

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AROMA360, LLC
Petitioner,

v.

AIR ESSENTIALS, INC.
Patent Owner.

IPR2025-00705
Patent 9,527,094 B1

Before MITCHELL G. WEATHERLY, ERIC C. JESCHKE, and
RICHARD H. MARSCHALL, *Administrative Patent Judges*.

JESCHKE, *Administrative Patent Judge*.

PRELIMINARY GUIDANCE
PATENT OWNER'S MOTION TO AMEND

37 C.F.R. § 42.121(e)

I. INTRODUCTION

On October 8, 2025, we instituted trial as to claims 7–9 and 11 of U.S. Patent No. 9,527,094 B1 (Ex. 1001, “the challenged patent”). Paper 9. After institution, Patent Owner filed a Motion to Amend that is contingent on the patentability of claims 7–9 and 11. Paper 15 (“Motion” or “Mot.”). Petitioner filed an opposition on April 15, 2026. Paper 20 (“Opp.”).

In the Motion, Patent Owner requested that we provide preliminary guidance concerning the Motion in accordance with 37 C.F.R. § 42.121(a)(1)(ii). Mot. 3; *see* 37 C.F.R. § 42.121(e)(1); *see also Rules Governing Motion to Amend Practice and Procedures in Trial Proceedings under the America Invents Act before the Patent Trial and Appeal Board*, 89 Fed. Reg. 76,421 (Sept. 18, 2024) (“Final Rule”). We have considered Patent Owner’s Motion and Petitioner’s Opposition.

In this Preliminary Guidance, we provide information indicating our initial, preliminary, non-binding views on whether Patent Owner has shown a reasonable likelihood that it has satisfied the statutory and regulatory requirements associated with filing a motion to amend in an *inter partes* review and whether Petitioner establishes a reasonable likelihood that the substitute claims are unpatentable. 37 C.F.R. § 42.121(e)(1), (2); *see also* 35 U.S.C. § 316(d) (statutory requirements for a motion to amend); 37 C.F.R. § 42.121(a)(2), (a)(3), (b) (regulatory requirements and burdens for a motion to amend); *Lectrosonics, Inc. v. Zaxcom, Inc.*, IPR2018-01129, Paper 15 (PTAB Feb. 25, 2019) (precedential) (providing information and guidance regarding motions to amend). The reasonable likelihood standard applied in this Preliminary Guidance differs from the preponderance of the evidence standard applied when ultimately deciding the Motion. *Compare* 37 C.F.R. § 42.121(e)(1), *with* § 42.121(d). Finally, this preliminary guidance is

not a “decision” for purposes of rehearing under 37 C.F.R. § 42.71(d). 37 C.F.R. § 42.121(e)(2).

For purposes of this Preliminary Guidance, we focus on the proposed substitute claims, and specifically on the amendments proposed in the Motion. *See* 37 C.F.R. § 42.121(e)(1); Final Rule, 89 Fed. Reg. at 76,425. We do not address the patentability of the originally challenged claims. *See id.* Moreover, in formulating our preliminary views on the Motion and Opposition, we have not considered the parties’ other substantive papers on the underlying merits of Petitioner’s challenges. We emphasize that the views expressed in this Preliminary Guidance are subject to change upon consideration of the complete record, including any revision to the Motion filed by Patent Owner. Thus, this Preliminary Guidance is not binding on the Board when rendering a final written decision or any other subsequent decision in this proceeding. 37 C.F.R. § 42.121(e)(2); *see Medytox, Inc. v. Galderma S.A.*, 71 F.4th 990, 1000 (Fed. Cir. 2023).

Before providing the Preliminary Guidance, we address the schedule in this proceeding. On December 9, 2025, the parties filed a joint stipulation to modify Due Dates 1, 2, and 3 from the Scheduling Order. In relevant part, the Scheduling Order states:

The parties may not stipulate to a different date for the portion of DUE DATE 2 related to Petitioner’s opposition to a motion to amend, or for the portion of DUE DATE 3 related to Patent Owner’s reply to an opposition to a motion to amend (or Patent Owner’s revised motion to amend) without prior authorization from the Board. In stipulating to move any due dates in the scheduling order, the parties must be cognizant that the Board requires four weeks after the filing of an opposition to the motion to amend (or the due date for the opposition, if none is filed) for the Board to issue its preliminary guidance, if requested by Patent Owner.

