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Paper 13
Entered: July 8, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SDI TECHNOLOGIES, INC.
Petitioner

v.

BOSE CORPORATION
Patent Owner

Case IPR2014-00346
Patent 8,364,295

Before KARL D. EASTHOM, MICHAEL J. FITZPATRICK, and DAVID C. MCKONE, *Administrative Patent Judges.*

MCKONE, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

A. Background

SDI Technologies, Inc. ("Petitioner") filed an Amended Petition (Paper 6, "Pet.") to institute an *inter partes* review of claims 25, 26, 51-53, 55-62, 75, and 76 of U.S. Patent No. 8,364,295 B2 (Ex. 1001, "the '295 patent"). *See* 35 U.S.C. § 311. Bose Corporation ("Patent Owner") timely filed a Preliminary Response (Paper 12, "Prelim. Resp."). The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides as follows:

> THRESHOLD.—The Director may not authorize an inter partes review to be instituted unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

Upon consideration of the Petition and Preliminary Response, we conclude that Petitioner has established a reasonable likelihood that it would prevail with respect to claims 25, 26, 51-53, 55-62, 75, and 76. Accordingly, we institute an *inter partes* review of claims 25, 26, 51-53, 55-62, 75, and 76 of the '295 patent.

B. Related Proceedings

Patent Owner has asserted the '295 patent and U.S. Patent No. 8,401,682 ("the '682 patent") in *Bose Corp. v. SDI Technologies, Inc.*, Case No. 13-cv-10277-WGY (D. Mass.), filed on February 13, 2013. Pet. 4; Paper 7, at 2. The '682 patent matured from a continuation of the application that gave rise to the '295 patent.

Petitioner also has filed a second petition for an *inter partes* review of the '295 patent, IPR2013-00465. Pet. 3; Paper 7, at 3.

Petitioner also has filed two petitions for *inter partes* review of the '682 patent, IPR2013-00350 and IPR2014-00343. Pet. 4; Paper 7, at 3.

C. References Relied Upon

Petitioner relies upon the following prior art references:

Sony Corporation, *ZS-D7 Personal Audio System Operating Instructions*, 3-860-694-33(1) (1998) (Ex. 1002) ("SMS");

Creative Tech. Ltd., *Creative NOMAD® Digital Audio Player User Guide, On-line Version*, v. 1.0 (June 1999) (Ex. 1005, "Nomad Manual");

Cameron Crotty, *New MP3 Players: Music to Your Ears*, PCWORLD, August 19, 1999, downloaded at http://www.techhive.com/product/242/nomad.html (Ex. 1006, "Nomad Review");

Becky Orfinger, *What's New*, POPULAR SCIENCE, April 1999, at 17 (Ex. 1007, "Yepp Article");

Samsung Electronics Launches "yepp", the World's Smallest MP3 Player, SOCIAL RESPONSIBILITY NEWS (April 28, 1999), downloaded at www.samsung.com/us/news/317 (Ex. 1008, "Samsung Yepp Press Release");

Guy Hart-Davis & Rhonda Holmes, MP3!, I DIDN'T KNOW YOU COULD DO THAT …™ 65-83 (Sybex, Inc. 1999) (Ex. 1009, "WinAmp");

Remote control Winamp and more, downloaded at web.archive.org/web/19990508121919/http://www.evation.com/irman/index.html (Ex. 1010, "Irman Web Pages");

Altec Lansing Techs., Inc., *ADA310W Altec Lansing Computer Speaker System User Guide* (1998) (Ex. 1011, "Altec Lansing Manual");

Altec Lansing Announces New Products Utilizing the Power of the PC for Better Quality Computer Audio, BUSINESS WIRE, Nov. 17, 1997, downloaded at http://www.thefreelibrary.com/_/print/PrintArticle.aspx?id=20052343 (Ex. 1012, "Altec Lansing Press Release");

European Patent Application EP 0 929 170 A2, published July 14, 1999 (Ex. 1018, "EP '170").

