

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PANDUIT CORP.,
Petitioner,

v.

CORNING OPTICAL COMMUNICATIONS LLC,
Patent Owner.

Case IPR2016-01709
Patent 8,184,938 B2

Before BEVERLY M. BUNTING, JENNIFER MEYER CHAGNON, and
TERRENCE W. McMILLIN, *Administrative Patent Judges*.

McMILLIN, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

In response to a Petition (Paper 2, “Pet.”) filed by Panduit Corp. (“Petitioner”), we instituted an *inter partes* review of claims 1–21 of U.S. Patent No. 8,148,938 B2 (Ex. 1001, “the ’938 patent”). Paper 7 (Decision, Institution of *Inter Partes* Review (“Dec.”)), 28–29. During the trial, Corning Optical Communications LLC (“Patent Owner”) filed a Response (Paper 11, “PO Resp.”), to which Petitioner timely filed a Reply (Paper 29, “Reply”). An oral hearing was held on November 17, 2017, and a copy of the transcript was entered into the record. Paper 36 (“Tr.”).

This is a Final Written Decision under 35 U.S.C. § 318(a) as to the patentability of the claims on which we instituted trial. Based on the record before us, Petitioner has shown, by a preponderance of the evidence, that claims 1–21 are unpatentable.

A. *Related Matters*

The ’938 patent has been asserted in *Corning Optical Communications LLC v. Panduit Corp.*, 16-cv-00268-GMS (D. Del) and *Corning Optical Communications LLC v. Diversified Material Specialists, Inc.*, 15-cv-00786 (M.D. Fla.). Pet. 1; Paper 4 (Patent Owner’s Mandatory Notices), 1. U.S. Patent No. 8,452,148 B2, which shares a specification with the ’938 patent, is the subject of IPR2016-01703. Pet. 1.

B. *The ’938 Patent*

The ’938 patent is titled “Rear-Installable Fiber Optic Modules and Equipment.” Ex. 1001, [54]. It issued on May 22, 2012, from U.S. Patent Application No. 12/323,423, which was filed on November 25, 2008, and which claims priority to U.S. Provisional Application No. 61/190,538, filed August 29, 2008, and U.S. Provisional Application No. 61/197,068, filed

October 23, 2008. *Id.* at [21], [22], [45], [60]. According to the Specification, “[t]he technology of the disclosure relates to fiber optic modules provided in fiber optic equipment to support fiber optic connections.” *Id.* at 1:29–31. The disclosed fiber optic equipment includes rear-installable fiber optic modules. *Id.* at 2:22–23. The ’938 patent describes a “rail guide system” which “receives a fiber optic module from the rear section of the chassis and is configured to guide the fiber optic module toward the front end of the chassis.” *Id.* at 2:28–31. The invention is alleged to “reduce time and/or labor in making fiber optic connections.” *Id.* at 2:31–35.

Figure 1 of the ’938 patent is reproduced below.

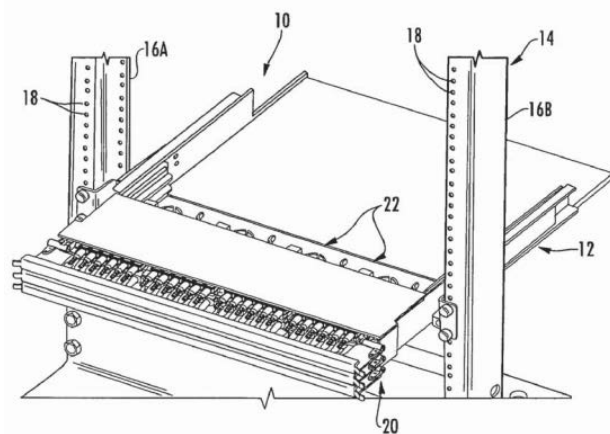


FIG. 1

Figure 1 depicts “an exemplary fiber optic equipment rack with exemplary fiber optic equipment supporting rear-installable fiber optic modules according to one embodiment.” *Id.* at 3:17–20. In Figure 1, “[t]he fiber optic equipment 10 is attached and supported by the fiber optic equipment rack 14 in the form of shelves that are stacked on top of each other within the vertical rails 16A, 16B.” *Id.* at 6:2–5.

Figure 3 of the '938 patent is reproduced below.

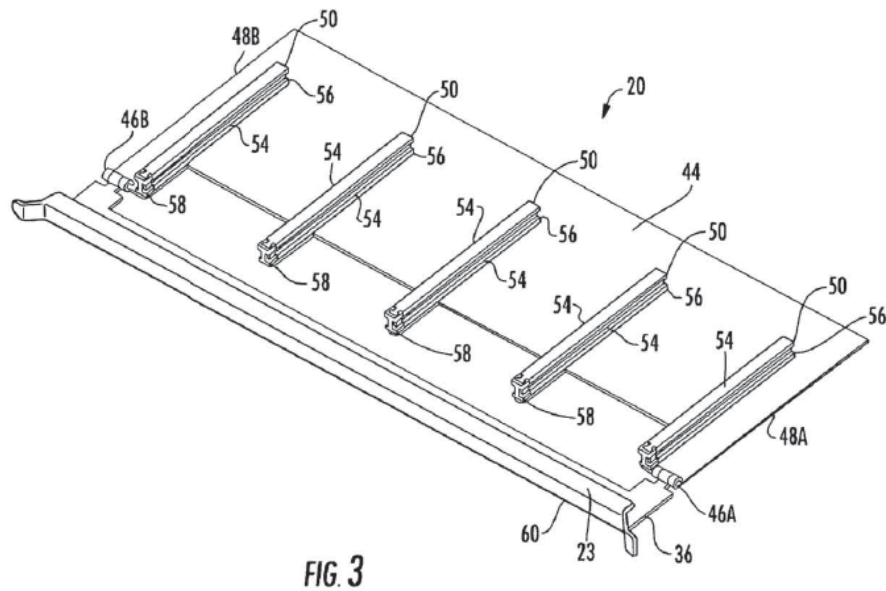


Figure 3 depicts “an individual fiber optic equipment tray in the fiber optic equipment of FIG. 1 without rear-installable fiber optic equipment modules installed in module guides disposed in the fiber optic equipment tray.” *Id.* at 3:26–29.

Figure 4 of the '938 patent is reproduced below.

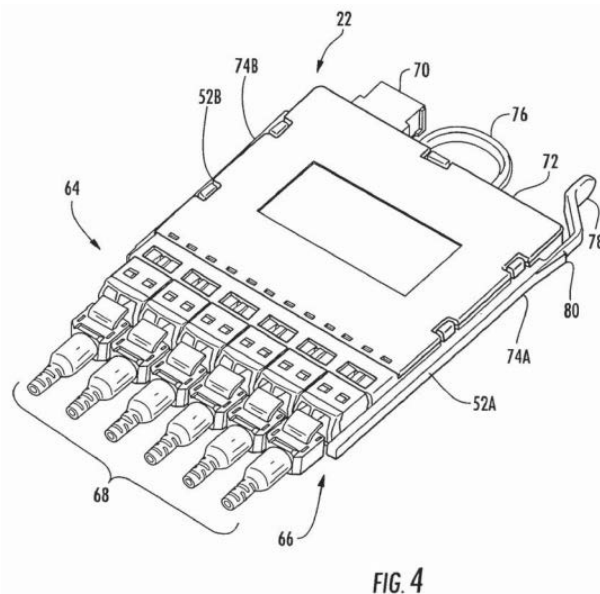


Figure 4 depicts “a fiber optic module that is rear-installable in the fiber optic equipment tray of FIG. 3.” *Id.* at 3:30–32.

C. The '938 Patent Claims

The '938 patent contains 21 claims, all of which are directed to “fiber optic apparatus.” Ex. 1001, 16:13–18:19. Claim 1 is the sole independent claim and is illustrative of the challenged claims. Claim 1 recites:

1. A fiber optic apparatus, comprising:
 - a chassis defining a front end, a rear section, a first end, and a second end opposite the first end;
 - at least one fiber optic equipment tray disposed in the chassis;
and
 - at least one guide system disposed within the chassis and configured to receive at least one fiber optic module moveably mounted on the at least one fiber optic equipment tray, from the rear section of the chassis and guide the fiber optic module toward the front end of the chassis.

Id. at 16:13–23.

D. Instituted Grounds of Unpatentability

We instituted trial for challenges under 35 U.S.C. § 103(a)¹ over the following combinations of references. Dec. 6.

