IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.,

Petitioners,

v.

XIFI NETWORKS R&D, INC.

Patent Owner.

IPR2025-01209

U.S. Patent No. 11,856,414

PETITIONERS' RESPONSE TO PATENT OWNER'S MOTION TO STRIKE CERTAIN REPLY ARGUMENTS AND EVIDENCE[1]

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[1] Petitioners note that Patent Owner's paper uses a combined case caption in violation of 37 C.F.R. § 42.6(a)(3). *See also* Paper 37 1 n.1.

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Patent Owner's ("PO's") Motion to Strike (Paper 36) ("MTS") is the ***fourth*** time PO has sought to exclude arguments or terminate the proceeding based on the parties' constructions of "virtual MAC interface" and "bandwidth availabilit[ies]." But these constructions were first raised by ***Patent Owner*** in its preliminary response. Further, the Reply relies on the same components and functions of Chincholi raised in the Petition. Newly-cited portions are raised merely to respond to PO's arguments. Indeed, PO had every opportunity to explore these positions by cross-examining Petitioners' expert, Dr. Almeroth, but declined to do so for either their Response or Surreply—withdrawing both deposition notices mere days before the noticed dates. Rather than develop the record, PO instead attempts to prevail by limiting the testimony and arguments the Board hears. Having chosen not to explore these arguments ***twice***, PO's complaints that they are somehow "new" ring hollow.

I. PO FIRST RAISED THE AGREED-UPON CONSTRUCTIONS

PO concedes that a Reply may address a claim construction that PO raises. MTS at 3-4. PO attempts to avoid this well-settled authority, arguing that ***Petitioners*** first raised the claim constructions. MTS at 4. Not true.

First, the parties agreed in the litigation that "virtual MAC interface" means "a software- or logical-based interface that is separately addressable from the recited actual MAC interfaces and that obscures the recited actual MAC interfaces from higher protocol stack layers." POR at 11, Reply at 5-6. This was based on PO's

Preliminary Response, which argued that the "plain and ordinary meaning" of "virtual MAC interface" is "a software or logical construction that has an address that can be changed" and which "obscures the actual MAC interface's address from higher layers via is programmable, non-static—virtual—address." POPR at 12.

Second, for "bandwidth availabilit[ies]," the parties agreed the term requires information about "current" bandwidth availability. POR at 14, Reply at 10-11. This construction was based on the POPR from other proceedings that the "ordinary and customary meaning" of the term requires disclosure of a bandwidth's "current availability." *See, e.g.*, PGR2025-00069, POPR at 22.

Thereafter, in the parallel litigation, as part of sparing the district court a larger dispute over these terms, Petitioners stipulated with PO to construe the relevant terms consistent with PO's prior statements because they constitute intrinsic evidence. EX2031 at 10, 12; *Aylus Networks, Inc. v. Apple Inc.*, 856 F.3d 1353, 1360 (Fed. Cir. 2017). Petitioners then addressed in their Reply how these constructions are met by the prior art consistent with the Petition's existing theories.

As the Federal Circuit has held, "before the Board decides a case under a construction adopted after the institution decision, it ***must*** give a petitioner an opportunity to respond to the new construction, whether that construction was ***first proposed by the patent owner*** or the Board." *Axonics, Inc. v. Medtronic, Inc.*, 75 F.4th 1374, 1381 (Fed. Cir. 2023); *see also ParkerVision, Inc. v. Vidal*, 88 F.4th 969,

979 (Fed. Cir. 2023) ("Because the Board's institution decision did not contain an express claim construction, the APA ***required*** the Board to give [Petitioner] adequate notice and an opportunity to respond under the new construction first proposed by [Patent Owner]"). Here, the Board has not yet construed the terms. And it was ***PO***, not Petitioners, who first proposed the agreed-upon constructions—which distinguishes the Director's recent decision in *Cisco Sys., Inc. v. Lionra Techs., Ltd.*, IPR2024-01281, Paper 29 at 5 (Director July 15, 2026) ("*Cisco*") ("Unlike in *Axonics*, it was *Petitioner*, not Patent Owner or the Board, who first proposed (in district court) a claim construction that differed from the construction it proposed in the Petition."). Because these are PO's constructions, Petitioners must be allowed to respond to them—even if Petitioner later agreed with them in the litigation.