Paper 11 at 9–10. Despite those instructions, and without prior authorization, the parties filed a joint stipulation extending all aspects of Due Date 2 (including those related to a motion to amend) “from March 11, 2026 to April 15, 2026” and extending all aspects of Due Date 3 “from April 22, 2026 to May 15, 2026.”

Paper 12 at 2. For future practice before the Board, counsel are reminded that modification of the portions of Due Dates 2 and 3 related to a motion to amend requires prior authorization from the panel.

II. PRELIMINARY GUIDANCE

A. Statutory and Regulatory Requirements

Patent Owner bears the ultimate burden to show that its motion to amend complies with the requirements of 35 U.S.C. § 316(d)(1), (3) and 37 C.F.R. § 42.121(a)(2), (a)(3), (b)(1), and (b)(2). 37 C.F.R. § 42.121(d)(1). For the reasons discussed below, at this stage of the proceeding, and based on the current record, Patent Owner has not shown a reasonable likelihood that it has satisfied the statutory and regulatory requirements associated with filing a motion to amend. *See* 37 C.F.R. § 42.121(e)(1).

1. Reasonable Number of Substitute Claims

A motion to amend must propose a reasonable number of substitute claims. 35 U.S.C. § 316(d)(1)(B); 37 C.F.R. § 42.121(a)(3). Patent Owner proposes only one claim to replace four challenged claims. Mot. 6. Patent Owner amends sole original independent claim 7 to arrive at sole independent proposed substitute claim 21. Mot. 10–11 (Claims App.). On the facts here, Patent Owner has shown it proposes a reasonable number of substitute claims. Petitioner does not argue otherwise. *See generally* Opp.

2. Respond to a Ground of Unpatentability

A motion to amend must respond to a ground of unpatentability involved in the proceeding. 37 C.F.R. § 42.121(a)(2)(i). Patent Owner asserts that the proposed amendments to independent claim 7 found in proposed substitute claim 21 are responsive to the grounds in the Petition. Mot. 5–6. Specifically, Patent Owner contends that the proposed amendments “further clarify the structure and function of the silencer assembly and its components” and that “[n]one of the asserted references, individually or in combination, disclose or render obvious a silencer assembly that implements the recited claim features.” Mot. 5.

When considering the Motion as a whole, Patent Owner responds to a ground of unpatentability. *See Lectrosomics*, Paper 15 at 5 (stating that “in considering the motion, we review the entirety of the record to determine whether a patent owner’s amendments respond to a ground of unpatentability involved in the trial”). Patent Owner has responded to a ground of unpatentability involved in this proceeding. Petitioner does not argue otherwise. *See generally* Opp.

3. Scope of Amended Claims

A motion to amend may not enlarge the scope of the claims of the patent. 35 U.S.C. § 316(d)(3); 37 C.F.R. § 42.121(a)(2)(ii). Propose substitute claim 21 adds various limitations to challenged claim 7. Mot. 10–11 (Claims App.). As best understood, Petitioner does not argue that the proposed amendments enlarge the scope of the claims of the challenged patent.¹ Patent Owner’s Motion has not

¹ Petitioner contends that proposed substitute claim 21 lacks written description because, *inter alia*, “the [challenged] patent discloses only directing a *fluid dispersion* toward the baffle, whereas substitute claim 21 broadens that disclosure to directing *fluid* toward the baffle.” Opp. 8.

enlarged the scope of the claims of the challenged patent. Petitioner does not argue otherwise. *See generally* Opp.

