

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YEALINK (USA) NETWORK TECHNOLOGY CO., LTD., and
YEALINK NETWORK TECHNOLOGY CO., LTD.
Petitioner,

v.

Barco NV
Patent Owner.

Case: IPR2025-00598
U.S. Patent No. 11,966,347

**RESPONSE TO PATENT OWNER'S
DISCRETIONARY DENIAL ARGUMENTS**

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I. THE PETITION DID NOT RELY ON AAPA¹ AS A BASIS FOR THE GROUNDS OF UNPATENTABILITY; THEREFORE, DISCRETIONARY DENIAL IS INAPPROPRIATE UNDER *QUALCOMM II*.²

PO relies heavily on *Qualcomm II* and claims the petition improperly relied on AAPA as a basis for its grounds. DD Req., Paper 7. But here, the petition did not use the word “basis,” unlike that in *Qualcomm II*. Both the form and substance of the petition’s use of AAPA distinguish from that in *Qualcomm II*, where Federal Circuit emphasized that form “matters”:

It matters that Apple expressly included AAPA in the “Basis” of Ground 2. ... Reliance on AAPA in combination with prior art patents or printed publications is not dispositive of whether AAPA is included in the basis of a ground. But what is dispositive are express statements—as in Apple’s petitions—that AAPA is in the “Basis” of a ground. *See id.* In this instance, we agree with Qualcomm that Apple should be held to the phrasing of its petition.

Qualcomm II, 134 F.4th at 1367 (emphases added). The petition includes no such “express statements.” Indeed, the Federal Circuit was recently “skeptical” of similar arguments where a petition did not use the word “basis.” “Fed. Circ. Skeptical

¹ Applicant-Admitted Prior Art.

² *Qualcomm Inc. v. Apple Inc.*, 134 F.4th 1355, 1367 (Fed. Cir. 2025) (“*Qualcomm II*”).

[AAPA] Requires Expert,” Law360 (June 2, 2025), <https://www.law360.com/articles/2347955/fed-circ-skeptical-applicant-admitted-art-requires-expert>

(discussing *Shockwave Med. Inc. v. Cardiovascular Sys. Inc.*, No. 23-1864, where the “Office told the panel CSI’s petition doesn’t use AAPA as a basis”). Using AAPA “is not dispositive”; how the petition uses it matters. *Qualcomm II*, 134 F.4th at 1367–68 (“future cases may require the PTO and this court to consider the substance of a petition”).

The petition’s substance also distinguishes from *Qualcomm II* because AAPA “can be relied on for ... how one with ordinary skill in the art would have understood a prior art disclosure.” *Yeda Rsch. v. Mylan Pharms. Inc.*, 906 F.3d 1031, 1041 (Fed. Cir. 2018) (quoting *Dominion Dealer Sols., LLC v. AutoAlert, Inc.*, IPR2014-00684, Paper 9, 8 (P.T.A.B. Oct. 6, 2014)). Both *Qualcomm I* and *II* confirmed the holdings in *Yeta* and *Dominion Dealer* that petitioners may rely on AAPA in combination with prior art references. *Qualcomm Inc. v. Apple Inc.*, 24 F.4th 1367, 1376 (Fed. Cir. 2022) (“*Qualcomm I*”); *Qualcomm II*, 134 F.4th at 1365. Petitioner properly used AAPA to demonstrate that a POSA would have understood the prior art to teach certain claim limitations. Pet. 16. First, PO admits that the prior art reference Beel “shows an arrangement of components that can be used in embodiments of the present invention.” *Id.* (citing Ex-1001, 5:47–52). Second, Patent Owner admits that Beel illustrates fixed endpoints. *Id.* (citing Ex-1001, 18:4–9). Finally, Patent Owner

admits that Skype, as disclosed by prior art reference Dinka, “can take over audio and/or visual data provided from a host processing device.” *Id.* (citing Ex-1001, 8:12–16). *Prior art* forms the “basis” of the petition; the AAPA properly *confirms* its teachings. PO’s argument fails because it does not address the substance of how the petition used the AAPA.

