

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

WILUS INSTITUTE OF STANDARDS AND TECHNOLOGY, INC.,
Patent Owner.

Case IPR2025-01164
U.S. Patent No. 12,004,262

PETITIONER'S REPLY TO
PATENT OWNER'S PRELIMINARY RESPONSE

Issue 1 (BSS Color Conflict Resolution)—Seeking to distinguish the prior art,

PO baselessly imports a requirement for the claims to resolve a BSS color conflict. *See, e.g.*, POPR, 1 (“independent claims 1 and 4, **[] set forth** how a wireless terminal sets the BSS color for a trigger-based PPDU when the terminal receives conflicting color information”), 19 (“the **claimed invention** [] prevents color conflicts ... between the color from the Operation element and the color change by the access point”) (emphasis added). PO’s implicit construction should be rejected.

First, PO’s construction is inconsistent with its position in district court, where it proposed no terms for construction for purposes of infringement.

Second, nothing in the plain language of the claims requires a BSS color conflict. Even if claims 1 and 4 encompass conflict resolution, the full breadth of the claims is not so limited. For example, element [4.5] recites that “the active BSS color is a BSS color actually used by the wireless communication terminal and set by an Operation element.” Element [4.6] then recites a condition when “the active BSS color is set to a value of a BSS color indicated by the information on the BSS color change.” PO effectively treats the claims as requiring that “the value of the BSS color to be indicated by the trigger-based PPDU” recited in element [4.3] sometimes be set to the value of the BSS color “set by [the] Operation element” and at other times be set to “[the] value of [the] BSS color indicated by the information on the BSS color change” when the values conflict, *e.g.*, due to the

wireless terminal missing a beacon frame in which the value of the Color Change Announcement Element is set to 0 (see STA2 in '262 Patent at FIGS. 22-23).

EX1001, 39:21-40:30. But the claims recite no language requiring the terminal to miss such a beacon frame or for a conflict to otherwise arise. Nor do the claims preclude setting the active BSS color to that indicated by the Operation element and the information on the BSS color change in a *not-missed* beacon frame like STA1 in FIGS. 22-23, consistent with aspects of the prior art. Pet., 25-36. Element [4.3] also only requires “setting the value of the BSS color” *once*, which can be satisfied by the BSS color actually used and set by an Operation element as recited in [4.5], and does not require separately applying the active BSS color from [4.6].

Third, despite PO’s attempts to distinguish FIG. 22 (see POPR, 3), the specification identifies FIG. 22 as “an embodiment of the present invention.” EX1001, 6:27-29, 38:56-58. Considering that the “active BSS color may indicate a BSS color actually used” (*id.*, 4:35-37), even STA1 in FIG. 22 has an active BSS color “actually used.” PO’s interpretation inexplicably excludes this embodiment.

Issue 2 (IEEE 802.11ax/D1.0 Public Accessibility)—The Petition demonstrates a reasonable likelihood that 802.11ax/D1.0, applied in Grounds 1A-1B (only), qualifies as a printed publication. Pet., 72-75; EX1015, ¶¶49-63. PO’s arguments focus on the Petition’s first basis for public accessibility relating to distribution of D1.0 to IEEE 802.11 Working Group voting members. But PO’s critiques fall

short as they fail to acknowledge uncontroverted evidence that D1.0 was actually disseminated to at least 371 IEEE members for voting before the Critical Date (*id.*, ¶54), that hundreds of other IEEE members had access to D1.0 before the Critical Date (*id.*, ¶54), that IEEE policy permitted members to “reproduce [D1.0] for purposes of international standardization consideration” (*id.*, ¶65), and that D1.0’s copyright notice states it was “made available for a wide variety of both public and private uses” (*id.*, ¶65). Dr. Hansen’s sworn testimony is also uncontroverted that “[t]here was, in practice, no expectation of confidentiality.” *Id.*, ¶56. PO’s cited cases are inapposite given that none involved actual dissemination to hundreds of interested individuals. And while the Petition addressed how any interested person could have readily joined the ranks of IEEE voting members, the law is clear that even a limited distribution can suffice to establish a printed publication. *GoPro*, 898 F.3d 690, 695 (Fed. Cir. 2018).

PO also has no answer to the Petition’s second basis for public accessibility, namely that any interested person tracking public development of 802.11ax could have readily obtained D1.0 from a voting member. Pet., 72-75; EX1015, ¶¶64-70. Dr. Hansen explained that “[v]oting members ... commonly shared standard amendment drafts with non-voting members.” *Id.*, ¶66. Indeed, contemporaneous IEEE submissions confirm multiple instances in which D1.0 was actually shared with non-voting members before the Critical Date. *Id.*, ¶¶67-69.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(4) and 42.205(b), the undersigned certifies that on November 10, 2025, a complete and entire copy of this Petitioner's Reply to Patent Owner's Preliminary Response was provided by email to the Patent Owner by serving the correspondence email address of record as follows:

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