

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LENOVO (UNITED STATES) INC.,
Petitioner,

v.

LITL LLC,
Patent Owner.

IPR2021-00800
Patent 10,289,154 B2

Before KRISTINA M. KALAN, CHRISTOPHER M. KAISER,
and BRIAN D. RANGE, *Administrative Patent Judges*.

KAISER, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

INTRODUCTION

A. Background

Lenovo (United States) Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting an *inter partes* review of claims 1–20 of U.S. Patent No. 10,289,154 B2 (Ex. 1001, “the ’154 patent”). LiTL LLC (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”).

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314(b); 37 C.F.R. § 42.4(a) (2020). The standard for instituting an *inter partes* review is set forth in 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.”

After considering the Petition, the Preliminary Response, and the evidence of record, we determine that Petitioner has not demonstrated a reasonable likelihood that it would prevail with respect to at least one challenged claim. Accordingly, we do not institute an *inter partes* review of any challenged claim on any asserted ground.

B. Related Matters

The parties identify *LiTL LLC v. Lenovo (United States), Inc.*, No. 1:20-cv-00689 (D. Del.), as a matter related to the present proceeding. Pet. 2; Paper 5, 1. Patent Owner also notes that there are several related *inter partes* review proceedings: IPR2021-00681, IPR2021-00786, IPR2021-00821, and IPR2021-00822. Paper 5, 2.

C. The Asserted Grounds of Unpatentability

Petitioner contends that claims 1–20 of the ’154 patent are unpatentable based on the following grounds (Pet. 39–97):¹

Claims Challenged	35 U.S.C. § ²	References/Basis
1–8	103	Shimura, ³ Tsuji, ⁴ Tonouchi ⁵
9, 10	103	Shimura, Tsuji, Tonouchi, Pogue ⁶
11–16, 20	103	Shimura, Tsuji, Tonouchi, Ryuuzaki ⁷
17–19	103	Shimura, Tsuji, Tonouchi, Ryuuzaki, Kawai, ⁸ Pogue

D. The ’154 Patent

The ’154 patent, titled “Portable Computer with Multiple Display Configurations,” issued on May 14, 2019. Ex. 1001, codes (45), (54). The

¹ Petitioner also relies on a declaration from Jean Renard Ward. Ex. 1011.

² The earliest priority date claimed by the ’154 patent is April 1, 2008. Ex. 1001, codes (22), (60), (63). Because Patent Owner does not challenge the effective filing date of the application leading to the ’154 patent on the present record, we presume that the ’154 patent has an effective filing date before March 16, 2013. Accordingly, patentability is governed by the versions of 35 U.S.C. §§ 102 and 103 that were in force before they were amended by the Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112–29, 125 Stat. 284 (2011).

³ JP 1994-242853 A, published September 2, 1994 (Ex. 1003) (certified English translation provided as Ex. 1004).

⁴ US 2005/0062715 A1, published Mar. 24, 2005 (Ex. 1005).

⁵ US 2005/0122318 A1, published June 9, 2005 (Ex. 1006).

⁶ DAVID POGUE, WINDOWS XP HOME EDITION: THE MISSING MANUAL (2d ed. Dec. 2004) (Ex. 1007).

⁷ US 6,449,146 B1, issued Sept. 10, 2002 (Ex. 1008).

⁸ JP 2005-168036 A, published June 23, 2005 (Ex. 1009) (certified English translation provided as Ex. 1010).

patent relates to a “portable computer that is configurable between a plurality of display modes.” *Id.* at code (57). According to the ’154 patent, “[c]onventional portable computers most commonly have a ‘clam-shell’ configuration, with a base including the keyboard, various ports, connectors and/or inputs . . . and a display component pivotably coupled to the base by a hinge.” *Id.* at 1:45–52. Conventional computers sometimes “operat[e] in ‘tablet mode,’” and the ’154 patent also describes existing computers that were “capable of operating either as a normal laptop computer receiving user input via a keyboard (‘laptop mode’), or as a tablet computer receiving user input via a touch screen.” *Id.* at 1:56–65. In this latter case, “the display component of the computer is attached to the base of the computer by hinges that allow the display to be tilted relative to the base (for laptop mode), and to be rotated and folded against the base to configure the computer into tablet mode.” *Id.* at 1:65–2:3.

