

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD**

BIZLINK TECHNOLOGY, INC.,
Petitioner,

v.

ANDERSON POWER PRODUCTS, INC.,
Patent Owner.

Case IPR2024-00687
Patent No. 8,808,017

PATENT OWNER'S PRELIMINARY RESPONSE

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In response to the Petition filed by BizLink Technology, Inc. (“Petitioner”) requesting *inter partes* review of Claims 1-4 and 7-12 (collectively, the “Challenged Claims”) of U.S. Pat. No. 8,808,017 (“the ‘017 patent”), Patent Owner Anderson Power Products, Inc. (“Patent Owner”) submits this Preliminary Response in accordance with 35 U.S.C. § 313 and 37 C.F.R. § 42.107. Patent Owner timely filed this Preliminary Response under 37 C.F.R. § 42.107(b) within three months of the mailing date of the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response.

I. INTRODUCTION

The Board should decline to institute *inter partes* review of the ‘017 patent. Petitioner seeks review of the Challenged Claims of the ‘017 patent based on six grounds.

Challenged Claim 1 is the only independent Challenged Claim. Petitioner asserts only two anticipation grounds against Challenged Claim 1:

(i) Ground 1A (Petitioner asserting that Challenged Claims 1-4, 7-12 are anticipated by Winkler); and

(ii) Ground 2A (Petitioner asserting that Challenged Claims 1-4 are anticipated by Kataoka).

The remaining grounds of the Petition (*i.e.*, Grounds 1B-D and Ground 2B) do not address Challenged Claim 1 and relate only to Challenged Claims that depend

on Challenged Claim 1 (Petitioner asserting that dependent Challenged Claims 7-12 are rendered obvious by the prior art).

Petitioner's two anticipation grounds against Challenged Claim 1 fail because Petitioner (i) misconstrues claim 1; (ii) ignores expressly recited claim limitations; and (iii) relies on Petitioner's and Petitioner's expert's conclusory, unsupported, and irrelevant arguments and testimony that confirm the relevant prior art does not anticipate Challenged Claim 1.

Accordingly, Patent Owner respectfully requests that the Board decline to institute an *inter partes* review of the '017 patent.

II. BACKGROUND

A. The '017 Patent And The Challenged Claims.

The '017 patent, entitled "Electrical Connector with Anti-Arcing Feature," was issued on August 19, 2014, from U.S. Patent Application No. 13/734,025 (filed January 4, 2013). (EX1001 at [21], [22], [45], [54].)

The '017 patent and the Challenged Claims generally relate to "an electrical connector that suppresses arcing if connected or disconnected while current is flowing." (*Id.* at 1:6-8.) According to the '017 patent, "[e]lectrical connectors generally should not be connected or disconnected while the electrical load is turned on." (*Id.* at 1:12-13.) "Electrical arcing between the separated contacts of a live electrical connector present a hazard of fire and of burns to the user, and any such

arcing tends to reduce the useful life of the connector.” (*Id.* at 1:13-17.)

“Nevertheless, due to the fallibility of human nature, it remains true that electrical connectors may at times be inadvertently connected or disconnected while the electrical load is turned on.” (*Id.* at 1:18-21.)

The ‘017 patent, in discussing the prior art, describes a typical “male and female connector pair” that includes a male contact 100 and a female contact 102. (*Id.* at 2:62-64.) “[I]nsulating structures 108, 110 are provided proximal to the outer faces of the contacts 100, 102 to support the contacts 100, 102, and to provide receiving channels for the two insulating housings 104, 106 to mate.” (*Id.* at 3:6-10.) However, as shown in FIG. 1B below, when the connector pair has “been partially disconnected while a voltage is still being applied” the “leading ends of the two contacts 100, 102 are separated by a short gap” and “through-air electrical arcing 114 is taking place between them.” (*Id.* at 3:13-17.)

