

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WENDT CORPORATION,
Petitioner,

v.

IQASR, LLC,
Patent Owner.

Case IPR2017-01080
Patent No. 9,132,432 B2

Before BEVERLY M. BUNTING, KEVIN W. CHERRY, and
RICHARD H. MARSCHALL, *Administrative Patent Judges*.

MARSCHALL, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Wendt Corporation (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1–15, 18–20, and 22 (“the challenged claims”) of U.S. Patent 9,132,432 B2 (Ex. 1001, “the ’432 patent”). Paper 1 (“Pet.”). IQASR, LLC (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”).

We review the Petition under 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” Upon consideration of the Petition and the Preliminary Response, we determine that Petitioner has failed to demonstrate a reasonable likelihood that it would prevail in showing the unpatentability of any of the challenged claims. Accordingly, we decline to institute an *inter partes* review.

A. *Related Proceedings*

The parties identified the following proceeding involving the ’432 patent: *IQASR, LLC v. Wendt, Corp.*, No. 1:16-cv-01782-MSK-KMT (D. Colo.). Pet. 54; Paper 5.

B. *The ’432 Patent (Ex. 1001)*

The ’432 patent discloses a method used to increase recyclable material recovery from automobile shredder residue. Ex. 1001, Abstract. When recycling cars, the cars are first stripped of reusable parts and then crushed into smaller pieces by an automobile shredder. *Id.* at 1:33–36. Metal chunks are then removed by a powerful magnet, leaving behind

“automobile shredder residue.” *Id.* at 1:37–38, 42–45, 4:24–29. According to the ’432 patent, automobile shredder residue includes recyclable metal and plastic as well as trash and “magnetic fuzz.” *Id.* at 1:48–50. The ’432 patent describes magnetic fuzz as “difficult to substantially identify” and may be “[d]isassociated magnetically active microparticles.” *Id.* at 6:27–29. According to the ’432 patent, “[o]ne of the biggest problems in automobile shredder residue sorting systems may be the magnetic fuzz.” *Id.* at 6:52–53. The ’432 patent discloses methods of removing the magnetic fuzz in a “non-ferrous recovery system” that employs wind tunnels and cyclones. *Id.* at 6:53–65, 7:28–33.

Figure 1 of the ’432 patent is reproduced below.

