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Petitioner's Reply to Patent Owner's Response

Filed on behalf of Intuit Inc.

By:

JENNIFER R. BUSH, Reg. No. 50,784

MICHAEL J. SACKSTEDER (*pro hac vice*)

GEOFFREY R. MILLER (*pro hac vice*)

DANIEL LEDESMA (*pro hac vice*)

CHRISTOPHER L. LARSON, Reg. No. 68,243

FENWICK & WEST LLP

801 California Street

Mountain View, CA 94041

Telephone: 650.988.8500

Facsimile: 650.938.5200

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTUIT INC.,
Petitioner

v.

SAMESURF, INC.,
Patent Owner.

Inter Partes Review No. IPR2023-00339
Patent 9,185,145 B2

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. PO MISREPRESENTS THE SPECIFICATION AND PRIOR ART DISCLOSURES	1
III. PO INCORRECTLY CONSTRUES “WEB BROWSING INTERACTION DATA”	4
IV. LEBRUN AND WANG RENDER THE CLAIMS OBVIOUS (GROUND 1).....	9
A. PO Does Not Dispute that Lebrun and Wang Render Obvious Limitations [1.pre], [1.c.i] or [1.c.ii].	9
B. Lebrun Discloses Limitation [1.c].....	10
C. Lebrun Discloses Limitation [1.d]	13
D. Lebrun Discloses Limitations [1.a] and [1.b] for similar reasons	14
V. PRAJAPAT IN VIEW OF WANG RENDER THE CLAIMS OBVIOUS (GROUND 2).....	15
A. PO Does Not Dispute that Prajapat and Wang Render Obvious Limitations [1.pre], [1.a], [1.b], [1.c.i] or [1.c.ii].	15
B. The Claims Do Not Recite Two Browsers “Simultaneously, or Near Simultaneously, Internet Browsing on the Same Webpage in Real Time.”	15
C. Prajapat Alone or in View of Wang Renders Obvious Limitations [1.c] and [1.d].....	17
D. Wang Discloses Limitation [1.d]	20
VI. PO MISUNDERSTANDS THE MOTIVATION TO COMBINE INQUIRY	20

TABLE OF CONTENTS
(Continued)

	Page
VII. THE DEPENDENT CLAIMS ARE UNPATENTABLE	22
VIII. PO'S EXHIBIT 2005.....	23
IX. PO'S ATTEMPTS TO INCORPORATE BY REFERENCE ARE IMPROPER	23
X. PO'S EXPERT TESTIMONY IS LIMITED AND NOT SUPPORTED BY EVIDENCE.....	24
XI. CONCLUSION.....	25

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>Blackberry Corp. v. Mobilemedia Ideas LLC</i> , IPR2013-00016, Paper 32 (P.T.A.B. Feb. 25, 2014).....	24
<i>Boston Scientific v. Cordis</i> , 554 F.3d 982 (Fed. Cir. 2009)	19
<i>Chef Am., Inc. v. Lamb–Weston, Inc.</i> , 358 F.3d 1371 (Fed. Cir. 2004)	5
<i>Cisco Sys., Inc. v. C-Cation Techs., LLC</i> , IPR2014-00454, Paper 12 (P.T.A.B. Aug. 29, 2014).....	23, 24
<i>DeSilva v. DiLeonardi</i> , 181 F.3d 865 (7th Cir. 1999)	24
<i>Elekta Ltd. v. ZAP Surgical Sys., Inc.</i> , 81 F.4th 1368 (Fed. Cir. 2023)	22
<i>Enzo Biochem, Inc. v. Applera Corp.</i> , 599 F.3d 1325 (Fed. Cir. 2010)	6
<i>Fleming v. Cirrus Design Corp.</i> , 28 F.4th 1214 (Fed. Cir. 2022)	22
<i>Hill-Rom Servs., Inc. v. Stryker Corp.</i> , 755 F.3d 1367 (Fed. Cir. 2014)	5, 6
<i>Hoganas AB v. Dresser Indus., Inc.</i> , 9 F.3d 948 (Fed. Cir. 1993)	6
<i>In re Chaganti</i> , 554 F. App'x 917 (Fed. Cir. 2014)	21
<i>In re Geisler</i> , 116 F.3d at 1465	24

TABLE OF AUTHORITIES
(Continued)

	Page(s)
<i>In re Schulze</i> , 346 F.2d at 602	24
<i>Novartis Pharms. Corp. v. West-Ward Pharms. Int'l Ltd.</i> , 923 F.3d 1051 (Fed. Cir. 2019)	22
<i>O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co.</i> , 521 F.3d 1351 (Fed. Cir. 2008)	5
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005) (en banc)	5, 6
<i>Trading Techs., Int'l, Inc. v. eSpeed, Inc.</i> , 595 F.3d 1340 (Fed. Cir. 2010)	6
<i>Vitronics Corp. v. Conceptiontronic, Inc.</i> , 90 F.3d 1576 (Fed. Cir. 1996)	6, 8
<i>Xerox Corp. v. Bytemark, Inc.</i> , IPR2022-00624, Paper 12 (P.T.A.B. Feb. 10, 2023).....	25
STATUTES AND RULES	
35 U.S.C. § 101	23
OTHER AUTHORITIES	
37 CFR § 42.6(a)(3)	24

EXHIBIT LIST (37 C.F.R. § 42.63(e))

