

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.

IPR2024-00679
U.S. Patent No. 7,523,484

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 '484 Patent
2010	Constructive Reduction to Practice of the '484 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
2017	Internal InfoExpress Correspondence
2018	Internal InfoExpress Correspondence
2019	Internal InfoExpress Correspondence
2020	Internal InfoExpress Correspondence
2021	Internal InfoExpress Correspondence
2022	Correspondence with Globe Tech
2023	Email attachment to Exhibit 2022
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2061	Draft Globe Tech Agreement
2062	Draft Globe Tech Agreement
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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2074	Correspondence with Globe Tech
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2079	Email attachment to Exhibit 2078
2080	Correspondence with Globe Tech
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2108	Internal InfoExpress Correspondence
2109	Correspondence with Globe Tech

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2112	Correspondence with Globe Tech
2113	Internal InfoExpress Correspondence
2114	Correspondence with Globe Tech
2115	Email attachment to Exhibit 2114
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2147	Correspondence with Globe Tech
2148	Correspondence with J. Ong
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2162	Correspondence with Globe Tech
2163	Correspondence with C. Tsai
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2203	Correspondence with A. Lee
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2281	Correspondence between T. Nakano and S. Lum
2282	Draft Meetinghouse Agreement
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2327	Draft Patent Application
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2329	CyberGatekeeper Enforcement Modes
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2408	Correspondence with Globe Tech
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2410	Correspondence with Globe Tech
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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2418	Correspondence with Cisco
2419	Correspondence with Cisco
2420	Correspondence with Cisco and KeyLabs
2421	Email attachment to EX2420
2422	Correspondence with Cisco
2423	Correspondence with Cisco
2424	Email Attachment to EX2423
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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
2438	Metadata for EX2437
2439	Internal InfoExpress Correspondence
2440	Internal InfoExpress Correspondence
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2442	Internal InfoExpress Correspondence
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
2460	Installation Guide v9.0
2461	About CGX
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2470	Correspondence with Cisco
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2472	Cisco Announces Continued Momentum within Network Admission Control Industry Initiative
2473	Correspondence with Cisco
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2518	Intentionally Left Blank
2519	NAC2 Beta Deployment Guide
2520	Internal InfoExpress Correspondence
2521	U.S. Patent No. 5,987,611
2522	Request for Comment: 2865
2523	Internal InfoExpress Correspondence
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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2555	Correspondence with GTI
2556	Engineering Specifications
2557	LAN Based Policy Enforcement Components
2558	LAN Based Policy Enforcement Engineering Specifications
2559	LAN Based Policy Enforcement Engineering Specifications
2560	LAN Based Policy Enforcement Components
2561	LAN Based Policy Enforcement Engineering Specifications
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 evidence showing Krantz and Herrmann are not prior art. Even if they were, claim limitations are missing, and there was no motivation to combine them.

II. PETITIONER'S PRIOR-ART ARGUMENTS ARE PROCEDURALLY IMPROPER, LACKING, AND HAVE BEEN REPEATEDLY REJECTED.

A. Petitioner's new "enabling protocols" theory for "(re)configuring the communication port" should be rejected. (Claims 28, 41, 56, 57).

On Reply, Petitioner only presses two mappings.¹

Mapping #2

On Reply, Petitioner belatedly changes its argument. The Petition argued exclusively that "(re)configuring the communication port" was met by Krantz's tag headers. Pet., 35–37, 52–55, 68, 75–76. But inserting tag headers into client data doesn't constitute "(re)configuring." See POR, 14–16 (citing EX2565, ¶¶77–82). This is because within access point 209, the association of ports 251 and 252 is unchanged. *Id.*, 15–17. Petitioner's argument fails even if data routing device 214 is the "communication device." *Id.*, 16.

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

¹ The Board rejected Petitioner's first of three "mappings." Paper No. 14 at 15.

209 to enable protocols and cause access point 209 to insert appropriate Tag Headers.” Reply, 2. Petitioner's shift for (re)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 “(re)configuring.” Krantz specifies these “protocols” are SMTP or DHCP. EX1505, ¶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’).”). They merely “enable communication.” They have nothing to do with “(re)configuring the communication port” to redirect data. EX2573, 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 a communication port of an access point so that data is transferred to VLAN C instead of VLAN B.” *See* Reply, 2.