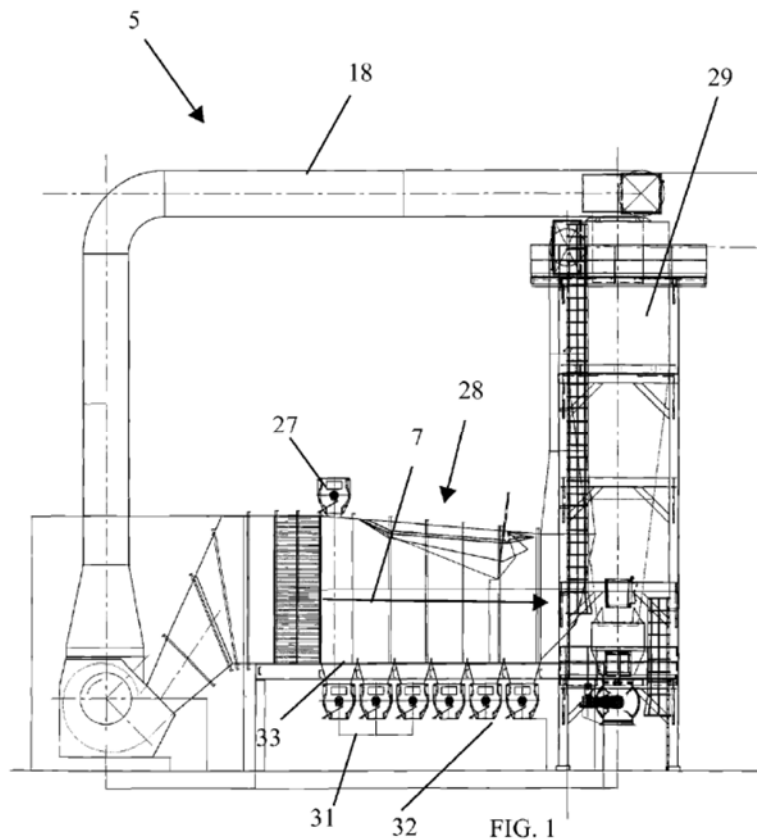


Figure 1 depicts sorting system 5 having air locks 27, wind tunnel 28, and cyclone 29. *Id.* at 15:52–60, 16:2–10. Horizontally flowing air 7 flows left to right in wind tunnel 28, depositing lighter materials 32, such as magnetic fuzz, in containers below the wind tunnel. *Id.* at 5:1–4, 14:5–9, 14:30–32, Fig. 1.

C. Illustrative Claim

Petitioner challenges claims 1–15, 18–20, and 22 of the '432 patent.

Claim 1 is the only independent claim and is reproduced below.

1. A method of separation of automobile shredder residue comprising the steps of:

providing automobile shredder residue as a result from a ferrous sorting recovery system;

introducing said automobile shredder residue into an automobile shredder residue sorting, non-ferrous recovery system;

non-magnetically sorting magnetic fuzz from said automobile shredder residue with said automobile shredder residue sorting, non-ferrous recovery system;

wherein said sorted magnetic fuzz is substantially free of recyclable materials.

Ex. 1001, 23:7–18.

D. The Asserted Grounds of Unpatentability

Petitioner challenges the patentability of claims 1–15, 18–20, and 22 of the '432 patent on the following grounds. Pet. 12.

References	Basis	Claim(s) Challenged
Jody ¹	§ 102	1–8, 10–14, 18, 19, and 22
Jody and 1998 Handbook ²	§ 103	1–15, 18–20, and 22

Petitioner also relies on the Declaration of Fred Smith (Ex. 1004).

II. ANALYSIS

A. Claim Construction

In an *inter partes* review, claim terms in an unexpired patent are interpreted according to their broadest reasonable constructions in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.100(b); *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 construction standard, claim terms are presumed to have their ordinary and customary meaning, as would be understood by one of ordinary skill in the art³ in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

¹ U.S. Patent No. 6,329,436 B1, filed Nov. 5, 1992, issued Dec. 11, 2001 (Ex. 1002) (“Jody”).

² Alfred A. Nijkerk and Wijnand L. Dalmijn, *Handbook of Recycling Techniques* (4th printing, March 1998) (Ex. 1003, Ex. A) (“1998 Handbook”).

³ Petitioner proposes that a person ordinary skill in the art “would have a bachelor’s degree in mechanical engineering or similar training and would have at least five years of familiarity with the methods, processes, and machines used to recover recyclable material from a heterogeneous material stream.” Pet. 46. For purposes of this Decision, we adopt Petitioner’s proposed level of ordinary skill in the art.

Petitioner asserts that the terms “ferrous sorting recovery system,” “automobile shredder residue,” “sorting, non-ferrous recovery system,” “magnetic fuzz,” “selected magnetic fuzz,” “substantially free,” “recyclable materials,” and “air-locked automobile shredder residue sorting, non-ferrous recovery system” require construction. Pet. 12–35. In turn, Patent Owner proposes its own construction for those same terms. Prelim. Resp. 3–24. Having considered the evidence presented, we determine that we need only address the meaning of “magnetic fuzz” for purposes of this Decision. See *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999) (“[O]nly those terms need be construed that are in controversy, and only to the extent necessary to resolve the controversy.”).

Petitioner argues that “magnetic fuzz” is indefinite because it is a coined term, and as used in the ’432 patent, “has no plain and ordinary meaning to a POSITA as of October 15, 2011.” Pet. 16. According to Petitioner, the specification uses the term often but inconsistently, and the prosecution history fails to define the term. *Id.* at 17–28. In the alternative, Petitioner suggests that “magnetic fuzz” be construed to mean “at least some ferrous metal entangled with fine, light fibers or particles.” *Id.* at 31. Patent Owner counters that based on the specification of the ’432 patent, one of skill in the art would understand “magnetic fuzz,” to be defined as “a set of magnetically active disassociated microparticles” (*id.* at 6 (citing Ex. 2001 ¶ 25)) and “the fact that these kinds of particles may be difficult to substantially identify does not render the term ‘magnetic fuzz’ indefinite or suggest that POSITAs do not understand what this term means” (*id.* at 7 (citing Ex. 2001 ¶ 27)).

