

UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT TRIAL AND APPEAL BOARD

MOTOROLA SOLUTIONS, INC.,
Petitioner,

v.

STA GROUP LLC,
Patent Owner.

Case IPR2023-01295
U.S. Patent No. 8,994,830

PATENT OWNER'S RESPONSE

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Exhibit List

Exhibit No.	Exhibit Name
2001	<i>STA Group LLC v. Motorola Solutions, Inc.</i> , Case No. 2:22-cv-00381 (E.D. Tex.), Dkt No. 187 (Nov. 17, 2023)
2002	Kalley et al. (US 2007/0270172) (“Kalley”)
2003	Shaffer et al. (US 2008/0108339) (“Shaffer ’339”)
2004	December 2023 DocketNavigator Time to Trial Statistics in Patent Cases in the United States District Court for the Eastern District of Texas
2005	<i>STA Group LLC v. Motorola Solutions, Inc.</i> , Case No. 2:22-cv-00381 (E.D. Tex.), Dkt No. 360 (June 3, 2024)
2006	Declaration of Robert Akl, Ph.D.
2007	CV of Robert Akl, Ph.D.
2008	Deposition Transcript of Nathaniel Polish, Ph.D. dated June 19, 2024

Patent Owner, STA Group LLC (“Patent Owner”), submits this Patent Owner Response (“POR”) pursuant to 37 C.F.R. § 42.120 to the *Inter Partes* Review (“IPR”) petition (“Petition”) filed by Petitioner Motorola Solutions, Inc. (“Motorola” or “Petitioner”) for claims 1-5, 7-19, and 21-24 (“Challenged Claims”) of U.S. Patent 8,994,830 (“’830 Patent”, Ex. 1001).

I. INTRODUCTION

The Challenged Claims are each patentable over Petitioner’s invalidity challenges.

Petitioner’s challenge to claims 1-5, 9-14, and 17 based on the combination of Shaffer and Saylor fails for numerous reasons. First, Shaffer in view of Saylor fails to teach the limitation “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds.” Each camera or other recording device in Saylor monitors its own feed and transmits a notification when it has determined an alarm worthy situation. Because each camera works in a silo, there is no selection of “at least one video feed by selecting the at least one video feed *from the plurality of video feeds*” as claimed.

In addition, the systems described in Shaffer and Saylor are so distinct, that a POSITA would not have been motivated to combine them. The bulk of the Petition’s alleged “motivation”—that Saylor does not describe how to convey notifications across networks—is undermined by the “myriad of ways” Saylor itself describes

conveying such notifications, a point on which Petitioner's declarant readily agreed in his deposition. Accordingly, Ground 1 fails.

Petitioner's challenge to claims 1-5, 9-14, and 17 based on the combination of Gogic and Opitz fares no better. Gogic in view of Opitz does not teach "monitoring a selection of a communication channel by a user of a mobile communication device" (CD) because a dispatcher sets the boundaries of the group, and all CDs that are within range join the group. The CD makes its own determination whether it falls within the group membership location criteria, and then accepts the invitation if it is in range. Thus, there is no selection of a communication channel. Indeed, the Petition's only evidence supporting the selection of a communication channel is activating a push-to-talk key or switch, which Petitioner's declarant admitted would only be used to request a transmission privilege *after* the user was in a communication group communicating over a communication channel.

Additionally, like Ground 1, the Petition's motivation to combine in Ground 2 relies on an assertion contradicted by the art itself. Specifically, the Petition argues Gogic does not explain how communication devices make an initial connection to a base station—but Gogic does. In addition, Petitioner's declarant admitted that a POSITA would have known of a variety of ways to make such a connection, yet he and Petitioner simply chose one "informed by Opitz." Further, a POSITA would not

be motivated to combine Gogic, which describes temporary, ad-hoc communication channels set up for a particular purpose or event with Opitz's permanent networks. Accordingly, Ground 2 fails.

II. FACTUAL BACKGROUND

A. The '830 Patent

The '830 Patent issued on March 31, 2015, from an application filed August 8, 2008. Ex. 1001, Cover. The '830 Patent discloses a method and system for providing access to video streams associated with communication channels in a communication network. *Id.*, Abstract. Independent claims 1 and 15 both recite providing available radio frequencies for selection by a user. *Id.*, 12:21:25, 13:58-62. Each radio frequency is associated with a geographical zone. *Id.* Claims 1 and 15 recite that a plurality of video feeds is associated with the geographic zones. *Id.*; Ex. 2006, ¶ 31.

A user selects a radio frequency of the available radio frequencies. Ex. 1001, 12:26-27, 13:63-64. Instead of providing all the video feeds that are associated with the geographic zone, claims 1 and 15 recite that only one or some of the video feeds are identified for being provided or made available to the user. *Id.*, 12:28-39, 13:35-14:9. The identification of the video feeds is made based on a user policy that identifies one or more video feeds that are relevant to the user when the user accesses the selected communication channel. *Id.*; Ex. 2006, ¶ 32.

The multi-selection feature is described at least in relation to Figure 9 (reproduced below), which depicts a GUI that allows a user to select a communication channel and once that channel is selected, to select a communication frequency. Ex. 1001, 9:60-10:13. After the user selects a channel, the frequencies associated with that channel and associated with the user's location may then be selected from a drop-down menu. *Id.*, 10:14-41. Figures 8 and 9 show an exemplary GUI that allows a user to select a communication channel and associated frequency, where policy rules 806 are used for identifying which video feeds can be shown to a user based, for example, on an access policy or a user's role. *Id.*, 9:45-59; Ex. 2006, ¶ 33.

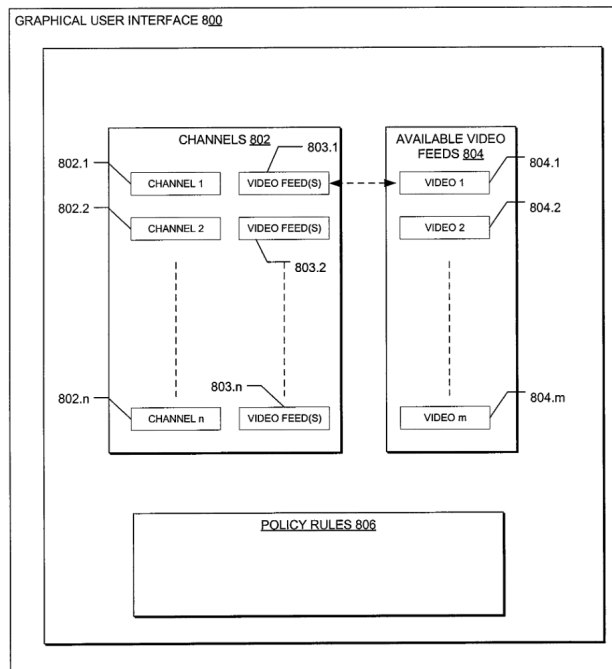


Fig. 8

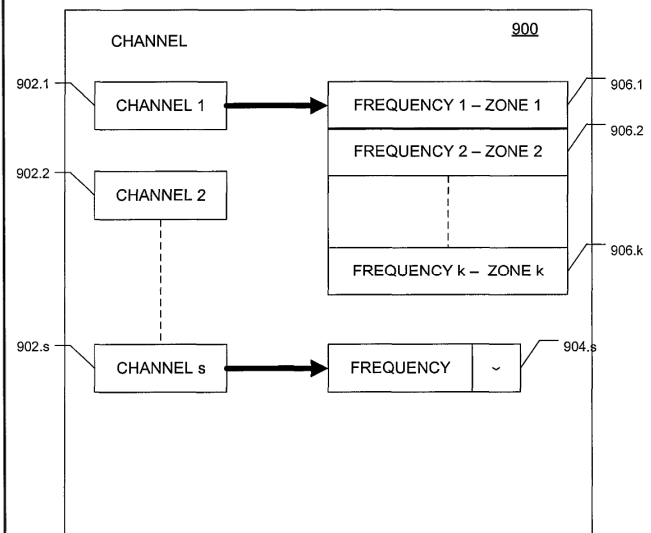


Fig. 9

Ex. 1001, Figs. 8, 9.

B. Shaffer (Ex. 1004)

Shaffer describes “a method for communicating using position information.” Ex. 1004, Abstract, ¶¶ 1, 5. As a user moves from a first location to a second location, Shaffer’s system identifies the updated position of the user and automatically adjusts communication parameters to enable the user to join and communicate on a communication network at the second location. *Id.*; Ex. 2006, ¶ 38.

Shaffer describes the migration to a second communication network as occurring automatically when the user moves into a new location. Ex. 1004, ¶¶ 6-7. Shaffer also describes an “endpoint 200” that “includes a transmitter/receiver 202, a user interface 204, a processor 206 and a memory module 208.” *Id.*, ¶ 44. The “[t]ransmitter/receiver 202 obtains signals from GPS satellites or ground stations of a communication network in order to determine a position of endpoint 200” so that the endpoint can join the communication network for the geographic location in which it is located presently. *Id.* “User interface 204 provides a mechanism through which a user of mobile endpoint 200 may operate the endpoint and communicate with other network devices.” *Id.*; Ex. 2006, ¶ 39.

“Memory module 208 includes network communication parameter listings 210 which contains mappings of communication settings, such as radio frequencies and encryption keys, of communication networks by location.” Ex. 1004, ¶ 46. As the user moves from a first location to a second location, the endpoint 200 finds the

relevant radio frequency and encryption key for the new location and automatically selects those parameters to allow the endpoint to communicate on the communication network of the second location. *Id.*, ¶¶ 49-50, 52 (“As indicated above, technical advantages of particular embodiments of the present invention include utilizing GPS information to adjust parameters of a mobile endpoint and automatically tune its parameters to match local network requirements.”); Ex. 2006, ¶ 40.