The ’154 patent builds on these configurations, describing “a portable computer” that “is configurable between various modes, including a closed mode, a laptop mode, an easel mode, a flat mode, and a frame mode.” *Id.* at 2:44–47. Each of these modes is depicted in a figure of the ’154 patent. *Id.* at 5:1–6:6. Figure 1, reproduced below, shows the laptop mode.

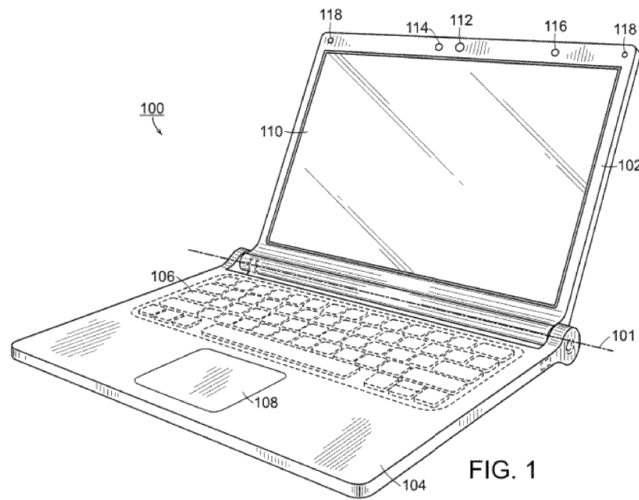


Figure 1 depicts the portable computer of the '154 patent in laptop mode. *Id.* at 6:61–64. Display component 102 is “inclined at a viewing angle from the base 104.” *Id.* at 6:64–65.

Figure 2, reproduced below, shows the closed mode.

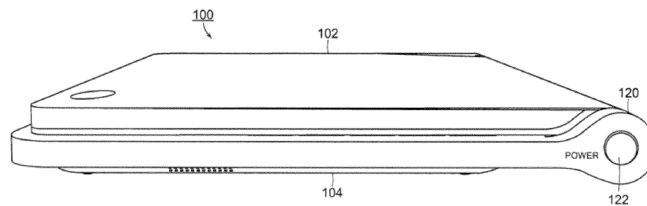


Figure 2 depicts the portable computer of the '154 patent in closed mode. *Id.* at 7:33–34. The angle between display component 102 and base 104 is zero, and “the display screen is disposed ‘face down’ against the keyboard of the base 104.” *Id.* at 7:35–38.

Figure 4, reproduced below, shows the easel mode.

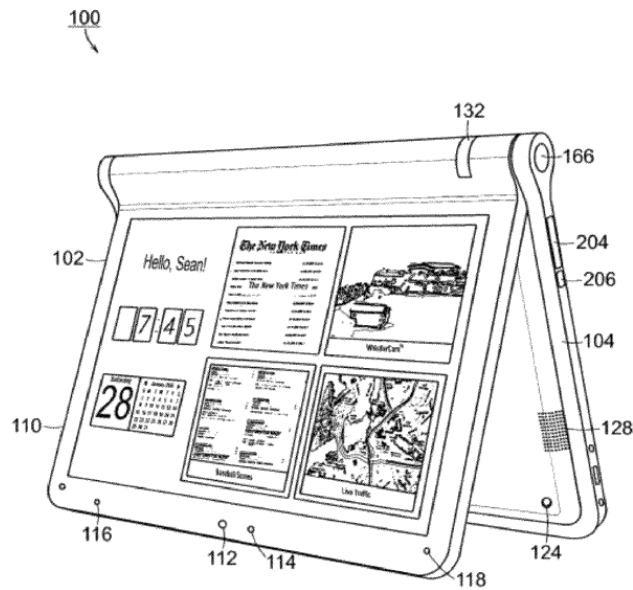


FIG. 4

Figure 4 depicts the portable computer of the '154 patent in the easel mode. *Id.* at 8:18–19. “[B]ase 104 and the display component 102 form an inverted ‘V’ shape with the bottom of the base and the back of the display component fac[ing one] another.” *Id.* at 8:19–28.

