

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CAMBRIA COUNTY ASSOCIATION FOR
THE BLIND AND HANDICAPPED, INC.,

Plaintiff,

v.

AFFORDABLE WIRE MANAGEMENT,
LLC.,

Defendant.

C.A. No.: 23-cv-0080-SRF

JURY TRIAL DEMANDED

**DEFENDANT AFFORDABLE WIRE MANAGEMENT, LLC’S
INITIAL INVALIDITY CONTENTIONS**

Pursuant to Section 2.b.iv of the Scheduling Order (D.I. 26) and Paragraph 4(d) of the Default Standard for Discovery, Defendant Affordable Wire Management, LLC. (“Defendant” or “AWM”), hereby sets forth its Initial Invalidity Contentions (the “Invalidity Contentions”) as to the claims asserted by Plaintiff Cambria County Association for the Blind and Handicapped, Inc. (“Plaintiff” or “CAB”) regarding U.S. Patent No. 10,177,551 (the “’551 Patent”), and U.S. Patent No. 11,349,291 (the “’291 Patent”) (together, the “Asserted Patents”).

I. Introduction

CAB asserted each of the following claims against AWM in Plaintiff’s Infringement Contentions, served on December 21, 2023:

Asserted Patents	Asserted Claims
10,177,551	1-8, 10-12, and 19 (the “’551 Asserted Claims”)
11,349,291	1-5, 9-10, 14-18, 21-22 (the “’291 Asserted Claims”).

See Plaintiff's Initial Infringement Claim Charts Relating Each Accused Product to the Asserted Claims of U.S. Pat. Nos. 10,177,551 and 11,349,291, dated December 21, 2023 ("Infringement Contentions").

II. Reservation of Rights

CAB's Infringement Contentions are vague and incomplete, fail to provide sufficient specificity, rely on materials of an unknown and undisclosed origin, and appear to reflect interpretations of claim terms that are overbroad and inconsistent with their meaning in light of the specification and the file histories, some even raising definiteness issues. For at least these reasons, the Infringement Contentions lack sufficient specificity to adequately inform AWM of the specifics of certain aspects of CAB's infringement positions. Accordingly, AWM does not waive any right to receive from CAB such accurate, full, and complete specific infringement disclosures. AWM's compliance with the current schedule should not be viewed as waiver of any rights in regard to the Infringement Contentions.

AWM hereby provides Invalidity Contentions and accompanying documents pertaining only to the asserted claims as identified by CAB in its Infringement Contentions. AWM reserves the right to supplement, amend, and/or modify its Invalidity Contentions in response to (1) further infringement contentions, (2) the identification of additional asserted claims, (3) new or different claim interpretations disclosed in application, through the claim construction process, and/or expert discovery, (4) validity positions disclosed by CAB or any other party, including by any of CAB's fact or expert witnesses, to AWM after the date of service of these Invalidity Contentions.

AWM prepared the Invalidity Contentions based on CAB's apparent interpretation and application of claim terms in the Infringement Contentions. These Invalidity Contentions are not positions on or concessions to any claim constructions, and AWM expressly reserves the right to offer formal claim construction positions in accordance with the Procedural Schedule in place in

this case. However, based on and applying CAB's own apparent interpretation and application of the asserted claim terms, the prior art invalidates the Asserted Claims for, among other reasons, the same reasons CAB alleges the AWM accused products infringe the Asserted Claims.

AWM prepared these contentions based on the limited information and discovery currently available to it. Fact discovery is ongoing, expert discovery has not yet begun, the parties have not exchanged proposed claim construction positions, the Court has not yet construed the claim terms, and AWM's investigation as to unenforceability and invalidity of the Asserted Patents, including the discovery of prior art and discovery from third parties, is ongoing. AWM reserves the right to supplement, amend and/or modify the Invalidity Contentions based on further investigation, fact or expert discovery, proposed claim construction of the Parties, any claim construction order issued by the Court as a result of information disclosed by CAB or any other third-party, including without limitation discovery obtained from manufacturers of invalidating prior art systems, or other items raised by CAB during this litigation.

Further, because discovery is ongoing, AWM reserves the right to revise, amend, and/or supplement the information provided herein, including by identifying and relying on additional references. In particular, AWM reserves the right to supplement these Invalidity Contentions as discovery reveals further information about prior art, prior use and/or prior public knowledge of products, methods, or systems that AWM has reason to believe anticipate, render obvious, or make unenforceable one or more asserted claim of the Asserted Patents.

Prior art not included in this disclosure, whether known or not known to AWM, may become relevant. AWM reserves the right to identify additional teachings in the same references or in other references that anticipate or would have made the addition of the allegedly missing

limitation to the disclosed device or method obvious. AWM reserves the right to rely on additional documents describing the prior art systems.

