

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TESLA, INC.,
Petitioner,

v.

RELINK US LLC,
Patent Owner.

Case No. IPR2024-00389
U.S. Patent No. 9,793,755

**PETITIONER'S REPLY
TO PATENT OWNER'S PRELIMINARY RESPONSE¹**

¹ This Reply was authorized by the Board's email of June 11, 2024. Ex-1030.

PETITIONER’S UPDATED EXHIBIT LIST (*NEW EXHIBIT IN ITALICS*)

Exhibit	Description
Ex-1001	U.S. Patent No. 9,793,755 (“’755 Patent”)
Ex-1002	File History of the ’755 Patent
Ex-1003	Declaration of Dr. Randy Collins
Ex-1004	Curriculum Vitae of Dr. Randy Collins
Ex-1005	U.S. Patent Application Publication No. 2011/0043160 (“Serban”)
Ex-1006	U.S. Patent Application Publication No. 2010/0208501 (“Matan”)
Ex-1007	U.S. Patent Application Publication No. 2017/0005473 (“Somani”)
Ex-1008	U.S. Patent Provisional Application 62/188,278 (“’278 Provisional”)
Ex-1009	U.S. Patent No. 5,500,561 (“Wilhelm”)
Ex-1010	Solectria PVI 6500-7500 Installation and Operation Manual (“PVI”), available at https://web.archive.org/web/20140711094535mp_/http://www.solen.com/manuals/PVI_6500-7500_Manual.pdf
Ex-1011	IEEE Standard 1547-2003, IEEE Standard for Interconnecting Distributed Resources with Electric Power Systems, The Institute of Electrical and Electronics Engineers, Inc. (July 28, 2003)
Ex-1012	File History of Somani
Ex-1013	U.S. Patent No. 7,787,267 (“Wu”)
Ex-1014	Internet Archive Affidavit and Exhibits
Ex-1015	U.S. Patent No. 8,159,178 (“Serban Patent”)

Ex-1016	<i>Relink US LLC v. Tesla, Inc.</i> , Civ. No. 1:23-cv-01093-DII (W.D. Tex., filed Sep. 16, 2023), Dkt. No. 35 (Order Granting Joint Motion for Extension of Time to Take Venue Related Discovery and Complete Briefing on Defendant’s Motion to Transfer Venue)
Ex-1017	Teodorescu, Remus, Marco Liserre, and Pedro Rodriguez. <i>Grid converters for photovoltaic and wind power systems</i> . John Wiley & Sons, 2011.
Ex-1018	Wayback printout – Eversol TL1500, Residential, Solar Inverters (“Eversol TL1500”), available at https://web.archive.org/web/20140404041325/http://www.zeversolar.com/products/product-detail/product/detail/en-eversol-tl1500/
Ex-1019	Webpage - Solectria Solar PV Inverters and PV System Products, Discontinued Products, available at https://solectria.com/support/documentation/
Ex-1020	TMS320F2812 DSP Manual, available at https://www.ti.com/lit/ds/symlink/tms320f2812.pdf?ts=1705102438423&ref_url=https%253A%252F%252Fwww.google.com%252F
Ex-1021	Webpage - PVI 3000-7500, available at https://solectria.com/support/documentation/discontinued-products/pvi-3000-5300/
Ex-1022	PVI, available at https://solectria.com/site/assets/files/1493/pvi_6500-7500_manual.pdf
Ex-1023	Yilmaz, Murat, and Philip T. Krein. “Review of battery charger topologies, charging power levels, and infrastructure for plug-in electric and hybrid vehicles.” <i>IEEE Transactions on Power Electronics</i> 28.5 (2012): 2151-2169.

Ex-1024	Schneider Electric Xantrex XW6048 Hybrid Inverter-Charger Operation Guide, available at https://www.solar-electric.com/lib/wind-sun/XW-manual.pdf
Ex-1025	Bouloumpasis, Ioannis, et al. “Current harmonics compensation in microgrids exploiting the power electronics interfaces of renewable energy sources.” <i>Energies</i> 8.4 (March 25, 2015): 2295-2311.
Ex-1026	Miret, Jaume, et al. “Selective harmonic-compensation control for single-phase active power filter with high harmonic rejection.” <i>IEEE Transactions on Industrial Electronics</i> 56.8 (2009): 3117-3127.
Ex-1027	U.S. Patent Application Publication No. 2008/0122293 A1
Ex-1028	<i>Radiant Vision Systems v. Admesy</i> , 1:21-cv-01115 (WDTX), Dkt. No. 27
Ex-1029	<i>Katana Silicon Technologies LLC v. GlobalFoundries, Inc.</i> , 1:22-cv-00852, Dkt. No. 39
Ex-1030	<i>Email correspondence with the Board regarding Unopposed Request for Authorization for a Reply to the POPR</i>