References	Claim(s)
Smrha ² and Henson ³	1, 2, 4, 5, and 9–18
Smrha, Henson, and Wagner ⁴	3 and 8
Smrha, Henson, and Niazi ⁵	6 and 7
Smrha, Henson, and Barnes ⁶	19
Smrha, Henson, Barnes, and Wagner	20 and 21

Petitioner asserts that Smrha and Wagner are prior art to the '938 patent under 35 U.S.C. § 102(e); Henson is prior art under 35 U.S.C. § 102(b); and Niazi and Barnes are prior art under 35 U.S.C. § 102(a).

¹ The relevant sections of the Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112–29, 125 Stat. 284 (September 16, 2011), took effect on March 16, 2013. Because the application from which the '938 patent issued was filed before that date, our citations to Title 35 are to its pre-AIA version.

² Smrha et al. (US 7,570,861 B2, issued August 4, 2009, filed March 6, 2007) (Ex. 1004).

³ Henson et al. (US 5,420,958, issued May 30, 1995) (Ex. 1005).

⁴ Wagner et al. (US 7,689,089 B2, issued March 30, 2010, filed October 10, 2007) (Ex. 1007).

⁵ Niazi et al. (US 2008/0037209 A1, published February 14, 2008) (Ex. 1006).

⁶ Barnes (US 7,409,137 B2, issued August 5, 2008) (Ex. 1008).

Pet. 4. Patent Owner does not challenge the prior art status of any of these references. *See generally* PO Resp.

The earliest priority date claimed for the '938 patent is August 29, 2008. Ex. 1001, [60]. Smrha was filed on March 6, 2007. Ex. 1004, [22]. Henson issued May 30, 1995. Ex. 1005, [45]. Wagner was filed on October 10, 2007. Ex. 1007, [22]. Niazi was published on February 14, 2008. Ex. 1006, [43]. Barnes issued on August 5, 2008. Ex. 1008, [45]. The cited references are prior art.

Petitioner relies on the Declaration of Casimer DeCusatis, Ph.D. (Ex. 1003, “DeCusatis Declaration”). Patent Owner relies on the Declaration of Eric R. Pearson (Ex. 2001, “Pearson Declaration”).

II. ANALYSIS

Petitioner bears the burden of proving unpatentability of the challenged claims, and the burden of persuasion never shifts to Patent Owner. *Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015). To prevail, Petitioner must establish the unpatentability of the challenged claims by a preponderance of the evidence. 35 U.S.C. § 316(e); 37 C.F.R. § 42.1(d).

A. Claim Construction

A claim of an unexpired patent subject to *inter partes* review receives the “broadest reasonable construction in light of the specification of the patent in which it appears.” 37 C.F.R. § 42.100(b); *see also Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016) (upholding the use of the broadest reasonable interpretation standard). Under the broadest reasonable interpretation standard, and absent any special definitions, claim terms are given their ordinary and customary meaning, as would be

understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech. Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

Petitioner does not argue any claim term requires explicit construction, but asserts “[t]he broadest reasonable construction . . . is sufficient.” Pet. 14. In its Response, Patent Owner argues that the third, or last, element of claim 1 (Ex. 1001, 16:18–23) which recites:

at least one guide system disposed within the chassis and configured to receive at least one fiber optic module moveably mounted on the at least one fiber optic equipment tray, from the rear section of the chassis and guide the fiber optic module toward the front end of the chassis

should “be construed to include ‘insertion of a fiber optic module into the guide system.’” PO Resp. 15–21. Patent Owner also discusses the term “fiber optic module” under the heading “Claim Construction” in its Response but does not offer any explicit construction of this term. *See id.* at 21–24.

Having considered the entire record, our determination regarding the obviousness of the challenged claims does not turn on the interpretation of any of the terms or limitations noted above. Thus, based on the final trial record before us, we determine that express construction of these terms is not necessary for purposes of this Final Written Decision. *See Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999) (“only those terms need be construed that are in controversy, and only to the extent necessary to resolve the controversy”).

*B. Obviousness of Claims 1, 2, 4, 5, and 9–18
Over Smrha and Henson*

Petitioner identifies in Smrha and Henson teachings of the subject matter of claims 1, 2, 4, 5, and 9–18 and provides an articulated basis with rational underpinning for combining the teachings of these references. Pet. 23–47. In its Response, Patent Owner only presents arguments with respect to independent claim 1.⁷ *See generally* PO Resp.

We have reviewed the parties’ contentions and supporting evidence. Given the evidence of record, we are persuaded Petitioner has shown, by a preponderance of the evidence, that claims 1, 2, 4, 5, and 9–18 would have been obvious based on Smrha and Henson. We begin our analysis with the principles of law that apply generally to a ground based on obviousness, followed by brief summaries of Smrha and Henson, and then address the parties’ contentions in turn.

1. Principles of Law

A patent claim is unpatentable under 35 U.S.C. § 103(a) if the differences between the claimed subject matter and the prior art are such that the subject matter, as a whole, would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said

⁷ Other than the “Introduction” stating the instituted grounds, claim 1 is the only claim specifically referenced in Patent Owner’s Response. *See generally* PO Resp. And, other than the final paragraph of the Pearson Declaration, which states that dependent claims 2–21 are not obvious because the cited art does render claim 1 obvious, Patent Owner presents no evidence supporting the patentability of claims 2–21. *See* Ex. 2001 ¶ 150 (“Smrha and Henson do not render obvious the elements of claim 1, and for the same reasons do not render obvious those same elements in claims 2-21.”).

subject matter pertains. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) objective evidence of nonobviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

2. *Smrha* (Ex. 1004)

Smrha is titled, “Adapter Panel with Lateral Sliding Adapter Arrays.” Ex. 1004, [54]. The apparatus disclosed in *Smrha* is directed to fiber optic applications for use with various types of fiber optic adapters. *Id.* at 3:4–7; *see id.* at 7:36–37 (“[T]he present disclosure is described with respect to use in a fiber optic application.”). *Smrha* teaches:

An adapter panel arrangement including a chassis and a panel of adapters. The adapters defining rearward cable connections and forward cable connections of the panel arrangement. Openings permitting access to the rearward and forward cable connections of the adapters are provided. The chassis further including a removable rear chassis portion to provide access to cable routing areas within the chassis interior.

Id. at [57] (Abstract).

Figure 1 of Smrha is reproduced below.

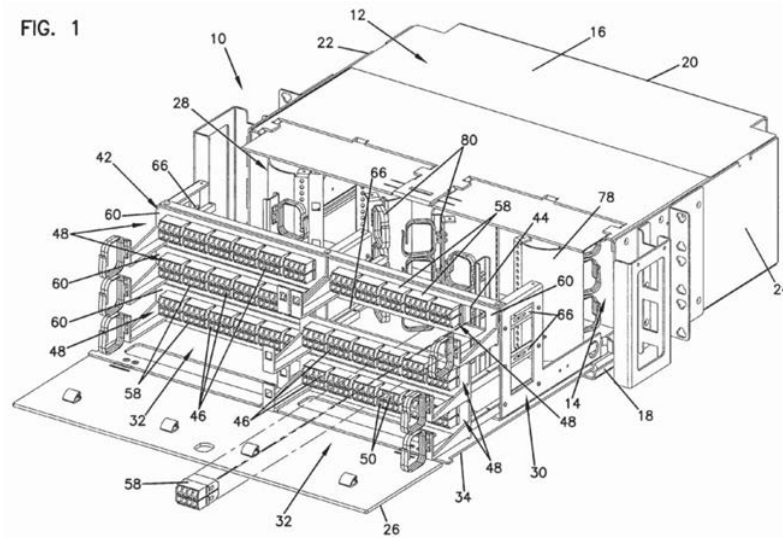


Figure 1 depicts “an adapter panel arrangement . . . with a drawer of the adapter panel arrangement in an open position.” *Id.* at 1:58–61. Smrha states, “[t]he adapter panel arrangement 10 is designed to provide a high density of cable terminations, yet facilitate access to the cable terminations from the rear during installation procedures.” *Id.* at 2:39–42. Figure 7 of Smrha is reproduced below.

