

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ORACLE CORPORATION,
Petitioner

v.

PARKING WORLD WIDE LLC,
Patent Owner

Case No.: IPR2023-00385
U.S. Patent No. 10,438,421

PETITIONER'S REPLY

TABLE OF CONTENTS

	Page(s)
I. INTRODUCTION.....	1
II. ARGUMENT	3
A. The prior art references are analogous art to the '421 patent.	4
1. The references are from the same field of invention as the '421 patent.	5
2. The references are reasonably pertinent to at least one problem faced by the inventor of the '421 patent.	9
B. The prior art does not teach away from the claims of the '421 patent.	12
C. Petitioner did not use improper hindsight.	15
D. A POSITA would have been motivated to combine the prior art as set forth in the Petition.	17

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>In re Bigio</i> , 381 F.3d 1320 (Fed. Cir. 2004)	4
<i>DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.</i> , 567 F.3d 1314 (Fed. Cir. 2009)	13
<i>In re Fulton</i> , 391 F.3d 1195 (Fed. Cir. 2004)	13
<i>Graham v. John Deere Co.</i> , 383 U.S. 1 (1966).....	9, 12
<i>In re Hubbell</i> , 644 Fed. Appx. 1004 (Fed. Cir. Apr. 7, 2016)	13
<i>Intel Corp. v. Qualcomm, Inc.</i> , 21 F.4 th 784 (Fed. Cir. 2021).....	3, 17, 18
<i>In re McLaughlin</i> , 443 F.2d 1392 (CCPA 1971)	16
<i>Meiresonne v. Google, Inc.</i> , 849 F.3d 1379 (Fed. Cir. 2017)	12
<i>Netflix, Inc. v. Divx, LLC</i> , 80 F.4 th 1352 (Fed. Cir. 2023).....	4, 5, 8
<i>NuVasive, Inc. v. Hirshfeld</i> , 2021 WL 3661208 (Fed. Cir. Aug. 18, 2021)	16, 17
<i>Plantronics, Inc. v. Aliph, Inc.</i> , 724 F.3d 1343 (Fed. Cir. 2013)	18, 19
<i>Scientific Plastic Prods., Inc. v. Biotage AB</i> , 766 F.3d 1355 (Fed. Cir. 2014)	9
<i>In re Sutton</i> , 497 Fed. Appx. 29 (Fed. Cir. 2012).....	14

I. INTRODUCTION

In its response, Patent Owner does not dispute Petitioner's descriptions of the teachings of the prior art references on which Petitioner relies. Nor does Patent Owner provide any testimony from a POSITA to support its bare attorney argument or rebut Petitioner's showing about the teachings and disclosures of the prior art. Instead, Patent Owner largely recycles the same unpersuasive arguments that it made in its POPR about analogous art, hindsight, teaching away, and motivation to combine references. The Board already considered and rejected those arguments on institution of this review and should do so again here. Paper No. 8 ("ID"), 17-18, 20-21.

First, Patent Owner contends that the asserted references are not analogous art to the '421 patent. In doing so, Patent Owner incorrectly focuses on some immaterial differences between the references and the '421 patent and completely ignores their fundamental similarities. The test for analogous art broadly looks to whether the asserted references are in the same field or are reasonably pertinent to the problems faced by the inventor. The asserted references meet both of these tests because, among other things, they all relate to parking management systems, just like the '421 patent. Patent Owner further contends that certain features of the prior art make it non-analogous, even though those very same features are included in embodiments of the invention disclosed in the '421 specification.

Second, Patent Owner contends that the prior art teaches away from the claims of the '421 patent merely because the prior art includes some features that are not expressly claimed in the '421 patent claims. This, of course, is not the law. Because the prior art on which Petitioner relies does not criticize, discredit, or otherwise discourage investigation into the inventions claimed, it does not teach away.

Third, Patent Owner contends that Petitioner improperly used hindsight because it allegedly “overlook[ed] the parking status overlay upon a real time video image.” Paper No. 10 (“POR”), 14. Petitioner did no such thing. Petitioner identified teachings in Ivey that disclosed overlaying payment status information on an image of a parking space. Paper No. 1 (“Pet.”), 35; EX1003 (“Paradiso Decl.”), ¶¶ 195-196. Petitioner further identified teachings in Ward (payment information) and Haynes (real-time view) that together disclosed this same feature. Pet., 62-63; Paradiso Decl., ¶¶ 345-352. Petitioner further explained how a person of skill in the art (“POSITA”) would have been motivated by considerations that were known in the art to make the proposed combinations. Pet., 47-49, 71-72; Paradiso Decl., ¶¶ 266-291, 372-376.

