

Appeal No. 25-1484

United States Court of Appeals
for the
Federal Circuit

In re: Blaze Mobile, Inc.
Appellant

Appeal From The United States Patent and Trademark Office in
Ex Parte Reexamination Control No. 90/019,134

REPLY BRIEF OF APPELLANT BLAZE MOBILE, INC.

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Certificate Of Interest

Pursuant to Federal Circuit Rule 47.4, counsel for Appellant BLAZE MOBILE, INC. certifies as follows:

1. The full name of every party represented by me is:

BLAZE MOBILE, INC.

2. The name of the real party in interest represented by me is:

Not applicable

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party represented by me are:

Not applicable

4. The names of all law firms and the partners or associates that appeared for the party now represented by me in the trial court or agency or are expected to appear in this court (and who have not or will not enter an appearance in this case) are:

Carmichael IP, PLLC:

Stephen T. Schreiner

Glazer Weil, LLP:

Stephen Underwood

5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal are:

In re: Blaze Mobile Inc., Appeal From The United States Patent and Trademark Office in Ex Parte Reexamination Control No. 90/019,134 for U.S. Pat. No. 10,827,007.

Samsung Electronics Co., Ltd. v. Blaze Mobile, Inc. et al., N.D. Cal. Case No. 21-cv-02989.

Respectfully submitted,

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Parties

Appellant, Patent Owner, Blaze	Blaze Mobile, Inc.
Appellee, US PTO	United States Patent & Trademark Office

Citations

Appx_____	Joint Appendix at page(s) _____
MPEP	Manual of Patent Examining Procedure

Terms

'259 Patent	United States Patent No. 10,699,259
'007 Patent	United States Patent No. 10,825,006
'234 Pub	U.S. Pat. Pub. No. 2009/0124234
'192 Pub	U.S. Pat. Pub. No. 2008/0052192
AIA	America Invents Act
APA	Administrative Procedure Act
Khedouri	U.S. Pat. Pub. No. 2006/0008256
Coward	U.S. Pat. Pub. No. 2005/0202385
Dua	U.S. Pat. Pub. No. 2006/02558289
Goldthwaite	U.S. Pat. Pub. No. 2004/0230489
Harrison	U.S. Pat. Pub. No. 2006/0229998
Board, PTAB	Patent Trial and Appeal Board

POSITA	person of ordinary skill in the art
Blue Br.	Opening Brief For Appellant Blaze Mobile, Inc.
Red Br.	Brief for Appellee United States Patent & Trademark Office
Amicus Br.	Brief For Amicus Curiae Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc.
Samsung	Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc.

ARGUMENT

Reversal in this appeal of the Board's decision that claims 1-36 would have been obvious is justified because the Board's decision is based on its erroneous claim constructions of three groups of claim limitations, as explained in Blaze's opening brief. Blue Br. 11-21. In response, the USPTO does not dispute that the claims would not have been obvious under Blaze's claim construction. Red Br. 44 (taking the position that it need not address Blaze's validity arguments because they "are moot because they depend from its incorrect claim construction."). Accordingly, if the Court agrees with any one of the three Blaze's claim constructions, the Board's decision should be reversed.

In its opening brief, Blaze showed that the Court erred in its construction of the user input login information/authentication claim limitations by conflating "user authentication" with "transaction authorization." Blue Br. §§ V.A.2 and V.A.3. Blaze supported its claim construction by emphasizing the difference between these distinct and separate processes with support from the claim language, dictionary definitions, numerous citations to the specification and expert testimony of how a POSITA would have understood the difference between user authentication and transaction authorization. *Ibid*. In its responsive brief, the USPTO does not even mention the expert testimony or any of Blaze's citations to

the specification, let alone explain how the Board's construction could possibly be correct in light of this evidence. *See* Red Br. 26-30.

Notably, the prior art (*i.e.*, Khedouri) does not authenticate the user with information input by the user, as required by the claims. Rather, in Khedouri, (i) the user is required to enter a PIN to authorize a purchase first and then (ii) the device is authenticated with a device ID stored in the device's memory. Appx2749, ¶ [0139]. Furthermore, Khedouri's PIN is not equivalent to the claimed "identification code associated with the user" because the Specification repeatedly and consistently describes the "identification code associated with the user" as separate from a "PIN."

Blaze also demonstrated that the proper construction of the "receives ... an identification of one or more products selected from the list of products" and "receives a transaction purchase request including information relating to the identification of the one or more products" claim steps requires two distinct steps, and that the prior art would have, at best, taught only one of the two steps. Blue Br. 47-48, *citing Applied Med. Res. Corp. v. U.S. Surgical Corp.* 448 F.3d 1324, 1333, n3 (Fed. Cir. 2006) ("[T]he use of two terms in a claim requires that they connote different meanings."). The claim language requires receiving the "transaction purchase" in a separate step from receiving "information relating to the identification of the one or more products" (Appx66, 8:63-9:6), and such

information cannot possibly exist until after the “one or more products” are identified in the first step. In response, the USPTO blithely contends that both of the claimed steps are rendered obvious by the prior art’s disclosure of a single step, without making any mention of *Applied Med. Res. Corp.*, let alone explain how the two distinct and different “receive” steps can possibly be interpreted as a single step in light of this authority. *See* Red Br. 32-33.