Exhibit	Description
1001	U.S. Patent No. 9,185,145
1002	File History of U.S. Patent No. 9,185,145
1003	Declaration of Henry Lieberman
1004	Curriculum Vitae of Henry Lieberman
1005	International Patent Pub. No. WO 00/48110 to Lebrun et al. ("Lebrun")
1006	U.S. Patent Pub. No. 2005/0033656 to Wang et al. ("Wang")
1007	U.S. Patent Pub. No. 2005/0021626 to Prajapat et al. ("Prajapat")
1008	"NCSA Mosaic, Project Profile," University of Illinois, National Center for Supercomputing Applications (available at: https://www.ncsa.illinois.edu/research/project-highlights/ncsa-mosaic/)
1009	"Netscape Communications Corp.," Henry R. Norr, August 28, 2017, Encyclopedia Britannica, Inc. (available at: https://www.britannica.com/topic/Netscape-Communications-Corp)
1010	"50 Years of Email," cloudHQ, April 6, 2021 (available at: https://www.prnewswire.com/news-releases/50-years-of-email-301262676.html)
1011	"The History of Email: Major Milestones from 50 Years," Kasey Steinbrinck, January 28, 2021, Email on Acid Ina Fried, (available at: https://www.emailonacid.com/blog/article/email-marketing/history-of-email/)
1012	"10 Instant Messaging Services that Used to Be Popular," Elise Moreau, May 3, 2021, Lifewire Tech for Humans (available at: https://www.lifewire.com/once-popular-old-instant-messaging-services-3486135)

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1013	“Timeline of Social Media,” Wikipedia (available at: https://en.wikipedia.org/wiki/Timeline_of_social_media)
1014	“Hyperlink,” Wikipedia (available at: https://en.wikipedia.org/wiki/Hyperlink)
1015	U.S. Patent No. 5,708,780 to Levergood, et al.
1016	“Session Identification URI,” W3C Working Draft WD-session-id-960221, w3 Org (available at: https://www.w3.org/TR/WD-session-id.html)
1017	“Giving Web a Memory Cost Its Users Privacy,” John Schartz, September 4, 2001, New York Times (available at: https://www.nytimes.com/2001/09/04/business/giving-web-a-memory-cost-its-users-privacy.html)
1018	“GroupWeb: A WWW Browser as Real Time Groupware,” Saul Greenberg and Mark Roseman, CHI '96 ACM Conference on Human Factors in Computing Systems, April 13-18, 1996 (available at: https://dl.acm.org/doi/pdf/10.1145/257089.257317)
1019	“Let's Browse: A Collaborative Web Browsing Agent,” IUI '99: ACM Proceedings of the 4th International Conference on Intelligent User Interfaces, December 1998 (available at: https://dl.acm.org/doi/10.1145/291080.291092)
1020	“Letizia: An Agent that Assists Web Browsing,” Henry Lieberman, <i>International Joint Conference on Artificial Intelligence</i> , 1995 (available at: https://web.media.mit.edu/~lieber/Lieberary/Letizia/Letizia-AAAI/Letizia.html)
1021	U.S. Patent No. 6,353,822 to Lieberman
1022	“Google Docs,” Wikipedia (available at: https://en.wikipedia.org/wiki/Google_Docs)

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1023	“Google Announces Google Docs & Spreadsheets,” October 11, 2006, Google Press Release, (available at: http://googlepress.blogspot.com/2006/10/google-announces-google-docs_11.html)
1024	“The History of JavaScript: Everything You Need to Know,” T.J. DeGroat, August 19, 2019, Springboard (available at: https://www.springboard.com/blog/data-science/history-of-javascript/)
1025	“Adobe Flash,” Wikipedia (available at: https://en.wikipedia.org/wiki/Adobe_Flash)
1026	“What Does AJAX Even Stand For?,” Jay Hoffman, March 4, 2019, The History of The Web (available at: https://thehistoryoftheweb.com/what-does-ajax-even-stand-for/)
1027	File History of U.S. Patent No. 8,527,591
1028	Declaration of Michael J. Sacksteder in Support of Petitioner's Motion for Pro Hac Vice Admission of Michael J. Sacksteder Pursuant to 37 C.F.R. § 42.10(c)
1029	Declaration of Geoffrey R. Miller in Support of Petitioner's Motion for Pro Hac Vice Admission of Michael J. Sacksteder Pursuant to 37 C.F.R. § 42.10(c)
1030	Declaration of Daniel Ledesma in Support of Petitioner's Motion for Pro Hac Vice Admission of Michael J. Sacksteder Pursuant to 37 C.F.R. § 42.10(c)
1031	“Microsoft Computer Dictionary 5th Edition,” May 01, 2002, Microsoft Press
1032	Claim 1 from each patent (as relied on during Friedman deposition)
1033	Transcript of Deposition of Stacy Friedman, taken November 15, 2023
1034	Declaration of Henry Lieberman in Support of Petitioner's Reply to Patent Owner's Response

I. INTRODUCTION

Samesurf ("PO"), in its Patent Owner's Response ("POR"), cannot dispute that the claim limitations are rendered obvious by the prior art. In a desperate attempt to avoid a finding of unpatentability, PO attempts to re-write the claims under an improper and unsupported claim construction, distort the plain teachings of the specification, concoct an attorney-argument irrelevant theory about a "middleman" server, and apply the wrong standard for obviousness. The Board should disregard these arguments and find the challenged claims unpatentable.

II. PO MISREPRESENTS THE SPECIFICATION AND PRIOR ART DISCLOSURES

PO's response relies on two incorrect representations of the '145 specification and corresponding prior art, which inform the errors in PO's analysis and must be corrected.

