

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOTOROLA SOLUTIONS, INC.,

Petitioner,

v.

STA GROUP LLC,

Patent Owner.

CASE: IPR2023-01292

U.S. PATENT NO. 7,324,802

PATENT OWNER'S RESPONSE

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TABLE OF PATENT OWNER'S EXHIBITS

Exhibit No.	Description
Ex. 2001	<i>STA Group LLC v. Motorola Solutions, Inc.</i> , Case No. 2:22-cv-00381 (E.D. Tex.), Dkt. No. 187
Ex. 2002	Entity, MERRIAM WEBSTER COLLEGIATE DICTIONARY (11th ed. 2003)
Ex. 2003	December 2023 DocketNavigator, Time to Trial Statistics in Patent Cases in the United States District Court for the Eastern District of Texas
Ex. 2004	Claim Construction Order, <i>STA Group LLC v. Motorola Solutions, Inc.</i> , Case No. 2:22-CV-00381-JRG (E.D. Tex.)
Ex. 2005	Deposition Transcript of Mr. Williams
Ex. 2006	Institution Decision, Case IPR2018-01083, Paper 10, Entered January 10, 2019
Ex. 2007	Declaration of Dr. Robert Akl
Ex. 2008	<i>Curriculum Vitae</i> of Dr. Robert Akl

I. INTRODUCTION

Patent Owner, STA Group LLC (“Patent Owner”), submits this Patent Owner Response (“Response”) pursuant to 37 C.F.R. § 42.120 to the *Inter Partes* Review petition (“Petition”) filed by Motorola Solutions, Inc. (“Petitioner”) for claims 1 to 21 (the “Challenged Claims”) of U.S. Patent 7,324,802 (“the ’802 Patent”).

Communication systems allow service providers to communicate during emergencies. Ex. 1001, Abstract, 1:12-21. For effective communication, operators manage incoming messages from various channels, each dedicated to a different entity. *Id.*, 1:12-31, 3:59. Prior to the ’802 Patent, operators that received multiple messages at once were forced to decide whether to mute channels (and which channels to mute) or attempt to deal with the confusion created by the overlapping messages. *Id.*, 1:22-36. In either situation, vital information was lost. *Id.*

The ’802 Patent discloses novel communication systems and methods for delivering radio messages without any loss of information. Ex. 1001, Abstract, 3:40-51. These systems and methods avoid information loss by coordinating the channels as multiple incoming messages are received from the users. *Id.*, 4:6-16. Specifically, the communication system prioritizes the messages based on a predefined parameter and plays a single message while storing the remaining messages in a queue. *Id.*, 4:14-26. With such an approach, operators can effectively handle communication for each emergency team and respond to the messages

received from a plurality of users in the appropriate order without information loss. *Id.*, 3:54-62.

The Petition fails to show that such systems and methods were obvious as of the filing date of the '802 Patent. In all three asserted obviousness grounds, the Petition uses references with differing methods of prioritization that lack key attributes of the Challenged Claims, including channels dedicated to different entities and a queue for storing messages. The Petition also ignores the technological differences in an attempt to avoid highlighting the gaps in its analysis. Accordingly, each of the Petition's theories of unpatentability fail.

First, in Ground 1, the Petition relies on *Ohel*, but its assertions stretch well past *Ohel*'s narrow disclosure. *Ohel* identifies and purports to solve “overtalk,” which affects ***users within an entity***, rather than ***operators managing communications between different entities***. Overtalk is a feature which sometimes causes problems with communications between members of an entity where a user's message is cut off by a dispatcher's message. As a result, the users on a channel dedicated to an entity only hear the dispatcher or operator. This is distinct from interference caused by crosstalk from multiple channels dedicated to different entities, where a dispatcher or operator hears multiple different users from different entities speaking at the same time. The distinct issues and solutions between *Ohel* and the '802 Patent lead to shortcomings in the Petition's analysis. Critically, the

Petition improperly identifies *Ohel*'s dispatcher as an entity, which does not fall within the plain and ordinary meaning of that term.

Second, in Grounds 2 and 3, the Petition relies on *Nigawara*; however, the Petition improperly conflates *Nigawara*'s plant sites with the entities claimed in the '802 Patent. *Nigawara* provides an announcement system that receives signal inputs from plant sites within a plant and determines the order in which prerecorded messages are announced to the plant. With its system, *Nigawara* purports to solve the issue of interference caused when multiple prerecorded messages from different plant sites are simultaneously announced within the plant. However, the Petition conflates various of *Nigawara*'s disclosures, for example, construing plant sites as entities when, in reality, the plant sites are part of the same entity. The Petition also construes the claimed timing of determining message priorities (*e.g.*, limitation 1[d]) contrary to all intrinsic evidence. Notably, this construction is ***directly opposite*** to what the Petitioner proposed and agreed to in district court. Rather than present a consistent approach, the Petitioner wants to benefit from a narrow reading for infringement and a broad reading for invalidity.

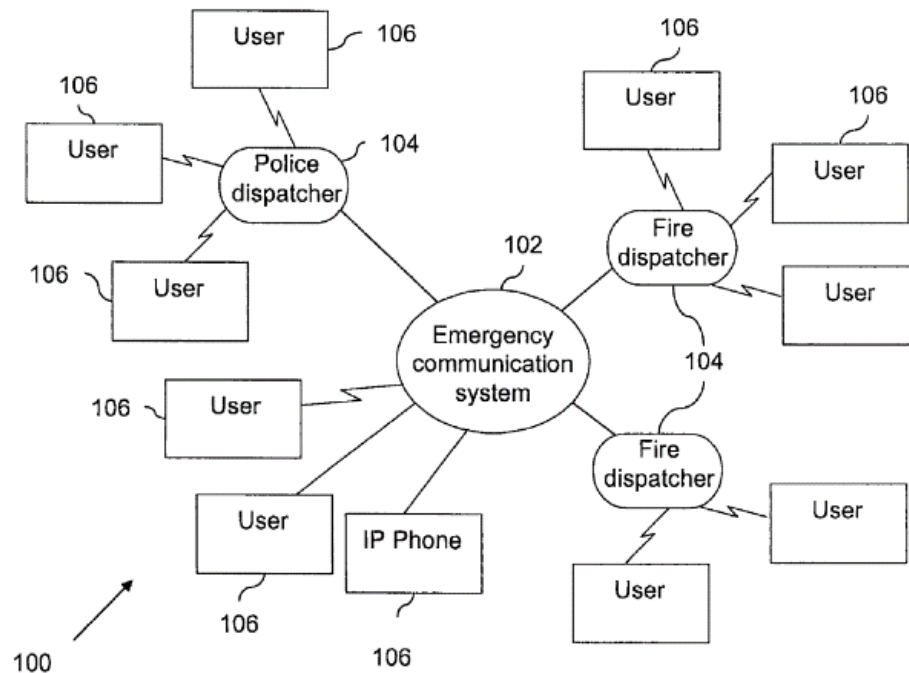
II. THE '802 PATENT

A. Summary of the '802 Patent

The '802 Patent provides a novel communication network for managing and prioritizing messages simultaneously received from different entities via different

channels while preventing information loss. Ex. 1001, Abstract, 3:47-51, 4:6-13. As the '802 Patent explains, an operator receives messages from various channels, each allocated to a different entity. *Id.*, 1:22-31. The operator may receive overlapping messages from different channels. *Id.* With conventional networks, the operator can either mute channels or deal with the interference of the overlapping messages. *Id.*, 1:22-36. In both cases, critical information is lost. *Id.*, 1:37-41.

To solve this issue, the '802 Patent's communication system prioritizes and stores incoming messages to ensure delivery of messages without any information loss. *Id.*, 1:46-49, 3:47-51. Figure 1 illustrates an example environment of the communication system. *Id.*, 3:19-21, Fig. 1 (reproduced below). The communication system 102 receives messages from a plurality of channels. *Id.*, 3:62-63. The communication system 102 is connected to dispatchers 104 (*e.g.*, police dispatcher, fire dispatcher). *Id.*, 3:54-57. The dispatchers 104 are operators that handle communications for the emergency teams and respond to messages received from the plurality of users 106 of an entity. *Id.*, 3:59-62.



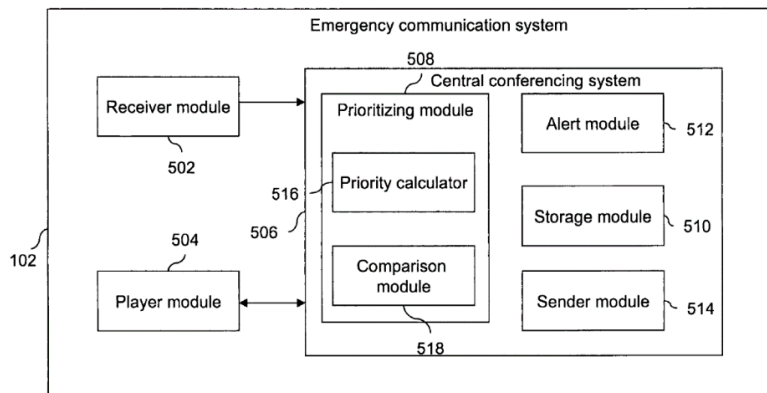
Ex. 1001, Fig. 1.

Unlike conventional networks, the communication system avoids information loss by appropriately coordinating the various channels. *Id.*, 4:6-16. Namely, the communication system plays the message with the highest priority and stores the remaining messages in a queue based on their priorities. *Id.*, 4:14-26. Priority is determined from a pre-defined parameter, such as the type of message, the bandwidth requirement, or the message size. *Id.*, 4:56-62. Figure 3 illustrates the method of prioritization based on such parameters. *Id.*, Fig. 3.

At steps 302 and 304, the communication system receives first and second radio messages. *Id.*, Fig. 3, 4:44-48. If the messages overlap, the communication system calculates the priority of each message, identifies the message with higher

priority, and plays the higher priority message. *Id.*, 4:54-67, Fig. 3. The system stores the remaining messages in a queue based on the calculated priority, which are then played after the original, higher priority message is complete. *Id.*

Figure 5 illustrates an embodiment of the communication system in further detail. *Id.*, Fig. 5 (reproduced below), 3:34-35, 5:65-6:50. The system includes a central conferencing system 506, which manages the incoming messages from a plurality of channels to avoid information loss from overlapping messages. *Id.*, 5:65-6:9. In accordance with the flowchart of Figure 3, the system “prioritizes the incoming messages” to identify and play the message with the highest priority. *Id.*, 6:6-26. The system stores the remaining messages in a queue based on priority. *Id.* “This storage prevents any losses in the radio messages due to overlapping of messages in time.” *Id.*, 6:27-28.



Ex. 1001, Fig. 5.

B. Prosecution History of the '802 Patent

On January 20, 2005, the '802 Patent was filed as U.S. Patent Application No. 11/039,569. Ex. 1003, 178. The United States Patent and Trademark Office (“Patent Office”) issued a final Office Action on February 8, 2007. *Id.*, 67-83. In distinguishing the claims over the cited art, the Applicant highlighted that each of the plurality of channels are dedicated to a different entity. *See id.*, 44-45.

The Applicant also gave examples of these entities during prosecution. *Id.*, 45. In one example, the Applicant identified a school and a shopping mall as entities, explaining that “a fire department can allocate one channel to a school or other public places, such as shopping malls.” *Id.*, 45. And, “an entity may include any number of users.” *Id.* In other words, the “users may be *in* an entity and may be able to send messages on the dedicated channel.” *Id.* (emphasis added).¹ As a result of associating channels with entities, the systems and methods may provide “more effective communications during an emergency.” *Id.* In response to Applicant’s explanation, the Patent Office issued a Notice of Allowance, stating that the prior art “do[es] not teach the elements stated in the independent claims” and “[t]he method of queuing calls and arranging the calls with priority parameters clearly is not defined in cited references.” *Id.*, 19.

