

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC. and FORTINET, INC.,
Petitioner,

v.

INFOEXPRESS INC.,
Patent Owner.

IPR2024-00676
U.S. Patent No. 8,677,450

PATENT OWNER SUR-REPLY

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EXHIBIT LIST

Exhibit Number	Description
2001	Declaration of Dr. Eric Cole
2002	Curriculum Vitae of Dr. Eric Cole
2003	Declaration of Stacey C. Lum
2004	Diligence Calendar
2005	U.S. Provisional App. No. 60/505,582
2006	U.S. Provisional App. No. 60/513,080
2007	Declaration of Hugh Smith, Ph.D.
2008	Curriculum Vitae of Hugh Smith, Ph.D.
2009	Conception of the '450 Patent
2010	Constructive Reduction to Practice of the '450 Patent
2011	LAN Based Policy Enforcement Engineering Specification
2012	Metadata for Exhibit 2011
2013	CyberGatekeeper Policy Manager
2014	Metadata for Exhibit 2013
2015	Internal InfoExpress Correspondence
2016	Internal InfoExpress Correspondence
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2018	Internal InfoExpress Correspondence
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2023	Email attachment to Exhibit 2022
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2036	Internal InfoExpress Correspondence
2037	Draft Meetinghouse Agreement
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2061	Draft Globe Tech Agreement
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2063	Correspondence with Globe Tech
2064	Draft Globe Tech Agreement
2065	Correspondence with Globe Tech
2066	Network Device Configuration API Engineering Specification
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2070	Network Device Configuration API Engineering Specification
2071	Correspondence with Globe Tech
2072	Network Device Configuration API Engineering Specification

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2073	Network Device Configuration API Engineering Specification
2074	Correspondence with Globe Tech
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2079	Email attachment to Exhibit 2078
2080	Correspondence with Globe Tech
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2109	Correspondence with Globe Tech

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2113	Internal InfoExpress Correspondence
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2200	Correspondence with J. Ong
2201	Cisco Switch Feature Support Matrix
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2203	Correspondence with A. Lee
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2273	Correspondence between S. Lum, J. Ong, C. Tsai and A. Lee
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2411	Tim Greene, InfoExpress Simplifies Security Devices, NetworkWorld (Dec. 6, 2004), available at https://www.networkworld.com/article/875004/lan-waninfoexpress-simplifies-security-devices.html
2412	InfoExpress's Objections and Responses to Cisco's First Set of Interrogatories (Nos. 1-12), served in InfoExpress Inc. v. Cisco Systems, Inc., Case No. 4:23-cv-2698-YGR (N.D. Cal.).
2413	Cisco Systems, Inc., Network Admission Control White Paper (2004).
2414	Correspondence with Cisco
2415	Email attachment to EX2414
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2421	Email attachment to EX2420
2422	Correspondence with Cisco
2423	Correspondence with Cisco
2424	Email Attachment to EX2423
2425	Intentionally Left Blank
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2427	Declaration of Aaron R. Striegel, PhD
2428	Intentionally Left Blank
2429	Declaration of Yuhshiw Alice Lee
2430	LAN Based Policy Enforcement Engineering Specification
2431	Metadata for EX2430
2432	LAN Based Policy Enforcement Engineering Specification
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2437	LAN Based Policy Enforcement Engineering Specification
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2439	Internal InfoExpress Correspondence
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2443	Design Specifications
2444	Design Specifications
2445	RADIUS Protocol Spoofing Vulnerability (Blast-RADIUS) July 2024
2446	Tim Greene, Deceiving Ciscos NAC (April 3, 2007)
2447	Hasham Ud-Din Qazi, Comparative Study of Network Access Control Technologies
2448	Thumann and Rocher, Hacking the Cisco NAC Framework Blackhat USA 2007 Whitepaper
2449	Deposition of Henry Houh, December 4, 2024
2450	Dkt 121 – Claim Construction Order dated September 25, 2024 [InfoExpress, Inc. v, Cisco Systems, Inc. [4:23-cv-02698-YGR]
2451	Mobile Agent Deployment Guide
2452	Reference Manual
2453	Server User’s Guide
2454	CGX 2.3 – Standalone Guide
2455	CGX 2.2 Complete Guide
2456	CGX Appliance Specifications
2457	Solutions Guide
2458	Intentionally Left Blank
2459	CGX Access Deployment Guide
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2471	Internal InfoExpress Correspondence
2472	Cisco Announces Continued Momentum within Network Admission Control Industry Initiative
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2519	NAC2 Beta Deployment Guide
2520	Internal InfoExpress Correspondence
2521	U.S. Patent No. 5,987,611
2522	Request for Comment: 2865
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2524	Winning with CyberGatekeeper from InfoExpress
2525	Tim Greene, Burning NAC questions – Part 2, Network World (Oct 17, 2007)
2526	Paul Roberts, Black Hat: NAC Solutions Vulnerable to Attack, ComputerWorld (Aug 3, 2006)
2527	Correspondence with Cisco
2528	Memorandum re: Product Announcement
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2562	LAN Based Policy Enforcement Engineering Specifications
2563	LAN Based Policy Enforcement Components
2564	Supplemental Declaration of Stacey Lum
2565	Supplemental Declaration of Dr. Eric Cole
2566	Tanenbaum Excerpts
2567	IEEE 802.1x (2001)
2568	InfoExpress's Objections and Responses to Cisco's Second Set of Interrogatories (4/11/2024)
2569	Heartbeat (computing) Article
2570	Intentionally Left Blank
2571	Passwords have a long history — how much do you know . . . ?
2572	<i>InfoExpress Inc. v. Cisco Systems, Inc.</i> , Case No. 4:23-cv-02698-YGR, Dkt. 111 (N.D. Cal. Aug. 23, 2024)
2573	Deposition of Henry Houh, January 8, 2025

I. INTRODUCTION

Petitioner's Reply rehashes rejected issues and fails to engage with the majority of evidence showing Krantz and Herrmann are not prior art, and even if they were, the claim limitations are missing, and there would be no motivation to combine them.

II. PETITIONER'S PRIOR-ART ARGUMENTS ARE NEW ONES THAT ARE PROCEDURALLY IMPROPER, LACKING, AND/OR HAVE BEEN REPEATEDLY REJECTED.

A. Petitioner's new "enabling protocols" theory for "configuring the access point" should be rejected. (Claims 1–4, 7–10, 14, 22–23, 25, 27).

On Reply, Petitioner belatedly changes its argument. The Petition argued exclusively that "configuring the access point" was met by Krantz's tag headers. Pet., 49–51. But inserting tag headers into client data does not constitute "configuring the access point." *See* POR, 15–17 (citing EX2565, ¶¶77–82). This is because within access point 209, the association of ports 251 and 252 is unchanged. *Id.*, 16–17. Petitioner's argument fails even if data routing device 214 is the "access point." *Id.*, 17.

Recognizing the tag-header weakness, Petitioner tries a new theory that Krantz's "Server 215 can send commands to access point 209 to cause access point 209 to enable protocols and cause access point 209 to insert appropriate Tag Headers." Reply, 3. Petitioner's shift for configuring—from tag header insertion to enabling protocols—is procedurally improper. *Wasica Finance GmbH v.*

Continental Automotive Systems, Inc., 853 F.3d 1272, 1286-87 (Fed.Cir. 2017); *Samsung Elecs. Co. v. Resonant Sys., Inc.*, IPR2023-00993, Paper No. 48, 38-39 (PTAB Jan. 8, 2025).

Even the new “protocol” theory fails to establish the “configuring” limitation. Krantz specifies these “protocols” are SMTP or DHCP protocols. EX1405, ¶23 (“The access point may also enable communication using other currently blocked protocols, such as, for example, Simple Mail Transfer Protocol (‘SMTP’) and Dynamic Host Control Protocol (‘DHCP’).”). These protocols merely “enable communication.” They have nothing to do with “configuring the access point” to redirect data. EX2573 at 132:4–11 (“[A] user may open up a particular file and enter those things manually. Sometimes they can be done automatically through use of various protocols, *such as DHCP, which can provide both an address and a gateway address and other networking parameters* so that...a computer can automatically be configured.”), 138:7–17. Nothing in swapping out DHCP or SMTP “protocols” constitutes a “change in the instructions provided to the access point so that data is transferred to VLAN C instead of VLAN B.” *See* Reply, 2.

