

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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CISCO SYSTEMS, INC. and FORTINET, INC.,  
Petitioners,

v.

INFOEXPRESS INC,  
Patent Owner.

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IPR2025-00677  
U.S. Patent No. 8,578,444

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**PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE**

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**PETITIONER'S EXHIBIT LIST**

| <b>No.</b> | <b>Exhibit Description</b>                                                                                         |
|------------|--------------------------------------------------------------------------------------------------------------------|
| 1201       | U.S. Patent No. 8,578,444                                                                                          |
| 1202       | U.S. Patent No. 8,578,444 File History                                                                             |
| 1203       | Declaration of Henry Houh, Ph.D                                                                                    |
| 1204       | CV of Henry Houh, Ph.D                                                                                             |
| 1205       | U.S. Patent Pub. No. 2004/0111520 to Krantz et al                                                                  |
| 1206       | U.S. Patent Pub. No. 2004/0107360 to Herrmann et al                                                                |
| 1207       | IEEE Std 802.1Q-1998 – IEEE Standard for Local and Metropolitan Area Networks: Virtual Bridged Local Area Networks |
| 1208       | U.S. Patent No. 6,430,621 to Srikanth et al.                                                                       |
| 1209       | U.S. Patent No. 6,032,194 to Gai et al.                                                                            |
| 1210       | Cisco IOS 12.0 Switching Services (1999)                                                                           |
| 1211       | Microsoft Computer Dictionary 5 <sup>th</sup> Edition (2002)                                                       |
| 1212       | Webster's New World Computer Dictionary (2001)                                                                     |
| 1213       | [Reserved]                                                                                                         |
| 1214       | [Reserved]                                                                                                         |
| 1215       | [Reserved]                                                                                                         |
| 1216       | RFC 2716 – PPP EAP TLS Authentication Protocol                                                                     |
| 1217       | Wireless security with 802.1x and PEAP (2003)                                                                      |
| 1218       | Declaration of Joseph C. Masullo                                                                                   |
| 1219       | Declaration of Krishnan Padmanabhan                                                                                |

|      |                                                      |
|------|------------------------------------------------------|
| 1220 | [Reserved]                                           |
| 1221 | [Reserved]                                           |
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| 1224 | [Reserved]                                           |
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| 1226 | Deposition Transcript of Hugh Smith, Ph.D            |
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## **I. INTRODUCTION**

Petitioners respectfully submit this reply brief in support of its Petition for *inter partes* review of claims 1-7, 10, 12, 17 and 22 of U.S. Patent No. 8,578,444 (“the 444 Patent” or the “Challenged Patent”) (Ex.1201).

## **II. THE CHALLENGED CLAIMS ARE UNPATENTABLE**

### **A. Ground 1: Claims 1-7, 10, 12, 17 and 22 are Obvious Based on Krantz and Herrmann**

#### **1. Auditing a Device and Audit Data**

Petitioner demonstrated that Krantz discloses “*a method for auditing a device*”<sup>1</sup>, Petition, 20-24, and “*receiving audit data*,” Petition, 36-38. InfoExpress responds that there is a “Krantz only discloses user authentication; not device auditing.” POR, 15. InfoExpress is wrong for three reasons.

First, as InfoExpress's Expert Dr. Cole admits and the 444 Patent confirms, “user authentication” may be part of “*auditing a device*.” Ex.1222, 8:4-16, 9:12-10:9; Ex.1201, 6:42-56, 12:9-11. Dr. Cole further agreed that collecting “username” and “password” may be part of a security policy audit. Ex.1222, 8:4-

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<sup>1</sup> InfoExpress asserts the preamble is limiting. POR, 13-14. The preamble is not limiting because it only states a purpose (*i.e.*, auditing) and the claim is structurally complete—“a preamble is not limiting ‘where a patentee defines a structurally complete invention in the claim body and uses the preamble only to state a purpose or intended use for the invention.’” *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305 (Fed. Cir. 1999).

16. Accordingly, Krantz discloses authenticating a user of a device (“*auditing a device*”) and collecting usernames and passwords (“*audit data*”). Ex.1228, ¶30.