Fourth, Patent Owner contends that there is insufficient motivation to combine the references because “improved efficiency” is allegedly too vague of a concept to motivate a POSITA. Patent Owner once again relies on bare attorney

argument, without any evidence as to the motivations of a POSITA, and once again misunderstands and misapplies the law. Under the correct legal standard, improved efficiency is a well-accepted motivation to combine references. *Intel Corp. v. Qualcomm, Inc.*, 21 F.4th 784, 797 (Fed. Cir. 2021).

Because Patent Owner does not dispute that the prior art teaches all limitations of the challenged claims, and because Patent Owner's analysis of analogous art, hindsight, teaching away, and motivation to combine is based on incorrect legal analysis and is wholly lacking in evidentiary support as to the understandings of a POSITA, the Board should find all challenged claims unpatentable as obvious based on Grounds 1-4.

II. ARGUMENT

The Petition recited four grounds for obviousness of the challenged claims. Ground 1 contended that claims 1-3 and 5-6 were obvious over Ivey in view of Matsumoto and Tillotson. Ground 2, directed at dependent claims 4 and 7, added Slemmer. Ground 3 contended that claims 1-3 and 5-6 were obvious over Ward in view of Haynes and Tillotson. Ground 4, directed at dependent claims 4 and 7, added Slemmer. Petitioner provided a detailed description of how these references teach each and every limitation of the challenged claims. Petitioner further provided a declaration from Dr. Joseph Paradiso, a professor at MIT with expertise in parking management systems, augmented reality, and sensors (Paradiso Decl.,

¶¶ 5-13), who testified that a POSITA would have looked to the teachings of Ivey, Matsumoto, Ward, Haynes, Tillotson, and Slemmer, and would have been motivated by those and other teachings to make the proposed combinations.

Patent Owner repeats the same four arguments against each of the Petition's four grounds. Because of this duplication, Petitioner addresses each argument in turn below, taking on the four grounds together for each argument.

A. The prior art references are analogous art to the '421 patent.

The law “take[s] an expansive view of what constitutes analogous art.” *Netflix, Inc. v. Divx, LLC*, 80 F.4th 1352, 1359 (Fed. Cir. 2023). A reference is analogous art to a challenged patent when it is either from the same field of endeavor or is reasonably pertinent to at least one problem faced by the inventor. *In re Bigio*, 381 F.3d 1320, 1325 (Fed. Cir. 2004). Patent Owner incorrectly contends that a reference “must pass two separate tests” to be analogous art. POR, 9. That is not the law. *Bigio*, relied on by Patent Owner, clearly articulates that although there are two separate tests for analogous art, a prior art reference need only pass one of the two tests. *Id.* (finding a prior art reference to be analogous to the challenged patent because the reference was in the same field as the patent, without considering the second test). Regardless, Petitioner's references satisfy both prongs of the test for analogous art.

1. The references are from the same field of invention as the '421 patent.

The test for whether a reference is in the same field of invention as a challenged patent looks to the entirety of the challenged patent, including the specification, claims, figures, and abstract, and compares those disclosures with the entirety of the teachings of the prior art reference. *Netflix*, 80 F.4th at 1359 (examining “the complete disclosure of all embodiments in the patent’s specification.”). Indeed, it is improper to look solely at the point of novelty or specific claim limitations in considering the field of invention. *Id.* (noting that the field is “not limited to the specific point of novelty, the narrowest possible conception of the field, or the particular focus within the given field”).

Here, based on the entirety of the '421 patent and the testimony of Dr. Paradiso, Petitioner identified the field of the invention as parking management systems. Pet., 9-10; Paradiso Decl., ¶¶ 47-54. Patent Owner appears to concur. POR, 2 (noting that the “'421 Patent resulted from the inventor’s research and development related to management of parking systems”). Petitioner further demonstrated that each of the asserted prior art references was in this field. Pet., 15-23.

