

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DROPBOX, INC.,
Petitioner,

v.

ENTANGLED MEDIA, LLC.,
Patent Owner.

Case IPR2024-00285
Patent 8,484,260

**PATENT OWNER'S PRELIMINARY RESPONSE
UNDER 35 U.S.C. § 313 AND 37 C.F.R. § 42.107**

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	LEVEL OF ORDINARY SKILL IN THE ART	2
III.	OVERVIEW OF THE '260 PATENT	3
IV.	CLAIM CONSTRUCTION	4
V.	THE ASSERTED PRIOR ART REFERENCES AND CHALLENGED CLAIMS	4
	A. Havewala	4
	B. Adams	5
VI.	LEGAL STANDARDS	7
	A. Standard for Granting an IPR	7
	B. Obviousness Standard	7
VII.	THE BOARD SHOULD DENY INSTITUTION	9
	A. PETITIONER FAILS TO DEMONSTRATE A REASONABLE LIKELIHOOD OF PREVAILING ON GROUND 1 (CLAIMS 1, 4-8)	9
	i. Claim 1	9
	a. Petitioner Fails To Demonstrate That Havewala Discloses “Modifying The Singular File System” (1[B])	9
	b. Petitioner Fails To Demonstrate That Havewala Discloses “Determining By The Software Client If The File Is Physically Located On The First Device Or If The File Is A Virtual File Of A Corresponding File Physically Stored On A Second Device By Reviewing File Metadata” (1[D])	14
	ii. Claims 4-8	16

B.	PETITIONER FAILS TO DEMONSTRATE A REASONABLE LIKELIHOOD OF PREVAILING ON GROUND 2 (CLAIMS 2-3).....	16
C.	PETITIONER FAILS TO DEMONSTRATE A REASONABLE LIKELIHOOD OF PREVAILING ON GROUND 3 (CLAIMS 1-8).....	16
VIII.	CONCLUSION.....	17

TABLE OF AUTHORITIES

Cases

<i>Bae Sys. Info. and Elec. Sys. Integration, Inc. v. Cheetah Omni, LLC</i> , IPR2013-00175, 2014 WL 2858243 (PTAB June 19, 2014)	13
<i>Garmin Int’l, Inc. v. Patent of Cuozzo Speed Techs. LLC</i> , IPR2012-00001, Paper 15 (P.T.A.B. Jan. 9, 2013).....	8
<i>Graham v. John Deere Co.</i> , 383 U.S. 1 (1966).....	8
<i>In re Kahn</i> , 441 F.3d 977 (Fed. Cir. 2006).....	8
<i>In re Magnum Oil Tools Int’l, Ltd.</i> , 829 F.3d 1364 (Fed. Cir. 2016).....	13
<i>In re Rijckaert</i> , 9 F.3d 1531 (Fed. Cir. 1993).....	8
<i>KSR Int’l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007).....	8

Statutes

35 U.S.C. § 103(a)	8
35 U.S.C. § 314(a)	7

Other Authorities

Office Patent Trial Practice Guide, 77 FED. REG. 48,756 (Aug. 14, 2012)	7
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Regulations

37 C.F.R. § 42.100(b) (Nov. 13, 2018).....	4
37 C.F.R. § 42.108(c).....	7
37 C.F.R. § 42.22(a)(2).....	7

EXHIBIT LIST

Exhibit No.	Brief Description
2001	Declaration of Patrick McDaniel, Ph.D. Regarding Claim Construction, <i>Entangled Media, LLC v. Dropbox, Inc.</i> , 5:23-cv-03264-PCP (N.D. Cal.), Dkt. 101-7.
2002	RESERVED
2003	RESERVED

LISTING OF CHALLENGED CLAIMS

Limitation	
1[P]	1. A process for operating on files located on multiple devices using a singular file system comprising:
1[A]	accepting a request to operate on a file at a first device, wherein the file is selected from the singular file system on the first device;
1[B]	modifying the singular file system on the first device to make local files and virtual files appear indistinguishable to the singular file system, the local files and virtual files sharing a same location on the first device;
1[C]	intercepting the request by a software client on the first device;
1[D]	determining by the software client if the file is physically located on the first device or if the file is a virtual file of a corresponding file physically stored on a second device by reviewing file metadata,
1[E]	wherein a visual representation of the singular file system on the first device is identical to a visual representation of the singular file system on the second device; and

