

SDI Technologies, Inc. v. Bose Corp.

IPR2014-00343 (Pat. 8,401,682)

IPR2014-00346 (Pat. 8,364,295)

Patent Owner Bose's Demonstratives

Hearing February 24, 2015

Board's Instituted Grounds

IPR2014-00343 ('682 Patent)

Claims in '682 Patent	Basis
Claims 25-26, 52-53, 55-61, and 75	Ground I: § 103 – WinAmp, IRMan Web Pages, and Altec Lansing Manual

Decision (IPR2014-00343), Paper 13 at 21.¹

IPR2014-00346 ('295 Patent)

Claims in '295 Patent	Basis
Claims 25-26, 51-53, 55-62, and 75-76	Ground I: § 103 – WinAmp, IRMan Web Pages, and Altec Lansing Manual

Decision (IPR2014-00346), Paper 13 at 21.

¹ All citations herein are to IPR2014-00343, unless otherwise noted.

Evidentiary Issues

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

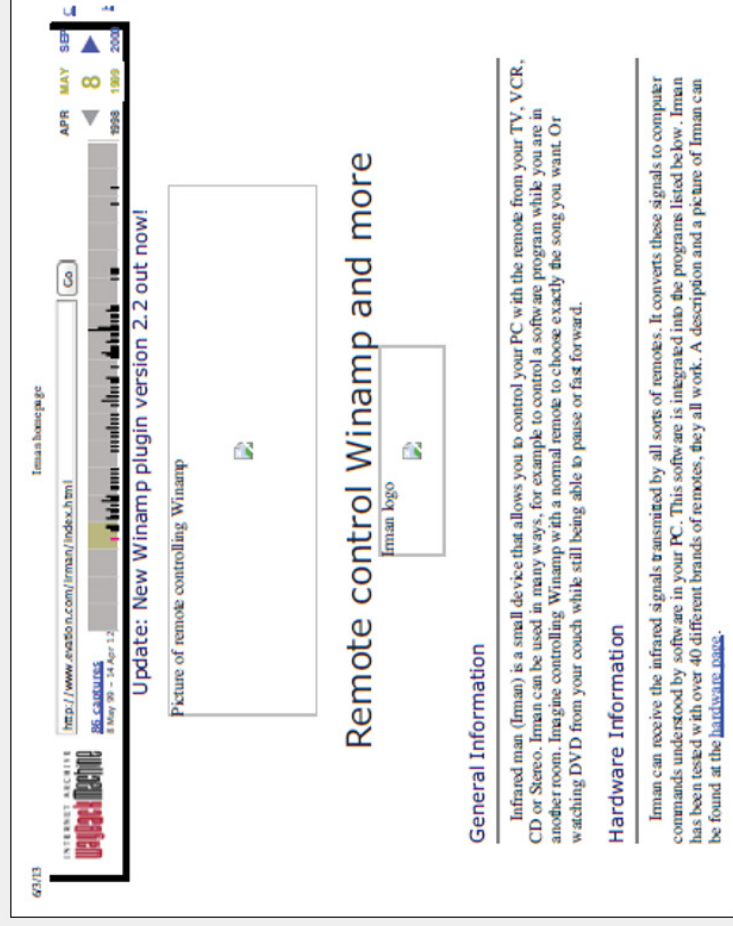
“The IRMan Web Pages . . . should be excluded.”

Bose Motion, Paper 20 at 2.

“[T]he IRMan Web Pages ... have not been authenticated and constitute inadmissible hearsay.”

“Based on Fed. R. Evid. 802 and 901, the exhibit should be excluded.”

Bose Motion, Paper 20 at 2.



Ex. 1010 at 1.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“[T]he IRMan Web Pages are classic hearsay” under Rule 801.

Bose Mot. Reply, Paper 22 at 5.

“SDI ignores that the pages contain two “out of court” statements.”

Bose Mot. Reply, Paper 22 at 5.

- “The **first statement** is the content of the original website (evation.com).”
- “The **second statement** is the Internet Archive’s representation that the original website (evation.com) reflected that content on a particular date. The IRMan Web Pages are unquestionably being offered for the truth of this **second statement....**”

Bose Mot. Reply, Paper 22 at 5.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“The IRMan Web Pages are classic hearsay” under Rule 801.

Bose Mot. Reply, Paper 22 at 5.

SDI: “Because Ex.1010 is offered for what it says, not the truth of what it says, it is not hearsay.”