Second, Krantz also discloses “*auditing*” via machine/client device authentication through use of EAP messages. Krantz discloses that “computer systems can attempt to authenticate with one another.” Petition, 21-22. Petitioner further demonstrated that EAP-TLS and EAP-MSChapV2 were two types of authentication protocols “that would be used to authenticate client devices.” Petition, 21; Ex.1203, ¶¶73-78 (citing Ex.1217); *see also* Petition, 27-28. Dr. Cole agreed that the “client” in Krantz is a **computer**. Ex.1222, 13:23-14.3; *see also* Ex.1205, [0074] (“**[C]omputer systems can attempt to authenticate with one another** through the transfer of EAP messages). Dr. Houh further states that the specification for EAP-TLS explicitly states that it discloses machine/client device authentication. Ex.1228, ¶32 (citing Ex.1216).

Dr. Houh also testified that Krantz's disclosure of these protocols includes machine certificates that can be submitted as credentials independent of user authentication. EX2449, 185:17-187:15. Krantz also includes a server (“*gatekeeper*”) that can authorize access to the protected network resources based on credentials supplied by the device or user (“*audit data*”). Petition, 38-39; Ex.1203, ¶¶98-99. Apart from data exchanged via EAP, other “*audit data*” provided by Krantz's client may include “*device*” credentials such as operating

system or other credentials used to authenticate the device. Petition, 38-42; Ex.1203, ¶¶99-100; Ex.1228, ¶¶32-33.

Third, Krantz also discloses “configuration requirements” as part of “*auditing a device*,” Ex.1205, [0066]-[0067], which are disclosed in the Challenged Patent as part of a security audit, Ex.1201, 6:42-56, as Dr. Cole confirmed. Ex.1222, 8:20-9:11. For example, Krantz discloses that access to the network can be controlled by “configuration settings” including supported types of encryption and authentication techniques. Ex.1205, [0066]-[0067]; Ex.1203, ¶114; *see also* Petition, 60 (citing Ex.1203, ¶137); Ex.1228, ¶¶31-33.

Finally, InfoExpress does not dispute that the combination of Herrmann and Krantz disclose “*receiving audit data*.” Petition, 42-44 (explaining how the combination of Krantz and Herrmann disclose “*receiving audit data*” including checking for a “specific virus protection program,” as disclosed in Herrmann).

## **2. Configuring the Access Point**

InfoExpress contends that “claims 2-7 and 22 require ‘configuring the access point’—not configuring something else,” POR, 12-13, 18—and asserts that Krantz does not disclose this. POR, 18. InfoExpress is wrong for several reasons.

Initially, “*configuration of [an] access point*” was a well-understood concept in the field of computing at the time of the invention. POR, 21.

InfoExpress does not dispute that “Krantz’s access point switches from inserting Tag Headers that enable access only to VLAN B to inserting Tag Headers that enable access to VLAN C, [or that] ... [P]ort 251 does the actual insertion of Tag Headers within access point 209.” POR, 18-19. Instead, InfoExpress contends that “[t]here is no evidence of any **change** to the access point. . . .” *Id.*

InfoExpress is incorrect—the opposite is true. Dr. Houh submitted four contemporaneous documents that fully supported his opinion that **port 251 of the access point 209 of Krantz**—when configured as a VLAN aware device—**is reconfigured**. Petition, 63-66; Ex.1203, ¶145. By contrast, InfoExpress relies solely on attorney argument and *ipse dixit* expert testimony to try to rebut that point—which are neither evidence, nor can they properly rebut admitted evidence. *Gemtron Corp. v. Saint-Gobain Corp.*, 572 F.3d 1371, 1380 (Fed. Cir. 2009); *Samsung Elec. v. Mfg. Res. Int’l*, IPR2023-00221, Paper 54, n.12 (P.T.A.B. June 18, 2024).

As Dr. Houh explains, Krantz discloses the “*configuring the access point*” limitation under its plain and ordinary meaning because it demonstrates how there is a **change in the instructions provided to a communication port of an access point** so that data is transferred to VLAN C instead of VLAN B after a client becomes authorized. In particular, Krantz discloses:

When client 205 is authorized to access resources located on VLAN C, **access point 209 may enable any protocols that are currently blocked for port 251** and may insert Tag Headers” indicating that data from client 205 is to be transferred to VLAN C [the “*less-restricted subset*”]. 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.**

Ex.1203, ¶145; Ex.1205, [0107]. Krantz is therefore explaining that Server 215 is sending commands to change the port's instructions when the client becomes authorized, Ex.1228, ¶15, which InfoExpress would concede discloses “*configuring the access point.*” EX2565, ¶80.