4. New Matter

A motion to amend may not introduce new subject matter. 35 U.S.C. § 316(d)(3); 37 C.F.R. § 42.121(a)(2)(ii). Petitioner contends that the Motion does not comply with the Board’s precedential decision in *Lectrosonics* because the Motion fails to “set forth written description support for each proposed substitute claim as a whole, and not just the features added by the amendment.” *Lectrosonics*, Paper 15 at 8. We agree with Petitioner that the Motion is procedurally deficient. Opp. 6–7. The table on page 7 of the Motion includes only the claim features added by the proposed amendments. We note that this deficiency alone may constitute a basis for the Board to deny the Motion.

Claim 21 adds the limitation “wherein said silencer inlet is disposed relative to the baffle to direct the flow of fluid towards the baffle so as to maximize said disruption of flow.” Mot. 11 (Claims App.). As support for this limitation, Patent Owner points to (1) Exhibit 1006, page 30, lines 9–13 and pages 13–14, Figures 1 and 2 and (2) Exhibit 1005, page 18, lines 21–25 and pages 28–29, Figures 1 and 2. Mot. 7.

Petitioner argues that the added limitation lacks support in the original written description because “the [challenged] patent discloses only directing a *fluid dispersion* toward the baffle, whereas substitute claim 21 broadens that disclosure to directing *fluid* toward the baffle.” Opp. 8.

On this record, we agree with Petitioner. The paragraph in the provisional Specification cited by Patent Owner reads:

In at least one embodiment, the silencer inlet 135 is disposed relative to the baffle 136 to at least partially, if not substantially, direct the flow of

the fluid dispersion towards the baffle 136, so as to maximize the disruption of flow.

Ex. 1006, page 30, lines 9–13 (emphasis added); *see also* Ex. 1005, page 18, lines 21–25. The additional disclosure cited by Patent Owner also describes a “fluid dispersion” rather than the unqualified and broader term “fluid.” *See, e.g.*, Ex. 1006, page 29, lines 5–6 (“[T]he suppression chamber 232 receives the fluid dispersion from the mixing chamber 226.”). Accordingly, the proposed amendment adds new matter.²

5. Conclusion

For the foregoing reasons, we conclude that Patent Owner has not shown a reasonable likelihood that it has satisfied the statutory and regulatory requirements associated with filing a motion to amend.

B. Unpatentability Arguments by Petitioner

Petitioner bears the ultimate burden to show that any proposed substitute claims are unpatentable. 37 C.F.R. § 42.121(d)(2). For the reasons discussed below, at this stage of the proceeding, and based on the current record, it appears that Petitioner has shown a reasonable likelihood that proposed substitute claim 21 is unpatentable. *See* 37 C.F.R. § 42.121(e)(1).³

² We note that substitute claim 21 lacks antecedent basis for “the flow of fluid” because that is the first time that the word “flow” appears in claim 21. We further note that claim 21 lacks antecedent basis for “said disruption of flow” because the only disruption recited in claim 21 is “disrupts *movement* of the fluid dispersion.”

³ As noted above, we express no view on the patentability of original claims 7–9 and 11 in this Preliminary Guidance. Instead, we focus on limitations added to those claims in the Patent Owner’s Motion to Amend.

1. Alleged Lack of Written Description Support for Proposed Substitute Claim 21

We discuss above (*see* § II.A.4), the support in the original written description identified by Patent Owner on page 7 of the Motion. Petitioner contends that “the specification does not disclose the full functional scope of arranging the silencer inlet relative to the baffle ‘so as to maximize’ disruption of flow.” Opp. 8. According to Petitioner, the challenged patent “provides no objective structural or operational criteria, such as chamber dimensions, inlet angle, baffle spacing, pressure conditions, or flow-rate parameters, that would allow [one of ordinary skill in the art] to determine which inlet and baffle arrangements satisfy that limitation across its full breadth.” *Id.* (citing Ex. 1047 ¶ 25; Ex. 1001, Figs. 1–2, 7:61–65, 8:10–20.). Petitioner’s position is supported by the supplemental declaration of Dr. Christopher White.