PO attempts to extend *Qualcomm II* improperly by overlooking these differences. But tribunals consistently find similar use of AAPA to be appropriate. *See, e.g., Yeda*, 906 F.3d at 1041. Last month, in fact, the Office defended using AAPA in the same way as here. *See* https://oralarguments.cafc.uscourts.gov/default.aspx?fl=23-1864_06022025.mp3 (June 2, 2025, oral arguments *Shockwave*, Appeal No. 23-1864 (solicitor arguments begin at 22:10)). Therefore, institution is appropriate because the petition may rely on “supporting evidence” and “information.” 35 U.S.C. §§ 312(a)(3)(B), 314(a), and 316(a)(3).

II. THE *ADVANCED BIONICS*³ FACTORS WEIGH AGAINST DISCRETIONARY DENIAL.

The petition applied the *Advanced Bionics* factors to both grounds. Pet., Paper 1, 71–75. First, it demonstrated that the examiner erred by failing to consider

³ *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 (P.T.A.B. Feb. 13, 2020) (precedential).

Beel in combination with well known “*data transformations based on a type of functional data*” software, such as Dinka, Van de Laar, and Kaplan. *Id.*, 34–36. The process for discretionary denial has evolved since the petition’s filing date, with an increased word-count and greater focus on factors from the Board’s *Becton, Dickinson* decision.⁴ *Advanced Bionics* (pp. 9–11) subsumed these factors into a two-part test.

A. The grounds demonstrate that the allegedly allowable subject matter was unpatentable.

The petition explains in detail how the prior art render obvious the allowable subject matter. As explained in the petition, the Office found allowable subject matter in (1) the “*Third Video Data*” and “*Second Processed Data*” limitations, and (2) the “*Translation*” Limitation. Pet., Paper 1, at 3-5. The “*Third Video Data*” and “*Second Processed Data*” limitations were in original dependent claims 12, 14, and 26–28 (along with the subject matter from their parent dependent claims):

wherein third video data, received from the host application and/or from the 3rd party application running on the processing device, is sent to an endpoint of the first peripheral device via a standard

⁴ *Becton, Dickinson & Co. v. B. Braun Melsungen AG*, IPR2017-01586, Paper 8, 17–18 (P.T.A.B. Dec. 15, 2017) (precedential as to § III.C.5, first paragraph).

generic driver, the first peripheral device receiving the third video data and processing the third video data to form second processed video data

the base unit receives the second processed data, and decodes and/or enhances the second processed data and forwards it to a functional device which is connected or attached to the base unit through a serial connection

Patent Owner included these limitations in issued independent claims 1 and 12. As for the “*Translation*” limitation, it was in original dependent claims 14 and 28:

the base unit being configured to expose and make available the functional device that is connected to the base unit, simultaneously with a plurality of first peripheral devices by interpreting, processing and translating the electronic signals coming from the functional device

Patent Owner then added this limitation to issued claims 23 and 27. As discussed below concerning factor (a), the Petition explained how the prior art renders obvious these limitations.

Finally, Petitioner only optionally relied on Christison as teaching a narrow construction of “*exposed or make available.*” Pet., 21–23, 35. Patent Owner itself argues this limitation can mean, *e.g.*, “configuring with descriptor fields.” IPR2024-01439, Paper 11, 11. Therefore, Christison teaches a known way of configuring Beel’s functional devices using descriptor fields, which is one way to perform the “*exposed or make available*” limitation.

B. Factor (a): the similarities and material differences between the asserted art and the prior art involved during examination.