AWM's claim charts provided herein, and the discussion herein, cite to particular teachings or disclosures of the prior art as applied to features of the claims of the Asserted Patents. Persons having ordinary skill in the art generally, however, may view a prior art reference in the context of other publications, literature, products, and understanding. As such, the cited portions are only examples, and AWM reserves the right to rely on uncited portions of the prior art references and on other publications and expert testimony as aids in understanding and interpreting the cited portions, as providing context thereto, and as additional evidence that a claim limitation is known or disclosed. AWM further reserves the right to rely on uncited portions of the prior art references, other publications, and testimony to establish bases for combinations of certain cited references that render the asserted claims obvious.

The prior art discussed in the claim charts and the discussion herein may disclose the elements of the asserted claims explicitly and/or inherently and may be relied upon to show the state of the art in the relevant timeframe. The suggested obviousness combinations are exemplary and are not to be construed such that any reference included in the combinations is not by itself anticipatory.

AWM further intends to rely on inventor testimony concerning the scope of the prior art relevant to the Asserted Patents found in, *inter alia*: the patent prosecution history for the Asserted Patents and their related patents and patent applications; and any deposition testimony of the inventor(s) named on the face of the Asserted Patents or their related patents and patent applications.

III. Invalidity Under 35 U.S.C. § 112

The Asserted Claims that contain the claim limitations below are invalid because, for example, (i) the descriptive portion of the specification fails to enable the claimed subject matter, and/or (ii) a person skilled in the art would not understand what is claimed when these claims are read in light of the patent specification and prosecution history. 35 U.S.C. § 112, ¶¶ 1, 2; *Nautilus v. Biosig Instruments, Inc.*, 134 S. Ct. 2120, 2124 (2014). The common disclosure does not provide a person having ordinary skill in the art sufficient information to practice the claimed invention without undue experimentation as of the filing date of the first application. Nor do the claims, read in the context of the common disclosure, permit a skilled artisan to understand the scope of the Asserted Claims.

Patent No.	Claim Term
'551 Patent	“multi-function line”
'551 Patent	“multi-function line assembly”
'551 Patent	“conductive”
'551 Patent	“partially conductive”
'551 Patent	“highly conductive”
'551 Patent	“conductive path”
'551 Patent	“simplified shape”
'291 Patent	“extending from a plurality of solar panels”
'291 Patent	“a distance above the ground”
'291 Patent	“being structured to support at least one electrical cable”
'291 Patent	“a formation structured to support a data carrier”

IV. Identification of Prior Art

AWM reserves the right to challenge CAB's assertions as to infringement, validity and priority. AWM presents below the prior art found thus far. While AWM believes each of the Asserted Claims is invalid under 35 U.S.C. § 112 as set forth above, AWM utilizes its understanding of CAB's interpretation and application of the Asserted Claims in the Infringement Contentions in assessing the prior art. AWM's invalidity charts are in no way a concession or admission that CAB's Infringement Contentions are correct, or that the claims have the meaning(s) apparently ascribed to each limitation by CAB. AWM reserves the right to supplement with information about 35 U.S.C. § 102(a) prior use, sales, knowledge, or disclosures obtained during fact and expert discovery. For purposes of these Initial Invalidity Contentions, AWM identifies the following prior art references that anticipate and/or render obvious the Asserted Claims, alone, in combination with one another, and/or with the knowledge and creativity of a person of ordinary skill in the art:

A. '551 Patent Prior Art

1. Patent Prior Art

Publication No.	Filing Date	Inventor(s)	Bates No.	Hereinafter
US 3,001,749	Feb. 25, 1959	Clifford W. Petersen	AWM_DDEL1230080_0001345	"Petersen"
US 7,803,001	Dec. 10, 2008	Peter M. Wason	AWM_DDEL1230080_0001449	"Wason"
US 9,282,281	Dec. 27, 2010	Chris Williams, <i>et al.</i>	AWM_DDEL1230080_0001459	"Williams"
US 10,003,298	Mar. 1, 2016	Tyler Grushkowitz, <i>et al.</i>	AWM_DDEL1230080_0001144	"Grushkowitz"

2. Other Prior Art

During fact discovery, AWM intends to obtain physical samples of the system prior art identified below (Snake Tray System, CAB System, Hendrix System) from CAB and the two third parties, which AWM expects will confirm the accuracy of the descriptions and depictions in the cited documents.

System	Year of Public Availability ¹	Bates No.	Hereinafter
Snake Tray Cable Management System	As early as 2016	The structure, function, and operation of the Snake Tray System is described in at least the following documents: AWM_DDEL1230080_0001349	“Snake Tray System” or “Snake Tray”
CAB Messenger Wire System	As early as 2014	The structure, function, and operation of the CAB System is described in at least the following documents: AWM_DDEL1230080_0001119; AWM_DDEL1230080_0001123; AWM_DDEL1230080_0001136; AWM_DDEL1230080_0001481	“CAB System”
Hendrix Aerial Cable System	As early as 2013	The structure, function, and operation of the Hendrix System is described in at least the following documents: AWM_DDEL1230080_0001165; AWM_DDEL1230080_0001167; AWM_DDEL1230080_0001169; AWM_DDEL1230080_0001225	“Hendrix System” or “Hendrix”

¹ These dates are based on information and belief available to AWM at this time. AWM’s investigation is ongoing, and AWM reserves the right to supplement the information as discovery continues.