D. The Asserted Grounds

Petitioner contends that the challenged claims are unpatentable based on the following specific grounds (Pet. 14-54):

References	**Basis**	**Claims challenged**
WinAmp, Irman Web Pages, and Altec Lansing Manual	103(a)	25, 26, 51-53, 55-62, 75, 76
WinAmp, Irman Web Pages, and Altec Lansing Press Release	103(a)	25, 26, 51-53, 55-62, 75, 76
SMS, Nomad Manual, and EP '170	103(a)	25, 26, 51-53, 55-62, 75, 76
SMS, Nomad Review, and EP '170	103(a)	25, 26, 51-53, 55-62, 75, 76
SMS, Yepp Article, and EP '170	103(a)	25, 26, 51-53, 55-62, 75, 76
SMS, Samsung Yepp Press Release, and EP '170	103(a)	25, 26, 51-53, 55-62, 75, 76

E. The '295 Patent

The '295 patent generally relates to audio systems for reproducing sound from computer files and computer network radio stations. Ex. 1001, col. 1, ll. 19-22. Figure 1 of the '295 patent is reproduced below.

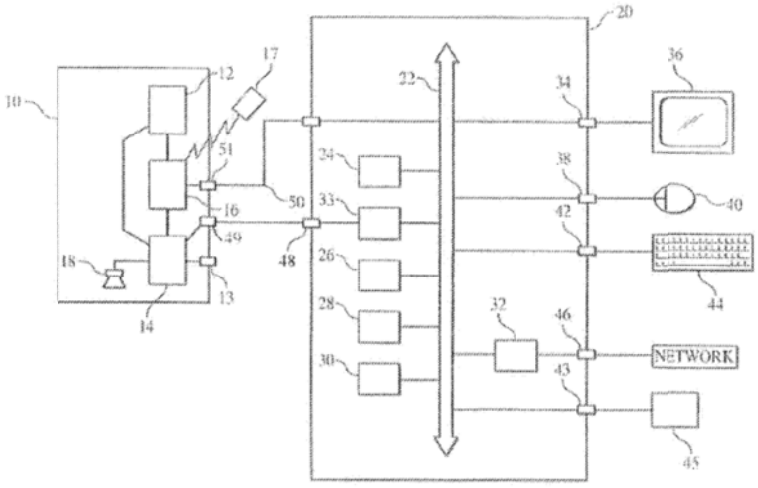

FIG. 1

Figure 1 shows sound reproduction device 10 (such as a Bose Wave® radio) that includes AM/FM tuner 12, audio signal processing circuitry 14, control electronics circuitry 16 for controlling the tuner and the signal processing circuitry, remote control device 17 for controlling the control electronics circuitry, and speaker 18. *Id.* at col. 3, ll. 35-40; col. 4, ll. 53-57. Sound reproduction device 10 is connected to computer 20 through control connector 50, which connects control electronics circuitry 16 to the computer's bus 22, and through a connector between the audio system's analog input terminal 49 and the computer's stereo jack 48. *Id.* at col. 3, ll. 59-63. Stereo jack 48 facilitates connection of the computer's sound card 33 to the sound reproduction device's audio signal processing circuitry 14. *Id.* at Fig. 1. The computer includes hard disk drive 30 that can store digital music files. *Id.* at col. 3, ll. 46-49; col. 6, l. 56 – col. 7, l. 7. The computer also is connected to a network, such as the Internet. *Id.* at col. 3, ll. 54-58. The computer can access web radio stations through the network. *Id.* at col. 6, ll. 44-52. Signals from remote control 17, received by sound

reproduction device 10, can control functions of computer 20. *Id.* at col. 10, ll. 34-59.

Claim 59, reproduced below, is illustrative of the claimed subject matter:

> 59. An audio system configured to connect to a separate computer that has a plurality of user functions, a subset of the user functions relating to control of audio information, and is configured to provide audio information from any one of a plurality of sources, including digital music files stored on the computer and a network accessible by the computer, the audio system comprising:
>
> (A) a sound reproduction device comprising: a housing;
>
> one or more speakers located at least partially within the housing;
>
> an amplifier located within the housing for powering the one or more speakers;
>
> control circuitry located within the housing; and
>
> a connector located at least partially within the housing that is configured to provide a physical and electrical connection exclusively between the sound reproduction device and the computer, wherein the connection includes one or more signal paths configured to (i) receive audio information from the computer corresponding to the digital music files stored on the computer and audio information from the network via the computer, (ii) transmit to the computer signals for controlling the computer, and (iii) receive signals from the computer; and
>
> (B) a remote control device configured to transmit signals representing at least a first type of command from a user and a second type of command from a user to the sound reproduction

> device, wherein the first type of command is a command to control a user function of the sound reproduction device and the second type of command is a command to control a user function of the computer,
>
> wherein the control circuitry is configured to receive the signals from the remote control and, in response to receiving such signals:
>
> (i) control the user function of the sound reproduction device when the user issues a command of the first type, and
>
> (ii) transmit to the computer, via a signal path of the connector, a signal for controlling the user function of the computer when the user issues a command of the second type.