¹ All emphasis added unless otherwise indicated.

C. Claim Construction

The Petition was filed after November 13, 2018. Petition, 104. As such, the proper claim construction standard to be applied is articulated in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (*en banc*), in accordance with its regulation, 37 C.F.R. § 42.100(b). The terms of the Challenged Claims therefore should be “given their ordinary and customary meaning[:]. . . the meaning that the term would have to a [POSITA] in question at the time of the invention, *i.e.*, as of the effective filing date of the patent application.” *Phillips*, 415 F.3d at 1312-13 (quotation omitted).

On June 3, 2024, the district court in related litigation (“Parallel Proceedings”) issued a claim construction order based in part on an updated agreement by the parties in relation to the order of steps of claim 1 of the ’802 Patent, which is provided below. Ex. 2004, 15-16.

The steps of the claim must be performed in the following order:

- (1) the receiving steps [1A] and [1B] may be performed in any order;
- (2) the “determining one or more priorities” step [1C] must be performed after the receiving steps [1A] and [1B];
- (3) the “determining which message” step [1D] must be performed after the “determining one or more priorities” step [1C];

(4) the “determining which message” step [1D] must be performed before the “playing the message having a higher priority” step [1E] and the “storing at least one message” step [1F]; and

(5) the “playing the message having a higher priority” step [1E] and the “storing at least one message” step [1F] may be performed in any order; and

(6) the “playing the stored message” step [1G] must be performed after the “storing at least one message” step [1F] and the “playing the message having a higher priority” step [1E].

D. Level of Ordinary Skill in the Art

Patent Owner does not dispute the proposal provided by Petitioner as to who would qualify as a POSITA: an individual “would have had at least a bachelor’s degree in computer science, electrical engineering, or a similar field, and would have had approximately two years industry experience in networking or communication systems.” Petition, 3.

III. THE PETITION FAILS TO DEMONSTRATE UNDER GROUND 1 THAT *OHEL* RENDERS ALL CLAIMS OBVIOUS

Ground 1 of the Petition asserts obviousness of the Challenged Claims by stretching *Ohel* well past its bounds. The Petition and its expert improperly pick and choose teachings and fail to accurately represent what *Ohel* suggests to a skilled artisan. With a single reference obviousness challenge, “it is not enough that the

prior art reference discloses part of the claimed invention...or that it includes multiple, distinct teachings that the artisan might somehow combine to achieve the claimed invention.” *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1371 (Fed. Cir. 2008) (citations omitted). Rather, “there must be a showing or a suggestion or motivation to modify the teachings of that reference.” *In re Kotzab*, 217 F.3d 1365, 1370 (Fed. Cir. 2000). Referred to herein as the “Single Reference Obviousness Standard.”

Ground 1 does not satisfy the Single Reference Obviousness Standard. The Petition completely fails to identify any groups/localities/units of users of *Ohel* as the claimed first and second entities with dedicated channels required by the Challenged Claims. The Petition, instead, misrepresents *Ohel*’s teachings of mitigating the effects of overtalk within a single entity. But that is not all. For other claims, the Petition similarly attempts to stretch *Ohel*’s insufficient teachings to allege a “disclosure” of elements that are simply not there or alleges “obvious” without the requisite reasoning.

First, *Ohel* fails to teach the first and second entities of claim 1. The Petition identifies *Ohel*’s “dispatcher” as a claimed entity, but a POSITA would have understood that a dispatcher **does not** fall within the plain and ordinary meaning of the claimed entity. The ’802 Patent specification consistently distinguishes an entity from a dispatcher. A thorough understanding of the ’802 Patent’s communication

methods and systems also highlights the differences between an entity and a dispatcher. Dispatchers are operators who handle communications for the claimed entities (*e.g.*, emergency teams) and facilitate communication between users within their entities. A dispatcher or operator is distinct from the users of its entity such that dispatcher communications with their users are communications for the same entity, whereas dispatcher communications with other dispatchers are communications among a plurality of entities. Thus, *Ohel* fails to teach a plurality of channels dedicated to first and second entities as required by claim 1. *Ohel* similarly fails to teach the plurality of dedicated channels as required by remaining independent claims 11, 13, 14, 17, 18, and 19.

Second, *Ohel* fails to render claim 5 obvious because its transceiver-based superior status determination for prioritization does not consider the type of message. The Petition provides a general association between transmission standards and the type of messages. This association is insufficient to show that *Ohel* prioritizes ***based on*** the type of messages.

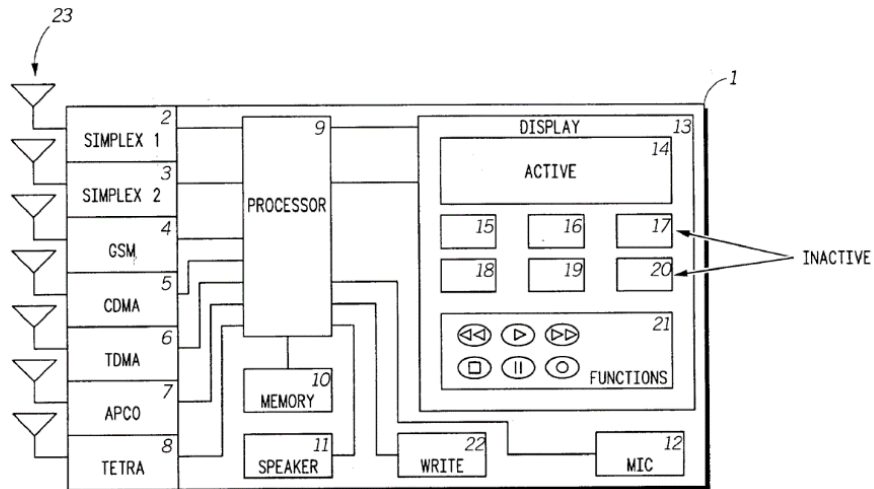
Third, *Ohel* fails to render claim 7 obvious because *Ohel* does not inform an ***operator*** of the time of receipt of a message, regardless of what information an ***officer's*** communication unit might present at the time of receipt of the message. There is no reason why an ***operator*** in *Ohel* would be informed of a time of receipt when the ***operator*** interrupts an officer's communication.

Fourth, while *Ohel* fails to render claim 11 obvious for the same reasons as claim 1, it fails for additional reasons: (i) the Petition completely fails to address element 11[h], requiring playing of the stored message having the highest priority; and (ii) does not store messages in a queue as required by element 11[f]. Claim 11 recites “playing the *stored* message having the *highest* priority.” The Petition’s analysis of claim 11 does not put forward any evidence that *Ohel*’s system plays the *stored* message having the *highest* priority. The Petition also admits that *Ohel* does not store messages in a queue, instead relying on the purported knowledge of the POSITA, summarily concluding that storing messages in a queue was well-known. This is not the test. Notably, in view of *Ohel*’s disclosure, a POSITA would have understood storing messages in a queue to be *contrary* to *Ohel*’s user-selectable storage system. Even assuming a POSITA would have been motivated to store *Ohel*’s messages in a queue, neither the Petition nor Mr. Williams addresses how this function could be implemented with a reasonable expectation of success.

A. Overview of *Ohel*

Ohel discloses a communication unit to prevent loss of user communications during dispatcher overtalk. Ex. 1004, ¶¶[0002], [0005], [0009]. Figure 2 illustrates an example embodiment of *Ohel*’s communication unit, which is used by a police officer to communicate with, for example, a police dispatcher. *Id.*, Fig. 2 (reproduced below), ¶[0068]. *Ohel*’s dispatcher is equivalent with the dispatcher of

the '802 Patent. *Compare id.* ¶[0005] with Ex. 1001, 3:52-4:5. This communication unit 1 includes transceiver units 2-8 for communicating over separate channels. *Id.*, ¶[0060]. A transceiver unit may communicate using the Code Division Multiple Access (“CDMA”) or Association of Public Safety Communications Officials (“APCO”) standard. *Id.*, ¶¶[0007]-[0008]. In an example, the transmissions of the APCO transceiver may correspond to incoming dispatcher communications, which are prioritized over communications from the CDMA transceiver. *Id.*, ¶[0070].



Ex. 1004, Fig. 2.

B. Ohel's Dispatcher is Not an Entity

Ohel fails to render claim 1 obvious because a dispatcher is not an “entity” as claimed. The method of claim 1 requires “receiving a first message on a first dedicated channel...the first dedicated channel being dedicated to receiving messages from a *first entity*” and “receiving a second message on a second dedicated channel being dedicated to receiving messages from a *second entity*.” Ex. 1001.

The Petition identifies *Ohel's* dispatcher as an entity. *See* Petition, 16-20. This position is incorrect. Ex. 2007, ¶¶46-66. The '802 Patent specification, its claims, and the problem it identifies and solves demonstrates that *Ohel's* dispatcher falls outside of the plain and ordinary meaning of an entity.²

1. The Claims of '802 Patent Differentiate Between *Ohel's* Dispatcher and the Claimed Entities

The claims of the '802 Patent make clear that, though an entity can be many things, a dispatcher is not one of them. Claim 1 determines priority of the first and second messages received from the first and second entities. Ex. 1001. Claim 6 narrows claim 1, requiring the priority determination to be made “based on inputs from a user.” *Id.* This claim language further demonstrates that the users are a part of an entity. *Id.*, *see also*, Ex. 2005, 58:5-6; Ex. 2007, ¶¶56-58. Claim 7, in contrast, adds a limitation rather than narrowing an already-existing limitation of claim 1. Claim 7 recites the method of claim 1 “further comprising informing an operator the time of receipt of a message.” *Id.*, cl. 7.

² The arguments within this section apply equally to each independent claim of the '802 Patent. Thus, *Ohel* likewise fails to render claims 11, 13, 14, 17, 18, and 19 obvious.

Through the well-established doctrine of claim differentiation, the entity of claim 1 *must* be distinct from the operator of claim 7. Claim differentiation is “ultimately based on the common sense notion that different words or phrases used in separate claims are presumed to indicate that the claims have different meanings and scope.” *Karlin Tech. Inc. v. Surgical Dynamics, Inc.*, 177 F.3d 968, 971-72 (Fed. Cir. 1999); *see Bd. Of Regents of the Univ. of Texas Sys. v. BENQ Am. Corp.*, 533 F.3d 1362, 1371 (Fed. Cir. 2008) (“[d]ifferent claim terms are presumed to have different meanings.”). The ’802 Patent specification confirms that dispatchers are an example of the claimed operator. *See* Ex. 1001, 1:25-27, 3:59-62. Petitioner’s argument that *Ohel*’s dispatcher can be a claimed entity, despite the presence of the term “operator” in claim 7 completely disregards the common-sense reading of the claims.

2. The Specification of the ’802 Patent is Consistent with the Claims

The specification of the ’802 Patent tells the same story. The background section states that “[e]ach emergency communication system supports a plurality of communication channels, wherein each channel may be dedicated to a group/locality/unit. For example, the fire department can allocate one channel to every school, or other public places such as shopping malls.” *Id.*, 1:15-21. The ’802 Patent then immediately characterizes these examples as entities: “[t]his allocation

of dedicated channels to different entities results in the possibility of multiple messages being received in the form of radio messages on different channels at one time.” *Id.*, 1:22-25.