C. Saylor (Ex. 1011)

Saylor “provides a personal security network where an individual’s system or systems of security devices may be connected to a central security network.” Ex. 1011, Abstract. Saylor allows users to set up “personalized alarms and alert services” that specify who is to be contacted, the order and method of contact, and the type of situation to be alerted of. *Id.*, 2:26-31. The system further monitors images, and if “a change in images (indicating motion) is detected, an alarm may be signaled” along with the images or video clips of the motion. *Id.*, 2:45-55; Ex. 2006, ¶ 41.

Saylor includes a set of databases that “may store relevant information for personalized alarm services.” Ex. 1011, 6:9-14. The user’s profile can be created to specify how the user is to be notified in the event of a security alert. *Id.*, 6:19-32. Saylor further states that a notification may be sent to “police, fire department, and/or rescue squads.” *Id.*, 6:16-32. However, that notification to these emergency services

occurs after the user is notified and has confirmed the existence of the alert to prevent triggering false alarms. *Id.*, 8:16-28, 12:30-41. The user preferences of Saylor relate to determining when, how, and who is contacted in the event of an emergency or security event. *Id.*, 11:4-28; Ex. 2006, ¶ 42.

D. Gogic (Ex. 1006)

Gogic describes providing group communication services according to proximity to other users of communication devices (CDs) in a communication system. Ex. 1006, ¶¶ [0010], [0024]. According to Gogic, “a broad or indiscriminant or generalized invitation to join a group [is transmitted] to all recipient CDs....” *Id.*, ¶ [0060]. Devices that meet the location criteria are configured to “accordingly accept” the invitation. *Id.*, ¶¶ [0062], [0011]-[0012]. The invite is sent when a “dispatcher 400 identifies the occurrence or presence of an event or condition wherein communication between proximately located users could be beneficial.” *Id.*, ¶ [0057]. The dispatcher sets the “group membership location criteria” that determines which CDs join the communication group. *Id.*, ¶¶ [0010], [0058]; Ex. 2006, ¶ 43.

E. Opitz (Ex. 1007)

Opitz is directed to a communication system that uses a received wireless signal to determine a location of the communication system or a component of the communication system. Ex. 1007, Title, Abstract, 1:7-9. Opitz is an alternative to GPS systems, the functionality of which was not present in many communication

systems at that time. *Id.*, 1:44-52. As a vehicle travels from one location to another, Opitz recognizes that the regional messages that would be transmitted to that vehicle lose both signal strength and relevance. *Id.*, 2:45-59. Conversely, as the vehicle approaches a new location, the transmission signal strength and relevance of messages from the new location increase. *Id.*; Ex. 2006, ¶ 44.

Based on the change in signal strength, Opitz teaches being able to determine a current location of the vehicle/communication system. Ex. 1007, 3:16-29. In response to the changing relevance, the vehicle's onboard communication system (e.g., scanning radio) may be configured to scan communication channels known to be associated with the new location. *See id.*, 3:30-4:56 (detailing a vehicle's path through a region, including updating the communication system "according to the availability of communications from communications towers 120 and 162 as vehicle 134 crosses into communication regions 158 and 160."). As the vehicle moves and the relevant and local communication region changes, Opitz teaches a display 248 that "displays identification data corresponding to the channel being monitored by the scanner 136" and that "can be used to select channels which are to be excluded from the scanning list." *Id.*, 5:3-18. Opitz does not teach affirmatively selecting a communication channel. Ex. 2006, ¶ 45.

III. CLAIM CONSTRUCTION

The Petition was filed after November 13, 2018, and, 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). *Apple Inc. v. Firstface Co.*, 2021 WL 4156323, at *1 (Fed. Cir. Sept. 13, 2021).

Therefore, these claims should be “given their ordinary and customary meaning [and] that the ordinary and customary meaning of a claim term is the meaning that the term would have to a [POSA] 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. These arguments for claim terms apply for the purposes of this IPR only and without conceding alternative arguments in the counterpart litigations. *See NEC Display Solutions of America, Inc. v. Ultravision Tech.*, IPR2019-01123, Paper 7 at 12-14 (P.T.A.B. Dec. 2, 2019).

In the Parallel Proceeding, the parties agreed on certain constructions:

Term	Agreed Construction
Order of Steps (Claim 1)	The “monitoring a selection of a communication channel” step must be performed before the “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds” step.
“Push-to-Talk (PTT) channel in a PTT communication network” (Claim 5)	“A channel for transmitting half-duplex communications in a Push-to-Talk communication network”

Ex. 2001, 7, 9-10. The Eastern District of Texas further construed certain claims as follows:

Term	E.D. Tex. Construction
“wherein the at least one video feed is associated with the selected communication channel ... the one or more video feeds being independent of the selected communication channel” (Claim 1)	“the one or more video feeds being capable of being associated with more than the selected communication channel”

Term	E.D. Tex. Construction
“video stream association module” (Claim 15)	Plain and ordinary meaning; not subject to 35 U.S.C. § 112, ¶ 6

Ex. 2005, 17-31. The Petition proposes a construction of “video stream association module” that invokes pre-AIA 35 U.S.C. § 112, ¶ 6. Petition, 14-15. The E.D. Tex. rejected this construction, undermining Petitioner’s challenge to claim 15.

IV. LEGAL STANDARDS

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing § 312(a)(3) (requiring *inter partes* review petitions to identify “with particularity ... the evidence that supports the grounds for the challenge to each claim”)). The burden of persuasion in an IPR “never shifts to the patentee.” *Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015). Moreover, a petitioner should not “place the burden on [the Board] to sift through information presented by the Petitioners, determine where each element [of the challenged claims] is found in [the cited references], and identify any differences between the claimed subject matter and the teachings of [the cited references.]” *Google Inc. v. EveryMD.com LLC*, IPR2014-00347, Paper 9 at 25 (P.T.A.B. May 22, 2014).

A. Obviousness

A claim is unpatentable under 35 U.S.C. § 103(a) if the differences between the claimed subject matter and the prior art are such that the subject matter, as a whole, would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations, including (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of skill in the art; and (4) when in evidence, objective indicia of non-obviousness (i.e., secondary considerations). *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). “To satisfy its burden of proving obviousness, a petitioner cannot employ mere conclusory statements. The petitioner must instead articulate specific reasoning, based on evidence of record, to support the legal conclusion of obviousness.” *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016).

Finally, a petition seeking to establish obviousness based on more than one reference, as is the case here, “must articulate sufficient reasoning with rational underpinnings to combine the teachings.” *Wilson Elec., LLC v. Cellphone-Mate, Inc.*, Case No. IPR2018-01778, Paper 10 at 15 (P.T.A.B. Apr. 23, 2019) (citing *KSR Int’l*, 550 U.S. at 418).

B. 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 with “at least (a) a bachelor’s degree in computer science, electrical engineering, or a similar field, and (b) approximately 2 years industry experience in networking or communication systems, including interoperating different types of networks that include video feeds.” Petition, 13.

V. THE PETITION FAILS TO ESTABLISH A REASONABLE LIKELIHOOD OF SUCCESS ON ANY CHALLENGED CLAIMS

The Petition challenges claims 1-5, 7-19, and 21-24—the Challenged Claims—under two grounds as detailed below:

Ground	Basis for Challenge
1	Claims 1-5, 7-19, and 21-24 are obvious over Shaffer in view of Saylor
2	Claims 1-5, 8-19, and 22-24 are obvious over Gogic in further view of Opitz

This Patent Owner response is supported by the Declaration of Robert Akl, D.Sc. Ex. 2006, ¶¶ 1-158. He opines that the Challenged Claims are not obvious over either proposed combination of references. *Id.*

A. Ground 1: Claims 1-5, 7-19, and 21-24 Are Not Obvious Over Shaffer in View of Saylor

1. Independent Claims 1 and 15

- a. Shaffer in view of Saylor fails to teach “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone,” as recited in claims 1 and 15**

Claims 1 and 15 recite the step of “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone.” Ex. 1001, 12:28-30, 13:65-67.

- i. Shaffer in view of Saylor fails to teach “from the plurality of video feeds”**

The Petition fails to address the portion of limitation 1[e] in which the video feed is selected “from the plurality of video feeds.” Petition, 37 (arguing “Saylor’s central security network [1] identifies and selects a video feed associated with the geographic zone”). Instead, the Petition alleges that “Saylor’s central security network monitors *a specific video feed*” and supposedly “selects and identifies that feed when a ‘trigger[]’ event occurs, such as ‘motion.’” *Id.* (citing Ex. 1011, 16:52-60, 34:6-10, Fig. 10). None of these citations support selecting a video feed from the *plurality* of video feeds. Ex. 2006, ¶¶ 70-71.

Petitioner’s declarant’s testimony accurately tracks Saylor’s disclosure, which teaches “[a]t step 1010, *an* identified location may be monitored by a video or other recording device.” Ex. 1011, 16:52-60; Ex. 2006, ¶ 73. Each frame is compared to

the previous frame to detect motion. *Id.* If motion is detected, “an alarm may be triggered” and “the recorded images (e.g., video clips) may be...sent to a central security network, as shown by step 1020.” *Id.*, 16:59-64. The video monitored at the identified location that sends video clips to a central security network after motion is detected does not teach “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds” because the identified location is not reviewing a plurality of video feeds. Ex. 2006, ¶¶ 72-73. The Petition appears to admit as much, stating “Saylor’s central security network monitors *a specific video feed*.” Petition, 37.

