

THE NIELSEN COMPANY, LLC v. TVISION INSIGHTS, INC., Appeal No. 2025-1371 (Fed. Cir. Aug. 14, 2026). Before Dyk, Reyna, Bissoon. Appealed from the PTAB.

Background:

In its *inter partes* review (IPR) petition, TVision challenged 14 claims (three independent, 11 dependent) of Nielsen's audience-measurement patent, asserting that a Tian prior art reference qualified as analogous art under the "same field of endeavor" prong. Nielsen statutorily disclaimed the three independent claims in its Patent Owner Preliminary Response (POPR), leading the PTAB to institute review on only the 11 remaining dependent claims. In its POPR and subsequent briefing, Nielsen argued that Tian failed both prongs of the analogous art test. Specifically, Nielsen asserted that Tian was not "reasonably pertinent" because the specification of their patent limited the inventor's problem to reducing excessive illumination, heat, and power consumption, whereas Tian concerned facial detection using low-resolution images. The Board nonetheless invalidated the 11 dependent claims for obviousness, finding Tian reasonably pertinent to the inventor's problem. On appeal, Nielsen raised both an APA procedural challenge—arguing lack of notice because TVision only pleaded the "field of endeavor" prong—and a substantive challenge that the Board defined the inventor's problem too broadly.

Issues/Holdings:

Did the Board violate the APA's notice requirements by finding a reference analogous under the "reasonably pertinent" prong when the petition had only pleaded the "same field of endeavor" prong? No.

Did the Board err substantively in defining the inventor's problem broadly as image processing and facial detection, notwithstanding the illumination issue disclosed in the specification? No, affirmed.

Discussion:

The Federal Circuit affirmed the Board's decision. Procedurally, the Court held that there was no APA notice violation because the two analogous art prongs share overlapping factual inquiries, and Nielsen had actual notice as it actively contested both prongs from its POPR through its Patent Owner Response. Furthermore, even assuming a technical notice defect, Nielsen failed to establish prejudice under the APA's harmless error rule, as it could not identify any different arguments or evidence it would have presented had it received different notice.

Substantively, the Court held that the scope of the inventor's problem is informed by the breadth of the claimed subject matter. Although Nielsen disclaimed the broad independent claims in its POPR, the surviving 11 dependent claims still did not recite an illumination source limitation. Consequently, Nielsen could not rely on a narrow illumination problem described in the specification to insulate its broadly drafted claims from prior art. Looking to the patent's title, background, and broad claim scope, the Court concluded that the Board correctly defined the inventor's problem as "image processing and facial detection," to which the Tian reference was directly pertinent.

The takeaway is that a patent owner cannot draft broad claims and subsequently attempt to shield them from prior art by asserting that the "inventor's problem" is limited to a specific, narrow embodiment found only in the specification.