On the current record, we agree with Petitioner. We credit Dr. White’s testimony that maximizing flow disruption would depend on several variables. *See* Ex. 1047 ¶ 25 (discussing how “whether an inlet/baffle arrangement ‘maximizes’ flow disruption is inherently dependent on physical geometry and operating conditions (e.g., inlet orientation, spacing, chamber size, flow rate, and pressure drop”). We do not see, and Patent Owner has failed to identify, anything in the Specification that would inform one of ordinary skill in the art how to adjust those variables “so as to maximize said disruption of flow” as recited in the proposed amendment. *See LizardTech, Inc. v. Earth Res. Mapping, Inc.*, 424 F.3d 1336, 1345 (Fed. Cir. 2005) (“Whether the flaw in the specification is regarded as a failure to demonstrate that the patentee possessed the full scope of the invention recited in claim 21 or a failure to enable the full breadth of that claim, the

specification provides inadequate support for the claim under section 112, paragraph one.”).

In fact, the Specification here indicates that the disruption of flow is influenced by the structure of the baffle. *See* Ex. 1001, 7:57–59 (“The baffle 136 is structured and disposed to further disrupt the flow of the fluid dispersion through the fluid dispersion assembly 10, and more specifically, through the silencer chamber 138.”). Substitute claim 21 does not specify any particular baffle structure. For a given baffle, the Specification does not adequately inform a person of ordinary skill how to position the silencer inlet “relative to the baffle” in order to “maximize said disruption of flow.”

2. Alleged Indefiniteness of Proposed Substitute Claim 21

i. “silencer chamber”

Petitioner contends that “[s]ubstitute claim 21 is indefinite because the intrinsic record never supplies objective boundaries for whether ‘silencer chamber’ denotes a chamber distinct from the silencer assembly or instead is the silencer assembly itself.” *Opp.* 9. Petitioner notes that “[i]n the parallel district-court case, Patent Owner argued that ‘silencer chamber’ should be construed as ‘silencer assembly,’ contending that the reference to ‘said silencer chamber’ reflected an antecedent-basis mistake rather than a deliberate distinction between two different structures.” *Opp.* 10.

In the Florida Litigation,⁴ Patent Owner requested the district court to construe “said silencer chamber” in claim 7 “to rectify a clerical error in the body

⁴ As noted in the Decision on Institution, the parties identify a proceeding in the U.S. District Court for the Southern District of Florida involving the challenged patent: *Air Essentials, Inc. v. Aroma360, LLC*, No. 1:24-cv-20594-KMW (S.D. Fla.), filed February 15, 2024. Paper 9 at 3.

of the claim.” Ex. 1018 at 1. In this proceeding, proposed substitute claim 21 contains amendments to rectify that very error. Specifically, proposed substitute claim 21 recites “a silencer assembly having a silencer chamber” and “said baffle being disposed within said silencer chamber.” Mot. 10 (Claims App.). Thus, it is clear from the plain language of proposed substitute claim 21 that the “silencer chamber” is part of the whole “silencer assembly” and that the “baffle” is disposed within the “silencer chamber.” This reflects what is shown in the drawings. *See* Ex. 1001, Fig. 1 (depicting silencer assembly 134 having a silencer chamber 138 and a baffle 136 disposed in the silencer chamber).⁵ We disagree with Petitioner that substitute claim 21 contains any “ambiguity” (Opp. 10) with respect to the proposed amendment “silencer assembly having a silencer chamber.” On the contrary, that proposed amendment resolves a latent ambiguity in original independent claim 7.

- ii. “direct the flow of fluid towards the baffle so as to maximize said disruption”

Petitioner argues that “[t]he requirement that the inlet be arranged ‘so as to maximize said disruption of flow’ is a standardless superlative with no objective benchmark.” Opp. 12. Petitioner notes that “Dr. Micklow testified that whether flow disruption increases or decreases sound depends on ‘the geometry and operating conditions,’ including downstream conditions.” Opp. 12–13 (citing Ex. 1046 (Micklow Depo. Tr.), 261:1–263:8).

