

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MAGIC LEAP, INC

Petitioner,

v.

PERCEPT TECHNOLOGIES INC.

Patent Owner.

IPR2023-00494

Patent 9,010,929

PATENT OWNER'S PRELIMINARY RESPONSE

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EXHIBIT LIST

EXHIBIT NO.	DESCRIPTION
2001	[Reserved]
2002	Statutory disclaimer in U.S. Pat. 9,010,929

I. INTRODUCTION AND SUMMARY OF ARGUMENTS

Magic Leap, Inc. (“Magic Leap”) challenges the patentability of claims 1-11, 15, 17, and 22 of U.S. Patent No. 9,010,929 (the “’929 patent”).

The Board should deny institution of trial because (1) as to the challenges based on Mann ’895 & Perner, the petition fails to set forth at least a *prima facie* case of unpatentability and so it would be pointless to institute trial on those challenges, and (2) the claims challenged by Jannard have been disclaimed and so no *inter partes* review based on that challenge can be instituted. *See Intuitive Surgical, Inc. v. Ethicon LLC*, IPR2018-01248, Paper 7 at 2 n.1, 9-10 (PTAB Feb. 7, 2019) (discussing effect of disclaimer, the Board’s governing regulations, and Federal Circuit precedent).

These and further reasons why the Board should deny institution of trial are discussed in greater detail below.

II. BACKGROUND, THE ’929 PATENT, AND CLAIM CONSTRUCTION

In its petition, Magic Leap presents two groups of challenges to the claims of the ’929 patent; one based on the combined teachings of Mann ’895 (Ex. 1005) and Perner (Ex. 1006), and the other based on the teachings of Jannard (Ex. 1007):

Ground		References	Claims
1	§ 103	Mann '895 & Perner	1-8, 10, 11, 15, 17, and 22
2	§ 103	Jannard	7, 9, 10, and 15

See Pet. at 6.

A. The '929 Patent

The '929 patent describes eyewear that is made up of a frame member and a lens. The frame member includes circuitry for enhancing the use of the eyewear. Various such enhancements are described, including imaging techniques to improve a wearer's vision, and enhancements that allow for integration with telecommunication devices and entertainment devices. Ex. 1001 at Abst.; 1:44-59; 2:21-33. According to the specification, the circuitry included in the eyewear "could be, for example, eye sensors which could be pressure sensors, capacitive sensors or some other type of sensor for allowing the eyes to direct the activities. Eye movement sensors, for example, could be used to activate and control the binocular glasses." *Id.* at 3:20-25. Importantly, activity of the eye itself controls the activity of the circuitry. *See, e.g., id.* at 3:38-43.

B. Claim Construction

In *inter partes* reviews such as this one, the Board applies the same claim construction standard used to construe a claim in a civil action under 35 U.S.C. § 282(b). *Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board*, 83 Fed. Reg. 51,340 (Oct. 11, 2018). Accordingly, the claims should be construed consistent with their plain and ordinary meaning as understood by a person of ordinary skill in the art. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312-17 (Fed. Cir. 2005). “The ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention.” *Id.* at 1313.

In the co-pending district court litigation, *Percept Technologies Inc. v. Magic Leap, Inc.*, 1:22-cv-00025 (DDE), the Court has entered an order construing the term “the eye sensor activating the circuitry responsive to eye motion of a user,” consistent with its “[p]lain and ordinary meaning.” Ex. 1015 at 1. The Court’s order specifically addressed this term as it appears in claim 7, but the identical term appears in all of the challenged independent claims:

Claim of '929 Patent	Term
1	an eye sensor coupled to the frame member, the eye sensor activating the circuitry responsive to eye motion of a user
7	an eye sensor coupled to the frame member, the eye sensor activating the circuitry responsive to eye motion of a user
8	an eye sensor coupled to the frame member, the eye sensor activating the circuitry responsive to eye motion of a user
9	an eye sensor coupled to the frame member, the eye sensor activating the circuitry responsive to eye motion of a user
10	an eye sensor coupled to the frame member, the eye sensor activating the circuitry responsive to eye motion of a user
11	an eye sensor coupled to the frame member, the eye sensor activating the circuitry responsive to eye motion of a user
15	an eye sensor coupled to the frame member, the eye sensor activating the circuitry responsive to eye motion of a user
17	an eye sensor coupled to the frame member, the eye sensor activating the circuitry responsive to eye motion of a user

22	an eye sensor coupled to the frame member, the eye sensor activating the circuitry responsive to eye motion of a user
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Ex. 1001 at 5:62-64; 6:12-14, 22-24, 31-33, 39-41, 53-55; 7:16-18, 26-29; 8:1-3, 36-38. Because the same term is used identically in all of these claims, it should be construed consistently across all of these claims. *Digital Biometrics, Inc. v. Identix, Inc.*, 149 F.3d 1335, 1345 (Fed. Cir. 1998).

