

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

CM HK, LIMITED,
Patent Owner

IPR2025-01023
Patent 10,852,846

PATENT OWNER'S RESPONSE

TABLE OF CONTENTS

I. INTRODUCTION 1

 A. PETITIONER HAS NOT RECONCILED ITS CONFLICTING POSITIONS ON
 “PREDICTED AXIAL ACCELERATIONS.” 1

 B. PETITIONER’S INTERPRETATION OF “PREDICTED AXIAL ACCELERATIONS”
 ALSO SHIFTED WITHIN THIS IPR. 3

 C. PETITIONER FAILED TO DISCLOSE OR EXPLAIN ITS OTHER INCONSISTENT
 CLAIM CONSTRUCTION POSITIONS FROM THE CALIFORNIA LITIGATION.....3

II. CONCLUSION 5

EXHIBIT LIST

Ex. No.	Description
2002	<i>Samsung Electronics Co., Ltd., et al., v. CM HK, Ltd. et al.</i> , Case No. 4:24-cv-06567 at Docket 1 (N.D. Cal. Sep. 18, 2024), Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc.’s Complaint for Declaratory Judgment
2003	<i>CM HK, Limited, v. Samsung Electronics Co., Ltd., et al.</i> , Case No. 2:24-cv-00880 at Docket 46 (E.D. Tex. June 26, 2025), Defendants Samsung Electronics Co, Ltd. And Samsung Electronics America, Inc.’s Renewed Motion to Stay Pending Resolution of Any Motion to Dismiss the NDCA Action
2004	<i>CM HK, Limited, v. Samsung Electronics Co., Ltd., et al.</i> , Case No. 2:24-cv-00880 at Docket 47 (E.D. Tex. July 9, 2025), Plaintiff CM HK Ltd.’s Opposition to Defendants’ Motion to Dismiss, Transfer, or Stay
2005	<i>Samsung Electronics Co., Ltd., et al., v. CM HK, Ltd.</i> , Case No. 4:24-cv-06567 at Docket 73 (N.D. Cal. May 15, 2025), Order Granting Defendant CM HK, Ltd.’s Motion to Dismiss
2006	<i>Samsung Electronics Co., Ltd., et al., v. CM HK, Ltd.</i> , Case No. 4:24-cv-06567 at Docket 80 (N.D. Cal June 10, 2025), Joint Stipulation and Order to Stay All Deadlines in the Scheduling Order
2007	<i>Samsung Electronics Co., Ltd., et al., v. CM HK, Ltd.</i> , Case No. 4:24-cv-06567 at Docket 72 (N.D. Cal. May 13, 2025), Joint Claim Construction and Prehearing Statement
2008	<i>CM HK, Limited, v. Samsung Electronics Co., Ltd., et al.</i> , Case No. 2:24-cv-00880 at Docket 2 (E.D. Tex. November 1, 2024), Plaintiff’s Original Complaint for Patent Infringement
2009	<i>CM HK, Limited, v. Samsung Electronics Co., Ltd., et al.</i> , Case No. 2:24-cv-00880 at Docket 17 (E.D. Tex. Jan 28, 2025), Plaintiff’s Amended Complaint for Patent infringement
2010	<i>CM HK, Limited, v. Samsung Electronics Co., Ltd., et al.</i> , Case No. 2:24-cv-00880 at Docket 36 (E.D. Tex. Mar. 3, 2025), Docket Control Order

2011	<i>CM HK, Limited, v. Samsung Electronics Co., Ltd., et al.</i> , Case No. 2:24-cv-00880, (E.D. Tex. Jan. 7, 2025), Plaintiff’s P.R. 3-1 & 3-2 Disclosures
2012	<i>CM HK, Limited, v. Samsung Electronics Co., Ltd., et al.</i> , Case No. 2:24-cv-00880, (E.D. Tex. Mar. 4, 2025), Defendants Samsung Electronics Co., Ltd and Samsung Electronics America, Inc’s Local Patent Rule 3-3 Disclosures
2013	Docket Navigator, “Time to Trial for Judge Rodney Gilstrap” (August 7, 2025)
2014	Docket Navigator, “Time to Trial for Eastern District of Texas,” (August 7, 2025)
2015	U.S. Patent Publication No. 2011/0199298, Bassompierre et al.
2016	Email from Bratton, Ariell, RE: <i>Samsung v. CM HK, Ltd.</i> , Case No. 4:24-cv-06567 (N.D. Cal.), IPR Threats to Evans, Christopher (May 2, 2025)
2017	March 24, 2025, Director’s Memo, <i>Guidance on USPTO’s rescission of “Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation”</i> , Boalick, Scott R. (August 7, 2025)
2018	Patent Trial and Appeal Board, FAQs for Interim Processes for PTAB Workload Management (accessed August 15, 2025)
2019	U.S. Patent Publication No. 2009/0262074, Nasiri et al
2020	U.S. Patent Publication No. 2011/0163950, Ye et al
2021	U.S. Patent Publication No. 2011/0175806, Ye et al
2022	Declaration of Christopher L. Evans
2023	<i>CyWee Group Ltd. v. Samsung Electronics Co., Ltd., et al.</i> , Case No. 2:17-cv-00140-RWS-RSP (E.D. Tex. Mar. 21, 2018), Declaration of Dr. Joseph J. LaViola, Jr. Ph.D. in Support of CyWee Group Ltd.’s Reply Claim Construction Brief
2024	<i>Samsung Electronics Co., Ltd., et al., v. CM HK, Ltd.</i> , Case No. 4:24-cv-06567 at Docket 110 (N.D. Cal. Aug. 27, 2025), Samsung’s Opposition to CM HK’s Rule 11 Motion for Sanctions