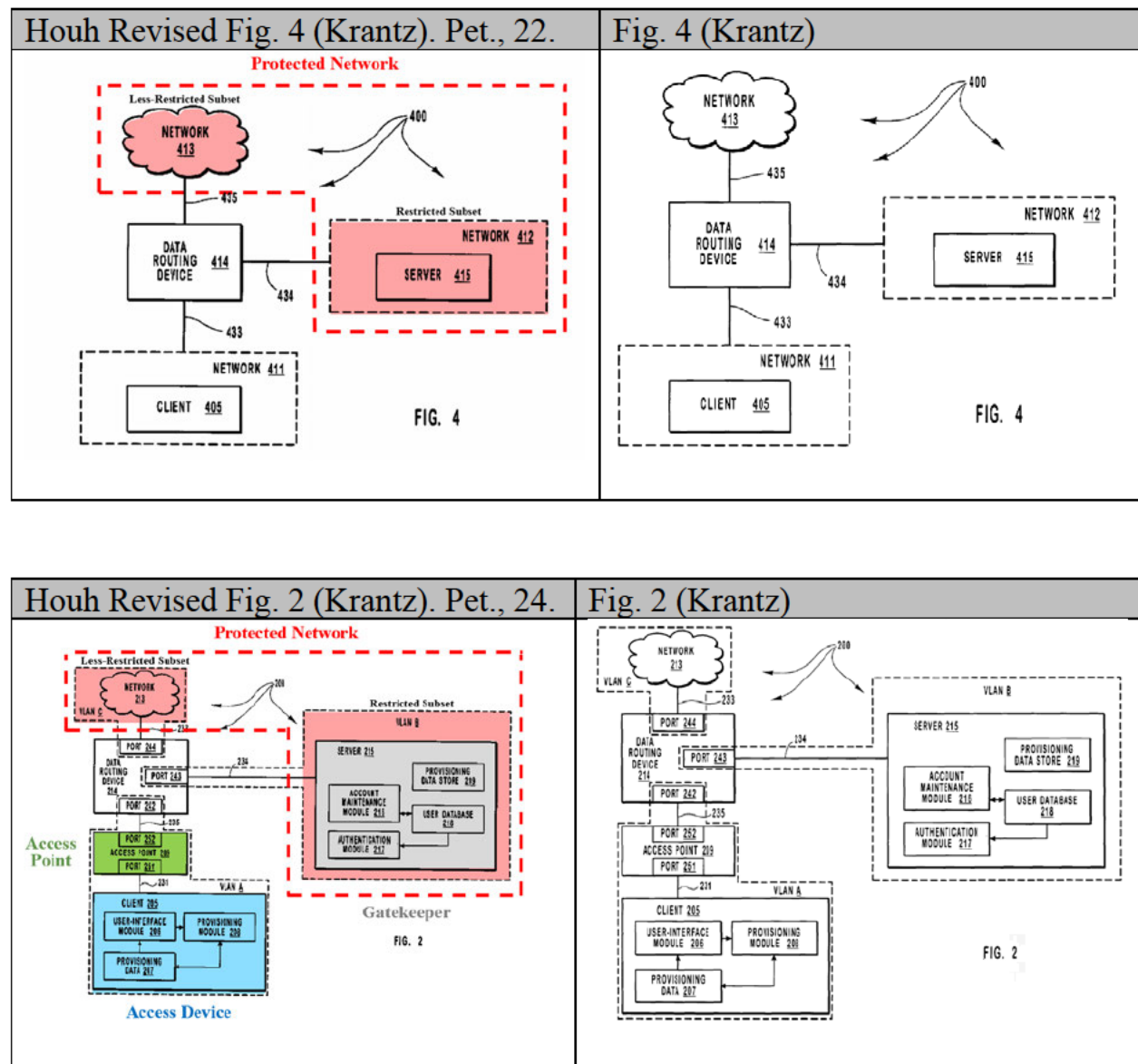
Mapping #3

Petitioner next argues for combining Krantz's Data Routing Device 214 and the Access Point 209 into 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 "(re)configuring."

B. Krantz does not disclose a "a less-restricted subset of a protected network." (All Claims).

Petitioner defends its freeform annotations of Krantz. Reply, 7. Regardless of Petitioner's spin, Krantz lacks a "network" imagined by its expert, and certainly not as claimed in the 484 Patent.

InfoExpress provided the following tables juxtaposing Krantz's actual figures with Petitioner's renditions thereof:



POR, 18–19.

Rather than rely on Krantz's unaltered figures, Houh groups disparate elements and adds a "protected network" label. How Houh's edits are characterized is immaterial. The key fact is, Krantz itself never describes either of "Network 213"

(in combination with "Network 215") or "Network 413" (in combination with "Network 412") as a single "protected network."

Instead, Krantz expressly describes them as separate networks. Krantz states "FIG. 4 illustrates generally an example of network architecture 400 that can provide access to a **first network** while restricting access to a **second network**." EX1505, ¶¶30&50. Similarly, for Figure 2 Krantz states "data routing device 214 is connected to **network 213**, server 215 and access point 209 by corresponding logical communication links 233, 234 , and 235 respectively." *Id.*, ¶60; see EX2565, ¶¶86-87. Krantz's network 213 is a separate and distinct network to which the client is granted access—with not a word about (less) restricted subset(s). EX2565, ¶90.

Recognizing this weakness, Petitioner argues Network 213 can be a corporate network, akin to the "protected network." Reply, 9. But network 213 being a corporate network still doesn't make it a protected network. By arguing network 213 is a protected network, Petitioner twists itself up arguing how separately recited "network" VLAN B (containing Server 215) is somehow the restricted subset of the fabricated "protected network." Reply, 10. At bottom, Petitioner uses the claimed invention as a roadmap to cobble together Krantz's disparate parts. This is impermissible hindsight reconstruction. *TQ Delta, LLC v. Cisco Systems, Inc.*, 942 F.3d 1352, 1362-63 (Fed.Cir. 2019).

A. **The Reply merely repeats arguments for “applying a security policy” and “audit[ing],” which were serially rejected by the Board and Director. (Claims 28, 39, 41, 42, 56–57).**

Petitioner’s Reply confirms it relies *solely* on Krantz for “applying a security policy to the access device[.]” Reply, 10-11; Pet., 43–47, 68, 75–76.²

Krantz’s authentication cannot constitute “applying a security policy.” The Board and Director have already rejected these Reply arguments. IPR2024-00540, Paper No. 13 at 12-14; IPR2024-00678, Paper No. 14 at 13–15; 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, 24.³ Between the Board and Director, Petitioner’s position has been

² Krantz is the sole prior art reference. It is too late for Petitioner to advance new art combinations. *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1381 (Fed.Cir. 2016) (“[W]e find no support for the PTO’s position that the Board is free to adopt arguments on behalf of petitioners that could have been, but were not, raised[.]”).

Moreover, while Petitioner alternatively relies on Herrmann for a “security policy,” Pet., 47–48, it doesn’t rely on Herrmann for “applying” it, *see id.*—a point InfoExpress made in its POR at 22–25 and Petitioner doesn’t contest, Reply, 10–12.

³ Claims 39 and 42 recite “the security policy includes an **audit**.”

rejected four times. The Reply has no answer for this other than re-raising these already-rejected arguments:

Petitioner Reply Argument	Board/Director Rejection
“[T]here is no factual support for InfoExpress’s assertion that the 484 Patent makes a “clear distinction between user authentication and device security policy compliance.”” Reply, 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.
“Third, Krantz discloses machine or client authentication using EAP messages.” Reply, 11.	[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 EX1505 ¶71). [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).
“[A]ccess to the network can be controlled by “configuration settings” including supported types of	“Petitioner first argues that Krantz teaches applying a security policy because Krantz discloses ‘that access

encryption and authentication techniques.” Reply, 11.	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....” IPR2024-00540, Paper No. 13 at 13 IPR2024-00540, Paper No. 14 at 9-10, 14-15 (“configuration settings” argument; rejected in Paper No. 15). IPR2024-00678, Paper No. 15 at 3, 9-11 (same; rejected in Paper No. 16).
--	--

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, 10-11 (citing EX1501, 12:1-2; 11:31-34). 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). The Board should find these claims patentable.

B. Neither Krantz nor Herrmann teach “updating the access device if requirements of the security policy are not satisfied” (Claims 38, 41).

Claims 38 and 41 recite “updating the access device if requirements of the security policy are not satisfied.” The Reply—relying solely on Krantz’s provisioning files for updating if the requirements of the *security policy are not*

satisfied—is nothing more than a conclusion without evidence. Reply, 12 (“...but Krantz expressly states that it is”).

Krantz actually says nothing about provisioning files and requirements of a security policy. Petitioner’s expert 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...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. Reply, 12. That is why the Board already explained Krantz doesn’t “teach[]...auditing the device in accordance with a security policy.” IPR2024-00540, Paper No. 13 at 13-14.

For Herrmann’s “administrator,” all the Reply suggests is that InfoExpress is “challeng[ing] the individual aspects of Herrmann, rather than challenging the combination.” Reply, 12. But this sidestep fails because neither Krantz nor Herrmann—individually or combined—teaches the claimed limitations.