For Mapping #3, Petitioner next argues one could combine the functionality of the Data Routing Device 214 and the Access Point 209 from Krantz in a single device. Reply, 4-5. As discussed for Mapping #2, regardless of whether Krantz’s Data Routing Device and Access Point are combined or separate, Petitioner relied

on changing the Tag Header in the client data frame, which is not “configuring” of the access point.

B. Krantz’s “provisioning files” do not “improve compliance of the access device to the security policy.” (Claims 16, 22–23, 25, 27).

Claims 16 and 22 recite “providing information to the access device to improve compliance of the access device to the security policy[.]” The Reply—relying solely on Krantz’s provisioning files for improving compliance to *the security policy*—is nothing more than a conclusion without evidence. Reply, 7 (“Krantz expressly states that they are.”).

Krantz actually says nothing about provisioning files and security policy. Petitioner’s expert Dr. Houh explained Krantz’s provisioning is just “setting up a system in a way for a particular device...” EX2573, 130:13–31:18, 136:23-37:6 (“[T]here may be some specific configuration required on a device...an example that I described earlier about connecting say a Windows or UNIX device to an IP network where configuring it...**may include editing certain files, manually entering some data, or using the appropriate protocol that automatically gets certain parameters.**”).

This is not related to a security policy. Indeed, the Reply confirms that provisioning is just about “access” and not a security policy. That is why the Board already explained Krantz does not “teach[.]...auditing the device in accordance with a security policy.” IPR2024-00540, Paper No. 13 at 13-14.

C. Krantz and Herrmann together do not teach “facilitating updates...using the gatekeeper.” (Claim 2).

Claim 2 recites, “facilitating updates to software on the device in response to applying the security policy, *using the gatekeeper.*” The Petition first relies on Krantz’s provisioning files, Pet., 56–57, but this argument fails for the same reasons stated above, *i.e.*, provisioning files do not relate to a security policy.

The Reply also relies on Krantz being combined with Herrmann. Reply, 8. But this limitation requires “using the gatekeeper.” And as explained in the POR, Herrmann teaches an “administrator” performing this, *not* a gatekeeper. POR, 20–21. Not only does the Petition provide no reasonable justification for why Herrmann would be combined with Krantz, it confuses matters but suggesting the combination would create two new gatekeepers—Herrmann’s NAS and Herrmann’s Policy (Integrity Server). Pet. at 58. Petitioners’ challenge should be rejected.

D. “Operating system.” (Claims 10, 25)

These claims require the (audit) information relating to an “operating system” on the access device. Petitioner has solely relied on Krantz’s “configuration files.” Pet., 68–69, 98–99; Reply, 9. For reasons explained below, Krantz does not teach the claimed auditing—thus Petitioner’s argument fails.

E. The Reply merely repeats arguments for “applying a security policy” (all Claims) and “performing an audit” (Claims 16, 22-23, 25), which were serially rejected by the Board and Director.

The Petition relies on Krantz for “applying a security policy...” and “performing [an/the] audit of the access device.” Pet., 38-43, 80-87, 91. On Reply, Petitioner presses its same Krantz arguments. Reply, 9-12.

Krantz’s authentication cannot constitute “applying a security policy” or “audit[ing].” The Board and Director agree. IPR2024-00540, Paper No. 13 at 12-14; IPR2024-00678, Paper No. 14 at 14–15; IPR2024-00540, Paper No. 15; IPR2024-00678, Paper No. 16. Even Petitioner agrees: “device auditing...is **decidedly distinct** from the separate ‘authentication’ of a ‘user.’” EX2572 at 24. Between the Board and Director, Petitioner's position has been rejected four times. The Reply has no answer for this. It just re-raises these already-rejected arguments:

Petitioner Reply Argument	Board / Director Rejection
“[T]here is no factual support for InfoExpress’s assertion that the Challenged Patent provides a distinction between user authentication and security compliance of a device. ” Reply, 10-11.	[Board rejection] “We agree with Patent Owner. The ’350 patent distinguishes between user authentication using a username and password and application of a security policy.” IPR2024-00540, Paper No. 13 at 12; <i>see</i> IPR2024-00678, Paper No. 14 at 13.

<p>“Third, Krantz discloses machine or client authentication using EAP messages.” Reply, 11.</p>	<p>[Board rejection] “But Krantz teaches that EAP relates to the authentication of a user through ‘a User-Identifier’ to determine whether ‘a user of client 205 has an account with server 215.’...[H]owever, according to the ’350 patent, user authentication and application of a security policy are separate processes.” IPR2024-00540, Paper No. 13 at 13 (quoting EX1405 ¶71).</p> <p>[Director rejecting Petitioner argument that]: “[T]he Petition includes evidence that demonstrates that Krantz audits... based on ‘audit data’ related to the device, such as operating system credentials, machine information, authentication protocols, and encryption protocols.” IPR2024-00540, Paper No. 14 at 15 (request), Paper No. 15 (denial).</p>
<p>“[A]ccess to the network can be controlled by ‘configuration settings’ including supported types of encryption and authentication techniques.” Reply, 11.</p>	<p>“Petitioner first argues that Krantz teaches applying a security policy because Krantz discloses ‘that access to the network may be controlled by ‘configuration settings,’ which can include ‘supported types of encryption’ or ‘supported types of authentication,’ which can include an indication for EAP....But Krantz teaches that EAP relates to the authentication of a user through ‘a User-Identifier’ to determine whether ‘a user of client 205 has an account with server 215.’” IPR2024-00540, Paper No. 13 at 13</p>

	<p>IPR2024-00540, Paper No. 14 at 9-10, 14-15 (“configuration settings” argument; rejected in Paper No. 15).</p> <p>IPR2024-00678, Paper No. 15 at 3, 9-11 (same; rejected in Paper No. 16).</p>
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Petitioner also argues that because certain embodiments disclose authentication as being part of a security policy, then the claimed “security policy” is broad enough to read on Krantz’s authentication. Reply, 10 (citing EX1401, 12:9-11; 11:40-47). But a claim need not capture each embodiment. *SIMO Hldgs. Inc. v. Hong Kong uCloudlink Network Tech. Ltd.*, 983 F.3d 1367, 1378-79 (Fed.Cir. 2021).

No matter how many times Petitioner tries, Krantz does not teach “applying a security policy” or “audit[ing].” The Board should reject Petitioner’s reliance thereon and find these claims patentable.

F. Petitioner has not refuted InfoExpress’s evidence showing no motivation to combine Krantz and Herrmann.

Petitioner has not met its burden to show the combination. And all the Reply can do is sidestep the actual reasons why a POSITA would not combine Krantz and Herrmann.

The Reply recasts InfoExpress’s evidence as nothing more than a “bodily incorporat[ion]” of the references. Reply, 13. But the evidence is not whether Krantz and Herrmann could be a “physical substitution of elements.” *Samsung Elecs. Co., v. Elm 3DS Innovations, LLC*, 925 F.3d 1373, 1382 (Fed. Cir. 2019). Rather:

What matters in the § 103 nonobviousness determination is whether a person of ordinary skill in the art, having all the teachings of the references before him, is able to produce the structure defined by the claim.

Id.

The technology here is for network security; not “pivot pins.” *See Allied Erecting & Dismantling Co. v. Genesis Attachments, LLC*, 825 F.3d 1373, 1381–82 (Fed.Cir. 2016). And the claims requires a gatekeeper to authenticate and audit.

Here, the evidence confirms that a POSITA would not combine the *teachings* of Herrmann with Krantz. *See Samsung*, 925 F.3d at 1382-83 (“Rather, [the Board] repeatedly stated that integrated-circuit technology is complex and, as such, looked for specific evidence that a person of ordinary skill in the art would have reasonably expected success in combining Bertin’s fabrication process and Leedy’s dielectric material.”).