Figure 26, reproduced below, shows the frame mode.

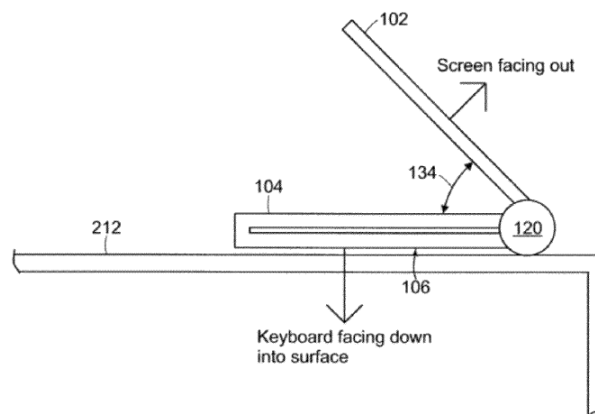


FIG. 26

Figure 26 depicts the portable computer of the '154 patent in the frame mode. *Id.* at 16:58–60. In this mode, display component 102 and base 104

are separated by a similar angle 134 as in the easel mode, but “the portable computer is placed on a surface 212 with the keyboard 106 ‘face down’ . . . and the display 110 facing upward,” rather than being placed in the “inverted ‘V’” of the easel mode. *Id.* at 16:60–17:4.

Figure 27, reproduced below, shows the flat mode.

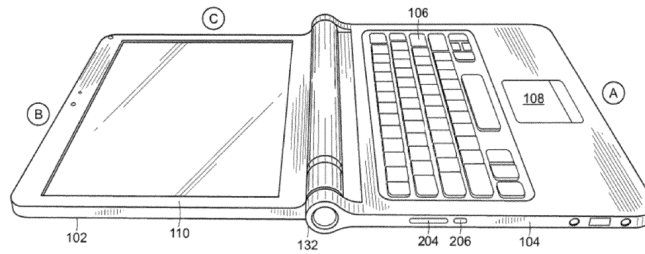


FIG. 27

Figure 27 depicts the portable computer of the '154 patent in the flat mode. *Id.* at 17:9–11. Display component 102 and base 104 are “rotated (or opened) to approximately 180 degrees with respect to” one another, “such that the base component and display component lay flat on a surface, with the keyboard 106 and display screen 110 exposed.” *Id.* at 17:11–16.

In some of these display modes, the '154 patent describes rotating the information displayed on display screen 110 “such that the information appears ‘right-way-up,’ even though the display screen is upside-down compared to when the portable computer is in the laptop mode.” *Id.* at 8:44–49. The portable computer may “include[] an orientation (or mode) sensor that is configured to detect whether the portable computer is in the laptop mode or the easel mode, and to adjust the display accordingly.” *Id.* at 8:54–58. In addition, in some modes, the portable computer of the '154 patent may be configured to permit a user to rotate the information displayed manually by 90 or 180 degrees. *Id.* at 17:19–43.