The Board should adopt the construction of the term “the eye sensor activating the circuitry responsive to eye motion of a user” entered by the district court because it was determined after a full briefing by the same parties to the present proceeding under the same standard used for claim constructions by the Board. Furthermore, this term, as used in the ’929 patent, is readily understandable and does not require further interpretation. *See Phillips*, 415 F.3d at 1314. The patentee did not provide the term any special meaning in the specification of the ’929 patent, and, regardless, Magic Leap “does not believe any claim construction is necessary.” Pet. at 4. Accordingly, there is no clear reason to depart from the plain and ordinary meaning of this term. *Ancora Technologies Inc. v. Apple Inc.*, 744 F.3d 732, 734 (Fed. Cir. 2014) (“A claim term should be given its ordinary meaning in

the pertinent context, unless the patentee has made clear its adoption of a different definition or otherwise disclaimed that meaning.”).

Further constructions are not needed to resolve any asserted ground in this petition. *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co. Ltd.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (only “terms ‘that are in controversy, and only to the extent necessary to resolve the controversy’” need be construed) (quoting *Vivid Techs., Inc. c. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)).

III. THE PETITION FAILS TO DEMONSTRATE THAT THERE IS A REASONABLE LIKELIHOOD THAT ANY CHALLENGED CLAIM IS UNPATENTABLE

“The Director may not authorize an inter partes review [trial] to be instituted unless the Director determines that the information presented in the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail.” 35 U.S.C. § 314(a). At a minimum, the reasonable-likelihood-of-prevailing standard “effectively requires the petitioner to present a prima facie case justifying a rejection of the claims in a patent.” 112 Cong. Rec. S1375 (daily ed. Mar. 8, 2011) (quoting Sen. Kyl). Indeed, if a challenge fails to set forth at least a *prima facie* case of unpatentability, then it would be pointless to institute trial on that challenge, as the petitioner

cannot cure defects in a petition during trial. As explained by the Federal Circuit:

It is of the utmost importance that petitioners in the IPR proceedings adhere to the requirement that *the initial petition* identify “with particularity” the “evidence that supports the grounds for the challenge to each claim.” 35 U.S.C. § 312(a)(3). . . . Unlike district court litigation — where parties have greater freedom to revise and develop their arguments over time and in response to newly discovered material — the expedited nature of IPRs bring[s] with it an obligation for petitioners to make their case *in their petition to institute*.

Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd., 821 F.3d 1359, 1369 (Fed. Cir. 2016) (emphases added).

Moreover, the petition must be judged as it is written. The Board may not overlook flaws in the petition or reformulate its challenges to enhance their suitability. *See SAS Inst. Inc. v. Iancu*, 138 S. Ct. 1348, 1355 (2018) (“[I]t’s the petitioner, not the Director, who gets to define the contours of the proceeding.”); *see also id.* (“[T]he petitioner is master of its complaint . . .”); *see also id.* at 1353 (forbidding the Board from “curat[ing]” the petition). Furthermore, because all of the challenges in the petition rely on conclusions of obviousness, the analyses set forth in the petition must include “some

articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR Int’l v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). The challenger must supply the factual basis for the challenge and “may not resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis.” *In re Warner*, 379 F.2d 1011, 1017 (CCPA 1967). Additionally, in cases such as the present, where the obviousness challenges involve a modification or combination of teachings, the Petitioner must also establish that one skilled in the art would have had a reasonable expectation of success to make the modification or combination. *Intelligent Bio-Sys.*, 821 F.3d at 1367-68. The modification or combination must not “require a substantial reconstruction and redesign of the elements” in a reference or “a change in the basic principles under which [a reference] was designed to operate.” *In re Ratti*, 270 F.2d 810, 813 (CCPA 1959). Nor can the modification or combination render a reference unsatisfactory or “inoperable for its intended purpose.” *In re Gordon*, 733 F.2d 900, 902 (Fed. Cir. 1984).