In its opening brief, Blaze explained that the proper construction of the limitations relating to the “remote management server” requires it to receive, send, and store particular types of information, and the limitations relating to the “transaction server” requires it to perform particular functions. Blue Br. 51-52. In support of its construction, Blaze relied on, *inter alia*, the claim language itself and 11 different portions of the specification. Blue Br. 51-55. In its responsive brief, the USPTO failed to discuss a single one of the 11 portions of the specification cited by Blaze, let alone explain how they do not support Blaze’s construction. *See* Red Br. 35-38. The USPTO also failed to show that the combination of the Khedouri and Goldthwaite would have taught all the functions required to be performed by the “remote management server” and the “transaction server” by Blaze’s construction. *See* Red Br. 38-47.

The Board, in its motivation to combine analysis, failed to consider that combining Goldthwaite’s dual payment transaction and digital goods fulfillment

system requiring payment confirmation before sending content would change the principal of operation of Khedouri's closed system. Blue Br. 59-64. In response, the USPTO merely quibbles about Blaze's use of the word "closed" to describe Khedouri's system; it fails to excuse the Board's failure to address Blaze's showing. *See* Red. Br. 37-38. Instead, the USPTO argues that Khedouri, "***presumably***, requires access to an external financial institution that issued the credit card, like financial institution 112 in Goldthwaite." Red Br. 48.¹ The USPTO—like the Board below—fails to grapple with the evidence that "Goldthwaite and Khedouri are fundamentally different because in Goldthwaite an authentication server receives a '***payment confirmation***' before content is sent while in Khedouri, there isn't a requirement for the upload manager to receive a 'payment confirmation' before sending content, let alone a separate transaction processing system, a separate fulfillment system, and network to bridge the gap between the two systems, as in Goldthwaite." Blue Br. 62-63. This evidence was presented to the Board, and its failure to consider it is clear error. *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (an agency commits error by "entirely fail[ing] to consider an important aspect of the problem").

¹ *All emphasis added unless otherwise noted.*

Samsung's arguments in its Amicus Brief do not compensate for the deficiencies in the USPTO's responsive brief. For both (i) the user login information/user authentication and (ii) the identification of one or more products/transaction purchase request limitations, Samsung presents new obviousness theories that differ from the grounds on which the Board relied. This Court cannot accept such "post hoc rationalizations for agency action" or "supply a reasoned justification for an agency action that the agency itself has not given." *Power Integrations, Inc. v. Lee*, 797 F.3d 1318, 1326 (Fed. Cir. 2015) (quoting *Burlington Truck Lines v. United States*, 371 U.S. 156, 168 (1962) and citing *State Farm*, 463 U.S. at 43). Rather, this Court's "review of [the Board's] patentability determination is confined to the grounds on upon which the Board actually relied." *Power Integrations*, 797 F.3d at 1326. Samsung's arguments for the remote management and transaction server claim limitations, and the motivation to combine issue are essentially the same as the USPTO's arguments and therefore, are insufficient for the same reasons to show that the Board's obviousness holding is supported by substantial evidence under the proper claim construction.

For these reasons and the additional reasons set forth below, the Board's decision should be reversed.

I. The USPTO Fails To Show That The Board’s Obviousness Ruling For The User Login Information/User Authentication Claim Limitations Is Supported By Substantial Evidence.

The USPTO’s claim construction arguments are inconsistent with this Court’s precedent, the language of the claims, the specification and file history. As set forth in Blaze’s opening brief, the proper construction of the user login information/user authentication claim limitations requires (i) receiving at the mobile device user input login information including an identification code for the user *from a non-browser based application*, and (ii) *authenticating the user* associated with the user input login information (*i.e.*, information sufficient to confirm that the user is permitted access to a previously-established account). Blue Br. 31-34. The USPTO fails to show that the Board’s ruling that the prior art would have taught these claim limitations is supported by substantial evidence under the proper claim construction.

A. The USPTO Fails To Show That The Board Did Not Conflate The User Login Information/User Authentication Claim Limitations With A PIN To Authorize Charges.

As explained in Blaze’s opening brief, the Board construed the user login information/user authentication claim limitations so broadly as to encompass information used for the entirely different purpose in Khedouri of entering a PIN to “authorize charges” on a credit card. Blue Br. 25, *citing* Appx38-39, *quoting* Appx2746, ¶ [0094]. That is wrong because a POSITA would have understood that

the claim limitation requiring information **authenticating** a user is different than information authorizing a charge. Blue Br. 25-26, *citing* Appx3422, ¶ 12.

Contrary to the USPTO's argument, claim 2 of the '007 Patent explicitly distinguishes (i) **authenticating a user** (Appx66-67) ("receives user input login information including an identification code associated with a user from the non-browser based application generated screen" and "authenticating, at the remote management server, a user associated with the user input login information") and (ii) **authorizing a transaction**. *Ibid.* ("processes the transaction using the payment method," which "corresponds to the [same] identification code associated with the user").