Houh’s *ipse dixit* conclusions of a combination being “simple” is not that specific evidence. EX1403, ¶¶106–08. Indeed, Houh did not know how long this “simple” modification would take or how much it would cost. EX2573, 180:17-25; *see TQ Delta*, 942 F.3d at 1362-63 (reversing Board’s obviousness determination based on “conclusory statements and unspecific expert testimony” as “unsupported by substantial evidence”); *In re Nuvasive*, 842 F.3d 1376, 1383 (Fed.Cir. 2016).

In contrast, Cole said exactly why Herrmann’s client-side teachings could not be combined with Krantz’s server-side authentication to meet those limitations.

POR, 34–37; EX2565, ¶¶143-54. One would simply not look to a client-side policy solution to try solve for a server-side authentication problem. It would not be helpful to a POSITA.

Recognizing this deficiency, the Reply reworks Herrmann as teaching a “server-side security policy enforcement.” Reply, 13–14. But even Herrmann says that is not true: it is a “client-side filter” which is directed to fixing a “major bottleneck to overall system performance.” POR, 34–35.

The Reply also suggests a Krantz’s 215 server can be something other than a RADIUS server. Reply, 13. But that is all Krantz discloses. And Houh confirmed that Krantz can only include a RADIUS or “authentication server.” EX2573, 70:9-14; 68:3:10; 69:2-12. Thus, Cole again explained why Herrmann’s teachings—which included a proprietary protocol (ZLX) as well as a RADIUS server 330 which even it did not use for auditing—would not be combined with Krantz’s RADIUS (or authentication) server to teach the claimed auditing or security policy evaluation. POR, 26–37.

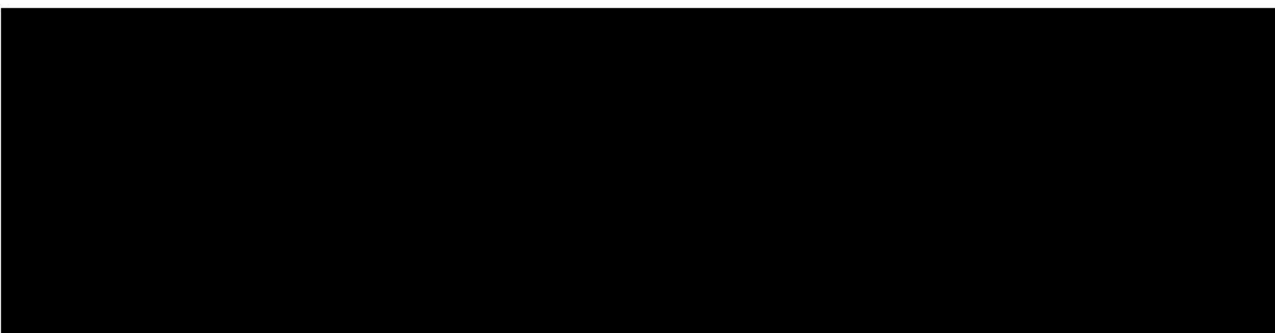
Accordingly, not only has Petitioner missed its burden, but the un rebutted failure to articulate a motivation to add Herrmann’s purported device auditing to Krantz’s server-side authentication dooms the combination.

III. PETITIONER DOES NOT DISPUTE MUCH OF OBJECTIVE EVIDENCE OF NON-OBVIOUSNESS

Dozens of secondary-considerations exhibits show why Krantz and Herrmann cannot be combined. Petitioner only challenges two of them—EX2422 and EX2470:

Patent claim limitation	Supporting Evidence	Type(s)	Challenge Citation
“applying a security policy, the security policy including one or more requirements pertaining to the authentication and the information, ...”	EX2420-EX2421	Copying	
	EX2422	Failure, praise	Reply, 16
	EX2423-EX2424	Failure, praise	
	EX2446	Failure	
	EX2447	Failure	
	EX2469	Failure	
“applying a security policy...including performing an audit of the access device”	EX2470	Failure, Praise	Reply, 16
	EX2471	Failure, praise	
	EX2477-EX2478	Copying	
“status of an application on the device”	EX2479; EX2480 at 6, 8; EX2481	Failure, praise	
“status of an operating system []on the device”	EX2482-2484, EX2489-2492	Failure, praise	
	EX2493-2495	Copying	
	EX2496–EX2501	Copying	
“operating system information from the access device”	EX2503–EX2507 inc. EX2504 at 9-11	Failure, praise, copying	
	EX2508–EX2517	Copying	
	EX2519	Copying	
	EX2526	Failure	
	EX2527	Failure, praise	

	EX2530-EX2540, EX2550-EX2554	Copying	
	EX2547	Failure, praise	
	EX2548	Failure	
“updates to software...” “providing information to the access device to improve compliance...” “software update...”	EX2423-EX2424, EX2482-EX2484, EX2489-EX2492	Failure, praise	
	EX2469	Failure	
	EX2447 at 96-97	Failure	
	EX2474	Failure, praise	
	EX2527	Failure, praise	
	EX2480 at 8	Failure, praise	



A. Nexus

Having no dispute to the nexus evidence,¹ Petitioner conjures an “incorporation by reference” procedural issue. Reply, 14-15. But the POR

¹ Nexus is typically shown by showing: (1) a specific product “embodies the claimed features, and is coextensive with them,” or (2) the objective evidence “is the direct result of the unique characteristics of the claimed invention.” *Volvo Penta of the*

consistently demonstrates *how* CG LAN practiced claim limitations, and *how* the technical documents supported that. *E.g.* POR, 44–45 (EX2478 showing the CG LAN “applying a security policy” including with data relating to the endpoint’s applications or operating system), 45–48 (EX2480 showing “applying a security policy,” “performing an audit” and updating/remediation), 48–50 (Partner Solution Brief in EX2482–EX2484, EX2423–EX2424 showing same), 51–54 (VM demo of the CG LAN in EX2496–EX2501 showing “applying a security policy” and post-admission monitoring), 56–58 (PowerPoint in EX2504 showing applying a security policy).

The same is true for other technical documents showing CG LAN covered by InfoExpress’s other patents. *See* POR, 38 (citing EX2451–EX2457, EX2459–EX2468)). *E.g.*, EX2452 at 7-11 (“performing an audit” and “applying a security policy”); EX2455 at 206-11 (same), 243 (updating/remediation), 263-270 (auditing); EX2459 at 155 (remediation).

In addition, Striegel’s expert testimony shows that CG LAN embodied the claims. POR, 41 (Striegel, ¶¶49-51) (“applying a security policy” including with

Ams., LLC v. Brunswick Corp., 81 F.4th 1202, 1210 (Fed.Cir. 2023) (cleaned up). InfoExpress demonstrated nexus both ways; Petitioner’s procedural challenge is only to the first.

EX2427, ¶¶48-56. Rather, it tries to recast these failures as “long-felt need.” Reply,

16. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] *In re Cyclobenzaprine Hydrochloride Extended-Release Capsule Patent Litigation*, 676 F.3d 1063, 1083 (Fed.Cir. 2012) (long-felt need distinct from failure of others). These failures are the exact reasons why Herrmann could not be combined with Krantz’s authentication.

Even if this was long-felt need, Petitioner’s sweeping time bar is wrong. Reply, 16. Evidence of long-felt need is appropriate even if it is after the filing date. *WBIP, LLC v. Kohler Co.*, 829 F.3d 1317, 1332-33 (Fed.Cir. 2016) (considering post-dated evidence of long-felt need); *Monarch Knitting Machine Corp. v. Sulzer Morat GmbH*, 139 F.3d 877, 884 (Fed.Cir. 1998); *Cyclobenzaprine*, 676 F.3d at 1079-80 n.7 (“Evidence of objective considerations *also may not be available until years after an application is filed.*”). [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] EX2472

C. **Industry praise**

Petitioner does not dispute [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] is undisputed, tied to the claims, and confirms non-obviousness. *Cf. Volvo*, 81 F.4th at 1212-14.

Petitioner challenges only two pieces of evidence. For EX2422, Petitioner claims the praise related to the prior art and was untethered to the patent claims. Reply, 16-17. This is wrong. “[A] nexus analysis need not be limited to a discussion of only novel features. It is instead important to consider the invention as a whole, rather than on a limitation-by-limitation basis.” *Volvo*, 81 F.4th at 1213 (cleaned up); *WBIP*, 829 F.3d at 1330 (“[P]roof of nexus is not limited to only when objective evidence is tied to the supposedly new features”). Petitioner’s “untethering” takes facts out of context. The full statement is:

[REDACTED]

EX2422.