II. ANALYSIS

A. Claim Construction

The Board interprets claims using the broadest reasonable construction. *See* 37 C.F.R. § 100(b); Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48766 (Aug. 14, 2012). Under that standard, claim terms generally are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *See In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

In the IPR2013-00465 institution decision, Paper 14 ("'465 Dec."), we construed several terms of the '295 patent claims, including "computer," "network," and "audio information from the network via the computer." '465 Dec. 8-15. Petitioner does not dispute these constructions here.

Pet. 14. Patent Owner acknowledges our prior constructions, challenging in its Preliminary Response only our construction of "computer that is configured to provide audio information from any one of a plurality of sources, including digital music files stored on the computer and a network accessible by the computer." Prelim. Resp. 7-8. Because we determine for reasons unrelated to the challenged construction that Petitioner has not shown a reasonable likelihood that claims 25, 26, 51-53, 55-62, 75, and 76 of the '295 patent are unpatentable over SMS, EP '170, and Nomad Manual, Nomad Review, Yepp Article, or Samsung Yepp Press Release, we do not reach Patent Owner's arguments challenging it at this juncture. We adopt for purposes of this decision the constructions set forth in IPR2013-00465 for the reasons given in the '465 Decision. Patent Owner also proposes construing an additional term not disputed in IPR2013-00465, namely "configured to respond to signals received from the computer." We address this proposal below.

1. "configured to respond to signals received from the computer"

Patent Owner proposes construing "configured to respond to signals received from the computer," as recited in claims 25 and 51, to mean "configured to answer or reply to the computer, i.e., send a responsive communication back to the computer." Prelim. Resp. 14. Petitioner does not propose an express construction of this term; nevertheless, Petitioner contends that the term is satisfied by a sound reproduction device that automatically turns on when an audio signal is received from a computer. Pet. 15. Thus, we agree with Patent Owner's characterization (Prelim.

Resp. 14) of Petitioner's implicit construction, namely, a sound reproduction device configured to take an action as a result of signals received from a computer.

Patent Owner argues that the ordinary and customary meaning of "respond" is "answer" or "reply," relying on a dictionary characterizing those words as synonymous with "respond." Prelim. Resp. 16 (citing WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE 1935 (unabridged 1993) (Ex. 2103)). As Patent Owner suggests, one definition of "respond" is "to say something in return : make an answer." Ex. 2103 at 1935. We note, however, that another definition is "to show some reaction to a force or stimulus." *Id.* Thus, the ordinary meaning of "respond" is broad enough to encompass both Patent Owner's and Petitioner's constructions.

Patent Owner argues that the specification's only use of the word "respond" is in a passage describing transmitting a control signal from a sound reproduction system to a computer system and determining that the computer system is in a responsive state if the computer system responds to the control signal. Prelim. Resp. 15-16 (citing Ex. 1001, col. 1, l. 60-col. 2, l. 5). While this passage describes a computer responding to signals received from an audio device, it does not describe the structure of the claim language, namely, an audio device "configured to respond to signals received from the computer." Nor does it define or describe restrictively what it means to "respond."

Patent Owner further cites to a passage in the specification describing an example in which a computer sends a sound reproduction device a signal requesting that the sound reproduction device scan for broadcast frequencies

having the strongest signals, to which the sound reproduction device replies to the computer, identifying the strongest frequencies. Prelim. Resp. 16-17 (citing Ex. 1001, col. 9, ll. 24-39). According to Patent Owner, this example is consistent with its proposed ordinary meaning, as reflected in the dictionary definition it cites. Prelim. Resp. 16-18. The specification does not describe this example as limiting, however. Thus, Patent Owner has not persuaded us that "respond" should be limited to "answer" or "reply." *See In re Am. Acad. Of Sci. Tech Ctr.*, 367 F.3d 1359, 1369 (Fed. Cir. 2004) ("We have cautioned against reading limitations into a claim from the preferred embodiment described in the specification, even if it is the only embodiment described, absent clear disclaimer in the specification.").