As the Supreme Court instructs, “we read § 112, ¶ 2 to require that a patent’s claims, viewed in light of the specification and prosecution history, inform those

⁵ Figure 2 contains a drafting error, depicting reference numeral 134 *twice* (once with an arrow pointing to the left side of the silencer assembly and once with an arrow pointing to the right side).

skilled in the art about the scope of the invention with reasonable certainty.” *Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898, 910 (2014). In addition, a patent’s “claims, when read in light of the specification and the prosecution history, must provide objective boundaries for those of skill in the art.” *Interval Licensing LLC v. AOL, Inc.*, 766 F.3d 1364, 1371 (Fed. Cir. 2014).

On this record, we agree with Petitioner that proposed substitute claim 21, when read in light of the specification and the prosecution history, does not provide objective boundaries that a person of skill in the art could use to determine whether a particular “silencer inlet is disposed relative to the baffle to direct the flow of fluid towards the baffle so as to maximize said disruption of flow.” The record, as it currently stands, lacks any evidence that a person of ordinary skill in the art would know whether a given “silencer inlet” in a “fluid dispersion assembly” is “disposed” so as to “maximize” the “disruption of flow.” The portions of the Specification cited by Patent Owner in the Motion do not provide objective criteria for quantifying the disruption of flow or determining when that disruption is at a maximum. Accordingly, we agree with Petitioner that proposed substitute claim 21 is indefinite for this reason.

We further note that proposed substitute claim 21 may be indefinite for the additional reason of lacking antecedent basis for “the flow of fluid” and “said disruption of flow.” Claim 21 does not recite “a flow of fluid” and the first time the word “flow” appears in claim 21 is in the newly added “wherein” clause that recites “direct the flow of fluid towards the baffle.” Similarly, claim 21 does not recite “a disruption of flow” and the only previous recitation of the verb “disrupt” appears in the preceding limitation, which recites “wherein said baffle partially disrupts movement of the fluid dispersion.”

In some instances, indefiniteness can preclude performing an obviousness analysis. *See In re Steele*, 305 F.2d 859, 862–63 (CCPA 1962) (holding that the Board erred in affirming a rejection of indefinite claims under 35 U.S.C. § 103(a) because the rejection was based on speculative assumptions as to the meaning of the claims). That said, indefiniteness “does not necessarily preclude the Board from addressing the patentability of the claims on section 102 and 103 grounds.” *Samsung Elecs. Am., Inc. v. Prisia Eng’g Corp.*, 948 F.3d 1342, 1355 (Fed. Cir. 2020). For purposes of this Preliminary Guidance only, we will presume that the phrase “the flow of fluid” refers back to the claimed “movement of the fluid dispersion.” Under this presumption, “said disruption of flow” refers back to the limitation “partially disrupts movement of the fluid dispersion.”

3. Alleged Obviousness of Proposed Substitute Claim 21 Over Sevy and Sevy in View of Zeng (Grounds 1 and 2)

Petitioner contends that Sevy discloses all of the limitations of proposed substitute claim 21, including the amended limitations. Opp. 14–17. In particular, Petitioner contends that Sevy discloses a “separator-plate region” that “defines a bounded, staged flow path in which incoming atomized material encounters the plate structure, only a desired fraction passes onward, and larger droplets are intercepted and returned.” Opp. 16 (citing Ex. 1009 ¶¶ 68–74, 82–84). According to Petitioner, a person of ordinary skill in the art would have understood “that region as a chambered silencer path with an inlet-side flow path, a disruptive structure disposed within it, and a downstream outlet path.” *Id.* (citing Ex. 1047 ¶¶ 28–29). And Petitioner contends that “Sevy’s disclosure that the flow must ‘twist and turn sufficiently’ before larger droplets are returned confirms that the incoming flow is directed into the obstructing structure so as to increase disruption before discharge.” *Id.* According to Dr. White, “Sevy further explains that the

flow must ‘twist and turn sufficiently’ through the separator structure for larger droplets to be removed and returned, which indicates the incoming flow is directed into and through the obstructing/deflecting structure to increase disruption (and droplet interception) before discharge.” Ex. 1047 ¶ 29.