Accordingly, Shaffer in view of Saylor fails to teach “from the plurality of video feeds.”

ii. Shaffer in view of Saylor fails to teach “selecting the at least one video feed”

The Petition also fails to demonstrate “*selecting* the at least one video feed.” Saylor’s video monitoring process does not identify at least one video feed by *selecting* at least one video feed—once motion is detected, recorded images may be sent to the central security network. Ex. 1011, 16:59-64, Fig. 10. The feed need not be identified and selected from a plurality of feeds before recorded images are transmitted to the central security server. *Id.*; Ex. 2006, ¶ 74.

In addition, Petitioner's declarant confirmed the video cameras themselves, and not the central security network, monitor the feeds. Ex. 2008, 69:11-22 ("Yeah, I don't think it's the central security server that's doing the monitoring there. I think it's being done by the video or other recording device that's doing the monitoring and then sending out to the remote user."). With each video device monitoring its own feed, Saylor fails to disclose any element that *selects* a video feed from the plurality of video feeds. Ex. 2006, ¶ 72.

Thus, Shaffer-Saylor fails to teach the step of "identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone." Because Shaffer-Saylor fails to teach this limitation present in both challenged independent claims, Shaffer-Saylor fails to render any Challenged Claim unpatentable. Ex. 2006, ¶ 75.

b. There is no Motivation to Combine Shaffer with Saylor

Shaffer and Saylor are directed to vastly distinct systems that a POSITA would not have considered combining. Ex. 2006, ¶ 46. The structural differences between the references, the existing disclosure of each reference, and the lack of any detail regarding the combination evidences the lack of a motivation to combine Shaffer with Saylor. Absent any reason to combine these references, Ground 1 fails to render any challenged claim unpatentable. *Id.*

i. Shaffer and Saylor are Structurally Distinct

Shaffer and Saylor present two ways of structuring networks that are incompatible with one another, or at least so distinct that a POSITA would not be motivated to combine the references. Ex. 2006, ¶ 47. First, the endpoint connectivity methods differ between the system described in Shaffer and the system described in Saylor. Additionally, the network structure differs, with Shaffer allowing any device with the credentials to join the network, whereas Saylor describes a closed list of notification recipients.

(a) Endpoint Connectivity

The endpoint connectivity methodology provided in Shaffer differs substantially from the endpoint connectivity described in Saylor. Ex. 2006, ¶ 47. More specifically, Shaffer's system relates to "a method and system for communicating using position information." Ex. 1004, ¶ [0001]. Shaffer enables communication using physical position information of a user by "adjusting [] one or more first communication parameters to one or more second communication parameters" as a user endpoint moves from a first location into a second location. *Id.*, Abstract, ¶¶ [0005]-[0006]; Ex. 2006, ¶ 48.

According to Shaffer, this system provides "[t]echnical advantages" including "providing a mobile endpoint user the ability to communicate, while changing locations, with different communication networks that utilize different

communication parameters, such as different radio frequencies, modulation methods and/or encryption keys.” Ex. 1004, ¶ [0008]. “Accordingly, effort and time associated with determining appropriate communication parameters when moving to a new location are reduced.” *Id.*; Ex. 2008, 20:11-17.

This structure, where endpoints move between locations and adjust communication parameters as they enter different locations, is markedly distinct from the teachings of Saylor. In contrast to Shaffer, Saylor handles all communications for a variety of systems of security devices at a specific premises regardless of a location of a user relative to the premises. Ex. 2006, ¶ 49. Per Saylor, it teaches “a security network where a user may set up personalized alarms and alert services; identify various methods of contact; order at which to be contacted; individuals and entities to be contacted; type of situations to be alerted of and other relevant security and other information.” Ex. 1011, Abstract. Saylor provides “a system and method for connecting a security system to a wireless communication system to automatically inform an owner and other authorized entities in a manner predetermined by the user when alarm situations and/or alarm worthy situations occur.” *Id.*, 1:17-22. The location of the “owner and other authorized entities” is immaterial to whether a notification is sent. Ex. 2006, ¶ 50; Ex. 2008, 60:19-61:1 (“Saylor looks at its database and its rules and policies and decides who to reach out

to.”), 71:20-72:3 (“So I don’t think Saylor talks about specifically notifying or taking into account in notifying somebody where those -- where that somebody is.”).

Because Saylor’s system establishes communication with owners/users and authorized entities in a location agnostic manner, and provides the mechanisms to establish those communications, there would be no need to combine Saylor with Shaffer’s transient endpoints. Ex. 2006, ¶¶ 50, 82-89; Ex. 2008, 60:19-61:1, 71:20-72:3. While Shaffer is concerned with ensuring endpoints are on the appropriate channel for their present location, Saylor’s endpoints (i.e., sensors) are stationary and do not move between locations. Ex. 2006, ¶¶ 51-52; Ex. 2008, 22:16-23:8 (“[Shaffer] is more you’re trying to have configuration appropriate to the location you’ve moved to.”). Relatedly, Saylor does not provide any instruction to handle notifications to owners differently depending on the owner’s location. Ex. 2006, ¶ 50; Ex. 2008, 71:20-72:3 (“So I don’t think Saylor talks about specifically notifying or taking into account in notifying somebody where those -- where that somebody is.”). If an alarm condition is sensed, the owner and/or authorized entities are alerted according to the preestablished alarm propagation settings. Ex. 1011, 1:17-22, 2:20-31. Saylor does not provide different communication settings based on whether any user or the owner is in a first location or a second location. Ex. 2006, ¶¶ 50, 53; Ex. 2008, 71:20-72:3.

The Petition latches onto the fact that Shaffer describes “different geographic regions 52-55, such as ‘buildings, campuses, municipalities, counties, states, countries or any other particular geographical area.’” Petition, 16 (quoting Ex. 1004, ¶¶ [0025]-[0027]), 33-34. This argument ignores the reason those geographic regions exist: to provide communication networks local to those geographic areas to enable endpoints within those networks to communicate. *See, e.g.*, Ex. 1004, ¶¶ [0029] (“geographic areas 52 and 54 may comprise separate municipalities proximate to each other, and communication networks 60 and 63 may support communications for respective police departments of the municipalities on different frequencies and using different modulation methods and encryption keys.”), [0027].

Saylor’s location-agnostic security system would not be a relevant input to Shaffer’s location-specific endpoint communication network. Ex. 2006, ¶ 51. As an example, Saylor could include a security system at a home in City A with the settings such that the system would contact the police department in City B in the case of an alarm condition. *Id.*, ¶ 52; Ex. 2008, 60:19-61:1 (“Saylor looks at its database and its rules and policies and decides who to reach out to.”), 71:20-72:3. This is counter to Shaffer’s system, which establishes communication on a region-by-region basis. Ex. 2006, ¶ 48; Ex. 2008, 27:10-28:2 (stating that Shaffer’s Figure 2’s “set up is that the networks that are available to endpoint 70 are 61 and 60 and not 63” because networks 60 and 61 are in the endpoint’s geographic zone, while network 63 is not).

Similarly, Shaffer's location-specific communication protocols would be irrelevant in the context of Saylor's location-independent notification scheme. Ex. 2006, ¶ 51. In the case of an alarm condition at Saylor's building, the owner would want to be notified regardless of whether the owner was in the same geographic region (i.e., in the building) or in a different geographic area. *Id.*, ¶ 53. The structural differences between Shaffer and Saylor discourage the combination. *Id.*, ¶ 54.

(b) Open v. Closed Networks

The makeup of the networks themselves also undermine any alleged motivation to combine Shaffer and Saylor. Shaffer describes an open network in which *any* endpoint with the frequency, modulation method, and encryption key can join the communication channel. Ex. 1004, ¶¶ [0037] (stating the interoperability server “may be configured to communicate with any type of communication endpoint”), [0006], [0008], [0016], [0031], [0035], [0046]. Petitioner's declarant agreed, with the caveat that the endpoint may also need to be authenticated. Ex. 2008, 39:21-40:15. In other words, any communication endpoint could be added to Shaffer's network by simply provisioning the device to communicate on the radio frequency, with the modulation method, using the encryption key as other communication endpoints on that network, and authenticated. Ex. 2006, ¶¶ 55-56.

Saylor's “network,” on the other hand, notifies specific individuals/entities “in a manner predetermined by the user.” Ex. 1011, 1:17-22. In other words, without

the user modifying the notification regime, there is no way for any device to join Saylor's network. *Id.*, 5:27-36, 8:48-52; Ex. 2006, ¶¶ 57, 85, 86. The user sets up an "address book" to set up the closed list of individuals and entities that can be notified when an alarm is triggered. Ex. 1011, 8:48-52 ("a user may maintain a personal address book where contact information (e.g., phone, pager, 50 mobile device, etc.) associated with various individuals may be stored and accessed based on various identified alarm situations and/or potential alarm situations."), 9:34-35, 9:59-67.

The fixed list of notification recipients at the heart of Saylor's "network" addresses a distinct problem and operates in contrast to the open networks provided in Shaffer. Ex. 2006, ¶ 58. Whereas Shaffer aims to provide communication networks to any endpoint within an area that desires to communicate with other endpoints on that network, Saylor does not. *Id.*, ¶¶ 58, 84. Saylor closes the communications off to the predefined set of recipients, i.e., user 160, contacts 162₁-162_N, and emergency entity 164. Ex. 1011, 9:22-28; Ex. 2006, ¶ 58. The communications sent from Saylor's communication network to the predefined list of recipients would not be provided to Shaffer's open communication stream. Ex. 2006, ¶ 58.