E. Illustrative Claim

Claims 1–20 of the '154 patent are challenged. Claims 1, 11, and 20 are independent, and claim 1 is illustrative; it recites:

1. A portable computer configurable between a plurality of display modes comprising a first mode and a second mode, the portable computer comprising:
 - a display component comprising a display screen;
 - a base comprising a keyboard and a touchpad;
 - hinge assembly that rotatably couples the base to the display component, the hinge assembly being configured to permit the display component to rotate relative to the base up to at least 270 degrees from a closed position where the display screen faces the keyboard;
 - an orientation sensor configured to generate orientation information indicative of an orientation of at least part of the portable computer; and
 - a display manager configured to detect a current display mode from among the plurality of display modes based at least in part on the orientation information and enlarge at least some computer content displayed on the display screen when the current display mode transitions from the first mode to the second mode;
- wherein the display component is in a first position relative to the base in the first mode; and
- wherein the display component is in a second position relative to the base that is different from the first position in the second mode.

Ex. 1001, 18:2–24.

ANALYSIS

A. Procedural Defects

A petition for *inter partes* review must “identif[y], in writing and with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim.” 35 U.S.C. § 312(a)(3). According to 37 C.F.R. § 42.104(b)(4), a petition for *inter partes* review “must identify how the construed claim is unpatentable under the statutory grounds on which the petitioner challenges the claims, and must specify where each element of the claim is found in the prior art patents or printed publications relied upon.” Rule 42.104(b)(5) adds that the Petition must “identify[] specific portions of the evidence that support the challenge.” Similarly, Rule 42.22(a)(2) states that each petition must include “[a] full statement of the reasons for the relief requested, including a detailed explanation of the significance of the evidence including material facts, and the governing law, rules, and precedent.” The Patent Trial Practice Guide suggests that “parties should avoid submitting a repository of all the information that a judge could possibly consider, and instead focus on concise, well-organized, easy-to-follow arguments supported by readily identifiable evidence of record.” Patent Trial and Appeal Board Consolidated Trial Practice Guide, available at <https://www.uspto.gov/TrialPracticeGuideConsolidated> (Nov. 14, 2019), at 39. Patent Owner argues that the Petition fails to comply with each of these requirements with respect to each of the asserted grounds. Prelim. Resp. 10–29. For the reasons discussed below, we determine that the Petition fails to comply with our requirements.

1. The Petition Fails to Identify the Portions of the Challenged Claims Being Discussed, Creating a Lack of Clarity

The Petition is drafted in such a way as to make it effectively impossible to follow unless we ignore our rule against incorporation by reference. The arguments in the Petition rely extensively on abbreviations for the limitations of the '154 patent's claims, such as [1pre], [11e2], and [20f]. Pet. 39–97. There is no way to understand many of Petitioner's arguments without an understanding of the meaning of these abbreviations, *see, e.g., id.* at 83 (arguing that “[t]he Shimura-Tsuji combination discloses [11e2] and renders it obvious,” without defining what “[11e2]” means), and the Petition does not define them. *Id.* at 1–97. The Petition directs the reader instead to Exhibit 1013 for the definitions of these abbreviations. *Id.* at 14 (“EX-1013 is a claim listing that enumerates each claim element.”). But “[a]rguments must not be incorporated by reference from one document into another document.” 37 C.F.R. § 42.6(a)(3). Although the mere abbreviation of claim language does not violate our rules, Petitioner's failure to define its abbreviations within the Petition violates Rule 42.6(a)(3).

Even if we were to ignore our rule against incorporation by reference and refer to Exhibit 1013 to determine what each abbreviation means each time it appears in the Petition, we still would be unable to understand the Petitioner's arguments with respect to more than half of the challenged claims. Petitioner's claim listing divides claim 11 into twelve portions, each with an abbreviation. Ex. 1013, 2–3. But the Petition divides claim 11 into fourteen portions, including two portions whose abbreviations are undefined anywhere in the record that Petitioner directs us, even in Exhibit 1013. Pet. 77–84. We could perhaps overlook this discrepancy if the Petition itself were clear about the meaning of each abbreviation, but, as just discussed, it