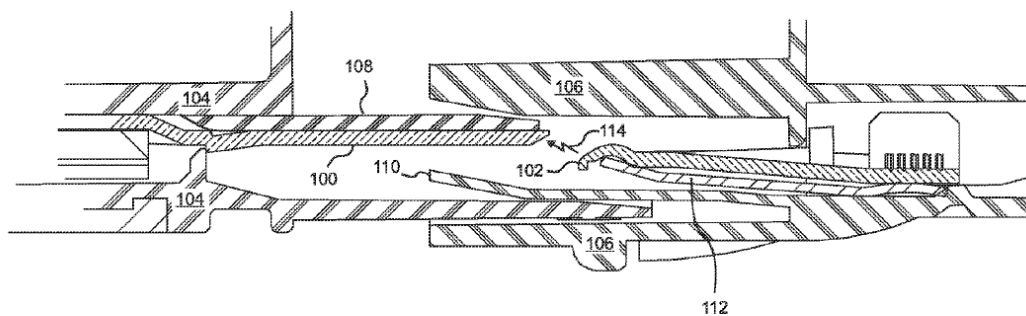


Figure 1B
Prior Art

(*Id.* at FIG. 1B (depicting through-air electrical arcing 114).)

To rectify this issue, the inventors of the '017 patent developed a “novel connector pair [that] suppresses electrical arcing between separated contacts during mating and un-mating of the connectors, without including an additional connection or switching device.” (*Id.* at 1:55-58.) The novel connector pair “includes an insulating barrier that suppresses arcing between separated contacts during connection and disconnection of the electrical contacts ... thereby protect[ing] users from electrical burns and extend[ing] the useful life of the connector.” (*Id.* at 1:58-63.) “The insulating barrier includes both a male and a female barrier, at least one of which is configured so that it extends beyond at least one of the contacts and covers the leading edge of the contact.” (*Id.* at 1:64-67.) “The male and female barriers engage with each other when the contacts are separated, thereby closing off all through-air paths between the contacts and suppressing arcing.” (*Id.* at 1:67-2:3; *see also id.* at Abstract.)

Unlike the prior art connector pair shown in FIG. 1B, when the “ends of the two contacts 100, 102 [in the novel connector pair of the '017 patent] are not separated by a large distance, the male insulating barrier 200 is very near to or physically in contact with the [female] insulating barrier 202, thereby blocking substantially all through-air arcing paths between the contacts 100, 102.” (*Id.* at 3:30-36.)

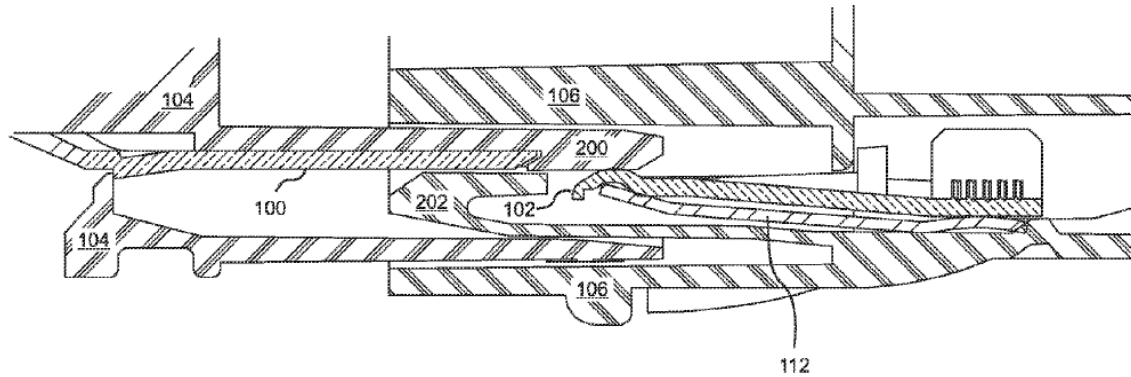


Figure 2B

(*Id.* at FIG. 2B.)

Independent Challenged Claim 1 of the '017 patent—the only independent Challenged Claim—is reproduced below:

1. An electrical connector pair, comprising:

a first connector having a first insulating housing;

a first electrical contact supported within the first insulating housing, the first electrical contact having a connecting surface that is substantially parallel with a longitudinal axis of the insulating housing and terminates in a leading end of the first electrical contact;

a second connector having a second insulating housing;

a second electrical contact supported within the second insulating housing, the second electrical contact being configured to laterally engage with the connecting surface of the first electrical contact when the first connector is mated with the second connector;

a first insulating barrier within the first connector extending beyond and covering the leading end of the first electrical contact; and

a second insulating barrier extending beyond the second electrical contact within the second connector, the second insulating barrier being configured so as to be in close proximity with the first insulating barrier when the first and second connectors are partially disconnected and the first and second electrical contacts are separated by a short distance, thereby blocking substantially all through-air arcing paths between the first and second electrical contacts.