Petitioner properly looked at the entirety of the disclosures in the '421 patent, noting that these disclosures related to parking management systems, augmented reality applications, and databases. Pet., 10. Petitioner further noted

that the '421 patent disclosed the use of payment systems for parking spaces, indications of payment status, display of graphical information about parking spaces, cashless payment for parking, subscriptions for parking, and use of location information to determine whether a parking space was paid for. *Id.*, 10-11.

Petitioner then looked at the entirety of the teachings of the prior art references, noting that the prior art taught:

- the use of a parking management computer to verify the payment status of parking spaces on a street, including displaying parking status information on a representation of the street; Pet., 15-16 (*citing* Ivey, abstract, Fig. 1, [0020]-[0022]);
- the use of a live-action image of vacant parking spaces, including identification of the location of the parking spaces. Pet., 17-18 (*citing* Matsumoto, [0006], [0060]-[0061], Fig. 6);
- The use of a parking information system for parking enforcement, which displays a graphical user interface that identifies a plurality of parking spaces on a representation of a street and indicia indicating whether the parking fee has been paid for each parking space. Pet., 19-20 (*citing* Ward, [0046]-[0049], Fig. 3);
- The use of a system for displaying dynamic parking space information in real time, including a video image of the parking spaces in a lot,

that can be updated in real time and enhanced with additional data about the parking spaces. Pet., 20-21 (*citing* Haynes, 12:62-13:8, 13:33-43, Fig. 1);

- The use of audio to communicate parking space location data to the driver of a vehicle that is searching for parking spaces. Pet., 22 (*citing* Slemmer, [0039]-[0040]);
- The use of a reservation system for reserving parking spaces and paying for same via monthly subscriptions or electronic payments. Pet., 22-23 (*citing* Tillotson, [0044], [0065]).

Petitioner supported all of these observations with testimony from Dr.

Paradiso that each of these references was in the same field of endeavor as the '421 patent. Dr. Paradiso testified that:

- “Ivey relates to the local enforcement of remotely managed parking systems.” Paradiso Decl., ¶ 84;
- “Matsumoto relates to a parking lot guidance system.” *Id.*, ¶ 92;
- “Ward relates to a parking information system that includes an enforcement device...” *Id.*, ¶ 98;
- “Haynes relates to a system for displaying dynamic parking space information in real-time...” *Id.*, ¶ 104;

- “Slemmer relates to a method of directing parking in a parking lot.”
Id., ¶ 108;
- “Tillotson relates to a method for determining the availability of a plurality of parking spaces, reserving one or more such available parking spaces and monthly subscriptions for parking spaces. ... Tillotson relates to parking space information and reservation system (PSIRS).” *Id.*, ¶ 111-112.

This is all that is required to establish that a reference is in the same field as the challenged patent. *Netflix*, 80 F.4th at 1359 (noting that the Federal Circuit “ha[s] affirmed findings of analogous art where the references shared a general field of endeavor”).

At odds with the law, Patent Owner argues that the prior art is not analogous because the references allegedly disclose a few discrete features that are not required by the claims of the ’421 patent. *See, e.g.* POR, 10 (Ivey) (uses a map instead of a real-time image); *id.* (Matsumoto) (uses fixed video source instead of moving video source); *id.*, 11 (Tillotson) (uses a sensor instead of a real time image to detect cars); *id.*, 18 (Slemmer) (uses detectors to detect cars); *id.*, 23 (Ward) (uses parking meters); *id.*, 24 (Haynes) (uses a fixed video source). Based solely on these alleged differences between a reference’s teachings and the

challenged claims, Patent Owner contends that the reference is not analogous art.

As discussed above, that is not the law.

Indeed, a fundamental underpinning to all of obviousness law is that the prior art reference is different in at least one respect from the challenged claim. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). Otherwise, the reference would anticipate the claim. Thus, were a difference between the prior art reference and the challenged claim sufficient to make the reference non-analogous, as Patent Owner contends, the entire law of obviousness would be wiped away. This cannot be correct. Petitioner's references are all in the same field of invention as the '421 patent—parking management systems—and thus are analogous art.

2. The references are reasonably pertinent to at least one problem faced by the inventor of the '421 patent.

Even if Petitioner's references were somehow not in the same field of invention as the '421 patent (they are), each of these references would still be analogous art because they would have been recognized by a POSITA as being reasonably pertinent to a problem faced by the inventor of the '421 patent.