Krantz's disclosure is consistent with that of the Challenged Patent:

Access Control 320 **sends appropriate commands** to Switch Logic 317. **These commands cause changes in Port 305A**, such that communication from Access Device 230 **is no longer blocked** by ACL 340C and can now be received by elements of Less-restricted Subset 310.

Ex.1201, 9:53-57; Ex.1228, ¶16.

Further, Plaintiff's expert Dr. Cole admits that Krantz's server 215 (“*gatekeeper*”) makes the determination about whether data is from an authorized user. EX2565, ¶78. He also admits that the “access point may insert a different Tag Header into the data frame to label it as corresponding to VLAN C [*“the less-*

*restricted subset*”].” EX2565, ¶78. What is omitted from his analysis is Krantz’s disclosure that server 215 sends commands to access point 209 when the client becomes authorized to access resources on VLAN C to “cause access point 209 to insert appropriate Tag Headers.” Ex.1205, [0107]. Krantz thus expressly teaches “changing how the access point operate[s],” EX2565, ¶81, contrary to Dr. Cole’s opinion. Further, Dr. Cole admits that reconfiguration of a port includes providing instructions to change the operation of a communication port. Ex.1222, 34:7-20, 35:12-16; *see also* EX2565, ¶81 (“[C]onfiguration of the access point could be done by changing the instructions that correspond to a particular tag header”). This is precisely what Krantz teaches. Petition, 63-66; Ex.1203, ¶¶144-147; Ex.1228, ¶17.

Accordingly, Krantz’s teaching, at a minimum, encompasses **changing the operation** of the input port 251 of access point 209, and is entirely consistent with the Challenged Patent’s claimed “*configuring the access point*.” Ex.1228, ¶18.

Dr. Houh’s testimony also demonstrates that the “*configur[ation]*” element would have been obvious based on the combination of the Data Routing Device and Access Point. Petition, 66-70; Ex.1203, ¶¶148-155. Krantz explains that the combined Data Routing Device and Access Point “can be configured to allow access to one network (e.g., network 412) while at the same time restricting access to another network (e.g., network 413).” Ex.1205, [0051]. Critically, this

describes the same “*configuration of the access point*” in response to application of as security policy functionality as the Challenged Patent. Ex.1201, 3:30-33; Ex.1228, ¶19.

Dr. Houh explained that the technique discussed with respect to the “data routing device 214” could simply be implemented **at the access point itself** as the data routing device is merely a “logical representation” of, e.g., a router and/or switch. Dr. Houh also states that **access point 209** would implement that port configuration and data transfer techniques described with respect to “data routing device 214.” Ex.1203, ¶152 (citing Ex.1205, [0059]); Petition, 68.

Krantz explains that

Data routing device 414 logically represents a computer system ... **when data routing device 414 receives data from network 411, data routing device 414 can determine if the data is to be transferred to network 412 or network 413.** As such, data routing device 414 can **be configured to** allow access to one network (e.g., network 412) while at the same time restricting access to another network (e.g., network 413).

Petition, 67-68 (citing Ex.1203, ¶¶150-151; Ex.1205, [0051]). Moreover, such a “determin[ation]” would be “**based on configuration rules,**” and “[i]t may also be that a data frame is **transferred in and out of data routing device 214 at the**