(*Id.* at claim 1.)

As shown above, Challenged Claim 1 of the '017 patent is directed to an electrical connector pair comprising a first connector having a first insulating housing and a second connector having a second insulating housing. (*Id.* at claim 1.) The first connector has a first insulating barrier extending beyond and covering a leading end of a first electrical contact supported within the first insulating housing, and the second connector has a second insulating barrier extending beyond a second electrical contact supported within the second insulating housing. (*Id.*)

The second insulating barrier is configured to be in close proximity with the first insulating barrier when the first and second connectors are partially disconnected and the first and second electrical contacts are separated by a short distance. (*Id.*) In that claimed configuration, substantially all through-air arcing paths between the first and second electrical contacts is blocked. (*Id.*)

B. The Level Of Ordinary Skill In The Art.

Petitioner asserts that a POSITA “would have had at least a bachelor’s degree in electrical engineering or a similar field and at least two years of experience working with electrical circuits or electrical connectors, including power connectors.” (Petition at 19.) For the purposes of this Preliminary Response only, Patent Owner does not dispute Petitioner’s proposed level of ordinary skill in the art.

C. The Petition’s Asserted Grounds Of Unpatentability And Asserted Anticipatory References.

The Petition seeks review of the Challenged Claims of the ‘017 patent based on six grounds, which are referred to as Grounds 1A-D and Grounds 2A-B. (Petition at 18-19.) With respect to Challenged Claim 1 of the ‘017 patent (*i.e.*, the only independent Challenged Claim), the Petition asserts only anticipation grounds under 35 U.S.C. ¶ 102. (*Id.*) The Petition’s asserted anticipatory references (*i.e.*, Winkler and Kataoka) are summarized below.

1. U.S. Patent No. 2,838,739 (“Winkler”).

Winkler is generally directed to “an electrical connector of novel construction of the type having one or more identical contact or terminal members and which is adapted for longitudinal telescoping engagement with a second and identical connector.” (EX1004 at 1:44-48.) The connector includes a housing “in which provision is made for movably and yieldably mounting the terminals in a manner such that the terminals may be resiliently interlocked in their engaged position so as

to prevent inadvertent disengagement thereof during normal usage.” (*Id.* at 1:48-55.) “The present terminals are also adapted for self-cleaning during engagement and disengagement thereof and are shaped so that any pitting of the terminals caused by arcing at the extreme ends thereof during disengagement will not impair the efficiency of the terminals at the areas of contact in their engaged position.” (*Id.* at 1:55-61.)

2. U.S. Patent No. 8,182,278 (“Kataoka”).

Kataoka is generally directed to “a connector which may be potentially employed for a connection of a power harness used for transmitting a large amount of power.” (EX1005 at 1:10-14.) “The connector 1 is used for connecting, e.g., a motor for driving a vehicle to an inverter for driving the motor.” (*Id.* at 5:58-59.) According to Kataoka, “when [a] non-through type connecting member is employed, there is a new problem that it is necessary to take measures to prevent abrasion at the contact point.” (*Id.* at 2:27-29.) To address this problem, Kataoka developed a connector constructed so as “to suppress abrasion due to fine sliding at the contact points while ensuring insertability between connecting terminals when the connector is fitted even if a non-through type connecting member is employed.” (*Id.* at 3:59-62.)

III. LEGAL STANDARDS

“The Director may not authorize an *inter partes* review to be instituted unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petition would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). In an *Inter Partes* Review, the Petitioner bears the burden from the onset to show with particularity why the patent it challenges is unpatentable. *See, e.g.*, 35 U.S.C. § 312(a)(3); 37 C.F.R. § 42.104(b); *Dynamic Drinkware, LLC v. Natl. Graphics, Inc.*, 800 F.3d 1375, 1379 (Fed. Cir. 2015).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987). “[T]he reference must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements arranged as in the claim.” *Sanofi-Synthelabo v. Apotex, Inc.*, 550 F.3d 1075, 1083 (Fed. Cir. 2008) (internal quotations omitted). In other words, it is not enough to be able to find all of the pieces of the claimed invention somewhere in a prior art reference; rather, those elements must be set out in the prior art reference in the same way they are in

the claimed invention. *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1369 (Fed. Cir. 2008).