[REDACTED]

As for EX2470, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] EX2422; EX2482–EX2484; EX2489–
EX2492.

D. Copying

Again, Petitioner sidesteps the evidence and rests on the Board's prior discovery findings. Reply, 17-18. But InfoExpress's POR contains new evidence showing:

- I [REDACTED]
- I [REDACTED]
- I [REDACTED]
- I [REDACTED]

- EX2006 is a constructive reduction to practice.

Petitioner’s superficial challenges miss their ultimate burden of persuasion under *Dynamic Drinkware, LLC v. National Graphics, Inc.*, 800 F.3d 1375, 1378-79 (Fed.Cir. 2015).

Petitioner also asserts that the conception and diligence arguments are improperly incorporated. Reply, 22 n.8. These arguments are properly outlined over 16 pages with appropriate references to evidence. POR, 62-77.

A. EX2011 shows possession of the full invention including positioning of the gatekeeper in “restricted”/“untrusted” subsets.

Petitioner doesn’t point to a single element missing from EX2011. Rather, they point obliquely to concepts like “inline” (Reply, 23) and “bottleneck” (*id.*) and “configuring the gatekeeper within, rather than inline with, the protected network”² *Id.* Petitioner’s untethered attorney argument fails.

First, even if the claims recited “bottleneck” or avoiding “inline” architecture, an *ipsis verbis* disclosure is not required for possession. *Fujikawa v. Wattanasin*, 93 F.3d 1559, 1570 (Fed.Cir. 1996).

² Petitioner advances this argument in its Reply at 26–27 with respect to a restricted subset.” However, the ‘450 Patent does not claim a “restricted subset.”

Second, EX2011 addresses bottleneck and inline problems through an architecture [REDACTED]

[REDACTED]

Page	Annotated Excerpt
7	[REDACTED]
11	

Third, Petitioner selectively isolates EX2011 Figure 3 to advance their “inline” theory. Reply, 25. But this constrained reading conflicts with EX2011. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

As for the Reply's "configuring the gatekeeper within, rather than inline with, the protected network" argument (Reply, 23-27), none of the '450 Patent claims have such a limitation. Regardless, Dr. Smith explains the "restricted subset" in EX2011:

[REDACTED]

EX2007, ¶34(d) (citing EX2011 at 7).

Smith confirmed this during his deposition:

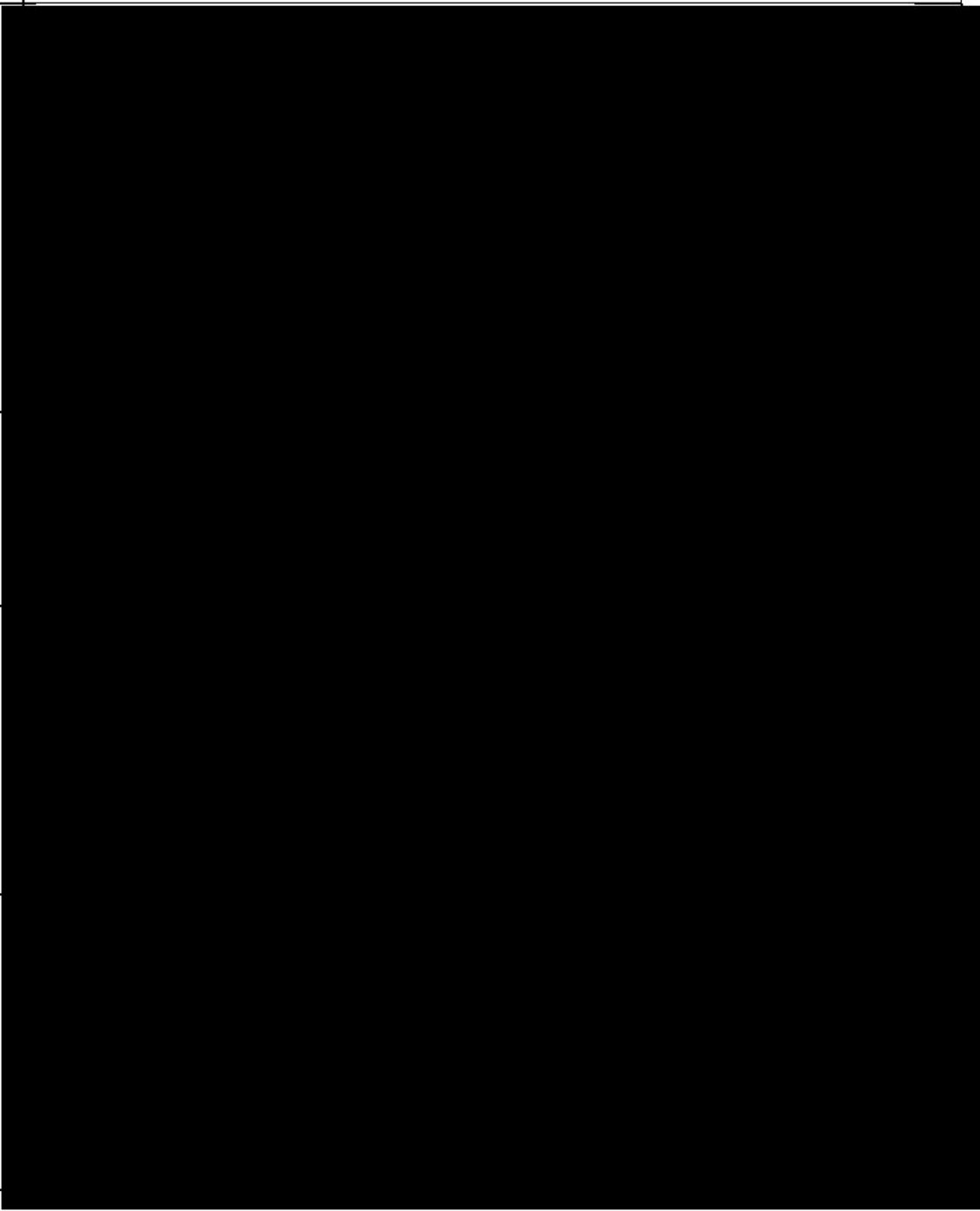
[REDACTED]