II. THE REPLY DOES NOT ADVANCE ANY NEW THEORY

There is also no basis to grant PO's Motion because the Reply is responsive to PO's arguments and does not advance any new theory. As the Reply explained, Petitioners only agreed with the claim construction positions in the litigation because they are fully consistent with the prior art and arguments advanced in the Petition. Reply at 5-7, 10-12. The Reply relies on the same components and functions of Chincholi as the Petition did. The newly cited portions of Chincholi are responsive to Patent Owner's arguments and consistent with the Petition's original arguments. They are not raised as alternative arguments. *Cf. Axonics*, 75 F.4th at 1378-79

(Petition argued a "one-input" claim construction, Reply addressed a "two-input" claim construction); *Cisco* at 3-4 (Petition conceded Paatela does not disclose timing of writing of packet headers, Reply argued Paatela performs concurrent writing).

For "virtual MAC interface," the Petition identified Chincholi's "OMMA" layer, which "transparently 'distributes and/or combines' packets between the IP layer and the RATs" and "appear[s] to the IP layer as a single interface for exchanging packets that are ultimately sent or received by the actual MAC-PHY pairs." Pet. 28 (quoting EX1005, ¶[0192]). This is consistent with the agreed construction. In response to PO's argument that Chincholi does not obscure actual MAC interfaces, Petitioners merely pointed to Chincholi's disclosure of how the OMMA layer handles MSDUs as further evidence that the OMMA layer "'obscures' actual MAC interfaces from higher protocol-stack layers." Reply at 6. In response to PO's argument that Chincholi's OMMA is not "separately addressable," Petitioner cited passages showing that the OMMA has a separate address to which signaling packets can be directed as part of the set-up process. Reply at 7. None of this constitutes a new argument or an alternative "embodiment" of Chincholi.

Of note, this argument to which Petitioner responded was also raised in PO's Preliminary Response. POPR at 9-19. In instituting, the Director presumably rejected PO's contention that the Petition failed to establish the claim terms despite PO's arguments regarding their plain and ordinary meaning.

For "bandwidth availabilities," the Petition relied on Chincholi's disclosure of each RAT providing "channel quality metrics and the number of available resources on the medium" in order to determine packet routing. Pet. at 30 (quoting EX1005, ¶[0161]). The Petition's argument was under a theory that the "available resources" are ***currently*** available. In response to PO's argument that these were "historical metrics and averages," Petitioners argued that "channel quality metrics" and "available resources" are ***not*** historical and do, in fact, reflect current availabilities. Reply 10-11; EX1026, ¶63. Petitioners also relied on additional disclosures in Chincholi showing that the OMMA layer initially receives available bandwidth and RSSI values, indicating that the previous disclosure of "channel quality metrics" and "available resources" refer to current values.

Moreover, PO has suffered no prejudice. PO addressed these disclosures in its Surreply. And PO has known about these claim construction positions since it first filed its Preliminary Response and could have addressed these disclosures in Chincholi in its POR. Moreover, PO could have deposed Petitioner's expert, or could have requested leave to file a supplemental expert declaration. PO did neither. *Axonics*, 75 F.4th at 1384 ("Medtronic had not asked for leave to submit an additional expert declaration in this case."). To the contrary, PO noticed –and canceled—the cross-examination of Petitioner's expert ***twice***.

DATED: September 11, 2026 Respectfully submitted,

By *_____/s/ James Glass_____*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 11, 2026, true and correct copies of the foregoing document and supporting materials were served in its entirety at the following email addresses:

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