The USPTO's reliance on the specification to support its argument that a PIN is entered "to authenticate a user" (Red Br. 27) is misplaced because the portion of the specification to which it cites indicates that authenticating a user and confirming a transaction are two distinct, different steps. Appx64, 4:9-13 ("After the consumer enters any necessary validation information (e.g., pin) to provide a multi-factor **authentication** and **confirms the transaction**, the online purchase is processed as normal by the merchant's online processor."). ***The USPTO—like the Board—erred in construing "authenticate the user" to include "authorizing the transaction" based on an overly broad definition. See Personalized Media Commc'ns, LLC v. Apple Inc., 952 F.3d 1336, 1341-1342 (Fed. Cir. 2020) (holding***

that the board erred by interpreting "an encrypted digital information transmission" to include analog information, based in part on a "broad definition of 'programming'").

Indeed, Blaze cited to many instances in the specification that consistently and repeatedly distinguished information to authenticate a user from information to authorize a transaction. Blue Br. 30-31; Appx4305, ¶ 4 ("The method can include use of biometrics to *authenticate the user* before *authorizing the transaction.*"); Appx4325, ¶ 115 ("[S]oftware ... will ... authenticate, authorize, and execute transfers.").

The USPTO—like the Board—fails to consider this Court's authority that "[t]he correct inquiry in giving a claim term its broadest reasonable interpretation in light of the specification is not whether the specification proscribes or precludes some broad reading of the claim term adopted by the examiner." *In re Smith Int'l, Inc.*, 871 F.3d 1375, 1382-1383 (Fed. Cir. 2017). "It is an interpretation that corresponds with what and how the inventor describes his invention in the specification, *i.e.*, an interpretation that is 'consistent with the specification.'" *Ibid.* (quoting *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997)). **Therefore, the claims need not explicitly recite that authentication excludes authorization.** *In re Power Integrations, Inc.*, 884 F.3d 1370, 1377 (Fed. Cir. 2018) (construing claims

to exclude a circuit arrangement even though the “patent does not explicitly” exclude it because “such an arrangement is inconsistent with ... the specification”).

For *authenticating a user*, the specification repeatedly and consistently explains that one type of information such as a “Wallet ID” and “Wallet PIN” is login information for authenticating a user and a different type of information such as a “pin number” is transaction information for authorizing a transaction.

Appx4306, ¶ [0016] (“FIG. 3 illustrates one implementation of a method ... for *authenticating a user* ... when a user attempts to *login* with the client, the user is prompted to enter login credentials (e.g., mobile phone number, 1-time activation code, Wallet PIN, etc.)”).

This is important because Khedouri’s PIN is used for transaction authorization, not user authentication. Contrary to the USPTO’s allegation that “[n]othing in the claim language excludes a PIN from the scope of the claimed ‘user input login information including an identification code’ or ‘authenticating ... a user’” (Red Br. 26), *the claims need not recite that the “user input login information” is separate from a PIN* because the consistent statements in the Specification and prosecution history indicate that they are separate and distinct. Blue Br. 25-31; *In re Smith Int’l, Inc.*, 871 F.3d at 1382-1383 (holding that the body is distinct from other components when the claims “essentially recite only a body and the movable cutting arm,” not other components because “the patent

specification consistently describes and refers to the body as a component distinct from others.”); *In re Power Integrations, Inc.*, 884 F.3d at 1377 (construing claims to exclude a circuit arrangement even though the “patent does not explicitly” exclude it because “such an arrangement is inconsistent with ... the specification”).

Blaze quoted and discussed the “Money Manager” service extensively in its appeal brief to the Board (Appx3664-3665, *quoting* Appx4306, ¶¶ [0015]-[0016]) and explained both to the Board and this Court that a user of the “Money Manager” could not be authorized to perform any transaction without first being authenticated with input login information. *Ibid*; Blue Br. 30. Thus, user authentication and transaction authorization are two separate and distinct steps. Blue Br. 26-34; *In re Smith Int’l, Inc.*, 871 F.3d at 1382-1383. ***Therefore, “authorization” need not be explicitly recited in the claims.*** *Novartis Pharm. Corp. v. Abbott Labs.*, 375 F.3d 1328, 1334 (Fed. Cir. 2004) (“Even when guidance is not provided in explicit definitional format, the specification may define claim terms by implication such that the meaning may be found in or ascertained by a reading of the patent documents.” (citations and internal quotation marks omitted)).

B. The USPTO Shows No Error In Blaze’s Construction Of The User Login Information/User Authentication Claim Limitations.

In its opening brief, Blaze demonstrated that its construction of the user login information/user authentication claim limitations to require (i) receiving at

the mobile device user input login information including an identification code for the user from a non-browser based application, and (ii) authenticating the user associated with the user input login information (*i.e.*, confirm that the user is permitted access to a previously-established account) is supported by the claim language, the specification, the file history, and dictionary definitions. Blue Br. 31-34.

In response with an attempt to support the Board’s position that the “one-time code” of the specification is “tied to the user, rather than the device” (Red Br. 29), the USPTO quotes, but—like the Board—omits an important portion of a paragraph describing a verification process. Red Br. 29-30, *quoting* Appx64, 4:48-53. The omitted portions indicate that multiple factors are required to authenticate a user:

After the consumer enters any necessary validation information to provide a multi-factor authentication and confirms the transaction, the online purchase is processed as normal by the merchant’s online processor. Appx64, 4:66-5:3.

