

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., Ltd.,
SAMSUNG ELECTRONICS AMERICA, Inc., and APPLE Inc.,
Petitioners,

v.

SMART MOBILE TECHNOLOGIES LLC,
Patent Owner.

Case IPR2022-01004
Patent 9,614,943

PETITIONER'S REPLY TO
PATENT OWNER'S PRELIMINARY RESPONSE

In its preliminary response, Patent Owner mischaracterizes the petition's arguments and misapplies the law of obviousness. First, Patent Owner argues that the petition uses "common sense" to supply a limitation missing from the prior art. Not so. The petition never mentions "common sense" and provides a detailed analysis of what a person of ordinary skill would have recognized and/or found obvious from the disclosure in the prior art. Second, Patent Owner incorrectly assesses the law of obviousness by advocating for an overly narrow and rigid analysis that was squarely rejected in *KSR*. Indeed, the prior art must be read in context, taking account of "the background knowledge possessed by a person having ordinary skill in the art" and "the inferences and creative steps that a person of ordinary skill in the art would employ." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). For these reasons, the arguments in the preliminary response should be rejected and institution should be granted.

A. The Petition Provided a Reasoned Analysis with Evidentiary Support to Demonstrate Sampling and Clocking Individually

Patent Owner asserts that the Petition relied solely on "common sense" or "common knowledge" to satisfy the individual sampling and clocking limitation. POPR, 9-10. This assertion is clearly misplaced, and ignores Petitioner's thorough 6-page analysis, supported by Dr. Jensen's testimony and at least 8 different sources of corroborating evidence, which explains why a POSITA would have

recognized and/or found obvious that the channels in Byrne or the Byrne-Raleigh combination were sampled and clocked individually. Pet., 10-15 (citing EXs-1024, 1025, 1026, 1030, 1036, 1038, and 1039, and Dr. Jensen's Declaration (EX-1003), ¶¶78-85). Specifically, the Petition explained how the prior art disclosed multiple channels, how each of the channels was sampled and clocked, and how the multiple channels were subject to different requirements (e.g., sampling rates, processor clock rates, data rates, computational requirements, etc.).¹ *Id.* With these technological details, Dr. Jensen provided reasoned testimony on why the prior art disclosure would have led a POSITA to recognize that the channels in the prior art were sampled and clocked individually and/or that it would have been obvious to implement the channels in the prior art with individual sampling and clocking. *Id.* In fact, Dr. Jensen further substantiated these positions by offering detailed examples of the sampling and clocking that would have been needed or would have been obvious to use in implementing the different standards for the cordless (e.g., DECT) and cellular (e.g., GSM) channels taught in the prior art. Pet., 11-14.

The Petition's detailed analysis with abundant evidentiary support stands in stark contrast to the conclusory and unsupported analysis rejected in *Arendi*. In

¹ The POPR does not appear to dispute these facts and each fact is supported by corroborating evidence cited in the Petition.

Arendi, the Board relied on nothing more than “conclusory statements and unspecific expert testimony” in finding that it would have been “common sense ... to supply a limitation that was admittedly missing from the prior art.” 832 F.3d at 1362, 1366. Here, the Petition relies on Dr. Jensen’s testimony corroborated by abundant evidence in concluding that individual sampling and clocking was within a POSITA’s general knowledge and a feature that would have been recognized and/or obvious from a POSITA’s review of the Byrne and Raleigh prior art.

Further, as acknowledged by Patent Owner, *Arendi* merely cautions that “common knowledge” cannot be used as a “wholesale substitute for reasoned analysis and evidentiary support, especially when dealing with a limitation missing from the prior art references specified.” *Arendi*, 832 F.3d at 1362; POPR, 10. The Petition safely eliminates this concern by offering a reasoned explanation showing what a POSITA would have recognized and/or found obvious from the disclosure in Byrne and the Byrne-Raleigh combination with support from copious amounts of evidence. Pet. 10-15. For these reasons, Petitioner’s argument is distinguishable from *Arendi* and application of *Arendi*’s “common sense” holding is inapt.

B. More Applicable Case Law Endorses the Exact Type of Reasoned Analysis Provided in the Petition

In *KSR*, the Court criticized a rigid approach to determining obviousness based on the disclosures of individual prior art references, with little recourse to the knowledge, creativity, and experience of a POSITA. 550 U.S. at 415-22; *see*

also *Randall Mfg. v. Rea*, 733 F.3d 1355, 1363 (Fed. Cir. 2013). The Court emphasized the importance of interpreting prior art in view of “the background knowledge possessed by a person having ordinary skill in the art” and “the inferences and creative steps that a person of ordinary skill in the art would employ.” *Id.* at 418; *Randall Mfg.*, 733 F.3d at 1363.

Within this framework, the Federal Circuit has repeatedly endorsed the same type of analysis provided in the Petition for the sampling and clocking features. For example, in *IXI IP, LLC v. Samsung Elecs. Co.*, the Federal Circuit endorsed a finding of implicit disclosure where the prior art did not explicitly teach a claimed implementation detail, but that detail would have been recognized based on a POSITA’s review of the prior art. 903 F.3d 1257, 1263 (Fed. Cir. 2018) (affirming finding of implicit disclosure where “a POSITA would read Marchand to understand that JINI LUS may be located on the cellphone.”). Similar to *IXI*, although Byrne does not expressly describe that its channels are individually sampled and clocked, Dr. Jensen explains why a POSITA would have recognized that these implementation details are implicit in Byrne’s phone, as it includes separate components for cellular/cordless channels and different operations and requirements for respective communications. Pet. 10, 14 (EX-1008, 7:39-49).

In addition to implicit disclosure, the Petition also alleged an obviousness theory that has been endorsed by the Federal Circuit. For instance, in *Koninklijke*

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