A reference is reasonably pertinent to a problem faced by the inventor when it logically commends itself to an inventor's attention in considering the problem. *Scientific Plastic Prods., Inc. v. Biotage AB*, 766 F.3d 1355, 1359 (Fed. Cir. 2014) (finding it proper to combine a reference teaching a low-pressure liquid

chromatography cartridge with two references teaching sealing caps used for carbonated beverages).

Here, the problems faced by the named inventor of the '421 patent included:

- Paying for parking using parking meters and coins is inconvenient. '421 patent, 2:17-29;
- Enforcement of parking meters using cashless payment requires the officer to query each parking space to identify the payment status of the space. *Id.*, 2:46-59;
- Parking maps don't display images of actual vehicles. *Id.*, 3:3-9;
- Parking maps don't rely on digital or video images and audio messages. *Id.*, 3:10-18;
- Fixed plates or sensors mounted in a parking space are inconvenient and expensive to replace. *Id.*, 3:61-4:8.

As demonstrated in the Petition and Dr. Paradiso's declaration, each of the references on which the Petition relies dealt with at least one of these same problems:

- Ivey addressed at least the problems of officers having to query each parking space to identify the payment status of the space, and of using parking meters, fixed plates, or sensors in each parking space. Pet., 15-17 (citing Ivey, [0020] – [0022]); Paradiso Decl., ¶¶ 82-88;

- Matsumoto addressed at least the problem of not having images of actual vehicles. Pet., 17-19 (citing Matsumoto, [0060]); Paradiso Decl., ¶¶ 89-95;
- Ward addressed at least the problems of officers having to query each parking space to identify the payment status of the space, and of using parking meters, fixed plates, or sensors in each parking space. Pet., 19-20 (citing Ward, [0046] – [0049]); Paradiso Decl., ¶¶ 96-101;
- Haynes addressed at least the problems of displaying images of actual vehicles, and also addressed the problems of displaying additional information about a parking space. Pet., 20-21 (citing Haynes 12:62-13:8, 13:33-43); Paradiso Decl., ¶¶ 102-105;
- Slemmer addressed at least the problem of providing video and audio messages to system users. Pet., 22 (citing Slemmer, [0039]); Paradiso Decl., ¶¶ 106-108;
- Tillotson addressed at least the problem of paying for parking using meters and coins. Pet., 22-23 (citing Tillotson, [0023], [0044], [0065]); Paradiso Decl., ¶¶ 109-114.

Each of the asserted prior art references addressed at least one of the same problems faced by the named inventor. Patent Owner merely identifies alleged differences between the prior art references, taken individually, and the '421 patent. But it is of no moment that certain of the references may have differences

in the solutions from those disclosed and claimed by the inventor; that such differences may exist is a fundamental underpinning to all of obviousness law. *Graham*, 383 U.S. at 17-18. These references are all reasonably pertinent to at least one problem faced by the inventor and thus are analogous art to the '421 patent.

B. The prior art does not teach away from the claims of the '421 patent.

Patent Owner next repeats its unpersuasive argument from the POPR that the prior art references provide no motivation to combine because they allegedly teach away from the invention. POR, 13; POPR 17. Patent Owner bases this argument on the same allegations that the prior art includes certain features not expressly required by the claims. POR, 12-13. Patent Owner appears to contend that the mere presence of different features in the prior art means that the prior art teaches away from the claimed invention. *Id.*, 13. This is not the law. Indeed, as discussed above, were the mere existence of differences between the prior art and the claimed invention sufficient to teach away, then there would be no law of obviousness at all. The only invalidating references would be anticipatory.

In order to teach away from a claimed invention, it is not enough that a prior art reference includes features or teachings that differ from the claimed invention. *Meiresonne v. Google, Inc.*, 849 F.3d 1379, 1382-83 (Fed. Cir. 2017) (finding that a reference teaching the use of graphical previews did not teach away from using

text and graphics in combination in a preview). Instead, a prior art reference must “criticize, discredit, or otherwise discourage” investigation into the invention claimed. *In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004); *see also In re Hubbell*, 644 Fed. Appx. 1004, 1009 (Fed. Cir. Apr. 7, 2016) (holding that expressing a preference for an alternative invention is not enough to teach away from the claimed invention). Here, none of the cited references criticizes or otherwise disparages any of the features claimed in the ’421 patent. Patent Owner does not identify even a single instance in which one of the prior art references criticizes a feature claimed in the ’421 patent.¹ Nor does Patent Owner submit any testimony from a POSITA explaining how any of the prior art references criticize, discredit, or discourage investigation into the claimed inventions.