In sum, we are not persuaded that "configured to respond to signals received from the computer" should be limited to "configured to answer or reply to the computer, i.e., send a responsive communication back to the computer." Rather, on the current record, a broader construction, "configured to take an action as a result of signals received from a computer," is reasonable in light of the ordinary meaning of "respond."

B. Asserted Grounds of Unpatentability

1. Obviousness over WinAmp, Irman Web Pages, and Altec Lansing Manual

Petitioner asserts that claims 25, 26, 51-53, 55-62, 75, and 76 of the '295 patent would have been obvious over WinAmp, Irman Web Pages, and Altec Lansing Manual. Pet. 14-33.

WinAmp describes a software package for playing MP3 digital audio files on a computer. Ex. 1009 at 000012. According to WinAmp, the

WinAmp software plays MP3 files stored on the computer and also streams music from the Internet. *Id.* at 000017-19.

Irman Web Pages describes an infrared receiver that connects to a computer. Ex. 1010 at 000001. The receiver receives signals from various remote controls and converts the signals into computer commands for controlling software executing on the computer. *Id.* Irman Web Pages lists the WinAmp software package as an example of software that can be controlled by a remote through the receiver. *Id.*

Altec Lansing Manual describes a powered speaker system, the ADA310W, that is plugged into an audio card of a personal computer, either through a Universal Serial Bus ("USB") cable or through a stereo audio cable connecting the computer's analog output to the speaker system's analog input. Ex. 1011 at 000003-05. According to Altec Lansing Manual, the speaker system accepts digital and analog audio data. *Id.* at 000006. The speaker system includes a remote control. *Id.* at 000007.

Petitioner generally contends that the Altec Lansing ADA310W speaker system could have been connected to a computer equipped with WinAmp software and an Irman receiver and, in this configuration, the WinAmp software on the computer could have been controlled by a remote control through the Irman receiver. Pet. 14-15. This would result in a system with two remote controls: one for the computer, through the Irman receiver, and one for the ADA310W. *Id.* at 15. Petitioner proposes that, "in order to, for example, reduce clutter and duplication," a person of ordinary skill in the art would have combined the functions of the two remote controls into one remote control, which would have interfaced with the ADA310W. *Id.*

a. Claims 25, 26, 51, and 52

Claims 25 and 26 depend from claim 1. Claims 51 and 52 depend from claim 27. In IPR2013-00465, we determined that Petitioner showed a reasonable likelihood that it would prevail with respect to claims 1 and 27 as obvious over WinAmp, Irman Web Pages, and Altec Lansing Manual, and instituted a trial, in part, on that basis. '465 Dec. 22-25, 27-28. Petitioner relies on substantially the same evidence here to show that claims 1 and 27 would have been obvious over WinAmp, Irman Web Pages, and Altec Lansing Manual. Pet. 16-22. For the reasons given in the '465 Decision, we remain persuaded that Petitioner has shown a reasonable likelihood that it would prevail with respect to claims 1 and 27 as obvious over WinAmp, Irman Web Pages, and Altec Lansing Manual.

Regarding the claim limitation "configured to respond to signals received from the computer," recited in claims 25 and 51, Petitioner contends that Altec Lansing Manual describes a speaker that automatically turns on when it receives a music signal from an attached computer. Pet. 15. Petitioner contends that this teaches a speaker configured to respond (automatically turn on) to signals (music signals) received from the computer. *Id.*

Relying on its proposed construction of "configured to respond to signals received from the computer," Patent Owner argues that Altec Lansing Manual does not teach that the speakers reply or answer back to the computer in response to receiving a control or music signal. Prelim. Resp. 21-23. As explained above, this claim term is not limited to an audio device configured to answer, reply, or send a responsive communication back to the computer. Rather, it can include an audio device configured to

take an action as a result of signals received from a computer. Such an action could include turning on in response to a signal from the computer.

Patent Owner further argues, in a footnote, that Petitioner has not established that audio information corresponds to the claim language "signals received from the computer." Prelim. Resp. 23 n.5. Audio or music signals plainly fall within the ordinary meaning of "signals." Patent Owner has provided no persuasive evidence to suggest that "signals received from the computer" should be read to exclude such audio signals.