This paragraph cited by the USPTO then explains that the “unique transaction code” is used for ***device*** authentication, not ***user*** authentication because the “unique transaction code” is transmitted to a mobile device using the ***mobile phone number***, which is associated with the device. Appx64 (“[T]he management server 408...verifies the consumer's ***authenticity*** by sending a unique transaction code to the consumer mobile wallet on their cell phone.”).

*Thus, the USPTO—like the Board—erred in construing “authenticate the user” to include “authorizing the transaction” based in part on an overly broad definition of “device authentication.” See *Personalized Media Commc'ns.*, 952 F.3d at 1341-1342.*

The USPTO’s reliance on the RFID sticker of the ’192 Pub for the construction of the claimed “user input login information” (Red Br. 30) is flawed for two reasons. First, the Board did not rely on the ’192 Pub to construe this limitation (Appx24-34)² and this Court cannot accept such “post hoc rationalizations for agency action.” *Power Integrations*, 797 F.3d at 1326. Second, even if this Court were to consider this newly-introduced argument, it would still not show that the Board’s construction is correct.

The USPTO cites paragraph 0031 of the ’192 Pub (Red Br. 30), which is different than the passage cited by the Board because this passage includes the word “*uniquely*” to describe the identification code when it states the “RFID sticker or suitable tag that allows for *uniquely* identifying a user.” Appx4321-

² The Board instead stated: “With respect to whether the “login information” or its “identification code” can be specific to one *device* rather than one *user*, we note that the ’007 patent incorporates by reference ... US2007/0156436A1 ¶38 ... That publication discloses “a passive device 138’, such as an RFID sticker or some other tag, that allows for a *user identification*,” and “[t]his passive device 138’, with the identification code stored thereon, can thus be associated with a mobile device 110.” Appx27.

4322. The introduction of this new argument that an identification code of a device (*e.g.*, RFID) can be associated with a user because it *uniquely* identifies a user to introduce an implied new claim construction is improper and warrants a response. *See e.g., Google LLC v. EcoFactor, Inc.*, 92 F.4th 1049, 1057 (Fed. Cir. 2024) (“The Board, however, cannot, without notice and opportunity for the parties to respond, change theories midstream by adopting a claim construction in its final written decision that neither party requested nor anticipated.”).

First, the claims do not recite a RFID Sticker/secure element let alone storage of an “identification code” in a RFID Sicker/secure element. Second, “the identification code stored thereon” the RFID sticker is transmitted to a point of sale (POS) terminal³ (APPX4321-4322, ¶ 31), while the claimed “user input login information” is required to be input into the “non-browser based application generated screen stored on the mobile device” and transmitted to the “remote management server.” Appx67, 9:11-19.

³ A person of ordinary skill in the art would understand that the plain and ordinary meaning of “POS” as a computer system in a store at which goods are paid for. *See, e.g., Microsoft Computer Dictionary* (2002 5th Ed) <https://archive.org/details/microsoftcompute0000unse/page/62/mode/2up?q=POS> (“POS n. Acronym for point of sale. The place in a store at which goods are paid for. Computerized transaction systems, such as those in use at automated supermarkets, use scanners for reading tags and bar codes, electronic cash registers, and other special devices to record purchases at this point.”).

Third, “[t]he **POS terminal** 540 [located at a store] determines if a security code prompt (e.g., a PIN) is needed? If yes, a prompt is made for the security (PIN) on the **POS terminal**.” Appx4325, ¶ 117. Notably, the security PIN (e.g., the 3 digit CVV code on the back of a credit card) is very different than the wallet ID/wallet PIN. The Specification confirms that, “**security codes (CVV, etc.)** associated to each of their payment methods” (Appx4320, ¶ 20) are for transaction authorization while the “Wallet PIN” is for the claimed “user authentication.” This is why the security PIN, not the Wallet PIN, is transmitted to the Issuer Authorization. Appx63-64, 2:63-3:3. ***The Specification makes it clear that an identification code is separate from a PIN for authorization and thus, Khedouri’s PIN is not equivalent to an identification code.***

Blaze’s construction requires “information authenticating the user.” Blue Br. 31-32. The dictionary definition supports Blaze’s construction because it defines “login” as an “authentication process.” Blue Br. 32, *quoting* Appx4328. Blaze’s construction is further supported by the dictionary definition of “authentication” as “the process by which the system validates a user’s login information” (Appx4330), and by the meaning that would have been understood by a POSTIA as “the process by which a user gains access to a website or application by logging into it,” in accordance with the testimony of an expert in the field of the ’007 Patent. Appx3422, ¶12.

The USPTO does not contest this expert testimony or any of the definitions of “authentication” set forth by Blaze with any evidence, let alone explain how a PIN that is used for authorizing a transaction—like Khedouri’s PIN—could possibly be encompassed by the claimed “information authenticating the user.” *See* Red Br. 30.