Patent Owner also relies improperly on features recited in the ’421 patent specification but not recited in the challenged claims to support its argument that

¹ The *DePuy* case, relied on by Patent Owner, is thus inapposite. *DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.*, 567 F.3d 1314, 1326-27 (Fed. Cir. 2009). There, the prior art expressly criticized the use of a “rigid screw,” which was the very feature that the patent challenger claimed was the reason to combine the prior art. *Id.* Here, in contrast, the prior art does not criticize any of the teachings on which Petitioner relies.

the references somehow teach away from the claimed inventions. For example, the Patent Owner contends that the claimed inventions involve imaging parking spaces “along a street” (POR, 12) or “strips of spaces along active traffic and dispersed around a city” (*id.*, 13), and that the prior art references do not involve such spaces. But there is nothing in the claims which requires the parking spaces to be situated in any particular place, much less “along a street” or “dispersed around a city” as Patent Owner contends. Similarly, Patent Owner appears to contend that the claimed camera is held by an officer at the officer’s height off the ground and that the prior art cameras are not so held. *Id.*, 10-11. But the claims fail to recite any such limitations as to the location of the claimed camera. ’421 patent, claim 1; *accord* ID at 17 (“claim 1 does not specify how the claimed ‘real time camera view’ is obtained, and therefore does not exclude the claimed real-time camera view being obtained from a camera mounted at the parking lot”).

Patent Owner’s reliance on the presence of unclaimed features in the prior art is particularly unavailing here because the claims at issue are open-ended “comprising” claims. Thus, the fact that the prior art references may recite additional features that are not expressly set forth in the challenged claims is of no matter. *In re Sutton*, 497 Fed. Appx. 29, 35 (Fed. Cir. 2012) (finding that open-ended “comprising” claims were “broad enough to include the use of [an unclaimed element] absent explicit claim language to the contrary,” and thus the

claims read on the prior art that used the unclaimed element). The references still read on the challenged claims and, together, still render them obvious.

C. Petitioner did not use improper hindsight.

Patent Owner next repeats its unpersuasive argument from the POPR that the Petition somehow “slip[ped] into hindsight” by allegedly “overlooking the parking status overlay upon a real time video image.” POR, 14; POPR, 17-18. This argument is nonsensical. The petition clearly argues and shows that Ivey teaches overlaying payment status on an image of a parking space (Pet., 35; Paradiso Decl., ¶¶ 195-196); that Matsumoto teaches the use of a real-time video image of parking spaces in a parking monitoring system (Pet., 35-37; Paradiso Decl., ¶¶ 197-205); and that it would have been obvious to a POSITA to combine Matsumoto with Ivey to yield a parking system that included a payment overlay on top of a real-time video image of a parking space (Pet., 47-49; Paradiso Decl., ¶¶ 266-291). The petition similarly argues and shows that Ward taught the use of payment information about parking spaces (Pet., 62; Paradiso Decl., ¶¶ 345-352); that Haynes taught the use of a real-time view of a parking space (Pet., 63; Paradiso Decl., ¶¶ 351-352); and that a POSITA would have found it obvious to combine these teachings (Pet., 71-72; Paradiso Decl., ¶¶ 372-376). This is not hindsight. This is simply applying the law of obviousness.

Improper hindsight arises when the motivation to combine multiple references comes from the teachings and claims of the challenged patent. *NuVasive, Inc. v. Hirshfeld*, 2021 WL 3661208, at *5 (Fed. Cir. Aug. 18, 2021), citing *In re McLaughlin*, 443 F.2d 1392, 1395 (CCPA 1971). Here, by contrast, the motivation to combine Ivey with Matsumoto and Tillotson comes from the teachings of Ivey, Matsumoto, and Tillotson themselves, as well as the knowledge and capabilities of a POSITA before the filing date of the '421 patent, as established by the testimony of Dr. Paradiso. Similarly, the motivation to combine Ward with Haynes and Tillotson comes from the teachings of Ward, Haynes, and Tillotson themselves, as well as Dr. Paradiso's testimony about the knowledge and capabilities of a POSITA. None of these teachings came from the applicant.²