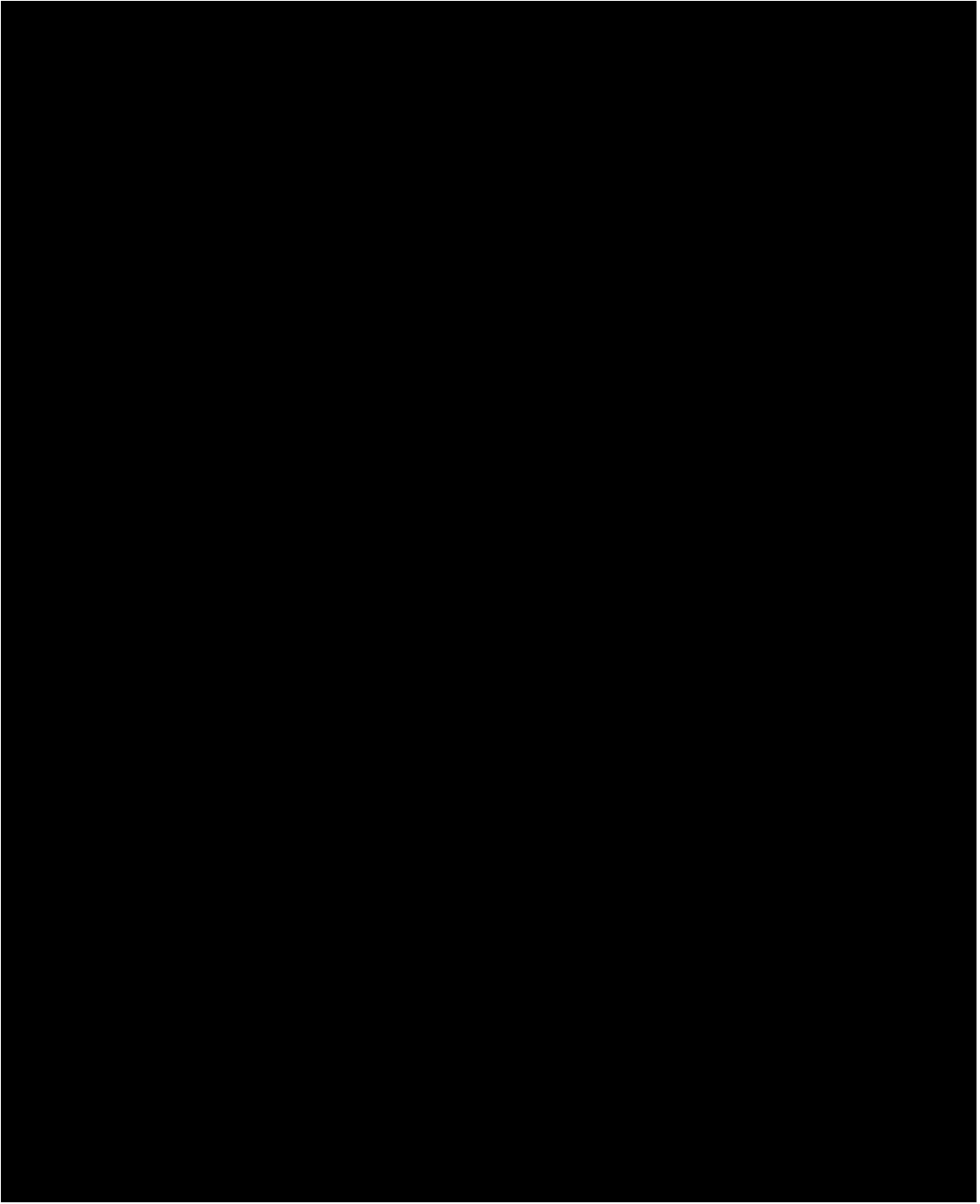
EX1426, 18:3-9.

Further, EX2011 is replete with disclosure of [REDACTED]

[REDACTED]

[REDACTED]

EX2011	Annotated Excerpt
7	
8	
9	
9	

9	
10	
10	
16	
18	

18

18

See also EX2007, ¶¶28-29. Petitioner is left only with attorney argument that cannot rebut Smith. *See Icon Health & Fitness, Inc. v. Strava, Inc.*, 849 F.3d 1034, 1043-44 (Fed.Cir. 2017).

B. Petitioner’s “company document” argument fails.

The evidence is unequivocal—[REDACTED].
E.g., EX2429; EX1425,16:19–17:11. Petitioner’s challenge is essentially that EX2011 was saved on InfoExpress servers. Reply, 19. But the evidence confirms [REDACTED]. And just because it was generated or kept by InfoExpress does not mean the ideas memorialized therein were not conceived by the inventors.

Petitioner’s case law is inapt. In fact, *New Idea* confirms inventions can occur within and inure to organizations. *New Idea Farm Equip. Corp. v. Sperry Corp.*, 916

F.2d 1561, 1566 n.4 (Fed.Cir. 1990) (“[W]hen I refer to Hesston, I mean to include Mr. Burkhart and all his colleagues...”).

C. [REDACTED]

[REDACTED]

[REDACTED]

First, this is legally irrelevant. Noninventors routinely contribute to documents describing an invention of a subset of coauthors. *E.g.*, *In re Katz*, 687 F.2d 450 (C.C.P.A. 1982). Like *Katz*, the co-inventors here testified EX2011 described their collective invention. EX2003, ¶¶7-9; EX2429, ¶¶5, 10; EX2564, ¶¶7-8, 22; EX1423; EX1425.

Second, [REDACTED]

[REDACTED]

[REDACTED]

EX2017.

Third, the only evidence Petitioner musters concerns comment 18 in a later version of EX2011. Reply, 19. But [REDACTED]

[REDACTED]

D. [REDACTED]

In EX2231, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Further, Petitioners' argument on "Lum's subjective belief" (Reply, 20-21) fails in view of *Regents of the University of California v. Broad Institute, Inc.*, 136 F.4th 1367, 1378-79 (Fed.Cir. 2025). There, the Federal Circuit vacated the Board's holding on conception, *id.* at 1381-82, and reaffirmed conception is an immutable event occurring "when the idea is so clearly defined in the inventor's mind that only

ordinary skill would be necessary to reduce the invention to practice”. *Id.* at 1378. Thus, conception occurred when the invention was described in a notebook, though reduction took months. *Id.* at 1372–78.

Like the notebook in *Regents*, EX2011 described each limitation of the claimed invention. [REDACTED]

[REDACTED]

[REDACTED]

Petitioner's “accidental anticipation” case law (Reply, 22) concerns whether or not the inventor knew he invented something at the time of alleged conception. *See, e.g., Invitrogen Corp. v. Clontech Laboratories, Inc.*, 429 F.3d 1052, 1059 (Fed.Cir. 2005); *Mycogen Plant Sci. v. Monsanto Co.*, 243 F.3d 1316, 1335 (Fed.Cir. 2001). Unlike these cases, Lum and Lee followed the more-common practice of describing the invention, then building it.

E. InfoExpress was diligent.

Petitioner's diligence qualms miss controlling thresholds from *Perfect Surgical*: “A patent owner need not prove the inventor *continuously* exercised reasonable diligence throughout the critical period; it must show there was *reasonably continuous* diligence...[P]eriods of inactivity...do not automatically vanquish...reasonable diligence.” *Perfect Surgical Techniques, Inc. v. Olympus America, Inc.* 841 F.3d 1004, 1009 (Fed.Cir. 2016) (emphasis in original).

Petitioner’s manufactured “gaps” in evidence (Reply, 27-29) are not gaps in diligence. Evidence merely “corroborates” inventor testimony that they worked consistently on the invention throughout the diligence period. EX2564, ¶23; *Monsanto Co. v. Mycogen Plant Science, Inc.*, 261 F.3d 1356, 1370 (Fed.Cir. 2001) (affirming diligence without daily entries). *I.e.*, a gap in “evidence” does not contradict [REDACTED]. *Monsanto*, 261 F.3d at 1370.

Even if “gaps” in evidence from 2002-2003 controlled, Petitioner’s “gaps” are unremarkable. [REDACTED]

[REDACTED] Petitioner’s other cherry-picked weeks-long evidence “gaps” are shorter than those excused in *Monsanto* and *Perfect Surgical*. *Perfect Surgical*, 841 F.3d at 1009 (“For example, in *Monsanto*, we held that substantial evidence supported...finding that an inventor was reasonably diligent where there was no corroborating evidence of any activity for a series of months.”)

InfoExpress’s own diligence satisfies the *Perfect Surgical* standard. *In addition to* its own internal work, it *also* worked [REDACTED] [REDACTED] toward reduction to practice. This third-party work was not mutually exclusive, *i.e.*, it all occurred around the same time. Thus, even if [REDACTED] [REDACTED] (Reply, 27-28), this is not fatal because InfoExpress was working with [REDACTED] around that same time. Indeed, work with third

parties is sufficient for reduction to practice. *Burroughs Wellcome Co. v. Barr Laboratories, Inc.*, 40 F.3d 1223, 1230 (Fed.Cir. 1994) (testing by NIH was part of RTP and “inured to the benefit” of Burroughs).

All [REDACTED] evidence (EX2022–EX2024; EX2048–EX2197) is resolutely for the claimed invention.³ InfoExpress [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

³ Petitioner broadly tries to cast certain diligence evidence as unrelated [REDACTED] correspondence. Reply, 28. But Petitioner never challenges the actual substance of the evidence. Nor could it since the vast majority of evidence references the [REDACTED] project name that produced the invention. *See, e.g.*, EX2564, ¶¶21 EX2429, ¶¶16, 19.

[REDACTED]

[REDACTED] and is un rebutted.