1. Ground 1: Beel in view of Dinka and Optionally Christison.

Dinka was not of record during prosecution and renders obvious the allegedly patentable subject matter. Petitioner used a combination of Beel and Dinka as rendering obvious the allegedly allowable subject matter. For example, Dinka teaches, “*processing the third video data to form second processed video data*” by decoding video data and placing the output into a UI frame buffer:

The video engine is also arranged to decode video signals received over the Internet 101 via the network interface 302, for output to the UI frame buffer 322, video hardware 326 and screen 309

Pet., 29 (citing Ex-1006, 9:45–48; Ex-1002, ¶133). Beel then discloses displaying the processed video data “for display on a central display device.” Pet., 30 (citing Ex-1005, ¶322; Ex-1002, ¶¶135–36). The examiner materially erred by not applying Beel in this way and by not considering Dinka at all.

The examiner also never addressed admissions in the '347 patent that, for example, FIG. 11 of Beel “shows an arrangement of components that can be used in embodiments of the present invention.” Pet., 16 (citing Ex-1001, 5:47–52 (discussing the directly FIG. 11 related WIPO publication no. 2013/037980, which is the same as FIG. 4 of the '347 patent)). The '347 patent even admits that Beel discloses endpoints. *Id.* (citing Ex-1001, 5:47–52). The '347 patent also admits that

drivers were well known means of controlling peripheral devices. *Id.* (citing Ex-1001, 8:65–9:12). Patent Owner's discretionary denial arguments never discussed these material differences and instead focus on obvious similarities that exist in nearly all IPR petitions because the prior art relied on in prosecution and post-grant proceedings is necessarily in the same field of endeavor. The Board has already rejected similar arguments in a related institution decision. *Yealink Network Technology Co., Ltd., et al. v. Barco N.V.*, IPR2024-01439, Paper 12, 8 (finding similar prior art to be non-cumulative).

Finally, Petitioner only optionally relied on Christison as teaching a narrow construction of “*exposed on the first peripheral device*,” which Barco argues can mean, *e.g.*, “configuring with descriptor fields.” IPR2024-01439, Paper 11, 11. Therefore, Christison teaches a known way of configuring Beel's functional devices.

2. Ground 2: Kaplan in view of Van de Laar, AAPA, and optionally Christison.

Both Kaplan and Van de Laar were not of record during prosecution, and they render obvious the allegedly patentable subject matter. Petitioner used a combination of Kaplan and Van de Laar as rendering obvious the allegedly allowable subject matter. For example, Van de Laar teaches, “*processing the third video data to form second processed video data*” by decoding and processing received video data before being output in a human-understandable format:

[T]he docking processor may be arranged for managing shared AV output for the multiple primary dockee devices by providing at least one of split screen, overlaying, at least one window, video scaling, audio mixing. This shared control may for example enable multiple primary dockees control a shared A/V output peripherals (such as TV or beamer) in a meeting room.

Pet., 55–56 (citing Ex-1007, ¶¶59–60 (emphasis added), ¶¶79–86, 124–26, FIG. 3; Ex-1002, ¶240, 270. The examiner materially erred by never applying Kaplan or Van de Laar.

The combination of Kaplan and Van de Laar also renders obvious the “*Translation*” limitation:

the base unit being configured to expose and make available the functional device that is connected to the base unit, simultaneously with a plurality of first peripheral devices by interpreting, processing and translating the electronic signals coming from the functional device.

For example, Van de Laar teaches *the base unit* (e.g., “WDH”) exposing or making available a display to multiple peripheral devices by processing display information “using a split screen, PIP [picture-in-picture] overlay or any other means of audio and video mixing, scaling, and/or re-encoding.” Pet., 63 (citing Ex-1007, ¶¶123, 56 (host sends to secondary dockees “modified, e.g. scaled and/or transcoded” AV data “as rendered via the peripheral”); Ex-1002, ¶¶258, 286).

The petition makes clear that the examiner, by failing to identify and consider Kaplan and Van de Laar, materially erred in allowing the '347 patent to issue.

C. Factor (b): the cumulative nature of the asserted art and the prior art evaluated during examination.

See factor (a).

D. Factor (c): the extent to which the asserted art was evaluated during examination, including whether the prior art was the basis for rejection

The examiner discussed none of Dinka, Kaplan, nor Van de Laar on the record during examination. The examiner also never proposed a rejection for any of the limitations later added by PO through amendment.