Last but not least, the Supreme Court has emphasized that obviousness cannot be established by hindsight combination to produce a claimed invention:

A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning. *See Graham [v. John Deere Co.]*, 383 U.S. [1,] 36, 86 S. Ct. 684, 15 L. Ed. 2d 545 [(1966)] (warning against a “temptation to read into the prior art the teachings of the invention in issue” and instructing courts to “guard against slipping into use of hindsight” (quoting *Monroe Auto Equip. Co. v. Heckethorn Mfg. & Supply Co.*, 332 F.2d 406, 412 (6th Cir. 1964))).

KSR Int’l, 550 U.S. at 421.

A. Petitioner’s Proposed Grounds for Institution Based on Mann ’895 and Perner Should be Denied

Magic Leap’s first group of challenges are based on the teachings of Mann ’895 and Perner. Pet at 6. In relevant part, Magic Leap contends Mann ’895 in view of Perner teaches “an eye sensor coupled to the frame member, the eye sensor activating the circuitry responsive to eye motion of a user.” Pet. at 13-15. Although presented in the context of claim 1, Magic Leap relies on the same analysis for this limitation as it appears in all of the challenged claims. *Id.* at 14 (claim 7), 31 (claim 8), 34 (claim 10), 40 (claim 11), 42 (claim 15), 43 (claim 17), 46 (claim 22).

According to Magic Leap, Mann '895 “discloses a ‘sight license’ feature by which a ‘retinal or iris scanner in the eyeglasses’ can license the eyeglasses to provide sight to the wearer.” Retinal scanners and iris scanners are alleged to be examples of “eye sensors that scan and detect components of the human eye,” *id.* at 13 (citations omitted), and Magic Leap therefore maps these elements to the claimed “eye sensor coupled to the frame member.” *Id.* at 14. Magic Leap further argues that, “the sight license granted by the retinal or iris scanner can ‘enable the eyeglasses to operate,’” and, therefore, the “eye sensor is activating the circuitry.” *Id.* (emphasis omitted). Magic Leap offers no specific allegation as to how Mann '895 alone can be read to teach the requirement that the eye sensor activates circuitry *responsive to eye motion of a user*, as required by the challenged claims.

Instead, Magic Leap alleges this feature is “taught by Mann '895 in combination with Perner.” *Id.* To wit, “Perner’s iris feature detector is [] an eye sensor that is responsive to the eye motion of the user.” *Id.* at 15. And Magic Leap alleges it would have been obvious for a person of ordinary skill in the art to “adopt Perner’s suggestion and advantageously use the iris feature detector of Perner in place of the iris scanner of Mann '895.” *Id.* at 16.

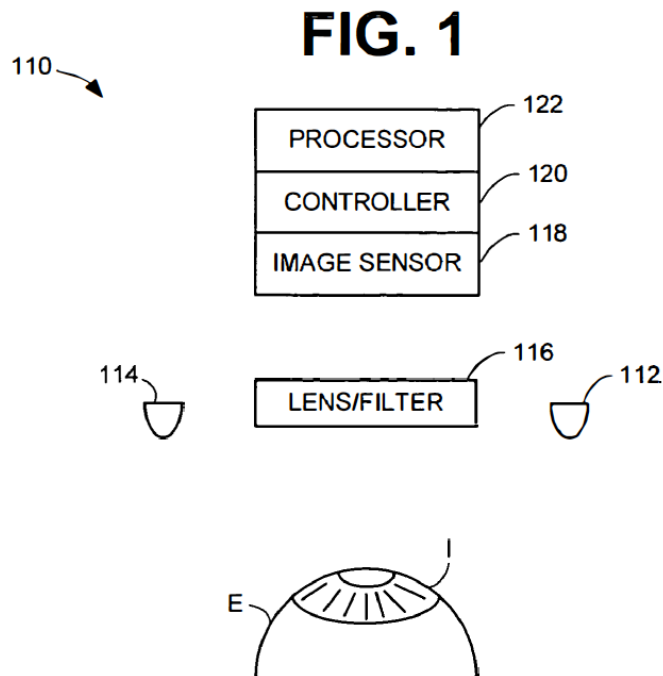
Magic Leap's contentions with respect to the claimed feature of "an eye sensor coupled to the frame member, the eye sensor activating the circuitry responsive to eye motion of a user" lack merit. As noted, Magic Leap does not allege that Mann '895 teaches this requirement on its own. This is not surprising because no such teaching exists in Mann '895. Indeed, the only discussion of a retinal or iris scanner in Mann '895 appears in the context of a sight license, that is a "license to see." Mann '895 states that, "a retinal or iris scanner in the eyeglasses may license the eyeglasses to provide sight to the wearer, but not to others who might steal the glasses." Ex. 1005 at 11:23-25. There is no mention or suggestion of such a retinal or iris scanner activating any circuitry *responsive to eye motion of a user*. Nothing in Mann '895 suggests that the sight license is somehow *responsive to eye motion of a user*. Indeed, if the sight license is to operate to exclude persons other than the owner of the eyeglasses from using them for seeing, it seems the sight license, that is the retinal or iris scanner, must somehow be responsive to some biometric characteristic of the wearer, not eye motion of whomever happens to be wearing the eyeglasses.