The Petition does not provide additional context as to why these references would be combined, or how the differences between the references would be overcome to enable this combination. Ex. 2006, ¶ 59. The Petition merely asserts "a

POSITA would have been motivated to combine Shaffer and Saylor and, specifically, to connect Saylor's central security network as an input to Shaffer's IS," without explaining how a POSITA would overcome the differences between the references. Petition, 25-26. The Petition further fails to address why a POSITA would have sought out Saylor's self-contained communication network with support for contacting the predetermined list of contacts in the event an alarm condition is met at a single, stationary location, to modify Shaffer's communication network, aimed at enabling transient endpoints to connect to different networks in an ad-hoc manner. Ex. 2006, ¶ 59.

Thus, the significant structural differences between Shaffer and Saylor undermine the alleged motivation to combine these references. *Id.*, ¶ 59.

ii. Redundant Disclosure of the References

Both the Petition and Petitioner's declarant acknowledge that Shaffer and Saylor teach redundant mechanisms for sending communications between networks. Petition, 28 (citing Ex. 1002, ¶ 89) ("Saylor's central security network sends communications to another network via Shaffer's IS *in the manner already envisioned by both references.*"). Both the P.T.A.B. and its reviewing court routinely reject obviousness arguments in which the motivation to combine the prior art references fails for redundancy. *See, e.g., Kinetic Concepts, Inc. v. Smith & Nephew, Inc.*, 688 F.3d 1342, 1369 (Fed. Cir. 2012) ("In addition, both of these references

independently accomplish similar functions, namely, draining fluids. Because each device independently operates effectively, a person having ordinary skill in the art, who was merely seeking to create a better device to drain fluids from a wound, would have no reason to combine the features of both devices into a single device.”); *see also Stryker Corp. v. Karl Storz Endoscopy America, Inc.*, IPR2015-00764, Paper 13 at 13 (P.T.A.B. Sept. 2, 2015) (“[W]e fail to see, and Petitioner does not adequately explain, why it would be obvious to add a translator to redundantly perform the function that Petitioner maintains is performed by the interconnect devices and network computer located within the surgical network.”).

Despite this acknowledgement, the Petition suggests Saylor “does not explain *how* to convey notifications to recipients in different networks.” Petition, 28 (emphasis in original). This assertion is plainly contradicted by Saylor, which Petitioner’s declarant readily admitted. In response to the question “Saylor discloses how to convey notifications to recipients in different networks in a myriad of ways, right?” Dr. Polish admitted, “Saylor discloses that you can do it in lots of different ways and that it lists a bunch of examples.” Ex. 2008, 54:6-11, 53:2-8. The “myriad of ways” disclosed in Saylor includes notifications over the Internet, phone calls (POTS), emails, text messages, pager notifications, PDA messages, instant messages, and more. *See* Ex. 1011, 6:22-32 (“Alert notifications may be communicated via the Internet 150, POTS 152, wireless communication portals,

voice portals, and/or other methods.”), 7:40-48 (“Central security server 130 may then alert users and other identified entities...via a voice alarm, text message, and other notifications [such as] email or other form of electronic communication”), 11:24-28 (“Methods of notification may include cell phone, regular phone, pager, PDA, email, instant messenger, or other form of communication.”); Ex. 2008, 52:9-54:5. As shown, Saylor provides plenty of disclosure regarding “*how* to convey notifications to recipients in different networks.” Ex. 2006, ¶¶ 60-63; Ex. 2008, 54:6-11.

Even the Petition acknowledges Saylor provides the mechanisms needed for conveying notifications across networks. *See* Petition, 40 (citing Saylor for the proposition “‘user-defined conditions’ determine which entity to notify *and how to send the notification*”), 28 (noting Saylor “sends communications to another network...in the manner *already envisioned by both references*” (emphasis added)), 19 (citing Ex. 1011, 6:22-32, 7:40-48, 11:24-28). Therefore, there would be no need to combine the teachings of Shaffer with Saylor because Saylor already includes everything it needs to send notifications to recipients in different networks. *See Kinetic Concepts, Inc. v. Smith & Nephew, Inc.*, 688 F.3d. 1342, 1369 (Fed. Cir. 2012); *TRW Automotive U.S. LLC v. Magna Electronics, Inc.*, IPR2015-00972, Paper 9 at 11 (P.T.A.B. September 16, 2015); *Stryker Corp.*, IPR2015-00764, Paper 13 at 13 (“[W]e fail to see, and Petitioner does not adequately explain, why it would

be obvious to add a translator to redundantly perform the function that Petitioner maintains is performed by the interconnect devices and network computer located within the surgical network.”); Ex. 2006, ¶ 60.

Because Saylor is replete with instructions regarding how to convey notifications to recipients across a wide range of communication mediums, there would be no need to incorporate this with Shaffer’s IS, and therefore no need to combine these references. Ex. 2006, ¶ 64; *Kinetic Concepts*, 688 F.3d at 1369.

iii. Lack of Evidence

Finally, the Petition presents hindsight-ridden “motivations” that fail to consider the context of the art. For example, the Petition states “as Shaffer describes, IS 120 is designed to connect various types of networks.” Petition, 27. This is not a motivation to combine Shaffer and Saylor, but is merely a statement noting, at best, Shaffer’s IS *could* connect Saylor’s network to other types of networks. “[B]ecause obviousness concerns whether a skilled artisan not only *could have made* but *would have been motivated to make* the combinations or modifications of prior art to arrive at the claimed invention,” this fails to provide a motivation to combine Shaffer and Saylor. *Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1073 (Fed. Cir. 2015) (emphasis in original). Indeed, Petitioner’s declarant confirmed “Shaffer talks about very broadly interconnecting different kinds of networks, including TCP/IP

networks.” Ex. 2008, 62:10-63:5 (“Shaffer’s IS is meant to be very broadly interoperable.”).

The Petition next asserts “Shaffer describes that the networks can be associated with locations such as business and campuses” and that “Shaffer’s IS is well-suited to connect a network, such as a video security system designed to monitor particular buildings, with a different network that responds to incidents in those buildings, such as a security or emergency network.” Petition, 27. This, again, fails to present any reason why a POSITA would have been motivated to make the combination because Shaffer *can be* associated with buildings and campuses. *Belden*, 805 F.3d at 1073. This again suggests *any* network could be provided as an input to Shaffer’s network and fails to consider why a POSITA would have been specifically motivated to make Saylor an input. Ex. 2006, ¶¶ 65-66. “An assertion that something could be done, even when coupled with an advantage of doing so, without articulating a reason why something would be done by a POSITA at the time of the invention, raises a specter of impermissible hindsight bias in an obviousness analysis.” *Nautilus Hyosung Inc. v. Diebold, Inc.*, IPR2016-00633, Paper 9 at 21-22 (P.T.A.B. Aug. 22, 2016).

The Petition also suggests Shaffer’s IS would assign a multicast IP address that would be stored in Saylor’s databases. Petition, 26. Shaffer explains, however, that multicast IP addresses are stored in the memory of endpoints. Ex. 1004, ¶¶

[0040], [0047]. As the endpoints travel between networks, they can join the geographically relevant channel. *Id.* While Shaffer describes a variety of communication networks (*e.g.*, communication networks 110-114), Shaffer says nothing about storing the multicast IP addresses within those networks. Ex. 2006, ¶ 67. The Petition fails to provide any reason to deviate from Shaffer’s disclosure regarding storing IP addresses in the endpoints to enable them to communicate locally while travelling between geographic areas. Ex. 1004, ¶¶ [0040], [0008]; Ex. 2006, ¶ 68. There would be no reason to store these addresses in Saylor’s stationary network. Ex. 2006, ¶ 68.

Because the Petition relies on both Shaffer and Saylor in its first Ground, the lack of a motivation to combine these references confirms the challenged claims are not obvious in light of these references. “An obviousness determination generally requires [1] a finding that all claimed limitations are disclosed in the prior art, and [2] that a person of ordinary skill in the art would have been motivated to combine or modify the teachings in the prior art.” *Univ. of Strathclyde v. Clear-Vu Lighting LLC*, 17 F.4th 155, 160 (Fed. Cir. 2021) (citations omitted).

Moreover, even if the Board finds a POSITA would have been motivated to combine Shaffer and Saylor, the combination still fails to render obvious each limitation of the challenged claims for the reasons discussed in sections V.A.1.a and

V.A.1.c. Ex. 2006, ¶ 69. Thus, the Board should find the challenged claims patentable. *Id.*

c. The Remainder of Ground 1 Is Replete with Holes That Sink the Analysis

The remainder of the Petition’s Ground 1 analysis contains numerous flaws that provide further reasons for the Board to find the Petition fails to render any Challenged Claim unpatentable.

i. Shaffer in view of Saylor fails to teach “providing a plurality of radio frequencies on a display of the mobile communication device,” as recited in claims 1 and 15

The Petition acknowledges that the inclusion of this limitation, along with the frequency selection limitation, resulted in allowance of the ’830 Patent. Petition, 13. Despite this limitation being a key limitation for allowability, the Petition relies on Shaffer’s user interface along with the separately stored network communication parameter listings to claim Shaffer “discloses” this limitation. Petition, 32 (citing Ex. 1004, ¶¶ [0043]-[0048], Fig. 4). Shaffer notably lacks disclosure of any radio frequency being presented on the user interface (or any display), much less a plurality of radio frequencies presented on a display of the mobile communication device as claimed.