The USPTO’s allegation “that Blaze does not explain how any of these disclosures [in the specification] supports its construction” (Red Br. 28) is also demonstrably false. Blaze’s “construction of the user login information/user authentication claim limitations requires (i) receiving at the mobile device user input login information ... and (ii) authenticating the user associated with the user input login information.” Blue Br. 31-32.

The USPTO’s allegation that “Blaze forfeited any reliance on a session key in the ’234 Pub ... because [it] did not make these arguments to the Board” (Red Br. 30) is demonstrably false because it did, in fact, explain to the Board how the specification’s discussion of the session key shows that user authentication is separate and distinct from transaction authorization. *See e.g.*, Appx3664-3665. The USPTO’s statement that “issuance of a session key after login ... has no bearing on a ‘previously-established account’ as in Blaze’s construction” (Red Br. 30 (emphasis omitted)) misses the point because the specification’s discussion of the

session key indicates that a user must “re-login” to a previously established account if there is a “[f]ailure to validate the session key.” Appx4306, ¶ [0016].

The USPTO notes that “Blaze’s construction requires a user to access a ‘previously established account’” and alleges that “Blaze does not explain the relevance of the construction to its validity arguments.” Red Br. 29. But Blaze did, in fact, show that this portion of its construction distinguishes the claims from Khedouri’s registration procedure using an activation code and a deviceID. Appx3848-3849. And the Board agreed with Blaze; as noted in Blaze’s opening brief, “[i]n reaching its obviousness conclusion, the Board did not rely on Khedouri’s deviceID or activation code.” Blue Br. 8; Appx38 (“We agree with Appellant that Khedouri at least suggests its device ID is provided by the device and therefore is not ‘user input’ as claimed”); Appx42 (“[W]e need not reach Khedouri’s Activation Code.”). Rather, the Board relied upon Khedouri’s PIN for “the claimed ‘user input login information including identification code associated with the user.’” Appx40-42. That is, contrary to the USPTO’s allegation, Blaze’s construction requiring a user to access a “previously established account” is relevant to the Board’s validity holding that Khedouri’s registration procedure to create an account cannot meet this claim requirement.

Finally, the USPTO asserts that the file history does not support Blaze’s construction distinguishing “a user input login information including an

identification code” from a PIN authorizing a transaction because Blaze “distinguished over the prior art based on the location of the authentication rather than the existence of a PIN.” Red Br. 30. But this assertion is also false because Blaze acknowledged that in the prior art Rackley reference, “the user manually enters only the PIN in figure 1304” but nonetheless stated that Rackley would not have taught the “user input login information including the identification code.” Appx1497-1499. That is, Blaze amended the claims to recite that the “user input login information” includes “an identification code” to distinguish them from Rackley and clearly explained that Rackley’s PIN is not the claimed “user input login information.”

Clearly, Blaze’s construction is supported by the plain meaning of the claim language, the specification, the file history, and the expert testimony.

C. Samsung Does Not Compensate For The Deficiencies In The USPTO’s Claim Construction Arguments.

Samsung’s arguments for the construction of the user login information/user authentication claim limitations (Amicus Br., 9-12) do not compensate for the deficiencies in the USPTO’s arguments. Samsung’s assertion that “the claims do not require the ‘user input login information’ to be used for ‘authentication,’ nor do they exclude ‘information’ that can be used to ‘authorize’ a transaction” (*id.* at 10) is inconsistent with the claim language and the intrinsic evidence as described above. Samsung also grossly mischaracterizes Blaze construction as “primarily

based on definitions taken from extrinsic dictionary definitions” (Amicus Br. 11) because Blaze’s construction is also based on the claim language, the specification, the file history, and expert testimony. *Supra*, §§ I.A, I.B. Samsung’s arguments are not nearly sufficient to show that the Board’s claim constructions are correct or that Blaze’s constructions are incorrect.⁴

D. The USPTO Makes No Attempt To Show That the Board’s Obviousness Ruling Of The User Login Information/User Authentication Claim Limitations Is Supported By Substantial Evidence Under The Proper Claim Construction.

In its opening brief, Blaze demonstrated that under its construction, Khedouri would not have taught the user login information/user authentication claim limitations because Khedouri’s PIN is not used to login and authenticate a user and is instead used to authorize a transaction with a credit card. Blue Br. 36-38. The USPTO does not contest Blaze’s demonstration; it does not allege that the prior art would have taught these claim limitations under Blaze’s construction. *See* Red Br. 35-40.

Instead, the USPTO takes the position that it does not need to do so because “Blaze’s rebuttal arguments are moot because they depend from its incorrect claim construction.” *Id.* at 44. But as explained *supra* §§ I.A, I.B, Blaze’s construction is

⁴ Samsung’s statement that the “plain and ordinary meaning construction” applies (Amicus Br. 12) for this limitation and for others (Amicus Br. 21) is also wrong because the patent office applies the broadest reasonable construction standard in reexaminations of patents that have not expired, like the ’007 Patent.

correct because, *inter alia*, it distinguishes the claimed user authentication from transaction authorization and the Board's construction is incorrect because it conflates the two. Thus, the USPTO fails to set forth any obviousness argument under the proper claim construction.

For this reason alone, the Board's decision should be reversed.

E. Samsung Fails To Show That the Board's Obviousness Ruling Of The User Login Information/User Authentication Claim Limitations Is Supported By Substantial Evidence Under The Proper Claim Construction.