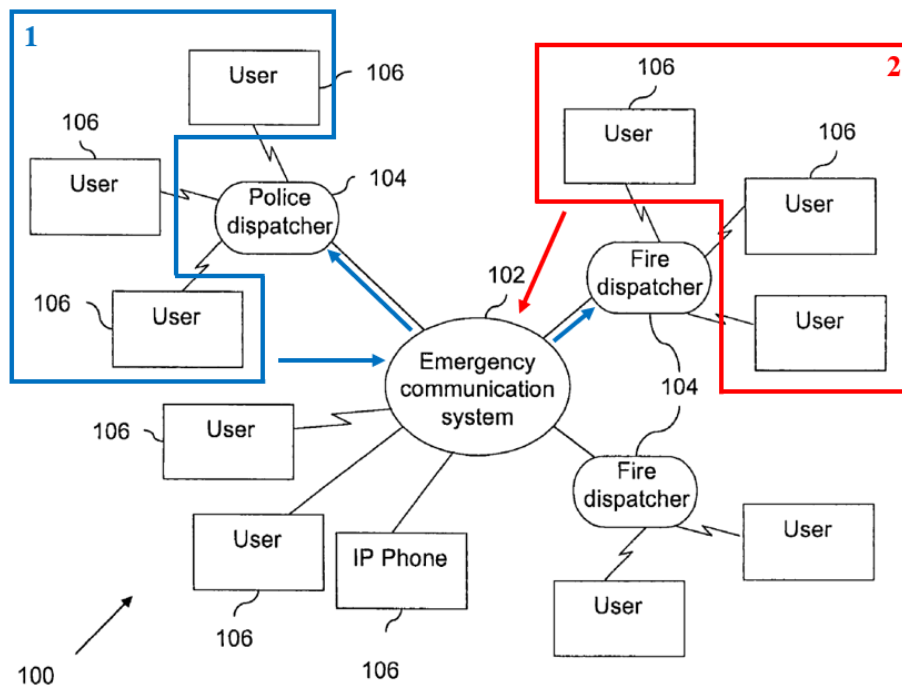
In other words, the school or the shopping mall can be entities, as can groups, localities, and units, each with a dedicated channel. Entities, in turn, include users of the system, as the Petition itself argues. *Id.*, 7:18-20; Petition, 18n.5, *see also*, Ex. 2005, 21:4-6, 58:5-6. But dispatchers are decidedly not users or entities. Ex. 2007, ¶¶56-58. Dispatchers are not themselves entities with dedicated channels; rather, “[d]ispatchers 104 are the operators who handle the communication for the emergency teams and respond to emergency messages *received from a plurality of users 106*.” Ex. 2005, 3:59-62, 1:25-27 (“The receipt of multiple radio messages at one time creates confusion for *an operator* who needs to reply/act on each incoming radio message.”); *see also*, Ex. 2005, 18:4-8, 41:15-20.

3. Ohel’s “Overtalk” is Fundamentally Different than What the ’802 Patent Identifies and Solves

The problem solved by the ’802 Patent also supports this plain reading. Emergency service providers (e.g., fire departments, police departments) use communication systems, which support channels dedicated to different entities. Ex. 1001, 1:13-18. With such architecture, messages from different channels can be received simultaneously, “creat[ing] confusion *for an operator* who needs to

reply/act on” the incoming messages. *Id.*, 1:22-27. In other words, the inventions claimed by the ’802 Patent solve an issue located at the operator sitting between at least two different entities—the operator simultaneously receives messages from different channels dedicated to different entities, creating confusion absent the claimed invention. *Id.*, Fig. 1. Petitioner’s expert, Mr. Williams, agrees that operator confusion, which results in the operator muting channels and being unable to follow the muted channels, is a problem the ’802 Patent seeks to solve. Ex. 2005, 14:1-9, 14:21-24, *see also*, 41:15-20. Mr. Williams also appreciates the difference between scenarios with just a single unit or entity, and scenarios with “all sorts of different units.” *Id.*, 35:15-18. Figure 1 is helpful to illustrate the type of system to which Mr. Williams refers with various types of different units (in contrast to *Ohel’s* system with a police department and a police dispatcher).

In an exemplary environment, Figure 1 provides a first channel dedicated to the police force entity (blue outline, 1) and a second channel dedicated to the fire department entity (red outline, 2). *Id.*, Fig. 1 (annotated below), 3:52-4:5. A police dispatcher is associated with the first entity and a fire dispatcher is associated with the second entity. *Id.* In use, the communication system may simultaneously receive messages from users of the first and second entity. *Id.*, 4:6-13.



Ex. 1001, Fig. 1 (annotated). These messages are represented by the red and blue arrows from each entity to the emergency communication system 102. To prevent loss of radio messages, the communication system coordinates between the various channels by playing a single message while storing the remaining messages for later playback. *Id.*, 4:14-26. In Figure 1, the communication system 102 prioritizes the incoming messages and then transmits the higher priority message to the dispatchers.

Referring to the annotated version of Figure 1, the system 102 receives a message over the first channel dedicated to the police force entity (*i.e.*, blue arrow from blue outline to the system 102). The system 102 also receives a message over the second channel dedicated to the fire department entity (*i.e.*, red arrow from red outline to the system 102). In this illustrative example, the communication system

determines that the message from the police force is higher in priority than the message from the fire department. Thus, the communication system sends the message from the police force to both dispatchers while storing the red message to be subsequently played.

Based on the method of claim 1, dispatchers (*i.e.*, operators) may effectively “handle the communication for the emergency teams and respond to emergency messages received from a plurality of users.” *Id.*, 3:59-62. Rather than an operator receiving messages from both entities at the same time (as would happen in a conventional system), the ’802 Patent’s communication system receives and prioritizes the messages to be played for the operators. The operators are not required to either “mute[] all the channels except one” or deal with the “interference [of] the overlapping messages,” saving valuable time and information. *Id.*, 1:22-36. The ’802 Patent addresses issues that *dispatchers* face when receiving communications from *different entities*. *Id.*, 3:59-62; Ex. 2005, 41:15-20, 42:4-14; Ex. 2007, ¶¶47-48, 56-58, 61.

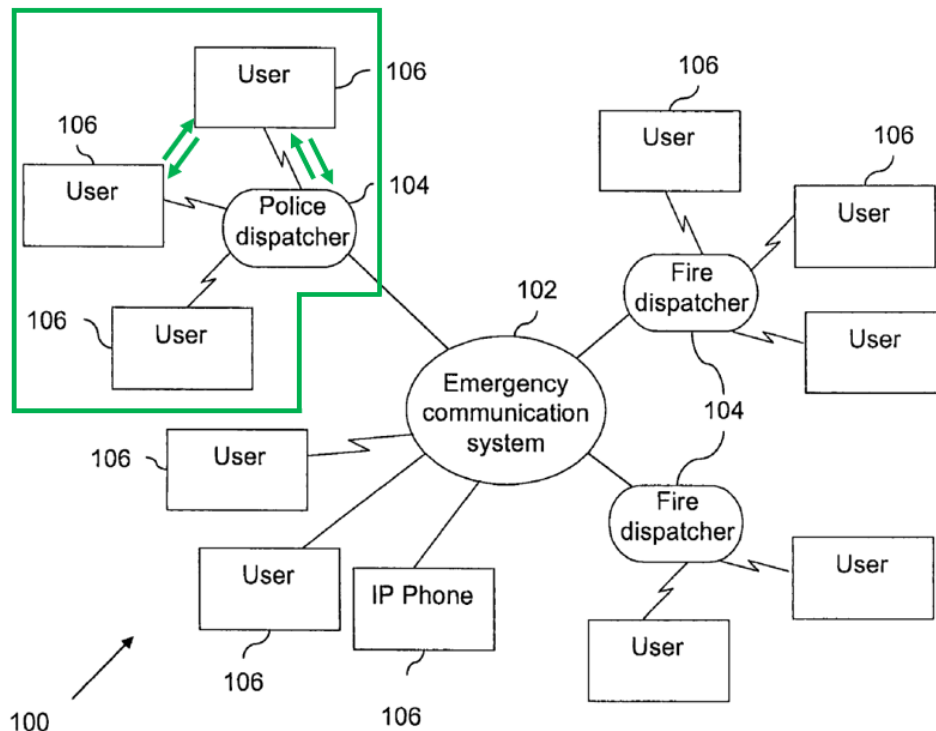
Ohel, in contrast, addresses dispatcher “overtalk”—an issue that affects individual *officers* on a *single* multi-party communication channel within a *single entity* (*i.e.*, the police force). See Ex. 1004, ¶¶[0004]-[0005]; Ex. 2007, ¶¶48-55. In *Ohel*, multi-party communication may occur over a single communication channel, which mutes all parties until the transmitting party completes its message. *Id.*,

¶[0004]. Alternatively, the communication channel can designate a superior party that has priority over any other party. *Id.*, ¶[0005]. When police officers are communicating over a dispatch channel, other police officers hear the first officer’s communication; however, a dispatcher can overtalk, or cut off the first officer’s transmission. *Id.* This may result in the first officer’s transmission being “entirely lost.” *Id.* *Ohel* solves this issue by recording the first officer’s message when, for example, the dispatcher’s superior message takes priority. *Id.*, Abstract, ¶[0070].

The Petition’s arguments imply that *Ohel*’s overtalk (with recording) is the same as muting in the ’802 Patent—both as transmissions being “interrupted”—missing critical distinctions between overtalk and muting. Petition, 23-27. A POSITA would not use overtalk for muting, which disadvantageously stops an entire entity from communicating, unlike *Ohel*’s overtalk which interrupts one officer. Ex. 2007, ¶¶59-60. *Ohel*’s recording during overtalk requires special hardware in every officer’s radio—muting does not—so muting is scalable while *Ohel*’s system is not. *Id.*, ¶¶61-63. The problems and solutions of *Ohel* and the ’802 Patent differ drastically and a POSITA would not use *Ohel*’s disclosures to address the problem of the ’802 Patent, especially since *Ohel* has, at best, **one** entity.

Ohel’s system applied to ’802 Patent Figure 1 highlights these disparities. Rather than addressing issues that **dispatchers** face when receiving messages from different channels, *Ohel* addresses “overtalk” that exists within a single multi-party

channel—an issue that *users* face. See Ex. 1004, ¶¶[0004]-[0005]; Ex. 2007, ¶¶46-58. An annotated version of Figure 1 below illustrates the communications between the officers (*i.e.*, users) and the dispatcher. Ex. 1001, Fig. 1 (annotated version with the green outline designating the location of *Ohel's* issues and corresponding solution).



Ex. 1001, Fig. 1 (representing *Ohel* in relation to Figure 1 of the '802 Patent).

The correct understanding of the '802 Patent and the distinct system of *Ohel* further confirms that a dispatcher is not an “entity” as recited in claim 1. Ex. 2007, ¶¶46-63. The Petition only identifies the *police officers* and the *police dispatcher* as corresponding with the claimed “different entities” without clearly articulating

which users allegedly correspond to the “first entity” and “second entity” of claim 1. Petition, 16-22; Ex. 2007, ¶64. Since the dispatcher does not fall within the meaning of an “entity” of the ’802 Patent, the Petition fails to establish *two different entities* as claimed. At best, *Ohel* discloses a *single entity* comprised of individual police officers communicating on a single multi-party communication channel. See Ex. 1004, ¶¶[0004]-[0005]; Ex. 2007, ¶¶65-67. The Petition fails to establish that *Ohel* even discloses multiple entities, much less that they communicate over different dedicated channels as described in the ’802 Patent.

When asked what element or disclosure in *Ohel* is being mapped to the claimed first entity in his declaration, Mr. Williams’ initial response was “[t]hat mapping is disclosed in Paragraphs 126 through 131.” Ex. 2005, 49:2-7. Cited paragraphs 126-131, however, fail to clearly identify what in *Ohel* corresponds to the claimed first entity. Ex. 1002, 84-87. Mr. Williams finally indicated that “one of the embodiments—and I described this essentially in Paragraph 130—is you have the police officer who is talking to another police officer, and that would be the first entity...”, but then immediately backtracked when questioned to confirm this. Ex. 2005, 51:18-21, 51:25-52:7 (“the first entity is an officer and the second entity is a dispatcher; is that right? A. But *it can be mixed and matched*, just depending on the embodiment.”).