The Petition explains Shaffer’s “FIG. 4 shows an exemplary mobile communication device with memory module 208 that stores several different

communication parameter listings 210.” Petition, 32 (citing Ex. 1004, ¶¶ [0043], [0046]-[0047]). Shaffer additionally teaches that “through interface 204 a user may input instructions regarding adjustment of the end point’s communication settings (e.g., radio frequency, modulation method and encryption key) upon entering a new communication network.” Ex. 1004, ¶ 44. There is nothing in Shaffer that suggests interface 204 provides, on a display, any of the “several different communication parameter listings 210” that are stored in memory module 208, much less a plurality of these listings. Petition, 32; Ex. 1004, ¶ [0046]. The assumption that Shaffer discloses providing a plurality of the stored communication parameter listings on a display highlights that the Petition uses hindsight biased reasoning to arrive at the claimed invention. *Polaris Industries, Inc. v. Arctic Cat, Inc.*, 882 F.3d 1056, 1068 (Fed. Cir. 2018) (“We have observed that ‘the prejudice of hindsight bias’ often overlooks that the ‘genius of invention is often a combination of known elements which in hindsight seems preordained.’” (citing *Power Integrations, Inc. v. Fairchild Semiconductor Int’l, Inc.*, 711 F.3d 1348, 1368 (Fed. Cir. 2013))).

In addition, it is unclear why Shaffer’s “instructions regarding adjustment of the end point’s communication settings” would provide a plurality of radio frequencies on a display. Ex. 1004, ¶ [0044]. When Shaffer is read in context, this sentence confirms the instructions pertain to when and how to change communication settings “upon entering a new communication network.” *Id.*; Ex.

2006, ¶¶ 77-78. This is the focus of Shaffer: transitioning communication settings when an endpoint moves between geographic regions. Ex. 1004, Abstract, ¶¶ [0001], [0005]-[0008], [0047]. Similarly, the “key stroke” cited in the Petition (Petition, 35, 36) “may be used to adjust endpoint communication settings...*as the endpoint moves into a network’s area.*” Ex. 1004, ¶ [0035].

Neither of these disclosures suggests this novel limitation of the ’830 Patent, which is to provide a “plurality of radio frequencies on a display of the mobile communication device” and the assertion of obviousness in the Petition is clearly based on hindsight. *See Polaris*, 882 F.3d at 1068; Ex. 2006, ¶ 78.

ii. Shaffer in view of Saylor fails to teach “monitoring a selection of a radio frequency of the plurality of radio frequencies by the user,” as recited in claims 1 and 15

The Petition’s analysis of “monitoring a selection of a radio frequency of the plurality of radio frequencies by the user” is equally unavailing. Because Shaffer fails to provide a plurality of radio frequencies on a display, a user cannot select a radio frequency from a plurality of radio frequencies. Ex. 2006, ¶ 79.

Additionally, Shaffer teaches a user inputting “instructions regarding adjustment of the endpoint’s communication settings...*upon entering a new communication network.*” Ex. 1004, ¶, [0044]. Read in context, Shaffer’s “instructions” do not monitor for the selection of a radio frequency from a plurality

of radio frequencies provided to a user, but instead prescribe how to change networks as the endpoint moves between locations. Ex. 2006, ¶ 80. For example, as an endpoint moves into range of a location such as City B, the instructions would provide when to tune to the certain frequency of City B, which module method to use, and the encryption key needed to join that network. *Id.* None of this requires, or even suggests, monitoring a selection of a radio frequency of the plurality of radio frequencies as required by claims 1 and 15. *Id.*

Therefore, Shaffer-Saylor fails to teach this limitation common to each challenged claim. *Id.*, ¶ 81.

iii. Shaffer in view of Saylor fails to teach associating a video feed with a communication channel “... when the user accesses the selected communication channel,” as recited in claims 1 and 15

Petitioner’s hindsight-driven Shaffer-Saylor combination altogether fails to teach identification of “video feeds that are relevant to the user *when the user accesses* the selected communication channel.” Instead, Petitioner identifies the unremarkable and inapposite teaching that a user can instruct their security system to send notifications when alarm situations occur. Petition, 40-41. Identifying when to notify users and what to send them does not disclose identifying video feeds that are relevant to a user when the user accesses a selected communication channel. Ex. 2006, ¶¶ 90-91.

Saylor discloses transmitting video in response to alarm conditions based on user preferences that “identify[] when to notify users (such as security personnel) and what to send them.” Ex. 1011, 8:34-60. Petition, 40. Petitioner makes clear that these “preferences identify which *alarms* are relevant to the users.” Petition, 40-41. Saylor provides detailed disclosure regarding its “user preferences.” *See* Ex. 1011, 5:29-36. Specifically, “[u]ser database 140 may contain user information, such as profile information, user preferences, contact information, special instructions and/or other information.” *Id.*, 8:34-60. “User profile information may include one or more of name, identification information, address information, and other profile information. User preferences may include mode of communication, order of communication, contact information and other preferences.” *Id.* Saylor teaches “different alarm situations that may be detected in various locations or systems may warrant different levels of response.” *Id.* A user notification can be accompanied by “[s]pecial instructions [that] may include information to be conveyed to entities reacting to the alarm” such as “to inform the fire department that the user has two pets living at the user’s primary residence.” *Id.* Notably missing from this list is relevance of the notification or, more specifically, identification of the one or more video feeds that are relevant to the user at all, much less relevant specifically *when the user accesses the communication channel* as claimed. Ex. 2006, ¶ 92.

Saylor’s alarm notification system can be set up in one of two ways: (1) the system can send notifications to a select group of recipients whenever an alarm is detected, or (2) the system can send alarm notifications to a select group of users, and if that user does not respond, the system can send the notification to another set of users, such as emergency services. *Id.*, ¶ 93; Ex. 1011, 6:19-32 (describing notifications to users 160, contact individuals and/or entities 161₁-162_N, and emergency entity 164), 8:18-21 (“a user may be notified before the sounding of an alarm and before contacting an emergency entity”). In both system designs, the “owner and other authorized entities [are informed] in a manner ***predetermined by the user*** when alarm situations and/or alarm worthy situations occur.” Ex. 1011, 1:17-22; *see also id.*, 6:25-28, 8:28-30, 12:30-39, 16:49-51. Predetermined notifications based on alarm conditions differ substantially from the claimed “user policy that identifies one or more video feeds that are relevant to the user ***when the user accesses*** the selected communication channel.” Ex. 2006, ¶ 94. Indeed, Saylor’s notifications are distributed without regard to a recipient or user’s location. Ex. 2008, 71:20-72:2. But the claims, both specifically and necessarily, require user access to a communication channel before video feeds relevant to a user at the time of access are identified. Ex. 2006, ¶¶ 93-94. Thus, Shaffer-Saylor fails to teach this limitation. *Id.*, ¶ 94.

The Petition’s Ground 1 analysis is full of holes that, when viewed together, highlight how the Shaffer-Saylor combination fails to render claims 1 and 15 obvious. As a result, all of the Challenged Claims should be upheld as patentable.

2. Ground 1 Dependent Claims

Because independent claims 1 and 15 are patentable, each claim depending therefrom is patentable. *Ortho-McNeil Pharmaceutical, Inc. v. Mylan Labs, Inc.*, 520 F.3d 1358, 1365 (Fed. Cir. 2008) (“But if claim 1 is not obvious then claims 6-8 also cannot be obvious because they all depend from a nonobvious claim.”); *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992). Even if the Board finds either independent claim unpatentable, the Petition fails to present compelling obviousness arguments against at least the following dependent claims. Therefore, these claims should be upheld as patentable irrespective of the outcome regarding either independent claim. Ex. 2006, ¶ 95.

a. Claims 3, 17

Claim 3 recites “the method of claim 1, further comprising: accessing a database to identify a plurality of members of an emergency response team....” Ex. 1001, 12:46-54, 14:16-25 (claim 17). The Petition fails to address this limitation, pointing only to the analysis of claim 2, which lacks any indication that Saylor’s database is used “to identify a plurality of members of an emergency response team”, as claimed. Petition, 43; Ex. 2006, ¶ 96. The claim 2 analysis merely asserts

“Saylor’s database associated video feeds with the user’s selected multicast IP address” and “it would have been obvious to also associate video feeds with the particular user selecting the channel....” Petition, 42-43. None of this analysis explains how Saylor’s database is accessed “to identify a plurality of members of an emergency response team.” Ex. 2006, ¶ 97. This alone warrants finding claim 3 is patentable. *Id.*, ¶ 98.

Regarding what the Petition denotes as limitation 3[b], the analysis regarding the claimed step of “presenting a plurality of available video feeds on the display of the mobile communication device” starts and stops with Dr. Polish’s unsupported assertion that “[b]y 2008, it would have been obvious that a mobile device could have displayed multiple video feeds.” Petition, 44. The P.T.A.B. has previously criticized Dr. Polish’s approach, noting “Dr. Polish’s testimony is not supported because none of the cited references or cited underlying evidence teaches, suggests, or even mentions [the claimed element].” *Samsung Electronics Co., Ltd. v. Staton Techiya, LLC*, IPR2022-01099, Paper 10 at 17 (P.T.A.B. Jan. 3, 2023). Dr. Polish has applied the same methodology in this case; “none of the cited references or cited underlying evidence teaches, suggests, or even mentions [providing multiple video feeds].” *Id.* As the *Samsung* Board rightly noted, the Trial Practice Guide “expressly prohibits such an approach.” *Id.* at 17-18 (quoting Consolidated Trial Practice Guide at 36 (November 2019)). Namely, “[e]xpert testimony [] cannot take the place of a

disclosure in a prior art reference when that disclosure is required as part of the unpatentability analysis.” *Id.* Therefore, Dr. Polish’s testimony cannot support an obviousness determination. *Id.*, 17.