Samsung does not compensate for the Board's failure to even attempt to show that the claims would have been obvious under Blaze's construction.

Samsung's arguments differ from the grounds upon which the Board relied upon for its obviousness holding. This Court should not accept such "post hoc rationalizations for agency action." *Power Integrations*, 797 F.3d at 1326.

II. The USPTO Fails To Show That The Board's Obviousness Ruling For The Claim Limitations Relating To Sending "the identification of one or more products" and "the transaction purchase request" To The Remote Management Server Is Supported By Substantial Evidence.

The Board's construction of the limitations relating to sending "the identification of one or more products" and "the transaction purchase request" to the management server is inconsistent with this Court's precedent and the intrinsic evidence.

A. The USPTO and Samsung Fail To Show That The Board's Construction Is Correct Or That Blaze's Construction Is Incorrect.

As explained in Blaze's opening brief, the claims require sending to the remote management server both (i) "the identification of one or more products" having prices that are purchased and (ii) "the transaction purchase request" of the identified products. Blue Br. 41.

The USPTO also argues that "Blaze's citations to the specification do not even use the word 'products' and therefore, cannot define or limit the term." Red Br. 31-32. That too is wrong because the Specification repeatedly describes processes in which products are first identified for purchase and then, the identified products are purchased. Blue Br. 41-43; Appx48, 1:48-56; Appx65, 5:40-43, 5:46-49.

Likewise, the '192 Pub (which is incorporated by reference into the '007 patent) discloses a method in which one or more products (e.g., seats) are selected from a "seat inventory (what's available and at what price)" to "automatically cause a price to be calculated" and after a "user confirms purchase, [a] reservation request is sent to the ticket inventory system." Appx4326, ¶ [0122]. The "items" and "seats" mentioned in the specification and the '192 Pub correspond to the claimed "products." Indeed, because the specification repeatedly and consistently describes products having prices that are purchased, the *term "prices" need not be recited in the claims*. See *In re Smith Int'l, Inc.*, 871 F.3d at 1382-83 (holding that

the “patent specification consistently describes and refers to the body as a component distinct from others, such as the mandrel, piston, and drive ring” and the claims “essentially recite only a body and the movable cutting arms,” and *other components, such as “a mandrel,” are not recited in the claims.*)

Blaze does not seek to redefine any claim limitations. It instead argues, consistent with case law, that the claims require that the transaction purchase request sent to the remote management server is for products that are identified by the user. Blue Br. 41-44; Appx66, 8:1-3 (“receives ... an identification of one or more products”), 8:35-38 (“the remote management server downloads the one or more products to the mobile device.”). The specification supports this construction. Blue Br. 41-44; *In re Smith Int’l, Inc.*, 871 F.3d at 1382-83. Indeed, an interpretation in which the products that are actually purchased by a user are unrelated to the products selected by the user is both nonsensical and inconsistent with the claim language. Appx66, 8:63-66 (“receives ... an identification of one or more products selected from the list of products”); Appx67, 9:26-28 (“the remote management server downloads the one or more products to the mobile device”); *see e.g., Bicon, Inv. V. Straumann Co.*, 441 F.3d 945, 950-951 (Fed. Cir. 2006) (refusing to construe claims in a way that made other claim limitations meaningless).

The USPTO also argues that the claim language permits the two distinct “receive” steps recited in claim 2 to “be performed in ... one” step. Red Br. 33, *quoting* Appx36. But such a claim construction is inconsistent with the claim language because the claim recites two different and distinct “receive” steps: (i) “receives, an identification of one or more products selected from the list of products,” and (ii) “receives a transaction purchase request including information relating to the identification of the one or more products” (Appx66, 8:63-9:6) and therefore, “the two steps are presumed to have different meanings.” Blue Br. 47-48, *citing* *Applied Med. Res. Corp. v. U.S. Surgical Corp.* 448 F.3d at 1333, n3 (“[T]he use of two terms in a claim requires that they connote different meanings.”).

The USPTO’s assertion that “Figure 3 [of the ’007 Patent] supports the Board ... because it includes a single step 302 to “perform both of the claimed ‘receive’ steps” (Red Br. 33) is demonstrably false because it is inconsistent with FIG. 3 and the text describing FIG. 3. Step 302 receives only one item of information: the “user input selecting one or more items for purchase” (Appx60) and therefore, can at best correspond to only the first claimed “receive” step of “an identification of one or more products selected from the list of products.” Appx66, 8:63-9:6. Also, the USPTO’s citation to only a snippet about the “buy now” icon (Red Br. 34, *citing* Appx65, 5:42:-44) is misleading because the text surrounding the cited portion indicates that the “buy now” button may be clicked only after the

“total purchase amount for the one or more items” is calculated in step 302.

Appx65, 5:44-55.

The USPTO also alleges that “Blaze’s construction does not distinguish over Khedouri’s ‘buy now’ button” and “[t]hus, the Court need not construe the ‘one or more products’ limitation.” Red Br. 31. The USPTO is wrong for several reasons.

First, the ’007 Patent—not Khedouri—discloses a “buy now” button.