Mr. Williams believes anybody can be mixed and matched as the first and second entities. Ex. 2005, 53:3-5 (“I would say my opinion allows the specifics of individual—first and second entities to vary depending on the particular use case”); 53:20-23 (“...the dispatcher would be the second entity. But that doesn’t mean it couldn’t in some use case be the first entity.”); 54:20-55:2 (“...this section has the dispatcher as the second entity...but I am not saying that only the dispatcher can be the second entity. Q. You are saying that a police officer can also be the second entity? A...it’s possible....I’m not precluding anything.”); 55:13-20 (“So two officers in the same unit talking over the system disclosed in *Ohel* could be two different entities, is that your opinion? A. I think that...those would be two different users and two different entities, potentially.”); 70:19-23 (“...another individual...that an officer is talking to is the first entity...it could be a police officer or it could be a common person. It could be his mother, I don’t know.”).

The idea that disclosures can be “mixed and matched” runs completely contrary to Petitioner’s burden of clearly articulating how *Ohel*’s disclosures allegedly teach each and every claim element. The Petition fails to clearly articulate which element of *Ohel* is alleged as the claimed first entity, and fails to accurately represent *Ohel*’s disclosures *vis-a-vis* claim 1.

C. *Ohel* Does Not Prioritize Messages Based on a Type of Received Message

Ohel fails to determine priority based on a type of received message being audio, video, text, or image. Claim 5 depends from claim 4, which depends from claim 1. Ex. 1001. Claim 1 determines priority based on a predefined parameter and claim 4 specifies that the predefined parameter is a type of received message. *Id.* Finally, claim 5 narrows the message type, determining priority based on whether the received message is an audio message, a video message, a text message, or an image message. *Id.* The Petition ignores that claim 5 narrows claim 4, reading claim 5 as if it depends directly on claim 1.

The Petition argues that, because *Ohel* discloses prioritizing messages from an APCO transceiver, and APCO is an audio-based standard, *Ohel* prioritizes received messages based on the message being an audio-type message. *See* Petition, 35. Prioritizing messages from an APCO transceiver does not teach prioritizing messages based on being audio-type messages. The Petition associates the claimed parameter (*i.e.*, the type of message) with the APCO transceiver of *Ohel*. Then, the Petition uses this association to improperly conclude that, by prioritizing the APCO transceiver, *Ohel* is prioritizing **based on** the associated parameter (*i.e.*, the type of message). *Id.* This is not obviousness.

This argument also fails to represent accurately what *Ohel* suggests to a POSITA. *Ohel* never prioritizes based on the type of message (*i.e.*, audio message, a video message, a text message, or an image message). *Ohel* teaches prioritizing dispatcher communications. Ex. 1004, ¶[0070]; Ex. 2005, 86:3-24. If dispatchers communicate with officers via the APCO transceiver, communications over the APCO transceiver are prioritized over the CDMA transceiver. *Id.* The Petition mischaracterizes *Ohel*'s simple approach, concluding—without support—that the system prioritizes the messages based on whether, for example, the type of message is a video or audio message. *See* Petition, 35. In view of *Ohel*'s specification, a POSITA would have understood that *Ohel* prioritizes based on dispatcher communications—not the message type; Ex. 2007, ¶¶68-71. Thus, the Petition fails to establish that *Ohel* renders claim 5 obvious.

D. *Ohel* Does Not Inform an Operator of Time of Receipt of a Message

Ohel does not teach claim 7 because the dispatcher does not receive a time of receipt as claimed. Initially, the Petition asserts that “*Ohel discloses* ‘informing an operator the time of receipt [e.g., time stamp] of a message while playing the first message and the second message [e.g., via display 13].’” Petition, 36. However, the cites to *Ohel*'s disclosure fail to actually disclose that the cited time stamp is provided to *Ohel*'s dispatcher via display 13 on the officer's communication unit. Ex. 2007, ¶72. In view of this fact, Mr. Williams acquiesced that the Petition's

assertion that this claim element is ***disclosed*** is wrong, and indicated instead that this argument for claim 7 is actually an obviousness argument. Ex. 2005, 99:18-23.

The Petition, however, fails to clearly articulate ***why*** it would be obvious to a POSITA in view of *Ohel*'s disclosure to inform the ***dispatcher*** of the time when the ***dispatcher*** interrupted an officer's message transmission; Ex. 2007, ¶73. Mr. Williams does not know the answer to this question, and admits he hasn't done the analysis. Ex. 2005, 99:18-100:20 ("...I haven't done specifically that analysis, but it would seem to be a reasonable thing to do...it doesn't seem unreasonable.").

The Single Reference Obviousness Standard is not "it doesn't seem ***unreasonable***" nor is it the slightly higher bar of "it would seem to be a reasonable thing to do." Ex. 2005, 100:19-20, 100:16. The unconsidered and conclusory analysis presented in the Petition and proffered by Mr. Williams is wholly insufficient to establish obviousness of claim 7.

E. *Ohel* Does Not Teach All Elements of Independent Claim 11

The Petition attempts to address Claim 11 by recycling the same arguments raised for claim 1. Specifically, the Petition states that "Claim 11 is nearly identical to claim 1, with only a few minor differences." Petition, 41. The Petition notes three differences, highlighting elements 11[c], 11[f], and 11[g] as being different from claim 1, and asserts that "*Ohel* discloses these additional features of claim 11." Petition, 41. However, the Petition fails to mention or address a ***fourth*** difference,

and thus, does not address all the elements of claim 11. Even if the Board were to overlook this clear failure to establish that claim 11 is obvious, *Ohel* is also lacking for other reasons described below.

1. The Petition Fails to Address Element 11[h]

The Petition's argument regarding claim 11 on pages 41-42 fails to ever mention element 11[h], which recites "playing the stored message having the highest priority." Without addressing element 11[h], the Petition cannot be considered to have established that all elements of claim 11 are taught by *Ohel*. *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) ("obviousness requires a suggestion of all limitations in a claim"); (citing *In re Royka*, 490 F.2d 981, 985 (CCPA 1974)). Mr. Williams admitted that element 11[h] is not the same as claim 1, and yet fails to address or even mention element 11[h]. Ex. 2005, 103:4-105:6 ("Are elements 11H and 1G the same? A. No, not exactly the same.... Q...you talk about differences between Claim 11 and Claim 1, but ***you don't mention Element 11H***; is that right? A. ***That's correct.***"); see also, Ex. 1002, ¶¶193-197.

Because the Petition fails to address each and every element of claim 11, the Petition does not establish that *Ohel* renders claim 11 obvious.

2. Ohel Does Not Store Messages in a Queue

Ohel also fails to render claim 11 obvious because *Ohel* does not store messages "in a queue on the basis of the determination and the prioritization." Ex.

1001. Because *Ohel* fails to provide any teaching regarding this claim language, the Petition relies on the knowledge of POSITA, concluding only “that a queue is one well-known, practical way to store multiple messages in a single memory device such as the dynamic memory device.” Petition, 41-42 (*citing* Ex. 1002, ¶¶[0193]-[0195]). This position is insufficient to render claim 11 obvious.³ Ex. 2007, ¶¶74-78.

First, a POSITA would have understood that storing messages in a queue is unnecessary to *Ohel*’s user selectable storage. Ex. 2007, ¶77. When *Ohel*’s system detects a superior transmission during transmission of a user’s message, the system plays the superior transmission while storing the user’s message. Ex. 1004, ¶[0048]. The user can then review the stored message at a later point in time. *Id.*; *see id.* ¶¶[0050], [0052] (“When a transmission is recorded, the transmission can be made available to users for playback (see step 1000) any time after recording begins.”). Thus, the ***user determines*** which stored information is played and when, in contrast to the ’802 Patent in which stored messages are automatically played based on their order in a queue at a time of playback. *Id.*, ¶[0055]; Ex. 2007, ¶76. Based on this

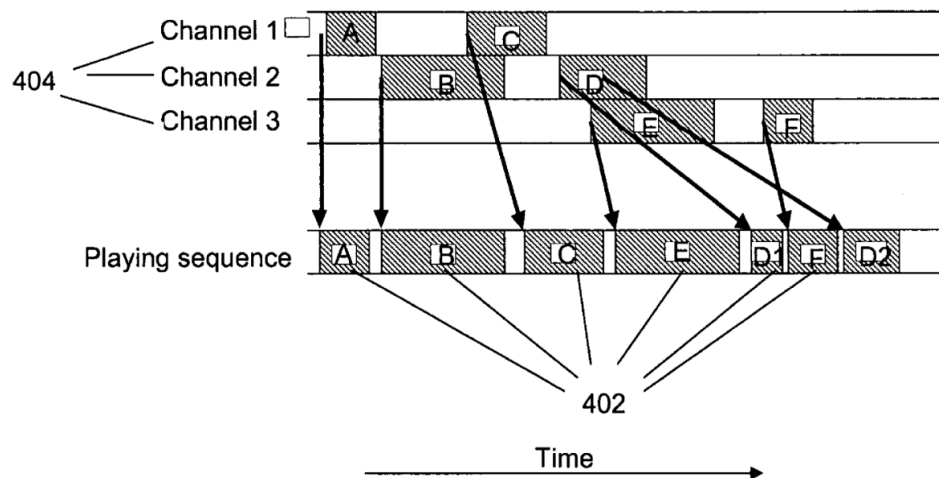
³ The Petition additionally fails to render claim 11 obvious for the reasons explained in Section III.B. Further, the arguments in this section apply equally to independent claims 13 and 14.

distinction and the corresponding disclosures, a POSITA would not have used a queue for *Ohel*'s user-selectable storage. Ex. 2007, ¶¶76-78.

Second, even if a POSITA did want to implement a queue storage system in *Ohel*, the Petition fails to explain how this modified version of *Ohel* would function. *See, e.g., Apotex Inc. v. Wyeth LLC*, IPR2015-00873, Paper 8, 11-12 (PTAB Sept. 16, 2015) (explaining that the petition failed to “provide adequate evidence or explanation” why a POSITA would have expected the resulting combination). *Ohel*'s prioritization system is binary; superior transmissions are played first, and all transmissions are stored in the memory. *See, e.g.,* Ex. 1004, ¶[0070]; Ex. 2005, 82:20-23. The Petition points to no disclosure in *Ohel* assigning priorities between the *stored messages* and thus cannot show that storing messages “in a queue on the basis of the determination and the prioritization” is obvious. Ex. 1001, cl. 11; Ex. 2007, ¶78.

In contrast, the '802 Patent stores messages to determine the priority *between* the stored messages to establish the queue. *Id.*, 5:34-64, Fig. 4 (reproduced below). In Figure 4, message C is playing while messages D and E are received. *Id.*, 5:44-45. Because messages D and E are lower in priority than message C, they are both stored in the queue. *Id.*, 5:45-47. However, unlike the system of *Ohel*, the '802 Patent determines the priority of message E as compared with message D. *Id.*, 5:45-

54. Because message E has a higher priority than message D, message E is stored higher in the queue. *Id.*



Ex. 1001, Fig. 4.

The Petition fails to explain how this assignment process, which is required to store the messages in a queue, would function in *Ohel's* system or why, given the operation of *Ohel's* system, a POSITA would use a queue at all. Mr. Williams' declaration states, and his deposition testimony confirms, that "any queue is essentially multiple data elements, *stored in some sort of sequence for later use*, which is based in some form on that stored sequence." Ex. 1002, ¶291; Ex. 2005, 106:4-11. The Petition fails to put forth any evidence of how *Ohel* would *later use* a stored sequence of *Ohel's* messages in any form, since once a message is stored, the *user* determines which stored information is played next, rather than the '802 Patent's assignment process using the claimed queue.