Claims 26 and 52 depend from claims 25 and 51, respectively. We also have considered Petitioner's evidence and arguments for claims 26 and 52, *see* Pet. 19, 23. On this record, Petitioner has shown a reasonable likelihood of prevailing as to claims 26 and 52 as obvious over WinAmp, Irman Web Pages, and Altec Lansing Manual.

For the foregoing reasons, on this record, Petitioner has shown a reasonable likelihood that it would prevail with respect to claims 25, 26, 51, and 52 as obvious over WinAmp, Irman Web Pages, and Altec Lansing Manual.

b. Claims 53, 55-62, 75, and 76

Independent claim 59 is substantially the same, in most respects, as claim 1. However, where claim 1 recites a connection that includes signal paths configured to "(i) receive audio information from the computer corresponding to the digital music files stored on the computer and audio information from the network via the computer, and (ii) transmit to the computer signals for controlling the computer," claim 59 thereafter adds "(iii) receive signals from the computer." Independent claim 53 is

substantially the same, in most respects, as claim 27, again adding "(iii) receive signals from the computer." For the limitations of claim 59 that overlap with those of claim 1, Petitioner cites substantially the same evidence. Pet. 28-31. Similarly, for the limitations of claim 53 that overlap with those of claim 27, Petitioner cites substantially the same evidence. Pet. 23-26. For these overlapping limitations, we determine that a finding that these limitations are taught in WinAmp, Irman Web Pages, and Altec Lansing Manual is supported by the evidence for the reasons given in the '465 Decision, at 22-25.

Regarding the other limitation, a connection that includes signal paths configured to "(iii) receive signals from the computer," Petitioner contends that the speaker described in Altec Lansing Manual is connected to a computer with a USB cable and that the speaker is controlled by the computer using signals received from the computer over the USB cable. Pet. 25, 30. Petitioner further contends that the speaker automatically turns on in response to the receipt of an audio signal from the computer, and, thus, the connection is configured to receive signals from the computer. *Id.* On this record, Petitioner has shown a reasonable likelihood of prevailing as to claim 59, including this limitation, as obvious over WinAmp, Irman Web Pages, and Altec Lansing Manual.

Claims 55-58 and 75 depend from claim 53. Claims 60-62 and 76 depend from claim 59. We have considered Petitioner's evidence and argument for claims 55-58, 60-62, 75, and 76, *see* Pet. 27, 32-33, and are persuaded that a finding that their limitations are taught in WinAmp, Irman Web Pages, and Altec Lansing Manual is supported by the evidence. Patent Owner does not argue separately claims 53, 55-62, 75, and 76. Accordingly,

on this record, Petitioner has shown a reasonable likelihood that it would prevail with respect to claims 53, 55-62, 75, and 76 as obvious over WinAmp, Irman Web Pages, and Altec Lansing Manual.

2. Obviousness over SMS and additional art

Petitioner asserts that claims 25, 26, 51-53, 55-62, 75, and 76 of the '295 patent would have been obvious over SMS, Nomad Manual, and EP '170. Pet. 33-54.

SMS is a set of operating instructions for a Sony® "Personal Audio System." It describes the system as including a CD player, AM/FM tuner, cassette tape player/recorder, and speakers in a single housing. Ex. 1002 at 000004-11. Many of the functions of the system are controlled by a remote control. *Id.* at 000013-18. SMS also describes connecting an external portable MiniDisc player/recorder ("MD") to the personal audio system using a set of cables for supplying power to the MD and transmitting audio and control information between the MD and the personal audio system. *Id.* at 000041-44. According to SMS, a user operates the external MD using the personal audio system's remote. *Id.* at 000042.

Nomad Manual is a user guide for the Creative NOMAD® digital audio player ("NOMAD"). Nomad Manual describes a portable music player that includes flash memory in which music files, such as MP3 files, are stored. Ex. 1005 at 000007, 000012. A user listens to music on the NOMAD through headphones. *Id.* at 000009. The NOMAD is connected to a computer through a docking station in which the NOMAD is placed. *Id.* at 000015. The computer is used to "rip" music from audio CDs and convert it into MP3 files, which are stored on the NOMAD through the docking station

connection. *Id.* at 000012, 000024-26. Nomad Manual also states that MP3 files could be purchased through the World Wide Web or online services. *Id.* at 000007, 000022. According to Nomad Manual, the NOMAD includes an FM tuner for listening to terrestrial FM radio. *Id.* at 000007, 000021-22.