Petitioner doesn't challenge any of the [REDACTED] evidence. Rather, they merely speculate a single [REDACTED] proposal request negates diligence. *See* Reply, 29-30 (citing EX2022); EX2023 (attachment). [REDACTED]

[REDACTED]

[REDACTED]

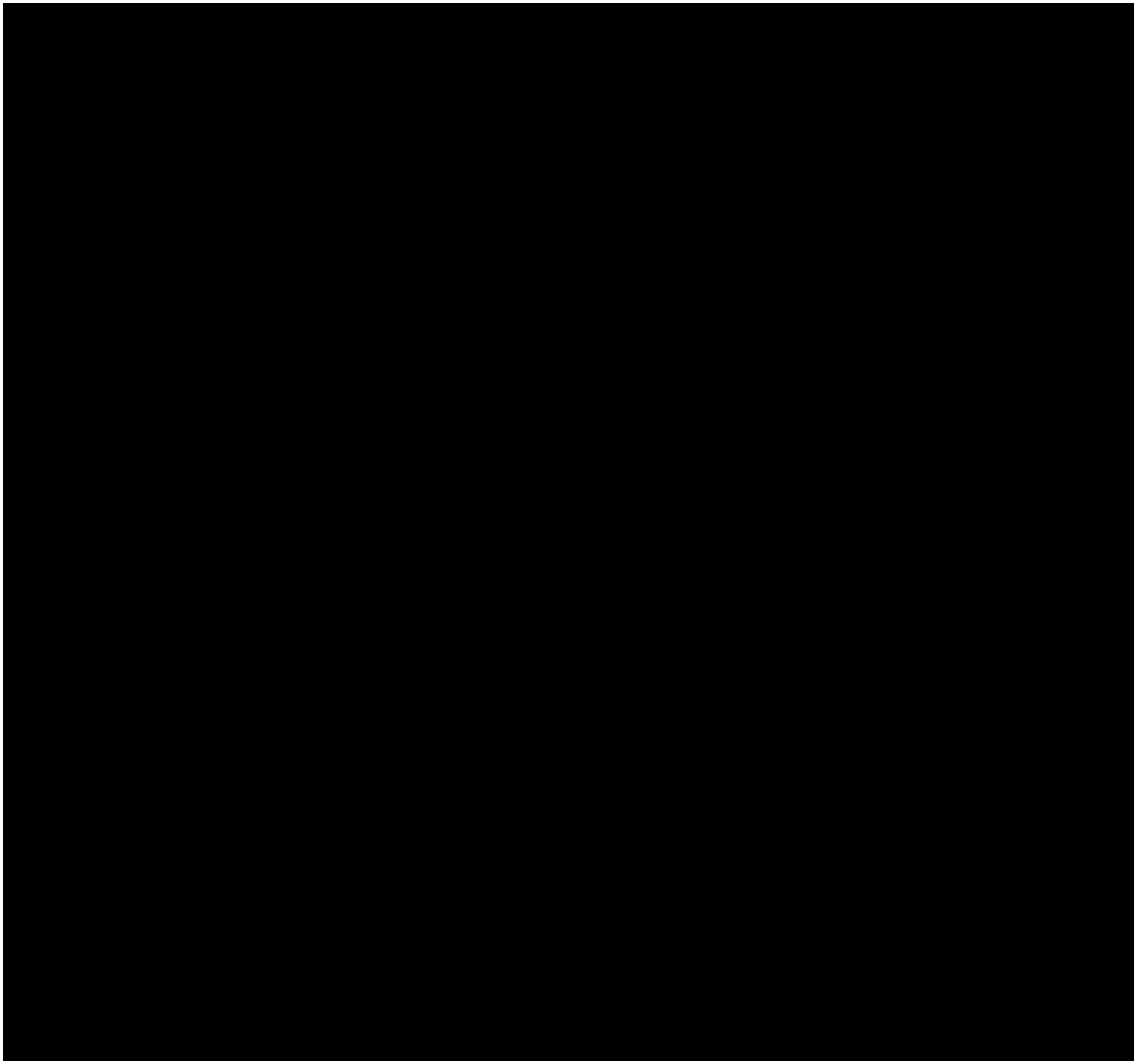
[REDACTED]

[REDACTED]

[REDACTED]

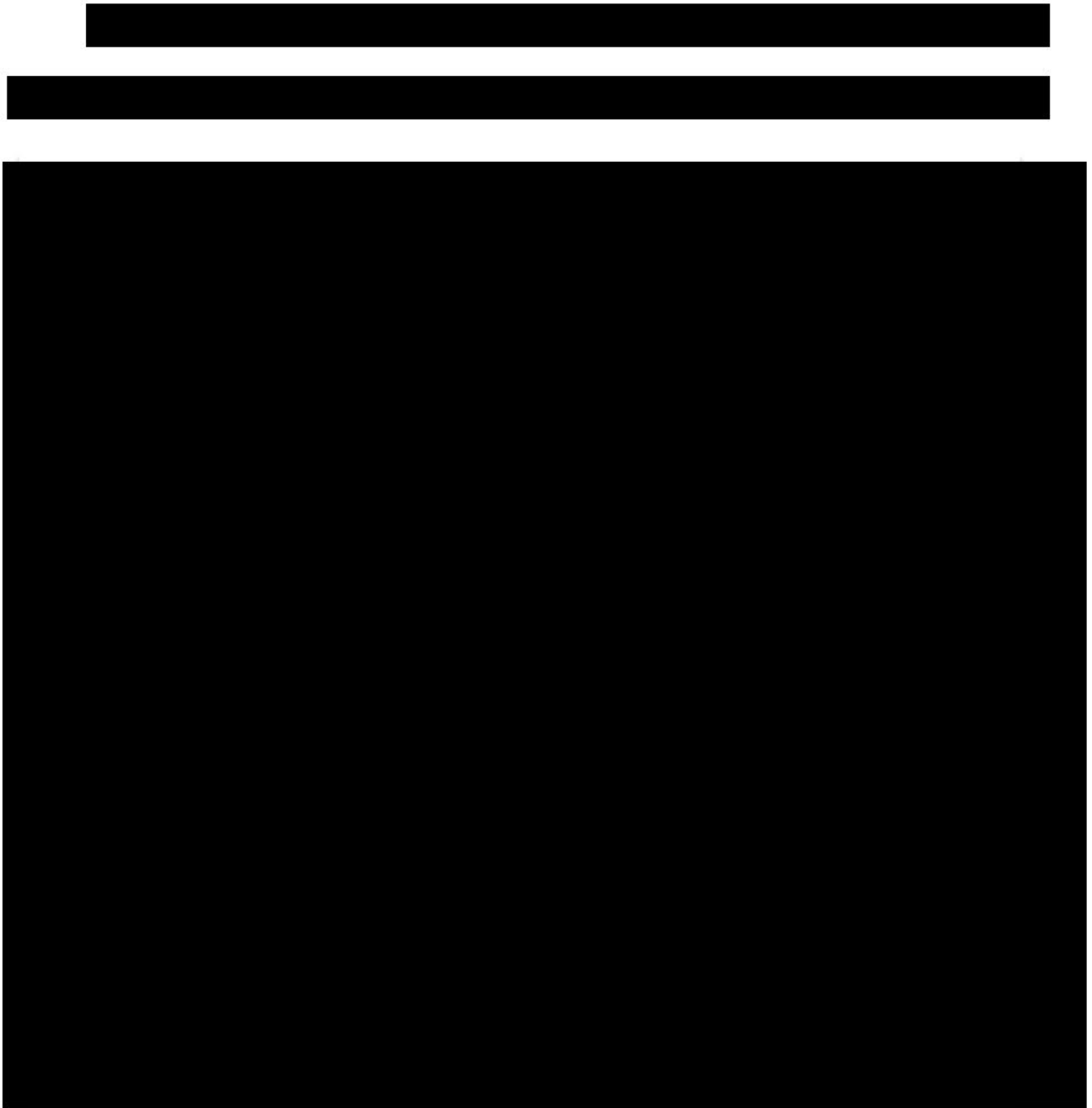
[REDACTED]

[REDACTED]