First, PO's repeated assertion that the '145 specification disparages "page sharing" as too "resource intensive" is wrong. *See* POR, 5, 7, 8, 9, 10 (citing Ex. 1001, 2:36-38). The '145 specification makes no mention of "page sharing," nor does it disparage such technology. Rather, in its discussion of background technology, it describes "desktop or screensharing" as a preexisting co-browsing technology. Ex. 1001, 2:25-30; *see also* Ex. 1033, 96:4-97:21 (PO expert admitting same). "[D]esktop or screensharing" works by "broadcasting continuous screenshots of the host screen in large files or packets," and "require[s] high levels of bandwidth and

computer processing power.” Ex. 1001, 2:30-38. According to the specification, it is “inadequate for enabling larger groups to all view and fully interact with that interactive content in a simultaneous manner.” *Id.*; Ex. 1034, ¶5.

“Desktop or screensharing” is *irrelevant* to the present inquiry. No asserted reference discloses or describes any technology that involves “broadcasting continuous screenshots of the host screen.” Lebrun describes a collaborative web browsing system that works by creating and participating in a group-surfing session on a group surfing server, where that server invites web clients to join the group session and delivers webpages, as selected by the controlling client, to each participating web client. Ex. 1005, 32:1-31, 35:5-8, 35:24-25, 36:5-17, 44:5-13, Fig. 4. Prajapat describes a collaborative browsing system where multiple client browsers can co-browse one or more webpages together using web media servers as the synchronizing service in a joint browsing session. Once the joint session is set up, any of the browsers can ask their servers for web pages; the servers work together to coordinate the retrieval and display of the requested content on each browser. Ex. 1007, [0009-10], [0012], [0016-17], [0019-21], [0022-26]. Wang provides for a collaborative browsing system that works through a synchronization server. Ex. 1006, [0063]. The system allows a user to request a group session from the server, which then creates the group browsing session, gives it an identifier, and sends an invitation with a special URL that invited users can click to join. *Id.* [0015],

[0046-48]. Once users join, the synchronization server ensures that everyone sees the same web pages at the same time. *Id.*, [0015], [0018-19], [0045-49], [0054-55].

Second, PO's contention that the '145 patent requires (1) that "the host and guest devices each access the website server on their own," and (2) that "the 'synchronization server' does not need to communicate with a website server to achieve synchronization," and thereby eliminates problems with so-called "middleman" servers, is also incorrect. POR, 2-3, 8-11.

The '145 patent does not identify or describe any "middleman" server or disparage the use of a server to relay webpage information to or from a webpage server. *See generally* Ex. 1001. The '145 patent only distinguishes its disclosures from "screensharing" systems that rely on "broadcasting continuous screenshots of the host screen," which as noted above, is not part of Petitioner's prior art analysis.

The claims also do not recite any architecture that would solve any problems purportedly caused by "middleman" servers. Contrary to PO's assertions, the challenged claims do not recite any limitation that requires that *all* "web content [be] served to the host device and the guest device by the web server" or that the synchronization server *cannot* deliver web content to the guest device, as PO contends. POR, 10-11. Rather, the claims recite only that the guest device "operat[es] an application *based on* said web browsing interaction data received from said synchronization server to access a website server." Ex. 1001, claim 1.

The only thing the claims say about the host device is that it needs to be associated with a “session identifier” and that it “has initiated the session invitation.” *Id.*; *see also* Ex. 1033, 236:19-23; Ex. 1034, ¶6.

Finally, even if the claims did require that “the host and guest devices each access the website server on their own,” (which they do not), that would not be any different than the prior art. Lebrun discloses that after the webpage is sent to the guest client, it then directly requests missing “multimedia elements directly from the web site 130.” Ex. 1005, 46:1-2; Ex. 1003, ¶204. Prajapat discloses, after the co-browsing session is initiated, that the browser “may submit new action requests” and “alter currently displayed web pages,” which a POSITA would understand is accessing the “web content server 18.” Ex. 1007, [0028]; Ex. 1003, ¶298. And even if Prajapat did not disclose directly requesting webpage content from the web content server, it would be obvious to modify Prajapat in view of Wang to do so because Wang discloses a page navigation means that “allows client device 12a to access the server apparatus 14 directly.” *See* Pet., 59; Ex. 1006 [0021]; Ex. 1003, ¶300.

III. PO INCORRECTLY CONSTRUES “WEB BROWSING INTERACTION DATA”

PO's proposed construction of “web browsing interaction data” as “data describing interactions performed on a website by a host device” is incorrect and unsupported. POR, 40.

The term “web browsing interaction data” should be afforded its plain and ordinary meaning. “Words of a claim are generally given their ordinary and customary meaning.” *O2 Micro Int’l Ltd. v. Beyond Innovation Tech. Co.*, 521 F.3d 1351, 1360 (Fed. Cir. 2008); *see also Hill-Rom Servs., Inc. v. Stryker Corp.*, 755 F.3d 1367, 1374 (Fed. Cir. 2014). Frequently, as is the case here, “the ordinary meaning of claim language as understood by a person of skill in the art may be readily apparent,” in which case the “claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005) (en banc) (citation omitted).

“[W]eb browsing interaction data” is clear on its face and no additional definition or limitation is required. The plain and facially apparent meaning of “web browsing interaction data” is data related to web browsing interactions. Ex. 1034, ¶¶13-14. There is no need, and indeed it would be improper, to re-write the claim limitation as PO proposes. *Chef Am., Inc. v. Lamb–Weston, Inc.*, 358 F.3d 1371, 1375 (Fed. Cir. 2004) (“[W]e have repeatedly declined to rewrite unambiguous patent claim language.”).