is not. In the absence of such clarity, we are left to speculate, in violation of Rules 42.22(a) and 42.104(b), exactly what claim language makes up each of the limitations Petitioner argues the prior art teaches or suggests. This problem affects not just claim 11, but also claims 4 and 20. *Compare* Pet. 64–66 (discussing limitations [4a] and [4b]), *with* Ex. 1013, 2 (failing to define limitations [4a] or [4b]); *compare* Pet. 91 (discussing limitations [20e3] and [20e4]) *with*; Ex. 1013, 4–6 (failing to define limitations [20e3] or [20e4]). Because this problem prevents Petitioner from carrying its burden with respect to claims 4, 11, and 20, it also prevents Petitioner from carrying its burden with respect to any claims that depend from those claims. 37 C.F.R. § 1.75(c) (“Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim.”). Accordingly, we determine that Petitioner has not shown a reasonable likelihood of prevailing with respect to claims 4, 5, or 11–20. Ex. 1001, 18:43–44 (claim 5 depending from claim 4), 19:26–20:5 (claims 12–19 depending from claim 11).

2. *The Structure of the Petition Exacerbates the Lack of Clarity*

The Petition’s lack of clarity is compounded by the way Petitioner presents its unpatentability arguments. The Petition’s unpatentability analysis begins with a synopsis of each reference, describing what Petitioner contends the references relied upon in the Petition generally disclose. Pet. 23–39 (§§ VIII.A.1–VIII.A.7). These sections paraphrase the disclosure of the references, and they include figures that add annotations to the figures of the references, as well as some citations to the Ward Declaration, rendering these sections less a summary of the prior art than an opportunity

for Petitioner to annotate the art so that it becomes what Petitioner wants it to be. *Id.*

Next, each of the Petition's four asserted grounds begins with a section describing a hypothetical computer that a person of ordinary skill in the art allegedly would have arrived at by combining the teachings of the references asserted in that particular ground. *Id.* at 39–54, 70–72, 74–77, 92–94 (§§ VIII.B.1–VIII.B.2, VIII.C.1, VIII.D.1–VIII.D.2, VIII.E.1); *see also* Ex. 1014 (describing the hypothetical computers of each asserted ground).⁹ These sections rely heavily on the Ward Declaration, cite to multiple portions of the references in question, and contain further characterizations of the disclosure of the references, including figures with added annotations. Pet. 39–54, 70–72, 74–77, 92–94. They also rely on references back to earlier sections of the Petition. *Id.*

Finally, each asserted ground in the Petition presents a list of the limitations of the challenged claims with some discussion of how the prior art in question teaches or suggests those limitations. *Id.* at 54–70, 72–74, 77–92, 94–97 (§§ VIII.B.3–VIII.B.10, VIII.C.2–VIII.C.3, VIII.D.3–VIII.D.9, VIII.E.2–VIII.E.4). For support, these sections refer extensively back to, and rely extensively upon, the previously discussed sections of the Petition, which often refer back to and rely upon even earlier portions of the Petition, and so on. *Id.* Thus, Petitioner's unpatentability analysis relies on the description of a set of hypothetical computers relying, in part, on Petitioner's descriptions and characterizations of the teachings of the prior

⁹ To the extent Petitioner intends to rely on the content of Exhibit 1014 for a clear description of the hypothetical computers it uses in its arguments, that constitutes incorporation by reference in violation of 37 C.F.R. § 42.6(a)(3).

art. The result of all these layers of analysis and argument is that the final unpatentability analysis is two or three levels removed from the actual disclosure of the references. Petitioner’s approach completely blurs the line between the actual teachings of each asserted reference, Petitioner’s modifications to those teachings, and Petitioner’s characterizations of those teachings.

The Petition’s analysis of limitation [20e1] is a good example of the nested nature of the cross-references. In alleging that “[t]he Shimura-Tsuji combination discloses [20e1] and renders it obvious” and “[t]he Shimura-Tsuji Computer discloses the function and corresponding structure of the means-plus-function limitation ‘display manager’ recited in [20e1], or its equivalents,” the Petition cites to three earlier sections. Pet. 91 (citing Pet. §§ VI.B.1, VIII.B.3.f, VIII.D.9.a).