EP '170 describes a system and method for updating device identification and status on an IEEE 1394 serial bus of a home audio/visual ("HAVI") network. Ex. 1018, Abstract. The IEEE 1394 bus supports peer-to-peer communication in which devices on the network can send and receive communication packets to and from each other. *Id.* at ¶ 0047. A reset of the IEEE 1394 bus occurs when a device (e.g., a television, VCR, or DVD player) is inserted into or removed from the network while the network is otherwise operable. *Id.* at Abstract, ¶ 0011. After a bus reset occurs, the other devices on the network are informed of the current status of the network. *Id.* For example, after a reset, a list of devices added to and removed from the network is forwarded to all devices on the network that previously specified a desire for that information. *Id.* at ¶ 1011.

Generally, Petitioner contends that it would have been obvious to replace the MD of SMS with a portable NOMAD. Pet. 34. Petitioner further contends that this combination would have been modified to include an arrangement, such as the HAVI architecture described in EP '170, in which a device checks the status of another before trying to communicate with it. *Id.* at 34-37.

a. Claims 25, 26, 51, and 52

In IPR2013-00465, we determined that Petitioner showed a reasonable likelihood that it would prevail with respect to claims 1 and 27 as

obvious over SMS and Nomad Manual, and instituted a trial, in part, on that basis. '465 Dec. 17-21, 27-28. Petitioner relies on substantially the same evidence here to show that claims 1 and 27 would have been obvious over SMS and Nomad Manual. Pet. 38-41, 43-45.

Regarding the claim limitation "configured to respond to signals received from the computer," recited in claims 25 and 51, Petitioner contends that EP '170 teaches the desirability of making one device aware of the status of another device with which it wants to communicate. Pet. 36. According to Petitioner, it would have been common sense, in light of EP '170, to modify the combination of SMS and Nomad Manual to implement status checking, whereby the audio system would check that the NOMAD was present and turned on before communicating with it and would respond to signals from the NOMAD confirming that it was present. *Id.* at 36-37.

Patent Owner argues that EP '170 does not teach a sound reproduction device that answers, replies, or sends a responsive communication back to the computer. Prelim. Resp. 30. According to Patent Owner, Petitioner has not shown how a disclosure of reporting device status to other devices, as in EP '170, teaches a sound reproduction device configured to respond to signals received from a computer. *Id.* at 30-31. While "configured to respond to signals received from the computer" does not require a device to be configured to send a responsive communication back to the computer, Petitioner relies on a purported teaching of such a responsive communication to support its contention, *see* Pet. 34-37, 42, 46. We agree with Patent Owner that the portions of EP '170 cited by Petitioner do not show any answer or reply from those devices to the central program.

Petitioner argues that it would have required only common sense to modify the combination of SMS and Nomad Manual such that SMS audio system would check with the NOMAD to determine whether it was present and turned on, the NOMAD would send a responsive signal indicating that it was present and turned on, and the audio system would, in turn, respond to such confirmation signals from the NOMAD. Pet. 37. Petitioner further argues that such a configuration was "common in computer and electronics communications protocols, such as HAVI." *Id.* at 42, 46.

"[C]ommon sense can be a source of reasons to combine or modify prior art references to achieve the patented invention." *Plantronics, Inc. v. Aliph, Inc.*, 724 F.3d 1343, 1354 (Fed. Cir. 2013). However, "[t]he mere recitation of the words 'common sense' without any support adds nothing to the obviousness equation." *Mintz v. Dietz & Watson, Inc.*, 679 F.3d 1372, 1377 (Fed. Cir. 2012). If such an argument includes "little more than an invocation of the words 'common sense' (without any record support showing that this knowledge would reside in the ordinarily skilled artisan)," that argument overreaches. *Id.*

Petitioner has not shown such record support. Rather, Petitioner has shown that it was known, per EP '170, to send, to devices on a network, lists of other devices added and removed from the network. Pet. 34-36. Petitioner has not pointed to persuasive evidence showing that it was known to check the status of a device and receive a response from the device. Nor has Petitioner shown that EP '170 teaches the more complicated case (consistent with its theory of modifying SMS and Nomad Manual per the teaching of EP '170) in which a first device checks the status of a second device, the second device sends a confirmation signal, and the first device

responds to the confirmation signal. Moreover, as Patent Owner points out (Prelim. Resp. 31), Petitioner does not introduce persuasive evidence, such as declaration testimony, to support its reason to combine, relying instead on attorney argument. Petitioner argues that EP '170 "teaches that it would be desirable to perform . . . status checking." Pet. 37. This might, for example, support a finding that the NOMAD (the computer) would respond to the audio system of SMS (the sound reproduction system). Nevertheless, Petitioner has not shown persuasively that either EP '170 or common sense teaches that the sound reproduction system would respond to the computer.

