

Filed: October 19, 2022

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

**PATENT OWNER'S PRELIMINARY SUR-REPLY
UNDER 35 U.S.C. § 313 AND 37 C.F.R. § 42.107**

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I. THE PETITION FAILED TO DISCLOSE OBVIOUSNESS

In six pages of text and seven separate exhibits, Petitioners cannot point to a single disclosure that says GSM and DECT must or should be sampled and clocked separately. Moreover, their expert, Dr. Jensen, fails to explain why his conclusion follows from his analysis, leaving nothing but ipse dixit. Thus, the Petition falls squarely within *Arendi*, and should for that reason (among others) be denied.

First, Petitioners fail to show that a POSITA would have “recognized” that the channels “were” sampled and clocked individually. Petitioners show that *some* receivers *may* sample in certain ways and clock in certain ways, but fail to explain why a POSITA would have sampled and clocked individually in the Byrne device. Specifically, Dr. Jensen contends that channels must be sampled individually based on different protocols at a “higher rate than the Nyquist rate” and then infers that a POSITA would have recognized that DECT would be sampled individually and at a different rate than for GSM. Pet. at 11. But the evidence that he uses refers to only one particular type of receiver—one that processes a discrete-time (zero) IF signal that is direct baseband conversion. Ex. 1024 at 10. In contrast, many receivers—as disclosed by Petitioners’ *own exhibits*—sample *below* the Nyquist rate. Ex. 1026 at 5 (Architecture A has “subsampling in the second Nyquist zone . . . [which] implies a sampling rate F_s which is less than twice the highest frequency component in the sampled signal.”), 6 (Architecture C, which is “single IF with extreme subsampling”

where the “concept of extreme subsampling implies the use of a sampling rate F_s which is considerably lower than IF_1 .”). So, when Dr. Jensen refers to sampling at the Nyquist rate, or even above it, he is referring only to sampling to fully reconstruct an original signal. But existing methods, by Petitioners’ own disclosures, show that sampling does not need to be as high as Dr. Jensen assumes. Moreover, for receivers that do sample above the Nyquist rate, Dr. Jensen fails to account for the possibility of over-sampling the *lower* GSM rate at the same rate as the DECT rate. Ex. 1003, ¶79. Similarly, while Dr. Jensen outlines a number of parameters that, he says, would impact the clock rate, Ex. 1003, ¶81, he fails to proffer any reason why a POSITA would not simply apply a *single* clock rate consistent with the parameters for both DECT and GSM in Byrne. So, he fails to show that a POSITA would “recognize” that “the channels in Byrne or the Byrne-Raleigh combination were sampled and clocked individually.”

Likewise, and for much the same reason, Petitioners fail to show that it would have been obvious to sample and clock the channels individually. “Obviousness concerns whether a skilled artisan not only *could have* made but *would have been motivated to make* the combinations or modifications of [the] prior art to arrive at the claimed invention.” *Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1073 (Fed. Cir. 2015). Here, despite Dr. Jensen’s explanation concerning the Nyquist rate and clocking parameters, Dr. Jensen fails to explain *why* a POSITA would have been

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