These three earlier sections cover pages 13–14,¹⁰ 60, 86, and 91¹¹ of the Petition, a span of five pages. In addition, some of the cited sections themselves cite other portions of the Petition. *Id.* at 60 (§ VIII.B.3.f, citing Pet. §§ VI.B.1, VIII.B.3.h), 86 (§ VIII.D.9.a (discussing [20pre]), citing Pet. §§ VI.A.1, VIII.B.3.a, VIII.B.6.a, VIII.B.6.b), 91 (§ VIII.D.9.a (discussing [20e2]), citing Pet. §§ VI.B.1, VIII.D.3.a; § VIII.D.9.a (discussing [20e3])),

¹⁰ As discussed more fully below, Petitioner cites to § VI.B.1, but § VI.B lacks further subdivision, so we treat this citation as referring to § VI.B. Pet. 12–13.

¹¹ As discussed more fully below, Petitioner cites to § VIII.D.9.a, but there are three separate portions of the Petition each labeled § VIII.D.9.a. Pet. 86 (discussing limitation [20pre]), 91 (separate sections discussing limitations [20e2] and [20e3]). We have no way of determining which of these sections Petitioner intended to cite, so we treat this citation as referring to all three sections.

citing Pet. §§ VI.B.1, VIII.D.3.b). All told, the material cited on page 91 of the Petition, together with the material cited in that cited material, covers fourteen sections of the Petition¹² spanning twenty pages,¹³ none of which expressly discusses the language of limitation [20e1] or how the prior art teaches or suggests that language. This approach of forcing the reader to follow a web of nested cross-references to find Petitioner's arguments improperly shifts the burden of deciphering Petitioner's arguments onto Patent Owner and the Board. *See Apple Inc. v. ContentGuard Holdings, Inc.*, IPR2015-00442, Paper 9 at 5–10 (PTAB July 13, 2015).

3. *The Petition's Internal Cross-References Often Are Nonexistent or Ambiguous*

As noted above, the Petition often cites to earlier portions of the Petition, and the portions cited sometimes do not exist at all and sometimes exist in multiple separate locations. Although we noted above a handful of occurrences of these problems, these are not isolated instances. *See supra* nn. 10–13. A citation to a nonexistent or ambiguous portion of the Petition occurs in the Petition's discussion of nearly every limitation of every challenged claim. In most cases, these citations are to nonexistent sections VI.A.1, VI.A.2, VI.B.1, or VI.B.2. Pet. 54, 56–67, 69, 74, 77–80, 82–87, 89–92, 96. Other nonexistent sections to which the Petition cites include sections V.A, V.D, V.E, VI.A.4, VI.A.5, VI.A.6, VI.C.1, VI.D.1, VI.D.2, and VI.E.1. *Id.* at 72–74, 78–79, 81, 84–85, 87–89, 92–97. The citation of

¹² As discussed more fully below, cited sections VIII.D.3.a and VIII.D.3.b are each present twice. Pet. 77, 83.

¹³ As discussed more fully below, cited sections VI.A.1 and VI.B.1 do not exist because sections VI.A and VI.B are not subdivided.

these nonexistent sections of the Petition makes it even more difficult to evaluate the merits of Petitioner's arguments. In addition, the Petition cites to section VIII.D.3.a and VIII.D.3.b, each of which appears twice, and section VII.D.9.a, which appears three times. *Id.* at 83, 86–87, 89–91. Given the ambiguity in the citations to these sections, it is impossible to evaluate the merits of Petitioner's arguments. Because these citation problems affect Petitioner's arguments for each of the challenged claims, we determine that Petitioner has not shown a reasonable likelihood of prevailing with respect to any challenged claim.