System	Year of Public Availability ¹	Bates No.	Hereinafter
MacLean Pole Line Hardware Catalog	2010	AWM_DDEL1230080_0001522	“MacLean”

B. '291 Patent Prior Art

1. Patent Prior Art

Publication No.	Filing Date	Inventor(s)	Bates No.	Hereinafter
US 1,841,479	Nov. 28, 1930	George J. Jessen	AWM_DDEL1230080_0000887	“Jessen”
US 2,384,440	Jun. 8, 1944	James A. Carr	AWM_DDEL1230080_0000926	“Carr”
US 4,423,853	Aug. 4, 1981	Daniels R. David, Sr.	AWM_DDEL1230080_0000970	“Davis”
US 5,181,680	Aug. 27, 1991	Gene Coll	AWM_DDEL1230080_0000965	“Coll”
US 6,364,255	Dec. 14, 1999	Douglas Scott Carrick, <i>et al.</i>	AWM_DDEL1230080_0000929	“Carrick”
US 6,505,796	Jun. 26, 2001	Steven A. Roth	AWM_DDEL1230080_0000986	“Roth”
US 7,520,476	Dec. 11, 2002	Jack E. Caveney, <i>et al.</i>	AWM_DDEL1230080_0000942	“Caveney”
US 2010 0139731	Mar. 2, 2009	Charles Almy	AWM_DDEL1230080_0000890	“Almy”

2. Other Prior Art

During fact discovery, AWM intends to obtain physical samples of the system prior art identified below, from CAB and the two third parties, which AWM expects will confirm the accuracy of the descriptions and depictions in the cited documents.

System	Year of Public Availability²	Bates No.	Hereinafter
Panduit J-Mod Future Ready Cable Support System	As early as 2003	The structure, function, and operation of the Panduit System is described in at least the following documents: AWM_DDEL1230080_0000982	“Panduit System”
Snake Tray Cable Management System	As early as 2012	The structure, function, and operation of the Snake Tray System is described in at least the following documents: AWM_DDEL1230080_0001010; AWM_DDEL1230080_0001011; AWM_DDEL1230080_0001017; AWM_DDEL1230080_0001117	“Snake Tray System”
CAB Messenger Wire System	As early as 2010	The structure, function, and operation of the CAB System is described in at least the following documents: AWM_DDEL1230080_0000902	“CAB System”
The Erico Caddy System	As early as 2008	The structure, function, and operation of the Erico System is described in at least the following documents: AWM_DDEL1230080_0000980	“Erico System”

² These dates are based on information and belief available to AWM at this time. AWM’s investigation is ongoing, and AWM reserves the right to supplement the information as discovery continues.

V. Invalidity Under 35 U.S.C. § 102³

The Asserted Claims of the '551 and '291 Patents are invalid under 35 U.S.C. § 102 at least in view of the disclosures of the prior art cited in Exhibits 551-A through 291-L, which explicitly, implicitly, and/or inherently discloses the limitations of the Asserted Claims. *See* Exs. 551-A, 551-B, 551-C, 551-D, 551-E, 551-F, 551-G, 551-H, 291-A, 291-B, 291-C, 291-D, 291-E, 291-F, 291-G, 291-H, 291-I, 291-J, 291-K, 291-L.

VI. Invalidity Under 35 U.S.C. § 103

The Asserted Claims of the '551 and '291 Patents are obvious under 35 U.S.C. § 103 at least in view of the disclosures of the prior art cited in Exhibits 551-A through 551-G, and Exhibits 291-A through 291-L, which alone or in combination, explicitly, implicitly, and/or inherently discloses the limitations of the Asserted Claims. *See* Exs. 551-A, 551-B, 551-C, 551-D, 551-E, 551-F, 551-G, 551-H, 291-A, 291-B, 291-C, 291-D, 291-E, 291-F, 291-G, 291-H, 291-I, 291-J, 291-K, 291-L. The prior art renders obvious the limitations of the Asserted Claims.

AWM contends that a person of ordinary skill in the art ("POSITA") at the time of the purported invention(s) would have been motivated to combine one or more of the identified systems and/or references above. Exemplary motivations to combine any of the combinations identified above can be found in the above prior art. For instance, the prior art describes similar cable hangers, grounding systems, and components thereof, the prior art is well known in the electrical wire management field, the prior art include teachings that would have led a POSITA to combine the prior art teachings to arrive at the claimed invention, and/or the combinations are simple substitutions of one known element for another to obtain predictable results.