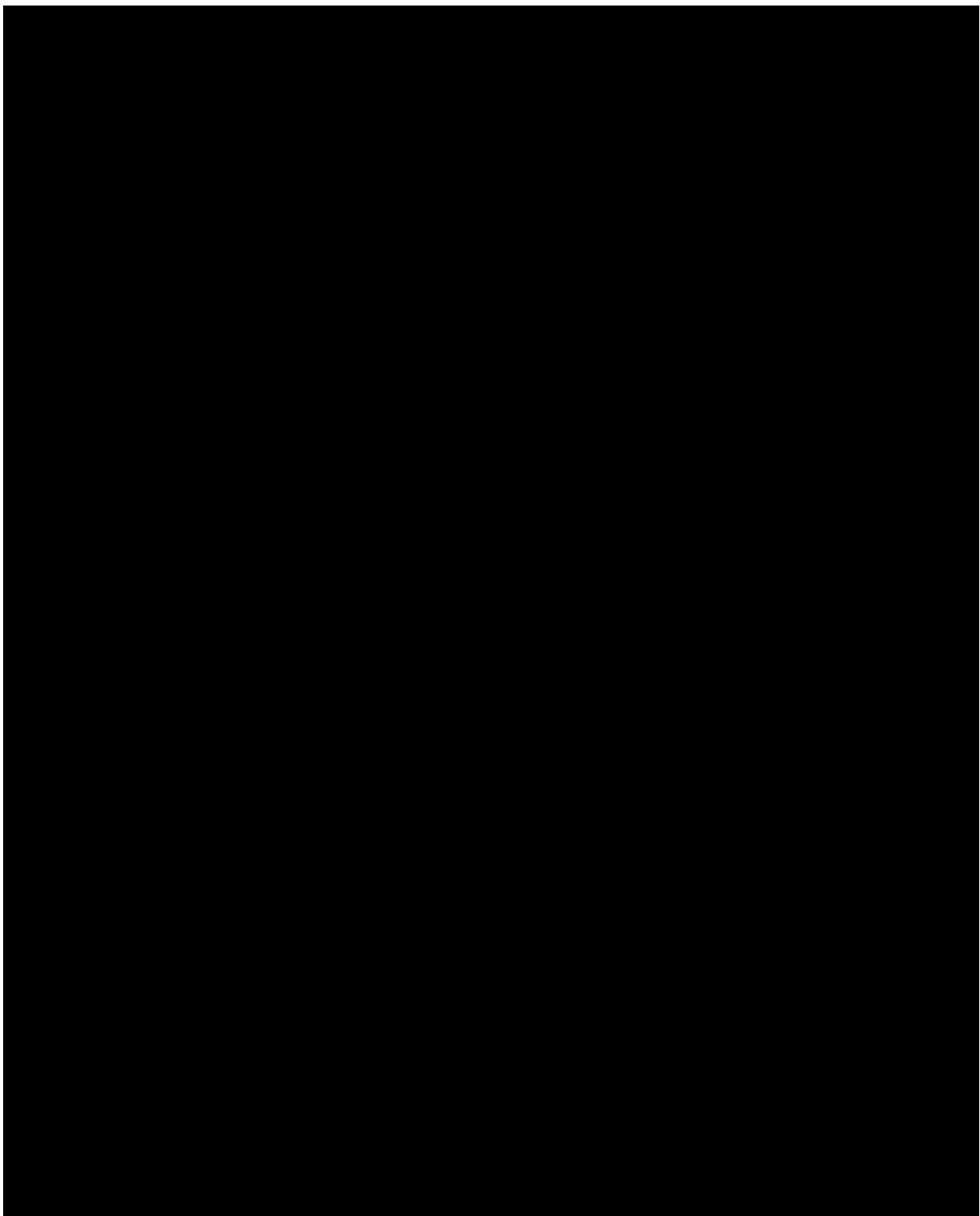


Id. (annotated).