Thus, the Petition fails to render claim 11 obvious based on the Single Reference Obviousness Standard. Mr. Williams' declaration fares no better, simply repeating the Petition's conclusion without providing any further support or explaining how a queue would function in *Ohel*. See Ex. 1002, ¶[0195]; *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 (PTAB Aug. 24, 2022) (holding that the expert declaration is entitled to little weight when it contains an exact restatement of the petition's unsupported, conclusory assertions without any additional supporting evidence or reasoning).

IV. THE PETITION FAILS TO DEMONSTRATE UNDER GROUND 2 THAT *NIGAWARA* RENDERS ALL CHALLENGED CLAIMS OBVIOUS

Ground 2 fails to render the Challenged Claims obvious over *Nigawara*. The Petition fails in its attempt to contort the straight-forward teachings of *Nigawara* to arrive at the Challenged Claims. In addition, the Petition fails to satisfy the Single Reference Obviousness Standard.

First, the Petition incorrectly uses *Nigawara*'s individual plant sites to teach the first and second entities of claim 1. These plant sites exist ***within*** a single power plant—not as distinct entities with dedicated channels. The differing goals of *Nigawara* highlight the incompatibility of its single-entity system compared to the Challenged Claims, requiring the Petition to rely on hindsight. Further, the Petition construes the timing of determining message priorities under limitation 1[d]

backwards, contradicting the Petitioner's agreed claim construction in Parallel Proceedings. Under the proper construction of 1[d], *Nigawara* fails to teach determining which message to store and subsequently play based on priorities assigned to the first and second message. Recognizing the shortcomings of *Nigawara*, the Petition provides a flawed analysis that avoids the operation of *Nigawara's* system, ignores the timing of priority determinations, and fails to consistently identify the first and second messages of claim 1.

Second, *Nigawara* fails to render claim 5 obvious because its system prioritizes messages based on the content and does not consider whether the type of message is video, audio, text, or image. *Nigawara's* system only prioritizes voice messages. The Petition ignores claim 5's dependence on claim 4, which requires prioritizing messages based on the type of messages. Mere disclosure of different types of messages (as the Petition identifies) is insufficient to show prioritization based on the message type being video, audio, text, or image.

Third, *Nigawara* fails to render claim 7 obvious because *Nigawara* does not disclose a dispatcher or an operator of the '802 Patent. Thus, *Nigawara* does not teach informing an operator of a time of receipt of a message.

Fourth, *Nigawara* fails to render claim 11 obvious because its system stores all messages regardless of priority; therefore, the system cannot store a lower priority message "in a queue on the basis of the determination and the prioritization." Ex.

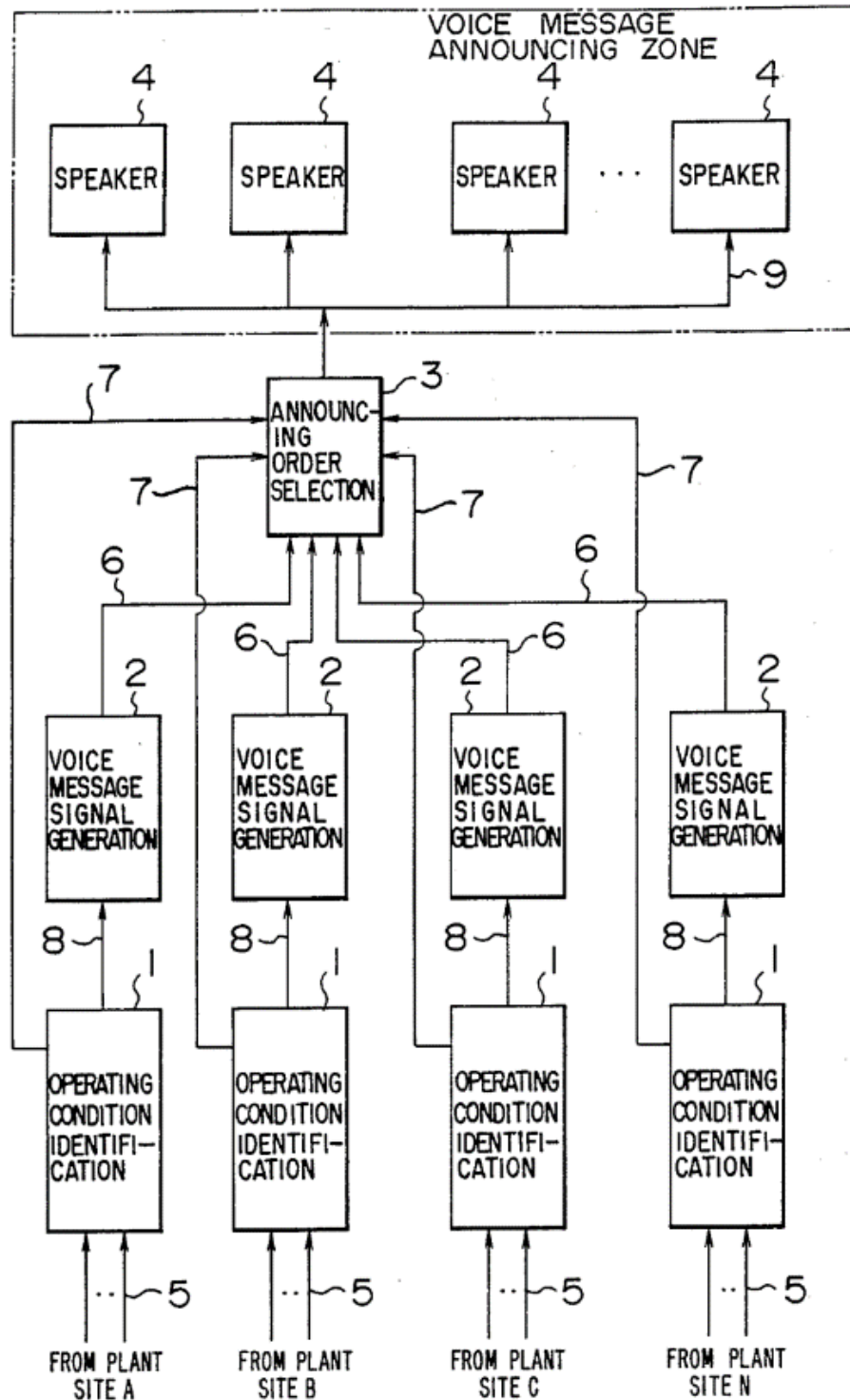
1001. Again, the Petition fails to fairly represent the technology of *Nigawara*, which highlights the differences between claim 11 and *Nigawara*. Specifically, *Nigawara*'s stored messages are never assigned a priority, let alone stored in a queue on the basis of the determined priority.

A. Overview of *Nigawara*

Nigawara is directed to systems that announce changes in the operating condition of a plant (*e.g.*, a thermal power plant) with automatic voice messages. Ex. 1007, 1:40-48. These automatic voice messages are based on machinery signals and process signals. *Id.*, 1:29-45. The system sequentially announces the voice messages pertaining to different operating conditions to avoid the possibility of intermixing the messages with each other. *Id.*, 1:44-1:55.

Figure 1 illustrates an example system of *Nigawara*. *Id.*, 2:6-8. The system has speakers that announce messages received from various plant sites within the plant, including plant site "A." *Id.*, 2:26-29. Information signals 5 provided by the sites indicate operating conditions of respective plant sites; the information signals 5 include process signals, a voice message signal, a machinery rotation noise signal, and a video signal. *Id.*, 2:30-41. Each site includes a plant operating condition identification unit 1, which receives the information signals 5 and identifies the operating condition of the respective plant site based thereon. *Id.*, 2:41-45. When the identified operating condition requires a voice message announcement, a voice

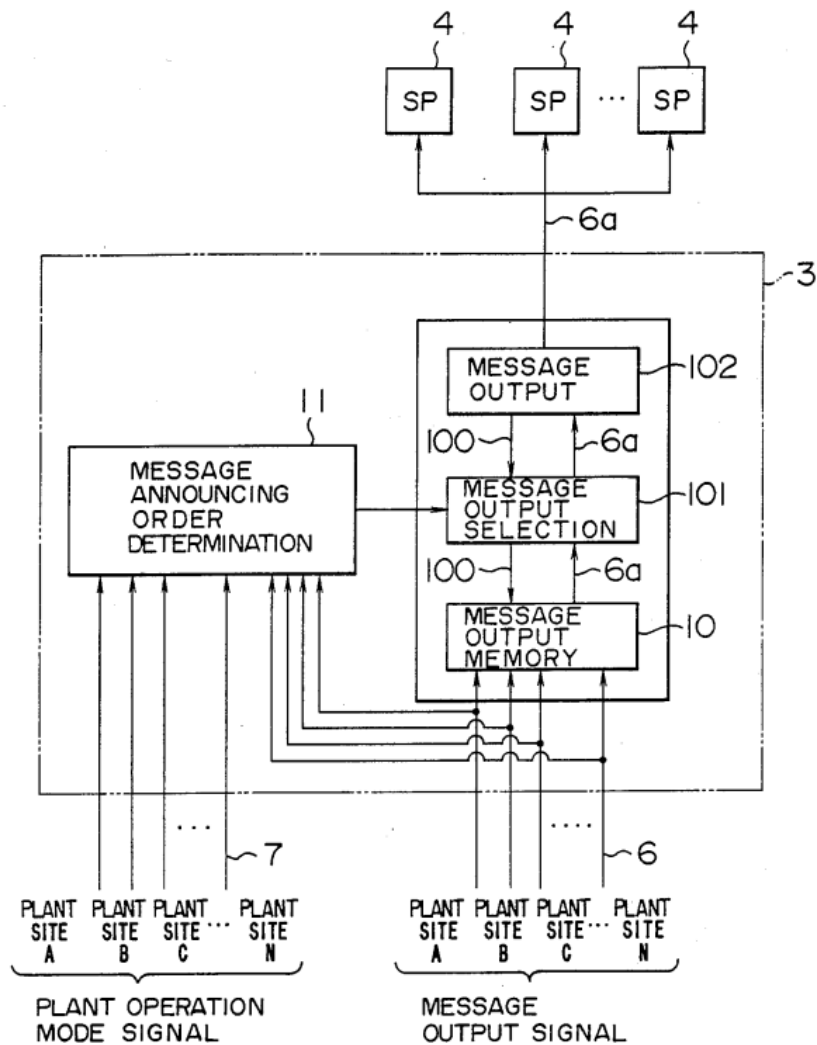
message announcement instruction 8 is sent from the plant operating condition identification unit 1 to the voice message signal generating unit 2. *Id.*, 2:59-66.



Ex. 1007, Fig. 1.

In response, “the voice message signal generating unit 2 generates a voice message signal consisting of words which can be understood by a human being.” *Id.*, 2:66-3:2. This voice message output signal 6 is then sent to the message announcing order selection unit 3. *Id.*, 3:22-25. When the message announcing order selection unit 3 receives several demands to announce a voice message, “the message announcing order selection unit 3 determines the priority order of announcement of the voice messages according to the ***contents of the messages*** and the ***relative importance*** of various pieces of information.” *Id.*, 3:33-41. The voice messages are then announced depending on the priority. *Id.*

Figure 2 further illustrates the message announcing order selection unit of Figure 1. *Id.*, 2:9-11. After the message announcing order selection unit receives voice message output signals 6 from various plant sites, it stores the voice message output signals in a voice message signal memory. *Id.*, 3:33-41, 3:68-4:2. The voice message output signals are also applied to a message announcing order determination unit 11, which determines the priority of the messages. *Id.*, 4:3-15. Then, the message signal selection unit 101 selects the highest priority voice message, and the speakers then announce the voice messages based on the priority determination. *Id.*, 4:16-21.



Ex. 1007, Fig. 2.