SDI Opp. Bose Motion, Paper 21 at 13-14.

Bose: “The IRMan Web Pages are unquestionably being offered for the truth of this **second statement**—what evation.com showed on a particular date—because that truth is essential to finding that the original website (evation.com) constitutes prior art.

“SDI does not argue that any hearsay exception applies.”

“SDI **disclaims** reliance on the truth of the IRMan Web Pages.”

Bose Mot. Reply, Paper 22 at 5.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

Recent PTAB Ruling Excluding Web Pages as Hearsay

“*Toyota Motor Corp. v. Am. Vehicular Scis. LLC*, IPR2013-00417, slip op. [Paper 78] at 7-11, 13 (P.T.A.B. Jan. 7, 2015) (excluding web pages offered to establish date of prior art, but without sufficient foundation testimony, as hearsay).”

Bose Motion Reply, Paper 22 at 5.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“[T]he IRMan Web Pages ... have not been authenticated” under Rule 901.

Bose Motion, Paper 20 at 2.

1. “The admissibility of exhibits submitted in a PTAB proceeding is governed by the Federal Rules of Evidence. 37 C.F.R. § 42.62 (‘the Federal Rules of Evidence shall apply to a proceeding’)”
2. “SDI, as the proponent, carries the burden of establishing the admissibility of the challenged evidence. See, e.g., Fed. R. Evid. 901(a) (‘... the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.’).”
3. “SDI has failed to offer any evidence whatsoever that Exhibit 1010 is ***authentic***.”

Bose Motion, Paper 20 at 2-3.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“[T]he IRMan Web Pages ... have not been authenticated” under Rule 901.

Bose Motion, Paper 20 at 2.

“The Board ... improperly placed the burden on Bose to show that Exhibit 1010 was not authentic.”

Bose Motion, Paper 20 at 7.

85:13–86:9; *see also* Fed. R. Evid. 807. Patent Owner did not articulate anything about the document itself that would indicate unreliability.

IPR 2013-00350 (Final Written Decision), Paper 36 at 18.

website. Patent Owner has not carried the burden on its motion to show that IRman Web Pages is not authentic. Therefore, we deny Patent Owner’s Motion to Exclude, with respect to IRman Web Pages.

IPR 2013-00350 (Final Written Decision), Paper 36 at 18.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“[T]he IRMan Web Pages ... have not been authenticated” under Rule 901.

Bose Motion, Paper 20 at 2.

“[T]here is no evidence that Exhibit 1010 is what SDI claims it to be—a printout from the Internet Archive that accurately reflects the contents of evation.com on a particular date prior to the ’295 patent application.”

Bose Motion, Paper 20 at 3.

SDI:

The IRMan, described in the web pages of its manufacturer, Evation, captured by archive.org on June 8, 1999 (Ex. 1010), was a system that included a remote control unit and an IR receiver that connected to a computer. The purpose

SDI Amended Petition, Paper 6 at 9.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“[T]he IRMan Web Pages ... have not been authenticated” under Rule 901.

Bose Motion, Paper 20 at 2.

Novak, 2007 WL 922306, *5:

Plaintiff states that the web pages archived within the Wayback Machine are based upon “data from third parties who compile the data by using software programs known as crawlers,” who then “donate” such data to the Internet Archive, which “preserves and provides access to it.” (Novak Decl. ¶ 4.) Based upon Novak’s assertions, it is clear that the information posted on the Wayback Machine is only as valid as the third-party donating the page decides to make it—the authorized owners and managers of the archived websites play no role in ensuring that the material posted in the Wayback Machine accurately represents what was posted on their official websites at the relevant time. As Novak proffers neither testimony nor sworn statements attesting to the authenticity of the contested web page exhibits by any employee of the companies hosting the sites from which plaintiff printed the pages, such exhibits cannot be authenticated as required under the Rules of Evidence.

Bose Motion, Paper 20 at 3-4.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SDI Technologies, Inc.
Petitioner

V.

Bose Corporation
Patent Owner

Case IPR2013-00350
Patent 8,401,682

PATENT OWNER BOSE CORPORATION'S
MOTION TO EXCLUDE EVIDENCE

Bose Motion, Paper 20.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“[T]he IRMan Web Pages ... have not been authenticated” under Rule 901.

Bose Motion, Paper 20 at 2.