Thus, the Petition fails to establish that Shaffer-Saylor teaches the subject matter of claims 3 or 17. Ex. 2006, ¶ 98.

b. Claims 7, 21

Similar to the analysis of claim 3, Petitioner relies on its declarant to create a notification logic structure that is not actually taught in the prior art references. Petition, 46. In this instance, the declarant imagines a scenario in which a first sensor’s data (video from a camera) is sent in response to a second sensor (sound sensor) sensing an event (breaking glass). *Id.* Dr. Polish admitted in his deposition that some teachings did not come from the prior art references and were simply “a statement about general knowledge in the art.” Ex. 2006, ¶ 101, Ex. 2008 at 79:9-15. This logical structure, “send[ing] a video clip from a camera near the front door when a sound of breaking glass is detected near the front door,” cannot be supplied by testimony alone. *Samsung Electronics*, IPR2022-01099, Paper 10 at 17-19 (finding Dr. Polish’s testimony “cannot take the place of a disclosure in a prior art reference when that disclosure is required as part of the unpatentability analysis” (quoting Consolidated Trial Practice Guide at 36 (November 2019))).

Therefore, Shaffer-Saylor fails to render claims 7 and 21 obvious. Ex. 2006, ¶¶ 100-103.

B. Ground 2: Claims 1-5, 8-19, and 22-24 Are Not Obvious Over Gogic in view of Opitz

1. Independent Claims 1 and 15

The Petition relies heavily on Gogic’s ad-hoc communication network to support Ground 2. The ’830 Patent expressly claims monitoring a selection of both a communication network and a radio frequency. Ex. 2006, ¶ 106; Ex. 1001, 12:19-20, 13:56-57. As detailed below, neither selection occurs in Gogic. Ex. 2006, ¶ 106. Instead, Gogic’s dispatcher creates a single-use, ad-hoc network defined by “group membership location criteria” that determine which CDs are to be included in the group; the CD users do not select a network to join. Ex. 2006, ¶¶ 104-106.

a. Gogic fails to teach “monitoring a selection of a communication channel by a user of a mobile communication device,” as recited in claims 1 and 15

The ’830 Patent claims “monitoring a selection of a communication channel by a user of a mobile communication device.” Ex. 1001, 12:19-20, 13:56-57. The Petition relies exclusively on Gogic for this limitation, arguing that each ad-hoc group “has a dedicated channel, for example, over the ‘Internet’ or over a ‘dedicated forward channel’ in a radio system....”. Petition, 56 (citing Ex. 1006, ¶ [0045]).

Neither Gogic, nor the Petition, suggest the “dedicated channel” is actually selected by the user. *See* Petition, 56-58; Ex. 2006, ¶¶ 120-121.

Instead, the Petition suggests “the user of a mobile CD [] *selects* a communication channel [*i.e.*, not the dedicated channel] to set the CD to that channel, for example, through ‘activation of a push-to-talk (PTT) key or switch.’” Petition, 57 (emphasis in original) (citing Ex. 1006, ¶ [0042]). This is not the purpose of Gogic’s PTT switch. Ex. 2006, ¶ 122; Ex. 2008, 91:5-92:3 (“You first join the group and then you can press the PTT key to request the floor.”). Gogic explains, “the CD is configured to request the transmission privilege through initiation or activation of a push-to-talk (PTT) key or switch.” Ex. 1006, ¶ [0042]. The fact that Gogic’s PTT switch requests the transmission privilege confirms the CD is already in a communication group on which CDs can “transmit information to other group members.” *Id.*; Ex. 2008, 91:5-92:3; Ex. 2006, ¶ 122. The PTT request does not select a communication channel, as required by the independent claims, ***but instead merely requests the floor in an existing communication channel.*** Ex. 2006, ¶ 123; *see also* Petition, 57-58 (noting Gogic teaches “pushing a button to allow voice communication to be transmitted and releasing the button to allow voice communication to be received” (quoting Ex. 1006, ¶ [0026])); Ex. 2008, 91:5-92:11.

Further, Gogic’s ad-hoc groups are formed when the dispatcher sets the group membership location criteria defining the communication channel. Ex. 2006, ¶ 124.

Put differently, the user of a mobile communication device does not select a channel, the channel is set up to select the users. *Id.* Gogic teaches, “[a] dispatcher 400 identifies the occurrence or presence of an event or condition wherein communications between proximately located users could be beneficial.” Ex. 1006, ¶ [0057]. “CDs 412, 414, 416 monitor 422, 424, 426 the emergency broadcast channel [and] receive the broad indiscriminant invitation to join the group.” *Id.*, ¶ [0061]. CD 412 identifies as “qualifying to join the group and accordingly accept[s] 440 the invitation.” *Id.*, ¶ [0062]. The Petition similarly acknowledges that “[t]he user of a CD accesses the communication channel for the ad-hoc group when the CD determines that it satisfies the group membership location criteria.” Petition, 67. Nothing in this process suggests the user of a mobile communication device selects a communication channel as required by the claims. Ex. 2006, ¶ 125.

Finally, the Petition suggests “the selection of the communication channel by the user of a CD is monitored by the ‘communication manager 218’ (CM 218), which received the CD’s request to communicate on the communication channel and determines whether any other ‘group member is currently assigned the transmission privilege.’” Petition, 58 (citing Ex. 1006, ¶ [0042]). The CM 218’s task is to prevent crosstalk between CDs already joined on an existing communication channel; CM218 does not “monitor a selection of a communication channel by a user of a

mobile communication device” as recited in each challenged independent claim. Ex. 2006, ¶¶ 126-127.

Gogic fails to render this limitation obvious because no user of a mobile communication device selects a communication channel. Ex. 2006, ¶ 128.

b. There is No Motivation to Combine Gogic and Opitz

The Petition acknowledges Gogic does not teach “the limitation requiring radio frequencies displayed on a mobile device and selected by a user.” Petition, 55. Accordingly, a lack of a motivation to combine Gogic and Opitz is fatal to Ground 2. Ex. 2006, ¶¶ 107-108.

i. The Sole Provided “Motivation” Misrepresents the Art

The Petition asserts that “Gogic discloses that CDs connect to a base station in a particular area, but Gogic does not expressly disclose how the CDs make that initial connection (as needed to form the ad-hoc group central to Gogic’s disclosure).” Petition, 59. However, Gogic clearly explains how this initial connection is made, which the Petition itself details.

CM 218 sends a message (406) directing a base station (MSCBSN 408) to send an invitation (420) to all CDs in its service area (412, 414, 416). [Ex. 1006], ¶¶0060-0061. CDs ‘calculate their location and evaluate [] their location against the group membership location criteria,’ provided in the invitation 420. *Id.*, ¶0062. *If a CD qualifies and accepts the invitation, the CD accesses the communication group. Id.*

Petition, 21; *see also* Petition, 58 (“the base station, as directed by the CM, transmits a ‘broad or indiscriminant [sic] or generalized invitation to join a group to all recipient CDs’ with specific conditions for joining the group.” (quoting Ex. 1006, ¶ [0060])); Ex. 2006, ¶¶ 109-111.

Contrary to the assertion in the Petition, Gogic also explains that the “wireless communication system further includes a base station configured to transmit the invitation to join the communication group and a plurality of wireless communication devices configured to evaluate the group membership location criteria at each of the plurality of wireless communication devices receiving the invitation.” Ex. 1006, ¶ [0012]. “Ones of the plurality of wireless communication devices meeting the group membership location criteria are further configured to accept the invitation to join the communication group....” *Id.*; *see also id.*, ¶ [0031] (“CDs 102, 104, and 106 transmit and receive communication signals from base stations 108 and/or 110, generally *depending on their proximity to each base station*.”). One example mode of connecting CDs and base stations expressly provided in Gogic is “a standard audio call mode from a CD to a base station.” *Id.*, ¶ [0037]; Ex. 2006, ¶ 113. Gogic is replete with express disclosure regarding how CDs make the initial connection to a base station, including at least monitoring a common channel, proximity, and a standard audio call. *Id.*, ¶¶ [0012], [0031], [0037]; Ex. 2006, ¶¶ 110-113; *see also* Ex. 2008, 107:1-6 (“Well, a POSITA would

certainly know a variety of ways to make such an initial connection to a base station”).

Recognizing Gogic’s disclosed examples of connecting CDs and base stations lacked any description of any radio frequency, Petitioner formulated a need to go find a reference specifically using radio frequencies. Ex. 2006, ¶ 114. Petitioner’s expert confirmed “a POSITA would certainly know a variety of ways to make [] an initial connection to a base station, and what [he is] talking about in the declaration is a specific way to do it that is, that’s informed by Opitz.” Ex. 2008, 106:23-107:6. This apparent method of connecting endpoints/CDs and base stations that is “informed by Opitz” hardly hints at a specific motivation to combine Gogic and Opitz, and falls far short of the requirement to detail why a POSITA would have been motivated to combine these references. *See Apple Inc. v. Uniloc Luxembourg S.A.*, IPR2018-00420, Paper 7 at 14 (P.T.A.B. Aug. 6, 2018) (“the reasons provided in the Petition and the Polish Declaration¹ are too generic to provide a credible reason ‘why’ a person of ordinary skill in the art would combine the cited teachings.”); Ex. 2006, ¶ 115.