Limitation	
1[F]	if the file is the virtual file of the corresponding file physically located on the second device, requesting by the software client on the first device that a peer-to- peer connection be brokered by a server-based web service between the first device and the second device;
1[G]	if the peer-to-peer connection is brokered, transferring the corresponding physical file from the second device to the first device; and
1[H]	performing the operation on the transferred corresponding physical file at the first device.
2	The process according to claim 1, wherein if the peer-to-peer connection cannot be brokered between the first device and the second device, an alternative connection is established by the server-based web service.
3	The process according to claim 2, wherein the alternative connection is an HTTP relay.
4	The process according to claim 1, further comprising updating metadata of the singular file system on the first device and the second device to reflect a change in physical location of the file from the second device to the first device.

Limitation	
5	The process according to claim 1, wherein an operating system of the first device is unaware of files being virtual or physical and believes that all files are physically stored on the first device within the singular file system.
6	The process according to claim 1, further comprising: upon completing the operation, pushing the physical file back to the second device; and retaining the virtual file at the first device.
7[P]	A non-transitory computer-readable storage medium storing a set of instructions that, when executed by a processor, cause the processor to perform operations, comprising:
7[A]	accepting a request to operate on a file at a first device, wherein the file is selected from the singular file system on the first device;
7[B]	modifying the singular file system on the first device to make local files and virtual files appear indistinguishable to the singular file system, the local files and virtual files sharing a same location on the first device;
7[C]	intercepting the request by a software client on the first device;

Limitation	
7[D]	determining by the software client if the file is physically located on the first device or if the file is a virtual file of a corresponding file physically stored on a second device by reviewing file metadata,
7[E]	wherein a visual representation of the singular file system on the first device is identical to a visual representation of the singular file system on the second device; and
7[F]	if the file is the virtual file of the corresponding file physically located on the second device, requesting by the software client on the first device that a peer-to- peer connection be brokered by a server- based web service between the first device and the second device;
7[G]	if the peer-to-peer connection is brokered, transferring the corresponding physical file from the second device to the first device; and
7[H]	performing the operation on the transferred corresponding physical file at the first device.
8[P]	8. A client comprising:
8[B]	a memory;
8[C]	at least one processor configured to:

Limitation	
8[D]	accept a request to operate on a file at a first device, wherein the file is selected from the singular file system on the first device;
8[E]	modify the singular file system on the first device to make local files and virtual files appear indistinguishable to the singular file system, the local files and virtual files sharing a same location on the first device;
8[F]	intercept the request by a software client on the first device;
8[G]	determine by the software client if the file is physically located on the first device or if the file is a virtual file of a corresponding file physically stored on a second device by reviewing file metadata,
8[H]	wherein a visual representation of the singular file system on the first device is identical to a visual representation of the singular file system on the second device; and
8[I]	if the file is the virtual file of the corresponding file physically located on the second device, request by the software client on the first device that a peer-to-peer connection be brokered by a server-based web service between the first device and the second device;
8[J]	if the peer-to-peer connection is brokered, transfer the corresponding physical file from the second device to the first device; and

Limitation	
8[J]	perform the operation on the transferred corresponding physical file at the first device.

Pursuant to 35 U.S.C. § 313 and 37 C.F.R. § 42.107, Patent Owner Entangled Media LLC (“Entangled Media”) hereby provides a preliminary response to the petition for inter partes review (IPR) (Paper 2, herein “Petition” or “Pet.”).

I. INTRODUCTION

The Petition requests cancellation of independent claims 1, 7, and 8 and dependent claims 2-6 of U.S. Patent No. 8,848,260 (the “’260 patent”). EX-1001. The Petition raises three grounds, each requiring a combination of Havewala and Adams. The Petition should be denied because it fails to show a sufficient likelihood that Petitioner will prevail as to any claim.

First, each challenged claim requires “modifying the singular file system on the first device to make local files and virtual files appear indistinguishable to the singular file system.” Limitations 1[B], 7[B], and 8[D]. Petitioner argues that this limitation is disclosed by Havewala. However, the Petition fails to show any modifications to a singular file system—as opposed to other things like metadata for individual files—to make local files and virtual files appear indistinguishable. Thus, Petitioner failed to make a *prima facie* showing that Havewala discloses Limitations 1[B], 7[B], and 8[D].