4. *The Ward Declaration Contributes to the Petition's Lack of Clarity*

As in *ContentGuard*, the problem of nested citations here is not limited to the Petition. The Ward Declaration also makes use of the same type of internal cross-references. For example, in arguing that the prior art teaches or suggests limitation [20e1], the Petition cites to paragraph 327 of the Ward Declaration. Pet. 91 (citing Ex. 1011 ¶ 327). That paragraph, however, cites to three additional sections of the declaration, comprising twenty-one paragraphs, for support. Ex. 1011 ¶ 327 (citing Ex. 1011 §§ VIII.A.1, [1e1], [20pre]). Those twenty-one paragraphs themselves cite an additional six sections of the Ward declaration that comprise twenty-three paragraphs. *Id.* ¶¶ 226–228 (citing *id.* §§ [1d], VI.A), 309 (citing *id.* §§ VII.A, [1pre], [4a], [4b]). Thus, even ignoring the fact that these additional sections cite even more additional sections and the possibility that those further additional sections might themselves cite still more, the single paragraph of the Ward declaration Petitioner cites expands to a total of forty-five paragraphs. Most concerning in our review of these forty-five

paragraphs is that none of them expressly discusses how the prior art teaches or suggests the language of limitation [20e1].

Similar nested citations from the declaration to other large portions of the declaration plague Ward's discussion of many of the challenged claims. *See, e.g.*, Ex. 1011 ¶¶ 284 (discussing limitation [11b1] and citing Ex. 1011 ¶¶ 189–205, 217–218, 282–283), 344–349 (discussing claim 18 and citing Ex. 1011 ¶¶ 157–162, 170–177, 206–214, 224–225, 238–249, 262–272, 333–343).

In most cases, the material the Petition cites in the Ward Declaration, together with the other portions of the declaration cited therein, is far more extensive than any argument present in the Petition. *See, e.g.*, Pet. 78 (two lines of argument regarding limitation [11b1], relying on testimony appearing on twenty pages of Ward Declaration), 91 (four lines of argument regarding limitation [20e1], relying on testimony appearing on thirty-five pages of Ward Declaration), 95–96 (two pages of argument regarding claim 18, relying on testimony appearing on forty-two pages of Ward Declaration). This incorporation by reference also contributes to the deficiency of the Petition. *See* 37 C.F.R. § 42.6(a)(3).

5. *The Petition's Analysis of Many of the Challenged Claims is Largely Conclusory*

As noted above, the Petition's discussion of nearly every limitation relies upon earlier portions of the Petition (usually in a nested fashion) to identify the evidence that allegedly supports Petitioner's unpatentability arguments. *See, e.g., id.* at 78 (citing Pet. §§ VI.B.1, VIII.B.3.b, VIII.D.3.b), 91 (citing Pet. §§ VI.B.1, VIII.B.3.f, VIII.D.9.a), 95–96 (citing Pet. §§ V.A, V.E, VI.B.1.b, VI.B.2, VI.C.1, VI.E.1, VIII.B.3.h, VIII.B.5, VIII.B.6.a,