Nigawara determines priority based on a predetermined set of rules. *See id.*, 4:39-5:68. First, voice messages are prioritized depending on their respective contents. *Id.*, 4:39-44. Logically, a serious problem (e.g., problem occurring with a main piece of equipment) would be announced with a higher priority than other voice messages. *Id.*, 4:44-49. Table 1 (reproduced below) provides an example of the priority order depending on the content of the message. *Id.*, 4:55-5:24. “[T]he voice

message provided by *any one of the voice message output signals 6 corresponds to one* of the seven kinds of voice messages [of Table 1].” *Id.*, 5:24-27. And, in situations in which the voice messages have the same content priority order, the system determines priority according to plant operation mode signals. *Id.*, 5:29-42; *see id.*, 6:1-15 (providing a table for priority based on plant operation).

	Priority order	Contents of Message
1st		Voice message announcing serious trouble in main machinery and equipments
2nd		Voice message announcing medium trouble in large auxiliary machinery and equipment
3rd		Voice message announcing a change in operating conditions of main machinery and equipment
4th		Voice message teaching actuation of automatically controlled machinery and equipment
5th		Voice message announcing slight trouble in valves and small auxiliary machinery and equipment
6th		Voice message announcing a change in operating conditions of auxiliary machinery and equipment
7th		Voice message announcing guidance for actuation of automatically controlled machinery and equipment

Ex. 1007, 4:55-5:24.

Unlike the communication system of the '802 Patent, *Nigawara* only discloses priority determinations based on *message contents* and the *relative importance* of each message. *See, e.g., id.*, 3:33-41. Mr. Williams admits that *Nigawara's* disclosed priority determinations of Table 1 include different types of messages that are *all voice* messages, the priority determinations of Table 2 include different plant

operation modes, and he does not know of any other priority determinations disclosed in *Nigawara*. Ex. 2005, 122:3-21, 123:1-6, 124:4-7. Thus, *Nigawara*'s system exclusively concerns announcing voice messages and does not prioritize based on the type of message received. See Ex. 1007, 3:33-41, Abstract. *Nigawara*'s system also stores all messages when received regardless of priority. *Id.*, 4:39-44, Ex. 2005, 148:19-24, 153:10-14. These, and other key differences, reveal themselves as technological gaps in the Petition's analysis.

B. The Petition Misapplies *Nigawara*'s Disclosures to Claim 1's Elements and Required Order of Elements

The Petition consistently misapplies *Nigawara*'s disclosures with respect to the claimed elements in view of the technological details of *Nigawara*'s system. Ex. 2007, ¶¶79-122. First, the Petition misapplies *Nigawara*'s plant sites as the claimed entities. Ex. 2007, ¶¶79-114. Second, the Petition misapplies *Nigawara*'s storing followed by prioritization as following the necessary order of claim elements 1[c], 1[d], and 1[f]—prioritizing before storing. Ex. 2007, ¶¶115-122. Third, the Petition misapplies different elements of *Nigawara* in an inconsistent manner as corresponding to the claimed first and second messages.

1. *Nigawara's Plant Sites are Not Entities*

The Petition fails to render claim 1 obvious because the Petition incorrectly identifies individual plant sites as the first and second entities of claim 1.⁴ Petition, 56-57, 59. Plant Site A and Plant Site B are not single entities but rather sites within a single entity (*i.e.*, the power plant). Ex. 2007, ¶¶89, 94. This distinction reveals significant gaps in the Petition's analysis. Namely, the differing goals and solutions between *Nigawara* and the '802 Patent highlight the incompatibility of *Nigawara's* single-entity prerecorded message system to the Challenged Claims. Ex. 2007, ¶¶81-97.

The '802 Patent solves the issue of interference between multiple communications arriving to an operator sitting between two different entities. Ex. 1001, 1:22-27, Fig. 1; Ex. 2007, ¶¶88, 90, 92-93; *supra* III.B.3. *Nigawara* concerns the mixing of prerecorded voice messages during announcement of operating conditions at a plant (*e.g.*, thermal power plant). Ex. 1007, 1:7-37; Ex. 2007, ¶¶82-87. This issue affects users ***within an entity***, rather than dispatchers managing communications ***between different entities***. Ex. 2007, ¶¶83, 88, 90-97. These

⁴ The arguments within this section apply equally to each independent claim of the '802 Patent. Thus, *Nigawara* likewise fails to render claims 11, 13, 14, 17, 18, and 19 obvious for the same deficiencies.

distinct issues and solutions identified by *Nigawara* and the '802 Patent lead to shortcomings in the Petition's analysis.

First, the Petition conflates *users* at plant sites in *Nigawara* with the *operator* of the '802 Patent simply because *Nigawara* uses the term “operator” as a plant worker. Ex. 2007, ¶89. In *Nigawara*, the issue of intermixing voice announcements across the power plant affects the operators that create and receive messages—not an operator disclosed and claimed in the '802 Patent. Ex 1007, 1:7-37; Ex. 1001, 3:59-62, 1:25-27, cl.1, 7, Fig. 1, Ex. 2005, 18:4-8, 41:15-20, 58:5-6, 130:15-23; 132:1-17, 133:12-13; Ex. 2007, ¶89; *supra* section III.B, *infra* IV.D. *Nigawara*'s management of incoming messages within a single entity does not present the problems of managing incoming messages from different entities. Ex. 2007, ¶91. Instead, with reference to an example of the '802 Patent, a single entity, such as a police force, may moderate their communications on a dedicated channel because each officer (*i.e.*, each user) hears all other voice messages on the communication channel. Ex. 2007, ¶92. Naturally, within the police force's dedicated channel, the officers will self-moderate, waiting until an appropriate time to transmit their own voice message in an orderly fashion, and generally avoiding instances where two officers try to speak at the very same time. *Id.* Likewise, for a single power plant entity, different plant sites can moderate their communications by following a predefined set of procedures to determine priority of which messages are announced

first. The power plant sets the procedures, so all plant sites are in operational harmony, as described generally in *Nigawara*. Ex. 2007, ¶95.

On the other hand, when different entities communicate within their own dedicated channels, the users of one entity cannot hear the voice messages of the other entity, and thus cannot moderate their own voice messages based on any messages from the other entity. Ex. 1001, 1:13-18; Ex. 2007, ¶92. This is what causes interference at the operator. The operator receives voice messages from both dedicated channels and must decide whether to mute channels or deal with confusion caused by the overlapping messages from different entities. Ex. 1001, 1:22-36; Ex. 2005, 14:1-9, 14:21-24, 41:15-20; Ex. 2007, ¶93. The reason for this problem, which Mr. Williams agrees with, is that “when voice message announcing systems operate independently, voice messages are announced simultaneously due to the ***absence of operational harmony*** among the devices.” Ex. 2005, 125:12-16. Mr. Williams notes how, in dealing with a four-alarm fire, dealing with “just a single unit” is different from a scenario with “all sorts of different units...units across town or even visiting people from out of state and police and EMTs and all sorts of other things.” Ex. 2005, 35:15-18. An operator dealing with “just a single entity” does not have the problem of needing to mute a channel, while an operator dealing with “all sorts of different units” will encounter the problem the ’802 Patent addresses when

different entities unknowingly transmit messages at the same time. *Id.*; Ex. 2007, ¶¶93-94.

Unlike the operator sitting between entities in the '802 Patent, *Nigawara's* announcing order selection unit only receives messages from within the power plant. Ex. 1007, Fig. 1. With a single entity (*i.e.*, the power plant), *Nigawara's* system can manage the communications in operational harmony without the risk of the confusion from different entities. Ex. 1007, 1:29-34, 7:3-33; Ex. 2007, ¶95. Moreover, in *Nigawara*, there is no operator that needs to make decisions on unforeseeable incoming messages of unknown importance. Ex. 2005, 133:12-13; Ex. 2007, ¶96. Rather, the announcing order selection unit receives messages, each prioritized by the content and plant mode. Unlike the '802 Patent, there is no risk of losing information in *Nigawara*—all messages are received from within one entity, stored, and ordered according to a ***predetermined*** set of rules. Ex. 1007, 6:36-42, Ex. 2007, ¶95. In sum, *Nigawara's* single-entity system at best includes users at individual plant sites communicating on a single multi-party communication channel. *See* Ex. 1007; Ex. 2007, ¶97. This fails to render claim 1 of the '802 Patent obvious, which requires multiple channels dedicated to different entities.

2. *Nigawara* Stores All Messages When Received Regardless of Priority

Additionally, *Nigawara* fails to render claim 1 obvious because its system stores all messages when received regardless of priority. Ex. 1007, 3:68-4:2; 4:39-44; Ex. 2005, 148:19-24. Claim 1, in contrast, recites the step of “determining which message out of the first message and the second message should be stored and subsequently played based on...one or more priorities assigned to the first and the second message.” Ex. 1001, limitation 1[d]. As ***agreed*** by the parties and adopted by the Court in Parallel Proceedings, the order of steps for limitation 1[d] is construed as “(3) the ‘determining which message’ step [1D] must be performed after the ‘determining one or more priorities’ step [1C]; (4) the ‘determining which message’ step [1D] must be performed before the ‘playing the message having a higher priority’ step [1E] and the ‘storing at least one message’ step [1F].” *Id*; Ex. 2005, 15-16, *see supra*, Section II.C. *Nigawara* plainly discloses the ***opposite***.

In *Nigawara*’s system, when the message announcing order selection unit receives message output signals, the message output signals are (1) stored in the message output memory 10 and (2) sent to the message announcing order determination unit 11. Ex. 1007, 3:66-4:5, Fig. 2. The message announcing order determination unit 11 only determines priority after the voice message signal generation unit 2 has sent message output signals to the message output memory 10.

Ex. 1007, 4:6-15. And, based on this determination, the message signal selection unit 101 selects the voice message 6a with the highest priority. *Id.*, 4:16-20, 6:37-58. The message output memory 10 does not store messages that are assigned a priority; the memory 10, instead, simply stores all messages and then waits for a signal 100 from the message signal selection unit 101, identifying the message with the highest priority. *Id.*, 4:16-30. As the message output memory 10 receives the message output signals *before* the message announcing order determination unit 11 determines priority, a message (even if eventually assigned a priority) cannot be stored *based on* the determination or the prioritization as claimed in the '802 Patent. Ex. 2007, ¶¶98-113.

In discussing the related limitation 1[f], the Board previously indicated that “‘storing at least one message having a lower priority between the first and the second message based on the determination’ is broad enough to encompass *continuing* to store a message having a lower priority based on a determination of which message...should be stored and subsequently played.” *See* Paper 11, 12. The Board, however, did not directly address the “determining” step of limitation 1[d], and the *agreed* claim construction entered in the related district court litigation had not yet issued. *Id.*, Ex 2005, 15-16, *see supra*, Section II.C. The entirety of intrinsic evidence, which the *Petitioner* cited in the related district court litigation, supports the conclusion that claim 1 requires determining which messages should be stored

after the priorities are assigned to each message. Ex. 1001; *see* Ex. 2001, 12. The Board’s above quoted statement that “storing” encompasses *continuing to store* “do[es] *not* conflict with the required ordering in relation to determination in element 1[d].” Ex. 2007, ¶108.

First, the ’802 Patent specification supports Patent Owner’s position. Ex. 2007, ¶101. Figure 3 illustrates a flowchart for managing communications. Ex. 1001, 4:41-42, Fig. 3. When received messages overlap 306, the communication system calculates the priority 310 of each message and identifies the message with the higher priority 312. *Id.*, 4:54-67. The subsequent steps in the flowchart *depend* on this determination of priority. *Id.* Namely, the system plays the higher priority message 314 and stores the lower priority message *according to the priority* 316. *Id.*, Fig. 3. Thus, Figure 3 and the corresponding disclosure demonstrate that message priority is determined before determining which message should be stored. *Id.*; Ex. 2007, ¶101.

