

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FLEX LOGIX TECHNOLOGIES INC.,

Petitioner

V.

VENKAT KONDA,

Patent Owner

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Case PGR2019-00037

Patent 10,003,553 B2

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**MOTION TO AMEND UNDER 37 C.F.R. § 42.221**

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## I. INTRODUCTION AND STATEMENT OF RELIEF REQUESTED

Prior to filing this motion, pursuant to 37 C.F.R. § 42.221(a) Patent Owner complied with the conference call requirement with the Board on December 3, 2019 (Paper 15). During the call, the Board directed the parties to the Board's order in *Lectrosonics, Inc. v. Zaxcom, Inc.*, Case IPR2018-01129, Paper 15 (PTAB Feb. 25, 2019) (precedential), which provides information and guidance on motions to amend, and to the *Notice Regarding a New Pilot Program Concerning Motion to Amend Practice and Procedures in Trial Proceedings under the America Invents Act before the Patent Trial and Appeal Board*, 84 Fed. Reg. 9497 (Mar. 15, 2019). Accordingly, Patent Owner is submitting this paper by following those instructions<sup>1</sup>.

Patent Owner requests that claims 1-20 of U.S. Patent No. 10,003,553 ("the '553 Patent," Ex. 1001) be cancelled and that new claims 21-40 be treated on a contingent basis. *See Lectrosonics, Inc. v. Zaxcom, Inc.*, Case IPR2018-01129, (PTAB, Feb. 25, 2019) (Paper 15) ("A request to cancel claims will not be regarded as contingent. However, a request to substitute claims ordinarily will be

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<sup>1</sup> Prior to filing this paper, in an email communication the Board approved that the page limit for Patent Owner's motion to amend is increased to 30 pages.

treated as contingent.”). This Motion To Amend Under 37 C.F.R. § 42.221 is made on a contingent basis and is made in lieu of a response under 37 C.F.R. § 42.220.

This Motion satisfies the requirements for a motion to amend. Claims 1-20 are the challenged claims in this proceeding. Accordingly substitute claims are presented for challenged claims 1-20<sup>2</sup> in Appendix. This constitutes a “reasonable number of substitute claims.” 35 U.S.C. § 326(d)(1)(B). Additionally, the substitute claims: (1) do not “enlarge the scope of the claims;” (2) do not “introduce new [subject] matter;” and (3) “respond to [the] ground[s] of unpatentability involved in the trial.” 35 U.S.C. § 326(d)(3); 37 C.F.R. § 42.221(a)(2)(i), (ii). Patent Owner has therefore satisfied his burden of production.

Patent Owner respectfully requests preliminary guidance from the Board concerning this Motion, in accordance with the New Pilot Program Concerning Motion to Amend Practice. *See* 84 Fed. Reg. 9,497 (Mar. 15, 2019).

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<sup>2</sup> In addition to this PGR, the Board instituted another PGR2019-00042 filed by the same Petitioner concurrently on the ‘553 Patent. During the conference call with the Board on December 3, 2019, Patent Owner indicated to the Board that he intends to move for the same amendments to the claims in both proceedings. Accordingly, the same amended claims are submitted in both the proceedings, i.e. PGR2019-00037 and PGR2019-00042.

## II. PATENT OWNER'S RESPONSE TO PETITIONER'S CHALLENGES

### A. CHALLENGE GROUND 1

In response to the Petition, the following is submitted in the proposed substitute claims 31 – 40 submitted in the Appendix: 1) Term “Zero or more cross links” in Claims 1 and 11 are deleted. 2) Term “Zero or more straight links” in Claim 1 and Claim 11 are deleted. 3) Terms “plurality of forward connecting links” and “forward connecting links” in Claim 1 and Claim 9 are deleted. 4) Terms “plurality of backward connecting links” and “backward connecting links” in Claim 1 and Claim 9 are deleted. 5) Term “subnetwork(s)” in claims 1 – 3, 7 – 13, and 15 – 20 is substituted with “partial multi-stage hierarchical network(s)” in claims 21 – 23, 27 – 33, and 35 – 40. 6) Term “incoming links” in claims 1, 5, 9, 11, and 17 is substituted with “inputs” in claims 21, 25, 29, 31, and 37. Furthermore, term “outgoing links” in claims 1, 5, 9, 11, and 17 is substituted with “outputs” in claims 21, 25, 29, 31, and 37. 7) Term “multiplexers of size  $d \geq 2$ ” is first defined in claims 21 and 31 to remedy the antecedent issue. 8) Exemplary definition of term “a plurality of subnetworks” and referring to it subsequently as “each subnetwork” in several claims is corrected with substituted definition of term “a plurality of partial multi-stage hierarchical networks” and referred to it subsequently as “each partial multi-stage hierarchical network of said plurality of partial multi-stage hierarchical networks” in several substitute claims, to remedy

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