As for Perner, the disclosure is clear that the iris feature detector is not *responsive to eye motion of a user*, but rather is responsive to commands issued by a controller. According to Perner, "A conventional iris scanner

centers the eye in a field of view, creates one or more images of the eye, identifies an outer boundary of the iris in the images, extracts the image of the iris, scales and filters the extracted image, and generates a code corresponding to the iris.” Ex. 1006 at [0004]. Perner then describes “an iris feature detector [that] includes a reflexive eye movement source.” *Id.* at [0006]. The eye movement source is later described as light sources. *Id.* at [0029]-[0030]. “[A] controller causes the eye movement source to cause rapid eye motion, and the sensor to capture first and second iris images over a time interval in which only an iris can move in the first and second images.” *Id.* at [0006]. The differences between the first and second images may be used for various purposes such as authentication and identification. *Id.* at [0035], [0057], [0059].

Examining Perner in more detail provides further insight into the operation of the iris feature detector. Referring to Figure 1, reproduced below, the iris feature detector is shown at 110 and the pair of light sources disposed on either side of eye “E” are designated at 112 and 114. *Id.* at [0017]. According to Perner, the controller 120 of the iris feature detector, “causes the first light source 112 to illuminate, whereby the iris of the subject's eye is drawn to and becomes fixed on the illuminated first light source 112.” *Id.* at [0019]. Thereafter, “the controller 120 turns off the first

light source 112 and immediately causes the second light source 114 to illuminate. Reflexively, the eye moves quickly and becomes fixed on the illuminated second light source 114.” *Id.* at [0020]. “During [a] tracking interval [(the time interval between eye fixation on the first illuminated source 112 and eye fixation on the second illuminated source 114)], the controller 120 causes the image sensor 118 to capture a first image of the eye and then a second image of the eye. For example, the first image may be taken as soon as the first light source 112 is turned on, and the second image may be captured immediately after the second light source 114 is turned on.” *Id.* at [0021], [0020].



Thus, it is apparent that rather than the iris feature detector of Perner being *responsive to eye motion of a user*, as required by the challenged claims, the iris feature detector of Perner (that is, its controller) actually **causes** *eye motion of a user*. The controller operates the light sources 112, 114 so as to cause the eye to move and then operates the image sensor accordingly (e.g., by capturing images according to when the different light sensors are turned on). *Id.*

Considering a combination of Mann '895 and Perner then, to the extent such a combination would actually be made by a person of ordinary skill in the art, that combination would, at best, adopt Perner's methodology for **causing** *eye motion of a user* using an iris scanner, which may operate according to a sight license, as taught by Mann '895. Whether or not a person of ordinary skill in the art would actually be motivated to make such a combination, the combination would not teach or suggest a system in which an eye sensor activates circuitry *responsive to eye motion of a user*, as recited in the challenged claims.