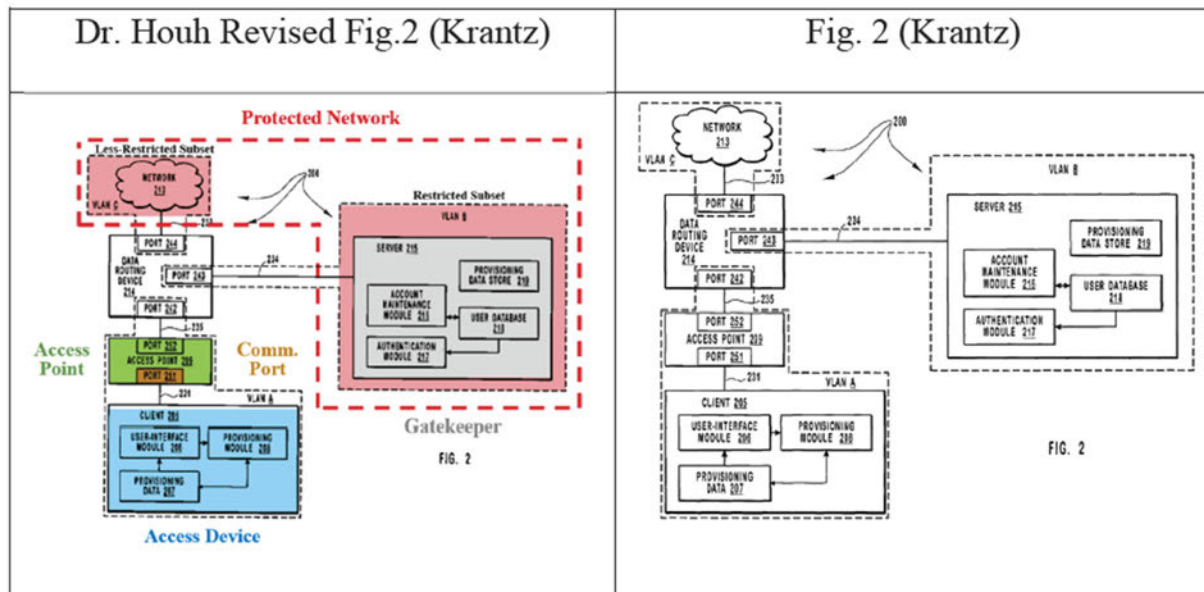
**same port.”** Petition, 68-70; Ex.1203, ¶¶154-155 (citing Ex.1205, [0051], [0059], [0060], [0064], [0069], [0073]). Ex.1228, ¶19.

Accordingly, Dr. Houh explains this combination satisfies the “*configuring the access point*” limitation under its plain and ordinary meaning because, based on **configuration rules**, the “*access point*” and port 251 are re-configured to transfer to VLAN C instead of VLAN B. Ex.1228, ¶20.

Thus, Krantz discloses “*configuring the access point*” based on this combination alone. This combination further discloses “*configuring the access point*” for the reasons demonstrated above related to VLAN tagging. Petition, 67.

### **3. A Less-Restricted Subset of the Network**

InfoExpress contends that “[t]o try and get to ‘subsets,’ Petitioner cobbles together Krantz’s teaching of multiple *separate and distinct* networks to fit the Challenged Claims.” POR, 22. InfoExpress depicts a clean copy of Figure 2 of Krantz with a version Dr. Houh “revised” (below) and asserts that “Petitioners [] misrepresent Krantz’s actual disclosure by using the Patent as a blueprint for redrawing Fig. 2 to portray a ‘protected network’ despite Krantz not reciting any ‘protected network.’” POR, 23. Initially, none of the claims recite a “*protected*” network.



POR, 24.

Dr. Houh has not “revised” the figure in any way—Dr. Houh annotated the figure to depict the logical components and associations that were the focus of his analysis. Regardless, InfoExpress’s argument is inconsistent with the Challenged Patent and known networking techniques at the time. A POSITA would have understood that the devices in Krantz could be organized in various logical associations regardless of their physical structures or other arbitrary distinctions as to the scope of the network, *see* Ex.1203, ¶¶108-118, as confirmed by InfoExpress’s own documents. EX2447, 52; EX2558, 5; Ex.1228, ¶24.

Logical segmentation of physical pre-existing networks was well-known at the time of the 460 Patent, Ex.1201, 5:59-63, and Dr. Cole confirmed that the claimed “Protected Network” could be physically or logical divided. Ex.1222,

11:4-10. Hence “cobbling together” physical network components is the very essence of a logical network. Ex.1228, ¶25.

In Krantz, the “second network”—VLAN C (not Server 215 as InfoExpress wrongly contends)—is a “*less-restricted subset of a protected network*” because it provides “full access to [its] resources” to authorized users (Ex.1205, [0019]), like the “*less-restricted subset of a protected network*” of the 444 Patent. The 444 Patent explains that “[t]he less-restricted subset being **less restricted** relative to the restricted subset **in terms of what elements may be included in each subset.**” Ex.1201, 5:46-48. Ex.1228, ¶¶26-28.