C. **Combining Krantz and Herrmann would does not disclose “monitor[ing]...after reconfiguring” because neither reference teaches or suggests it (Claim 28).**

Petitioner’s Reply says little about “monitor[ing] security status of the access device after reconfiguring” other than accusing InfoExpress of attacking each reference individually. Reply, 12–13. But neither references discloses or suggests “monitoring.” Krantz’s predetermined time “re-authentication” has nothing to do with “monitoring security status...” POR, 28. And Herrmann’s heartbeat fails too. POR, 28; EX2565, ¶¶160–62. The Reply doesn’t dispute this.

Thus, even combining Krantz and Herrmann would fail this limitation.

D. **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 the Reply only sidesteps the 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 references. Reply, 14. 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 on a protected network 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” are not that specific evidence. EX1503, ¶204. Indeed, Houh didn’t 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 couldn’t 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 wouldn't be helpful to a POSITA.

Recognizing this deficiency, the Reply reworks Herrmann as teaching a “server-side security policy enforcement.” Reply, 14-15. But even Herrmann says that is not true: It's a “client-side filter, directed to fixing a “major bottleneck to overall system performance.” POR, 37–38.

The Reply also suggests a Krantz's 215 server can be something other than a RADIUS server. Reply, 14. 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—wouldn't be combined with Krantz's RADIUS (or authentication) server to teach the claimed auditing or security policy evaluation. POR, 30–39.

Accordingly, not only has Petitioner missed its burden, but the 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—EX2422 and EX2470:

Patent claim limitation	Supporting Evidence	Type(s)	Challenge Citation
“applying a security policy to the access device” “the security policy includes an audit of the access device” “gatekeeper configured to enforce a security policy...” “antivirus software...” “system data”	EX2420-EX2421	Copying	
	EX2422	Failure, praise	Reply, 16
	EX2423-EX2424	Failure, praise	
	EX2446	Failure	
	EX2447	Failure	
	EX2469	Failure	
	EX2470	Failure, Praise	Reply, 16
	EX2471	Failure, praise	
	EX2477-EX2478	Copying	
	EX2479; EX2480, 6, 8; EX2481	Failure, praise	
	EX2482-EX2484, EX2489-EX2492	Failure, praise	
	EX2493-EX2495	Copying	
	EX2496-EX2501	Copying	
	EX2503-EX2507 inc. EX2504, 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	
“updating”	EX2423-EX2424, EX2482-EX2484, EX2489-EX2492	Failure, praise	

	EX2469	Failure	
	EX2447, 96-97	Failure	
	EX2474	Failure, praise	
	EX2496–EX2497	Failure, praise	
	EX2527	Failure, praise	
	EX2480, 8	Failure, praise	
“monitor[ing] security status”	EX2525	Failure	
	EX2447, 96	Failure	
	EX2541, 2, 14	Copying	
	EX2529, 6	Copying	
	EX2496–EX2501	Failure, praise, copying	
	EX2519	Copying	

As shown, most of the evidence is undisputed

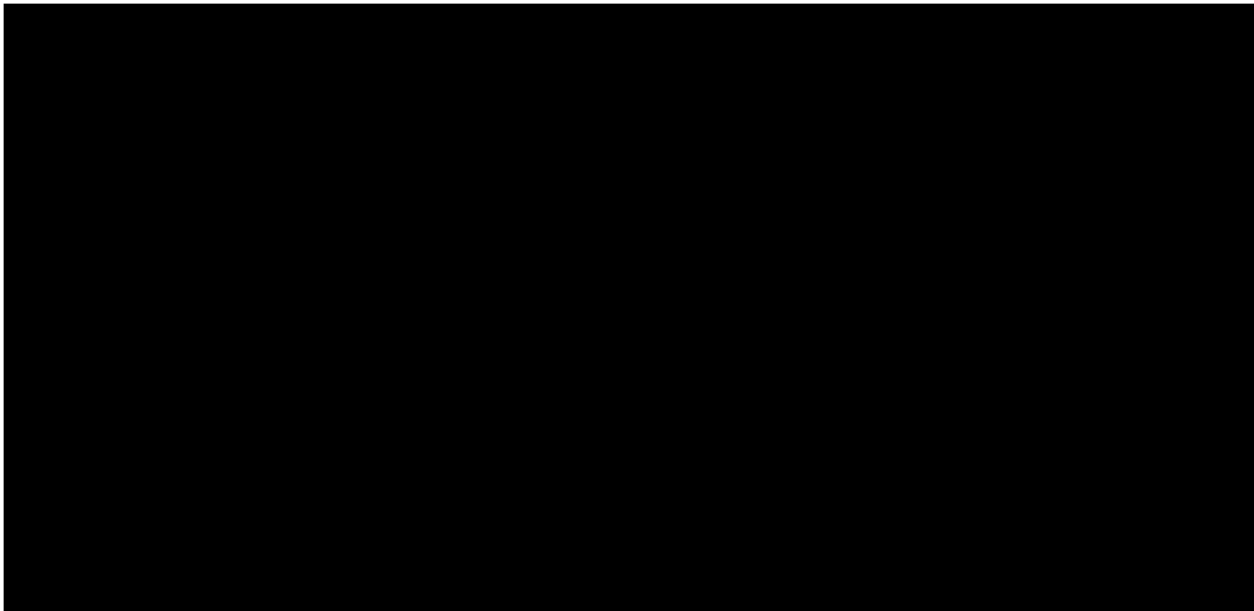
(EX2527).

A. Nexus

Having no dispute to the nexus evidence,⁴ Petitioner conjures an “incorporation by reference” procedural issue. Reply, 15–16. But the POR consistently demonstrates *how* CG LAN practiced claim limitations, and *how* the technical documents supported that. *E.g.* POR, 46–47 (EX2478 showing the CG LAN “applying a security policy”/auditing including with system data relating to the endpoint’s antivirus), 47–50 (EX2480 showing auditing, “system data” and updating/remediation), 50–52 (Partner Solution Brief in EX2482–EX2484, EX2423–EX2424, EX2489–EX2492 showing same), 53–56 (VM demo of the CG LAN in EX2496–EX2501 showing auditing, “system data,” post-admission “monitor[ing]”), 56–57 (PowerPoint in EX2504 showing auditing, “system data”).

⁴ 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 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.

The same is true for other technical documents—which include the ‘484 Patent marking—cited in InfoExpress’s POR at 40–41 (EX2451–EX2457; EX2459–EX2468):



EX2459, 1.

Not only do these documents include patent marking information, but they show that the CG LAN meets the claim limitations. *E.g.*, EX2452, 7-11 (auditing); EX2455, 206-11 (auditing), 211–18 (agents), 243 (agents, remediation), 268–71 (auditing); EX2459, 155 (remediation).