2025	<i>CyWee Group Ltd. v. Samsung Electronics Co., Ltd., et al.</i> , Case No. 2:17-cv-00140-RWS-RSP at Docket 67 (E.D. Tex. Mar. 9, 2018), Samsung’s Responsive Claim Construction Brief
2026	<i>CyWee Group Ltd. v. Samsung Electronics Co., Ltd., et al.</i> , Case No. 2:17-cv-00140-RWS-RSP at Docket 67-1 (E.D. Tex. Mar. 9, 2018), Responsive Declaration of M. Ray Mercer, Ph.D.
2027	Andre Cornman & Darren Mei, <i>Extended Kalman Filtering</i> (Stanford EE 267, Virtual Reality Course Report, Gordon Wetzstein & Robert Konrad instructors, 2019)
2028	U.S. Patent & Trademark Office, Memorandum from Coke Morgan Stewart, Acting Under Sec’y of Commerce for Intellectual Prop. & Acting Dir. of the U.S. Patent & Trademark Office, to Members of the Patent Trial & Appeal Bd. (July 31, 2025), Enforcement and Non-Waiver of 37 C.F.R. § 42.104(b)(4) and Permissible Uses of General Knowledge in Inter Partes Reviews
2029	<i>Samsung Electronics Co., Ltd., et al., v. CM HK, Ltd.</i> , Case No. 4:24-cv-06567 at Docket 93 (N.D. Cal Aug. 13, 2025), Defendant CM HK’s Notice of Motion and Rule 11 Motion for Sanctions
2030	<i>Samsung Electronics Co., Ltd., et al., v. CM HK, Ltd.</i> , Case No. 4:24-cv-06567 at Docket 116 (N.D. Cal Sept. 3, 2025), Defendant CM HK’s Reply in support of its Rule 11 Motion for Sanctions
2031	<i>Google LLC v. CyWee Group Ltd.</i> , IPR2018-01257 (P.T.A.B. Jun. 14, 2018), Declaration of Prof. Majid Sarrafzadeh.

I. INTRODUCTION

The Board directed Petitioner to explain its inconsistent positions on the meaning of “predicted axial accelerations.” Paper 13 at 3. The Board specifically asked Petitioner to reconcile its assertion here that the term “predicted axial accelerations” has a well-understood plain and ordinary meaning with its prior position in the CyWee Litigation that a POSA “would not have known” what it refers to. Petitioner’s Brief does not provide that explanation. Instead, Petitioner (i) denies taking any inconsistent positions, (ii) mischaracterizes its arguments from the CyWee Litigation, and (iii) offers a new construction for “predicted axial accelerations” that was not disclosed in the Petition.

Under *Revvo* and *Tesla*, a petitioner must supply a consistent view of claim scope or provide a coherent justification for changing it. Petitioner has done neither and its failure to explain its shifting positions strongly favors denial.

A. Petitioner Has Not Reconciled its Conflicting Positions on “Predicted Axial Accelerations.”

The Board asked Petitioner to explain “why it has taken different positions on the meaning of “predicted axial accelerations.” Paper 13 at 3. Petitioner’s brief does not answer that question.

In the CyWee Litigation, Petitioner and its expert told the court that the term “predicted axial accelerations” does not have a single, well-understood definition:

Samsung (Ex. 2025 at 13): “As with measured axial accelerations, a POSA would not have known whether the predicted axial accelerations are: (i) linear accelerations; (ii) centrifugal accelerations; (iii) gravitational accelerations; or (iv) a combination from among the three.”

Samsung’s Expert (Ex. 2026 at ¶¶ 164-165): “Specifically, a POSA would not have known whether ‘predicted axial accelerations’ were a prediction of: (i) linear accelerations; (ii) centrifugal accelerations; (iii) gravitational accelerations; or (iv) some combination of the three.”

In other words, the CyWee Litigation Petitioner argued against the existence of a plain and ordinary meaning by arguing the meaning was unknowable to a POSA. Ex. 2025 at 13.

Petitioner now adopts the opposite position by arguing “that the term ‘axial acceleration’ (whether predicted or measured) has a meaning well-understood by those of ordinary skill, *i.e.*, the term ordinarily encompasses three types of acceleration.” Petitioner’s Brief at 4. In other words, Petitioner now argues that the term “predicted axial accelerations” has a single a single, well-understood meaning.

Both cannot be true. Yet Petitioner offers no explanation for its reversal and cites nothing—no intrinsic evidence, no expert analysis, no court order—to justify its shifting interpretations of this term.