“In *U.S. v. Bansal*, 663 F.3d 634 (3rd Cir. 2011), the court concluded that screenshot images from the Internet Archive were authenticated under Rule 901(b)(1) by a trial witness who ‘testified] about how the Wayback Machine website works and how reliable its contents are.’ *Id.* at 667-68.”

SDI Opp. Bose Motion, Paper 21 at 8.

“In this case, the government obtained the screenshot images from a company called the Internet Archive, ... To authenticate that the screen-shot was what it purported to be, the government called a witness to testify about how the Wayback Machine website works and how reliable its contents are. The witness also compared the screenshots with previously authenticated and admitted images from Bansal's website and concluded, based upon her personal knowledge, that the screenshots were authentic. This was evidence ‘sufficient to support a finding’ that the screenshots were ‘what they purport[ed] to be,’ rendering them admissible under Rule 901(b)(1).”

U.S. v. Bansal, 663 F.3d 634, 667-68 (3d Cir. 2011).

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Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“SDI still *unable to cite a single case*” supporting its position.

Bose Mot. Reply, Paper 22 at 1.

1. *Telewizja* – “Magistrate’s ruling that an Internet Archive affidavit was sufficient for authentication” but “that ruling was overruled by the District Court Judge at trial. See Ex. 2122 at 195.”
2. “*Keystone and Web Tracking* are inapposite, because neither addresses admissibility of such pages in *a trial setting*, where the Federal Rules of Evidence apply.”
3. *Rowse and Molander* – “SDI’s reliance on *ex parte* Patent Office proceedings misses the mark, because unlike here, the Federal Rules of Evidence do not apply to *ex parte* patent prosecution.”
4. Rules 901(b)(4) and 902 – “Nothing about the alleged ‘distinctive characteristics’ of Ex. 1010 or any trade inscriptions” “support a finding that the item is what the proponent claims it is.”

Bose Mot. Reply, Paper 22 at 1-4.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“SDI still *unable to cite a single case*” supporting its position.

Bose Mot. Reply, Paper 22 at 1.

- *Novak* – “excluding Internet Archive pages because the proponent proffered ‘neither testimony nor sworn statements attesting to the authenticity’ of the pages”
- *Specht* – “affirming exclusion of Internet Archive pages, where proponent failed to provide authenticating testimony”
- *Schwartz* – “permitting pages downloaded from the Internet Archive to be shown only if they ‘can be authenticated by witnesses who can testify that they in fact viewed the relevant website at a particular time’”
- *Audi* – “indicating that pages from Internet Archive search results can be admitted into evidence only by authentication of a ‘knowledgeable employee’ of the Internet Archive”
- *St. Luke’s Cataract* – “Plaintiff must provide the Court with a statement or affidavit from an Internet Archive representative with personal knowledge of the contents of the Internet Archive website.””

Bose Mot. Reply, Paper 22 at 1-3.

Bose Mot. Reply (IPR2013-00465), Paper 35 at 3-4

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

SDI: Bose's arguments "were already considered."

SDI Mot. Resp., Paper 21 at 1.

1. "The Board incorrectly concluded that '[a]t the hearing, Patent Owner clarified that a standard affidavit from the Internet Archive would have provided sufficient authentication.' ... The cited argument merely states that proper authentication testimony would involve getting what Federal Rule 901 requires"

Bose Motion, Paper 20 at 5.

15 JUDGE McKONE: What do you consider proper
16 authentication testimony?

17 MS. LUSSIER: Getting a declaration from the actual
18 custodians of the website, that's evasion.com. Getting a declaration
19 from Internet Archive that is sufficient to establish that what they
20 have is -- what SDI says it is what it is.

IPR 2013-00350 (Hearing Transcript), Paper 35 at 87:15-20.

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Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

SDI: Bose's arguments "were already considered."

SDI Mot. Resp., Paper 21 at 1.

2. "[T]he Board erred in relying on an unsigned "standard affidavit" form it downloaded from the Internet Archive"

Bose Motion, Paper 20 at 6.

Does the Internet Archive's affidavit mean that the printout was actually the page posted on the Web at the recorded time?

The Internet Archive's affidavit only affirms that the printed document is a true and correct copy of our records. It remains your burden to convince the finder of fact what pages were up when.

Ex. 2121 (Internet Archive: Legal FAQ) at 3.

3. "Had SDI obtained a 'standard affidavit' (which it did not) ... Bose would have had the right to cross examine such affidavit. 37 C.F.R. §42.53."

Bose Motion Reply, Paper 22 at 3.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

SDI: Bose's arguments "were already considered."