Based on the present record, and for purposes of this Decision, we adopt Petitioner’s proposed construction of the term “magnetic fuzz.” Namely, “at least some ferrous metal entangled with fine, light fibers or particles.”

As to Petitioner’s ancillary argument that the term “magnetic fuzz” is indefinite, the parties acknowledge that we cannot institute on grounds of indefiniteness under 35 U.S.C. § 112. Nonetheless, Petitioner suggests that we “issue an order” finding “all claims indefinite,” and deny institution on that basis (Pet. 31), whereas Patent Owner suggests that if we “consider one or more of the claims arguably indefinite,” we should still institute so that Patent owner can file a motion to amend to address the issue (Prelim. Resp. 4–5). Neither approach, however, is found in the statute. *See* 35 U.S.C. § 311 (limiting grounds in petition to 35 U.S.C. §§ 102, 103); 35 U.S.C. § 314 (authorizing institution based on “information presented in the petition”). In some situations, we may not need to address or attempt to construe a disputed limitation that is alleged to be indefinite. For example, when the record lacks support for institution regardless of the definiteness of the disputed limitation, using Petitioner’s proposed construction, we can deny institution without further addressing the limitation alleged to be indefinite. This is such a case.⁴

⁴ We express no opinion as to the definiteness of the claim term “magnetic fuzz” and our decision should not be interpreted as any determination regarding definiteness.

B. Anticipation by Jody

Petitioner contends that claims 1–8, 10–14, 18, 19, and 22 are anticipated by Jody. Pet. 35–44. Patent Owner contends that Jody fails to disclose several limitations, and therefore cannot anticipate any of the challenged claims. Prelim. Resp. 26–45. We have reviewed the provided arguments and supporting evidence, and are not persuaded that Petitioner has demonstrated a reasonable likelihood of prevailing on its assertion that claims 1–8, 10–14, 18, 19, and 22 are anticipated by Jody. We begin our analysis with a brief summary of Jody, and then address the parties’ contentions in turn.

1. Overview of Jody

Jody discloses a process for recycling shredder residue. Ex. 1002, Abstract. First, Jody discloses processing the shredder residue through mechanical and physical separator 15. *Id.* at 3:30–33. Separator 15 produces three “streams”—polyurethane foam (“PUF”) stream 40, fines stream 45, and plastics-rich stream 35. *Id.* at 3:33–36. Next, Jody discloses feeding plastics-rich stream 35 from separator 15 to a plastic extraction system 50. *Id.* at 3:35–36, 4:42–43, Fig. 3. Jody discloses sequentially treating plastics-rich stream 35 in plastic extraction system 50 with a series of solvents to extract three separate streams of recyclable plastics—ABS, PVC, and a combination of polypropylene and polyethylene. *Id.* at 3:37–40, 4:41–42, 6:11–17. The material remaining after treatment with the solvents “can be formulated into a pelletizable fuel,” and then burned. *Id.* at 3:40–43.

2. Discussion

To establish anticipation under 35 U.S.C. § 102, “all of the elements and limitations of the claim must be shown in a single prior reference, arranged as in the claim.” *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383 (Fed. Cir. 2001). “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987). Moreover, the reference must “enable one of ordinary skill in the art to make the invention without undue experimentation.” *Impax Labs., Inc. v. Aventis Pharms. Inc.*, 545 F.3d 1312, 1314 (Fed. Cir. 2008); see *In re LeGrice*, 301 F.2d 929, 940–44 (CCPA 1962).

