UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BANK OF AMERICA, N.A., TRUIST BANK, BOKF, N.A., WELLS FARGO BANK, N.A., and PNC BANK, N.A.,

Petitioner,

v.

DYNAPASS IP HOLDINGS, LLC

Patent Owner.

***Inter Partes* Review No. IPR2023-00367**

Patent No. 6,993,658

PATENT OWNER'S SUR-REPLY IN SUPPORT OF ITS PRELIMINARY RESPONSE TO THE PETITION FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 6,993,658 PURSUANT TO 37 C.F.R. § 42.107

Filed on behalf of Patent Owner by:

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WILLIAMS SIMONS & LANDIS PLLC

Dynapass IP Holdings, LLC ("Patent Owner") respectfully submits this sur-reply in support of its Preliminary Patent Owner Response, as authorized by the Board on May 18, 2023.

First, Petitioner fails to address Patent Owner's application of *Oil States* to expired patents, as set forth in the preliminary patent owner response. *Compare* Paper 11 *with* Paper 10 at 39-40. The final written decision in *Apple, Inc. v. Gesture Tech. Partners, LLC*, which Petitioner cites in its reply, also fails to address the *Oil States* decision. *See* IPR2021-00922, Paper 26 at 25-27.

Second, Petitioner fails to dispute that the Reiher declaration does nothing more than restate Petitioners' argument without any additional supporting evidence or reasoning. *See* Paper 11. Nor could Petitioner because in each of the seven instances identified in the Preliminary Patent Owner Response, the Reiher declaration is nearly word-for-word identical to the Petition. *See* Paper 10 at 17-21, 23, 32, 35. It does not provide any technical reasoning, other than to parrot the legal arguments of the Petition. *See id.* It does not cite to any evidence not already identified in the Petition. *See id.* Nor does it provide any further technical analysis of that evidence. *See id.* In sum, the portions of the Reiher declaration identified in the Preliminary Patent Owner Response are merely a restatement of Petitioner's legal argument, not evidence. Therefore, those "opinions" should be afforded no weight.

Dated: May 26, 2023

Respectfully submitted,

By: /John Wittenzellner/
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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, the undersigned certifies that on May 26, 2023, the foregoing document was served on counsel of record for Petitioner by filing this document through the End-to-End System, as well as via electronic mail to counsel of record for Petitioner at the following addresses: Lionel M. Lavenue (lionel.lavenue@finnegan.com); Kara A. Specht (kara.specht@finnegan.com); Cory C. Bell (cory.bell@finnegan.com); Xirui Zhang (xirui.zhang@finnegan.com).

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