“Inherent anticipation requires that the missing descriptive material is ‘necessarily present’ ... in the prior art.” *Trintec Indus., Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 1295 (Fed. Cir. 2002) (quoting *In re Robertson*, 169 F.3d 743, 745, (Fed. Cir. 1999)). Inherency “may not be established by probabilities or possibilities.” *Therasense, Inc. v. Becton, Dickinson & Co.*, 593 F.3d 1325, 1332 (Fed. Cir. 2010). “The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *Id.* Further, “what would have been obvious to a skilled artisan is not a valid consideration in an inherency analysis.” *Vivint, Inc. v. Alarm.com Inc.*, 741 Fed. Appx. 786, 792 (Fed. Cir. 2018) (citing *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1555 (Fed. Cir. 1983).)

“To anticipate, a reference must do more than ‘suggest’ the claimed subject matter. *Eli Lilly & Co. v. L.A. Biomedical Research Inst.*, 849 F.3d. 1073, 1076 (Fed. Cir. 2017) (quoting *AstraZeneca LP v. Apotex, Inc.*, 633 F.3d 1042, 1055 (Fed. Cir. 2010).) Similarly, the Board is not permitted to “fill in missing limitations simply because a skilled artisan would immediately envision them.” *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 851 F.3d 1270, 1274-75 (Fed. Cir. 2017).

IV. CLAIM CONSTRUCTION

A. “insulating”

The term “insulating” is recited several times in Challenged Claim 1 of the ‘017 patent. (EX1001 at claim 1.) The proper construction of the term “insulating” is “electrically insulating.” The intrinsic evidence—and the Petition itself—supports that this is the proper construction of the term “insulating.”

1. The Challenged Claims Support Patent Owner's Proposed Construction.

First, the Challenged Claims support Patent Owner's proposed construction. Challenged Claim 1 of the ‘017 patent recites four “insulating” structures: “a first insulating housing,” “a second insulating housing,” “a first insulating barrier,” and “a second insulating barrier.” (EX1001 at claim 1.) Challenged Claim 1 is clear that these “insulating” structures are “electrically insulating.”

Challenged Claim 1 is expressly directed to an “*electrical* connector pair” comprising first and second connectors each having an “*electrical* contact” supported therein. (EX1001 at claim 1.) The second connector includes a “second insulating barrier” that is configured “to be in close proximity with [a] first insulating barrier [in the first connector] when the first and second connectors are partially disconnected and the first and second electrical contacts are separated by a short distance.” (*Id.*) The first and second insulating barriers “block[] substantially all through-air arcing paths between the first and second electrical contacts.” (*Id.*)

To block substantially all through-air electrical arcing between the claimed first and second electrical contacts, the claimed first and second insulating barriers must be at least electrically insulating. Thus, Challenged Claim 1 is clear that the term “insulating” means “electrically insulating.” In accordance with well-settled principles of claim construction, this construction should be applied to all instances of the term “insulating” in Challenged Claim 1. *See Digital Biometrics, Inc. v. Identix, Inc.*, 149 F.3d 1335, 1345 (Fed. Cir. 1998) (“the same word appearing in the same claim should be interpreted consistently.”); *see also Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1310 (Fed. Cir. 1999) (same).

2. The Specification Supports Patent Owner's Proposed Construction.

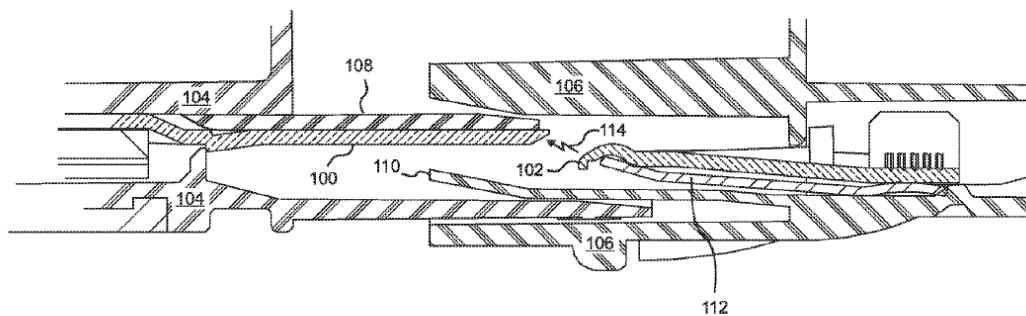
Second, the specification supports Patent Owner's proposed construction. The specification teaches that the '017 patent is directed to a novel connector pair that suppresses electrical arcing during connection and disconnection. (EX1001 at Abstract, 1:6-8, 1:48-51, 1:55-58.)