SDI Mot. Resp., Paper 21 at 1.

4. "Nor does the Board's ability to access the same pages on the Internet Archive cure the evidentiary defect, because the Board lacks the knowledge required by the Federal Rules of Evidence. See Fed. R. Evid. 901(b)(1) (requiring testimony of a person with knowledge that an item is what it is claimed to be)."

Bose Motion, Paper 20 at 5.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“Dr. Lippman’s Opinions in ¶¶ 39-44 . . . should be excluded.”

Bose Motion, Paper 20 at 9.

“The IRMan ... *was a system that included a remote control unit and an IR receiver that connected to a computer.*”

SDI Amended Petition, Paper 6 at 9; SDI Petition in IPR 2013-00350, Paper No. 1 at 7.

“The speaker remote *and the IRMan remote* were configured to transmit signals representing first and second types of commands from a user to control circuitry, as described below.”

SDI Amended Petition, Paper 6 at 18; SDI Petition in IPR 2013-00350, Paper No. 1 at 41.

“Finally, *the IRMan system provided a remote control ... Structurally, there would have been two remote controls instead of one ...*”

Lippman Decl., Ex. 1017, ¶ 40 (same in IPR 2013-00350).

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“Dr. Lippman’s Opinions in ¶¶ 39-44 . . . should be excluded.”

Bose Motion, Paper 20 at 9.

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Entered: November 7, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

SIR TECHNOLOGIES, INC.,
Petitioner,

v.

BOSE CORP.,
Patent Owner

Case IPR2013-00350
Patent 6,461,742 B2

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

“Dr. Lippman testified that a skilled artisan would have made the proposed combination “in order to reduce duplication and clutter, such that one remote would control both the speaker and the computer and using the IR receiver positioned in the speaker.... We conclude that this reason has rational underpinning.”

IPR 2013-00350 (Final Written Decision), Paper 36 at 25-26.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“Dr. Lippman’s Opinions in ¶¶ 39-44 . . . should be excluded.”

Bose Motion, Paper 28 at 9.

“[T]he Board’s decision in the prior proceeding . . . was flawed because it accepted Dr. Lippman’s incorrect assertion that the IRMan reference provided its own remote control. Since the IRMan did not come with a remote control, there was no ‘rational underpinning’” for Lippman’s declaration.”

Bose Mot. Reply, Paper 22 at 5.



Ex. 2104 (Lippman Depo.)

Q. There's no indication in Exhibit 1010 that a remote was included with the product, right?

A. There is no indication that I can see that a remote control device was included with the product.

Q. And you have no other references you can point to that indicate a remote control was included with the IRMan product, right?

A. Right.

Ex. 2104, Tr. 119:6-14.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

Dr. Lippman's testimony is "based on impermissible hindsight."

Bose Motion, Paper 20 at 1.



Lippman Deposition, Ex. 2104.

Q. And what you're declaring is a way to render the claims the patents are invalid, right?

A. Well, I'm showing a combination that would render them -- could render them invalid, yeah.

Q. Okay. And there's another way to combine them -- at least one other way to combine them that would not render the claims invalid, correct?

A. Well, that's not relevant to the report. There's many things one could do, but -- I mean, you have a computer system. You have speakers. You have controls. You can do all sorts of things. They're not relevant to the report.

Q. And why isn't that relevant to the report?

A. Why would it be relevant to the report? It doesn't bear on the combination that is relevant -- that's shown in the patent.

Ex. 2104, Tr. 158:11-159:6 (objection omitted).

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“Dr. Lippman’s Opinions in ¶¶ 39-44 . . . should be excluded.”

Bose Motion, Paper 28 at 9.

- “[T]he Board, acting as a gatekeeper, must exclude evidence if it is based upon unreliable principles or methods, or legally insufficient facts and data. See *Daubert*, 509 U.S. at 595 ...”
- “The opinions ... are inadmissible evidence under Fed. R. Evid. 702 because Dr. Lippman admitted at his deposition that his opinions on obviousness in these paragraphs are based on impermissible hindsight.”

Bose Motion, Paper 20 at 1, 10.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“Page 7 in the Altec Lansing Manual ... Should Be Excluded.”

Bose Motion, Paper 20 at 8.

“SDI would not object if the Board decides to consider Exhibit 1011 without page 7, as it did in the earlier proceeding.”

Bose Motion, Paper 20 at 4.

Ex. 1011 at 7.