Petitioner argues that each of the limitations of 1–8, 10–14, 18, 19, and 22 are disclosed by Jody. Pet. 39–45. To support its arguments, Petitioner identifies the relevant passages in the cited references that purportedly meet the corresponding claim limitation, and explains the significance of each passage with respect to the corresponding claim limitation. *Id.* For example, Petitioner argues that the description in Jody regarding the removal of “ferrous scrap” from the material stream exiting an auto shredder discloses the method of separating automobile shredder residue resulting from a ferrous sorting recovery system recited in claim 1. *Id.* at 39–40 (citing Ex. 1002 1:10–21)).

a. “sorting magnetic fuzz from said automobile shredder residue”

Claim 1 also recites “non-magnetically sorting magnetic fuzz from said automobile shredder residue with said automobile shredder residue sorting, non-ferrous recovery system.” Ex. 1001, 23:14–16. Petitioner contends that Jody discloses “sorting input ASR . . . into PUF, fines and a plastic-rich stream, and then sorting the plastic-rich stream into pellets, ABS, PVC, and PP.” *Id.* at 40 (citing Ex. 1002, 3:30–7:49, Fig. 1). Relying on the testimony of Mr. Smith and its proposed definition of “magnetic fuzz,” Petitioner argues that the “magnetic fuzz” “would be part of the plastic-rich stream and initially would be sorted from the PUF, fines, etc. by Jody’s air-classifier, first column (16).” *Id.* at 40–41 (citing Ex. 1004 ¶ 69). Petitioner also contends that the material would be passed to reactor 51 for recovery of plastics, and that both Jody’s air classifier and plastic recovery system are non-ferrous recovery systems because they do not use magnetic sorting. *Id.* at 41 (citing Ex. 1002, 4:1–7:23; Ex. 1004 ¶ 69).

Patent Owner argues that Jody does not disclose sorting magnetic fuzz because it never mentions magnetic fuzz and Petitioner fails to identify any specific material in Jody that corresponds to magnetic fuzz, even using Petitioner’s construction of the limitation. Prelim. Resp. 30–31. Patent Owner also contends that Petitioner fails to establish that Jody inherently discloses sorting magnetic fuzz because Petitioner fails to establish that magnetic fuzz would necessarily be found entirely within one of the materials that Jody sorts. *Id.* at 31–33 (citing Ex. 2001 ¶¶ 60–62). According to Patent Owner, even if magnetic fuzz were present in Jody’s

shredder residue, it is not necessary to Jody's process that the magnetic fuzz be sorted, and it is nothing more than a possibility that it is sorted as incidental to Jody's processes. *Id.* at 32–33 (citing Ex. 2001 ¶ 62).

The Petition includes several sentences of analysis in its claim chart setting forth its argument with respect to this limitation. *See* Pet. 40–41. The Petition cites to Jody twice, with both citations including several columns of text. *See id.* (citing Ex. 1002, Fig. 1, 3:30–7:49, 4:1–7:23). Petitioner does not assert, nor can we find in the cited passages, that Jody expressly discloses magnetic fuzz or any other material that could fall within Petitioner's proposed construction. *See id.* Petitioner offers no alternative analysis based on other possible constructions, and we decline to pick through this large portion of the Jody reference to attempt to find anything that could resemble “magnetic fuzz” under some alternative construction.

The Petition also lacks an explicit inherency analysis. As Petitioner acknowledges in its legal background, inherent disclosure “necessarily describes” the unstated limitation. Pet. 35 (citing *Transclean Corp. v. Bridgewood Servs., Inc.*, 290 F.3d 1364, 1373 (Fed. Cir. 2002)). Even if Petitioner established that magnetic fuzz is likely present and sorted using Jody's process, that does not establish inherency. *See Bettcher Indus., Inc. v. Bunzl USA, Inc.*, 661 F.3d 629, 639 (Fed. Cir. 2011) (“The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” (citation omitted)). To the extent that Petitioner's argument that magnetic fuzz “*would be* part of the plastic-rich stream and initially *would be* sorted from the PUF, fines, etc.,” amounts to an inherency argument, it lacks adequate support. Pet. 40–41 (citing Ex. 1004 ¶ 69) (emphasis added).