³ Each of the references identified as an anticipatory reference under 35 U.S.C. § 102 also obviates the same claims as a single reference because it would have been obvious to a POSITA to modify that reference to arrive at the patented invention.

In general, a motivation to combine any of the identified references exists within the references themselves, as well as within the knowledge of a POSITA. A POSITA at the time of the purported invention would have been motivated to modify the prior art or combine prior art references as a result of (i) his or her education and experience, (ii) the state of the prior art as a whole, (iii) the nature of the problem to be solved, (iv) common knowledge in the art, (v) common sense, (vi) design incentives, (vii) market forces, and/or (viii) a desire to tailor a solution using all of the skills, knowledge, and creativity at his or her disposal. *See, e.g., KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007); Examination Guidelines for Determining Obviousness Under 35 U.S.C. §103 in View of the Supreme Court Decision in *KSR Int'l Co. v. Teleflex, Inc.*, 72 Fed. Reg. 57526 (Oct. 10, 2007).

Yet further motivations include one or more of the following:

1. the references are within the same field, e.g., electrical wire management, including improvements to the strength and efficiency thereof;
2. the fact that the cited references are within the field of the Asserted Patents, are directed to similar subject matter within that field and address similar technical issues, are directed at solving similar problems, disclose solutions with similar advantages, and existed or were invented in the same time period as each other;
3. the references are in an old and predictable art such that combining known prior art elements such as those claimed by the patents-in-suit would yield predictable results;
4. the knowledge or common sense of a person of ordinary skill in the art;
5. the prior art references themselves, many of which discuss, incorporate by reference, or cite to other prior art references;
6. the subject matter and references acknowledged as prior art in the patents-in-suit;
7. the interrelated teachings of multiple prior art references identified herein;
8. the nature of the problems purported to be solved by the Asserted Patents and the existence of similar improvements in similar applications and technologies;

9. design incentives and other market forces, including the advantages of creating a product with a more user-friendly installation, improved safety, and better efficacy;
10. the ability to implement the alleged invention as a predictable variation of the prior art by applying well-known methods and techniques to a known device to yield predictable results in combining the teachings of claimed elements by known methods, with no change in their respective functions;
11. the fact that the cited references explicitly or implicitly reference other prior art references, share common authors or inventors or assignees, were published in the same journals, presented at the same conferences, or were developed at common companies, organizations, or industries which would motivate one of skill in the art to combine them;
12. the fact that, in some cases, these references provide explicit motivation for the technology disclosed to be used in combination with one another by virtue of cross-references to one another's solutions, incorporation by reference of one another's basic premises, or close involvement with one another in the industry;
13. the fact that cited references were publicly available in electronic databases maintained by Lexis Nexis, the United States Patent & Trademark Office, universities, national laboratories, and other governmental, academic, and private organizations, and in other locations commonly known and accessed by academics, researchers, engineers, and scientists, such as publicly available Internet web sites; and/or
14. the fact that many of the references include teachings, suggestions, or motivations to modify the disclosed subject matter, making it obvious to lead one skilled in the art to try to modify or combine their teachings, or to choose from the multiple identified, predictable potential solutions to this recognized need and would have pursued the known potential solutions with reasonable expectation of success.

See, e.g., KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398 (2007). All motivations for such combinations would have been within the knowledge generally available to one of ordinary skill in the art or located in the references themselves.

As the exemplar discussion provided below details, there would have been a motivation to combine the below-discussed prior art and such a combination would have involved routine implementation, would have posed to technical risks given their complimentary teachings, and would have achieved predictable benefits of improving the applicable technology.

'551 Patent

Petersen

Petersen anticipates and/or renders obvious each and every claim element of the '551 Asserted Claims. *See* Exhibit 551-A. A POSITA would also have found each and every element of the '551 Asserted Claims obvious based on Petersen in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '551 Asserted Claims obvious based on Petersen in view of Wason, MacLean, Williams, Grushkowitz, Snake Tray System, CAB System, and/or Hendrix System. *See id.* Each of Petersen, Wason, MacLean, Williams, Grushkowitz, Snake Tray System, CAB System, and Hendrix System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to (i) electrical distribution systems, (ii) electrical grounding, (iii) support systems, and (iv) utilizing various conductive components in the same. These references teach the basic concepts of (i) use of tension members to support current-carrying cable, (ii) electrical grounding, (iii) use of mounting assemblies, and (iv) using conductive support system components as a grounding system. *See id.* A POSITA would have been motivated to combine these references based on a reasonable expectation of success in doing so, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Wason

Wason anticipates and/or renders obvious each and every claim element of the '551 Asserted Claims. *See* Exhibit 551-B. A POSITA would also have found each and every element of the '551 Asserted Claims obvious based on Petersen in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '551 Asserted