Accordingly, Petitioner has not shown a reasonable likelihood that it would prevail with respect to claims 25, 26, 51, and 52 as obvious over SMS, Nomad Manual, and EP '170.

Moreover, Petitioner has not shown persuasively that this deficiency is cured by any of Nomad Review, Yepp Article, or Samsung Yepp Press Release. Accordingly, Petitioner has not shown a reasonable likelihood that it would prevail with respect to claims 25, 26, 51, and 52 as obvious over SMS and EP '170 in combination with any of Nomad Review, Yepp Article, or Samsung Yepp Press Release.

b. Claims 53, 55-62, 75, and 76

As noted above, claim 59 is substantially the same, in most respects, as claim 1, and claim 53 is substantially the same, in most respects, as claim 27. For the limitations of claim 59 that overlap with those of claim 1, Petitioner cites substantially the same evidence. Pet. 50-53. For the limitations of claim 53 that overlap with those of claim 27, Petitioner cites substantially the same evidence. Pet. 46-49.

Regarding a connection that includes signal paths configured to "(iii) receive signals from the computer," recited in claims 53 and 59, Petitioner cites the above-discussed teaching of EP '170 and advances the same theory for combining SMS, Nomad Manual, and EP '170 as it does for claims 25 and 51. Specifically, Petitioner contends that a skilled artisan would modify SMS and Nomad Manual such that the SMS audio system would check the status of the NOMAD, the NOMAD would send a signal to the audio system indicating that it was present and turned on, and the audio system would further respond to that signal. Pet. 48, 52. As explained above, Petitioner has not shown persuasively that a skilled artisan would have combined SMS, Nomad Manual, and EP '170 in this way.

Accordingly, on this record, Petitioner has not shown a reasonable likelihood that it would prevail with respect to claims 53 and 59 as obvious over SMS, Nomad Manual, and EP '170. For the same reasons, Petitioner has not shown a reasonable likelihood that it would prevail with respect to claims 55-58 and 75, which depend from claim 53, and claims 60-62 and 76, which depend from claim 59, as obvious over SMS, Nomad Manual, and EP '170.

Moreover, Petitioner has not shown persuasively that this deficiency is cured by any of Nomad Review, Yepp Article, or Samsung Yepp Press Release. Accordingly, Petitioner has not shown a reasonable likelihood that it would prevail with respect to claims 53, 55-62, 75, and 76 as obvious over SMS and EP '170 in combination with any of Nomad Review, Yepp Article, or Samsung Yepp Press Release.

3. Obviousness over WinAmp, Irman Web Pages, and Altec Lansing Press Release

Petitioner contends that claims 25, 26, 51-53, 55-62, 75, and 76 would have been obvious over WinAmp, Irman Web Pages, and Altec Lansing Press Release. Pet. 14-15. We determine that this ground of unpatentability is redundant to the grounds of unpatentability on which we institute an *inter partes* review. Therefore, we exercise our discretion and decline to include this ground. *See* 37 C.F.R. § 42.108(a).

III. CONCLUSION

Petitioner has established a reasonable likelihood that it would prevail with respect to claims 25, 26, 51-53, 55-62, 75, and 76 as obvious, under 35 U.S.C. § 103(a), over WinAmp, Irman Web Pages, and Altec Lansing Manual.

The Board has not yet made a final determination of the patentability of these claims.

IV. ORDER

For the reasons given, it is

ORDERED that an *inter parties* review is instituted as to claims 25, 26, 51-53, 55-62, 75, and 76 on the ground of obviousness over WinAmp, Irman Web Pages, and Altec Lansing Manual; and

FURTHER ORDERED that pursuant to 35 U.S.C. § 314(a), the *inter partes* review of the ’295 patent is hereby instituted commencing on the

entry date of this Order, and pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial.

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