In addition, Striegel’s expert testimony shows that CG LAN embodied the claims. POR, 47–50 (“applying a security policy”/“auditing,” “system data,” “antivirus,” and updating/remediation (citing Striegel, ¶¶65-66)), 50–52 (auditing, “system data,” and updating; (Striegel ¶70)), 53–56 (auditing, “system data” and monitoring, (Striegel, ¶¶67–69,72-78)), 56–60 (auditing, (Striegel, ¶72)).

Additionally, Striegel’s analysis—also within the POR—showed how these embodied claim elements were copied into Cisco’s CNAC2. POR, 60–62 (citing Striegel, ¶¶81–83, and analyzing EX2519). Accordingly, InfoExpress’s nexus arguments are proper. *PPC Broadband, Inc. v. Corning Optical Commcn’s*, 815 F.3d 734, 746-47 (Fed.Cir. 2016) (deeming sufficient nexus arguments in *Corning Optical Commcn’s v. PPC Broadband, Inc.*, IPR2013-00340, Paper No. 33 at 55 (PTAB March 26, 2014)).

Further, Petitioner never probed Striegel’s nexus analysis. Nor do they point to any other evidence that rebuts his conclusions on CG LAN and its coextensiveness with its claims. Striegel, ¶¶43–45&Appx. C (cited in POR, 40). These undisputed facts establish nexus. *Polaris Indus., Inc. v. Arctic Cat, Inc.*, 882 F.3d 1056, 1073 (Fed.Cir. 2018).

B. Failure of others

[REDACTED] on. EX2422; EX2469; EX2446; EX2447, 96–99 (citing EX2448); EX2525; EX2526; EX2427, ¶¶48-56. Rather, it recasts these failures as “long-felt need.” Reply, 16. [REDACTED]

[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). These failures are the exact reasons why Herrmann couldn't 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

[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, 17. This is wrong. “[A] nexus analysis need not be limited to a discussion of only novel features. It’s 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” is out-of-context. The full statement is:

[REDACTED]

EX2422.

[REDACTED]

[REDACTED]

[REDACTED]

As for EX2470, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

D. Copying

Petitioner sidesteps the evidence and rests on the Board's prior discovery findings. Reply, 18-19. But InfoExpress's POR contains new evidence showing:

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. *See above.*

Lastly, [REDACTED]

[REDACTED]

[REDACTED] *see also* POR, 60–63.

For the same reasons, [REDACTED]

[REDACTED] *See InfoExpress Inc. v. Cisco Systems, Inc.*, Case No. 4:23-cv-2698, Dkt. 38, Exhibits FF–LL (N.D. Cal. Sept. 28, 2023).

The sum total of this unrebutted evidence demonstrates non-obviousness.

IV. NEITHER REFERENCE CONSTITUTES PRIOR ART

Petitioner concedes many antedating elements:

- EX2011 supports the Challenged Claims. Petitioners only challenge disclosure of the positioning of the gatekeeper.
- [REDACTED], in EX2520. EX2429, ¶13.
- Petitioners have not served objections to admissibility of evidence.
- EX2006 is a constructive reduction to practice.

Petitioners’ 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).

Petitioners also assert that the conception and diligence arguments are improperly incorporated. Reply, 23 n.7. These arguments are properly outlined over 19 pages with appropriate references to evidence. POR, 64-83.

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

Petitioners do not point to a single element missing from EX2011. Rather, they point obliquely to concepts like “inline,” “bottleneck,” and “configuring the

gatekeeper within, rather than inline with, the protected network” Reply, 23. Petitioners’ 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).

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

[REDACTED]

Page	Annotated Excerpt
7	[REDACTED]
11	

Third, Petitioners selectively isolate 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), Smith explains:

[REDACTED]

EX2007, ¶34(d) (citing EX2011 at 7).

Smith confirmed this during his deposition:

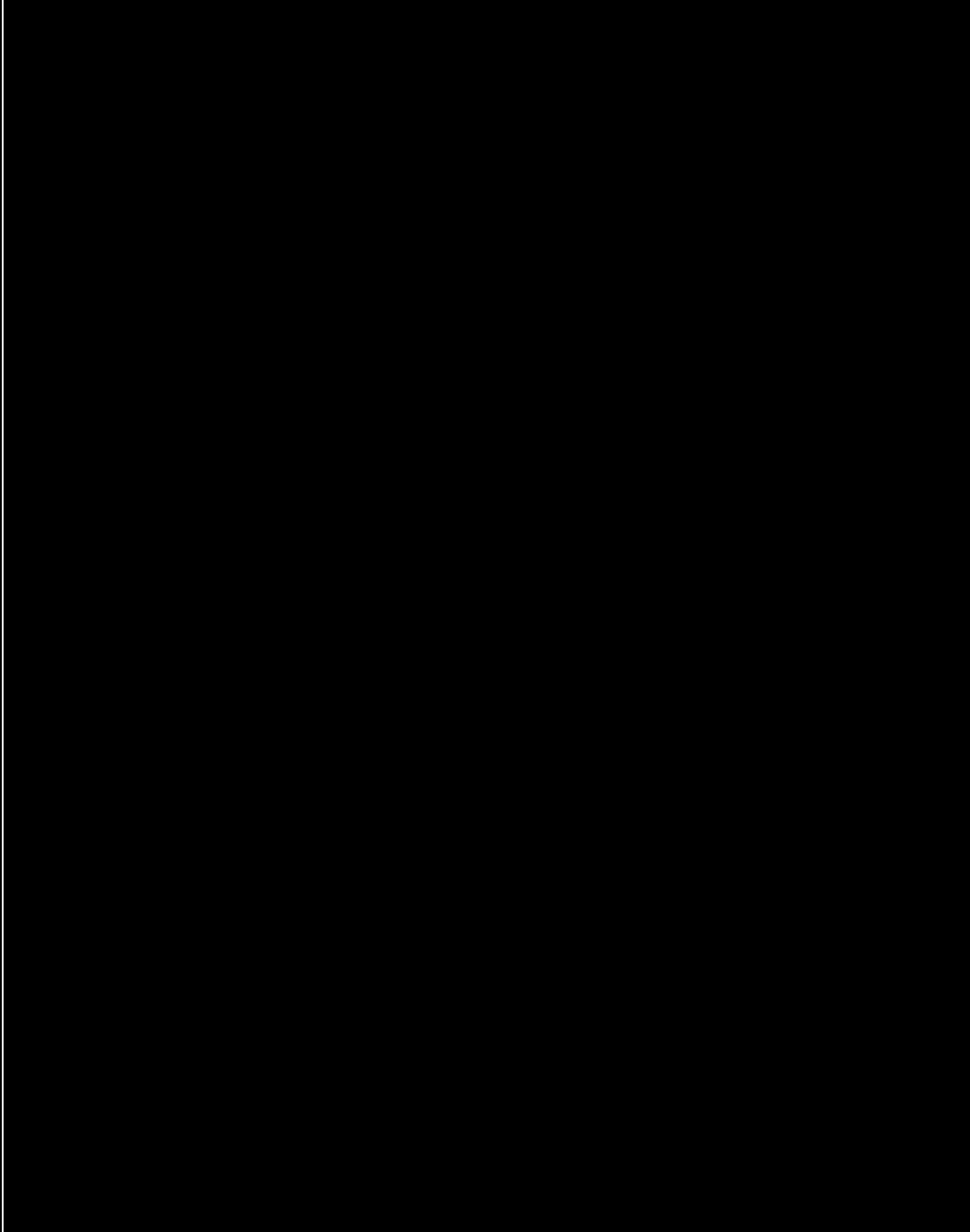
[REDACTED]