I. THE BOARD SHOULD NOT DENY INSTITUTION UNDER 325(D)**A. 325(d) Discretionary Denial is Inappropriate Given the New Primary Reference (Somani) and the New Secondary References**

PO does not dispute that Somani was never presented previously to the Office. *See generally* POPR. Contrary to what PO contends, Petitioner never admitted that Somani was “an attempt to end-run § 325(d).” POPR, 18. Somani is no “sacrificial” ground as PO wrongly complains—it is a strong primary reference as detailed across many pages of the Petition and supported by expert testimony. The Petition also combines Serban with Matan. Because neither Matan nor the Serban-Matan combination (nor any of the secondary references) was before the Examiner, grounds based on the Serban combinations do not meet the first *Advanced Bionics* prong. *See Oticon v. Cochlear*, IPR2019-00975, Paper 15, 19-20 (precedential) (new reference, even if combined with old art, sufficient to avoid discretionary denial).

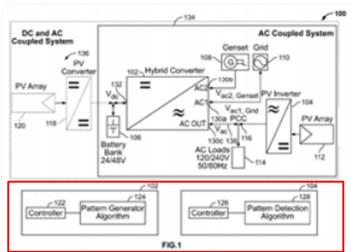
Thus, the Board should find that discretionary denial is inappropriate here and should take up the opportunity to consider what are indisputably new teachings, including a new primary reference (Somani), new secondary references (*i.e.*, Matan, PVI, Wilhelm, and Wu), and new obviousness combinations. *Arthrex v. Jeffrey Gelfand*, IPR2023-00014, Paper 9, 12-13 (finding that while the primary references were previously presented to the Office, the specific combinations of

references included two new secondary references, so first *Advanced Bionics* prong was not satisfied); *Howard Industries v. Capsa Solutions*, IPR2023-01275, Paper 9, 45 (finding first prong not met because, while one of the primary references was previously presented to the Office, the grounds in the petition included combinations with new secondary references as well as a new primary reference).

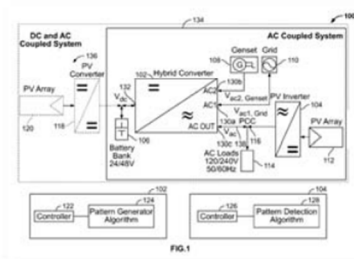
B. Serban: Not Substantially Same Art (*Advanced Bionics* Prong 1)

Even as to Serban, PO’s own illustration (reproduced below) shows that the Serban Paper is not “near-identical” to Serban.

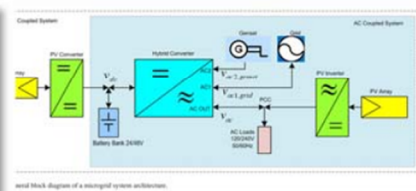
**Serban Publication
(EX1005), Fig. 1**



**Serban Patent,
(EX1015)
Fig. 1**



**Serban Paper,
(EX2003)
Fig. 1**



POPR, 11. Serban Paper does not depict (nor describe) the controllers, Pattern Generator Algorithm, and Pattern Detection Algorithm in Serban (red box), which the Petition used for several limitations, including 1[D]. Petition, 24-26.

As to the Serban Patent (EX-1015), PO argues that the *Bowtech* case cited by Petitioner “was abrogated by *Advanced Bionics*.” POPR, 16. That is not true. For example, *Cisco Systems v. NetSocket* is post-*Advanced Bionics* and cites

favorably to *Bowtech*. *Cisco*, IPR2023-00607, Paper 11, 22 (“even if there is substantial overlap, a reference that ‘was neither applied against the claims nor discussed by the Examiner’ does not weigh in favor of exercising discretion under § 325(d). ... [citing *Bowtech*] ... Patent Owner has not satisfied the first part of the *Advanced Bionics* framework.”). Thus, *Bowtech* remains persuasive authority. Like *Cisco*, the Serban Patent was neither substantively applied nor discussed by the Examiner, so *Advanced Bionics* prong 1 is not satisfied.

