

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EASTMAN KODAK COMPANY, AGFA CORPORATION, ESKO SOFTWARE
BVBA, and HEIDELBERG, USA

Petitioners,

v.

CTP INNOVATIONS, LLC

Patent Owner.

Case IPR2014-00789

Patent 6,738,155

PETITIONERS' REPLY BRIEF

Pursuant to 37 C.F.R. §§ 42.23 and 42.24(c)(1), Eastman Kodak Company, Agfa Corporation, Esko Software BVBA, and Heidelberg, USA (“Petitioners”) hereby submit the following Reply in Support of their Petition for *Inter Partes* Review (“IPR”).

I. INTRODUCTION

Patent Owner's response is plainly impertinent to the instituted grounds. Trial has been instituted on claims 1-9 of the '155 patent in view of Jebens, Apogee, and OPI White Paper, as well as Dorfman, Apogee, OPI White Paper, Anderson, and Adams II. (*See* Paper 9 at 24-25.) Despite the Board's admonishment in its institution decision that "nonobviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures" (*id.* at 18), Patent Owner continues to (a) argue the alleged shortcomings of each reference individually; (b) ignore the proposed combinations set forth in the Petition; and (c) reiterate the failed arguments of its preliminary response.

In an attempt to salvage its claims, Patent Owner, and its expert, improperly read limitations from the specification into claims 1-9. Moreover, the testimony of Prof. Robert L. Stevenson ("Prof. Stevenson") provides unsupported legal conclusions, professes no skill in the pertinent art of printing and pre-press systems, and mistakenly applies a presumption of validity to the challenged claims. As with its preliminary response, Patent Owner fails to rebut the grounds of unpatentability accepted by the Board and simply repeats its earlier, failed arguments without explanation. Indeed, although Prof. Stevenson acknowledges

that he reviewed the Board's Institution Order (Ex. 2014 at ¶ 11), he does not rebut its findings *anywhere*. As such, the Board's findings of fact stand unrebutted.

II. THE JEBENS GROUND STANDS UNREBUTTED

Claim 1 of the '155 patent, the only independent claim challenged in this IPR, recites “an end user facility coupled to a communication network,” “a printing company facility coupled to said communication network,” and “a central service facility coupled to said communication network.” Reading from the '155 patent's specification, Patent Owner and its expert attempt to import a requirement into the claim that the communication network must “integrate various processes into ‘one *real time system*’” (Resp. at 26, *citing* Ex. 1001 at 4:25-33, emphasis added), such that all three facilities directly communicate across a singular private network, for example. In particular, Patent Owner alleges that Jebens does not disclose all three facilities coupled to a single network because “[t]here is no communication between the first user and the second users” and “a second communication network” is established between the host site and the printer. (Resp. at 30.)

As an initial matter, the Board has already determined that the preamble of claim 1, which includes the only reference in the claim to “real time,” is non-limiting. (Paper 9 at 12-13.) Patent Owner's reasoning as to why the claimed facilities are integrated into “one real time system” is based solely on the “reflect[ion] in the preamble to claim 1” of this alleged fact. (Resp. at 26; Ex.

2014 at ¶ 19.) Patent Owner provides no justification to support its bald assertion, nor could it, as to why claim 1 requires all three facilities to be coupled to the same/a singular communication network (which seemingly excludes the Internet embodiment of its own specification!) and that the end user facility must communicate directly with the printing company facility. Patent Owner's incorrect claim construction argument, under the guise of an analysis of *Jebens*, should be ignored.

Tellingly, the '155 patent describes both a private network embodiment and an embodiment operating over the Internet, so the claims must be broad enough to cover both. (*See, e.g.*, Ex. 1001 at 4:29:32, 4:59 – 5:28, 11:18 – 13:7.) Similarly, whether or not the claimed facilities operate through the central service facility is inapposite; the facilities are still internetworked, and the claims require nothing more. Moreover, the specification states that secured access to customer files is controlled by the DCM server located at the central service facility, irrespective of whether the access request comes from an end-user facility or a printing company facility, or whether the request is transmitted over a private network or a public network. (Ex. 1001 at 14:51-62.) Thus, the alleged “log-in” distinction argued by Patent Owner is in direct conflict with the disclosure of the '155 patent.

Figure 1 of *Jebens*, cited on page 33 of the Petition and reproduced by Patent Owner on page 27 of its Response, clearly shows all three facilities coupled to an

intranet or the internet. Jebens meets this limitation of the challenged claims. Patent Owner provides no other basis to distinguish its alleged invention of claims 1-9 of the '155 patent over the combination of Jebens, Apogee, and OPI White Paper. Accordingly, Petitioners respectfully request that the Board cancels claims 1-9 as unpatentable.

III. THE DORFMAN GROUNDS STAND UNREBUTTED

A. The Teachings of Dorfman are Not Limited to "Response on Demand" Printing Systems

Nearly all of Patent Owner's arguments regarding Dorfman surround Patent Owner's unsubstantiated—and previously rejected—argument that Dorfman's teachings are directed solely to "response on demand" digital printing systems. Patent Owner now calls Dorfman a "response on demand" system, rather than a "variable data printing (VDP) system" as categorized in the preliminary response (Prelim. Resp. at 23); however, Patent Owner's arguments are the same.

Specifically, in its preliminary response, Patent Owner argued that "the Dorfman system is not relevant to the '155 patent" because it describes a VDP system without an explicit disclosure of a printing plate, "which is the *raison d'etre* of the computer-to-plate (CTP) system in the '155 patent." (Prelim. Resp at 23; *see also* Resp. at 38, including identical language.) In short, Patent Owner argued, and continues to argue in its Response, that Dorfman's system is allegedly

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