PO’s construction is incorrect because it injects an extraneous requirement into the claim—that “web browsing interaction data” must exclude “webpage data that is sent by a website server in response to a web request.” POR, 41. It is improper

to add such unsupported limitations via construction. *See Hoganas AB v. Dresser Indus., Inc.*, 9 F.3d 948, 950 (Fed. Cir. 1993) (“It is improper for a court to add ‘extraneous’ limitations to a claim, that is, limitations added wholly apart from any need to interpret what the patentee meant by particular words or phrases in the claim.”).

At best, PO's proposed construction is an attempt to improperly import a limitation from an embodiment in the specification. While claims should be interpreted in light of the specification, *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996), limitations from the specification should not be read into the claims. *Hill-Rom*, 755 F.3d at 1371. Indeed, it is well-established that the disclosure of an embodiment in the specification will not narrow the claims. *Phillips*, 415 F.3d at 1323. And even when the specification uses a single embodiment, broader claim language still should not be construed narrowly and limited to that embodiment “unless the patentee has demonstrated a clear intention to limit the claim scope using words or expressions of manifest execution or restriction.” *Trading Techs., Int'l, Inc. v. eSpeed, Inc.*, 595 F.3d 1340, 1352 (Fed. Cir. 2010) (citation and quotation marks omitted); *see also Enzo Biochem, Inc. v. Applera Corp.*, 599 F.3d 1325, 1342 (Fed. Cir. 2010).

Here, there is no such “single embodiment” nor any “clear intention” that supports PO's proposed narrowing construction. While PO points to the embodiment

illustrated in Figures 5(a), 5(c), and 5(d) (collectively “Figure 5”), where “webpage interaction information” is “encompassed within the communication message 64 sent from the synchronization server to the guest device,” and where the guest device “uses that communication message . . . to make web request 65,” (POR, 40-41 (citing Ex. 2004, ¶¶36-45)), nothing in that embodiment suggests the patentee intended to narrowly restrict “web browsing interaction data” to that embodiment or the “communication message 64” description therein. Ex. 1034, ¶¶13-14. To the contrary, the specification repeatedly states that embodiment described in Figure 5 is merely “exemplary” with respect to its description of the “data communication transferred” and the “components” of the synchronized browsing session, and that the description of the “communication message 64” is only part of an “exemplary embodiment.” Ex. 1001, 4:51-54; 15:53-58; 16:4-51. PO’s expert agreed. Ex. 1033, 95:2-12 (FIG. 5(a)), 179:13-180:4 (FIGS. 5(c), 5(d)).

Furthermore, the claim language is different and broader than the narrow exemplary embodiment of Figure 5 that PO uses to justify its narrow construction. As the Board recognized in its Institution Decision, claim 1 is not limited to the “specific architecture and the precise detailed process described in portions of the specification cited by Patent Owner.” DI, at 26. Rather, “claim 1 broadly recites ‘receiving web browsing interaction data’ that ‘is associated with a website server . . . and the host device that has initiated the session invitation’ and uses that

data ‘to access a website server independent of the synchronization server.’” *Id.*, 26, 31. PO has done nothing address the differences between the broad language of the claims that would justify importing its description as limiting the claim language. *See* POR, 28-41 (analyzing “web browsing interaction data” solely with reference to Figure 5). Such analysis—that disregards the claim language—is improper. *Vitronics Corp.*, 90 F.3d at 1582 (“[W]e look to the words of the claims themselves . . . to define the scope of the patented invention.”).

In addition, the dependent claims ***conflict*** with PO’s proposed construction, and thus cannot support its construction. For example, the dependent claims specifically recite the “web browsing interaction data” is not limited to “data ***describing*** interactions performed on a website ***by a host device***.” Claim 5, for example, requires that web browsing interaction data include “information related to shared user input web browsing interactions depicted in a first web browser window.” It thus recites “web browsing interaction data” is not limited to interactions performed by a “host device” nor simply data “describing” such interactions. It includes any “shared user input” from a synchronized browsing session, which can include “web page interactions performed by any controlling party,” not just the host device. Ex. 1001, 6:64-66; *see also* Ex. 1034, ¶15.

Similarly, claim 8 conflicts with PO’s proposed construction. It recites that the “web browsing interaction data” may further comprise “a log-in into a restricted

access webpage” without restriction to a particular device. It therefore could be from the host device, guest device, or any other attendee device in the session. Ex. 1001, 6:64-66. *Id.*

Accordingly, PO's proposed construction, is an improper attempt to import a limitation from an exemplary embodiment without basis. The Board should disregard this unduly narrow construction and apply the plain and ordinary meaning of “web browsing interaction data.”

IV. LEBRUN AND WANG RENDER THE CLAIMS OBVIOUS (GROUND 1)

A. PO Does Not Dispute that Lebrun and Wang Render Obvious Limitations [1.pre], [1.c.i] or [1.c.ii].

Only limitations [1.a], [1.b], [1.c] and [1.d] are in dispute.¹ PO did not challenge Petitioner's arguments for the remaining claim limitations. POR, 41-53. Likewise, PO did not challenge any claim limitation under any construction of “web browsing interaction data” other than its proposed construction. *Id.* Thus, any arguments about the other limitations should be deemed waived. Scheduling Order, Paper 13, 10 (“[A]ny arguments not raised in the response may be deemed

¹ With respect to independent claim 9, the POR says only that it applies to an apparatus and “[t]he arguments presented regarding independent claim 1 also apply to independent claim 9.” POR, 12.

waived.”)²; *see also* Ex. 1033, 70:22-71:9. As a result, if the Board rejects PO's construction, PO will have presented no other challenges to Petitioner's analysis of Ground 1.