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REMOTE CONTROL OPERATION

For best results when the remote control is used, the infrared receiver on the lower panel of set top speakers, LED's will function in the same manner as the set when operated manually.

Key #	Function	Operation
1	ON/OFF	Turns the AVM (Set unit on and off. →
2	MUTE	MUTES sound.
3	SUB	Press again to restore sound.
4	CENTER	Adjusts SUB level. Use VOL buttons to adjust CENTER level.
5	SURROUND	Adjusts SURROUND level.
6	STEREO mode	Use VOL buttons 9 & 10 to adjust level.
7	PROLOGIC mode	Put unit in STEREO mode.
8	GAME mode	Put unit in PROLOGIC mode.
9 & 10	VOL UP/DOWN	Adjusts GAME mode VOL buttons 9 & 10 to adjust level. Press these buttons to adjust VOL up/down. Also use these buttons to individually adjust the SUB, CENTER and SURROUND levels.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“Page 7 in the Altec Lansing Manual . . . Should Be Excluded.”

Bose Motion, Paper 20 at 8.

“[P]age 7 does not belong with Exhibit 1011 because it relates to a different product”:

Bose Motion, Paper 20 at 8-9.

Board:

“While the majority of the Altec Lansing Manual describes the ADA310W product, page seven describes an ADA104 product. *Id.* at 4–5; Ex. 1011, at 7. As Patent Owner points out (PO Mot. to Exclude 4), page seven is in a landscape orientation while the remaining pages of the exhibit are in a portrait orientation.... [E]very indication is that page seven is from a different document than the remainder of Exhibit 1011. Petitioner has not offered persuasive evidence to the contrary.”

IPR2013-00350 Final Written Decision at 19-20 (quoted in Bose Motion, Paper 20 at 8-9).

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Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“Page 7 in the Altec Lansing Manual . . . Should Be Excluded.”

Bose Motion, Paper 20 at 8.

- “The speakers had amplifiers that process audio signals located within the housing, 10W in the small speakers and 24W in the subwoofer. (See ADA Manual, Ex. 1011, at 7 (5W per driver in the satellites).)”
- “The first type of command (*i.e.*, from the speaker remote) would control a user function of the sound reproduction device (*e.g.*, volume) (See ADA310 Manual, Ex. 1011, at 7 (showing the remote))”
- “The control circuitry would receive the signals from the remote and ... transmitted [sic] to the computer, via a signal path of the connector, a signal for controlling the user function of the computer if the user issued a command of the second type (*i.e.*, from the IRMan remote). (See ADA310 Manual, Ex. 1011, at 7 (showing the remote and describing its operation))”

SDI Amended Petition, Paper 6 at 17-18.

Claim Construction

Board's Claim Construction

Bose seeks reconsideration of the “configured to respond ...” term.

Bose Response, Paper 16 at 6-18.

Term	Board's Construction (“on the current record ...”)	Bose's Proposed Construction
“configured to respond to signals received from the computer”	“configured to take an action as a result of signals received from the computer.”	“configured to answer or reply to the computer, i.e., send a responsive communication back to the computer”

Decision, Paper 13 at 8-10.

Bose Response, Paper 16 at 3.

Claim Construction

Claim 25 in '682 Patent, Ex. 1001



25. The audio system of claim 1 wherein the sound reproduction system is configured to respond to signals received from the computer.



'682 Patent, Ex. 1001 (IPR2014-00343) at claim 25.

See also '682 Patent, Ex. 1001 (IPR2014-00343) at claim 52;
'295 Patent, Ex. 1001 (IPR2014-00346) at claims 25, 51.

Claim Construction

“SDI assert[s] that the limitation is met by a speaker system that takes some action as a result of signals received from a computer.”

Bose Response, Paper 16 at 6-7.

25. The audio system of claim 1 wherein the sound reproduction system is configured to respond to signals received from the computer.

The speakers were configured to respond to signals received from the computer.

“Computers that are USB (universal serial bus) equipped can control all speaker functions from the desktop.” (ADA310 Manual, Ex. 1011, at 3.) This is done with software that runs on the computer, using a graphic user interface. (*Id.*) The control necessarily would be accomplished by electrical signals to which the speaker would respond.

In addition, the ADA310 speaker did not have a power switch but, instead, “[w]hen audio is received . . . the speaker turns on automatically.” (*Id.*, at 4.) Thus, the speaker also responded to music signals from the computer.