Appx64,4:24-25. Second, the USPTO does not argue that Khedouri would have taught these claim limitations under Blaze’s construction; it instead asserts that it need not do so because “Blaze’s rebuttal arguments are moot because they depend on its incorrect claim construction.” Red Br. 44. Third, Blaze distinguished

Khedouri’s audio or video clip from the claimed “one or more products” based on

Blaze’s claim construction. Blue Br. 45 (clips are not products having prices that are purchased). Fourth, Blaze distinguished Khedouri’s full file from the claimed

“one or more products” based on Blaze’s construction. Blue Br. 45-46 (full files are not identified). Fifth, Blaze distinguished Khedouri’s “get song now” of a

subscription service based on its claim construction. Blue Br. 46-47 (the “get song now” does not have a price and is not purchased because the song is already

available to subscribers without an additional purchase). Sixth, Blaze distinguished

Khedouri’s “buy song now” button from the “one or more products” limitations

based on its claim construction. Blue Br. 47-48 (the “buy song now” process does

not have the two distinct steps of receiving an identification of the products and receiving a transaction purchase request including information relating to the identification of the products.).

Samsung does not compensate for the deficiencies in the USPTO's claim construction argument; it instead repeats a portion of the USPTO's argument. *Compare* Amicus Br. 21-23 *with* Red Br. 31-35. Therefore, Samsung's arguments should be rejected for the same reasons expressed above.

For all these reasons, the claim language and specification are consistent with Blaze's construction and inconsistent with the Board's construction.

B. The USPTO Makes No Attempt To Show That the Board's Obviousness Ruling Of The Limitations Relating To Receiving "the identification of one or more products" and "the transaction purchase request" Is Supported By Substantial Evidence Under The Proper Claim Construction.

In its opening brief, Blaze demonstrated that—under the proper construction—the prior art would not have taught the limitations relating to the “identification of one or more products” and “the transaction purchase request” terms because Khedouri's audio and video clips are free (*i.e.*, not purchased), Khedouri's full files are never identified but instead, are “downloaded without any identification of the full file in anticipation of the possibility that the user will purchase the full file,” and because the “get song now” and “buy song ” options do

not satisfy both receiving “the identification of the one or more products” and receiving “the transaction purchase request” claim requirements. Blue Br. 44-50.

The USPTO does not dispute Blaze’s demonstration; it does not allege that the prior art would have taught these limitations under Blaze’s claim construction. *See* Red Br. 38-48. Instead, the USPTO takes the position that it does not need to do so because “Blaze’s rebuttal arguments are moot because they depend from its incorrect claim construction.” *Id.* at 44.

For this additional reason, the Board’s decision should be reversed.
construction.

C. Samsung Fails To Show That the Board’s Obviousness Ruling Of The Limitations Relating To Receiving “the identification of one or more products” and “the transaction purchase request” Is Supported By Substantial Evidence Under The Proper Claim Construction.

Samsung does not compensate for the Board’s failure to even attempt to show that the claims would have been obvious under Blaze’s construction. Samsung’s arguments differ from the grounds upon which the Board relied upon for its obviousness holding (Appx33-37) and the grounds upon which the Examiner relied. Appx3987-3988. Samsung failed to make one single citation to the Board’s final written decision or the Board’s decision on the rehearing request. *See* Amicus Br. 23-28.

For these additional reasons, the Board’s decision should be reversed.

III. The USPTO Fails To Show That The Board’s Obviousness Ruling For The Claim Limitations Relating To Remote Management and Transaction Server Claim Terms Is Supported By Substantial Evidence.

A. The USPTO Fails To Show That The Board’s Construction Is Correct Or That Blaze’s Construction Is Incorrect.

As explained in Blaze’s opening brief, the proper construction of the remote management server and transaction server claim limitations requires (1) a remote management server to (i) receive “user input login information including an identification code associated with a user,” (ii) authenticate a “user associated with the user input login information,” and (iii) receive “a transaction verification” from a transaction server,” and (2) a transaction server configured to (i) “receive a payment method that corresponds to an identification code associated with a user from a remote management server;” (ii) “send a transaction verification to the remote management server, wherein the transaction verification indicates that the transaction has processed;” and (iii) “processes the transaction using the payment method.” Blue Br. 51-52. That is, Blaze explained that the proper construction requires the claimed “remote management server” to receive, send, and store particular types of information and the claimed “transaction server” to perform particular functions. Blue Br. 51-52. Blaze’s construction is relevant to its validity argument because they include requirements that are wholly absent from the prior art combination of Khedouri and Goldthwaite. *See infra* §III.B; Blue Br. 55-59. Blaze’s construction is further supported by the repeated and consistent

descriptions throughout the specification of the claimed requirements on the “remote management server” and the “transaction server.” Blue Br. 51-52. The proper claim construction “corresponds with what and how the inventor describes his invention in the specification, *i.e.*, an interpretation that is ‘consistent with the specification.’”; *In re Smith Int’l, Inc.*, 871 F.3d at 1382-1383, *quoting In re Morris*, 127 F.3d at 1054.