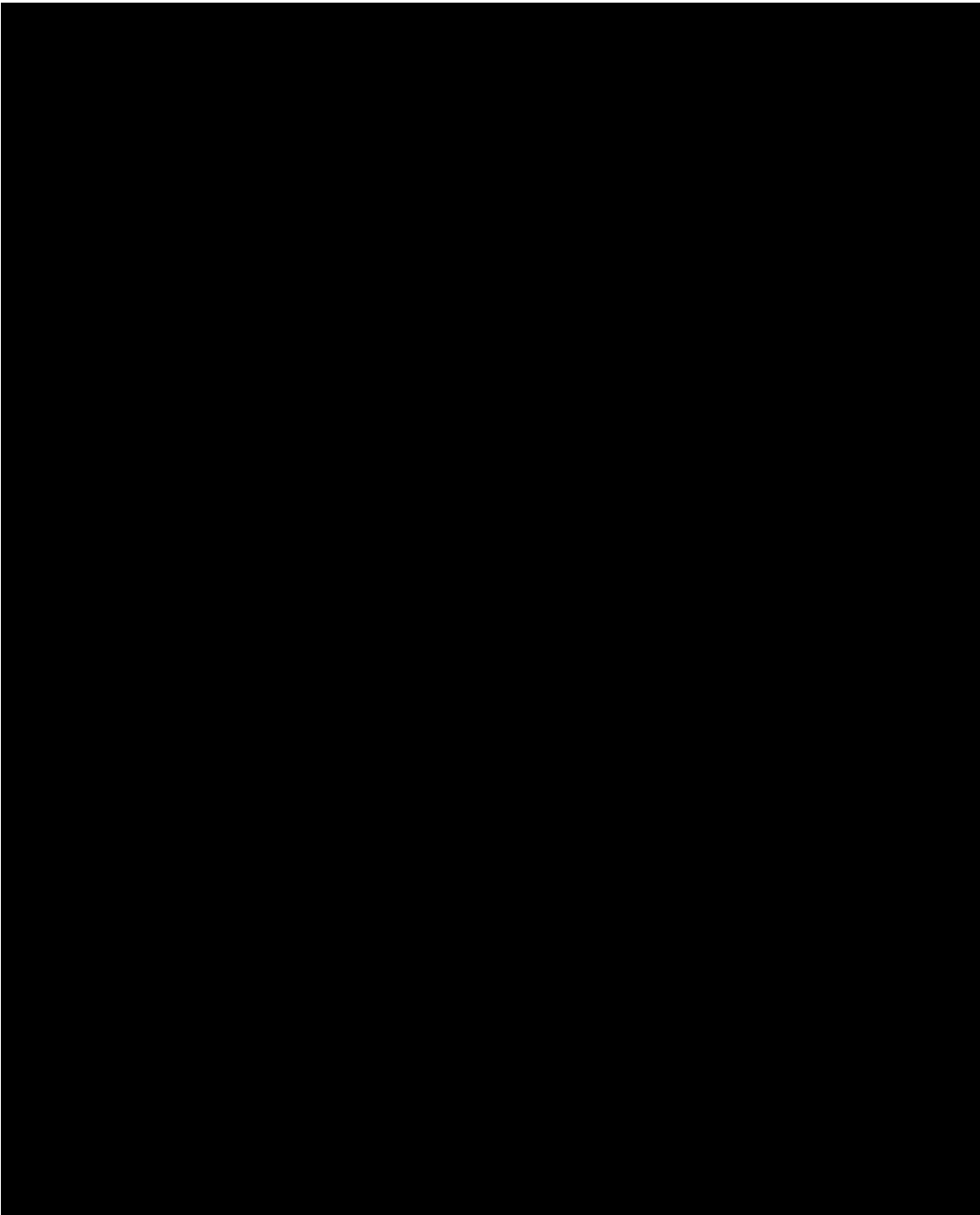
EX1526, 18:3-9.

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. Petitioners’ “company document” argument fails.

The evidence is [REDACTED].

E.g., EX2429; EX1525,16:19–17:11. Petitioner’s challenge is essentially that EX2011 was saved on InfoExpress servers. Reply, 19–20. But the evidence confirms

[REDACTED] And just because it was generated or kept by InfoExpress doesn’t 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]:

Petitioners attempt to fabricate a “new” inventor—Cary Tsai—and speculate he may have contributed to EX2011.

First, this is legally irrelevant. Noninventors routinely contribute to documents describing an invention of a subset of coauthors. *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; EX1523; EX1525.

Second, [REDACTED]

[REDACTED]

[REDACTED]

EX2017.

Third, the only evidence Petitioners muster concerns comment 18 in a later version of EX2011. Reply, 20. [REDACTED]

[REDACTED]

D. [REDACTED]

In EX2231, [REDACTED]

[REDACTED]

Further, Petitioner’s argument on “Lum’s subjective belief” (Reply, 21-22) 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*, [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.

Petitioners’ 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, 27-30) are not gaps in diligence. Evidence merely “corroborates” inventors’ 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” doesn’t 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 with [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 interactions with [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.⁵ InfoExpress enlisted [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] and un rebutted.

⁵ Petitioner broadly tries to cast certain diligence evidence as unrelated [REDACTED] correspondence. Reply, 28. But Petitioner never challenges its substance. Nor could it, since the vast majority references the [REDACTED] project that produced the invention. *See, e.g.*, EX2564, ¶21; EX2429, ¶¶16,19.