B. Lebrun Discloses Limitation [1.c]

LeBrun discloses “receiving web browsing interaction data from said synchronization server” in three ways. Ex. 1003, ¶¶185-89, 372.

Lebrun discloses a group-surfing server that “begin[s] operation of the group-surfing session,” by “causing the web site 130 to *deliver the initial page 153 to the web clients*,” as indicated by the identifier in the session-creation message. Ex. 1005, 32:28-31, 35:5-8; 35:24-25 (emphasis added); Ex. 1003, ¶¶186-88. This disclosure includes the webpage “without any multimedia elements (such as embedded sound, images, or program fragments),” which is later populated directly from the website. Ex. 1005, 45:31-32, 46:1-2; Ex. 1003, ¶204. Lebrun further discloses that each web client receives web browsing interaction information including *a link to a webpage* and *HTML form data* via “program fragment” that “intercept[s] selection of a link 152 at the web client 110 and direct[s] that selection

² This includes arguments about whether Dr. Lieberman qualifies as a POSITA not maintained from the POPR. Mr. Friedman verified during his deposition that he did not address this topic. Ex. 1033, 29:8-25.

to the group surfing server 140 for processing.” Ex. 1005, 36:21-25; 37:5-10; 39:4-8; Ex. 1003, ¶¶188-89.

PO's contention that the web page or “partial” web page—meaning without multimedia elements—does not meet the “web browsing interaction data” limitation is incorrect and based entirely on its improper proposed claim construction. POR, 51. As noted in Section III, PO's proposed construction is incorrect, and a POSITA would understand that webpage data received from the synchronization server comprises web browsing interaction data under its plain and ordinary meaning. Ex. 1003, ¶¶185-89, 372; *see also* DI, 27 (““web browsing interaction data” encompasses web pages or portions thereof related to a browsing interaction”).

But even under PO's incorrect construction, Lebrun discloses this limitation. In Lebrun, the host device may cause the synchronization server to send a webpage to the guest device “without any multimedia elements (such as embedded sound, images, or program fragments),” which is later populated directly from the website. Ex. 1005, 45:31-32, 46:1-2; Ex. 1003, ¶204. That webpage is not the “result of interacting with the website, as illustrated in Fig. 5(d)”³ (POR, 51 (emphasis in original)), it is an incomplete webpage that is only fully populated once the guest

³ Note that PO is, once again, comparing the prior art to the specification as disclosed in Figure 5 without analysis of the claim language.

device connects to and receives data “directly from the web site 130.” Ex. 1005, 46:1-2; Ex. 1003, ¶204. The “partial” webpage is, therefore, “data describing interactions performed on a website by a host device” as understood by PO—i.e., web browsing interactions “to be *performed* by the guest device”—because it informs the guest device what information *to request* directly from the webpage server. *See* POR, 51.

PO does not dispute that the “links” intercepted and used by the program fragment residing on the guest device are “web browsing interaction data.” POR, 52. PO only contends that the program fragment itself, the “executable code,” is not “web browsing interaction data.” *Id.* The links intercepted by the program fragment are used to present selected web pages, which a POSITA would understand constitutes “web browsing interaction data” under Petitioner’s plain and ordinary meaning construction; this is not disputed. *See* Ex. 1003, ¶¶188-89. The same is true under PO’s proposed construction. The links intercepted by the program fragment are web browsing interactions “to be *performed by* the guest device” as PO contends is required, POR at 51, because they direct the selection of the webpage and are sent to the group surfing server 140 for processing. Ex. 1005, 37:5-10; Ex. 1034, ¶16.

Finally, PO’s contention that the HTML form data retrieved by the program fragment is not “web browsing interaction data” is incorrect under either PO’s

incorrect construction or Petitioner's plain and ordinary meaning proposal. Ex. 1005, 39:4-8; Ex. 1003, ¶188-89. HTML form data is literally "data describing interactions performed on a website by a host device," as proposed by PO. It is the data describing how the host device is filling a form on a website, which is then intercepted by the group-surfing server and presented "on the HTML form at each participating web client 110, so that each participating web client 110 can see the HTML form being filled in." Ex. 1005, 39:4-8; Ex. 1003, ¶188-89.

C. Lebrun Discloses Limitation [1.d]

PO's contention that Limitation [1.d] is not met under its proposed construction of "web browsing interaction data" is also incorrect. POR, 52. Lebrun discloses that the host device may cause the synchronization server to send a webpage to the guest device "without any multimedia elements (such as embedded sound, images, or program fragments)," which is later populated when the web client interacts directly with the web page and web server. Ex. 1005, 45:31-32, 46:1-2; Ex. 1003, ¶204. A POSITA would have understood that the web clients requesting elements directly from the website corresponds with "operating an application based on said web browsing interaction data received from said synchronization server *to access a website server* independent of the synchronization server subsequent to the activation of the session invitation." Ex. 1003, ¶205.

This is also the case under PO's incorrect construction. The webpage received by the client is not the "result of interacting with the website, as illustrated in Fig. 5(d)" (POR, 51 (emphasis in original)), it is a representation of the webpage that allows the client to receive data "directly from the web site 130." Ex. 1005, 46:1-2; Ex. 1003, ¶204. The "partial" webpage is, therefore, "data describing interactions performed on a website by a host device" as understood by PO—i.e., web browsing interactions "to be *performed by* the guest device"—because it informs the guest device what information *to request or access* directly from the webpage server. See POR, 52; *see also* Ex. 1034, ¶17.