Second, each challenged claim requires “determining by the software client if the file is physically located on the first device or if the file is a virtual file of a

corresponding file physically stored on a second device by reviewing file metadata.” Limitations 1[D], 7[D], and 8[F]. Petitioner argues that this limitation is disclosed by Havewala’s ghosting filter. Not so. In Havewala, the ghosting filter simply receives an error notification once it has already been determined elsewhere that the requested file is not physically stored on the device. Moreover, the ghosting filter knows to obtain a ghosted file from another location based on receipt of the error message, not based on a review of metadata. Thus, Havewala fails to disclose this limitation in multiple ways.

For at least these reasons, as explained in greater detail below, institution should be denied.

II. LEVEL OF ORDINARY SKILL IN THE ART

For deciding institution, Patent Owner contests Petitioner’s proffered definition of the level of a person of ordinary skill in the art (“POSITA”).

In the Petition, Petitioner asserts that a POSITA “would have been a person holding at least *a master’s degree* in computer science or electrical engineering, or a related degree, and with at least two years training or experience with networking and file systems.” Pet. 10 (emphasis added).

However, in the related litigation, Petitioner took the position that a POSITA “would have had at least *a Bachelor’s* or Master’s degree in computer science or electrical engineering or a related degree and with at least two years training or

experience with networking and file systems.” EX-2001, 14-15 (emphasis added). Petitioner’s expert in this proceeding similarly opines that a POSITA would have had at least *a Bachelors* or Masters degree. EX-1003, ¶21.

Accordingly, Patent Owner objects to Petitioner’s definition of a POSITA in the Petition. At a minimum, Petitioner’s definition of a POSITA in the district court case should apply to this proceeding as well.

Patent Owner reserves the right to contest other aspects of the proposed definition of a POSITA in subsequent filings, if necessary.

III. OVERVIEW OF THE ’260 PATENT

The goal of the ’260 patent is to establish a unified file system across multiple devices of a particular user. At the time of the patent filing, there existed an unmet need to facilitate access to electronic content that physically resides on any one of multiple user devices (*e.g.*, a laptop, desktop, smartphone or the like) without the need to physically store all of the content on every device. EX-1001, 2:7-15. The patented solution creates a unified representation of the files that are present on each of a user’s registered devices, ensuring convenient presentation of and access to a user’s files irrespective of their location on a particular device.

The ’260 patent enables this by modifying the singular file system on the first device to make the local files and virtual files appear as if they are stored in the same location. *Id.*, 5:6-23-35; 6:22-36, Fig. 6. The visual representation of the

singular file system on the first device shows the same list of files as the visual representation of the singular file system on the second device. *Id.* The claims of the '260 patent additionally recite using a peer-to-peer network for transferring data between the devices. This option allows the devices to communicate and share their data and resources. *Id.*, 8:38-48.

The '260 patent includes three independent claims: 1, 7, and 8. Claim 7 is similar to claim 1 but is in a “computer-readable storage medium” form. *Id.*, 12:5-34. Claim 8 is similar to claim 1 but in apparatus form. *Id.*, 12:36-65.

IV. CLAIM CONSTRUCTION

The '260 patent's challenged claims are to be construed “using the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. § 282(b).” 37 C.F.R. § 42.100(b). The Petition does not seek construction of any term in the '260 patent. For this filing, Patent Owner does not propose that the Board expressly construe any claims, but Patent Owner reserves the right to do so in subsequent filings, if necessary.

V. THE ASSERTED PRIOR ART REFERENCES AND CHALLENGED CLAIMS

A. Havewala

Havewala generally discloses an architecture and method for storing files in an alternative location to free space on a storage volume. EX-1005, [0008].

According to Havewala, computer devices (*e.g.*, personal computers) include storage for saving computer files. *Id.*, [0009]. However, some computer files are not accessed for long periods of time and therefore become “cold.” *Id.*, [0010]. Those files could be deleted from the computer, but “most users are loathe to delete files simply to create space.” *Id.*, [0011].

