

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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DISH NETWORK L.L.C.,  
Petitioner

v.

DRAGON INTELLECTUAL PROPERTY, LLC.  
Patent Owner

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Case IPR2015-00499  
U.S. Patent No. 5,930,444

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**PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE**

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Petitioner respectfully submit this reply to Patent Owner's Response regarding the unpatentability of claims 1, 2, 3, 4, 7, 8, 9, 10, 13, and 14 of the '444 Patent (the "challenged claims") as being obvious over Goldwasser and Yifrach (Ground 8), and Goldwasser, Yifrach and Vogel (Ground 9).

## **I. PRELIMINARY STATEMENT**

Although Patent Owner's Response (Paper 12) attempts to obfuscate the issues in this Trial, the questions before the Board are straightforward: (1) Does Yifrach disclose a keyboard with two keys; and (2) would it be obvious to use the two keys of Yifrach to implement the functionality of the "user control panel" of Goldwasser. The answer to both questions is "yes", rendering the challenged claims unpatentable.

Goldwasser teaches every element of the independent claims, except Goldwasser teaches interacting with the system via a "user control panel" rather than expressly reciting a "keyboard." See Paper 1 (Pet.) at 45-46, 56. Ex. 1010 (Wechselberger Decl.) ¶¶ 32, 40-42, 132, 154; Paper 12 at 12-14, 23-25. However, the use of a keyboard with distinct keys corresponding to distinct device functionality was a well-known design choice at the time of the '444 Patent, rendering the claims unpatentable in view of Goldwasser and Yifrach. Paper 1 (Pet.) at 56; Ex. 1010 (Wechselberger Decl.) ¶¶ 91, 152-154.

Patent Owner's Response never addresses the combination of the teachings

of Goldwasser and Yifrach proposed in Grounds 8 and 9. Instead, Patent Owner attacks the references individually, arguing: (1) Goldwasser lacks a keyboard with two keys (Paper 12 at 12-14, 24); and (2) Yifrach lacks two buttons that, when pressed, perform the functionality recited in the claims (Paper 12 at 14-23, 26-29). But the petition conceded those points (Paper 1 at 43-47, 56), making Patent Owner's attacks irrelevant. *See In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) ("Non-obviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references.").

In short, Patent Owner's arguments and evidence fail to address the proper inquiry: whether a "person having ordinary skill in the art could have combined [the prior art teachings] in a fashion encompassed by [the claim], and would have seen the benefits of doing so." *KSR Intern. Co. v. Teleflex Inc.*, 550 U.S. 398, 422 (2007). Thus, the showing of unpatentability set forth in the petition remains un rebutted, and the Board should find the challenged claims are unpatentable.

## II. ARGUMENT

### A. CLAIMS 1 AND 14 ARE OBVIOUS OVER GOLDWASSER AND YIFRACH

1. **The combination of Goldwasser and Yifrach discloses the claimed "keyboard having a record key and a playback key."**

Goldwasser provides all of the functionality of claim 1, but does not

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