

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

Parrot S.A. and Parrot, Inc.

Petitioners,

v.

Drone Technologies, Inc.

Patent Owner

Case IPR2014-00732
U.S. Patent No. 8,106,748

Before HOWARD B. BLANKENSHIP, MATTHEW R. CLEMENTS, and
CHRISTOPHER M. KAISER, *Administrative Patent Judges*.

**PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE TO
PETITION FOR *INTER PARTES* REVIEW**

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EXHIBIT LIST

Exhibit #	Reference Name
Ex. 1001	U.S. Patent No. 8,106,748 (“the ’748 Patent”)
Ex. 1002	U.S. Patent No. 5,043,646 (“Smith”)
Ex. 1003	French Patent No. 9901683 to Potiron
Ex. 1004	Certified Translation of French Patent No. 9901683 (“Potiron”)
Ex. 1005	U.S. Pat. Pub. No. 2006/10144994 A1 (“Spirov”)
Ex. 1006	EXHIBIT INTENTIONALLY LEFT BLANK
Ex. 1007	U.S. Pat. No. 7,219,861 (“Barr”)
Ex. 1008	U.S. Pat. No. 6,751,529 (“Fouche”)
Ex. 1009	U.S. Pat. No. 7,145,551 (“Bathiche”)
Ex. 1010	U.S. Pat. Pub. No. 2004/0263479 (“Shkolnikov”)
Ex. 1011	Expert Declaration of Prof. Raffaello D’Andrea with Attachments A-C
Ex. 1011, Att. A	U.S. Patent No. 613,809 to Tesla (“Tesla”)
Ex. 1011, Att. B	U.S. Patent No. 3,101,569 to Giardina (“Giardina”)
Ex. 1011, Att. C	U.S. Patent No. 8,072,417 (“Jouanet”)
Ex. 1012	Claim Chart Demonstrating Invalidity of the ’748 Patent
Ex. 1013	Declaration of Deborah A. Skolaski
Ex. 1014	Declaration of James E. Hopenfeld
Ex. 1015	Declaration of Prof. Raffaello D’Andrea

In its Patent Owner Response (Paper 15, "POR"), Patent Owner mischaracterizes the primary reference, Spirov, fails to distinguish additional references Bathiche and Shkolnikov, and relies on meritless procedural objections to Prof. D'Andrea's declaration supporting the obviousness of all claims of the '748 Patent. Patent Owner does not, however, overcome the *prima facie* case of invalidity already established by Petitioner and recognized by the Board in its Institution Decision. Therefore, Petitioner has met its burden in establishing that all challenged claims of the '748 Patent are unpatentable in view of prior art and should be cancelled.

A. Spirov teaches the use of a "configuration switch"

Patent Owner does not dispute that all claims of the '748 Patent require a "configuration switch" having three modes of operation. In its Petition, supported by the declaration of Prof. D'Andrea, Petitioner demonstrated that Spirov literally teaches every element of claims 1-5 and 10-12, with the exception of the "configuration switch." Patent Owner does not dispute any of this. Petitioner further demonstrated, and the Board agreed, that Spirov inherently teaches a configuration switch having two modes of operation and, *whether or not Spirov so teaches a two mode switch*, it would have been obvious to combine Spirov with Bathiche and/or Shkolnikov to include a "three mode" switch. Paper 8, 10-11.

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Petitioner's Reply to Patent Owner's Response

Disregarding the alternative grounds for obviousness found by the Board, Patent Owner argues that Spirov does not teach any configuration switch, and that therefore Spirov cannot be combined with Bathiche and Shkolnikov. Of course, as the Board recognized, Spirov teaches a configuration switch. Even if, however, Spirov does not teach a "configuration switch," Patent Owner's argument does not overcome Petitioner's demonstration of obviousness. The combination of Spirov, Bathiche, and/or Shkolnikov still would yield every element of claims 1-5 and 10-12. The suggestions to combine these references, explained in detail in the Petition and Prof. D'Andrea's supporting declaration (Ex. 1011), apply just as well even if Spirov is assumed to lack a configuration switch.

In its Institution Decision, the Board agreed with Petitioner. The Board found that the asserted claims¹ are obvious whether or not Spirov discloses a mode switch. Paper 8, 11. The Board found that Bathiche teaches switch-selectable modes and that, accordingly, the "mode switch" feature is taught by the prior art. Paper 8, 9-10. It follows that the Board's finding of obviousness can be sustained on an independent ground, not disputed by Patent Owner.

Even assuming that whether Spirov teaches a two-mode switch somehow is required to combine the references for purposes of obviousness, the evidence

¹ The Board used an additional reference, Fouche, for purposes of claim 4.

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