At this preliminary stage, we are not convinced that Sevy describes positioning a silencer inlet “relative to the baffle to direct the flow of fluid towards the baffle so as to *maximize* said disruption of flow” as required by substitute claim 21 (as best understood). Sevy discloses an atomizer having a “separator plate 98” that “may include one or more apertures 99 located centrally, peripherally, or otherwise.” Ex. 1009 ¶ 68. As stated in our Decision on Institution, the Petition adequately shows that Sevy’s separator plate discloses or suggests the “baffle” limitation. Paper 9 at 18–19. On this record, Petitioner has not, however, adequately shown that the relative disposition of Sevy’s separator plate and inlet will “direct the flow of fluid towards the baffle [(i.e., separator plate)] so as to maximize said disruption of flow.” On this point, Dr. White’s statement that Sevy’s atomizer would “increase disruption” before discharge (Ex. 1047 ¶ 29) is insufficient because (1) Dr. White does not address the relative disposition of the inlet and baffle and (2) “increasing” is not necessarily the same as “maximizing.”

Petitioner also asserts that the combination of Sevy and Zeng teaches every limitation of substitute claim 21. Opp. 16–17. According to Petitioner, “Zeng identifies known drawbacks of conventional essential-oil atomizers, like hissing or whistling noise and incomplete atomization, and provides a chambered noise-reduction structure that addresses those problems when combined with Sevy.” Opp. 17 (citing Pet. 37–43; Ex. 1011 at 4–7). Regarding the added limitation of “so as to maximize said disruption of flow,” Petitioner contends that Zeng

discloses this “by arranging the openings and blocking structure so the incoming flow is driven into a staged, obstructed path before only the desired fraction exits.” *Id.* (citing Ex. 1011 at 5–7).

We are not convinced that Zeng describes positioning a silencer inlet “relative to the baffle to direct the flow of fluid towards the baffle so as to *maximize* said disruption of flow” as required by proposed substitute claim 21. Petitioner’s reliance on Zeng’s disclosure that “only the completely atomized essential oil molecules can pass through the opening” and “those with large volume . . . are stopped by the inner cover” is insufficient because (1) it does not address the relative disposition of the inlet and baffle and (2) there is no disclosure of “maximizing” the disruption of flow (instead, the focus is on blocking incompletely atomized particles).

At this stage of the proceeding, the current record does not establish a reasonable likelihood that all of the new limitations in proposed substitute independent claim 21 are disclosed or suggested by Sevy or the combination of Sevy and Zeng.

4. Alleged Obviousness of Proposed Substitute Claim 21 Over Goubet and Goubet in View of Kaiser (Grounds 3 and 4)

Petitioner contends that Goubet discloses or suggests all of the new limitations of substitute claim 21. *See* Opp. 18–21. Petitioner’s contentions are supported by the supplemental declaration of Dr. White. *See* Ex. 1047 ¶¶ 30–34.

Petitioner’s contentions for the first three amendments of substitute claim 21 (i.e., “a silencer assembly having a silencer chamber,” “said baffle disposed within the silencer chamber,” and “said baffle restricts disrupts movement of the fluid dispersion”) appear to be well supported. As in the previous grounds, the weakness in Petitioner’s contentions relates to the fourth (and final) added

limitation of substitute claim 21, i.e., “wherein said silencer inlet is disposed relative to the baffle to direct the flow of fluid towards the baffle so as to maximize said disruption of flow.” Petitioner contends that this added limitation “is obvious over Goubet” because “Goubet already teaches the same directional relationship and the same purpose – forcing droplets through a particular baffled path so breakup is achieved ‘as much as possible’ before silent diffusion.” Opp. 20 (citing Ex. 1047 ¶¶ 31–34; Ex. 1016, 2:26–30, 5:12–16). We have reviewed the cited portions of Goubet and Dr. White’s supplemental declaration. In particular, we note Dr. White’s statements that, in Goubet, droplets “enter through inlet 15 into outer enclosure 12, then are routed through passage 14 into inner enclosure 13, collide with surrounding walls and undergo ‘many shocks,’ and then exit toward outlet 16” and “the flow into and through the baffle-forming enclosures and passage so that disruption and droplet breakup are increased—consistent with Goubet’s stated objective of reducing droplet size ‘as much as possible’ before discharge.” Ex. 1047 ¶ 34 (citing Ex. 1016, 2:20–30, 4:26–5:4, 5:12–16; Fig. 3).