¹ This is the same Dr. Polish that has provided a declaration for Petitioner in this case.

Gogic itself undermines the need to look to Opitz for its alleged “display[] of available radio frequencies”. *See* Petition, 59. Specifically, the Petition confirms “[t]he user of [Gogic’s] CD accesses the communication channel for the ad-hoc group *when the CD determines that it satisfies the group membership location criteria.*” Petition, 67. In other words, when the CD determines that it satisfies the group membership location criteria, it joins the group and connects to the base station. *Id.*; *see also* Ex. 1006, ¶ [0062] (“FIG. 4 illustrates CD1 412 as qualifying to join the group and *accordingly accepting* 440 the invitation”); Ex. 2008, 88:16-23; Ex. 2006, ¶ 116. Because Gogic teaches CDs joining the communication group “when the CD determines that it satisfies the group membership location criteria,” (Petition, 67) there would be no need to “implement Gogic’s CDs with the frequency display and selection in Opitz’s mobile radio.” Petition, 61.

ii. Gogic Teaches Away from Opitz

Opitz describes persistent “local municipal police, fire and rescue channels for city 100” and comparable channels for region 102. Ex. 1007, 2:47-58. These local municipal police, fire, and rescue channels “would exist before the vehicle [110] is in the region” according to Petitioner’s declarant. Ex. 2008, 103:10-23; Ex. 2006, ¶ 117.

Gogic denigrates the persistent radio networks described in Opitz, stating such networks “strain[] available telecommunication resources excessively.” Ex. 1006, ¶

[0009]. To ensure network resources are not clogged, Gogic creates networks in an ad-hoc fashion, and “[u]pon termination of the ad-hoc communication session, the group formed in this fashion is disbanded.” *Id.*, ¶ [0034]; Ex. 2006, ¶ 117. This preserves the limited available telecommunication resources, ensuring “emergency response teams [are able] to establish communication with any and all users in an area affected by a large scale natural disaster.” Ex. 1006, ¶ [0009].

Petitioner’s declarant further admitted that the ad-hoc way Gogic establishes communication groups is “not the way that Opitz describes its radio networks.” Ex. 2008, 99:14-23, 98:15-99:4. By denigrating persistent networks, such as those in Opitz, and recognizing the differences in network establishment protocols, Gogic teaches away from a combination of these references. *See Depuy Spine, Inc. v. Medtronic Sofamor Danek*, 567 F.3d 1314, 1326 (Fed. Cir. 2009) (“An inference of nonobviousness is especially strong where the prior art’s teachings undermine the very reason being proffered as to why a person of ordinary skill would have combined the known elements.”); *see also United States v. Adams*, 383 U.S. 39, 52 (1966) (upholding nonobviousness where references teaching away from the claimed combination would “deter any investigation into such a combination”); Ex. 2006, ¶ 118.

The remaining reasons given for why a “POSITA would have been particularly motivated to look to Opitz” are simply a generic listing of similarities

between Opitz and Gogic. Petition, 62; Ex. 2008, 107:25-108:4; Ex. 2006, ¶ 115. These “reasons to combine” include (1) that both relate to “emergency communication situations,” (2) that both related to devices that “communicate via base stations,” and (3) that both have devices that “are mobile and can move between base station locations.” Petition, 62. The Federal Circuit has held that “reasons to combine” references that are merely assertions that the references are analogous art, without more, “is an insufficient articulation for motivation to combine.” *Sisvel Int’l v. Sierra Wireless*, 82 F.4th 1355, 1364 (Fed. Cir. 2023).

Accordingly, there is no viable motivation to combine Gogic and Opitz. Ex. 2006, ¶ 119.

- c. **Gogic in view of Opitz fails to teach “providing a plurality of radio frequencies on a display of the mobile communication device, each radio frequency being associated with a geographical zone from which a plurality of video feeds associated with the geographic zone are sourced”**

- i. **The Petition Admits Gogic Does Not Teach This Limitation**

The Petition admits Gogic does not teach the “limitation requiring radio frequencies displayed on a mobile device and selected by a user.” Petition, 55. As discussed in section V.B.1.b above, there is no motivation to combine Gogic and Opitz. Thus, Gogic’s failure to teach this limitation is fatal to Ground 2. Ex. 2006, ¶¶ 129-130.

Despite the evidence to the contrary, the Petition asserts “Gogic does not expressly disclose how the CDs make that initial connection” between CD and base station. Petition, 59. The Petition sidesteps Gogic’s disclosure for connecting CDs and base stations, such as proximity, a monitored common channel, and a standard audio call, to feign a need to seek out Opitz. Per the Petition, Opitz teaches “presenting and allowing selection of frequencies on a display was one of a finite number of known, predictable solutions for connecting a radio to a base station.” Petition, 55, 59. But there is not a “finite number of known, predictable solutions” as Petitioner’s declarant expressly stated in his deposition. Ex. 2008, 106:23-107:6 (“a POSITA would certainly know a variety of ways to make such an initial connection to a base station”); Ex. 2006, ¶ 131. That a POSITA would have known of a “variety of ways” to connect CDs and base stations undercuts the conclusory assertion that Gogic could simply be modified to adopt Opitz’s method for “presenting and allowing selection of frequencies on a display.” *Id.*; Petition, 55, 59.

Further, even if Petitioner’s characterization of the art is correct, “obviousness concerns whether a skilled artisan not only *could have made* but *would have been motivated to make* the combinations or modifications of prior art to arrive at the claimed invention.” *Belden*, 805 F.3d at 1073 (emphasis in original). That Opitz allegedly describes one known example of one of a finite number of known,

predictable solutions is insufficient to establish obviousness because it ignores why a POSITA “would have been motivated to make the combination[.]” *Id.*

There is no motivation to combine Gogic and Opitz, as discussed in section V.B.1.b above, and the admission that Gogic does not teach this limitation confirms Petitioner’s Ground 2 cannot be the basis to find any Challenged Claim unpatentable.

ii. Opitz is Akin to the Art Overcame During Prosecution

While prosecuting what became the ’830 Patent, the applicant successfully overcame a rejection based on U.S. Patent Application Publication No. 2007/0015518 (“Winter”). The examiner stated, “Winter teaches in Fig. 2 teaches [sic] radio frequency for certain geographic area and *determining customer location.*” Ex. 1003, 174-175 (emphasis in original) (quoting Ex. 1003, 192). The applicant pointed out that the reference to Winter, much like the reference to Opitz, “ignore[s] limitations including ‘providing a plurality of radio frequencies on a display of the mobile communication device, *each radio frequency being associated with a geographical zone from which a plurality of video feeds associated with the geographic zone are sourced.*’” *Id.* (emphasis in original). The examiner agreed, finding the unmodified claim was allowable subject matter in the next rejection. *Id.*,

137. Ultimately, this subject matter found its way into claims 1 and 15 and the claims were allowed. *Id.*, 117, 78; Ex. 2006, ¶¶ 133-134.

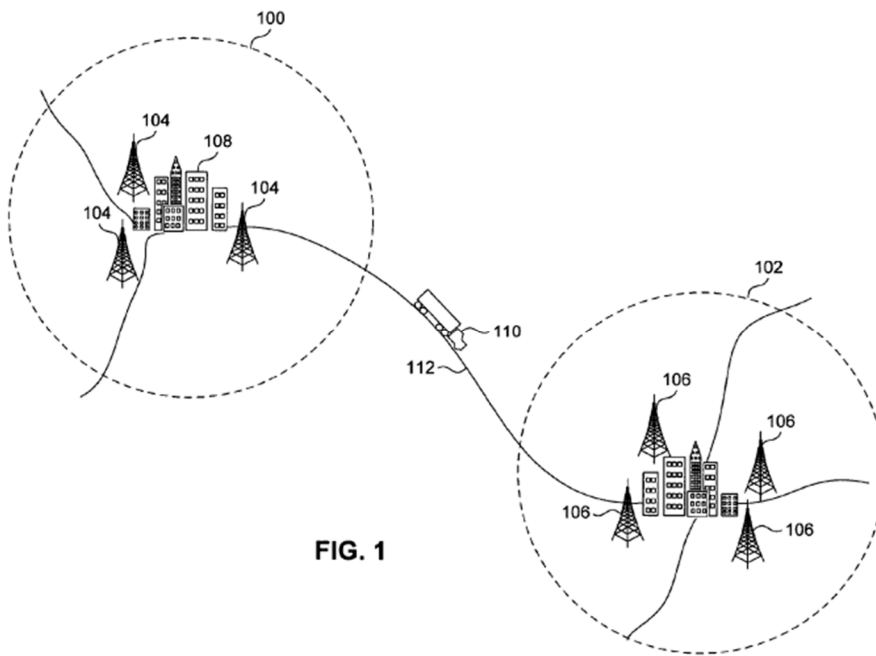
Petitioner’s declarant confirmed that Opitz, like Winter, teaches “providing radio frequency for certain geographic area and determining customer location.” Ex. 1003, 174-175; Ex. 2008, 98:4-14; Ex. 2006, ¶ 135. Opitz explicitly discloses “[a] communication system [] that uses a received wireless signal combined with stored location data about the received signal to determine a location of the communication system or a component of the communication system,” which mirrors the teachings of Winter that the examiner relied upon. Ex. 1007, Abstract, 1:7-9 (“The present invention relates to systems and methods for determining a location relevant to a radio receiver or a location relevant to a user associated with a radio receiver.”), 1:44-54, 4:58-5:2 (“scanner 136 is capable of determining its geographic location”).