Samsung does not compensate for the deficiencies in the USPTO’s claim construction argument; it instead repeats a portion of the USPTO’s argument. *Compare* Amicus Br. 29-31 *with* Red Br. 35-38. Therefore, Samsung’s arguments should be rejected for the same reasons expressed above.

B. The USPTO and Samsung Fail To Show That The Board’s Obviousness Ruling For The Claim Limitations Relating To The Remote Management and Transaction Servers Is Supported By Substantial Evidence.

In its opening brief, Blaze demonstrated that the combination of Khedouri and Goldthwaite would not have taught certain claim requirements for the “remote management server” and the “transaction server.” Blue Br. 55-59.

The argument by the USPTO (Red Br 36-27) and Samsung that Khedouri teaches a non-browser based application is without merit. As previously explained, instead of receiving the claimed “user input login information” and performing the claimed “user authentication,” Khedouri’s non-browser based application *bypasses or navigates around* the required login:

“If the device *doesn’t have a browser*, it needs to learn how to navigate around this introduction page. The way it does so is by *creating a profile, and simulating the required communications to login and/or bypass this first page*,” in ¶ [0135] and, “The device automatically selects a method of connection among multiple possible connections by testing not only whether the connection is live, but also whether it can access dedicated server’s back-end test page, verifying that the connection is live AND the *device successfully navigated any required logins*, etc.” in ¶ [0136].

Appx3691; *see also* 4202-4207; Appx4032-4033.

The USPTO and Samsung fail to show that Khedouri’s server meets the claim requirements of a “remote management server.” *See* Red Br. 44-47; Amicus Br. 31-35. Khedouri’s Network 315 cannot be the claimed remote management server because it does not *authenticate* the user, let alone receive user input login information including an identification code associated with the user. Khedouri’s PIN cannot possibly be equivalent to the claimed “identification code associated with the user” because of the repeated and consistent statements in the Specification that an identification code authenticating the user is separate and distinct from a PIN authorizing a transaction, like Khedouri’s PIN. Blue Br. 51-55.

The USPTO’s argument that Goldthwaite’s authentication server 107 is the claimed ‘remote management server’ that receives the payment information (Red Br. 45-46) is also wrong because this authentication server does not meet the claim requirements for the “remote management server.” Blue Br. 52.

The USPTO also relies on ““a security code associated with the smart card to pay and authenticate her purchase”” as the claimed “identification code associated with the user.” Red Br. 46, *quoting* Appx2795, ¶ 21. The USPTO’s reliance on this security code is misplaced for two reasons. First, the Board did not rely on this ground to support its obviousness ruling (*see* Appx37-39) and this Court cannot ““accept appellate counsel’s post hoc rationalizations for agency action”” or “supply a reasoned justification for an agency action that the agency itself has not given.” *Power Integrations*, 797 F.3d at 1326. Second, claim 2 requires the transaction to be processed with a payment method corresponding to the same identification code that was used to authenticate the user. Blue Br. 56-57. And Goldthwaite’s security code is not used to authenticate the user. Rather, Goldthwaite’s security code is used to authorize a purchase, not to authenticate a user.

Samsung does not compensate the deficiencies in the USPTO’s argument. Samsung’s statement that “it is the credit card number—not the PIN—that is verified during authorization” (Amicus Br. 33-34) conflates user authentication with transaction authorization.

Thus, the claim limitations relating to the remote management server and transaction server are wholly absent from the combined teachings of Khedouri and Goldthwaite. When claim limitations are wholly absent from the teachings of the

prior art, documentary evidence is required to establish obviousness. *K/S HIMPP v. Hear-Wear Technologies, LLC*, 751 F.3d 1362, 1366 (Fed. Cir. 2014) (“an assessment of basic knowledge and common sense as a replacement for documentary evidence for core factual findings lacks substantial evidence support.”).

C. The USPTO and Samsung, Like The Board, Overlook Undisputed Evidence That Modifying Khedouri’s Closed System With Goldthwaite’s Dual Payment Transaction and Digital Goods Fulfillment System Would Have Changed Khedouri’s Principle Of Operation.

The undisputed evidence below was that “Goldthwaite and Khedouri are fundamentally different because Goldthwaite an authentication server receives a ‘*payment confirmation*’ before content is sent while in Khedouri, there isn’t a requirement for the upload manager to receive a ‘payment confirmation’ before sending content.” Blue Br. 62-63.

The USPTO’s argument that Khedouri’s system “*presumably* requires access to an external financial institution that issued the credit card, like financial institution 112 in Goldthwaite” (Red Br. 48) is not nearly sufficient to establish obviousness in light of this Court’s authority requiring a rational underpinning explaining why a POSITA would have arrived at the claimed invention, rather than a mere presumption. *In re Van Os*, 844 F.3d 1359, 1361 (Fed. Cir. 2017)

For these additional reasons, the Board’s decision should be reversed.

IV. Conclusion

For the reasons expressed above and in Blaze's opening brief, the Court should reverse the Board's Decision on Appeal that claims 1-36 of the '007 patent are unpatentable.

Respectfully submitted,

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1. This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a)(7)(B) because it contains 6,916 words, as determined by the word-count function of Microsoft Word, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(a)(7)(B)(iii) and Local Rule 32(b); and
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Dated: October 5, 2025

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