D. Lebrun Discloses Limitations [1.a] and [1.b] for similar reasons

PO's contention that Lebrun does not disclose a "synchronization server" and, therefore, does not anticipate or render obvious limitations 1.a and 1.b is unsupported and incorrect. Lebrun discloses a "group-surfing server" that creates a group-surfing session, informs participants of the group-surfing session. Ex. 1005, 32:26-28. A POSITA would have further understood the "group-surfing server" comprises a synchronization server, and thus that Lebrun teaches this limitation. Ex. 1003, ¶¶165-166.

PO's only argument that these limitations are not met is based on its construction of "web browsing interaction data" and its follow-up contention that such information is not received by the client devices "from the 'group surfing

server,' and therefore, the 'group-surfing server' is not a 'synchronization server.'” POR, 53. As explained above with respect to limitations [1.c] and [1.d], PO's argument has no merit under the plain and ordinary meaning of “web browsing interaction data” or PO's improperly narrow construction. *See supra* Sections IV.B and IV.C. PO's contention, therefore, fails.

V. PRAJAPAT IN VIEW OF WANG RENDER THE CLAIMS OBVIOUS (GROUND 2)

A. PO Does Not Dispute that Prajapat and Wang Render Obvious Limitations [1.pre], [1.a], [1.b], [1.c.i] or [1.c.ii].

Only limitations [1.c] and [1.d] are in dispute. PO did not challenge Petitioner's arguments for the remaining claim limitations. POR, 53-71. Likewise, PO did not challenge any claim limitation under a construction of “web browsing interaction data” other than its proposed construction. *Id.* Thus, any arguments about the other limitations should be deemed waived. Scheduling Order, Paper 13, 10; *see also* Ex. 1033, 70:22-71:9. As a result, if the Board rejects PO's construction, PO will have presented no other challenges to Petitioner's analysis of Ground 1.

B. The Claims Do Not Recite Two Browsers “Simultaneously, or Near Simultaneously, Internet Browsing on the Same Webpage in Real Time.”

PO's repeated suggestion that the claims require and Prajapat does not disclose “two browsers are simultaneously, or nearly simultaneously, sharing internet browsing of the same webpage in real time,” is incorrect. POR, 59-60, 64, 70. There is no limitation that requires such “simultaneous” or “real time sharing”

of “the same webpage in real time”; PO’s expert agreed. Ex. 1033, 222:2-14; Ex. 1034, ¶¶12-14. Claim 1 recites “a method performed by a guest device *for joining* a synchronized browsing session administered by a synchronization server,” and then recites how to join that session by “receiving a session invitation,” “activating the session invitation,” “receiving web browsing interaction data from said synchronization server,” and “operating an application based on said web browsing interaction data.” Ex. 1001, claim 1. Nothing in the claim recites *how* the synchronized browsing session is administered by the synchronization server. Patent Owner does not even attempt to tie this purported “simultaneous,” or “real time sharing” to any particular claim limitation, tacitly conceding there is no such requirement. POR, 59-60, 64, 70; *see also* Ex. 1034, ¶¶10-12.

But even if such a requirement existed, Prajapat’s disclosures would meet this limitation. Prajapat discloses that “browser 12a and browser 12b display the same web pages at substantially the same time; browser 12a may alter web pages and browser 12b may view those alterations; browser 12b may alter web pages and browser 12a may view those alterations; or any other suitable situations.” Ex. 1007, [0012]; Ex. 1003, ¶286.

As a result, PO’s arguments comparing Prajapat to this non-existent limitation is not only irrelevant to the present inquiry but also incorrect.

C. Prajapat Alone or in View of Wang Renders Obvious Limitations [1.c] and [1.d]

PO's contention that Prajapat does not disclose "web browsing interaction data" and therefore does not disclose the requirements of limitations [1.c] and [1.d] is incorrect.

During the co-browsing session disclosed by Prajapat, the media servers retrieve the browsing information from the web content server. Specifically, "browser 12a may submit a web site address to web media server 14a, and web media server 14a may locate web content server 18 using the web site address." Ex. 1007, ¶[0023]. The browsers may also contact the web content server through the web media servers to request "web pages" or "alter currently displayed web pages," or "perform any other suitable actions" (*id.*, [0028]), which the web media servers may provide by, for example, "contact[ing] web content server 18 to retrieve another web page" (*id.*, [0029]), "maintain[ing] a content tree" to display multiple web pages (*id.*, [0030]), or relaying information "to update web page form content" of another browser. *Id.*, [0031-32] (describing updating form content in co-browsing session by notifying the media servers). Ex. 1003, ¶287-88.

PO appears to contend that the "web pages," "alter[ed] web pages," "multiple web pages" from the content tree, or "update[d] web page form content" each are not "web browsing interaction data" because the "web media server" ("synchronization server") communicates directly with the web content server 18,

which then relays back the web browsing interaction data to the browser. POR, 67. But the claims do not state that the client device (Prajapat's browser) must communicate "directly" with the website server (Prajapat's web media server). They only require that the browser operate an application based on the web browsing interaction data "to access a website server" that is independent of the synchronization server. Ex. 1001, claim 1; *see also* Ex. 1034, ¶¶19-20.

But even if such a limitation is required by the claims, Prajapat in view of Wang renders such a requirement obvious. Wang discloses a "computer-executable program" which may comprise a "a step of forming a page navigation control unit for providing a web page common to each of the individual sessions." Ex. 1006, [0021]. The page navigation means "allows the client device 12a to access the server apparatus 14 directly and to acquire a web page when the client device 12a has ownership of the initiative of web page operation." *Id.*, [0041]. A POSITA would have been motivated to combine Wang's teachings with Prajapat. Ex. 1003, ¶300.