#### 4. Claims 5-7, 12 and 22

As demonstrated above and in the Petition, Krantz discloses “*auditing*” and “*audit data.*” InfoExpress’s arguments for claims 5-7 and 22 are premised based on its incorrect assertion that Krantz discloses neither “*auditing*” nor “*audit data,*” which as demonstrated above and in the Petition (*see* Claims 5-7 and Claim 22.8), are incorrect—for example, re-authentication would include client/machine authentication, which would comprise “*re-auditing*” and receiving “*updated audit data.*” *See* §II.A.1; Ex.1203, ¶¶170-191, 208.

#### 5. Claim 17

InfoExpress wrongly contends that Krantz’s disclosure of “provisioning files” are not in response to applying a security policy—but Krantz expressly states that it

is. Petition, 84; Ex.1203, ¶194 (citing Ex.1205, [0056]; *see also* Ex.1205, [0032], [0078]). The Petition further refers to [0079] of Krantz, which explains server 215 (“*gatekeeper*”) provides for the provisioning files in order to gain full access. Petition, 85.

InfoExpress also wrongly challenges the individual aspects of Herrmann, rather than challenging the combination. *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

## 6. Krantz and Herrmann

InfoExpress asserts that Petitioners have “failed to demonstrate the combination,” but InfoExpress’s arguments are rooted in a misunderstanding of the references and a misapplication of the law.

For example, InfoExpress appears to suggest that Krantz and Herrmann are non-analogous art. POR, 32-33. But as demonstrated in the Petition, Krantz and Herrmann are both directed toward the same field of endeavor of the 444 Patent—Network Security—Petition, 15-17 (citing Ex.1205, Abstract; Ex.1206, Abstract. Ex.1203, ¶56), and reasonably pertinent to a problem described by the 444 Patent—the reliance “on mere **user** authentication” and the need to “assure that **an access device** used by the authenticated user meets network security policies” such as current anti-virus software. Ex.1201, 1:49-63. Both references teach additional aspects to a security policy. Petition, 16-18 (citing Ex.1203, ¶¶56-61). And

contrary to InfoExpress's assertion it is limited to **user** authentication, Krantz discloses that "access point 209 may block [] protocols ... from being transferred **until client 205 is authenticated (and authorized),**" Ex.1205, [0072], and that as part of its security policies, client devices are authenticated, (Ex.1205, [0067]-[0074], [099]) and users of client devices are authenticated, Ex.1205, [0074], [0076]. *See* Petition, 14 (citing Ex.1203, ¶51).

In addition, InfoExpress's argument against modifying Krantz to include Herrmann's teachings misapplies the law. For example, InfoExpress narrowly focuses on one embodiment of Krantz (involving a RADIUS server) and the hardware architecture of Herrmann to arrive at the conclusion that policy data "would be rejected by Krantz's RADIUS server 215." POR, 36-37. More poignantly, InfoExpress contends that Krantz and Herrmann "would not work together." POR, 38. Thus, InfoExpress's argument is based on attempting to bodily incorporate the two references—a notion that has been considered improper countless times. "The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference." *Allied Erecting & Dismantling Co. v. Genesis Attachments, LLC*, 825 F.3d 1373, 1381 (Fed. Cir. 2016) (quoting *In re Keller*, 642 F.2d 413, 425 (C.C.P.A. 1981)); *see also In re Etter*, 756 F.2d 852, 859 (Fed. Cir. 1985) (en banc) (explaining that whether one reference can be incorporated in another is

In addition, InfoExpress’s argument that Herrmann teaches away<sup>2</sup> from a server-side solution is also incorrect. Herrmann is directed to enforcement at a policy server. Ex.1206, [0067]. Herrmann teaches that its “**policy server 460 evaluates** whether or not the client device 310 has a correct, up-to-date version of the applicable security policy.” Ex.1206, [0067]-[0068]. Contrary to InfoExpress’s assertion, Herrmann teachings are specifically directed to server-side security policy enforcement.