Under *Revvo* and *Tesla*, when a petitioner adopts materially different views of claim scope across proceedings, the petitioner must provide a coherent explanation or have its petition denied. Petitioner failed to do so. Therefore, denial is appropriate.

B. Petitioner’s Interpretation of “Predicted Axial Accelerations” Also Shifted Within This IPR.

Although the Board’s question concerned inconsistencies across proceedings, Petitioner’s positions are inconsistent *within this IPR* as well. The Petition treats “predicted axial accelerations” as referring only to a gravity vector: “Mobile phone 10 of Nasiri uses the output reading of its gyroscope and accelerometer in a sensor fusion algorithm (which, like the EKF of Bassompierre, predicts the acceleration, i.e., *the gravity vector*.” Pet. at 65 (emphasis added).

The Petition never suggests that “predicted axial accelerations” may include linear or centrifugal acceleration, nor that the term “ordinarily encompasses three types.” *See generally* Pet. This broader interpretation appears for the first and only time in Petitioner’s Brief that was filed after the Board called attention to Petitioner’s shifting positions. Petitioner’s Brief at 4.

This failure to provide a clear construction in the Petition, followed by the introduction of an expanded interpretation later in the proceeding, is independently improper and also “favors denial of institution.” *American Airlines, Inc. et al v. Intellectual Ventures I LLC*, IPR2025-01055, Paper 11 at 14 (PTAB Nov. 21, 2025).

C. Petitioner Failed to Disclose or Explain its Other Inconsistent Claim-Construction Positions from the California Litigation.

Petitioner has also taken inconsistent claim construction positions between this proceeding and the co-pending California Litigation. On May 13, 2025, the parties

filed a Joint Claim Construction and Prehearing Statement in the California Litigation in which Petitioner proposed constructions for four terms appearing in claims 1 and 7 of the '846 Patent. Ex. 2007 at 2. One week later, Petitioner filed this IPR and argued that only one claim term requires construction. Pet. at 22.

The table below compares Petitioner's district court constructions with those advanced here:

Term	California Litigation Filed 5/13/25 (Ex. 2007)	IPR2025-01023 Filed 5/20/25
Display reference frame	the coordinate system in which the display device is defined, with an origin located on the display device and a set of three coordinate axes fixed with respect to the display device	Plain and ordinary meaning
Deviation/ Resultant deviation	angles in a spatial reference frame of the electronic device	Plain and ordinary meaning
Resultant angles	angles in a spatial reference frame of the electronic device	Plain and ordinary meaning

Petitioner has neither acknowledged nor explained these inconsistencies to the Board. As the Board recently explained in *American Airlines*, “Patent Owner should not have been the first party to inform the Board as to Petitioner’s different claim construction positions in two forums.” *Am. Airlines*, Paper 11 at 13. These three claim terms are precisely the type of narrowing-in-district-court and then broadening-in-IPR conduct condemned in *Revvo*. *Revvo*, Paper 20 at 3-4; *see also Samsung Elecs. Co., Ltd. v. Wilus Inst. of Standards and Tech. Inc.*, IPR2025-00988,

Paper 12 at 7 (PTAB Nov. 7, 2025). Samsung's failure to disclose these inconsistencies to the Board may be a violation of its duty of candor. *Am. Airlines*, Paper 11 at 13 (implying that failure to notify Board of shifting claim construction positions could be a violation of duty of candor under 37 C.F.R. § 42.11). And its failure to explain these shifting positions also favors denial under *Revvo*.

II. CONCLUSION

Petitioner has taken multiple, irreconcilable positions on the meaning of multiple claim terms, including “predicted axial accelerations.” Petitioner provides no coherent justification for these shifts, as required by *Revvo* and *Tesla*. Petitioner's unexplained, inconsistent positions strongly favor denial of institution under *Revvo* and *Tesla*.

Respectfully Submitted,

/Ginger G. Turner, Reg. 75,842/

Ginger G. Turner (Reg. 75,842)
Gingineer Consulting LLC
4062 Peachtree Road NE
PO Box A – 281
Brookhaven, GA 30319
ginger@gingineerllc.com

Christopher Evans (Tex. SBN 24058901)
Offor Evans PLLC
1122 Jackson Street, No. 901
Dallas, TX 75202
chris@offorevans.com

Practitioners for Patent Owner

CERTIFICATE OF SERVICE 37 C.F.R. § 42.6(e))

The undersigned hereby certifies that the above document was served
December 1, 2025 by filing this document through the Patent Trial and Appeal
Case Tracking System (P-TACTS), as well as delivering a copy via electronic mail
to the following practitioners of record for Petitioners:

Naveen Modi (Reg. No. 46,224)
Chetan Bansal (Reg. No. 81,590)
Robert Laurenzi (Reg. No. 45,557)
Paul Hastings LLP
PH-Samsung-CMHK-IPR@paulhastings.com

Respectfully submitted,

/Ginger G. Turner, Reg. 75,842/

Ginger G. Turner (Reg. 75,842)

Principal

Gingineer Consulting LLC

Practitioner for Patent Owner

ginger@gingineerllc.com

December 1, 2025

Date