PO's suggestion that Petitioner relied on the same disclosure to meet limitations [1.b] and [1.d] is also incorrect. POR, 68. Prajapat discloses claim limitation [1.b] through the "use of the URL and any other suitable information to request from web content server 18 the web page that browser 12a requested." Ex. 1007, [0043]. For limitation [1.d], after the session is initiated, the browser "may submit *new action requests* such as request for web pages and "requests to alter

currently displayed web pages” by taking action “such as posting a form or clicking on a link within the current displayed web page,” which is a different action. Ex. 1007, [0028] (emphasis added); Ex. 1003, ¶298.

Next, PO's contention that Prajapat's embodiments cannot be combined to meet the claim limitation is incorrect. Prajapat contemplates that similar processes can be used among the various embodiments. *See, e.g.*, Ex. 1007, [0041] ((regarding FIG. 3) “in a substantially similar manner to that described above with reference to FIGS. 1 and 2.”); [0045] ((regarding FIG. 4) “in substantially the same manner as described above with reference to FIGS. 1, 2, and 3.”); Ex. 1034, ¶21; *see also* IPR2022-00342, Paper 12 (DI), 34-36. Thus, Prajapat explicitly ties together the processes of the various embodiments. *See also Boston Scientific v. Cordis*, 554 F.3d 982, 991 (Fed. Cir. 2009).

Finally, PO's contention that webpages chosen by the host device (the “web browsing interaction data”) are not “associated” with the host device is nonsense. A POSITA would certainly understand that the host browser submitting the action request for the web page, which is then displayed to the guest browser, is associated with the host by virtue of it being selected by that browser. Ex. 1003, ¶¶294-95; Ex. 1034, ¶¶21-22.

D. Wang Discloses Limitation [1.d]

PO's contention that Wang does not disclose limitation [1.d] for lack of "web browsing interaction data" lacks any merit, as it once again rests on its incorrect claim construction. Under the plain and ordinary meaning of "web browsing interaction data," Wang discloses this limitation. Specifically, it discloses a "computer-executable program" which may comprise "a step of forming a page navigation control unit for providing a web page common to each of the individual sessions." Ex. 1006, ¶[0021]. The page navigation means "allows the client device 12a to *access the server apparatus 14 directly* and to *acquire a web page* when the client device 12a has ownership of the initiative of web page operation." *Id.*, ¶[0041] (emphasis added). Wang thus discloses directly accessing the server to acquire web browsing interaction data (the web page). *Id.*; *see also* DI, 27 ("web browsing interaction data' encompasses web pages or portions thereof related to a browsing interaction"); Ex. 1003, ¶¶296-300, 373.

VI. PO MISUNDERSTANDS THE MOTIVATION TO COMBINE INQUIRY

PO's contention that a POSITA would not be motivated to combine Lebrun and Wang is based on an incorrect legal analysis. PO contends that Lebrun "teaches away" from Wang because an embodiment of Lebrun sends a webpage without multimedia features, whereas Wang purportedly is "designed to store a snapshot of page data locally." POR, 77. "Teaching away" refers to criticizing or generally

discouraging an approach. *In re Chaganti*, 554 F. App'x 917, 921 (Fed. Cir. 2014). Not, as PO and its expert contend, describing or teaching different approaches in the same field. Thus, to the extent Lebrun and Wang teach different methods of storing data, that does not show “teaching away” nor any reason a POSITA would not be motivated to combine their disclosures. *See* POR, 77; Ex. 1034, ¶23.

Likewise, PO does nothing to undermine the motivation of a POSITA to combine Prajapat and Wang. POR, 77. PO contends that in order to successfully show motivation to combine, it must be shown that both disclosed prior art systems must be able to implemented “simultaneously” in their entirety, even if the disclosures are described in different architectures. *Id.* But the Federal Circuit has made clear that the motivation to combine analysis is not so rigid such that a POSITA would not be able to use common sense to apply the teachings of one prior disclosure in a different architecture. Indeed, “[t]he inquiry into the existence of a motivation to combine assumes that a skilled artisan is a person of ordinary creativity with common sense, common wisdom, and common knowledge.” *Elektro Ltd. v. ZAP Surgical Sys., Inc.*, 81 F.4th 1368, 1374 (Fed. Cir. 2023) (citing *Fleming v. Cirrus Design Corp.*, 28 F.4th 1214, 1223 (Fed. Cir. 2022)). Thus, an obviousness determination does not always require prior art to expressly state a motivation for every obvious combination. *Id.* Nor does an obviousness showing “require that a particular combination must be the preferred, or the most desirable, combination

described in the prior art in order to provide motivation for the current invention.”

Novartis Pharms. Corp. v. West-Ward Pharms. Int'l Ltd., 923 F.3d 1051, 1059 (Fed. Cir. 2019) (citation omitted).

VII. THE DEPENDENT CLAIMS ARE UNPATENTABLE

PO's cursory analysis of the dependent claims fails to rebut Petitioner's showing of unpatentability, thus leaving Petitioner's analysis undisturbed. With respect to claim 4, PO's contention that the cookies sent from the group-surfing server to the guest client has “nothing at all to do with a browsing session,” is absurd. POR, 78. Lebrun expressly discloses that this information is part of the Figure 4 “process flow diagram for a method of using a system for group access to web sites” (Ex. 1005, 43:26-27), that steps 290 and 291 relate to the import of information related to websites (*id.*, 48:29-49), and that the “group surfing server 140 . . . exports the designated information to selected databases at web clients 110 participating in the session . . .” (*id.*, 49:5-8). Prajapat also expressly discloses receipt by the browser of “cookies . . . associated with the web page.” Ex. 1007, [0017].