To address this scenario, Havewala disclosed a method wherein a cold file is not deleted from a computer, but instead reduced in size by removing at least some data to an alternative location. *Id.*, [0043]. The alternative location can be another computer, a remote server, or the like. *Id.* This frees up space on the computer that originally contained the cold file. *Id.*

While data from the cold file has been moved, such a cold file remains as a presence or “ghost” on the original computer. *Id.*, [0044]. The ghosted file contains all metadata from the original file, and also contains “ghosting information” that can be used to retrieve the file from the alternative location. *Id.*, [0050]. Thus, if the “ghosted file” is needed on the original computer, that file is reconstituted by retrieving the data from the alternative site. *Id.*, [0044].

B. Adams

Adams relates to a system and method of distributed file sharing over a computer network, whereby each file is categorized according to the content of the

file and information about files resides on at least one central index computer. EX-1006, [0001].

According to Adams, at the time of the invention, it was difficult for a user to locate files of interest on a distributed file-sharing network. *Id.*, [0009]. For example, a user may want an image of a particular person on a distributed network. *Id.*, [0012]. However, the user may not be able to locate the desired image using a text search because, for example, the image is saved under an arbitrary name like “123abc.jpg.” *Id.* Thus, there was a need for a new type of system to ameliorate the problems in the art. *Id.*, [0014].

Adams addressed the problem in the art by using central index servers connected to client terminals. *Id.*, [0033]. Specifically, client terminals include memory that allocates components of the memory to a file category. *Id.*, [0034]. A file category, in turn, contains files that are related according to subject matter of the file category. *Id.* Those file category files are then indexed by the central index server. *Id.*, [0035]. Client terminals can then query the central index server using the file categories to obtain relevant files. *Id.*, [0036].

For example, going back to the image query described above, a user may search for an image of a particular person using the Adams system. The name of the image file may not identify the person. However, in Adams, the image file would be categorized in an appropriate file category which would have some

relationship to the name of the person, and the central index server would keep track of various file categories. *Id.*, [0039]. In this system, a user could query the central index server for the image, and the central index server would return a list of files and file locations that match the query using the file categories. *Id.*

The Petition relies on a combination of Havewala and Adams for all three grounds. Pet. 9.

VI. LEGAL STANDARDS

A. Standard for Granting an IPR

The Board may only authorize an IPR be instituted where “the information presented in the petition ... shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a); 37 C.F.R. § 42.108(c). The petitioner bears the burden of showing that the statutory threshold is met. Office Patent Trial Practice Guide, 77 FED. REG. 48,756. A petition must provide “[a] full statement of the reasons for the relief requested, including a detailed explanation of the significance of the evidence including material facts, and the governing law, rules, and precedent.” 37 C.F.R. § 42.22(a)(2).

B. Obviousness Standard

“A patent may not be obtained ... if the differences between the subject matter sought to be patented 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.” 35 U.S.C. § 103(a). The obviousness analysis requires several threshold inquiries.

If a single element of the claim is absent from the prior art, the claim cannot be considered obvious. *In re Rijckaert*, 9 F.3d 1531, 1534 (Fed. Cir. 1993) (reversing obviousness rejection where prior art did not teach or suggest all claim limitations); *Garmin Int’l, Inc. v. Patent of Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 15, at 15 (PTAB Jan. 9, 2013) (denying institution under § 103 where the prior art did not disclose all claim limitations).

Obviousness is resolved based on factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of ordinary skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966).

The conclusion of obviousness based on a combination of references must be supported with an explicit analysis of a reason to combine those references. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). Such reasons must be more than “mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

VII. THE BOARD SHOULD DENY INSTITUTION

A. PETITIONER FAILS TO DEMONSTRATE A REASONABLE LIKELIHOOD OF PREVAILING ON GROUND 1 (CLAIMS 1, 4-8)

i. Claim 1

a. Petitioner Fails To Demonstrate That Havewala Discloses “Modifying The Singular File System” (1[B])

Limitation 1[B] recites, in relevant part, “*modifying the singular file system on the first device to make local files and virtual files appear indistinguishable to the singular file system*” EX-1001, 11:30-33; Pet. 22. Petitioner contends that Havewala discloses this limitation (Pet. 29-31), but its argument fails for the following reasons.