On this record, we are not convinced that reducing droplet size “as much as possible” is necessarily equivalent to maximizing disruption of the movement of the fluid dispersion. We note, however, that the lack of clarity surrounding the meaning of this added limitation complicates the discussion as to alleged obviousness.

Petitioner does not rely on Kaiser as disclosing the added “maximize said disruption” limitation. *See* Opp. 20–21. Thus, Petitioner’s ground based on the combination of Goubet and Kaiser suffers from the same issue as Goubet alone.

5. Alleged Obviousness of Proposed Substitute Claim 21 Over Gao and Gao in View of Zeng (Grounds 5 and 6)

Petitioner contends that Gao discloses or suggests all of the new limitations of substitute claim 21. *See* Opp. 21–22. Petitioner’s contentions are supported by the supplemental declaration of Dr. White. *See* Ex. 1047 ¶¶ 35–36.

Petitioner contends, and we agree, that a person of ordinary skill would have understood Gao’s “baffle / cavity / through-hole structure” as “defining a chambered flow region containing a disruptive structure and a downstream outlet path.” Opp. 22. Petitioner further contends that “because the flow is forced upward into the baffle / wall / through-hole arrangement before discharge, Gao also teaches the added inlet-orientation concept in amendment (4).” *Id.* (citing Ex. 1047 ¶¶ 35–36).

On this record, we are not convinced that Gao discloses “wherein said silencer inlet is disposed relative to the baffle to direct the flow of fluid towards the baffle so as to maximize said disruption of flow.” Although Petitioner persuasively explains that Gao’s inlet directs flow toward a baffle that disrupts flow *to some extent*, Petitioner has not adequately explained how Gao’s structure would “*maximize* said disruption of flow.”

As to Petitioner’s ground based on the combination of Gao and Zeng, Petitioner does not rely on Zeng as disclosing a structure that would “maximize said disruption of flow.” Thus, we are not persuaded that the combination of Gao and Zeng renders obvious the subject matter of proposed substitute claim 21.

III.CONCLUSION

This concludes our Preliminary Guidance. Patent Owner has the option to reply to this Preliminary Guidance *or* to file a revised MTA by DUE DATE 3. 37 C.F.R. § 42.121(e)(3), (f); Paper 11; *see* Paper 12 (modifying DUE DATE 3 to

May 15, 2026).⁶ Patent Owner's reply or revised MTA may only respond to this Preliminary Guidance or Petitioner's Opposition and may be accompanied by new evidence (including declarations). 37 C.F.R. § 42.121(e)(3). Petitioner has the option to file a sur-reply responsive to this Preliminary Guidance, Patent Owner's reply, or Patent Owner's revised MTA but may not present new evidence in any case. 37 C.F.R. § 42.121(e)(3). Petitioner may also file a reply to the preliminary guidance in the case Patent Owner does not file a reply or revised MTA. 37 C.F.R. § 42.121(e)(4).

In addition, Patent Owner is reminded that amendments of the challenged claims may also be pursued in a separate reissue or reexamination proceeding before, during, or after an AIA trial proceeding, including subsequent to the issuance of the Final Written Decision. We draw Patent Owner's attention to the *April 2019 Notice Regarding Options for Amendments by Patent Owner Through Reissue or Reexamination During a Pending AIA Trial Proceeding*. See 84 Fed. Reg. 16,654 (Apr. 22, 2019). If Patent Owner chooses to file a reissue application or a request for reexamination of the challenged patent, we remind Patent Owner of its continuing obligation to notify the Board of any such related matters in updated mandatory notices. See 37 C.F.R. § 42.8(a)(3), (b)(2).

⁶ As explained above, the parties improperly stipulated to modify the portions of Due Dates 2 and 3 relating to motions to amend without prior authorization from the Board.

IPR2025-00705
Patent 9,527,094 B1

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