PO contends that the Examiner was familiar with the teachings of Serban because he allegedly considered it as to a previous patent application. POPR, 17 (citing EX-2006). Nothing in EX-2006 indicates a substantive consideration. PO’s *Adkins* case is distinguishable—there the prior art reference was not only cited and referenced in the challenged patent but was also itself examined by the same Examiner. *Adkins Universal v. Lexmark*, IPR2019-01387, Paper 7, 15-16.

C. Serban: There was a Material Error (*Advanced Bionics* Prong 2).

The Petition never stated that “the Examiner allowed the claims only because the prior art did [not] teach **an ‘AC power port’**” as PO contends. POPR, 21 (emphasis added). Instead, the Petition detailed how both Serban and Somani disclose “a first alternating current power port **as claimed**,” which the Examiner incorrectly thought was lacking. Petition, 12 (citing EX-1002, 24). This shows material error. *Synthego v. Agilent, Inc.*, IPR2022-00402, Paper 11, 9-11.

Claims 1-20 of Serban Patent identified on the IDS do not “disclose the relevant functionality that Petitioner relies upon.” POPR, 22. These method claims do not provide the hardware configuration for comparison with ’755 Patent’s apparatus claims. Regardless, the Examiner materially erred by failing to recognize that Serban discloses a first alternating current power port as claimed. Petition, 21-23. Nor does PO dispute that Serban discloses a first alternating current power port as claimed. POPR, 35. The material error lies in either a failure to consider the key disclosures outside claims 1-20 of Serban Patent (*i.e.*, the only portion of Serban Patent cited in the IDS) or by considering those disclosures, but failing to recognize that they teach the claimed first alternating current power port. *See HP v. LiTL*, IPR2024-00404, Paper 12, 8.

II. THE BOARD SHOULD NOT DENY INSTITUTION UNDER 314(A)

PO’s complaints under 314(a) lack merit. Petitioner relied on the word count supplied by its word-processing program, as the Board’s rules instruct. 37 C.F.R. § 42.24(d) (“A party may rely on the word count of the word-processing system used to prepare the paper”). Appendix-A does not include non-counted words (POPR, 24)—it is a claim listing organizing common claim limitations, which the Board has previously permitted. *See, e.g., Panasonic v. Cellspin*, IPR2019-00131, Paper 11, 6, fn.3. PO also appears to fault the parallel citation format used for Somani and its provisional, which is a structure that the Board

allows. *See Penumbra, Inc. v. Rapidpulse, Inc.*, IPR2021-01466, Paper 7, 15 (PTAB Mar. 14, 2022) (finding it appropriate even to cite to the expert declaration to provide cross-cites to the portions of the provisional applications). PO's incorrect arguments under the guise of 314(a) should be rejected.

III. PO'S IMPLICIT CONSTRUCTION SHOULD BE REJECTED

PO in its district court complaint states that the accused products allegedly practice “adjust[ing] an output power as a function of the frequency of the voltage source” when “the solar inverter is configured to **trip and discontinue** or adjust its output power in response to the system frequency.” *Relink v. Tesla*, WDTX-1-23-cv-01093, Dkt. 1, Exhibit B, 31. But in the POPR, it now says “[t]he solar panel **tripping itself offline, alone**, is not an adjustment of output power as a function of frequency.” POPR, 60. PO thus hopes to cover “tripping and discontinuing” for infringement purposes but wants the exact opposite to avoid invalidity. PO cannot have it both ways. *CommScope v. Dali Wireless*, 10 F.4th 1289, 1299 (Fed. Cir. 2021) (“A patent may not, like a nose of wax, be twisted one way to avoid anticipation and another to find infringement.”) (cleaned up). PO's attempt to distinguish Serban and Somani using a construction that is at odds with its district-court positions should be rejected.

Dated: June 18, 2024

Respectfully Submitted,
/ Alexander B. Stein /
Alexander B. Stein (Reg. No. 71,397)

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. 42.6(e)(4), lead counsel for Petitioner hereby certifies that on June 18, 2024, a complete and entire copy of this PETITIONER'S REPLY TO PATENT OWNER'S PRELIMINARY RESPONSE and EXHIBIT 1030 were sent via email to Patent Owner's counsel of record in this proceeding:

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