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

[REDACTED]

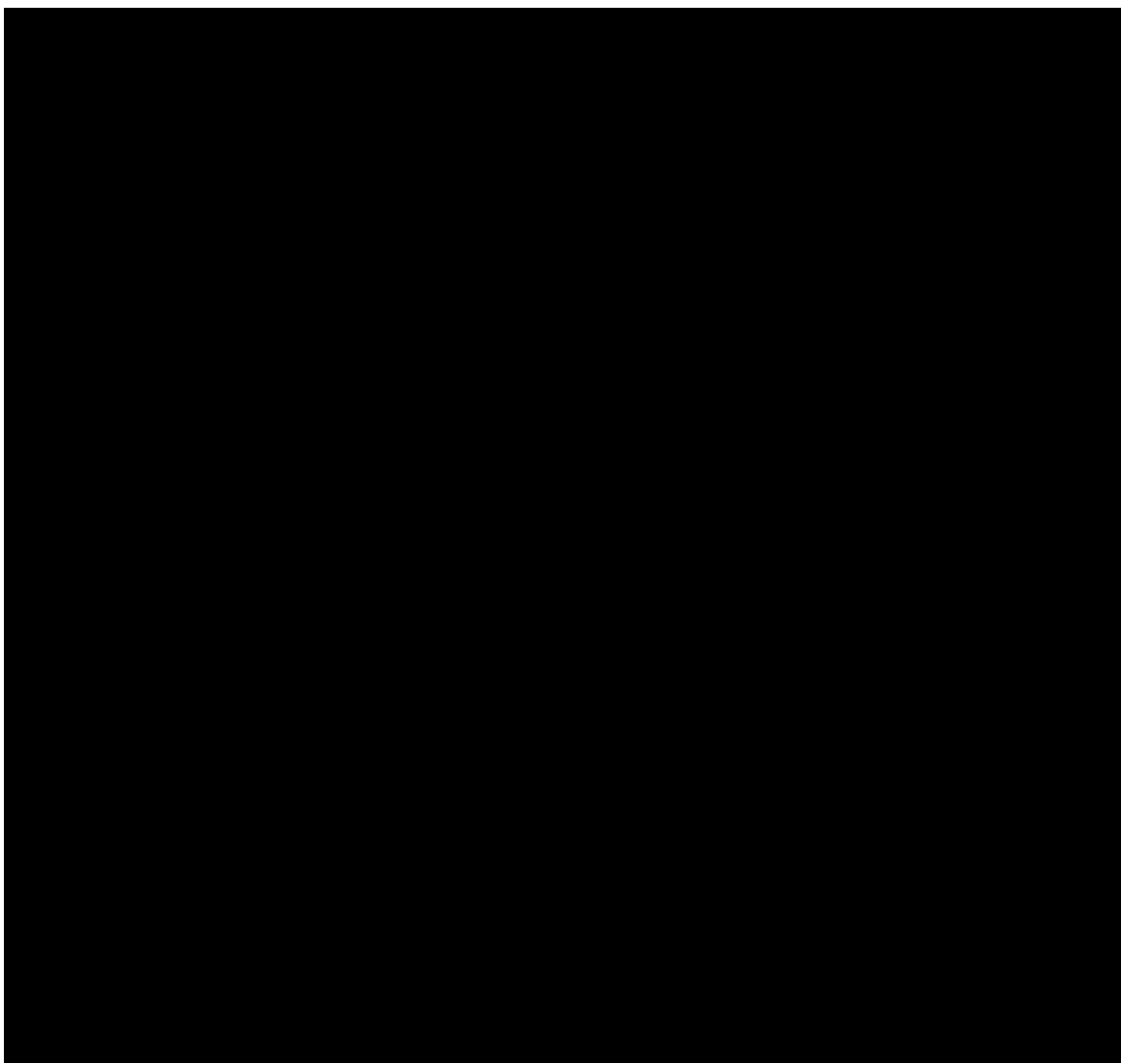
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[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



Id. (annotated).