Petitioner's assertion fails to address why magnetic fuzz would be present in Jody's automobile shredder residue in the first place, much less that Jody's process necessarily must sort that magnetic fuzz. Given Jody's failure to disclose magnetic fuzz expressly, Petitioner needed to do more than merely assume that magnetic fuzz is present and assert that magnetic fuzz "would be" sorted, without explaining why this must be the case.

The Petition also cites Petitioner's expert declaration for support. See Pet. 40–41 (citing Ex. 1004 ¶ 69). That paragraph contains additional assertions that Jody's screen sizes would produce sorted material that "normally" includes more than 10% magnetic fuzz. Ex. 1004 ¶ 69 (citing '432 patent, 12:9–13). This additional theory fails to persuade us that Jody discloses the limitation because (1) the Petition does not include this theory, (2) the analysis fails to establish that Jody inherently discloses the presence of magnetic fuzz, and (3) whether magnetic fuzz is "normally" present in certain circumstances does not establish that magnetic fuzz is necessarily present and sorted in Jody.

Based on the arguments and evidence of record, Petitioner does not demonstrate that Jody discloses the "non-magnetically sorting magnetic fuzz from said automobile shredder residue with said automobile shredder residue sorting, non-ferrous recovery system" limitation.

b. "sorted magnetic fuzz . . . substantially free of recyclable materials"

With respect to the limitation requiring "sorted magnetic fuzz . . . substantially free of recyclable materials" ("the substantially free limitation"), Ex. 1001, 23:17–18, Petitioner argues that if "substantially

free” means that the sorted magnetic fuzz contains “less than 10% recyclable materials, by volume, it is literally disclosed by Jody.” *Pet.* at 41 (citing Ex. 1004 ¶ 70). Petitioner contends that Jody discloses that any magnetic fuzz included within automatic shredder residue “is initially included in the plastic-rich stream (35), from which Jody says ‘over’ 90% of the recyclable plastics are recovered.” *Id.* (citing Ex. 1002, 6:1–16). Again relying on the testimony of Mr. Smith, Petitioner concludes that Jody’s sorted magnetic fuzz “would be comprised of less than 10% recyclable material.” *Id.* (citing Ex. 1004 ¶ 71).

Patent Owner argues that the passage from Jody that Petitioner cites for support does not establish that any sorted magnetic fuzz contains less than 10% recyclable material. *Id.* at 34–35 (quoting Ex. 1002, 6:11–17). According to Patent Owner, Jody fails to provide enough information to perform the required volume calculation. *Id.* at 35–36.

We agree with Patent Owner that Petitioner’s arguments and evidence do not demonstrate sufficiently that Jody discloses “sorted magnetic fuzz . . . substantially free of recyclable materials.” Here, Petitioner does not rely on inherency and instead argues that Jody “literally” discloses the limitation. *Pet.* 41. Even assuming that Jody inherently discloses the presence of magnetic fuzz as well as sorting that fuzz from the shredder residue, Petitioner’s arguments and evidence do not establish that Jody discloses the “substantially free” limitation. Petitioner’s only citation to Jody relies on the statement that Jody’s process “recover[s] separate streams which are over 90% ABS, PVC and a combination of polypropylene and polyethylene.” Ex. 1002, 6:11–13; *Pet.* 41 (citing Ex. 1002, 6:11–16). Petitioner alleges

that this passage indicates that Jody discloses sorted magnetic fuzz comprised of less than 10% recyclable material by volume. Pet. 41 (citing Ex. 1004 ¶ 71). Our review of this passage reveals that it only addresses the content of the “streams” of recyclable plastics, not the remaining material formed into fuel pellets that allegedly contains magnetic fuzz. See Ex. 1002, 6:11–16. As Patent Owner correctly points out, in order to determine whether Jody discloses the required volume of 10% or less of recyclable materials, one would need to know the volume of magnetic fuzz and recyclable materials remaining after the plastics are extracted by Jody’s process. See Prelim. Resp. 35–39 (citing Ex. 2001 ¶¶ 67–72). The Petition and cited portion of Jody do not provide this information, and the expert analysis relies on the same flawed interpretation of Jody. See Pet. 41; Ex. 1002, 6:11–16; Ex. 1004 ¶ 70.