The Petition does not explain how or why Opitz’s disclosure should be treated differently than Winter’s disclosure. Like the examiner’s argument that was successfully overcome during prosecution, the Petition’s analysis of Opitz “ignore[s] limitations including ‘providing a plurality of radio frequencies on a display of the mobile communication device, *each radio frequency being associated with a geographical zone from which a plurality of video feeds associated with the geographic zone are sourced.*’” Ex. 1003, 175. Tellingly, the Petition separates out the final part of this limitation, “from which a plurality of video feeds associated

with the geographic zone are sourced,” into a separate section that does not reference Opitz at all. Petition, 63-64. Opitz, like Winter, does not provide a basis to find this limitation obvious. Ex. 2006, ¶¶ 136-138.

iii. Opitz’s “Vehicle Radios” Would Not Interface With Video Systems

The Petition describes Opitz as disclosing “a system (shown below) with base stations (transmitters 104 and 106) for transmitting radio signals (‘e.g., police, fire, ambulance, weather, aviation, marine, or amateur radio’) to users (e.g., vehicle radio user 110) in two different geographic regions (100 and 102).” Petition (citing Ex. 1007, 2:20-31, Fig. 1). The figure referred to depicts a truck travelling between two geographic regions.



Ex. 1007, Fig. 1; Petition, 61. Per the Petition, “as the vehicle radio user 110 ‘approaches [a] certain geographic region[],’ the vehicle ‘begins receiving signals’ from the base stations (transmitters) in that region.” Petition, 59. It is this “vehicle’s radio” that the Petition maps to the ability to provide a plurality of radio frequencies on a display and the ability to monitor a selection of a radio frequency. Petition, 59-60, 64; Ex. 2006, ¶ 139.

The repeated reference to Opitz’s “vehicle radio” is consequential when the claim is considered as a whole, namely how “each radio frequency [is] associated with a geographical zone from which a plurality of video feeds associated with the geographic zone are sourced.” Ex. 1001, 12:21-25, 13:58-62; Ex. 2006, ¶ 140. There would be no reason to provide radio frequencies “from which a plurality of video feeds associated with the geographic zone are sourced” on a display such as Opitz’s vehicle radio because the association between radio frequencies and video feeds would be nonsensical in a vehicle radio. Ex. 2006, ¶ 140; *see also* Petition, 61-62 (citing Ex. 1012, Fig. 3); Ex. 2008, 100:18-102:5.

Petitioner chose to cite Opitz’s vehicle radio 110 (Petition, 59, 64), but there would be no reason to provide a plurality of radio frequencies on a display of a mobile communication device, where each radio frequency is associated with a geographical zone “from which a plurality of video feeds associated with the

geographic zone are sourced” as required by each independent claim. Ex. 2006, ¶ 140. Therefore, claims 1 and 15 are patentable. *Id.*, ¶ 141.

d. Gogic fails to teach “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone,” as recited in claims 1 and 15

i. A finding for Petitioner requires the Board to use imagination to fill in gaps in the art

Gogic, and Gogic modified by Opitz, each fail to teach identifying a video feed by selecting the video feed. As an initial matter, the Petition maps the claimed “at least one video feed” to “at least one CD which can have video streaming capability.” Petition, 65; Ex. 2008, 108:22-25. But CDs with video streaming capability are not video feeds. Ex. 2006, ¶¶ 144-145. Notably, the Petition also maps CDs to the claimed mobile communication device. Petition, 56; Ex. 2008, 109:1-5; Ex. 2006, ¶ 145. There is no rationale given in the Petition or declaration as to why “communication devices (‘CDs’)” are both mobile communication devices and video feeds. *See* Ex. 1001, 3:5-10 (describing video feeds as “media streams from one or more of the cameras 122”).

The result is Petitioner has improperly “place[d] the burden on [the Board] to sift through the information presented by [the] Petitioner[], determine where each element [of the challenged claims] is found in [the cited references], and identify any differences between the claimed subject matter and the teachings of [the cited

references].” *Google Inc.*, IPR2014-00347, Paper 9 at 25; Ex. 2006, ¶¶ 142-143. Accordingly, the Board should decline to find any Challenged Claim unpatentable because the Petition fails to adhere to the requirements of 35 U.S.C. § 112(a)(3). *See Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016) (affirming a Board’s finding of nonobviousness because “the grounds of invalidity described in [] petition were not established”).

The implication of the common citation to Gogic’s CDs for both mobile communication devices and video feeds is apparent in the later part of the claim regarding “identifying one or more video feeds that are relevant to the user.” Ex. 1001, 12:30-34, 13:67-14:4. Specifically, in analyzing this claim language, Petitioner argues Gogic’s “user policy” “will identify the other *group members* (other CDs, including CDS with video streaming capability) relevant to the user at the time of access.” Petition, 68. Group members are also not video feeds. Ex. 2006, ¶ 146. This tangled web fails to “identify, with particularity, the evidence that supports the grounds for the challenge to each claim.” *Intelligent Bio-Sys.*, 821 F.3d at 1369 (internal citation omitted); Ex. 2006, ¶ 147.

While a CD with video capabilities that is capable of streaming may create a video feed and a group member may be or have a video camera with similar capabilities, the Petition does not make any such clear arguments because such clarity would unmask its weak position. Petition, 65, 68. Effectively, the Petition

paints the art with a broad brush, such as referring to CDs as both mobile communication devices and video feeds and further referring to video feeds as “other group members,” hoping the Board will connect the dots Petitioner was unable to string together with the references themselves. *Apple Inc. v. ContentGuard Holdings, Inc.*, IPR2015-00355, Paper 9 at 11 (P.T.A.B. June 26, 2015) (finding petitioner improperly “leaves it to the Board to ascertain what gaps to fill, and then presents vague statements regarding what the prior art suggests”); *see also Whole Space Industries Ltd. v. Zipshade Industrial (B.V.I.) Corp.*, IPR2015-00488, Paper 14 at 18 (P.T.A.B. July 24, 2015). If the Petition was able to formulate an argument grounded in the art, it undoubtedly would have been made. Instead, the art was stretched and pointed at in a vague manner requiring a substantial amount of imagination to fill the gaps. *Apple*, IPR2015-00355, Paper 9 at 11.

ii. No video feed is identified and selected from a plurality of video feeds

Both challenged independent claims 1 and 15 recite “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone.” Ex. 1001, 12:28-30, 13:65-67. However, the cited art fails to identify and select any video feed *from a plurality of video feeds*. Ex. 2006, ¶ 149.

To transmit to a communication group, Gogic teaches that a CD must first request to transmit and be given the floor by a communication manager (CM). Ex. 1006, ¶ [0042]. As detailed above, the user “request[s] the transmission privilege through initiation or activation of a push-to-talk (PTT) key or switch.” *Id.* The CM determines whether any “other group member is currently assigned the transmission privilege and the communication criteria in effect does not so prohibit or deny the floor,” and if no other member is speaking and the communication criteria does not prohibit, “the requesting user is granted (e.g., floor grant) the transmission privilege.” *Id.*; Ex. 2008, 92:4-11; Ex. 2006, ¶ 149.

By requiring each CD to individually request the floor, Gogic fails to render obvious the claimed step of “identifying at least one video feed by selecting the at least one video feed from the plurality of video feeds associated with the geographic zone.” Ex. 1006, ¶ [0042]; Ex. 2006, ¶ 150. Gogic’s transmission privilege request process additionally falls short of the claimed invention because granting the transmission privilege is not based on “selecting” the video feed, it is a result of the CD requesting to transmit and no other CD having the floor. Ex. 1006, ¶ [0042]; Ex. 2006, ¶ 150.

Compounding the Petition’s failure to demonstrate a video feed is identified and selected from a plurality of video feeds, Petitioner’s declarant opined that “the whole point” of Gogic’s “taking the floor functionality” is to limit the number of

transmitting CDs “so that only one [CD] will transmit at a time.” Ex. 2008, 92:12-93:5 (“I think the whole point of this taking the floor thing is to prevent more than one CD from transmitting at a time.”). Because only one CD can transmit at a time, there can be no plurality of video feeds. Ex. 2006, ¶ 151. Further, Petitioner’s declarant admitted that Gogic does not contemplate any CD being able to command another CD to transmit to the group. Ex. 2008, 115:22-116:9 (“I don’t believe that there’s a mechanism disclosed [in Gogic] for one CD to command another CD to do something.”). Put differently, nothing selects the CD or the feed of the CD and tells it to transmit to the group, the CD or the user of the CD decides when it desires to communicate. Ex. 2006, ¶ 151.

Therefore, Gogic-Opitz fails to teach this limitation, and fails to render claims 1 and 15 obvious. *Id.*, ¶ 152.

C. Dependent Claims

Because independent claims 1 and 15 should be upheld as patentable, each claim depending from these claims should likewise be upheld as patentable. *Ortho-McNeil*, 520 F.3d at 1365; *In re Fritch*, 972 F.2d at 1266. Even if the Board finds either independent claim unpatentable, the Petition fails to present compelling arguments to find at least the following dependent claims obvious. Therefore, these claims should be upheld as patentable irrespective of the outcome regarding either independent claim. Ex. 2006, ¶¶ 153-157.

VI. CONCLUSION

Petitioner has failed to satisfy its burden that the Challenged Claims are invalid, and the Board should confirm the patentability of the Challenged Claims.

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Respectfully submitted,

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

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CERTIFICATE OF SERVICE

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