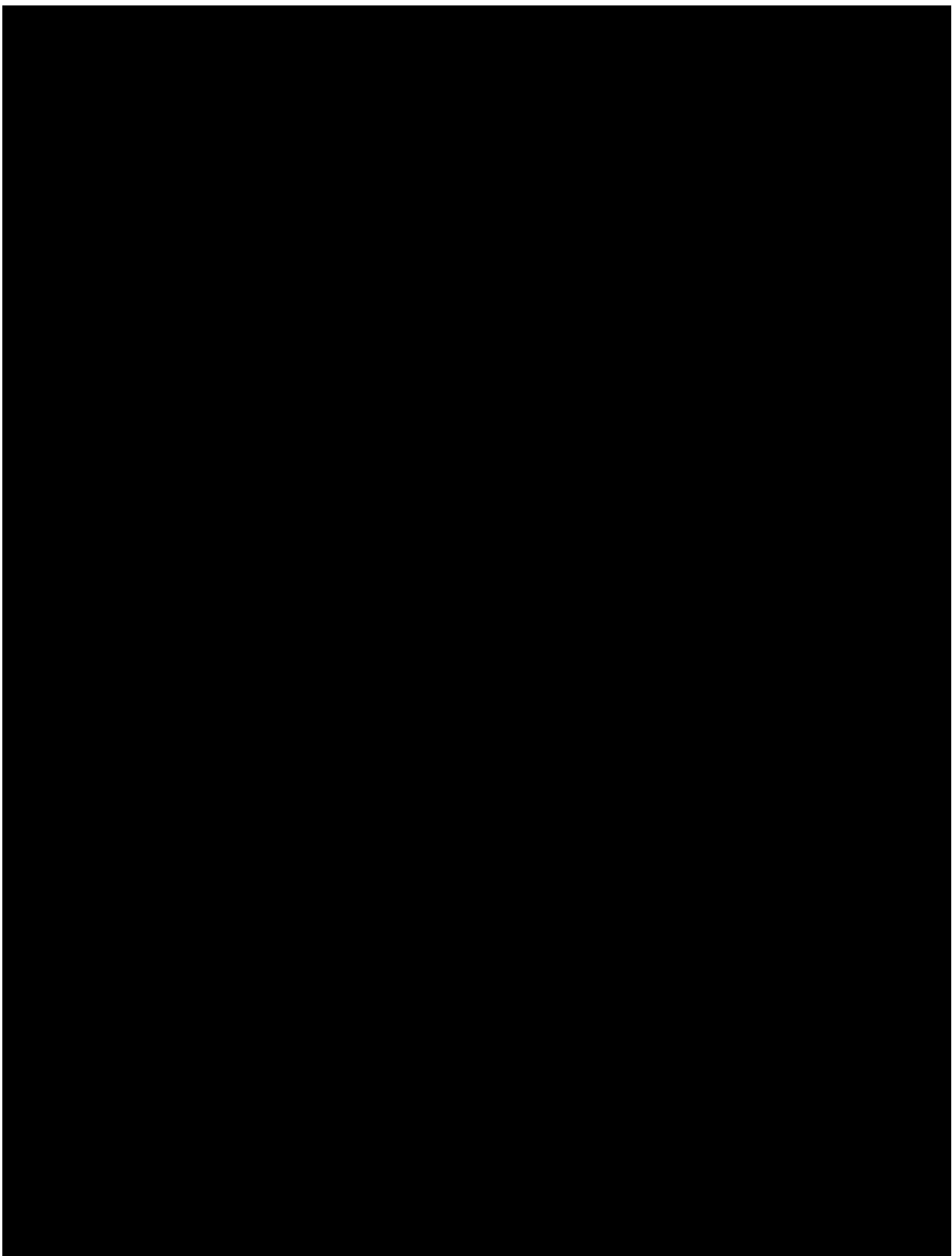




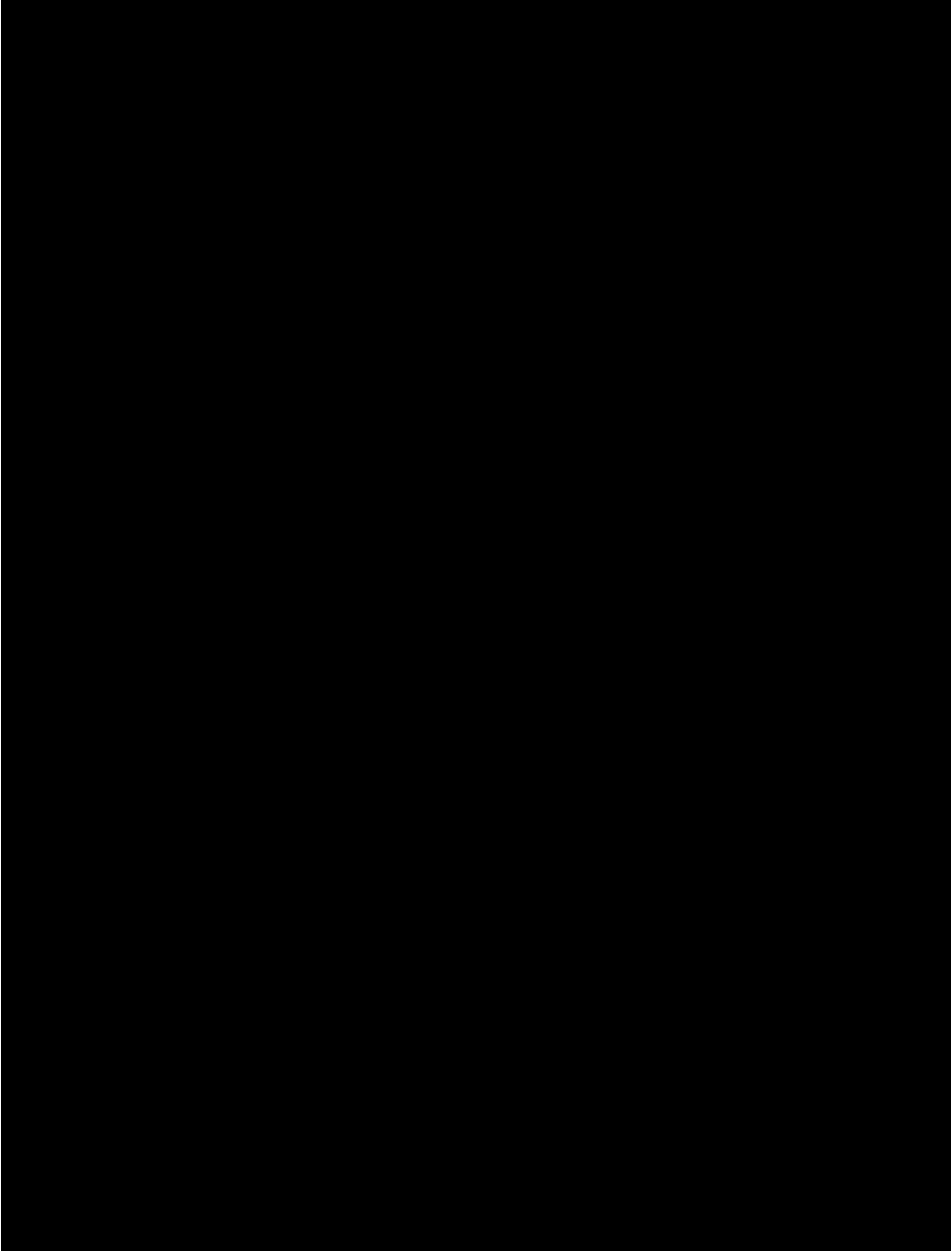
EX2114 (annotated). *Also* EX2131 (April report). `



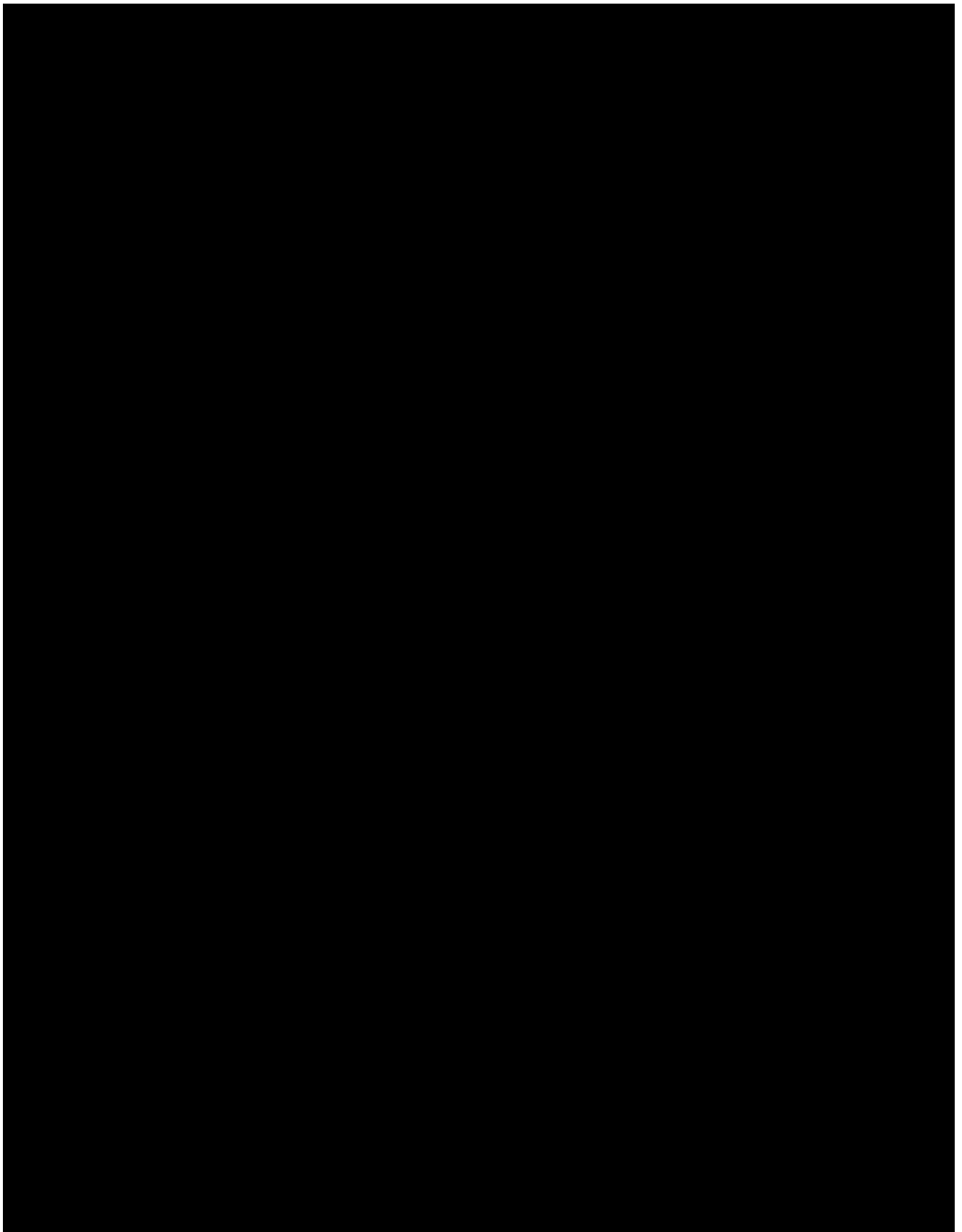
EX2197 (annotated).



EX2359 (annotated).



EX2405 (annotated)



EX2303 (annotated).

In parallel, [REDACTED]

[REDACTED] (EX2133; EX2142; EX2195) [REDACTED]

[REDACTED]. EX2558; EX2562.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

V. CONCLUSION

InfoExpress respectfully requests the Board find all Challenged Claims not unpatentable.

Respectfully submitted,

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Certification of Word Count Under 37 C.F.R. § 42.6(d)

The undersigned hereby certifies that the foregoing complies with the type-volume limitation in 37 C.F.R. § 42.24(b)(1). According to the word-processing system's word count, the document contains 5451 words, excluding the parts of the brief exempted by 37 C.F.R § 42.24(b).

Date: **June 30, 2025**

/Brian R. Landry/
Reg. No. 62,074

Certification of Service Under 37 C.F.R. § 42.6(e)(4)

The undersigned hereby certifies that the foregoing was served in its entirety by filing through the Patent Trial and Appeal Board P-TACTS, as well as providing a courtesy copy via e-mail to the attorneys of record.

Date: **June 30, 2025**

/Brian R. Landry/
Reg. No. 62,074