

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PANASONIC CORPORATION AND PANASONIC CORPORATION OF NORTH
AMERICA

Petitioners,

v.

CELLSPIN SOFT, INC.

Patent Owner.

CASE: IPR2019-00131¹

Patent No. 9,258,698

**PATENT OWNER CELLSPIN'S OBJECTIONS TO PETITIONER'S
DEMONSTRATIVE EXHIBITS**

I. Introduction

Petitioner Panasonic's proposed demonstrative slides, like Panasonic's Reply and its Exhibits, are rife with improper new theories, directions, approaches, arguments and evidence which are not proper rebuttal and which Panasonic could, and should, have presented in its prima facie case in its Petition (collectively the "Improper New Matters"). Such Improper New Matters violate 37 C.F.R. §42.23(b), the Administrative Procedure Act ("APA") and due process. *See Genzyme v. Biomarin Pharm.*, 825 F.3d 1360, 1365-66 (Fed. Cir. 2016); *Intelligent Bio-Sys. v. Illumina Cambridge*, 821 F.3d 1359, 1369-70 (Fed. Cir. 2016); *In re NuVasive*, 841 F.3d 966, 973 (Fed. Cir. 2016); *Belden v. Berk-Tek*, 805 F.3d 1064, 1078, 1081 (Fed. Cir. 2015); *Apple v. e-Watch*, IPR2015-00412 (Paper 50, p. 44) (PTAB May 6, 2016); *See Consolidated Guide*, pp. 73 & 80-81. *See also* 5 U.S.C. §§ 554(b)-(c), 556(d), 557(c); *Abbott Labs. v. Cordis*, 710 F.3d 1318, 1328 (Fed. Cir. 2013). *See also* Cellspin's December 23, 2019 Motion to Strike ("MTS") and Cellspin's January 13, 2020 Response to Panasonic's Motion to Strike (Paper 48). The PTAB should strike, or alternatively, exclude, Panasonic's improper demonstratives, which were submitted as a whole, in their entirety. *See CBS Interactive v. Helferich Patent Licensing*, IPR2013-00033, Paper 118 (Oct. 23, 2013). Alternatively, the PTAB should strike, or alternatively, exclude, the individual slides 12, 16, 18, 29, 31-32, 34, and 36-39, including for the reasons noted herein. To the extent necessary or appropriate, the MTS should be deemed incorporated herein as applicable

to many of these same issues.

II. Argument.

A. Objections to Slide 12

Cellspin objects to Slide 12 because the Panasonic's stated arguments that "Mashita discloses the same pairing and cryptographic authentication process as the '698 patent itself and as taught in the Bluetooth specifications," and that "Limitation [C] would have been an obvious implementation of the Bluetooth connections disclosed in the three prior art references," are Improper New Matters.

Panasonic's Petition theories for "paired" being met were (a) that Mashita's connection authenticated with its 4 digit pin was a paired connection; and (b) that Mashita disclosed a Bluetooth connection and that was sufficient to disclose "paired." Petition (Paper 1) ("Pet."), pp. 38-39. *Panasonic's Petition theories for paired were not dependent upon any obviousness theory. Panasonic's Petition theory for cryptographic authentication being met by Mashita was that Mashita's PIN exchange constituted cryptographic authentication because the PIN was "secret." Pet, pp. 39-41. Further, Panasonic's Petition theories for paired wireless connection and for cryptographically authenticating were not dependent upon the details of the Bluetooth Specification beyond its mere inclusion of pairing and cryptographic authentication.*

Panasonic's Petition only relied upon Mashita's PIN exchange for "cryptographically authenticating" because the PIN was a "secret." E.g., Pet, pp. 9, 40.

Panasonic's Petition did not rely upon Mashita's PIN entry for pairing. It only relied upon

the PIN for “cryptographically authenticating” because the PIN was a secret. *E.g.*, Pet, p. 40.

Panasonic’s new arguments in Slide 12, which are quoted above, are Improper New Matters. See above and Cellspin’s MTS, §§ A, C-H.

C. Objections to Slides 16-18

Cellspin objects to Slides 16-18 including because the theory/argument/position/assertion that, “Bluetooth Core Specification Confirms Mashita's Disclosure of Paired Connection Using a PIN” constitutes Improper New Matters. Without limitation, Panasonic’s Petition theories for “paired” being met were (a) that Mashita’s connection authenticated with its 4 digit pin was a paired connection; and (b) that Mashita disclosed a Bluetooth connection and that was sufficient to disclose “paired.”. Petition (Paper 1) (“Pet.”), pp. 38-39. This involves similar issues as with Slide 12. See Objections to “paired” Improper New Matters in Slide 12 *supra*; Cellspin’s MTS, §§ D-G.

Cellspin further objects to Slide 17 because “Ex . 1017 at 29 “ is clearly being used to support the foregoing Improper New theory/argument/position/ assertion that, “Bluetooth Core Specification Confirms Mashita's Disclosure of Paired Connection Using a PIN,” and because the citation to Section 4.2.2 of the Bluetooth Specification, which was not cited in Panasonic’s Petition, is Improper New evidence offered in support the foregoing Improper New theory/ argument/position/ assertion. During the meet and confer process, Panasonic pointed out that its Petition at p. 41 states as follows:

The Bluetooth specification V2.0 released in November 2004 discloses how

two devices establish a paired Bluetooth connection and cryptographically authenticate each other. Ex. 1017, pp. 27, 29 (Section 4.2), 50-51 (Section 3.2) Ex. 1001, ¶87. Thus, by explicitly disclosing a Bluetooth connection, Mashita, Onishi, and Hiraishi, each reference discloses or at least renders obvious to a POSITA the “cryptographically authenticating” portion of this limitation.

Pet., p. 41. However, this is just a general assertion Mashita disclosed a Bluetooth connection and that was sufficient to disclose “paired.” Panasonic’s Slide 17 improperly seeks to rely upon new details from the Bluetooth Specification, including those highlighted in the slide concerning a Bluetooth PIN, random number and BD_ADDR, that were not part of Panasonic’s Petition theory or support.

Cellspin further objects to Slide 18 because “Ex . 2018 at 866” is clearly being used to support the foregoing Improper New theory/argument/position/ assertion that, “Bluetooth Core Specification Confirms Mashita's Disclosure of Paired Connection Using a PIN,” and because the citation to Figs. 3.1 and 3.10 of the Bluetooth Specification (Ex. 2018), which was not cited in Panasonic’s Petition, are Improper New evidence offered in support the foregoing Improper New theory/argument/position/ assertion.

C. Objections to Slides 29, 31-32 and 34

Cellspin objects to Slides 29, 31-32 and 34 including because the theory/argument/position/assertion in each that, “Mashita Discloses Cryptographic Authentication under the Proper Claim Construction” constitutes Improper New Matters, including Improper New theories/arguments/ positions/assertions for “cryptographically

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