In another example, Figure 4 provides a working illustration of the communication system of the ’802 Patent. Ex. 1001, 5:19-21. When describing Figure 4, the ’802 Patent demonstrates that priority is determined *before* messages are stored in accordance with Patent Owner’s position. *Id.*, 5:34-64. In reference to Figure 4, message A is received and played; message B is then played as it does not overlap with message A. *Id.*, 5:34-37. Message C is received when message B is

playing. *Id.*, 5:37-38. “**After** computation and comparison of the priorities of B and C, it is found that the priority of radio message B is higher. **Hence**, radio message C is stored in the queue.” *Id.*, 5:38-40. Figure 4 and the corresponding description demonstrate the system of the ’802 Patent determining which message should be stored after the priorities assigned to each message. *Id.*; Ex. 2007, ¶101.

Second, the prosecution history supports the Patent Owner’s position. Ex. 2007, ¶102. In particular, the Applicant distinguished the claims over systems that always store messages without performing a determination (like *Nigawara*). *Id.* For example, the Applicant stated that the “determining” feature was not taught because “messages **are always stored** in Cheng and Cheng does not disclose or suggest making the determination based on an overlap in time.” Ex. 1003, 62. Because “storing is not performed based on any determination that the messages or pages overlap in time **or the priority of the messages**,” the reference failed to teach the claims. *Id.*

Third, in Parallel Proceedings, the parties previously agreed that the determining steps **must occur** before the storing step, and more recently again confirmed this issue. Ex. 2001, 12; Ex 2005, 15-16; Ex. 2007, ¶103; *see supra*, Section II.C. The Petition, however, provides an inconsistent position, seeking a broader reading for invalidity while benefiting from the narrower reading in district court. *See Kiosoft Techs., LLC v. PayRange, Inc.*, IPR2021-00086, Paper 12 at 16

(PTAB Mar. 22, 2021) (explaining that the petitioner’s inconsistent construction with the construction in district court undermined the predictability of the patent’s claim scope and “integrity of the patent system”).

In view of this evidence, a POSITA would have understood that the “determining” limitation does not encompass continuing to store a message based on priorities assigned to the messages. Ex. 2007, ¶¶106-108. With this proper understanding, *Nigawara* cannot render claim 1 obvious. *Nigawara* stores all incoming messages regardless of priority and *never* assigns priority to the stored messages. Ex. 1007, 3:68-4:2, Ex. 2005, 148:19-24; Ex. 2007, ¶¶102, 111-112, 114. *Nigawara* instead relies on a “message announcing order determination unit” to identify priorities, which signals a “message signal selection unit” to identify and retrieve a message (stored in no particular order) from the “message output memory.” Ex. 1007, 3:66-4:20, 5:28-29, Fig. 2; Ex. 2007, ¶¶111, 119; *see* Section IV.E.2, (explaining *Nigawara*’s failure to store messages in a queue as required by claim 11).⁵ *Nigawara* stores each message before assigning priority; but does not teach “*determining* which message out of the first message and the second message

⁵ *Nigawara* uses the term “message signal selection unit” when referring to the “message output selection” component 101 of Figure 2.

should be stored and subsequently played ***based on...***one or more ***priorities assigned*** to the first and the second message.” Ex. 2007, ¶¶104-106, 114.

3. The Petition Fails to Consistently Identify a First Message and a Second Message

Because *Nigawara*’s plant is a single entity rather than two, the Petition avoids the architecture of *Nigawara* to mask its mapping of the claim 1 to the disclosure of *Nigawara*. Claim 1 recites “receiving a first message on a first dedicated channel” and “receiving a second message on a second dedicated channel.” Ex. 1001. In both limitation 1[a] and 1[b], the Petition identifies ***information signals*** as the first message and the second message. *See* Petition, 56-61. But Petitioner pivots to multiple different disclosures in *Nigawara* as the claimed first and second messages in later claim limitations.

A straightforward presentation of *Nigawara*’s system highlights the difference in function and content between the: (i) information signals; (ii) demands for announcement of voice messages; and (iii) voice message output signals that are each (improperly) argued by Petitioner to be the claimed first and second messages at different points in the argument. *Nigawara*’s Figure 1 includes various plant sites within a single plant. *Id.*, 2:26-29. The plant sites apply information signals 5 to a respective plant operating condition identification unit. *Id.*, 2:29-45. The plant operating condition identification unit 1 identifies the operating condition of the

plant site. *Id.*, 2:41-45; *see id.* 2:45-59. Based on the operating conditions, the plant operating condition identification unit 1 transmits a voice message announcement signal 8 to the voice message signal generating unit 2, which sends a voice message signal 6 to the message announcing order selection unit 3. *Id.*, 2:59-3:2, 3:22-25. Finally, the message announcing order selection unit 3 prioritizes the messages. *Id.*, 3:33-41.

The Petition completely ignores and skips over this conversion process, muddying its mapping of *Nigawara*'s system against claim 1 of the '802 Patent. In limitations 1[a] and 1[b], the Petition identifies ***information signals*** as the first message and the second message. *See* Petition, 56-61. The Petition's analysis quickly breaks down with limitation 1[c], which recites the step of "determining one or more priorities for ***the first message***...and ***the second message***...based on at least one pre-defined parameter." Ex. 1001. Rather than provide a consistent argument and use the ***information signals*** identified as the first and second messages in limitations 1[a] and 1[b], the Petition now identifies "a plurality of ***demands for announcement*** of voice messages" as the first and second messages. *See* Petition, 62. In the remaining limitations, the Petition identifies ***voice message output signals*** as the messages. *See* Petition, 63-71. This is improper. The Petition cannot rely on different features for the claimed first message of element 1[a] and the first message of elements 1[c] and 1[d]. *Dropbox, Inc. v. Entangled Media, LLC*, IPR2024-00285,

Paper 7 at 16-19 (PTAB June 6, 2024) *citing Baldwin Graphic Sys., Inc. v. Siebert, Inc.*, 512 F.3d 1338, 1342-43 (Fed. Cir. 2008) (“noting that definite articles such as ‘the’ and ‘said’ create anaphoric phrases that refer to the initial antecedent phrase, and do ***not alter the meaning of the antecedent ‘in the slightest’***”), *Id.* at 18 (“Petitioner points to two different features of Havewala for teaching the same required ‘request’ in claim 1. This is ***fatally inconsistent.***”), *Id.* at 19 (“Petitioner again relies on a different feature . . . This ***inconsistency is fatal*** to Petitioner’s argument here.”). The Petition relies on ***information signals*** for element 1[a], which is different from ***demands for announcement*** or ***voice message output signals*** relied on for later elements. Likewise, for the claimed second message, the Petition must rely on the same message or signals for the claimed second message in elements 1[c] and 1[d] as for element 1[b]. Instead, the Petition improperly relies on ***different signals*** and fails to establish that *Nigawara* renders claim 1 obvious.

C. *Nigawara Does Not Prioritize Messages Based on a Type of Received Message*

Nigawara fails to render claim 5 obvious because its system prioritizes based on message content without considering the ***type of received messages***, as required by the ’802 Patent. Ex. 1001. The Petition errs in its analysis by ignoring claim 5’s dependence on claim 4. *See* Petition, 77-78. As explained in Section III.C, claim 1 determines priority based on a predefined parameter, and claim 4 specifies that the

predefined parameter is a type of received message. Ex. 1001. Claim 5 further narrows the type of received message to an audio message, a video message, a text message, or an image message. *See id.*

The Petition cites to a single portion of *Nigawara*, mentioning possible information signals such as “a voice message **audio** signal...and a **video signal** representing the state of combustion in the furnace.” Petition, 78 (original emphasis) (citing Ex. 1007, 2:31-41; Ex. 1002, ¶¶[0280]-[0283]). The Petition then concludes that “*Nigawara* discloses *receiving*, at least, *audio* and *video* information signals (*messages*).” *Id.* (original emphasis). However, the Petition merely points to *Nigawara*’s disclosed audio and video information signals without explaining how priority would be based on these signals. *Id.*

Nigawara’s general disclosure of audio and video information signals is not sufficient to teach claim 5 of the ’802 Patent because *Nigawara* does not determine message priority **based on** whether a signal is an audio or video signal. Instead, *Nigawara*’s system determines message priority based on the message’s content and relative importance without considering whether an information signal is an audio or video. *See*, Ex. 1007, 1:49-55, 3:33-39, 4:55-5:24, 6:1-15, Fig. 3; Ex. 2005, 122:3-21, 123:1-6, 124:4-7. Accordingly, *Nigawara* does not render claim 5 obvious.

D. Nigawara Does Not Have an Operator Informed of a Time of Receipt

The Petition fails to offer any evidence that *Nigawara* teaches informing an operator of a time of receipt of a message as recited in claim 7. Ex. 1001. The Petition fundamentally errs in its analysis of claim 7 by ignoring the meaning of an operator in the '802 Patent. See Petition, 78-79. As explained above, in the '802 Patent, operators and dispatchers are distinct from the users in entities that use the claimed communication system. Ex. 1001, 3:59-62, 1:25-27, cl.1, 7; Ex. 2005, 18:4-8, 41:15-20, 58:5-6; Ex. 2007, ¶¶56-58, 115; *supra* sections III.B-III.B.3, III.D. IV.B.1. Thus, *Nigawara*'s "operators" are not the operators or dispatchers of the '802 Patent. Rather, if anything, *Nigawara*'s operators would be *users* of the '802 Patent because they would be the listeners of the announced messages over (under the Petitioner's read) the alleged dedicated channels (asserted units 1 and 2). Petition, 56; Ex. 2005, 118:19-119:4, 120:19-22, 130:22-23; Ex. 2007, ¶89.

The Petition fails to put forward any evidence that *Nigawara* has any operator as claimed in the '802 patent, such as a dispatcher. Petition, 78-79. In fact, Mr. Williams admits that *Nigawara* does not even have a dispatcher. Ex. 2005, 133:12-13. This makes sense, since *Nigawara*'s system is playing pre-recorded voice messages, there is no need for a dispatcher or operator of the '802 Patent, and Mr. Williams admits that dispatchers experience the problem solved by the '802 Patent. Ex. 2005, 41:15-20, 143:19-25; *see also* Ex. 1007, 1:7-37. Since *Nigawara* does not

have a dispatcher, and the Petition does not offer any evidence or explanation why *Nigawara's* system would employ the use of a dispatcher or operator of the '802 Patent, the Petition fails to establish that *Nigawara* renders obvious informing an *operator* of a time of receipt of a message as recited in claim 7.

E. *Nigawara* Does Not Teach All Elements of Independent Claim 11

As with Ground I, the Petition attempts to address Claim 11 by recycling the same arguments raised for Claim 1. Specifically, the Petition states “Claim 11 is nearly identical to claim 1. The only differences are...” noting the same three differences, that elements 11[c], 11[f], and 11[g] differ from claim 1. Petition, 79. However, as with Ground I, the Petition does not address all of the elements of claim 11. Even if the Board were to overlook this clear failure to establish that claim 11 is obvious, *Nigawara* is lacking for other reasons as well: no queue stores messages; and no periodic status checks of played messages.

1. The Petition Fails to Address Element 11[h]

The Petition's arguments on pages 79-81 fail to ever mention element 11[h], which recites “playing the stored message having the highest priority.” Without addressing element 11[h], the Petition cannot be considered to have established that all elements of claim 11 are taught by *Nigawara*. *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d at 1342. As noted above, Mr. Williams admitted that element 11[h]

is not the same as claim 1, yet failed to address or even mention element 11[h]. Ex. 2005, 103:4-105:6; *see also*, Ex. 1002, ¶¶193-197, *supra* section III.E.1.

Because the Petition fails to address all elements of claim 11, the Petition does not establish that *Nigawara* renders claim 11 obvious.