For claims 5, 6, 17, and 18, PO does not provide *any* analysis of the challenged claim limitations or of Lebrun or Prajapat's disclosures. POR, 78-79 (omitting any citations or reference to prior art disclosures). PO, instead, simply asserts without support that Prajapat and Lebrun describe so-called “middleman” page sharing, which supposedly does not meet the claim limitations. *Id.*; *see also supra* Section

II. Such cursory, unsupported attorney argument does nothing to rebut the well-supported opinions and analysis set forth in the Petition and this Reply.

VIII. PO'S EXHIBIT 2005

PO's unexplained reference to a district court denial of Intuit's motion to dismiss under 35 U.S.C. § 101 (POR, 41-42) is irrelevant because that order pertained to a different issue (abstract idea as opposed to obviousness), with different evidence, under a different standard.

IX. PO'S ATTEMPTS TO INCORPORATE BY REFERENCE ARE IMPROPER

PO repeatedly violates the rules by citing to swathes of its expert declaration to support conclusory statements made in the POR, which is a violation of the rules for at least two reasons. First, PO should not ask Petitioner and the Board "to play archeologist with the record"; "a brief must make all arguments accessible to the judges." *Cisco Sys., Inc. v. C-Cation Techs., LLC*, IPR2014-00454, Paper 12 at 10 (P.T.A.B. Aug. 29, 2014), quoting *DeSilva v. DiLeonardi*, 181 F.3d 865, 866-67 (7th Cir. 1999). Second, papers in an IPR also should not attempt to incorporate by reference arguments made in an expert report. 37 CFR § 42.6(a)(3); *Blackberry Corp. v. Mobilemedia Ideas LLC*, IPR2013-00016, Paper 32 at 21 (P.T.A.B. Feb. 25, 2014); *Cisco Sys.*, IPR2014-00454, Paper 12 at 9-10.

The POR repeatedly cites to entire sections of Mr. Friedman's expert declaration as allegedly supporting an argument made in the POR. *See, e.g.*, POR,

40-41 (citing Ex. 2004, ¶¶36-45, which is the entirety of the “web browsing interaction data” analysis); 69 (citing to ¶¶60-65 and ¶¶74-78, which is the majority of Mr. Friedman's Prajapat analysis), 77 (citing to ¶¶79-85, which is the entirety of his motivation to combine opinion). These citations improperly force the reader “to play archeologist with the record” to understand what in these large swaths pertain to the arguments in the POR. *Cisco Sys.*, IPR2014-00454, Paper 12 at 10. Arguments not made in the papers, but only by reference to the expert declaration, should not be considered by Board. *Id.*

X. PO'S EXPERT TESTIMONY IS LIMITED AND NOT SUPPORTED BY EVIDENCE

Significant portions of the POR are not supported by Mr. Friedman's expert testimony. Mere attorney argument cannot take the place of evidence in the record, nor can it rebut contrary expert testimony. *In re Schulze*, 346 F.2d at 602; *In re Geisler*, 116 F.3d at 1465.

Of the expert testimony relied upon in the POR, the vast majority of Mr. Friedman's opinions consist of only ***conclusory assertions*** without underlying factual support. *See Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 12 at 5 (P.T.A.B. Feb. 10, 2023). Aside from a patent describing cookies at Ex. 1003, ¶37, the relied upon testimony ***cites to no authority/exhibits*** and on the whole lacks evidentiary support. As a result, Mr. Friedman's testimony should be given little weight.

XI. CONCLUSION

For the reasons discussed herein, the Board should find the challenged claims unpatentable.

Dated: December 20, 2023

FENWICK & WEST LLP

/Jennifer R. Bush/

Jennifer R. Bush

Reg. No. 50,784

Attorneys for Petitioner

Intuit Inc.

**CERTIFICATE OF COMPLIANCE
WITH TYPE-VOLUME LIMITATION**

Pursuant to 37 C.F.R. § 42.24 *et seq.*, the undersigned certifies that this **Petitioner's Reply to Patent Owner's Response** complies with the 5,600 word type-volume limitation. The Petition contains 5,596 words, excluding the parts of the Reply exempted from the type-volume limitation.

Dated: December 20, 2023

Respectfully submitted,

/Jennifer R. Bush/

Jennifer R. Bush

Reg. No. 50,784

Attorney for Petitioner

CERTIFICATION OF SERVICE

Pursuant to 37 C.F.R. § 42.6, the undersigned certifies that on December 19, 2023, I caused a true and correct copy of the foregoing PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE and Exhibits 1031 – 1034 to be electronically served on Petitioner's lead and backup counsel at the following addresses:

Scott W. Hejny
McKool Smith, P.C.
300 Crescent Court, Suite 1500
Dallas, TX 74201

Email: shejny@mkcoolsmith.com

Ryan B. McBeth
Archis (Neil) V. Ozarkar
Saif Askar
McKool Smith, P.C.
600 Travis Street, Suite 7000
Houston, TX 77002

Email: rmcbeth@mkcoolsmith.com
nozarkar@mkcoolsmith.com
saskar@mkcoolsmith.com

Alan P. Block
McKool Smith, P.C.
300 South Grand Avenue, Suite 2900
Los Angeles, CA 90071
ablock@mkcoolsmith.com

FENWICK & WEST LLP

/Jennifer R. Bush/

Jennifer R. Bush

Reg. No. 50,784

Attorneys for Petitioner
Intuit Inc.

Date: December 20, 2023
Fenwick & West LLP
801 California Street
Mountain View, CA 94041