Thus, Petitioner has failed to demonstrate that the proposed Mann '895 and Perner combination teaches or suggests the subject matter required by independent claims 1, 7, 8, 10, 11, 15, 17, and 22. As such, the petition has failed to satisfy its obligation to "specify where each element of the

claim is found in the prior art,” 37 C.F.R. § 42.104(b)(4), and fails to make out even a *prima facie* case of obviousness. *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003); *see also* 37 C.F.R. § 42.108(c); *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.”) (citing 35 U.S.C. § 312(a)(3) (requiring *inter partes* review petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)); *Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015) (the burden of persuasion never shifts to the Patent Owner); *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016) (a petitioner cannot satisfy its burden of proving obviousness by employing “mere conclusory statements”).

Claims 2-6 depend from claim 1. Each respective dependent claim is not unpatentable in view of the proposed Mann ’895 and Perner combination for at least the same reasons as claim 1. *Hartness Int’l. Inc. v. Simplimatic Engineering Co.*, 819 F.2d 1100 (Fed. Cir. 1987) (a claim that depends from a nonobvious independent claim is nonobvious because it contains all of the limitations of that independent claim plus a further limitation).

Accordingly, the petition's challenge to claims 1-8, 10, 11, 15, 17, and 22 in view of Mann '895 and Perner is not reasonably likely to prevail with respect to any claim and the Board should deny institution of trial.

B. Petitioner's Proposed Grounds for Institution Based on Jannard Should be Denied

Petitioner challenges claims 7, 9, 10, and 15 as being obvious in view of Jannard. Pet. at 6, 13 *et seq.* Claims 7, 9, 10, and 15 have been disclaimed by the Patent Owner, Ex. 2002, hence no *inter partes* review can be instituted with respect thereto. *Intuitive Surgical*, IPR2018-01248, Paper 7 at 2 n.1, 9-10 (discussing effect of disclaimer, the Board's governing regulations, and Federal Circuit precedent); 37 C.F.R. § 42.107(e) ("The patent owner may file a statutory disclaimer under 35 U.S.C. 253(a) in compliance with § 1.321(a) of this chapter, disclaiming one or more claims in the patent. No *inter partes* review will be instituted based on disclaimed claims."). Further, as the disclaimer was filed prior to any institution of trial, no adverse judgment should be entered. *Pfizer, Inc. v. UniQure Biopharma B.V.*, IPR2020-00388, Paper 52 at 3 (PTAB Mar. 25, 2021).

IV. THE BOARD SHOULD EXERCISE ITS DISCRETION AND DENY INSTITUTION OF TRIAL

Institution of *inter partes* review is discretionary. *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2140 (2016) (“[T]he agency’s decision to deny a petition is a matter committed to the Patent Office’s discretion.” (citing 35 U.S.C. § 314(a)). Congress intended IPRs to be an alternative, and not a companion, to district court litigation. *Gen. Plastic Indus. Co. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19 at 16-17 (PTAB Sep. 6, 2017) (precedential in relevant part) (“[A]n objective of the AIA is to provide an effective and efficient alternative to district court litigation.”).

In the present case, Magic Leap’s challenge is not reasonably likely to prevail with respect to any claim because Magic Leap has failed to properly establish the level of ordinary skill in the art, rendering its petition deficient.

Magic Leap contends that a person of ordinary skill in the art of the ’929 patent would “have had a B.S. degree and a Masters degree in Computer Science, Computer Engineering, Electrical Engineering, Physics, or an equivalent field, as well as one to two years of academic or industry experience in wearable electronic devices or comparable industry experience.” Pet. at 3. Magic Leap provides no basis for this contention other than that is a conclusion stated by its declarant, Dr. LaViola. *Id.* (citing Ex. 1003 at ¶ 21). For his part, Dr. LaViola cites no basis for this conclusion

other than his understanding that, “a POSITA is presumed to be aware of all pertinent art, thinks along conventional wisdom in the art, and is a person of ordinary creativity, not an automaton.” Ex. 1003 at ¶ 21.