SDI Amended Petition, Paper 6 at 19.

Claim Construction

“Claim Differentiation Supports Bose’s Proposed Construction”

Bose Response, Paper 16 at 8.

“Independent claims 1 and 28 already require that the sound reproduction system be configured with components for processing and reproducing audio signals, which are actions taken in response to receiving audio signals...”

Bose Response, Paper 16 at 9.

1. An audio system configured to connect to a separate 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, the audio system comprising:
(a) a sound reproduction system comprising:
a housing;
control circuitry located within the housing for receiving control commands;
audio signal processing circuitry located within the housing for processing audio signals for reproduction;
one or more speakers for reproducing audio signals processed by the audio signal processing circuitry; and

‘682 Patent, Ex. 1001 (IPR2014-00343) at claim 1.

1. An audio system configured to connect to a separate 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, 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

‘295 Patent, Ex. 1001 (IPR2014-00346) at claim 1.

Claim Construction

“Claim Differentiation Supports Bose’s Proposed Construction”

Bose Response, Paper 16 at 8.

[T]he **additional** “configured to respond” requirement in dependent claims 28 and 52 must mean something different—something **other than** simply that the sound reproduction system is configured to take an action as a result of receiving audio from the computer.

Bose Response, Paper 16 at 9.

“[T]he presence of a dependent claim that adds a particular limitation raises a presumption that the limitation in question is not found in the independent claim.” *Hill-Rom Servs., Inc. v. Stryker Corp.*, 755 F.3d 1367, 1374 (Fed. Cir. 2014) (quotation omitted).

Bose Response, Paper 16 at 9.

Claim Construction

SDI's Reply on Claim Differentiation

- “Bose’s argument fails for being unsupported by the claim language because, while the independent claims recite a speaker and amplifier, **they do not require that the speakers play music from the computer**.”
- “In particular, while the claims state that the speakers are ‘for reproducing audio signals processed by the audio signal processing circuitry’ and that the audio signal processing circuitry is ‘for processing audio signals for reproduction,’ **nothing in the claim requires that those ‘audio signals’ come from the computer**.”
- “Because the independent claims do not actually require that the speakers play music **from the computer**, Bose’s claim differentiation argument does not work. In independent claims 1 and 28, the speaker does not need to respond to signals from the computer (music or otherwise), while the ‘configured to’ dependent claims (25 and 52) narrow the scope of the independent claims by requiring that the speakers be configured to respond to the computer.”

SDI Reply, Paper 17 at 3-4.

Claim Construction

“Specification Uses The Word ‘Respond’ To Refer To An Answer Or Reply”

Bose Response, Paper 16 at 10.

“The word ‘respond’ appears only once in the specification ...”

Bose Response, Paper 16 at 10.

In another aspect of the invention, an audio system includes a computer system and a sound reproduction system for reproducing audible sound from audio signals. The audio signals come from a plurality of selectable sources. A method for switching the sound reproduction system from an unpowered state to a powered state includes transmitting a control signal from the sound reproduction system to the computer system. If the computer system **responds** to the control signal, the method determining by the sound reproduction device that the computer system is in a responsive state and

If the computer system does not **respond** to the control signal, determining by the sound reproduction device that the computer system is in an unresponsive state.

‘682 Patent, Ex. 1001 (IPR2014-00343) at 1:58-2:3.

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Claim Construction

“Specification Uses The Word ‘Respond’ To Refer To An Answer Or Reply”

Bose Response, Paper 16 at 10.

“If the computer simply took some action as a result of receiving the control signal, ... but did not send an answer or reply back to the sound reproduction device, the sound reproduction device would have no way of knowing whether the computer was in a responsive state.”

Bose Response, Paper 16 at 10-11.

Claim Construction

“Specification Uses The Word ‘Respond’ To Refer To An Answer Or Reply”

Bose Response, Paper 16 at 10.

“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.””

Decision, Paper 13 at 9-10.

“There is ... no reason to think that the meaning of the term ‘respond’ should change based on which device is doing the responding.”

Bose Response, Paper 16 at 12.

Claim Construction

Prosecution history “where ‘respond’ was used to mean an answer or reply.”

Bose Response, Paper 16 at 16.

“Claim 18 of the original application:”

18. In an audio system comprising a computer system and a sound reproduction system ... transmitting a control signal from said sound reproduction system to said computer system; and if said computer system **responds** to said control signal, determining by said sound reproduction device that said computer system is in a responsive state; and if said computer system does not **respond** to said control signal, determining by said sound reproduction device that said computer system is in an unresponsive state.