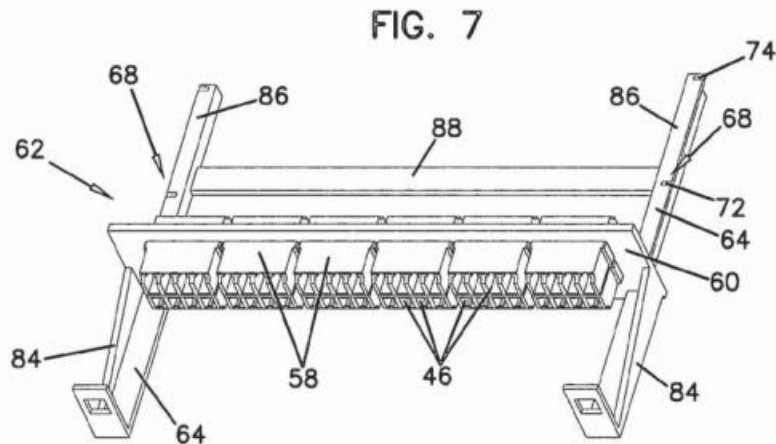


Figure 7 depicts “a sliding frame piece and an adapter array of the adapter panel arrangement of FIG. 1.” *Id.* at 2:7–9. Smrha states, “[t]he sliding frame piece 62 includes a pair of elongated rail members 64,” and “[t]he

pairs of elongated rail members 64 are arranged to engage and slide within pairs of guides 66 (one shown in FIGS. 10-12) that are mounted to the framework structure 30 (FIG. 1) of the arrangement 10.” *Id.* at 4:5–6, 12–15. Figure 10 of Smrha is reproduced below.

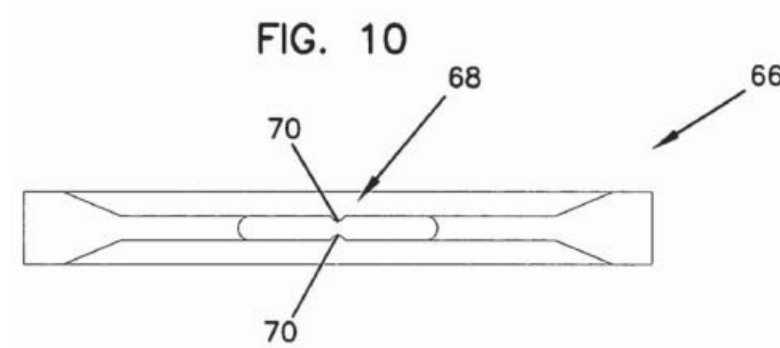


Figure 10 depicts “a guide of the adapter panel arrangement of FIG. 1.” *Id.* at 2:14–15. The guide in Figure 10 is open to accommodate the sliding frame piece at both the front and rear ends. *Id.* at 4:3–55. Figure 12 of Smrha is depicted below.

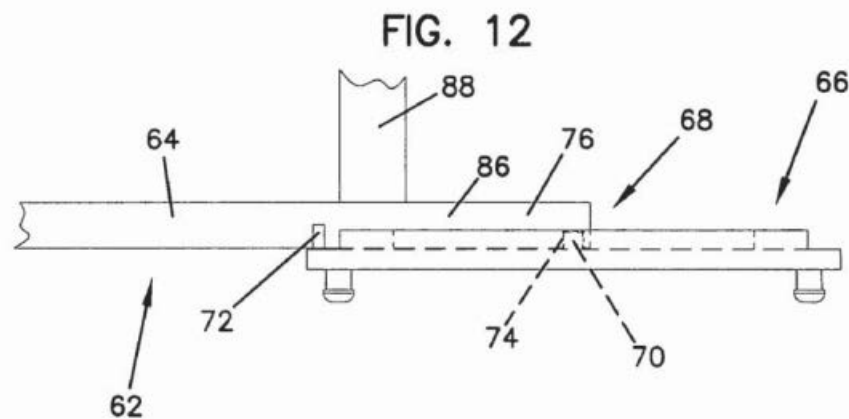


Figure 12 depicts “the guide of FIG.10, and a portion of the sliding frame piece.” *Id.* at 2:19–20.

3. Henson (Ex. 1005)

Henson is titled, “Optical Fiber Distribution Center.” Ex. 1005, [54].
The Abstract of Henson states:

A compact optical fiber distribution center has a housing provided by a pair of stackable containers. One container encloses a fiber connection zone in which a plurality of card-like modules are slidably mounted Each module carries a row of optical fiber connectors. . . . Easy access to the connectors is afforded by sliding individual modules out of the single file toward a front or a rear opening in the housing, which openings are closable by hinged doors.

Id. at [57]. Henson also states, “[o]ptical fiber distribution centers now on the market typically have a cabinet or housing containing one or more panels or modules, each supporting a plurality of fiber optical connectors in columns and rows,” and “the housing preferably can be opened at the rear of the fiber connection zone, and the means for mounting and moving the modules permits the modules to be moved individually through the rear opening for easy access to the rear ends of the connectors.” *Id.* at 1:20–23, 2:66–3:3.

Figure 1 of Henson is reproduced below.

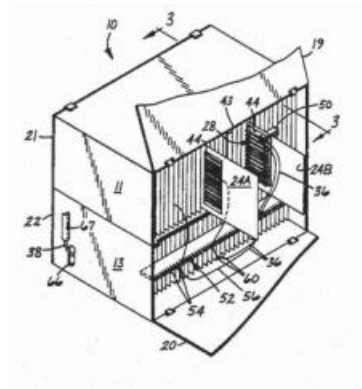


Figure 1 depicts “an optical fiber distribution center . . . with two of its modules moved through a front door of its housing.” *Id.* at 3:39–41.

4. Level of Ordinary Skill in the Art

In determining whether an invention would have been obvious at the time it was made, we consider the level of ordinary skill in the pertinent art

at the time of the invention. *Graham*, 383 U.S. at 17. “The importance of resolving the level of ordinary skill in the art lies in the necessity of maintaining objectivity in the obviousness inquiry.” *Ryko Mfg. Co. v. Nu-Star, Inc.*, 950 F.2d 714, 718 (Fed. Cir. 1991).

Petitioner asserts:

The level of ordinary skill in the art applicable to this petition is: (a) a Bachelor’s Degree in Mechanical Engineering or similar, with at least 5 years of experience designing fiber optic equipment housings for data center deployment; or (b) a Master’s Degree in Mechanical Engineering or similar, with at least 3-5 year[s] of experience designing fiber optic equipment housings for datacenter deployment. (Ex. 1003, ¶ 20)

Pet. 12–13. Petitioner supports this showing with some articulated reasoning and citations to the DeCusatis Declaration. *Id.*

Patent Owner argues for a similar level of skill in the art, contending that “[a] person of ordinary skill in the art of the ’938 patent would have a bachelor’s degree in mechanical engineering, materials science, or a related field; and 2 years of experience in fiber optic equipment.” PO Resp. 1 (citing Ex. 2001 ¶¶ 14–15).

Based on the evidence before us, we do not observe meaningful differences between the parties’ assessments of a person with ordinary skill in the art in terms of education and experience. The parties’ proposals differ in the specific number of years of experience required; however, neither party argues this distinction makes a difference in analyzing the asserted ground or other issues in this proceeding. Based on this record, we determine that the level of ordinary skill proposed by Petitioner is consistent with the challenged patent and the asserted prior art. We, therefore, adopt that Petitioner’s proposed level of ordinary skill in the art. Our findings and

conclusions, however, would be the same under either party's proposed level of ordinary skill in the art.

5. *Claim 1*

Petitioner's showing that Smrha and Henson teach all elements of independent claim 1 is detailed and supported by citations to the record. Pet. 23–27, 37–42. Petitioner also provides a showing of an articulated basis with rational underpinning for combining the relevant teachings of the references (*see KSR*, 550 U.S. at 418). Pet. 23–27, 37–42.

The preamble of claim 1⁸ recites, “[a] fiber optic apparatus.” Ex. 1001, 16:13. Petitioner cites the Abstract of Smrha which states, “[a]n adapter panel arrangement including a chassis and a panel of adapters.” Pet. 24. Smrha states, “the present disclosure is described with respect to use in a fiber optic application.” Ex. 1004, 7:36–37. In addition, Henson is titled, “Optical Fiber Distribution Center.” Ex. 1005, [54]. Patent Owner does not dispute Petitioner's arguments and evidence as to the preamble. *See generally* PO Resp. We previously instructed Patent Owner that “any arguments for patentability not raised in the [Patent Owner Response] will be deemed waived.” Paper 8 (Scheduling Order), 6 (“The patent owner is cautioned that any arguments for patentability not raised in the response will be deemed waived.”); *see also In re Nuvasive, Inc.*, 842 F.3d 1376, 1379–1382 (Fed. Cir. 2016) (holding Patent Owner waived an argument addressed

⁸ “A preamble does not generally limit the claims.” *Allen Eng'g Corp. v. Bartell Indus., Inc.*, 299 F.3d 1336, 1346 (Fed. Cir. 2002) (citation omitted). We need not decide this issue for purposes of this Final Written Decision, however, because we are persuaded that Petitioner has shown sufficiently that the cited references teach a fiber optic apparatus, as recited in the preamble of claim 1.

in Preliminary Response by not raising the same argument in the Patent Owner Response).

a. Chassis Limitation

The first limitation of claim 1 is “a chassis defining a front end, a rear section, a first end, and a second end opposite the first end.” Ex. 1001, 16:14–15. Petitioner cites column 2, lines 43–52, 65–67, of Smrha, which states:

The adapter panel arrangement 10 of the present disclosure generally includes a chassis 12 having an interior 14. The interior 14 is defined by a top wall 16, a bottom wall 18, a rear wall 20, and side walls 22, 24. The adapter panel arrangement 10 also includes a sliding drawer 34 that slides between an open position (FIG. 1) and a closed position (FIG. 2). A front cover 26 is attached to the sliding drawer 34. When the drawer 34 is in the closed position, the front cover 26 encloses the interior 14 of the chassis 12 when closed (FIG. 3) and provides access to the interior 14 when open (FIG. 2).