VIII.B.6.b, VIII.C.2, VIII.E.2). Some of these sections also contain text explaining Petitioner’s argument that the prior art teaches or suggests the limitation in question, along with citations directly to the relevant prior art. *See, e.g., id.* at 95–96 (citing Ex. 1007, 264). Most of these sections, however, do not contain this type of argument, opting instead for conclusory statements that a particular reference or the hypothetical combination of references discloses the limitation in question, referring the reader to earlier portions of the Petition for any relevant argument. *See, e.g., id.* at 78 (“The Shimura-Tsuji combination discloses [11b1] and renders it obvious.”), 91 (“The Shimura-Tsuji combination discloses [20e1] and renders it obvious. The Shimura-Tsuji Computer discloses the function and corresponding structure of the means-plus-function limitation ‘display manager’ recited in [20e1], or its equivalents.”). This latter type of argument is particularly problematic because it shifts an even greater portion of the burden of deciphering Petitioner’s arguments onto Patent Owner and the Board. For these limitations, Petitioner provides no argument at all, requiring Patent Owner or the Board to sift through multiple lengthy sections of the Petition even to determine what argument Petitioner intends to make. This problem affects Petitioner’s arguments with respect to claims 2, 4, 11–16, 19, and 20. Pet. 62, 64–66, 77–92, 96–97. In addition, claims 3, 5, 17, and 18 depend from one or more of claims 2, 4, 11–16, 19, and 20, so this problem affects these additional claims as well. Accordingly, we determine that Petitioner has not shown a reasonable likelihood of prevailing with respect to claims 2–5 or 11–20.

6. *Conclusion*

As explained above, the Petition provides deficient arguments that fail to explain Petitioner's positions fully. Where the Petition provides some explanation, it often does so only through a web of internal cross-references that require the reader to engage in extensive analysis just to decipher what is being argued, much less evaluate the merits of that argument. For nearly every limitation of every claim, the Petition makes internal cross-references that are either dead-end citations to portions of the Petition that do not exist at all or ambiguous citations to portions of the Petition that exist in multiple locations.

Although it might be possible for us to guess at the support Petitioner intended to cite and to wade through the Petition to separate the teachings of the references, the Ward testimony, Petitioner's characterizations of the evidence, and Petitioner's arguments, that is not our role. Rather, Petitioner is required to "specify where each element of the claim is found in the prior art patents or printed publications relied upon" and to both "identify[] specific portions of the evidence that support the challenge" and explain "the relevance of [that] evidence to the challenge raised." 37 C.F.R.

§ 42.104(b)(4)–(5); *see also id.* § 42.22(a)(2) (petitions "must include . . . [a] full statement of the reasons for the relief requested, including a detailed explanation of the significance of the evidence"). Petitioner has not complied with our rules. To hold otherwise would require us to "play archaeologist with the record," which we decline to do. *DeSilva v. DiLeonardi*, 181 F.3d 865, 866–67 (7th Cir. 1999).

Based on all these deficiencies, the Petition fails to specify sufficiently where the limitations of the challenged claims of the '154 patent

are taught or suggested by any of the asserted references. It also fails to provide a sufficiently detailed explanation of the significance of the citations to the asserted references and the Ward Declaration. These failures violate the requirements of 35 U.S.C. § 312(a)(3), 37 C.F.R. § 42.22(a)(2), and 37 C.F.R. § 42.104(b)(4)–(5). Because these requirements must be met to show that “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition” under 35 U.S.C. § 314(a), we determine that Petitioner has not made such a showing.

B. Remaining Arguments

Petitioner presents arguments for the construction of some claim terms, and Patent Owner disagrees with some of those arguments. Pet. 14–23; Prelim. Resp. 33–40. Petitioner and Patent Owner also present arguments on the merits of each of Petitioner’s four asserted grounds of unpatentability. Pet. 39–97; Prelim. Resp. 40–60. Because we determine that the Petition does not satisfy the requirements of 35 U.S.C. § 312(a)(3), 37 C.F.R. § 42.22(a)(2), and 37 C.F.R. § 42.104(b)(4)–(5), we need not evaluate these arguments.

CONCLUSION

Upon consideration of the Petition, the Preliminary Response, and the evidence presented, we determine that Petitioner has not shown a reasonable likelihood that it will prevail in showing that at least one of the challenged claims is unpatentable. Accordingly, we do not institute an *inter partes* review of any challenged claim based on any ground asserted in the Petition.

ORDER

It is hereby

ORDERED that, pursuant to 35 U.S.C. § 314, the Petition is denied,
and no *inter partes* review is instituted.

IPR2021-00800
Patent 10,289,154 B2

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