Ex. 2115 (IPR2014-00343) at 34-35

Claim Construction

“Specification Uses The Word ‘Respond’ To Refer To An Answer Or Reply”

Bose Response, Paper 16 at 10.

“The specification also describes an embodiment where ... the **sound reproduction system** sends an answer or reply to the computer.”

Bose Response, Paper 16 at 12.

“In one embodiment, initial preset assignment of broadcast radio stations is done automatically. . . . At step 104, the computer program directs AM/FM tuner 12 to scan the applicable broadcast frequency band for strong signals. At step 106, the strongest signals are compared to available stations based on the locator and information about available radio stations, as discussed above in the discussion of audio system mode operation. At step 108, the broadcast frequencies of the strongest signals are assigned by the computer program to the presets.”

Ex. 1001 at 9:21-39.

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Claim Construction

“[T]he claims ... use the term “in response to” to indicate an **action**”

Bose Response, Paper 16 at 14.

“[T]he claims in the '682 patent ... all use “respond to signals received” to mean **an answer or reply** to signals received, and contrastingly all use the term “in response to” to indicate an **action** taken in response to signals received.

Bose Response, Paper 16 at 14.

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 system when the user issues a command of the first type, and

'682 Patent, Ex. 1001 (IPR2014-00343) at claim 1.

(b) a display for displaying a user interface configured to present a first assemblage of the plurality of music files in a first set of groups according to the first type of metadata associated with the music files, and, **in response to** a user selection of a group in the first assemblage, present a second assemblage of the music files in the selected group, wherein the second assemblage presents the music files in the selected group in a second set of groups according to the second type of metadata associated with the music files in the selected group;

'682 Patent, Ex. 1001 (IPR2014-00343) at claim 62.

Claim Construction

“[T]he claims ... use the term “in response to” to indicate an ***action***”

Bose Response, Paper 16 at 14.

“This use of separate terminology is consistent with the general presumption in patent law that different terms have different meanings.”

Bose Response, Paper 16 at 17-18.

Chicago Bd. Options Exch., Inc. v. Int’l Sec. Exch., LLC,
677 F.3d 1361, 1369 (Fed. Cir. 2012) (discussing the
“general presumption that different terms have different
meanings”)

Bose Response, Paper 16 at 18.

Claim Construction

SDI's Arguments

1. “[W]hile the independent claims recite a speaker and amplifier, *they do not require that the speakers play music from the computer.... [N]othing in the claim requires that those “audio signals” come from the computer.*”
2. “Bose’s the [sic] fundamental problem ... is that the Board’s construction is ***also*** ‘consistent with’ specification.”
3. “Because ‘respond’ is never used in the specification in the context in which it is used in the claims, the specification cannot limit that term in the claims.”

SDI Reply, Paper 17 at 3-8.

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Claim Construction

SDI's Arguments

4. “[T]he specification is silent about how the computer determines the strongest signals for available stations.... The specification does not say that the speaker responds to the computer”
5. “Bose cites application claim 18, which stated that the ‘computer system responds to [the] control signal.’ ... Bose then assumes that this means ‘answer or reply,’ where nothing in the claim actually says or requires that.”

SDI Reply, Paper 17 at 3-8.

Claim Construction

“SDI’s proposed combination ... would not satisfy claims 25-26 and 52-53”

25. The audio system of claim 1 wherein the sound reproduction system is configured to respond to signals received from the computer.

The speakers were configured to respond to signals received from the computer.
“Computers that are USB (universal serial bus) equipped can control all speaker functions from the desktop.” (ADA310 Manual, Ex. 1011, at 3.) This is done with software that runs on the computer, using a graphic user interface. (*Id.*) The control necessarily would be accomplished by electrical signals to which the speaker would respond.
In addition, the ADA310 speaker did not have a power switch but, instead, “[w]hen audio is received . . . the speaker turns on automatically.” (*Id.*, at 4.) Thus, the speaker also responded to music signals from the computer.

“The Amended Petition points to two passages in the Altec Lansing Manual . . ., but neither passage demonstrates that the ADA310W speaker system is configured to answer or reply to the personal computer.”

Bose Response, Paper 16 at 36.

