

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 IPR2014-00790

Patent 6,611,349

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”).

Patent Owner's response is plainly impertinent to the instituted grounds.

Trial has been instituted on claims 1-3 of the '349 patent in view of Jebens, Apogee, and OPI White Paper, as well as Dorfman, Apogee, Andersson, and OPI White Paper. (Paper 9 at 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 20), Patent Owner continues to: (a) argue the alleged shortcomings of individual references; (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 1-3. 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*. The Board's findings of fact stand unrebutted.

I. THE JEBENS GROUNDS STAND UNREBUTTED

Claims 1-3 are rendered obvious in view of Jebens, Apogee, and OPI White Paper. Patent Owner's alleged basis for distinguishing these claims stems from an improper reading of the claims and the prior art. Patent Owner also fails to consider the proposed combination as a whole, attacking the references individually instead.

A. The End-User, Central Service, and Printing Company Facilities Disclosed in Jebens are Coupled to a Communication Network

Claims 1-3 of the '349 patent include "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 '349 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 33, *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 37.)

As an initial matter, the Board has already determined that the preamble of claims 1-3, 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 33; Ex. 2014 at ¶ 25.) 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 ‘349 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 ‘349 patent.

Figure 1 of Jebens, cited on page 31 of the Petition and reproduced by Patent Owner on page 35 of its Response, clearly shows all three facilities coupled to an intranet or the Internet. Jebens meets this limitation of the challenged claims.

B. Jebens in Combination with Apogee Discloses Generating a Plate-Ready File at a Central Service Facility

As set forth in the Petition, and as recognized by the Board in its Institution Decision, *Jebens in combination with Apogee*, teaches the claimed step of generating a plate-ready file at a central service facility and providing that plate-ready file to a remote printer. (Paper 9 at 17-18.) Patent Owner spends six pages of its Response ignoring the proposed combination set forth by Petitioners and argues that Jebens does not disclose generating a plate-ready file at a central service facility.

Just as in its preliminary response, Patent Owner attempts to argue that Jebens central service facility is simply a conduit. This argument is incorrect and was rejected by the Board at institution. (Paper 9 at 19-20.) Finally addressing Apogee (in a mere two paragraphs), Patent Owner concedes that Apogee teaches a plate-ready file as claimed. (Resp. at 32.) Patent Owner’s sole argument against Apogee is incorrect and unsupported by the record.

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