According to Petitioner, Havewala discloses “a *file system* [for] managing the storage volume,” which corresponds to the claimed “singular file system.” Pet. 12 (emphasis in original). As quoted by Petitioner, “computer files 14, and the files 14 on the volume 12 are organized by, accessed through, and otherwise controlled by a file system 16 running on the computing device 10” in Havewala. Pet. 12 (quoting EX-1005, ¶41). Havewala’s Figure 2 includes a block diagram illustrating file system 16 as shown below.

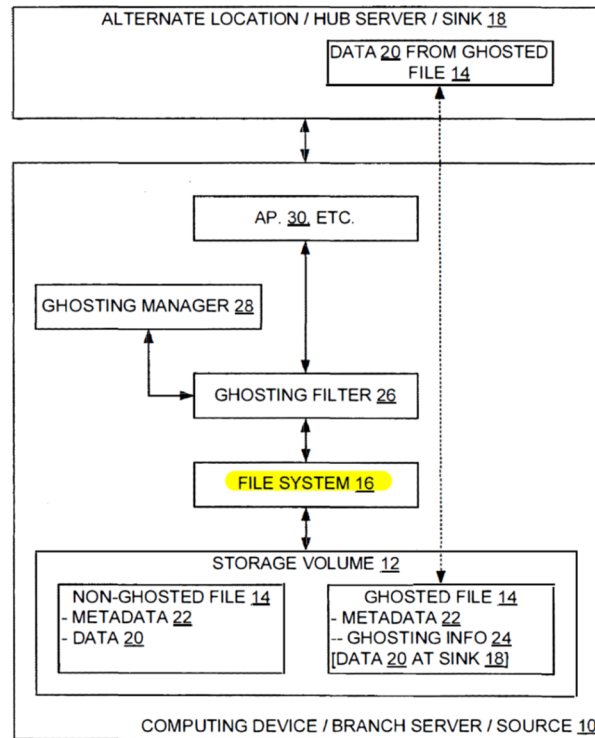


Fig. 2

EX-1005, Fig. 2.¹

Havewala also discloses program modules that “**perform particular tasks** or implement particular abstract data types.” Pet. 29 (emphasis in original). According to the Petition, “Havewala’s ghosting filter and ghosting manager are ‘programs’ and correspond to the claimed software client.” Pet. 32. Havewala’s ghosting manager amends metadata for ghosted files (*e.g.*, add ghosting information to metadata). Pet. 29. Havewala’s ghosting filter performs the functions described below:

¹ All emphasis and coloring added unless otherwise indicated.

when a user or application 30 tries to access the removed data 20 of a ghosted file 14, the file system 16 upon receiving a request for such access will discover that the ghosted file 14 does not contain the removed data 20 and thus return an error which the ghosting filter 16 will intercept. Upon such interception, then, the ghosting filter 26 employs the file system 16 to obtain the ghosting information 24 from the metadata 22 for the ghosted file 14, and based on the obtained ghosting information 24 such ghosting filter 26 triggers reconstituting of such ghosted file 14, as will be set forth in more detail below, so that the request for access may ultimately be honored.

EX-1005, ¶64 (quoted at Pet. 27-28). Havewala's block diagram in Figure 2 illustrates ghosting filter 26 and ghosting manager 28 as shown below.

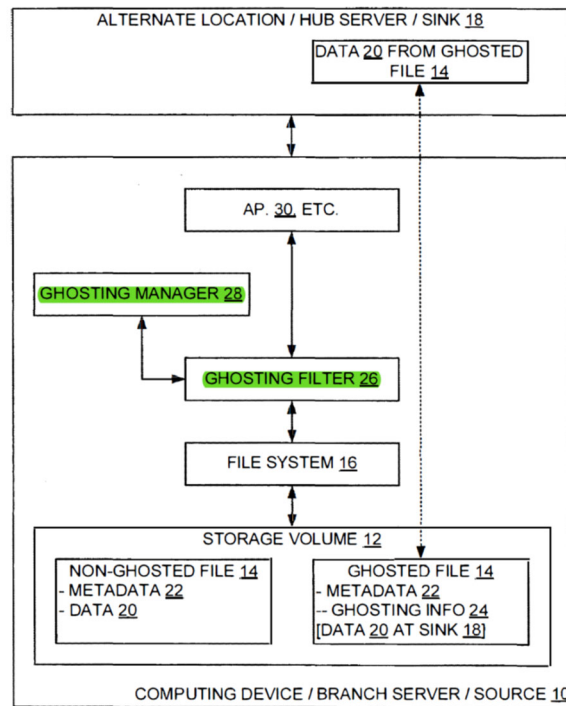


Fig. 2

EX-1005, Fig. 2.