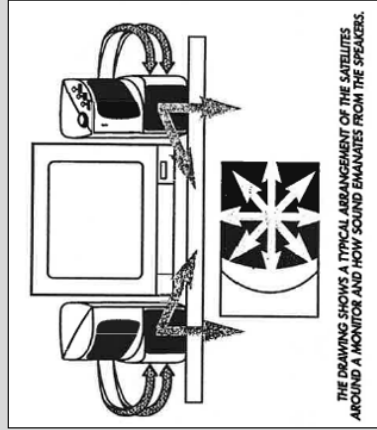
SDI Amended Petition, Paper 6 at 19.

Instituted Ground I

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“The references teach away from the claimed invention.”

Bose Response, Paper 16 at 24.



Ex. 1011 at 3.

The ADA310W can function with computers that have a sound card or a headphone output for a CD player.

* * *

Computers that are USB (universal serial bus) equipped can control all speaker functions from the computer desktop. The USB input makes it possible to control all functions of the ADA310W with a GUI (graphic user interface) that shows a representation of the amplifier and speakers on the computer screen. Audio Management Software is provided to operate the GUI for computers that have a Windows 95 USB Supplement or Windows 98. **If your computer IS USB equipped refer to connection instructions on page 4 of this manual.**

Ex. 1011 at 3.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“The references teach away from the claimed invention.”

Bose Response, Paper 16 at 24.

Q: Which remotes does Irman support?

A: We tested Irman with more than 40 remotes, Sony, Philips, JVC, etc. they all worked. Irman has built in support for almost every ir remote standard. The only remotes which we think that are not compatible are from B&O, they use a very rare standard, and are therefore probably not compatible with Irman. However, the vast majority of remotes (over 95%) does use a supported standard and is therefore compatible with Irman.

Q: Can I program support for my favorite application?

A: Yes, we would really like that. Just send us an email what you want to do, so we can give you support and place your program on our homepage. The Visual C++ 5.0 source code of the winamp plugin [version 2.2](#) and a [interface description](#) are available for download.

Ex. 1010 at 4.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“The references teach away from the claimed invention.”

Bose Response, Paper 16 at 24.

“[O]ne of ordinary skill would readily recognize that the references teach two different ways for making a ‘combined’ system, both of which would result in a system that utilizes a single remote control ...”

“Thus, if a person of ordinary skill desired to combine the devices:”

1. “[T]he teachings of the references would lead [to] a system that would have required only one remote control that interacted directly with the IRMan receiver connected to the computer.”
2. “[G]iven the stated versatility of the IRMan receiver, . . . the ‘combined’ system could be easily controlled using a single universal remote control that communicated independently with both infrared receivers.”

Bose Response, Paper 16 at 27- 29, citing Ex. 2120 (Stevenson) at ¶¶ 45-54, Ex. 2104 (Lippman) at Tr. 155:10-157:5, 160:6-17, Ex. 1010 at 4, Exs. 2105-07.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

“The references teach away from the claimed invention.”

Bose Response, Paper 16 at 24.

“An inference of nonobviousness is especially strong where the prior art’s teachings undermine the very reason being proffered as to why a person of ordinary skill would have combined the known elements.”

DePuy Spine, 567 F.3d at 1326.

Here, “the combined teachings of the references as a whole lead a person of ordinary skill in a direction divergent from the path of the inventions.”

See *In re Gurley*, 27 F.3d at 553.

“As a result, the skilled person would not have been motivated to make SDI’s proposed combination to arrive at the claimed invention.”

Bose Response, Paper 16 at 30-31.

Instituted Ground I – WinAmp, IRMan, and Altec Lansing Manual

Even if made, SDI's combination would not meet the challenged claims

Bose Response, Paper 16 at 35-45.

1. "[T]he Altec Lansing Manual does not disclose or suggest '[a] sound reproduction system [that] is **configured to respond to signals received from [a] computer**' as required by those claims." [claims 25-26, 52-53]
 - "There is no hint or suggestion in the [Altec Lansing] manual that the speakers reply or answer back to the computer in response to receiving any control signal."
2. "SDI ... relies on the 'power rating' of the speaker drivers that is given on page 7 of the Altec Lansing Manual ... has failed to show that the ... Manual discloses an amplifier within the same housing as the control circuitry to which it points ... even if amplification were considered a form of audio signal processing circuitry." [all challenged claims]
3. "The proposed combination would also not meet the requirement ... that the sound reproduction system include a 'connector located at least partially within' the same housing as the control circuitry." [claims 55-61, 75]

Bose Response, Paper 16 at 36- 44.