Claims obvious based on Wason in view of Petersen, MacLean, Williams, Grushkowitz, Snake Tray System, CAB System, and/or Hendrix System. *See id.* Each of Wason, Petersen, MacLean, Williams, Grushkowitz, Snake Tray System, CAB System, and Hendrix System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to (i) electrical distribution systems, (ii) electrical grounding, (iii) support systems, and (iv) utilizing various conductive components in the same. These references teach the basic concepts of (i) use of tension members to support current-carrying cable, (ii) electrical grounding, (iii) use of mounting assemblies, and (iv) using conductive support system components as a grounding system. *See id.* A POSITA would have been motivated to combine these references based on a reasonable expectation of success in doing so, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Williams

Williams anticipates and/or renders obvious each and every claim element of the '551 Asserted Claims. *See* Exhibit 551-C. A POSITA would also have found each and every element of the '551 Asserted Claims obvious based on Williams in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '551 Asserted Claims obvious based on Williams in view of Wason, Petersen, MacLean, Grushkowitz, Snake Tray System, CAB System, and/or Hendrix System. *See id.* Each of Williams, Wason, Petersen, MacLean, Grushkowitz, Snake Tray System, CAB System, and Hendrix System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to (i) electrical distribution systems, (ii) electrical grounding, (iii) support systems, and (iv) utilizing various conductive components in the same. These references teach the basic

concepts of (i) use of tension members to support current-carrying cable, (ii) electrical grounding, (iii) use of mounting assemblies, and (iv) using conductive support system components as a grounding system. *See id.* A POSITA would have been motivated to combine these references based on a reasonable expectation of success in doing so, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Grushkowitz

Grushkowitz anticipates and/or renders obvious each and every claim element of the '551 Asserted Claims. *See* Exhibit 551-D. A POSITA would also have found each and every element of the '551 Asserted Claims obvious based on Grushkowitz in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '551 Asserted Claims obvious based on Grushkowitz in view of Wason, Williams, MacLean, Petersen, Snake Tray System, CAB System, and/or Hendrix System. *See id.* Each of Grushkowitz, Wason, Williams, MacLean, Petersen, Snake Tray System, CAB System, and Hendrix System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to (i) electrical distribution systems, (ii) electrical grounding, (iii) support systems, and (iv) utilizing various conductive components in the same. These references teach the basic concepts of (i) use of tension members to support current-carrying cable, (ii) electrical grounding, (iii) use of mounting assemblies, and (iv) using conductive support system components as a grounding system. *See id.* A POSITA would have been motivated to combine these references based on a reasonable expectation of success in doing so, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Snake Tray System

Snake Tray System anticipates and/or renders obvious each and every claim element of the '551 Asserted Claims. *See* Exhibit 551-E. A POSITA would also have found each and every element of the '551 Asserted Claims obvious based on Snake Tray System in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '551 Asserted Claims obvious based on Snake Tray System in view of Wason, Williams, MacLean, Petersen, Grushkowitz, CAB System, and/or Hendrix System. *See id.* Each of Snake Tray System, Wason, Williams, MacLean, Petersen, Grushkowitz, CAB System, and Hendrix System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to (i) electrical distribution systems, (ii) electrical grounding, (iii) support systems, and (iv) utilizing various conductive components in the same. These references teach the basic concepts of (i) use of tension members to support current-carrying cable, (ii) electrical grounding, (iii) use of mounting assemblies, and (iv) using conductive support system components as a grounding system. *See id.* A POSITA would have been motivated to combine these references based on a reasonable expectation of success in doing so, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

CAB System

CAB System anticipates and/or renders obvious each and every claim element of the '551 Asserted Claims. *See* Exhibit 551-F. A POSITA would also have found each and every element of the '551 Asserted Claims obvious based on CAB System in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '551 Asserted Claims obvious based on CAB System in view of Wason, Williams, MacLean, Petersen,

Grushkowitz, Snake Tray System, and/or Hendrix System. *See id.* Each of CAB System, Wason, Williams, MacLean, Petersen, Grushkowitz, Snake Tray System, and Hendrix System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to (i) electrical distribution systems, (ii) electrical grounding, (iii) support systems, and (iv) utilizing various conductive components in the same. These references teach the basic concepts of (i) use of tension members to support current-carrying cable, (ii) electrical grounding, (iii) use of mounting assemblies, and (iv) using conductive support system components as a grounding system. *See id.* A POSITA would have been motivated to combine these references based on a reasonable expectation of success in doing so, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Hendrix System