According to Petitioner, “the ghosting manager and ghosting filter modify the file system” to satisfy Limitation 1[B]. Pet. 31. That, however, is incorrect. Critically, Limitation 1[B] requires the singular file system—and not files or metadata—to be modified. The Petition fails to show any modification of the singular file system (by the ghosting manager and ghosting filter or otherwise) to satisfy Limitation 1[B].

For example, the Petition asserts that “the *ghosting manager amends ‘the metadata* 22 for the now-ghosted file 14.” Pet. 29 (quoting EX-1005, ¶57) (emphasis added). However, amending metadata for a file is different from modifying the file system (*i.e.*, file system 16 as mapped by Petitioner) as required by Limitation 1[B]. No other relevant theories or explanations pertaining to the ghosting manager are provided in the Petition to support Petitioner’s arguments in this context. *Id.*, 29-31. Thus, Petitioner fails to make a *prima facie* showing that the ghosting manager somehow satisfies Limitation 1[B].

Petitioner also asserts that the ghosting filter satisfies Limitation 1[B] by either (1) intercepting an error from file system 16, or (2) creating a buffer and handle corresponding to a ghosted file and delivering the handle to application 30. Pet. 30. But simply intercepting an error and creating a handle and buffer does not modify the file system (including file system 16 as mapped by Petitioner), which is required by Limitation 1[B]. Notably, Havewala teaches that the buffer and handle

are employed by the ghosting filter 26—and *not* file system 16. *See, e.g.*, EX-2005, ¶69 (“However, and significantly, such handle for the ghosted file 14 as created by the ghosting filter 26 and as employed as a handle parameter of a command to be delivered directly to the ghosting filter 26 and not to the file system 16.”). Thus, the handle and buffer do not modify, much less interact with, the file system at all in Havewala. No other relevant theories or explanations pertaining to the ghosting filter are provided in the Petition to support Petitioner’s arguments in this context. *Id.*, 29-31. Thus, Petitioner fails to make a *prima facie* showing that the ghosting manager somehow satisfies Limitation 1[B].

Significantly, the argument for institution must be included in the petition itself and not left of the Board to hunt to find. *Bae Sys. Info. and Elec. Sys. Integration, Inc. v. Cheetah Omni, LLC*, IPR2013-00175, 2014 WL 2858243, at *13 (PTAB June 19, 2014); *see also In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016) (“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.”) (emphasis added). Here, the Petition fails to articulate how Havewala’s *file system*—and not something else like metadata on a file—is modified to satisfy Limitation 1[B]. Petitioner therefore failed to meet its burden to show a reasonable likelihood that it will prevail on Ground 1.

b. Petitioner Fails To Demonstrate That Havewala Discloses “Determining By The Software Client If The File Is Physically Located On The First Device Or If The File Is A Virtual File Of A Corresponding File Physically Stored On A Second Device By Reviewing File Metadata” (1[D])

Limitation 1[D] recites “*determining by the software client if the file is physically located on the first device or if the file is a virtual file of a corresponding file physically stored on a second device by reviewing file metadata.*” EX-1001, 36-39; Pet. 34. Petitioner contends that Havewala discloses this limitation, but its argument fails for the following reasons.

According to Petitioner, Havewala’s ghosting filter 26 satisfies this limitation. Pet. 39. But Petitioner’s interpretation of Havewala is flawed and fails to show that Limitation 1[D] is satisfied by Havewala via the ghosting filter (or otherwise).

In Havewala, a request to open a file is sent to file system 16 without any involvement of the software client (*i.e.*, ghosting filter 26). EX-1005, ¶64. Specifically, if the requested file is a ghosted file, then “file system 16 upon receiving a request for such access will discover that the ghosted file 14 does not contain the removed data 20 and thus return an error.” *Id.* Significantly, it is the file system 16—and not the software client—that makes the discovery. Further, the discovery is not made based on reviewing metadata. Rather, it is made based on a simple determination that the desired data has been removed. In addition, if an

error is returned, the ghosting filter 26 will intercept that error and “perceive[] based thereon that the file 14 at issue is in fact in a ghosted format (step 605).” *Id.*

Putting it together, at best, it is the file system 16—and not the software client—that determines if a file is physically located on the first device in Havewala. In addition, if a file is not physically located on the first device an error will be provided by the file system, which is subsequently intercepted by the ghosting filter. Critically, receipt of an error message—and not a review of metadata—is how the ghosting filter knows that a file has been “ghosted.”