For the Board to accept a purported expert’s testimony it is incumbent upon the expert to describe sufficient facts and data on which the expert’s opinion is based. 37 C.F.R. § 42.65(a); *and see* PTAB Consolidated Trial Practice Guide at p. 35 (Nov. 2019). Here, Dr. LaViola has not provided any sufficient facts or data to support his opinion on the question of the level of ordinary skill in the art to be accepted by the Board. That a person of ordinary skill in the art is presumed to be aware of all pertinent art, to think along conventional lines, and to possess ordinary creativity says nothing about why such a person should have the level of education and experience in particular fields alleged by Dr. LaViola. For example, Dr. LaViola provides no basis for concluding that such an individual would possess only *ordinary* skill, or why such an individual would, “be aware of all pertinent art.” What is it about the specified level of education and experience that would expose such an individual to all pertinent art or at least provide him, her, or them with knowledge thereof? Why would someone with a graduate degree and two years of experience in the identified field(s) think only along

“conventional wisdom in the art” and have only “ordinary creativity”? Dr. LaViola’s testimony answers none of these questions.

The PTAB’s predecessor, the Board of Patent Appeals and Interferences, recognized that expert testimony about the level of ordinary skill in the art can be probative, but only if it is well-grounded in the facts. *Ex. Parte Jud*, Appeal No. 2006-1061 (Appl. No. 09/505,713), slip op. at 5-6 (BPAI Jan. 30, 2007) (informative) (rehearing with expanded panel). Here, neither Dr. LaViola nor Magic Leap offer any facts that would ground their assertions regarding the person of ordinary skill in the art. Instead, Dr. LaViola merely recites attributes of such an individual without tying those attributes to anything concerning the ’929 patent. Indeed, Dr. LaViola offers only what the expanded panel in *Jud* found to be “typically insufficient,” that is, testimony regarding “what education and work experience the hypothetical person of skill had.” *Id.* at 6. As the *Jud* panel remarked, such testimony “assumes that the reader already appreciates what such a person would have known,” and tends to be redundant because “the basis for a stated education level and work experience (if any is given) tends to be whatever would be necessary to understand and use references in the pertinent art.” *Id.*

In short, nothing in Dr. LaViola’s testimony, and by extension the arguments set forth in the petition, provide any basis for the Board to accept Magic Leap’s unsupported conclusions concerning the person of ordinary skill in the art. Because the skill-level determination is critical to ensuring objectivity in an obviousness analysis, *Al-Site Corp. v. VSI Int’l Inc.*, 174 F.3d 1308, 1324 (Fed. Cir. 1999), Magic Leap’s failure to properly substantiate the level of ordinary skill in the art means that none of its obviousness challenges meet the requirements for proving same. *KSR Int’l*, 550 U.S. at 406 (unpatentability under 35 U.S.C. § 103 requires a showing that the invention would have been obvious to a person of ordinary skill in the art). Stated differently, the petition fails to present a *prima facie* case justifying a rejection of the challenged claims. Accordingly, none of Petitioner’s challenges are reasonably likely to prevail with respect to any claim and the Board should deny institution of trial. *Harmonic*, 815 F.3d at 1367 (“[T]he PTO is permitted, but never compelled, to institute an IPR proceeding.”); *and see Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9, slip op. at 15-17 (PTAB Aug. 24, 2022) (denying institution of trial where expert’s testimony was merely conclusory assertions) (precedential).

V. CONCLUSION

For at least the foregoing reasons, no *inter partes* review should be instituted on the identified grounds. Further, as this is Patent Owner's Preliminary Response, it is not a comprehensive rebuttal to all arguments raised by the Petition. If a trial is instituted, Patent Owner reserves the right to contest the Petition on all grounds permitted under the applicable rules. Moreover, nothing herein should be construed as a concession or admission by Patent Owner as to any fact or argument proffered in the Petition.

Dated: May 14, 2023

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WORD-COUNT CERTIFICATE

I certify that the foregoing document complies with the type-volume limitation of 37 C.F.R. § 42.24(a) and (b) and contains 4,349 words (including words in drawings created by the Patent Owner or as annotations added by the Patent Owner to images reproduced in this document) based on the word count indicated by Microsoft® Word for Mac v. 16.49, excluding those portions exempted by the rule.

/Tarek N. Fahmi/

Tarek N. Fahmi

Reg. No. 41,402

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing:

PATENT OWNER'S PRELIMINARY RESPONSE

and its accompanying exhibits were served on May 14, 2023, by filing this document through the PTAB E2E System as well as by delivering a copy via email directed to the attorneys of record for the Petitioner at the following addresses:

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The parties have agreed to electronic service in this proceeding.

Respectfully submitted,

Dated: May 14, 2023

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