UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GoFire, Inc., Petitioner,

v.

Canopy Growth Corporation, Patent Owner.

Case PGR2020-00044 Patent No. 10,327,479

Mail Stop PATENT BOARD Patent Trial and Appeal Board U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, Virginia 22313-1450

Submitted Electronically via the Patent Review Processing System

PATENT OWNER'S PRELIMINARY RESPONSE UNDER 37 C.F.R. § 42.207



TABLE OF CONTENTS

I.	INTR	INTRODUCTION1			
II.	OVERVIEW OF THE '479 PATENT4				
III.	PROS	PROSECUTION HISTORY OF THE '479 PATENT			
	A.	Non-Final Office Action	7		
	B.	Response to Non-Final Office Action	8		
	C.	Final Office Action	9		
	D.	First Examiner Interview	10		
	E.	Response to Final Office Action	11		
	F.	Second Examiner Interview and Supplemental Response	14		
	G.	Notice of Allowance	14		
IV.	LEV	EVEL OF ORDINARY SKILL IN THE ART15			
V.	CLA	CLAIM CONSTRUCTION15			
VI.	PETITIONER'S EXPERT DECLARATIONS AND CLAIM CHART ARE IMPROPERLY INCORPORATED BY REFERENCE INTO THE PETITION				
	A.	Petitioner's Expert Declarations are Improperly Incorporated by Reference	16		
	B.	Petitioner's Claim Chart is Improperly Incorporated by Reference	18		
VII.	THE BOARD SHOULD EXCERSIZE ITS DISCRETION UNDER 33 U.S.C. § 325(D) TO DENY INSTITUTION OF THE PETITION				
	A.	Factors (a), (b), & (d) – The Same Art and Arguments Used in the Petition were Previously Presented to the Office			
		1. Factor (a): Petitioner uses the same art that was substantively considered during prosecution	22		



		2.	Factor (d): Petitioner largely repeats the same arguments made by the Examiner during prosecution				
	В.	Factors (c), (e), and (f) – Petitioner Has Not Persuasively Shown that the Office Committed Material Error When Allowing the Claims					
		1.	Factor (e): Petitioner failed to persuasively demonstrate that the Examiner misapprehended or overlooked teachings from the prior art when allowing the claims				
			a. The Examiner did not overlook any teaching in Woodbine or the cited art				
			b. The Examiner did not misapprehend any teaching in Woodbine or the cited art				
		2.	Factor (f): The declarations from Petitioner's experts do not warrant reconsideration of the prior art30				
	C.	•	ing Institution is Consistent with the Board's Previous ions				
VIII.	II. PETITIONER FAILED TO DEMONSTRATE THAT IT IS MOR LIKELY THAN NOT THAT ANY OF THE CHALLENGED CLAIN ARE UNPATENTABLE						
	A.	of the	nds 1-7: Petitioner Failed to Specify Where Each Element Challenged Claims are Found in the Prior Art by Relying Rejected Theory of Invalidity Estoppel				
		1.	The Federal Circuit rejected Petitioner's "Invalidity Estoppel" Theory				
		2.	Petitioner failed to establish it is more likely than not that the claims are invalid by relying on the Examiner's invalidity and obviousness analysis				
			a. Petitioner improperly relies on the Examiner's rejection of independent claim 1 in from the Final Office Action to allege invalidity of claim 1				



		 b. Petitioner improperly relies on the Examiner's obviousness rationale to support its obviousness combinations in grounds 3- 43 				
В.	argu	ounds 1 and 2: Petitioner relies on legally flawed inherency uments to argue that Claims 1-6, 7-9, 13, 14, 17, 18, and 19 Anticipated by <i>Woodbine</i>				
	1.	"a unique payload identifier that is unique to the payload reservoir"45				
		a. Woodbine does not explicitly disclose "a unique payload identifier that is unique to the payload reservoir"				
		b. Woodbine does not inherently disclose "a unique payload identifier that is unique to the payload reservoir"				
	2.	"Authenticate" and "compare" claim elements50				
C.	Grounds 3-7: Petitioner Failed to Demonstrate That It Is More Likely Than Not That the Challenged Claims are Obvious Over the Alleged <i>Woodbine-Hawes</i> , <i>Woodbine-Frija</i> , <i>Woodbine-Conley</i> , and <i>Woodbine-Bowen</i> Combinations					
	1.	Ground 3: Petitioner Has Not Established that the Proposed <i>Woodbine-Hawes</i> Combination Renders Obvious Claims 1-6, 7-9, 13, 14, 17, and 19-21				
	2.	Ground 4: Petitioner Has Not Established that the Proposed <i>Woodbine-Frija</i> Combination Renders Obvious Claims 1-6, 7-9, 13, 14, 17, and 19-21				
	3.	Ground 5: Petitioner Has Not Established that the Proposed <i>Woodbine-Conley</i> Combination Renders Obvious Claims 1-6, 7-9, 13, 14, 17, and 19-21				
	4.	Ground 6: Petitioner Has Not Established that the Proposed <i>Woodbine-Bowen</i> Combination Renders Obvious Claims 1-6, 7-9, 13, 14, 17, and 19-21				
D.		and 7: Petitioner Failed to Demonstrate That It Is More by Than Not That the Challenged Claims are Unpatentable				



	Over the Same Combinations Noted by the Examiner in the	
65	Final Office Action	
65	. CONCLUSION	IX.



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