Based on the arguments and evidence of record, Petitioner does not demonstrate that Jody discloses the “substantially free” limitation.

Based on the foregoing, we are not persuaded by Petitioner’s arguments and evidence that Jody discloses all of the limitations of claim 1. We therefore decline to institute as to claim 1 because Petitioner has not established a reasonable likelihood of prevailing based on its assertion that Jody anticipates claim 1. Claims 2–8, 10–14, 18, 19, and 22 all depend directly or indirectly from claim 1 and recite additional limitations. By virtue of their dependency from claim 1, Petitioner likewise has not demonstrated a reasonable likelihood that it will prevail on its assertion that claims 2–8, 10–14, 18, 19, and 22 are anticipated by Jody, and we therefore do not institute as to claims 2–8, 10–14, 18, 19, and 22 for the same reasons.

C. Obviousness Based on Jody and 1998 Handbook

Petitioner contends that claims 1–15, 18–20, and 22 are unpatentable under 35 U.S.C. § 103 based on a combination of Jody and the 1998 Handbook. Pet. 45–53. Patent Owner contends that the proposed combination fails to disclose several limitations in the challenged claims. Prelim. Resp. 47–62.

We have reviewed the provided arguments and supporting evidence, and are not persuaded that Petitioner has demonstrated a reasonable likelihood of prevailing on its assertion that claims 1–15, 18–20, and 22 are obvious based on Jody and the 1998 Handbook. We begin our analysis with a brief summary of the 1998 Handbook, and then address the parties’ contentions in turn.

1. Overview of the 1998 Handbook (Ex. 1003, Ex. A)

The 1998 Handbook discloses a number of recycling techniques applicable to a wide variety of industries, including recycling from automobile shredders. Ex. 1003, Ex. A, 10, 95.⁵ The 1998 Handbook includes a description of the automobile shredder process, including the processing of “shredder fluff.” *Id.* at 99–108. The 1998 Handbook describes a number of “dry separation systems,” including the use of cyclones and air classifiers. *Id.* at 182–184.

2. Discussion

A 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

⁵ The 1998 Handbook is attached to the Declaration of William Close as Exhibit A. Page citations refer to the pagination used in the 1998 Handbook.

matter as a whole would have been obvious at the time the invention was made to a person of ordinary skill in the art. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The legal 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 skill in the art; and (4) objective evidence of nonobviousness, i.e., secondary considerations. See *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

Petitioner contends that even if Jody does not disclose the limitations requiring sorting magnetic fuzz and rendering it substantially free of recyclable materials, “Jody in view of the 1998 Handbook” would still render claim 1 obvious. Pet. 48–49. Petitioner argues that one of skill in the art “has many ‘tools’ at her disposal to non-magnetically separate into various fractions all materials typically found in ASR” and “could easily assemble these known sorting devices into a system that separates from ASR whatever ‘magnetic fuzz’ is ultimately construed to mean.” *Id.* at 48 (citing Ex. 1004 ¶ 95). Petitioner then argues that one of ordinary skill in the art would expect success in efforts to remove magnetic fuzz because the 1998 Handbook “specifically identifie[s] how available equipment operates, which equipment is best at sorting what materials, and even how to ‘tune’ the various equipment to enhance purity of the to-be-separated fractions.” *Id.* (citing Ex. 1003, Ex. A, 79–131, 161–209). With regard to the “substantially free” limitation, Petitioner similarly contends that one of ordinary skill in the art “could construct a . . . system to efficiently separate virtually any material fractions into desired components and could increase

the purity of the to-be-separated fractions by adjusting known parameters.” *Id.* at 49 (citing Ex. 1004 ¶ 96).