* * * *

A user accesses the panel of adapters 32 from a front opening 28 of chassis 12 without sliding the drawer 34 forward.

See Pet. 24–25, 38–39. Patent Owner does not dispute that the prior art teaches this limitation. See *generally* PO Resp. Patent Owner’s expert witness, Mr. Pearson, admitted during his deposition that Smrha teaches this limitation. Ex. 1009, 39:14–40:3. And Figures 1–6 of Smrha depict a chassis 12 with a front end, a rear section, a first end, and a second end opposite the first end. Based on this record, we find Smrha teaches a chassis defining a front end, a rear section, a first end, and a second end opposite the first end.

b. Equipment Tray Limitation

The second (“equipment tray”) limitation of claim 1 recites, “at least one fiber optic equipment tray disposed in the chassis.” Ex. 1001, 16:16–17. Petitioner relies on column 2, lines 43–52, of Smrha (quoted above) as teaching this limitation of claim 1, particularly the sentence which states, “[t]he adapter panel arrangement 10 also includes a sliding drawer 34 that slides between an open position (FIG. 1) and a closed position (FIG. 2).” See Pet. 25, 39. Petitioner asserts, “[t]he sliding drawer 34 of Smrha is a fiber optic tray.” *Id.* at 39 (citing Ex. 1003 (DeCusatis Declaration) ¶ 66). Patent Owner does not dispute that the prior art teaches this limitation. See *generally* PO Resp. Patent Owner’s expert witness, Mr. Pearson, admitted during deposition that Smrha teaches this limitation. Ex. 1009, 40:4–8. Based on this record, we find Smrha teaches a fiber optic equipment tray disposed in the chassis.

c. Guide System Limitation

The third (“guide system”) limitation of claim 1 recites:

at least one guide system disposed within the chassis and configured to receive at least one fiber optic module moveably mounted on the at least one fiber optic equipment tray, from the rear section of the chassis and guide the fiber optic module toward the front end of the chassis.

Ex. 1001, 16:18–23. Petitioner relies on a combination of Smrha and Henson as teaching or suggesting this limitation of claim 1. Pet. 25–27, 40–41 (citing Ex. 1004 (Smrha) Figs. 1 and 7, 4:3–19, 4:59–64; Ex. 1005 (Henson) 4:1–3, 4:57–61, 6:61–64 (Claim 1)). Figure 1 of Smrha is reproduced below.

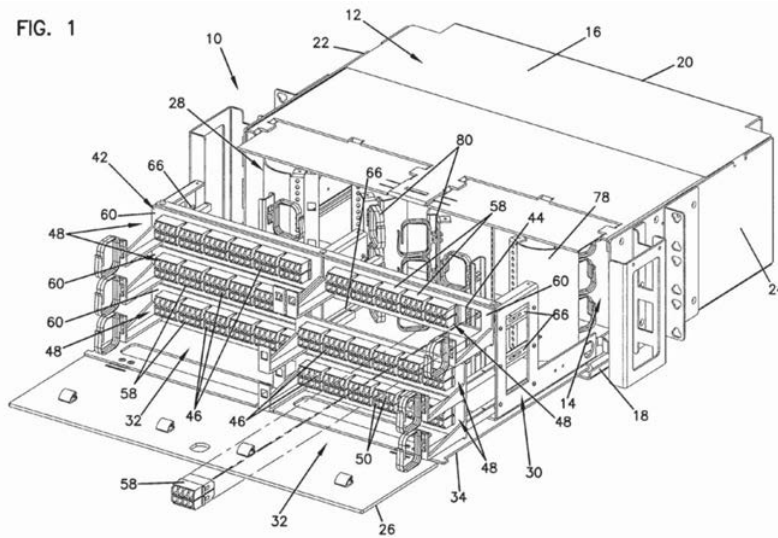


Figure 1 depicts “an adapter panel arrangement . . . with a drawer of the adapter panel arrangement in an open position.” Ex. 1004, 1:58–61.

Figure 7 of Smrha is reproduced below

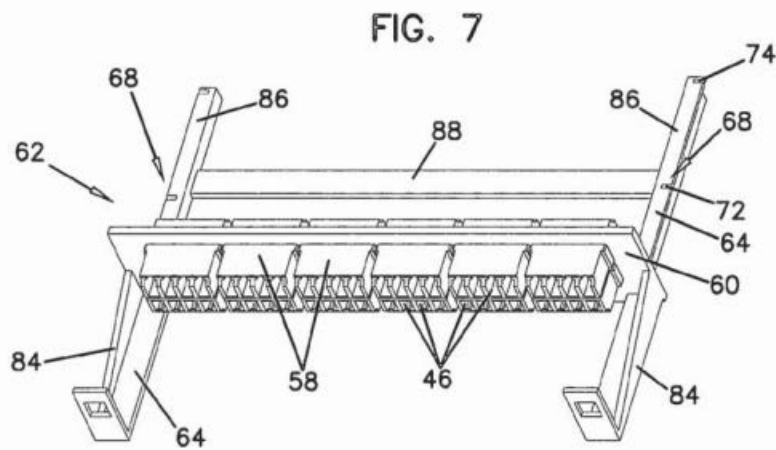


Figure 7 depicts “a sliding frame piece and an adapter array of the adapter panel arrangement” of Smrha. Ex. 1004, 2:7–9. The cited passages of Smrha (*id.* at 4:3–19, 4:59–64) state:

Referring to FIGS. 7-9, each separate panel section 60 of the panel of adapters 32 is attached to a sliding frame piece 62. The sliding frame piece 62 includes a pair of elongated rail members 64. In the illustrated embodiment, the elongated rail members 64 include a forward rail portion 84 that extends

forwardly from the panel section 60, and a rearward rail portion 86 that extends rearwardly from the panel section 60. The sliding frame piece 62 can include a cross-support 88 to maintain the structural relationship of the rail members 64.

The pairs of elongated rail members 64 are arranged to engage and slide within pairs of guides 66 (one shown in FIGS. 10- 12) that are mounted to the framework structure 30 (FIG. 1) of the arrangement 10. The rail members 64 and the guides 66 include a stop arrangement 68 that limits the sliding motion of the panel sections 60 between a rearward position (see the top panel section 60 in FIG. 5) and a forward position (see the bottom panel section 60 in FIG. 5).

* * * *

Referring to FIG. 4, during installation, cables 36, such as fiber optic cables, are routed into the chassis 12 through rear opening 38 and terminated to the open rearward connection locations 56 of the face panel 42 (i.e., the rear connector ends 52 of the adapters 46).

Petitioner asserts, “[p]anel section 60 of Smrha is a fiber optic module or its functional equivalent.” Pet. 40 (citing Ex. 1003 (DeCusatis Declaration) ¶¶ 32, 68).

Patent Owner’s expert witness, Mr. Pearson, testified that the sliding frame piece and adapter array depicted in Figure 7 of Smrha is a fiber optic apparatus and is capable of supporting fiber optic connections (*see* Ex. 1001, 5:52–55). Ex. 1009, 43:21–44:3.

The cited passages of Henson (Ex. 1005, 4:1–3, 4:57–61, 6:61–64 (claim 1)) state:

A plurality of card-like modules 24 are mounted in the connector container between slides 25 and 26 and normally are aligned in single file.

* * * *

Although the rear ends of the connectors could also be accessed through the front door 19, a module would be slid through the rear door 21 of the connector container 11 to connect a feeder or distribution fiber 38.

* * * *

means for mounting the modules in the housing within said fiber connector zone and for moving each module individually through said front opening and through said rear opening.

