

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BELDEN INC. and PPC BROADBAND, INC.

Petitioners,

v.

COMMSCOPE, INC. OF NORTH CAROLINA

Patent Owner.

IPR2025-00833
U.S. Patent No. 9,266,697

**PATENT OWNER'S REPLY
REGARDING ITS MOTION
FOR DISCRETIONARY DENIAL**

Patent Owner submits this Reply pursuant to email authorization of August 28, 2025, to address two arguments raised in Section III of Petitioner’s Opposition to Patent Owner’s Request for Discretionary Denial (Paper 8).

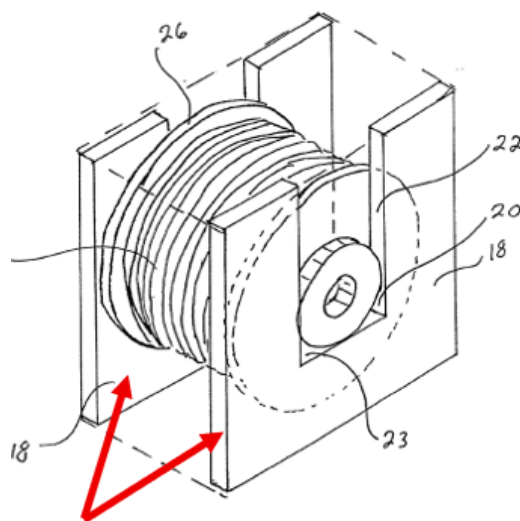
A. Settled Expectations

The Director’s guidance on settled expectations applies because the ’697 patent has been in force for nearly 10 years. Petitioners advance a novel counterargument. Petitioners say they had counter expectations that “Patent Owner would not assert the ’697 patent.” Paper 8 at 30. Petitioners do not point to any communication or statement from Patent Owner saying it would not assert the ’697 patent. Rather, Petitioners say their product is “different” from the scope claimed in the ’697 patent (which essentially every defendant says about every patent). *Id.* Petitioners say that their petition “presents a new means-plus-function construction” and that its product does not infringe under that construction. Paper 8 at 12. This argument is unpersuasive for multiple reasons.

First, Petitioner concedes its means-plus-function construction is “new.” Paper 8 at 12. Petitioner cannot have “settled” expectations based on a “new” construction. Patent Owner never agreed to this construction nor did the Examiner. Further, the standard presumption—which applies here—is that means-plus-function does not apply unless the claim recites “means.” The presumption can be

rebutted, but it is difficult to understand how a party can have settled expectations based on a new construction that goes against the standard presumption.

Second, Petitioners’ purported expectations are contrary to the intrinsic record. Petitioners purport to have a settled expectation that the structure in their product cannot be a “removable insert.” Petitioners say their product has “two frames supporting a cable reel within the bag.” Paper 8, 33-34, *see also* 30 (“nowhere does the ’697 patent disclose or suggest that the removable plastic insert can include two separate components”). But the prosecution history expressly found a similar structure with two frames was a removable insert—negating Petitioners’ purported expectation. During prosecution, the Examiner cited U.S. Patent App. Publ. No. 2002/012516A1 (“Cote”) (EX-1010) as disclosing a removable insert by its disclosure of two rigid supports that can be seen on either side of the cable spool in Figure 4 (shown below):



Supports the examiner and the PTAB found to be an example of a removable insert

EX-1010 p. 5 (Fig. 4); EX-1003, p. 99 (“Cote discloses...a removable insert 18, 18 within the interior of the main compartment...”). The Applicant appealed the Examiner’s finding that such an insert was removable. The PTAB found no error in the Examiner’s finding that Cote’s supports 18, 18 were a removable insert. EX-1003, 30-31. Therefore, both the Examiner and PTAB found that the two-piece structure in Cote is a removable insert—negating Petitioners’ purported expectation.

Third, even if *Petitioners* believed their non-infringement position, Petitioners’ conclusion does not follow. Petitioners conclude that they had a settled expectation that “Patent Owner would not assert the ’697 patent.” Paper 8 at 34. But Petitioners do not show that *Patent Owner* had any knowledge of Petitioners’ non-infringement position or Petitioners’ special means-plus-function construction until the litigation. Petitioners seek to position Patent Owner as having an unreasonably broad view in the litigation. But Patent Owner merely proposes the plain and ordinary meaning. It is the Petitioners who are proposing a special, narrow construction. Petitioners cannot have a settled expectation Patent Owner would not assert the ’697 patent because Petitioners’ whole argument relies on a special, narrow construction that Petitioners never told Patent Owner about and that contradicts the intrinsic record.

B. Petitioner's Discussion of Third Party IPRs Is Irrelevant

Petitioners incorrectly argue that “Patent Owner attempts to capture the conventional technology” by citing a series of IPRs from 2022 that addressed patents from a different company and that Patent Owner was not involved in (“PPC IPRS”). Paper 8 at 31-34. The PPC IPRs are entirely irrelevant for four reasons.

First, the challenged patents in the PPC IPRs all had priority dates of February 2015, *nearly six years after* the June 2009 priority date of the '697 patent. *Compare PPC Broadband, Inc. v. Times Fiber Commc'ns, Inc.*, IPR2022-00830, -00947, -00946, -01087, -01088 (the challenged patent in each IPR is Ex-1001) *with* Ex-1001 (the '697 patent). Whether a particular claim would have been considered obvious as of February 2015 has no bearing on whether a (different) claim would or would not have been considered obvious as of June 2009.

Second, Petitioners did not even use the references from the PPC IPR (*Johanson, Willikson, Galgano*) in its grounds here.

Third, Petitioners did not show how any particular claim in the PPC IPRs compares to the (different) claims challenged in this IPR.

Fourth, Petitioners cite no case law showing IPRs involving different parties, different patents, different priority dates, and different prior art have any relevance whatsoever to the issue here (discretionary denial).

Dated: September 3, 2025

Respectfully submitted,

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CERTIFICATION OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e) and the agreement of the parties, the undersigned certifies that on September 3, 2025, a true and correct copy of the foregoing *Patent Owner's Reply Regarding Its Motion For Discretionary Denial* was served via electronic mail upon the following:

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