² Patent Owner appears to contend that, because the applicant mentions Ivey in the '421 patent application, the teachings of Ivey were somehow transformed into teachings of the '421 patent. POR, 10 (citing *In re McLaughlin*, 443 F.2d at 1395). This is nonsense. The principle articulated in *McLaughlin* is that it is improper to use information first provided to the world by the patent applicant to find the applicant's invention obvious. That is the crux of any hindsight analysis. *Id.* Here, the teachings of Ivey were provided to the world by Ivey himself when his patent application was made public before the filing of the '421 patent. All the

Patent Owner’s bare attorney argument certainly is not evidence that rebuts the teachings of the references and Dr. Paradiso’s testimony.

D. A POSITA would have been motivated to combine the prior art as set forth in the Petition.

Finally, Patent Owner presents the same unpersuasive argument it made in its POPR that Petitioner’s “improved efficiency” motivation to combine is too vague of a concept to motivate a POSITA. POR, 14-15; POPR, 19-21. But efficiency concerns have long been recognized as a valid motivation for combining references in an obviousness analysis. *Intel Corp. v. Qualcomm, Inc.*, 21 F.4th 784, 797 (Fed. Cir. 2021) (rejecting a Board finding that an “energy efficiency” rationale was deficient because it was “no more than a generic concern that exists in many, if not all, electronic devices”). The *Intel* court recognized that “even before *KSR* ... because such improvements are ‘technology-independent,’ ‘universal,’ and ‘even common-sensical,’ ‘there exists in these situations a motivation to combine prior art references *even absent any hint of suggestion* in the

applicant did was cite the Ivey reference to the Examiner. *See* ID, 15.

Furthermore, Petitioner relies on the combination of Ivey with Matsumoto and Tillotson, neither of which was before the Examiner. Thus, it is irrelevant whether the Examiner mentioned Ivey or not.

references themselves.” *Id.*, quoting *DyStar Textilfarben GmbH v. C.H. Patrick Co.*, 464 F.3d 1356, 1368 (Fed. Cir. 2006)

Furthermore, Petitioner’s expert, Dr. Paradiso, cogently explained why efficiency concerns would have motivated a POSITA to make the combinations in Grounds 1-4. Dr. Paradiso testified that a POSITA would have recognized that including payment status information (Ivey) on a real-time camera view (Matsumoto) “would more efficiently streamline parking enforcement” by allowing the enforcement officer “to identify, move to, and issue citations for unpaid ... parking spaces more efficiently.” Paradiso Decl., ¶¶ 281-282.

Similarly, Dr. Paradiso testified that a POSITA would have known that including payment status information (Ward) on a real time camera view (Haynes) would allow a parking enforcement officer to more efficiently identify unpaid vehicles because “[t]he officer could more readily determine exactly which vehicle ... would be displayed on the officer’s screen, along with the indicia that the parking space was unpaid.” *Id.*, ¶ 374. By contrast, Patent Owner’s position is based entirely on attorney argument.³ Patent Owner has not offered any testimony from a

³ The *Plantronics* case relied upon by Patent Owner is simply inapplicable here.

Plantronics, Inc. v. Aliph, Inc., 724 F.3d 1343, 1354 (Fed. Cir. 2013). There, the Federal Circuit faulted the district court for relying on “common sense” to provide

POSITA, and has not offered any evidence whatsoever, that the well-recognized objective of making parking systems more efficient was insufficient.

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a motivation to combine without any evidentiary support. *Id.* The Court specifically noted the lack of any expert testimony. *Id.* Here, of course, Petitioner provided expert testimony directly addressing efficiency as a motivation to combine. Paradiso Decl., ¶¶ 281-282, 374.

CERTIFICATE OF COMPLIANCE

The undersigned certifies that the foregoing PETITIONER’S REPLY complies with the type volume limitation in 37 C.F.R. § 42.24(a)(1)(i). According to the utilized word-processing system’s word count, the Petition—excluding the caption, table of contents, table of exhibits, mandatory notices, certification pursuant to 37 C.F.R. § 42.11, certificate of word count, and certificate of service—contains 4,076 words.

Dated: December 21, 2023

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CERTIFICATE OF SERVICE

The undersigned certifies that on December 21, 2023, a copy of the following was served in its entirety via electronic mail, upon the following attorneys of record for the Patent Owner:

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