Patent Owner's expert witness, Mr. Pearson, testified that Smrha teaches a guide system that is disposed within a chassis (Ex. 1009, 40:9–14) and that Henson's modules can be inserted from the rear or front of housing (*id.* at 69:16–25). And Patent Owner acknowledged that, in the context of the teachings of Henson, insertion from the rear was "trivial." See Paper 6 (Patent Owner's Preliminary Response), 17 ("Inserting components from the front and back of a box is trivial because there is no intervening hardware or other complexity; it is like putting a library book onto the shelf from either side of the shelf.").

Patent Owner contends claim 1 requires a "fiber optic module." PO Resp. 24–25. Patent Owner is incorrect. Claim 1 recites, "at least one guide system disposed within the chassis and configured to receive at least one fiber optic module." Thus, the guide system must be "configured to receive" a fiber optic module. Claim 1 does not positively recite that the claimed guide system includes a fiber optic module. And, Patent Owner's counsel acknowledged at oral argument that the language of claim 1 is met without the express disclosure of a fiber optic module being inserted. See Tr. 12:9–20. We find Patent Owner's argument is not commensurate in scope with claim 1, which does not require a "fiber optic module." Rather, claim 1

provides that the apparatus be “configured to receive at least one fiber optic module.” For the foregoing reasons, Patent Owner’s argument is not persuasive.

Based on this record, we find the cited figures and passages in Smrha and Henson teach all the elements of the guide system limitation of claim 1. Smrha teaches a guide system disposed within a chassis, which is configured to receive at least one fiber optic module that is moveably mounted on a fiber optic equipment tray. Ex. 1004, 4:3–19, 4:59–64. Henson teaches a guide system disposed within a chassis which is configured to receive at least one fiber optic module from the rear section of the chassis and guide the fiber optic module toward the front end of the chassis. Ex. 1005, 4:1–3, 4:57–61, 6:61–64.

d. Articulated Reason to Combine Smrha and Henson

Relying on the testimony of Dr. DeCusatis, Petitioner provides the following rationale for combining the teachings of Smrha and Henson:

It would have been obvious to modify the adapter panel arrangement 10 of Smrha with the rear door 21 of Henson that would improve the rear installation of modules as well as fiber optic cables for the purpose of providing additional access to the adapter panel arrangement. (Ex. 1003 [DeCusatis Declaration], ¶62) Therefore, modifying Smrha with Henson yields the obvious result of an adapter panel arrangement 10 where panel sections could be slid into the arrangement 10 from the rear. (Ex. 1003, ¶63).

Pet. 41. Based on Petitioner’s showing, we find that a person of ordinary skill in the art would have been motivated to combine the teachings of Smrha and Henson in order to “improve the rear installation of modules as

well as fiber optic cables for the purpose of providing additional access to the adapter panel arrangement.” *Id.*

Patent Owner argues that the combination of Smrha and Henson does not teach or suggest a system that satisfies claim 1, because combining the embodiments disclosed in Smrha and Henson would require the complete redesign of the embodiment disclosed in Smrha. PO Resp. 25–46. Patent Owner’s argument ignores the specific combination of teachings on which the challenge to claim 1 is based and does not squarely address whether claim 1 would have been obvious in light of the combination of the teachings in the cited art. *See In re Keller*, 642 F.2d 413, 426 (CCPA 1981) (“[O]ne cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references.”). As shown above, Smrha teaches the chassis, tray, and guide system of claim 1 and Henson teaches a fiber optic module that can be inserted through the rear toward the front of a chassis. And a determination of obviousness based on the combination of prior art devices does not require that the prior art devices be able to be physically combined. *Keller*, 642 F.2d at 425 (“To justify combining reference teachings in support of a rejection it is not necessary that a device shown in one reference can be physically inserted into the device shown in the other.”); *In re Nievelt*, 482 F.2d 965, 968 (CCPA 1973) (“Combining the *teachings* of references does not involve an ability to combine their specific structures.”). The combination of the structural features of Smrha and Henson that would allow for rear entry of the fiber optic module would have been within the skill of an ordinary artisan. *See KSR*, 550 U.S. at 417 (“ . . . if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize

that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.”). Thus, we do not find Patent Owner’s argument persuasive.

e. Objective Evidence of Non-Obviousness

We next turn to Patent Owner’s evidence and arguments relating to secondary considerations of non-obviousness. As to secondary considerations, we note that factual inquiries for an obviousness determination include secondary considerations based on evaluation and crediting of objective evidence of nonobviousness. *Graham*, 383 U.S. at 17. Notwithstanding what the teachings of the prior art would have suggested to one with ordinary skill in the art at the time of the invention, the totality of the evidence submitted, including objective evidence of nonobviousness, may lead to a conclusion that the claimed invention would not have been obvious to one with ordinary skill in the art. *In re Piasecki*, 745 F.2d 1468, 1471–1472 (Fed. Cir. 1984).

Patent Owner argues that objective evidence of non-obviousness establishes that claim 1⁹ of the ’938 patent would not have been obvious. PO Resp. 46–63. Patent Owner offers evidence of copying, praise by others, commercial success, long-felt need, recognition of a problem, and failure of others. *Id.*

Objective evidence of non-obviousness plays an important role as a guard against the statutorily proscribed hindsight reasoning in the

⁹ In its argument based on objective evidence of non-obviousness, Patent Owner refers only to claim 1. See PO Resp. 46 (“Objective Indicia Further Establish the Non-Obviousness of Claim 1”). Claims 2–21 are not referred to in this section of Patent Owner’s Response. *Id.* at 46–63.

obviousness analysis. *WBIP, LLC v. Kohler Co.*, 829 F.3d 1317, 1328 (Fed. Cir. 2016). “[E]vidence of secondary considerations may often be the most probative and cogent evidence in the record.” *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1538 (Fed. Cir. 1983). “[E]vidence rising out of the so-called ‘secondary considerations’ must always when present be considered en route to a determination of obviousness.” *Id.* “For objective evidence . . . to be accorded substantial weight, its proponent must establish a nexus between the evidence and the merits of the claimed invention.” *In re Kao*, 639 F.3d 1057, 1068 (Fed. Cir. 2011) (quoting *Wyers v. Master Lock Co.*, 616 F.3d 1231, 1246 (Fed. Cir. 2010)) (emphasis omitted) (internal quotation marks omitted). There is a presumption of nexus for objective considerations when the patentee shows that the asserted objective evidence is tied to a specific product and that product is the invention disclosed and claimed in the patent. *WBIP*, 829 F.3d at 1329.

Patent Owner presents sufficient evidence to establish that the Corning EDGE system practices the invention recited in claim 1. PO Resp. 47–50. For example, Patent Owner provides a showing that the Corning EDGE system includes a chassis with multiple trays. *Id.* Patent Owner shows the Corning EDGE system has a guide system disposed within the chassis, which is configured to receive fiber optic modules that can be movably mounted from the rear. *Id.* Thus, Patent Owner has established a presumption of nexus by showing the Corning EDGE system is the invention recited in claim 1 of the ’938 patent. Petitioner has not presented any evidence rebutting this presumption of nexus. *See* Reply 22–24.

Evidence of Copying By Others

Patent Owner asserts that Petitioner’s Panduit HD Flex system is a copy of the Corning EDGE system and incorporates all the elements of claim 1 of the ’938 patent. PO Resp. 51–59. Patent Owner shows the Panduit HD Flex system includes a chassis and trays. *Id.* at 51–53. Patent Owner shows that the Panduit HD Flex system has a guide system disposed within the chassis, which is configured to receive fiber optic modules that can be movably mounted from the rear. *Id.* at 53–58. Based on this record, Patent Owner has shown sufficient evidence of copying. *Wyers*, 616 F.3d at 1246 (“copying *requires evidence of efforts to replicate a specific product*, which may be demonstrated through internal company documents, direct evidence such as disassembling a patented prototype, photographing its features, and using the photograph as a blueprint to build a replica, *or access to the patented product combined with substantial similarity to the patented product*” (emphases added)). Thus, we accord Patent Owner’s arguments regarding copying some weight.

Evidence of Praise by Others

Patent Owner asserts that Petitioner “Panduit itself praises in its marketing materials the specific features recited in claim 1 of the ’938 patent” and “[t]his alone is persuasive evidence of this secondary consideration.” PO Resp. 59. However, we note that, although the Panduit marketing materials do refer to the installation of cassettes from the rear, we have found this feature to be known in the art before the earliest claimed priority date of the ’938 patent. Patent Owner further asserts that the Corning EDGE system won “Datacenter Facility Product of the Year” at the DCS Awards in London. *Id.* (citing Ex. 2007, 1, 4). In this regard, we note

that Exhibit 2007 does not specifically refer to Panduit's EDGE system but instead refers generally to "Corning Cable Systems." Ex. 2007, 4. For these reasons, we give little weight to Patent Owner's evidence of industry praise.