E. Factor (d): the extent of the overlap between the arguments made during examination and the manner in which petitioner relies on the prior art

The examiner never applied any prior art to the subject matter identified in the first action as allowable if rewritten into independent form. Therefore, the Petition proposes never-before-considered analysis of those limitations, which weights against discretionary denial. Pet., 27–30, 35, 55–58, and 63.

F. Factor (e): whether petitioner has pointed out sufficiently how the examiner erred in its evaluation of the asserted prior art

See factors (a) and (d).

G. Factor (f): the extent to which additional evidence and facts presented in the petition warrant reconsideration of the prior art or arguments.

See factor (d).

III. “SETTLED EXPECTATIONS” WEIGH TOWARD INSTITUTION.

The '347 patent issued last year (April 23, 2024) and therefore has “not developed strong settled expectations.” *Cambridge industries USA Inc. et al. v. Applied Optoelectronics, Inc.*, IPR2025-00433, Paper 11, 2 (June 26, 2025) (denying discretionary denial where the challenged patent was about 5 years old); *see also Imperative Care Inc. v. Inari Medical Inc.*, IPR2025-00289, Paper 9 (June 12, 2025) (denying discretionary denial where the challenged patent was about 2 years old). Indeed, Petitioner challenged the '347 patent in the beginning of the IPR-eligibility period. Therefore, settled expectations weigh towards institution at least because the '347 patent is so new.

IV. ACTING DIRECTOR STEWART ADOPTED PETITIONER'S ARGUMENTS IN RELATED IPR2025-00419, PAPER 18.

A. Acting Director Stewart Adopted Petitioner's AAPA-Related Arguments in Related IPR2025-00491.

There is no material difference between Petitioner's use of AAPA in this IPR and that of IPR2025-00491, and therefore should also result in a referral to the Board. Paper 18, 3 (P.T.A.B. June 25, 2025) (“Petitioner persuasively argues that the AAPA is discussed only to demonstrate that a [person of ordinary skill in the art] would have understood the prior art to teach certain claim limitations.” (internal quotation omitted)) Both petitions relied on the same prior art in the same way to

demonstrate that the POSA would have understood the prior art patents and printed publications to teach certain claim limitations. *Id.*, 3.

B. Acting Director Stewart Adopted Petitioner's Settled Expectations Arguments.

The '347 patent at issue here issued after related U.S. patent no. 10,684,972 in the '419 IPR, which Acting Director Stewart referred to the Board. *Id.* Petitioner challenged the '347 patent shortly after the 9-month PGR-deadline expired. Therefore, Patent Owner had insufficient settled expectations that the '347 patent would not be challenged.

C. Acting Director Stewart Found the Examiner Materially Erred by Overlooking Dinka and New Prior Art Combined with Previously Considered Prior Art.

The Office allowed both the '346 and '972 patents after amendments, which this IPR and the '419 IPR addressed, respectively, for the first time. Acting Director Stewart found that the petition in the '419 IPR, by applying new prior art including Dinka, sufficiently demonstrated that the examiner material erred. *Id.* 2–3. The same outcome should hold here, and referral of the grounds to the Board, for substantially similar reasons to those given in the '419 IPR, is appropriate.

V. CONCLUSION

The Office issued the challenged claims because the examiner appears to have found that certain dependent claims were unknown in the prior art. Petitioner relied on new prior art in both grounds as rendering obvious these limitations. Most

importantly, the '347 patent is very young, is not asserted in any litigation, and therefore has no upcoming district court trial date. Thus, Petitioner respectfully requests that the Director deny PO's request for discretionary denial and refer the grounds for the Board to consider.

Dated: July 9, 2025

Respectfully submitted,

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Certification of Word Count Under 37 C.F.R. § 42.24(d)

The undersigned hereby certifies that the foregoing contains 2,470 words according to the word count of the word-processing software used to prepare the foregoing.

Dated: July 9, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on July 9, 2025, I caused a true and correct copy of the foregoing discretionary denial reply at the following service addresses of record:

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