Hendrix System anticipates and/or renders obvious each and every claim element of the '551 Asserted Claims. *See* Exhibit 551-G. A POSITA would also have found each and every element of the '551 Asserted Claims obvious based on Hendrix System in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '551 Asserted Claims obvious based on Hendrix System in view of Wason, Williams, MacLean, Petersen, Grushkowitz, CAB System, and/or Hendrix System. *See id.* Each of Snake Tray System, Wason, Williams, MacLean, Petersen, Grushkowitz, CAB System, and Snake Tray System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to (i) electrical distribution systems, (ii) electrical grounding, (iii) support systems, and (iv) utilizing various conductive components in the same. These references teach the basic concepts of (i) use of tension members to support current-carrying cable, (ii) electrical

grounding, (iii) use of mounting assemblies, and (iv) using conductive support system components as a grounding system. *See id.* A POSITA would have been motivated to combine these references based on a reasonable expectation of success in doing so, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

MacLean

MacLean anticipates and/or renders obvious each and every claim element of the '551 Asserted Claims. *See* Exhibit 551-H. A POSITA would also have found each and every element of the '551 Asserted Claims obvious based on MacLean in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '551 Asserted Claims obvious based on MacLean in view of Wason, Grushkowitz, Williams, Petersen, Snake Tray System, CAB System, and/or Hendrix System. *See id.* Each of MacLean, Wason, Grushkowitz, Williams, Petersen, Snake Tray System, CAB System, and Hendrix System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to (i) electrical distribution systems, (ii) electrical grounding, (iii) support systems, and (iv) utilizing various conductive components in the same. These references teach the basic concepts of (i) use of tension members to support current-carrying cable, (ii) electrical grounding, (iii) use of mounting assemblies, and (iv) using conductive support system components as a grounding system. *See id.* A POSITA would have been motivated to combine these references based on a reasonable expectation of success in doing so, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

'291 Patent

Almy

Almy anticipates and/or renders obvious each and every claim element of the '291 Asserted Claims. *See* Exhibit 291-A. A POSITA would also have found each and every element of the '291 Asserted Claims obvious based on Almy in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '291 Asserted Claims obvious based on Almy in view of CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System. *See id.* Each of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to electrical cable and/or wire support systems attached to structures such as a messenger wire. These references teach the basic concepts of (i) using support members, such as hangers, with multiple cable and/or wire carrying surfaces; and (ii) attaching the support members to a structure, such as a messenger wire, to suspend the support members above the ground. *See id.* A POSITA would have been motivated to combine these references with a reasonable expectation of success, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

CAB System

CAB System anticipates and/or renders obvious each and every claim element of the '291 Asserted Claims. *See* Exhibit 291-B. A POSITA would also have found each and every element of the '291 Asserted Claims obvious based on CAB System in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '291 Asserted Claims

obvious based on CAB System in view of Almy, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System. *See id.* Each of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to electrical cable and/or wire support systems attached to structures such as a messenger wire. These references teach the basic concepts of (i) using support members, such as hangers, with multiple cable and/or wire carrying surfaces; and (ii) attaching the support members to a structure, such as a messenger wire, to suspend the support members above the ground. *See id.* A POSITA would have been motivated to combine these references with a reasonable expectation of success, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Carr

Carr anticipates and/or renders obvious each and every claim element of the '291 Asserted Claims. *See* Exhibit 291-C. A POSITA would also have found each and every element of the '291 Asserted Claims obvious based on Carr in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '291 Asserted Claims obvious based on Carr in view of Almy, CAB System, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System. *See id.* Each of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to electrical cable and/or wire support systems attached to structures such as a messenger wire. These references teach the basic concepts of (i) using support members, such as

hangers, with multiple cable and/or wire carrying surfaces; and (ii) attaching the support members to a structure, such as a messenger wire, to suspend the support members above the ground. *See id.* A POSITA would have been motivated to combine these references with a reasonable expectation of success, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Carrick

Carrick anticipates and/or renders obvious each and every claim element of the '291 Asserted Claims. *See* Exhibit 291-D. A POSITA would also have found each and every element of the '291 Asserted Claims obvious based on Carrick in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '291 Asserted Claims obvious based on Carrick in view of Almy, CAB System, Carr, Caveney, Coll, Davis, Erico System, J Jessen, Panduit System, Roth, and/or Snake Tray System. *See id.* Each of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to electrical cable and/or wire support systems attached to structures such as a messenger wire. These references teach the basic concepts of (i) using support members, such as hangers, with multiple cable and/or wire carrying surfaces; and (ii) attaching the support members to a structure, such as a messenger wire, to suspend the support members above the ground. *See id.* A POSITA would have been motivated to combine these references with a reasonable expectation of success, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Caveney

Caveney anticipates and/or renders obvious each and every claim element of the '291 Asserted Claims. *See* Exhibit 291-E. A POSITA would also have found each and every element of the '291 Asserted Claims obvious based on Caveney in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '291 Asserted Claims obvious based on Caveney in view of Almy, CAB System, Carr, Carrick, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System. *See id.* Each of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to electrical cable and/or wire support systems attached to structures such as a messenger wire. These references teach the basic concepts of (i) using support members, such as hangers, with multiple cable and/or wire carrying surfaces; and (ii) attaching the support members to a structure, such as a messenger wire, to suspend the support members above the ground. *See id.* A POSITA would have been motivated to combine these references with a reasonable expectation of success, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Coll