Evidence of Commercial Success

Patent Owner asserts the product described and claimed in the '938 patent was a commercial success. PO Resp. 60 ("As explained by Corning V.P. of Product Line Management (Optical Solutions) Sean Kelly, EDGE has resulted in substantial revenue growth for Corning."). In this regard, we note that Mr. Kelly testified that the claimed features were only partially responsible for the success of the EDGE systems. Ex. 1042, 113:17–115:9. For this reason, we do not accord substantial weight to Patent Owner's commercial success evidence. *See In re Applied Materials, Inc.*, 692 F.3d 1289, 1299–300 (Fed. Cir. 2012) ("Commercial success is relevant to obviousness only if there is a 'nexus . . . between the sales and the merits of the claimed invention.' There must be 'proof that the sales were a direct result of the unique characteristics of the claimed invention—as opposed to other economic and commercial factors unrelated to the quality of the patented subject matter.'" (quoting *In re Huang*, 100 F.3d 135, 140 (Fed. Cir. 1996))).

Other Evidence

Patent Owner also asserts the patentability of claim 1 is supported by evidence of long-felt need, recognition of a problem, and failure of others. PO Resp. 61–63. Patent Owner argues, based on statements in Petitioner Panduit's marketing materials for the HD Flex system, that pre-existing fiber optics equipment was "much more difficult to deploy and service." *Id.* at 62 (citing Ex. 2009, 1; Ex. 2012, 1, 6–23). Patent Owner argues these problems

also were described in the “Background” section of the Specification of the ’938 patent (*id.* (citing Ex. 1001, 1:61–2:17)) and are solved by the fiber optic apparatus recited in claim 1 (*id.*). Patent Owner, however, does not support these assertions with any persuasive evidence. For this reason, we do not accord substantial weight to Patent Owner’s additional evidence.

f. Obviousness Conclusion for Claim 1

As discussed, we determine that Patent Owner has established nexus between the objective evidence and the claimed invention. Accordingly, we find Patent Owner’s objective evidence of non-obviousness should be accorded probative weight in our consideration of the obviousness of claim 1 of the ’938 patent. We give weight to Patent Owner’s evidence of copying and, while giving some weight to Patent Owner’s other objective evidence of non-obviousness, we do not give substantial weight to the evidence of praise by others, commercial success, long-felt need, recognition of a problem, and failure of others, none of which is particularly strong.

We have considered the strength of Patent Owner’s objective evidence of nonobviousness and weighed it alongside the strength of the other *Graham* factors in the present record. Based on the evidence in this record, we conclude that, on balance, the strong evidence of obviousness outweighs the relatively weak evidence of nonobviousness. *See Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (holding that the objective considerations of nonobviousness presented, including substantial evidence of commercial success, praise, and long-felt need, were inadequate to overcome a strong showing of primary considerations that rendered the claims at issue invalid).

Petitioner has made a strong showing that all the elements of claim 1 were well-known at the time of the alleged invention and a strong showing that combining these well-known elements in the manner recited in claim 1 would have been obvious to one of ordinary skill in the art. In *KSR*, 550 U.S. at 416, the Supreme Court stated, “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” The apparatus recited in claim 1 is simple and easily recognized as commonly employed in many contexts. Claim 1 recites three elements: a chassis (or housing or cabinet), a tray (or shelf or drawer), and a guide system. In claim 1, very familiar elements are combined in a very common way to yield no more than the very predictable result of a rack to support equipment. We determine that Patent Owner’s objective evidence is insufficient to establish non-obviousness, in view of Petitioner’s particularly strong evidence in support of obviousness. See *Ohio Willow Wood Co. v. Alps S., LLC*, 735 F. 3d 1333, 1344 (Fed. Cir. 2013) (“Where a claimed invention represents no more than the predictable use of prior art elements according to established functions, as here, evidence of secondary indicia are frequently deemed inadequate to establish non-obviousness.”). Considering all the arguments and evidence presented by the parties, we conclude that claim 1 would have been obvious over Smrha and Henson.

6. *Claims 2, 4, 5, and 9–18*

Each of dependent claims 2, 4, 5, and 9–18 depends directly or indirectly from claim 1 and recites additional limitations. Petitioner’s showing that all the elements of dependent claims 2, 4, 5, and 9–18 are taught by the cited art is detailed and supported by citations to the relevant

portions of the cited art. Pet. 27–37, 42–47. We have reviewed Petitioner’s showing and find, based on the figures and passages cited by Petitioner, that the cited art teaches the limitations of claims 2, 4, 5, and 9–18. Patent Owner has not addressed claims 2, 4, 5, and 9–18 or disputed any part of Petitioner’s showing regarding these claims. *See generally* PO Resp.

Considering the further limitations set forth in dependent claims 2, 4, 5, and 9–18 and the arguments and evidence presented, we find that Petitioner has established, by a preponderance of the evidence, that these claims also would have been obvious over Smrha and Henson.

*C. Obviousness of Claims 3 and 8
Over Smrha, Henson, and Wagner*

Petitioner provides a detailed showing supported by citations that Smrha, Henson, and Wagner teach all the elements of claims 3 and 8 and provides a basis supported by rational underpinnings for combining the relevant teachings of these references. Pet. 48–53. Patent Owner has not addressed claims 3 and 8 or disputed any part of Petitioner’s showing with regard to these claims or the combination additionally including Wagner. *See generally* PO Resp.

1. Wagner (Ex. 1007)

Wagner is titled “Release Latch For Pre-Terminated Cassette.” Ex. 1007, [54]. The disclosed apparatus includes “fiber cable cassettes.” *Id.* at 1:24; *see id.* at 3:34–36 (describing a “pre-terminated, high-density Multi-Fiber Push On (MPO) cable assembly”).

Figure 19 of Wagner is reproduced below.

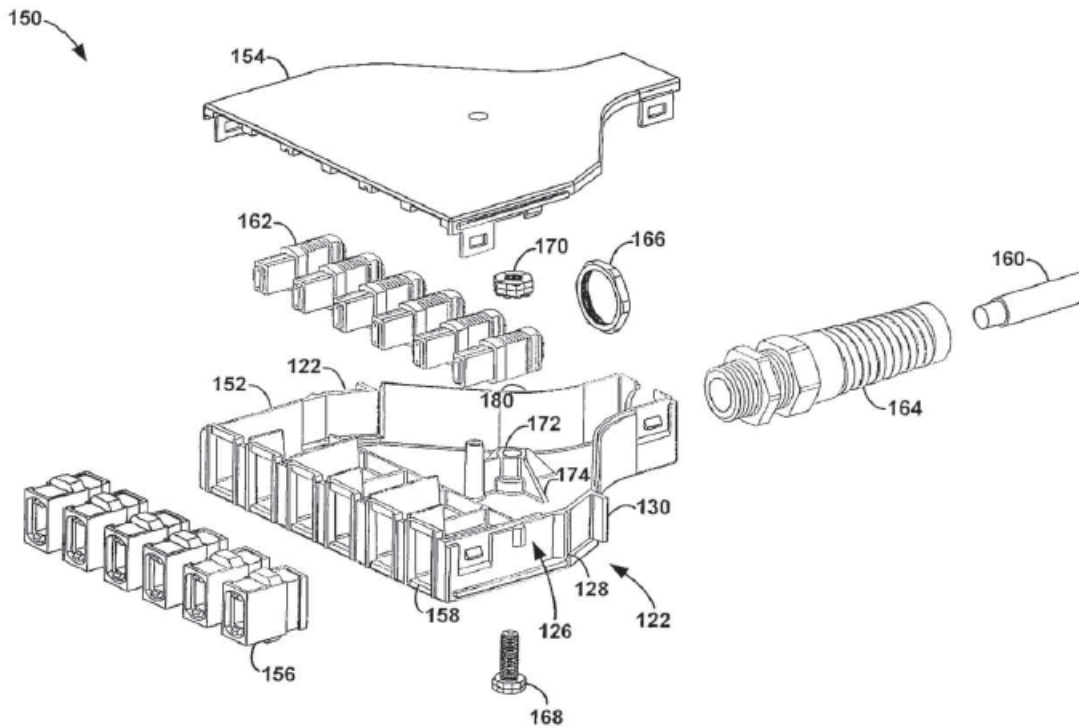


FIG. 19

Figure 19 “depicts an exploded view of the pre-terminated, high-density MPO cable assembly 150.” *Id.* at 7:63–64. Wagner teaches, “[a] multi-fiber cable 160 may be terminated with MPO optical fiber connectors 162. The fiber connectors 162 may be mated to the MPO style adapters 156 when the connectors and adapters are installed in the base 152.” *Id.* at 8:6–9.

