

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**TOYOTA MOTOR CORPORATION,
Petitioner,**

v.

**BLITZSAFE TEXAS, LLC,
Patent Owner**

**Case IPR2016-00418
Patent 8,155,342**

**PETITIONER'S RESPONSE TO PATENT OWNER'S
MOTION FOR OBSERVATIONS ON CROSS-EXAMINATION
OF TOYOTA'S REPLY WITNESS DR. MATHESON**

I. INTRODUCTION

Pursuant to the Scheduling Order (Paper 14), Petitioner Toyota Motor Corporation (“Toyota” or “Petitioner”) timely submits its Response to Patent Owner's Motion for Observations on Cross-Examination of Toyota's Reply Witness Dr. Matheson (Paper 27).

II. PETITIONER'S RESPONSE TO OBSERVATIONS

1. Observations Relevant to Clayton's Disclosure of the "Audio Generated by the Portable Device Over Said Wireless Communication Link" Limitation

Observation #A.1.

Patent Owner incorrectly alleges on pages 1-2 of Paper 27 that Dr. Matheson's cross-examination testimony regarding a hypothetical scenario within Clayton's disclosure "contradicts and undermines the credibility of his opinions" that "unencoded is synonymous with decoded" and that "[i]f unencoded audio content is wirelessly transmitted, and that content originates from an MP3 file as the patent says it may, then a PHOSITA would understand that the portable device must first decode the MP3 file before wirelessly transmitting it." Ex. 1027 at 4 and 5.

This observation should be disregarded as Dr. Matheson's testimony was in fact fully consistent with his declaration opinions and noted that Clayton is not limited to the hypothetical scenario.

For example, in Ex. 2013, on page 16, lines 7 through 17¹, Dr. Matheson referred to Exhibit 1002 (Clayton) and testified: "Yes, and I use the word 'content' the same way that Clayton does, which refers to, in other places in the Clayton document, encoded or unencoded audio as well. So when I say 'content,' I'm not narrowing it the way I believe Dr. Stern attempted to do. Clayton expressly talks about content simply being audio, and so in paragraph 55 when he's talking about transmitting content, that content includes both encoded and unencoded audio, and it talks about transmitting that in an encoded or unencoded format."

In Ex. 2013, on page 19, lines 4 through 6, Dr. Matheson referred to Exhibit 1002 and testified: "Q. Can audio files be transmitted in unencoded form in Clayton? A. Yes they may."

In Ex. 2013, on page 23, lines 18 through 25, Dr. Matheson referred to Exhibit 1002 and testified: "Clayton talks about sending various types of content, as defined by Clayton, in encoded or unencoded format. Your hypothetical includes a couple of those types in different conditions, and your hypothetical

¹ Unless otherwise noted, emphasis has been added and, for conciseness, objections have been removed.

matches or is covered by or considered by Dr. Clayton or Mr. Clayton in paragraph 55, *but it's not limited to that.*"

In Ex. 2013, on page 20, lines 11 through 20, Dr. Matheson referred to Exhibit 1002 and testified: "Q. What about MP3 files; can MP3 files be transmitted in Clayton in encoded form? A. Yes. Q. And they can be transmitted in unencoded form as well, correct? A. That's correct. To be accurate, *to transmit an MP3 file in unencoded form means you first have to decode it, and then you are able to transmit it in unencoded form.*"

Observation #A.2.

Patent Owner incorrectly alleges on page 2 of Paper 27 that Dr. Matheson's cross-examination testimony regarding a "target device" as used in the Clayton reference "contradicts and undermines the credibility of his opinions regarding the bases for his interpretation of the Clayton reference."

This observation should be disregarded as Dr. Matheson's testimony regarding a "target device" was in fact consistent with his declaration opinions.

For example, in Ex. 2013, on page 43, lines 9 through 17, Dr. Matheson referred to Exhibit 1002 (Clayton) and testified: "So as I said, I'm glad I took a

second look. It looks like Clayton does include a car stereo as being a type of a target device. He defines target device quite broadly to include, include both the portable devices and the car stereo itself. You'll note, however, that the car stereo is not shown as receiving content from the network and the content service."

Observation #A.3.

Patent Owner incorrectly alleges on pages 2-3 of Paper 27 that Dr. Matheson's cross-examination testimony that Clayton discloses a portable device that need not be an MP3 player "contradicts and undermines the credibility of his opinions" that "unencoded is synonymous with decoded" and that "[i]f unencoded audio content is wirelessly transmitted, and that content originates from an MP3 file as the patent says it may, then a PHOSITA would understand that the portable device must first decode the MP3 file before wirelessly transmitting it." Ex. 1027 at 4 and 5.

This observation should be disregarded as Dr. Matheson's testimony was in fact consistent with his declaration opinions, and noted that his opinions are based on an embodiment in Clayton whereby the portable device transmits a stored MP3 file as unencoded content.

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