2. *Nigawara* Does Not Store Messages in a Queue

Nigawara does not store messages “in a queue on the basis of the determination and the prioritization.” Ex. 1001, cl. 11. Thus, *Nigawara* fails to render claim 11 obvious.⁶ Again, the Petition avoids the technological intricacies of *Nigawara* to mask the difference between the Challenged Claims and *Nigawara*’s disclosure. Even a cursory review of *Nigawara* illustrates that *Nigawara*’s storage does not consider priority, and therefore cannot store a message in a queue “on the basis of...the prioritization.” *Id.*

When the message announcing order selection unit receives a message output signal, the message output signals are (1) stored in the message output memory 10 and (2) sent to the message announcing order determination unit 11. Ex. 1007, 3:66-4:5, Fig. 2. As the message output memory receives the message output signals

⁶ The Petition additionally fails to render claim 11 obvious for the reasons explained in Section IV.B. Further, the arguments in this section apply equally to independent claims 13 and 14.

before the message announcing order determination unit determines priority, a lower priority message cannot be stored in a queue based on the determination or the prioritization as claimed in claim 11. *Supra* section IV.B.2.

Further, the Petition's expert makes clear that *Nigawara* does not store messages in a queue as recited in claim 11. The messages are never "stored in some sort of sequence for later use" based on the priority determined by the message announcing order determination unit as Mr. Williams would require. Ex. 1002, ¶291; Ex. 2005, 106:4-11; Ex. 2007, ¶¶116-117. As explained in Section IV.B.2, the message announcing order determination unit determines priority only after the voice message signal generation unit 2 sends the message output signals to the message output memory 10. Ex. 1007, 4:6-15.

Based on this determination, the message signal selection unit 101 selects the voice message 6a with the highest priority. *Id.*, 4:16-20. The message output memory 10 does not store messages in a queue; the message output memory, instead, simply stores all messages and then waits for a signal 100 from the message signal selection unit 101, identifying the message with the highest priority. *Id.*, 4:16-30; Ex. 2007, ¶¶117-118.

The failure of *Nigawara* to store a lower priority message in queue naturally follows from its operation as compared to claim 11. The '802 Patent's communication method assigns priority immediately after the messages are received

and determined to be overlapping. Ex. 1001, 4:54-67, Fig. 3 (steps 304, 306, 310). Then, based on these assigned priorities, the higher priority message is played while the lower priority message is stored. *Id.*, Fig. 3 (steps 312, 314). Two key features result in the communication method assigning priority before storing messages.

First, the stored messages can be ordered *in storage* based on the priority. *Id.*, 4:65-67. Second, the communication system can play the stored message with the highest priority without the need for an incoming signal to identify the highest priority message as required and implemented in *Nigawara* with the message signal selection unit 101. *Id.*, 5:1-9. In short, the '802 Patent stores the messages in a specific order while *Nigawara* stores all messages and then receives a signal, identifies and plays the higher priority message, then reassesses priority after the end of the message. Ex. 2007, ¶¶118-120. These fundamental differences in operation show that *Nigawara* cannot render claim 11 obvious.

3. *Nigawara* Does Not Periodically Check the Status of a Message Being Played

Nigawara does not “check[] periodically the status of the message being played” and thus, fails to render claim 11 obvious. Ex. 1001. Yet again, the Petition avoids the context of *Nigawara* to mask the difference between the Challenged Claims and *Nigawara*’s disclosure. This time, the Petition ignores the nature of the messages being announced to reach its conclusion that “*Nigawara* discloses that ‘the

priority order is determined again according to the flow shown in FIG. 3,’ (periodically checking the status of the *message being played*) *after the highest priority message is announced* because ‘the message announcing order determination unit 11 may have received one or more voice message signals 6’ during the announcement.” Petition, 80, *citing* Ex. 1007, 6:55-57.

The cited portion of *Nigawara* states in full that “[a]t the end of announcement of the first message signal, the message announcing order determination unit 11 may have received one or more voice message signals 6, and the priority order is determined again according to the flow shown in FIG. 3.” Ex. 1007, 6:54-58. No other evidence is put forward by the Petition for this element. The cited disclosure quoted above does not explicitly disclose periodically checking the status of a message *that is being played*. To the extent the Petition intends to rely on inherent disclosure, the standard for inherency is a high bar which would require *Nigawara*’s system to *necessarily periodically check* the status of a message being played. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999).

In this instance, the inherency standard is not met, since *Nigawara*’s system is playing *pre-recorded* messages. Ex. 2005, 143:19-25. Because the messages are pre-recorded and the content is known before the system announces the message, the length of each recording can be known to avoid periodically checking whether the announcement of the pre-recorded message has completed. Ex. 2007, ¶122. For

example, a POSITA would understand that a fifteen second message can be announced and is known to be complete after fifteen seconds from the start time, without doing any periodic checking at all. Thus, it is not necessarily the case that periodic checking of the status of playing messages would be performed in *Nigawara's* system, even if it would be possible to perform such checks. *Id.* The Petition, again ignoring the context of the cited art fails to address that the messages announced in *Nigawara* were already recorded. Petition, 79-81. Moreover, “checking periodically” as recited in claim 11 is not disclosed, inherently or otherwise, by *Nigawara*. Ex. 2007, ¶¶121-122.

Also, it should be highlighted that the cited portion of *Nigawara*, read in full, states “[a]t the end of announcement of the first message signal, the message announcing order determination unit 11 may have received one or more voice message signals 6, and the priority order is determined again according to the flow shown in FIG. 3.” Ex. 1007, 6:54-58. The highlighted portion above makes clear when the step of again determining is performed: “**at the end** of announcement of the first message signal.” This information about **when** the determination happens is **ignored** by the Petitioner, even though the element relates to the timing recited within the claim. Further, it suggests that this step is done only **after** the announcement of the first message signal is complete, which is completely different

from the element as claimed, which occurs *while* the message is being played rather than “*at the end.*” Ex. 2007, ¶122.

Finally, the Petition fails to set forth any reasons why *Nigawara’s* teachings would be modified to perform any determinations or checks *before* the end of an announcement. Petition, 79-81. *Nigawara* does not teach periodically checking the status of a playing message as required by claim 11.

V. THE PETITION CONSISTENTLY IGNORES TECHNOLOGICAL DIFFERENCES BETWEEN THE PRIOR ART AND THE ‘802 PATENT

As set forth *supra* III.B.3, III.C, IV.B.2, IV.B.3, IV.D, IV.E.3, Mr. Williams obscures *Ohel’s* and *Nigawara’s* disclosures in a hindsight-driven effort to invalidate the Challenged Claims. Mr. Williams unfortunately has a history of improperly picking and choosing teachings from a reference and failing to represent accurately what it fairly suggests to a POSITA. Despite specific admonishment by the Board for such improper testimony, Mr. Williams perseveres. This is not surprising given he admitted he is not aware how the Board evaluated his prior testimony. Ex. 2005, 29:2-18.

As indicated in *Google LLC, v. Agis Software Development, LLC*, IPR2018-01083, Paper 10 (PTAB Jan. 10, 2019), Mr. Williams had drawn conclusion about a reference, Liu, that the Board disagreed with, noting the improper methodologies Mr. Williams employed in his analysis, stating as follows:

Mr. Williams’s testimony *improperly picks and chooses teachings* from Liu and *fails to represent accurately what Liu fairly suggests* to a skilled artisan.

Ex. 2006, 25.

This description of Mr. Williams’ declaration testimony could be copied and pasted in the Final Written Decision in the present case. The Board continues its critique of Mr. William’s testimony, stating that “when the ‘feature’ Mr. Williams relies upon from Liu’s communication method is viewed *in context of the whole of what Liu fairly suggests* about that method, it is *insufficient* to support a conclusion that a skilled artisan would have recognized....Google’s declarant *fails to provide any meaningful support* for this contention.” Ex. 2006, 26. The Board continues on stating “[t]he problem with Mr. Williams’ testimony is that it *completely ignores* the information that Liu’s method does need....Mr. Williams *gives us no basis to evaluate* whether there is....” Ex. 2006, 27.

Much of Mr. Williams’ declaration fits this pattern of lacking meaningful support and ignoring the technological context of the prior art. Interestingly, Mr. Williams never investigated whether his methodologies are appropriate at all. Ex. 2005, 29:2-18 (“Are you aware if the PTAB... has ever found your opinions lacking in an institution decision? A. Not to my knowledge. Q...if the PTAB has ever found your opinions improperly pick and choose teachings from a reference, you don’t

know about that? A. Correct. Q. If the PTAB has ever found your opinions failed to represent accurately what a reference fairly suggests to a skilled artisan, you wouldn't know anything about that? A. I would not know. I don't know.”).

Because Mr. Williams is unaware of the failings of his analysis, he continues to use this flawed approach. Mr. Williams ignores technological details found in references, instead picking and choosing from disclosures rather than appreciating the reference as a whole to provide support for his arguments. The PTAB's decision and candid commentary on the unacceptable state of Mr. Williams' analysis is objective evidence of Mr. Williams' methodologies, which bears on the credibility of Mr. Williams' analysis here. The pattern of ignoring information is evident from the numerous instances where Mr. Williams glosses over technological intricacies of the prior art systems, overlooking differences between the workings of '802 Patent and the relied upon references. *See, e.g., supra* Sections III.B.3, III.C, IV.B.2, IV.B.3, IV.D, IV.E.3. This pattern of incomplete and inaccurate analysis calls into question Mr. Williams' credibility as an expert witness, as well as the Petition's positions founded thereupon. His deposition testimony only magnifies these issues. As highlighted below, Mr. Williams did not know, was unsure or unable to address simple questions about the relevant technology that allegedly renders the claims of the '802 Patent obvious:

- "...the first entity is an officer and the second entity is a dispatcher; is that right? A. But *it can be mixed and matched*, just depending on the embodiment." Ex. 2005, 51:25-52:7.
- "So you would have to do a separate analysis to determine whether in the example where a first entity is a school, if a user could be a principal's office or a nurse's office? A. *I would have to think about that more....What I didn't do and get into the analysis if you were attempting to incorporate both types of entities into one embodiment....*" Ex. 2005, 60:20-61:6.
- Q...in your declaration, it says, 'The fire department can allocate one channel to every school.' If that school is the claimed first entity in Claim 1, you're not able to analyze whether a principal's office or a nurse's office could be a user included in that entity? A...*I haven't done that kind of analysis yet.*" Ex. 2005, 61:7-16.
- "So would you say that in *Nigawara*, some of *Nigawara*'s operators would be the users claimed in the '802 patent and some *Nigawara* operators would be the operator claimed in Claim 7 of the '802 patent? A. *It's possible. I would have to think about that....* Q. Sitting here today, you are not sure of the answer to that question? A. *Not at this point in the afternoon.*" Ex. 2005, 133:1-11.

- “If *Nigawara* is determining priority based on the plant and different plant sites have their own dedicated channel, how does *Nigawara* determine a priority based on the plant site? A. I would have to go back and think about that. ***I can’t answer right now.***” Ex. 2005, 152:9-15.

The above examples highlight that Mr. Williams does not understand how the references work from a technological perspective, which is probably why the substantive analysis is lacking (when not omitted entirely) and so much hindsight bias creeps into the Petition.

The many glaring holes in Mr. Williams’ declaration, which carry through the Petition’s analysis, cannot be overlooked or understated. They squarely dictate that the Petition fails to establish obviousness under any Ground.

VI. CONCLUSION

For the reasons set forth above, the Petition fails to satisfy its burden that the Challenged Claims are invalid. The Board should confirm the patentability of the Challenged Claims.

Dated: June 26, 2024

Respectfully submitted,

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Certification of Word Count Under 37 C.F.R. § 42.24(d)

The undersigned hereby certifies that the foregoing contains 13,673 words according to the word count of the word-processing software used to prepare the foregoing.

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CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2024, a true and correct copy of the foregoing was caused to be served on the following counsel of record for Petitioners by electronic mail at the following addresses:

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