2. Obviousness Analysis

Claim 3 depends from claim 1 and recites, “at least one module locking feature disposed adjacent the front end of the chassis and configured to releasably retain the at least one fiber optic module,” and claim 8 depends from claim 5 and similarly recites, “at least one locking feature disposed adjacent the front end of the chassis and configured to releasably retain the

at least one fiber optic equipment tray to the chassis.” Ex. 1001, 16:26–29, 42–45.

Petitioner cites the following passages from Wagner as teaching the limitations of claims 3 and 8 (Pet. 49–51):

As illustrated in FIGS. 8 and 9, to remove the pre-terminated cassette 80 from the patch panel 20, the release tabs 84 are depressed to begin disengagement of the guide latch tab 64 from the cassette side wall 82. The release tab 84 lodges between the cassette side wall 82 and the guide latch tab 64 thereby displacing the guide latch tabs 64. When the release tab 84 is fully depressed, the guide latch tab 64 clears the side wall 82 of the cassette enabling the pre-terminated cassette 80 to be removed from the patch panel 20.

Ex. 1007, 5:4–12.

When the pre-terminated cassette 115 is fully inserted into the patch panel 20, the latch tab 128 may snap and lock behind the guide latch tab 64. When the latch tab 128 engages the guide latch tab 64, the patch panel 20 firmly locks and holds the pre-terminated cassette 115 in place.

Id. at 6:41–45. Based on this showing, we find the cited art teaches all the elements of claims 3 and 8.

With regard to the reasons to combine the teachings of Smrha, Henson, and Wagner, the Petition states:

In view of the described combination of Smrha and Henson having modules that can slide and translate, it would have been obvious at the time of the alleged invention of the ‘938 Patent to modify the combination of Smrha and Henson with Wagner to include locking features to lock the translatable modules (e.g. cassettes) and trays in place to prevent accidental translation of these translatable modules and trays. (Ex. 1003 [DeCusatis Declaration], ¶87).

Pet. 48. Based on this showing, we find that there existed a motivation to combine the teachings of Smrha, Henson, and Wagner, namely the prevention of accidental translation of the modules and trays.

For the reasons stated in the Petition and as further explained above in connection with claim 1, Petitioner has established, by a preponderance of the evidence, that claims 3 and 8 would have been obvious over Smrha, Henson, and Wagner.

*D. Asserted Obviousness of Claims 6 and 7
Over Smrha, Henson, and Niazi*

Petitioner provides a detailed showing supported by citations that Smrha, Henson, and Niazi teach all the elements of claims 6 and 7 and provides a basis supported by rational underpinnings for combining the relevant teachings of these references. Pet. 53–59. Patent Owner has not addressed claims 6 and 7 or disputed any part of Petitioner’s showing related to these claims or the combination additionally including Niazi. *See generally* PO Resp.

1. Niazi (Ex. 1006)

Niazi is titled, “Computer Chassis For Two Motherboards Oriented One Above The Other.” Ex. 1006, [54].

Figure 1 of Niazi is reproduced below.

Fig. 1

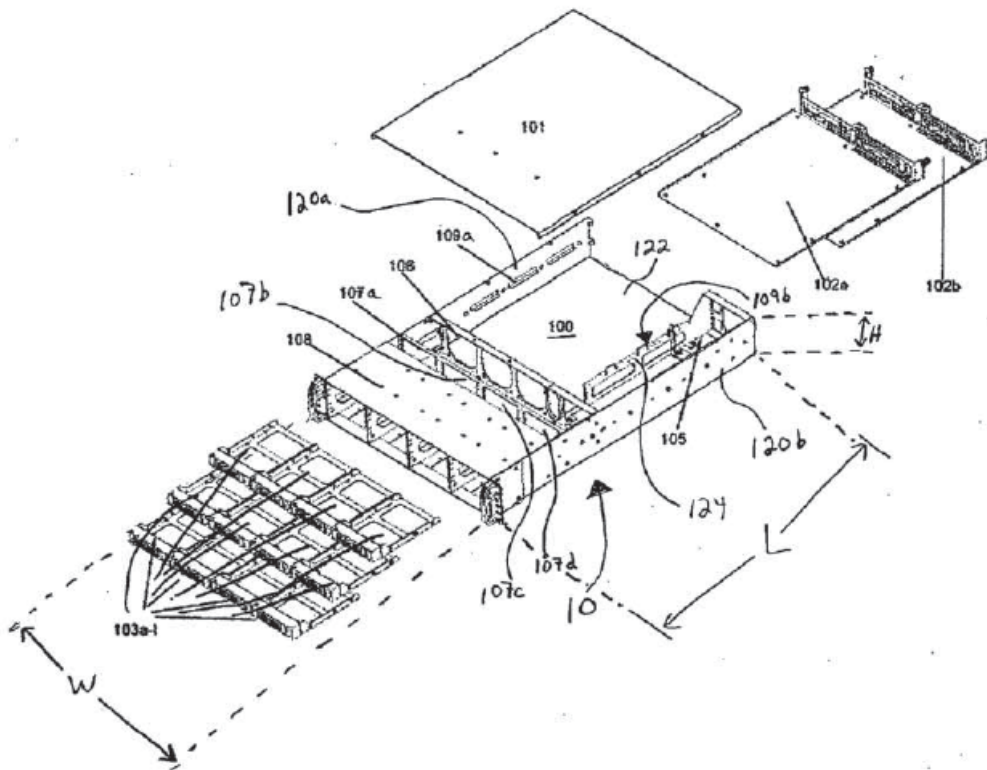


Figure 1 depicts computer chassis 10. *Id.* ¶ 26. According to Niazi, “the chassis 10 includes a chassis base 100, at least two trays 102a, 102b for motherboards (not shown) of the computer system, and a plurality of drawers 103a-103l for electronic modules, such as hard drives (not shown).” *Id.*

2. Obviousness Analysis

Claim 6 depends from claim 5 and recites, “the at least one tray rail guide comprises a plurality of rail guides receiving a plurality of fiber optic equipment trays,” and claim 7 depends from claim 6 and recites, “each of the

plurality of fiber optic equipment trays are independently translatable within the chassis.” Ex. 1001, 16:36–41.

Petitioner cites the following passage from Niazi as teaching the limitations of claims 6 and 7 (Pet. 56–57):

More particularly, the trays 102*a*, 102*b* slide on shelves or rails that are part of chassis 10. This separates the two motherboards within the chassis. For example, one set of rails 109*a* can be formed on sidewall 120*a*. Another set of rails 109*b* is formed on a railing system 124 situated within the chassis. FIG. 1 shows only one rail 109*a* on sidewall 120*a*. During use, the trays 102*a*, 102*b* slide within the chassis body such that the top 101 encloses the trays 102*a*, 102*b* within the chassis 10, with only one end of the trays 102*a*, 102*b* protruding from the rear of the chassis 10 for connections for ports of the computer system. In addition, the trays 102*a*, 102*b* are removably engaged within the chassis body 100 such that, when in use, tray 102*a* with one motherboard is situated vertically above tray 102*b* with another motherboard.

Ex. 1006 ¶ 28. Based on this showing, we find the cited art teaches all the limitations of claims 6 and 7.

With regard to the reasons to combine the teachings of Smrha, Henson, and Niazi, the Petition states:

A person of ordinary skill at the time of the invention had reason to combine or modify the combination of Smrha and Henson with Niazi. (Ex. 1003 [DeCusatis Declaration]. ¶91) While Niazi is not explicitly related to the field of fiber optics, Niazi is directed to a computer chassis that is also rack-mounted for data centers. (Ex. 1006. ¶5) While the electronics housed by the Niazi chassis are more specifically tailored to motherboards, hard drives, and other components, Niazi seeks to solve the exact same problem as Smrha and the ‘938 Patent, which is to increase electronic component access. (Ex. 1006. ¶18) As such, Niazi is related to the same field as Smrha and Henson, namely a

rack-mounted chassis for data center storage and is therefore analogous to the '938 Patent. (Ex. 1003, ¶¶46-47).

Pet. 54–55. Based on this showing, we find there existed a motivation to combine the relevant teachings of Smrha, Henson, and Niazi, namely increasing access to electronic components.

For the reasons stated in the Petition and as further explained above in connection with claim 1, Petitioner has established, by a preponderance of the evidence, that claims 6 and 7 would have been obvious over Smrha, Henson, and Niazi.

*E. Asserted Obviousness of Claim 19
Over Smrha, Henson, and Barnes*

Petitioner provides a detailed showing supported by citations that Smrha, Henson, and Barnes teach all the elements of claim 19 and provides a basis supported by rational underpinnings for combining the relevant teachings of these references. Pet. 60–62. Patent Owner has not addressed claim 19 or disputed any part of Petitioner's showing related to these claims or the combination additionally including Barnes. *See generally* PO Resp.