Coll anticipates and/or renders obvious each and every claim element of the '291 Asserted Claims. *See* Exhibit 291-F. A POSITA would also have found each and every element of the '291 Asserted Claims obvious based on Coll in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '291 Asserted Claims obvious based on Coll in view of Almy, CAB System, Carr, Carrick, Caveney, Davis, Erico System, Jessen, Panduit

System, Roth, and/or Snake Tray System. *See id.* Each of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to electrical cable and/or wire support systems attached to structures such as a messenger wire. These references teach the basic concepts of (i) using support members, such as hangers, with multiple cable and/or wire carrying surfaces; and (ii) attaching the support members to a structure, such as a messenger wire, to suspend the support members above the ground. *See id.* A POSITA would have been motivated to combine these references with a reasonable expectation of success, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Davis

Davis anticipates and/or renders obvious each and every claim element of the '291 Asserted Claims. *See* Exhibit 291-G. A POSITA would also have found each and every element of the '291 Asserted Claims obvious based on Davis in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '291 Asserted Claims obvious based on Davis in view of Almy, CAB System, Carr, Carrick, Caveney, Coll, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System. *See id.* Each of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to electrical cable and/or wire support systems attached to structures such as a messenger wire. These references teach the basic concepts of (i) using support members, such as hangers, with multiple cable and/or wire carrying surfaces; and (ii) attaching the support

members to a structure, such as a messenger wire, to suspend the support members above the ground. *See id.* A POSITA would have been motivated to combine these references with a reasonable expectation of success, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Erico System

Erico System anticipates and/or renders obvious each and every claim element of the '291 Asserted Claims. *See* Exhibit 291-H. A POSITA would also have found each and every element of the '291 Asserted Claims obvious based on Erico System in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '291 Asserted Claims obvious based on Erico System in view of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Jessen, Panduit System, Roth, and/or Snake Tray System. *See id.* Each of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to electrical cable and/or wire support systems attached to structures such as a messenger wire. These references teach the basic concepts of (i) using support members, such as hangers, with multiple cable and/or wire carrying surfaces; and (ii) attaching the support members to a structure, such as a messenger wire, to suspend the support members above the ground. *See id.* A POSITA would have been motivated to combine these references with a reasonable expectation of success, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Jessen

Jessen anticipates and/or renders obvious each and every claim element of the '291 Asserted Claims. *See* Exhibit 291-I. A POSITA would also have found each and every element of the '291 Asserted Claims obvious based on Jessen in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '291 Asserted Claims obvious based on Jessen in view of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Panduit System, Roth, and/or Snake Tray System. *See id.* Each of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to electrical cable and/or wire support systems attached to structures such as a messenger wire. These references teach the basic concepts of (i) using support members, such as hangers, with multiple cable and/or wire carrying surfaces; and (ii) attaching the support members to a structure, such as a messenger wire, to suspend the support members above the ground. *See id.* A POSITA would have been motivated to combine these references with a reasonable expectation of success, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Panduit System

Panduit System anticipates and/or renders obvious each and every claim element of the '291 Asserted Claims. *See* Exhibit 291-J. A POSITA would also have found each and every element of the '291 Asserted Claims obvious based on Panduit System in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '291 Asserted Claims obvious based on Panduit System in view of Almy, CAB System, Carr, Carrick, Caveney,

Coll, Davis, Erico System, Jessen, Roth, and/or Snake Tray System. *See id.* Each of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to electrical cable and/or wire support systems attached to structures such as a messenger wire. These references teach the basic concepts of (i) using support members, such as hangers, with multiple cable and/or wire carrying surfaces; and (ii) attaching the support members to a structure, such as a messenger wire, to suspend the support members above the ground. *See id.* A POSITA would have been motivated to combine these references with a reasonable expectation of success, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Roth

Roth anticipates and/or renders obvious each and every claim element of the '291 Asserted Claims. *See* Exhibit 291-K. A POSITA would also have found each and every element of the '291 Asserted Claims obvious based on Roth in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '291 Asserted Claims obvious based on Roth in view of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, and/or Snake Tray System. *See id.* Each of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to electrical cable and/or wire support systems attached to structures such as a messenger wire. These references teach the basic concepts of (i) using support members, such as hangers, with multiple cable and/or wire carrying surfaces; and (ii) attaching the support members

to a structure, such as a messenger wire, to suspend the support members above the ground. *See id.* A POSITA would have been motivated to combine these references with a reasonable expectation of success, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