Patent Owner argues that Petitioner’s general allegations coupled with non-specific citations to the 1998 Handbook fail to establish that the magnetic fuzz limitations would have been obvious. Prelim. Resp. 50–51. Patent Owner further contends that the cited expert declaration fails to remedy these deficiencies by pointing to portions of the 1998 Handbook that disclose the relevant limitations. *Id.* at 51–52. According to Patent Owner, the Petition also fails to explain how teachings from the 1998 Handbook would be combined with Jody, and argues that Petitioner’s approach amounts to “a quintessential case of impermissible hindsight reasoning.” *Id.* at 52–53; *see also id.* at 53 (arguing that Petitioner’s analysis of the “substantially free” limitation suffers from the same defects).

As noted above, Petitioner has not established that Jody discloses magnetic fuzz or the specific limitations in claim 1 requiring sorting magnetic fuzz, where the fuzz “is substantially free of recyclable materials.” Petitioner begins its obviousness analysis of these limitations with the premise that Jody may not disclose these limitations, but Petitioner does not then argue that the 1998 Handbook discloses, expressly or inherently, magnetic fuzz or the specific requirements of these limitations. Pet. 48–49. Instead, Petitioner, without citing Jody or the 1998 Handbook, argues that one “could” sort magnetic fuzz and “could increase purity” of the separated material to meet the “substantially free” limitation. *Id.* Petitioner’s only reference to the 1998 Handbook is a citation to 100 pages of the reference, without any more specific citations in support of the argument that the 1998

Handbook identifies how best to sort shredder residue and tune equipment to enhance purity. *Id.* at 48 (citing Ex. 1003, Ex. A, 79–131, 161–209).

Petitioner cites to its expert’s declaration, which provides more specific allegations by pointing to the “horizontal separator” the 1998 Handbook discloses. *See* Ex. 1004 ¶ 95. By not articulating sufficiently the relevance of the quoted passages to each of the claim limitations in each of the challenged claims, Petitioner is inviting us to assume the role of archeologist of the record, which we decline.

Importantly, neither the Petition nor the cited expert declaration addresses how the general teachings of the 1998 Handbook are combined with Jody to disclose a process that sorts magnetic fuzz. *See* Pet. 48–49 (citing Ex. 1004 ¶¶ 95–96). This omission fatally undermines Petitioner’s obviousness argument when the argument presumes that Jody does not disclose the magnetic fuzz limitations and Petitioner does not argue explicitly that the limitations are expressly or inherently disclosed by the 1998 Handbook.

Moreover, neither the Petition nor the cited expert declaration explains why one of ordinary skill in the art would have been motivated to modify Jody, based on the general teachings of the 1998 Handbook, to sort magnetic fuzz, rendering it substantially free of recyclable materials, when neither reference mentions the substance or any problems with its presence in the system. Based on the arguments and evidence presented, it appears, as Patent Owner contends, that Petitioner’s obviousness analysis rests on classic hindsight.

To the extent that the 1998 Handbook contains relevant teachings, Petitioner's broad citation to 100 pages of text does not reasonably apprise us of those teachings. *See* Pet. 48. We are not obligated to comb the record in search of support for Petitioner's arguments. 37 C.F.R. § 42.104(b) (requiring petitions to identify "the relevance of the evidence to the challenge raised, including identifying specific portions of the evidence that support the challenge"). Petitioner bears that burden, and we may give no weight to inadequately cited evidence. *See id.* ("The Board may exclude or give no weight to the evidence where a party has failed to state its relevance or to identify specific portions of the evidence that support the challenge.").

Based on the foregoing, we are not persuaded by Petitioner's argument and evidence that claim 1 would have been obvious based on Jody and the 1998 Handbook. Accordingly, we therefore decline to institute as to claim 1. By virtue of their dependency from claim 1, Petitioner likewise has not demonstrated a reasonable likelihood that it will prevail on its assertion that claims 2–15, 18–20, and 22 are obvious based on Jody and the 1998 Handbook, and we therefore do not institute as to claims 2–15, 18–20, and 22.

III. CONCLUSION

For the foregoing reasons, we determine that the information presented in the Petition does not establish that there is a reasonable likelihood that Petitioner would prevail in any of its challenges to claims 1–15, 18–20, and 22 of the '432 patent.

IV. ORDER

In consideration of the foregoing, it is hereby:

Ordered that the Petition is *denied* and no trial is instituted.

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