

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOMENTUM DYNAMICS CORPORATION,
Petitioner

v.

WITRICITY CORPORATION,
Patent Owner

Case No. IPR2021-01166
Patent No. 8,304,935

PATENT OWNER'S SUR-REPLY

TABLE OF CONTENTS

I. THE REPLY PRESENTS IMPROPER NEW ARGUMENTS BY ATTEMPTING TO PIVOT FROM THE PETITION'S FLAWED MAPPING OF O'BRIEN.....1

II. PETITIONER’S NEW MAPPING OF O’BRIEN IS INCONSISTENT WITH THE REFERENCE’S EXPLICIT DISCLOSURE.....3

III. CONCLUSION.....4

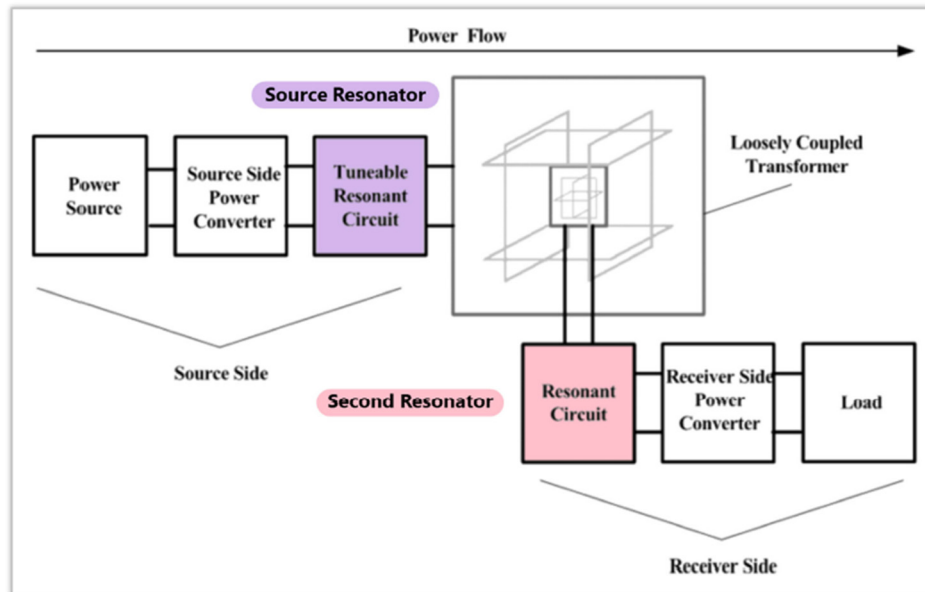
WiTricity Corporation (“Patent Owner”) submits this Sur-reply to the Reply filed by Momentum Dynamics Corporation (“Petitioner”).

I. The Reply presents improper new arguments by attempting to pivot from the Petition's flawed mapping of O'Brien

In the Reply, Petitioner alleges, for the first time, that “O’Brien’s ‘Tuneable Resonant Circuit’” and “source coil” *together* disclose the “source resonator” recited in claims 1 and 15 of the '935 patent. *See, e.g.*, Reply, 1, 3-8. The Reply further alleges, also for the first time, that O’Brien’s “Resonant Circuit” and “receiving coil” *together* disclose the “second resonator” recited in claims 1 and 15. *See, e.g., id.*, 1, 8-10. These new arguments are inconsistent with the mapping presented in the Petition, and thus should not be considered.

In addressing claims 1 and 15, the Petition clearly states that O’Brien’s “*Tunable Resonant Circuit* on the Source Side ... corresponds to the claimed *source resonator*,” and that O’Brien’s “*Resonant Circuit* on the Receiver Side ... corresponds to the claimed *second resonator*.” Petition, 17, 20 (internal quotes omitted). The Petition’s mapping of O’Brien to the “source resonator” and “second resonator” includes *no mention* of the “source coil” or “receiving coil.” *See* Petition, 17-22. The Petition makes this mapping crystal clear by including an annotated version of FIG. 5-1 from O’Brien, which specifically *does not* highlight

the separate coils in the “loosely coupled transformer” as being part of the mapping to the “source resonator” or “second resonator:”



O'Brien, FIG. 5-1 (as annotated at Petition, 13)

Thus, it is clear that the Reply presents a new theory of invalidity based on O'Brien. New arguments, and especially new theories of invalidity, are not permitted in the Petitioner Reply. *See* PTAB Trial Practice Guide, 73-75 (a petitioner reply may not “proceed in a new direction with a new approach as compared to the positions taken in a prior filing”). The Board should not permit Petitioner to improperly pivot from its original, flawed mapping of O'Brien to the claims of the '935 patent. *See id.* Moreover, the Board should not “attempt to sort proper from improper portions of the” Reply, and should thus refuse consideration of the Reply in its entirety. *See id.*, 74 (“[A] reply or sur-reply that raises a new

issue or belatedly presents evidence may not be considered. The Board is not required to attempt to sort proper from improper portions of the reply or sur-reply.”)

II. Petitioner’s new mapping of O’Brien is inconsistent with the reference’s explicit disclosure

The Reply refers to O’Brien’s “Tuneable Resonant Circuit” as “including [the] source coil,” and to its “Resonant Circuit” as “including [the] receiving coil.” *See, e.g.*, Reply, 1. But O’Brien consistently refers to its “resonant circuits” and “coils” as separate components, which is inconsistent with Petitioner’s new interpretation.

For example, O’Brien describes one configuration as including “a single-stage resonant circuit *per source coil*,” which makes clear that the resonant circuit and the coil are separate components. *See* O’Brien, 118 (quoted at Petition, 37). O’Brien also describes a configuration that “allows power to be transmitted at adjacent frequencies, which *simplifies receiving coil power extraction using a resonant circuit*.” *See* O’Brien, 57. O’Brien thus describes that the resonant circuit is used to extract power from the separate receiving coil. *See id.*

Thus, the Reply’s new interpretation of O’Brien’s resonant circuits as “including” the source and receiving coils is inconsistent with, and thus

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