Further, there is no dispute that the ghosting filter checks a ghosted file’s metadata to determine *where* the underlying content is located *after* the file system 16 has already determined that the file is not physically located on the first device. EX-1005, ¶58. However, this differs from using metadata to determine *if* the file is physically on the first device or if it is a virtual file on another device, as required by Limitation 1[D]. Tellingly, the Petition’s heading on this issue is “Determining Location of Files via Metadata” (Pet. 37), but that is not what is claimed in Limitation 1[D]. No other relevant theories or explanations pertaining to the ghosting filter are provided in the Petition to support Petitioner’s arguments in this context. *Id.*, 37-39. Thus, Petitioner fails to make a *prima facie* showing that the ghosting filter (or any other aspect of Havewala) somehow satisfies Limitation 1[D].

ii. Claims 4-8

For purposes of this petition, Limitations 1[B] and 1[D] are substantially similar to Limitations 7[B] and 7[D]. Pet. 65-66. Limitations 1[B] and 1[D] are also substantially similar to Limitations 8[D] and 8[F]. *Id.*, 68. Thus, Petitioner has failed to make a *prima facie* case of obviousness for independent claims 7-8 for the same reasons discussed above and incorporated herein by reference. Further, Petitioner's analysis for dependent claims 4-6 fail to cure the deficiencies for independent claim 1. Thus, for the same reasons stated above for independent claim 1, Petitioner fails to make a *prima facie* case of obviousness for dependent claims 4-6.

**B. PETITIONER FAILS TO DEMONSTRATE A REASONABLE
LIKELIHOOD OF PREVAILING ON GROUND 2
(CLAIMS 2-3)**

Petitioner's analysis for dependent claims 2-3 fails to cure the deficiencies for independent claim 1 as set forth for Ground 1. And Petitioner did not provide a separate analysis of independent claim 1 as a part of Ground 2 in the Petition. Thus, for the same reasons stated above for independent claim 1, Petitioner fails to make a *prima facie* case of obviousness for dependent claims 2-3.

**C. PETITIONER FAILS TO DEMONSTRATE A REASONABLE
LIKELIHOOD OF PREVAILING ON GROUND 3
(CLAIMS 1-8)**

Petitioner's analysis in Ground 3 fails to cure the deficiencies for claims 1-8 as set forth for Ground 1. And Petitioner did not provide a separate analysis of the

relevant portions of the independent claim 1 as addressed herein for Ground 1.

Thus, for the same reasons stated above for independent claim 1 in Ground 1,

Petitioner fails to make a *prima facie* case of obviousness for claims 1-8 in Ground 3.

VIII. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests the Board deny Petitioner's request for inter partes review of the '260 patent.

Dated: March 27, 2024

Respectfully Submitted,

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CERTIFICATE OF WORD COUNT

Under the provisions of 37 C.F.R. § 42.24(d), the undersigned hereby certifies that the Microsoft Office word count for the foregoing Patent Owner's Preliminary Response Under 35 U.S.C. § 313 and 37 C.F.R. § 42.107, excluding the table of contents, table of authorities, claim listing, certificate of word count, and certificate of service, totals 3,549 words, which is less than the 14,000 words allowed under 37 C.F.R. § 42.24(b)(1).

Dated: March 27, 2024

Respectfully Submitted,

/Rex Hwang/

Rex Hwang (Reg. No. 56,206)
Counsel for Patent Owner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that I caused to be served on counsel for Petitioners a true and correct copy of the foregoing Patent Owner's Preliminary Response Under 35 U.S.C. § 313 and 37 C.F.R. § 42.107, by electronic means on March 27, 2024, by delivering a copy via electronic mail to the attorneys of record for Petitioner as follows:

- Dion M. Bregman (MLB-Dropbox-IPR-Team@morganlewis.com)
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Dated: March 27, 2024

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