1. Barnes (Ex. 1008)

Barnes is titled, "Slide Arrangement for Cable Drawer." Ex. 1008, [54]. Barnes "relates to cable drawers used in the telecommunications industry for storage of fiber optic cables" and to "a drawer slide that provides sliding movement of a drawer relative to a telecommunications chassis." *Id.* at 1:7–9, 1:32–33.

Figure 5 of Barnes is reproduced below.

FIG. 5

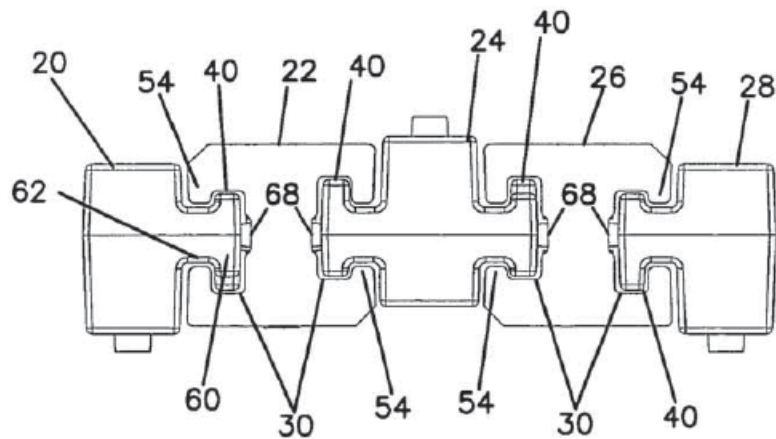


Figure 5 depicts a drawer slide. *Id.* at 2:1.

2. Obviousness Analysis

Claim 19 depends from claim 15 and recites, “the at least one module rail guide further comprises at least one fiber optic equipment tray guide receiving at least one fiber optic equipment tray.” Ex. 1001, 18:4–7. Claim 15 depends from claim 1 and recites, “the at least one guide system is comprised of at least one module rail guide configured to receive the at least one fiber optic module.” *Id.* at 17:4–6.

Petitioner cites the following passage from Barnes as teaching the limitation of claim 19 (Pet. 61):

The five slide members of the drawer slide 10 include: a first outer rail or side rail 20, a first center rail 22, a hub rail 24, a second center rail 26, and a second outer rail or side rail 28. The five slide members are slidably interconnected to one another. In particular, each of the first and second side rails 20, 28 is respectively interconnected to the first and second center rails 22,

26; and each of the first and second center rails 22, 26 is interconnected to the hub rail 24.

Ex. 1008, 3:1–9. Based on this showing, we find the cited art teaches all the limitations of claim 19.

With regard to the reasons to combine Smrha, Henson, and Barnes, the Petition states:

In view of the described combination of Smrha and Henson having modules and trays that can slide and translate, it would have been obvious at the time of the alleged invention of the '938 Patent to modify the combination of Smrha and Henson to include a telescopic rail that guides two rails with a single guide, such as a module rail and a tray rail. (Ex. 1003 [DeCusatis Declaration], ¶95) By replacing two guides with one within a chassis, additional components are removed from the chassis, thereby leading to increased electronic component capacity. (*Id.*) Therefore, it would have been obvious to modify the combination of Smrha and Henson with Barnes to remove unnecessary mechanical components needed to slide the drawer and the modules, thereby increasing connection electronic component electronic component capacity. (*Id.*).

Pet. 60–61. Based on this showing, we find there existed a motivation to combine the relevant teachings of Smrha, Henson, and Barnes because one of skill in the art would wish to simplify the apparatus while increasing capacity.

For the reasons stated in the Petition and as further explained above in connection with claim 1, Petitioner has established, by a preponderance of the evidence, that claim 19 would have been obvious over Smrha, Henson, and Barnes.

*F. Asserted Obviousness of Claims 20 and 21
Over Smrha, Henson, Barnes, and Wagner*

Petitioner's showing that Smrha, Henson, Barnes, and Wagner teach all the limitations of claims 20 and 21 is detailed and supported by citations to the record and Petitioner provides a showing of an articulated basis with rational underpinnings for combining the teachings of these references. Pet. 63–67. Patent Owner has not addressed claims 20 and 21 or disputed any part of Petitioner's showing with regard to these claims or the combination additionally including Barnes and Wagner. *See generally* PO Resp.

Claim 20 depends from claim 19 and recites:

at least one module locking feature disposed adjacent a front end of the at least one fiber optic equipment tray and configured to interlock the at least one fiber optic module to the at least one fiber optic equipment tray when the at least one fiber optic module is disposed adjacent the front end of the at least one fiber optic equipment tray.

Ex. 1001, 18:8–14. Claim 21 depends from claim 20 and recites, “the at least one module locking feature is comprised of a detent feature attached to the at least one fiber optic equipment tray and configured to interlock with a module latch disposed in the at least one fiber optic module.” *Id.* at 18:15–19.

Petitioner cites the following passages from Smrha and Wagner as teaching the limitations of claims 20 and 21 (Pet. 64–66):

Referring to FIGS. 9-12, the stop arrangement 68 (FIG. 12) is defined by at least one projection 70 (FIGS. 10 and 11) located on each guide 66 of the pair of guides, and first and second pockets or detents 72, 74 (FIG. 9) formed in the rail members 64. In the illustrated embodiment, two projections 70 (upper and lower projections) are provided on each of the guides

66. Correspondingly, upper and lower detents 72, 74 (see FIG. 8) are formed in the rearward rail portions 86 of the rail members 64. While the illustrated embodiment depicts the detents 72, 74 formed in the rail members 64 and the projections 70 provided on the guides 66, it is contemplated that the detents can be formed in the guides 66 and the projection correspondingly provided on the rail members 64.

Ex. 1004, 4:20–32.

As illustrated in FIGS. 8 and 9, to remove the pre-terminated cassette 80 from the patch panel 20, the release tabs 84 are depressed to begin disengagement of the guide latch tab 64 from the cassette side wall 82. The release tab 84 lodges between the cassette side wall 82 and the guide latch tab 64 thereby displacing the guide latch tabs 64. When the release tab 84 is fully depressed, the guide latch tab 64 clears the side wall 82 of the cassette enabling the pre-terminated cassette 80 to be removed from the patch panel 20.

Ex. 1007, 5:4–12.

When the pre-terminated cassette 115 is fully inserted into the patch panel 20, the latch tab 128 may snap and lock behind the guide latch tab 64. When the latch tab 128 engages the guide latch tab 64, the patch panel 20 firmly locks and holds the pre-terminated cassette 115 in place.

Id. at 6:41–45. Based on this showing, we find that the cited art teaches all the elements of claims 20 and 21.

With regard to the reasons to combine the teachings of Smrha, Henson, Barnes, and Wagner, the Petition states:

In view of the described combination of Smrha, Henson, and Barnes having modules that can slide and translate, it would have been obvious at the time of the alleged invention of the ‘938 Patent to modify the combination of Smrha, Henson, and Barnes with Wagner to include locking features to lock the translatable modules (e.g. cassettes) and trays in place to prevent accidental

translation of these translatable modules and trays. (Ex. 1003 [DeCusatis Declaration], ¶198).

Pet. 63. Based on this showing, we find there existed a motivation to combine the relevant teachings of Smrha, Henson, Barnes, and Wagner, namely the prevention of accidental translation of the modules and trays.

For the reasons stated in the Petition and as further explained above in connection with claim 1, Petitioner has established, by a preponderance of the evidence, that claims 20 and 21 would have been obvious over Smrha, Henson, Barnes, and Wagner.

III. CONCLUSION

For the foregoing reasons, we conclude Petitioner has established, by a preponderance of the evidence, that: (1) claims 1, 2, 4, 5, and 9–18 would have been obvious in view of Smrha and Henson; (2) claims 3 and 8 would have been obvious in view of Smrha, Henson, and Wagner; (3) claims 6 and 7 would have been obvious in view of Smrha, Henson, and Niazi; (4) claim 19 would have been obvious in view of Smrha, Henson, and Barnes; and (5) claims 20 and 21 would have been obvious in view of Smrha, Henson, Barnes, and Wagner.

IV. ORDER

Accordingly, it is:

ORDERED that claims 1–21 of U.S. Patent No. 8,148,938 B2 are held to be unpatentable.

Because this is a final written decision, parties to this proceeding seeking judicial review of our decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

IPR2016-01709
Patent 8,148,938 B2

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