

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZTE (USA) Inc.,

Petitioner,

v.

Fundamental Innovation Systems International LLC,

Patent Owner.

Case IPR2018-00111

Patent 8,624,550

Before RAE LYNN P. GUEST, JO-ANNE M. KOKOSKI, and
JON B. TORNQUIST, *Administrative Patent Judges*.

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

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Cases

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<i>KSR Int’l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007).....	10, 14
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<i>Merck & Co. v. Biocraft Labs., Inc.</i> , 874 F.2d 804 (Fed. Cir. 1989)	8, 9, 14

Other Authorities

Manual of Patent Examination Procedure § 2123 (8th ed. 8th rev. 2012)	8, 9, 14
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Case IPR2018-00111
Patent 8,624,550

Statement of Material Facts

Patent Owner did not submit a statement of material facts in its Patent Owner's Response. Therefore, this reply need not provide a response pursuant to 37 C.F.R. § 42.23(a), and no facts are admitted.

I. Introduction

The challenged '550 patent broadly claims an adaptor that departs from the USB specification by supplying VBUS current without regard to conditions set forth in the USB specification. The prior art Rogers patent teaches exactly that—for the specific purpose of providing more power than USB-compliant devices were intended to provide. Patent Owner argues that Rogers taught only departing from the USB *voltage* limits, not the USB *current* limits, and that a person of skill in the art would have otherwise felt rigidly restricted by the USB specification. Neither the teachings of the Rogers patent nor the established standards of obviousness are so restrictive.

The Rogers patent specifically described a “*modified USB* for interconnection of telephone accessories to the disclosed LAN telephone,” distinguishing this “modified USB” from standard USB. Nothing in the Rogers patent suggests that its departure from the USB specification was limited to a higher voltage. Indeed, the Rogers patent specifically criticized the USB current limits and provided examples that would result in higher currents. Likewise, Rogers taught a 48V-compatible query and response protocol that departed from the strict USB specification. In light of these teachings, one skilled in the art would not have felt rigidly bound by the USB specification.

Patent Owner responds by *changing* the teachings of the Rogers patent. With testimony from Dr. Fernald and Mr. Rogers himself, Patent Owner seeks to limit the teachings of the Rogers patent to the specific commercial embodiment that

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