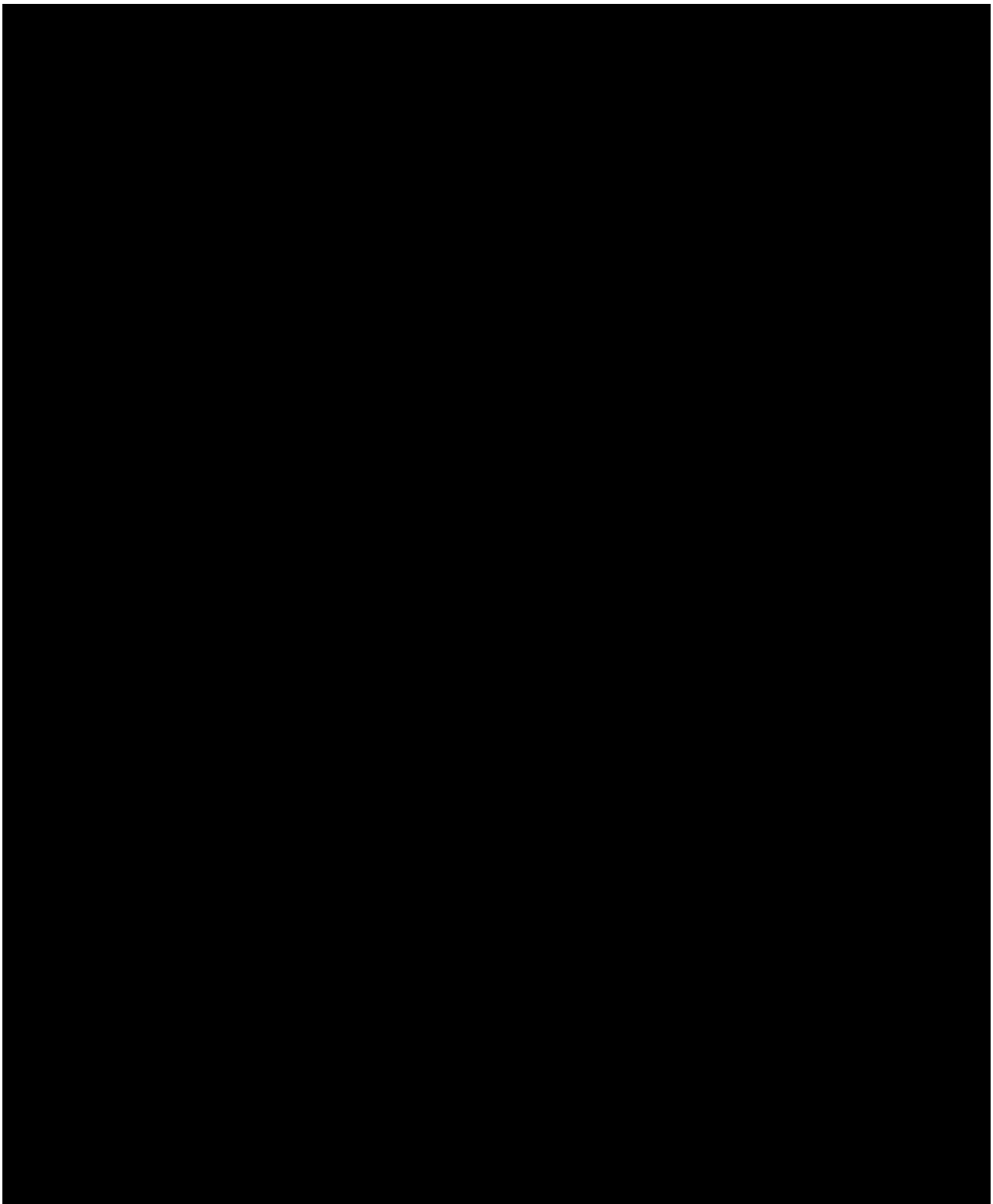


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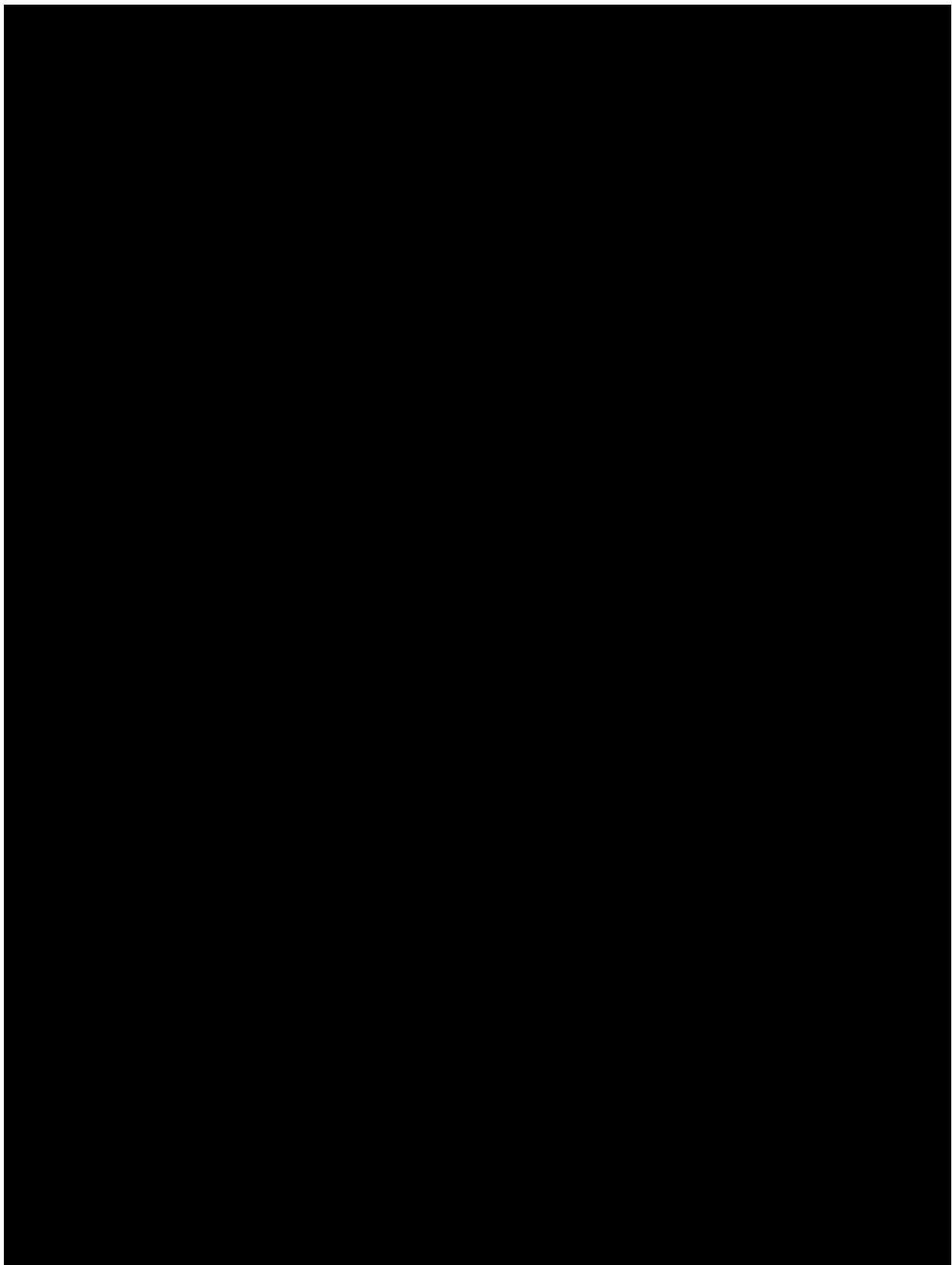
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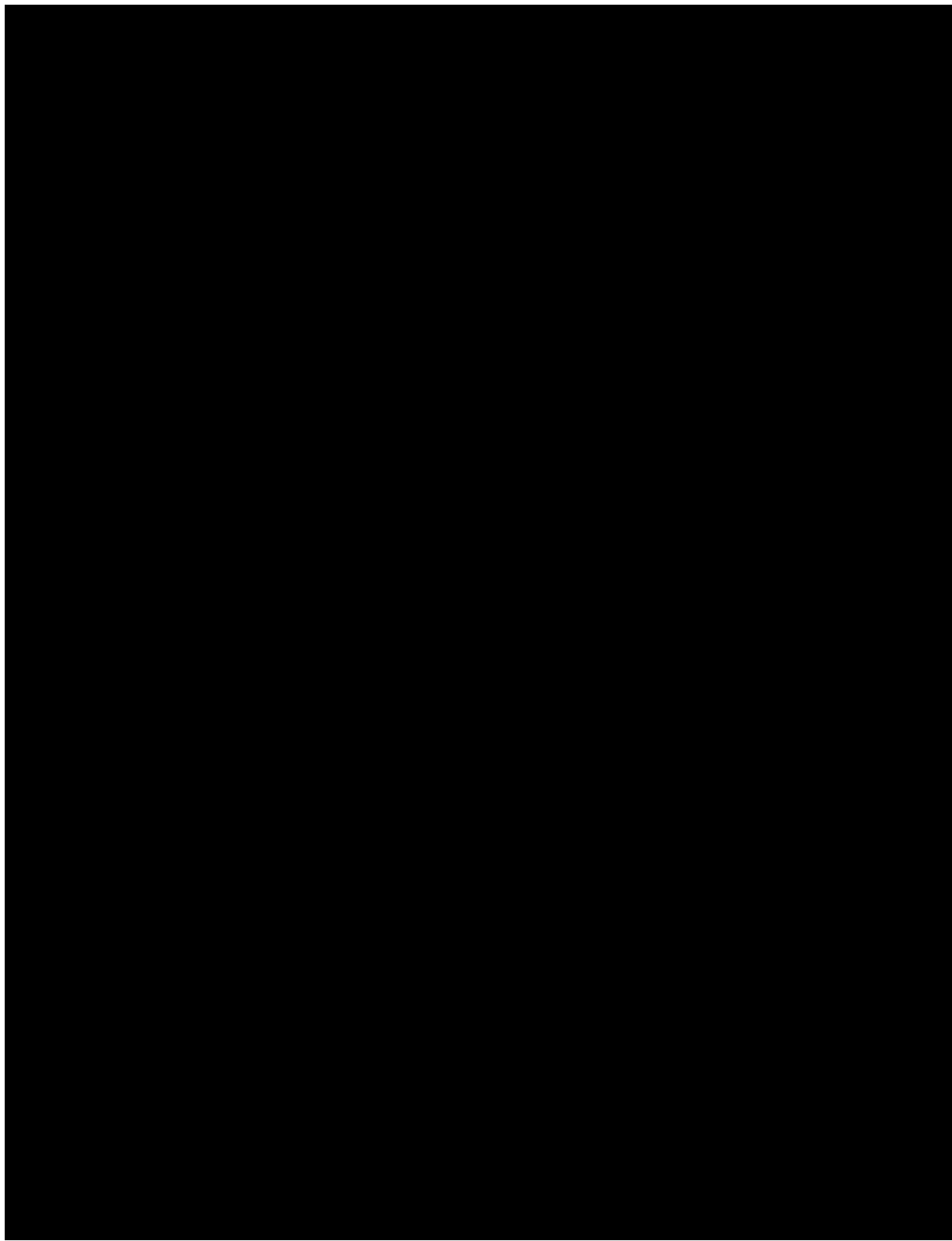
EX2114 (annotated). *Also* EX2131 (April report). `