### III. NO SECONDARY CONSIDERATIONS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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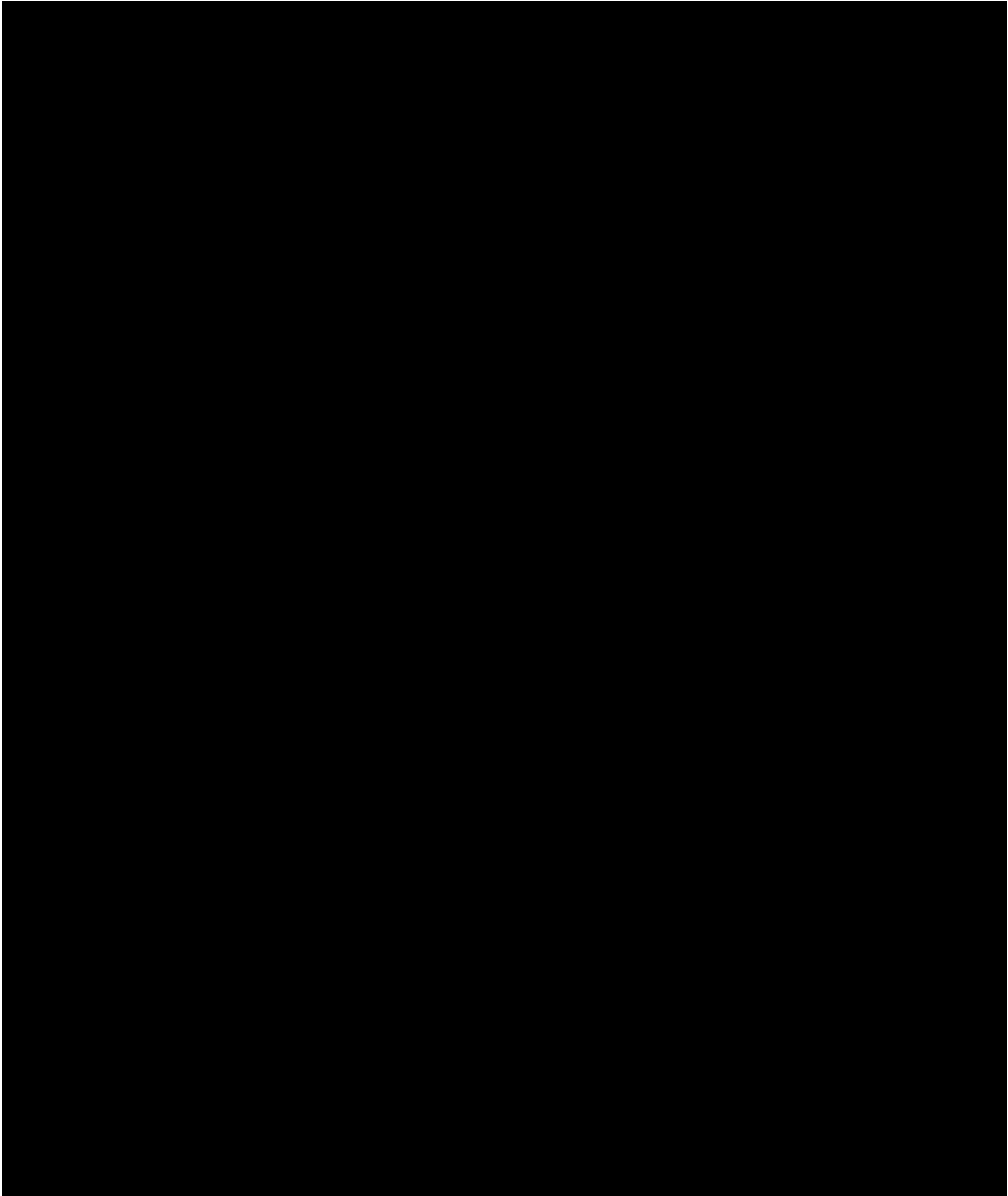
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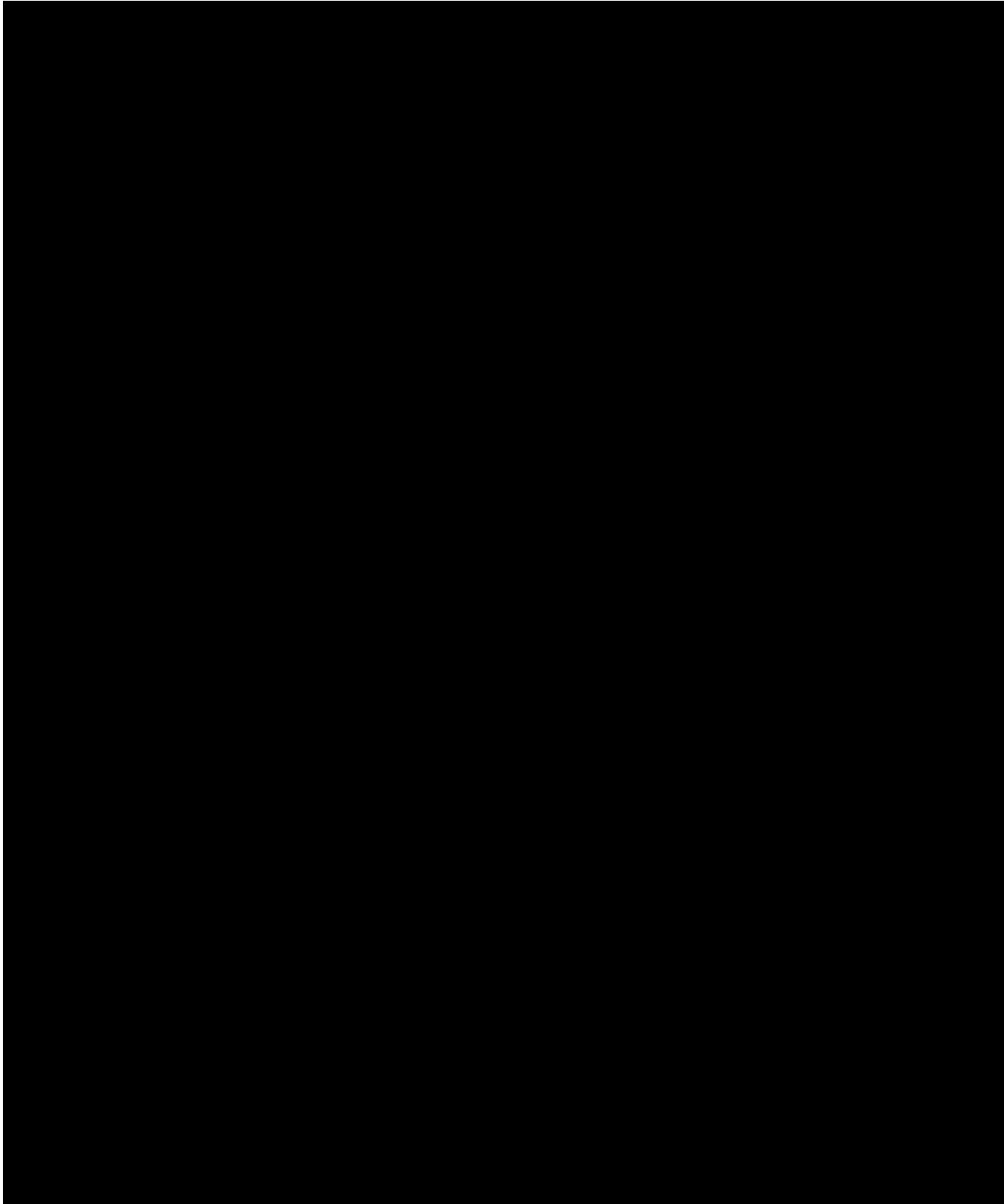
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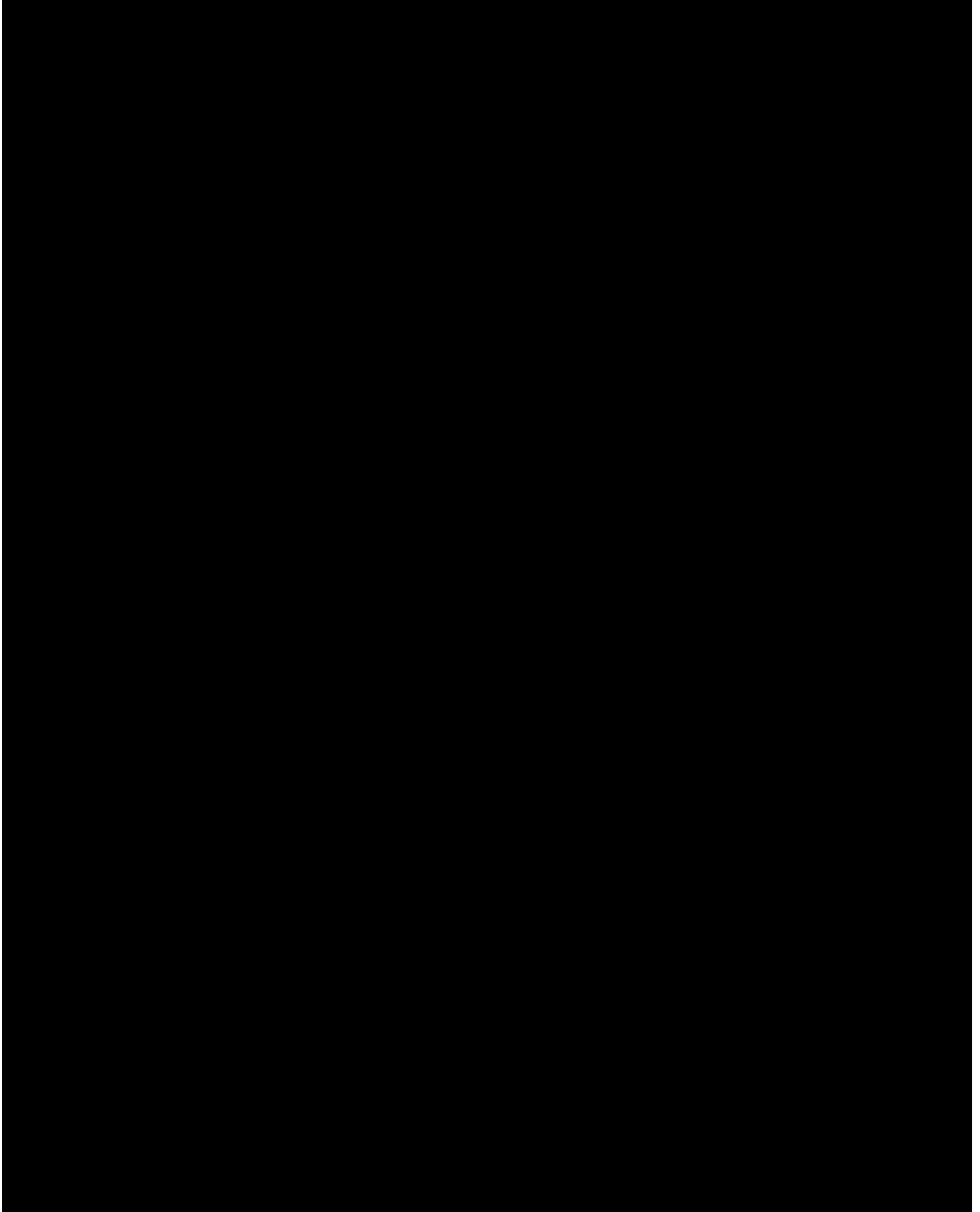
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A horizontal bar chart consisting of 15 solid black bars. The bars are arranged vertically, with their lengths varying. The second bar from the top is the longest, extending across most of the width. The top and bottom bars are the shortest. The lengths of the bars follow a roughly bell-shaped distribution.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

InfoExpress has thus failed to establish diligence.

Dated: May 8, 2025

Respectfully Submitted,

/Scott M. Border/

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**Certificate of Compliance**

I hereby certify that this brief complies with the type-volume limitations of 37 C.F.R. § 42.24 and the Board's March 6, 2025 approval of the parties' proposed reply word limit of 5,814 for this reply, because it contains 5,558 words (as determined by the Microsoft Word word-processing system used to prepare the brief and including annotations to the figures), excluding the parts of the brief exempted by 37 C.F.R. § 42.24.

Dated: May 8, 2025

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**Certificate of Service**

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on this 8th day of May, 2025, I caused to be served a true and correct copy of the via electronic service on the following:

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