Solar Snake System

Solar Snake System anticipates and/or renders obvious each and every claim element of the '291 Asserted Claims. *See* Exhibit 291-L. A POSITA would also have found each and every element of the '291 Asserted Claims obvious based on Solar Snake System in view of the knowledge of a POSITA at the time of the alleged invention. *See id.* A POSITA would have also found the '291 Asserted Claims obvious based on Solar Snake System in view of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, and/or Roth. *See id.* Each of Almy, CAB System, Carr, Carrick, Caveney, Coll, Davis, Erico System, Jessen, Panduit System, Roth, and/or Snake Tray System are directed to the same field or a closely related field. For example, each of these systems and/or references is directed to electrical cable and/or wire support systems attached to structures such as a messenger wire. These references teach the basic concepts of (i) using support members, such as hangers, with multiple cable and/or wire carrying surfaces; and (ii) attaching the support members to a structure, such as a messenger wire, to suspend the support members above the ground. *See id.* A POSITA would have been motivated to combine these references with a reasonable expectation of success, at least because the references use known variations of existing technology to solve routine and well understood problems in predictable ways at the time of the alleged invention. *See id.*

* * *

AWM is not presently aware of any objective indicia of non-obviousness that would support the alleged patentability of the Asserted Claims, and CAB has offered none. AWM reserves the right to rebut and respond to any such alleged objective indicia raised by CAB.

VII. Invalidity Under 35 U.S.C. § 101

The Asserted Claims of the '551 patent are invalid under 35 U.S.C. § 101 for claiming patent-ineligible laws of nature, natural phenomena, and/or abstract ideas with no inventive concept, and the claim elements of each '551 Asserted Claim were well-understood, routine, and conventional. AWM reserves all rights to amend or supplement its Invalidity Contentions under 35 U.S.C. § 101, including to assert the invalidity of the Asserted Patents under 35 U.S.C. § 101, such as after the Asserted Claims are construed by the Court, in response to interpretations of the Asserted Claims reflected in CAB's infringement positions, and/or to account for any changes in the law regarding invalidity under 35 U.S.C. § 101. AWM also reserves the right to provide additional explanation and/or argument for its Invalidity Contentions under 35 U.S.C. § 101, including, for example, based on expert testimony. The laws of nature, natural phenomena, and/or abstract ideas set forth below are exemplary and based on AWM's current understanding of the patents, CAB's current infringement positions, and the current state of the law regarding invalidity under 35 U.S.C. § 101.

The Supreme Court has articulated a two-step framework for determining patent eligibility. *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208, 217 (2014). At step one, the court determines “whether the claims at issue are directed to” a “patent-ineligible concept,” such as “laws of nature, natural phenomena, and abstract ideas.” *Id.*; see also *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015) (at step one, “the claims are considered in their entirety to ascertain whether their character as a whole is directed to excluded subject matter.”).

At step two, the court must “look to both the claim as a whole and the individual claim elements” to determine whether they “amount[] to significantly more than a patent upon the [ineligible concept] itself.” *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299, 1312 (Fed. Cir. 2016). “[T]ransformation into a patent eligible application requires ‘more than simply stat[ing] the law of nature while adding the words ‘apply it.’” A claim that recites an abstract idea, law of nature, or natural phenomenon must include ‘additional features’ to ensure ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract idea, law of nature, or natural phenomenon].’” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1377 (Fed. Cir. 2015) (quoting *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66, 72, 77-78 (2012)) (internal citations omitted). Thus, the claim elements must “involve more than performance of ‘well-understood, routine, [and] conventional activities previously known to the industry.’” *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1367 (Fed. Cir. 2018) (citation and internal quotation marks omitted).

Here, for example, the ’551 Asserted Claims fail to claim eligible subject matter pursuant to 35 U.S.C. § 101 because they are directed to a law of nature and lack an inventive step to transform the law of nature into patentable subject matter. In essence, the ’551 Patent claims the law of nature or natural phenomenon known as electric potential. Further, the claims simply instruct a POSITA to apply the natural phenomenon using well-understood, routine, and conventional components that support current-carrying cables. The Supreme Court and Federal Circuit have made clear that laws of nature in combination with well-understood, routine, conventional activity are ineligible for patent protection. As such, the ’551 Asserted Claims are invalid under 35 U.S.C. § 101.

VIII. Accompanying Document Production

Pursuant to the Scheduling Order (D.I. 26) and the Default Standard for Discovery, AWM has produced all prior art referenced in its Preliminary Invalidity Contentions simultaneously with this disclosure (*see* AWM_DDEL1230080_0000887–AWM_DDEL1230080_0001660).

IX. Conclusion

For at least the reasons set forth above, the Asserted Claims are invalid under 35 U.S.C. §§ 101, 102, 103, and/or 112. As noted above, AWM expressly reserves the right to supplement, amend, and/or modify the Invalidity Contentions, including as provided under the Federal Rules of Civil Procedure, Case Schedule, and any other applicable Rule or order of the Court.

Dated: January 26, 2024

/s/ Michael J. Farnan

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CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2024, the foregoing document has been served by electronic mail on all counsel of record.

/s/ Michael J. Farnan
Michael J. Farnan