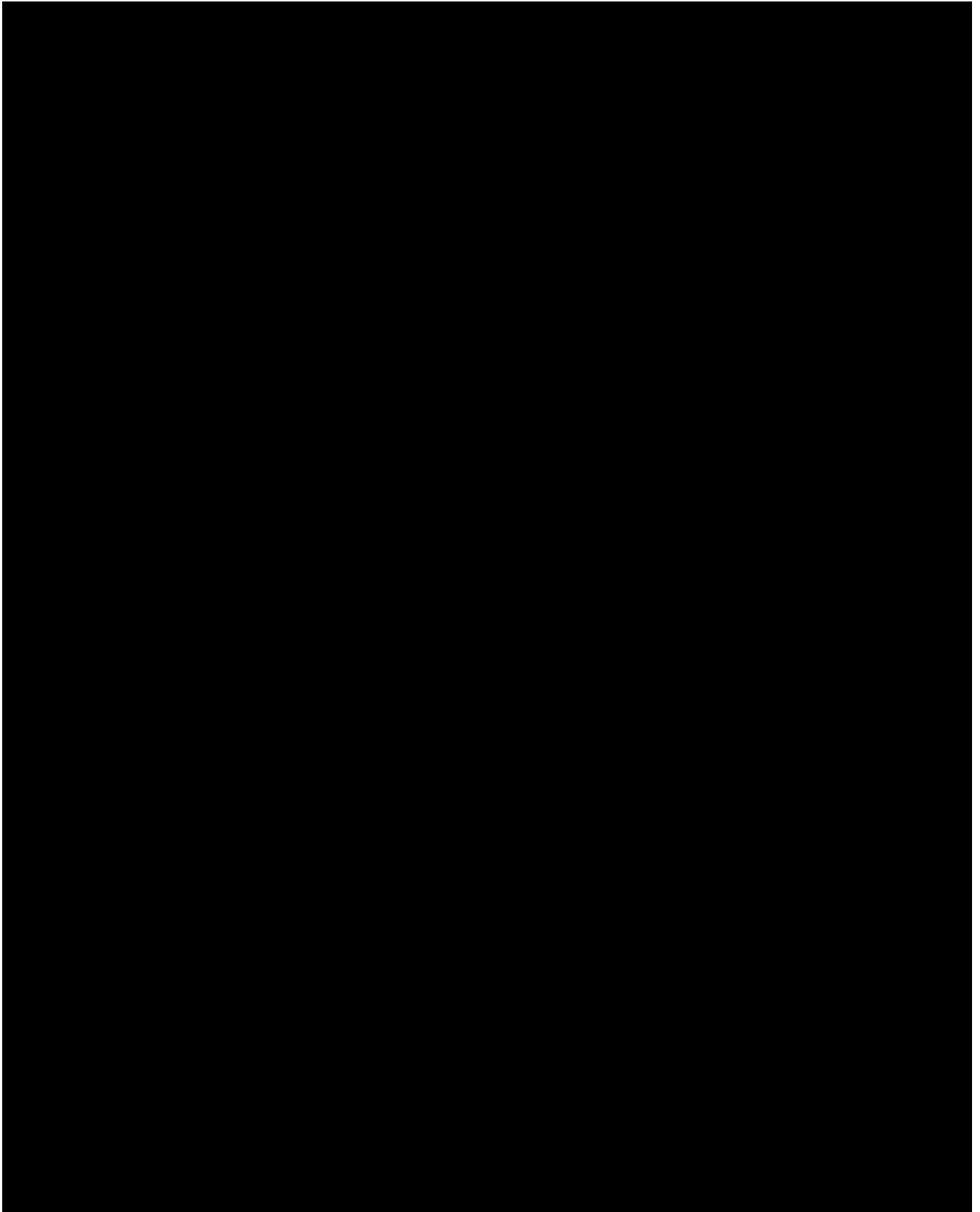
EX2197 (annotated).



EX2359 (annotated).



EX2405 (annotated)



EX2303 (annotated).

In parallel, InfoExpress [REDACTED]

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

[REDACTED] s EX2011. EX2558; EX2562.

V. CONCLUSION

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

Respectfully submitted,

Dated: <u>June 30, 2025</u> Mailing address for all correspondence: Saul Ewing LLP Centre Square West 1500 Market Street, 38th Floor Philadelphia, PA 19102-2186	<u>s/Briam R. Michalek/</u> Brian R. Michalek (Reg. No. 65,816) Saul Ewing LLP 161 North Clark Street, Suite 4200 Chicago, IL 60601 Tel: (312) 876-7151 brian.michalek@saul.com Joseph M. Kuo (Reg. No. 38,943) Saul Ewing LLP 161 North Clark Street, Suite 4200 Chicago, IL 60601 Tel: (312) 876-7151 joseph.kuo@saul.com Brian Landry (Reg. No. 62,074) Saul Ewing LLP 131 Dartmouth Street, Suite 501 Boston, MA 02116 Tel: (617) 912-0969 Brian.Landry@saul.com Andrew Schwerin (Reg. No. 72,999) Saul Ewing LLP 1500 Market Street, 38th Floor Philadelphia, PA 19102-2186 Tel: (215) 972-7184 Andrew.Schwerin@saul.com Counsel for Patent Owner
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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 5597 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