asserts that Schuster’s device can detect “whispered input.” Pet., 65-66 (citing EX-1016, 3:2-4). But it does so in a completely different context. Indeed, the Examiner expressly considered Schuster and allowed claim 5 over Schuster. EX-2014, 133-134, 179-190. Proposed claim 8 would overcome Schuster for other reasons as well. It defines the term “whisper” based upon the manner in which it is determined to be one, and recites a specific manner of doing so. That is, whether a peak frequency is equal to or lower than a threshold. McAlexander Dec. ¶174; Appx. A. Schuster does not address a peak frequency being equal to or lower than a threshold when describing whispered speech. McAlexander Dec. ¶174; EX-1016, 3:4-7 (defining “whisper” as “unvoiced or substantially unvoiced speech as well as hushed speech”).

Schuster’s high-level disclosure about using “cepstral analysis ... to detect whispered input” (EX-1016, 3:8-11) is at best insufficiently specific. “Cepstral analysis” broadly defines a method of capturing audio. A POSITA would not have understood that reference to cover any particular manner of analyzing audio, certainly not a specific manner of detecting whispers. McAlexander Dec. ¶175.

Schuster does not disclose that it involves determining “whether a peak frequency is equal to or lower than a threshold.” McAlexander Dec. ¶175. In fact, Schuster does not provide any explanation for how it applies the cepstral analysis to the incoming microphone signal, let alone how it is used to differentiate a whisper from not a whisper. *See, e.g.*, EX-1016, 3:10-11, 6:38-41; McAlexander Dec. ¶175.

Further, in view of claim 1, Schuster does not mention any distinguishing between multiple voices. Therefore, substitute claim 8 overcomes all the prior art. Neither Schuster nor any other prior art reference discloses determining whether “a peak frequency is equal to or lower than a threshold.” McAlexander Dec. ¶176; *see* EX-1016.

V. THE LEVEL OF ORDINARY SKILL IN THE ART

A POSITA at the time of the invention of the '675 patent would have: (a) a Bachelor of Science degree in electrical or computer engineering (or a related academic field), and at least two (2) additional years of work experience in the design and development of electronic devices or systems related to controlling audio output based on inputs. McAlexander Dec. ¶34.

VI. CLAIM CONSTRUCTION

The added limitations of the contingent proposed substitute claim do not require construction at this time and should be construed according to their plain

and ordinary meaning. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313, 1321 (Fed.

Cir. 2005) (en banc).

VII. CONCLUSION

For the reasons presented above, if the Board finds claim 5 unpatentable, SoundClear requests that the Board issue substitute claim 8.

Dated: December 24, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(a), the undersigned certifies that the above-captioned Patent Owner's Contingent Motion to Amend complies with the page limit of 25 pages.

Dated: December 24, 2025

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Patent Owner's
Contingent Motion to Amend was served electronically via email on December 24,
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APPENDIX A – SUBSTITUTE CLAIM

Claim 8 (proposed substitute for claim 5, if claim 5 is found unpatentable)

8. An output-content control device comprising:

a voice acquiring unit configured to acquire a voice spoken by a user;

a voice classifying unit configured to calculate a distance between the user and the output-content control device by a proximity sensor to classify the voice into either a first voice or a second voice based on the calculated distance;

an intention analyzing unit configured to analyze the voice acquired by the voice acquiring unit to detect intention information indicating what kind of information is wished to be acquired by the user;

a notification-information acquiring unit configured to acquire notification information which includes content information as a content information to be notified to the user based on the intention information; [[and]]

an output-content generating unit configured to generate an output sentence as sentence data to be output to the user based on the notification information, wherein the output-content generating unit is further configured to generate, when the voice is determined to be the first voice, a first output sentence in which at least one word selected among words included in the content information of the notification information is replaced with another word, and to generate, when the

voice is determined to be the second voice, a second output sentence which includes all of the intention information and the content information; and

the voice classifying unit is further configured to determine the voice to be ~~the~~ a predetermined voice when the voice spoken by the user is **determined to be a whisper based upon whether a peak frequency is equal to or lower than a threshold.**