The connector pair includes first and second insulating barriers that are configured to engage with each other when the connectors' electrical contacts are partially disconnected and separated by a small gap. (*Id.* at Abstract, 1:58-61, 1:64-2:3, 2:42-44, 3:30-40.) In that claimed configuration, substantially all through-air electrical arcing paths between the first and second electrical contacts are closed off

or blocked. (*Id.*) The insulating barriers “protect[] users from electrical burns and extend[] the useful life of the connector.” (*Id.* at 1:61-63.)

The connector pair of the ‘017 patent also includes insulating housings 104, 106 that surround the male and female electrical contacts 100, 102. (*Id.* at 3:2-3, FIGS. 2A-B.) Like the first and second insulating barriers, the insulating housings 104, 106 are configured to “provid[e] some protection to a user in case arcing occurs when the user is handling the connector pair.” (*Id.* at 3:2-6.)

Additionally, the ‘017 patent distinguishes the claimed novel connector pair from prior art connector pairs that allowed through-air electrical arcing to take place between the electrical contacts as the connectors were mated and un-mated. (*Id.* at 3:13-17; *see also id.* at 1:42-47.)



(*Id.* at FIG. 1B (showing electrical arcing 114 between contacts 100, 102).)

Importantly, the specification of the ‘017 patent teaches that the “insulating” structures of the novel connector pair block the tendency of electrical current to arc from the female contact 102 to the male contact 100 by having high (or even “near-

infinite”) electrical resistance. (*Id.* at 3:63-4:5; *see also id.* at Abstract, 4:6-10.) That is, the “insulating” structures of the novel connector pair block or resist the flow of electrical current (*i.e.*, are electrically insulating), thus preventing electrical arcing.

3. The Petition Supports Patent Owner's Proposed Construction.

Third, the Petition itself confirms that the term “insulating” should be construed as “electrically insulating.”

For example, the Petition asserts that Kataoka's “[i]nsulating member 43a of insulator 8a is an ‘insulating barrier’ ***because it is formed of non-conductive material*** and because it ‘ensure[s] insulation between the contact points (or between a contact point and the first terminal housing).’” (Petition at 75 (emphasis added); *see also id.* at 74 (“insulators 8a-8d formed of a non-conductive resin...”).)

The Petition also asserts that Kataoka's “[h]ousing 5 is an ‘insulating housing,’ ***because it is formed of non-conductive resin.***” (*Id.* at 64 (emphasis added).) The Petition adds: “In the ‘017 patent, ‘insulated housings’ have the same functionality and purpose as in *Kataoka*.” (*Id.* at 65.)

Additionally, the Petition states that insulating materials prevent electrical arcing because electrical current does not travel through the insulating material. (*Id.* at 7.) Likewise, the Petition asserts that insulating barriers are designed to prevent electric shock to a user's hand or finger. (*Id.* at 16.)

The Petition likewise discusses displacing insulation to enable “conductive coupling to a wire.” (*Id.* at 50.) In other words, insulation prevents electrical conductivity.

Accordingly, the Petition confirms that the term “insulating” should be construed as “electrically insulating.”

V. PETITIONER HAS FAILED TO SHOW THAT THERE IS A REASONABLE LIKELIHOOD THAT THE CHALLENGED CLAIMS OF THE ‘017 PATENT ARE UNPATENTABLE.

A. Ground 1A: Petitioner Has Failed To Show That There Is A Reasonable Likelihood That Winkler Anticipates Challenged Claims 1-4 And 9.

1. Petitioner Has Failed To Show That Winkler Discloses Every Limitation Of Challenged Claim 1.

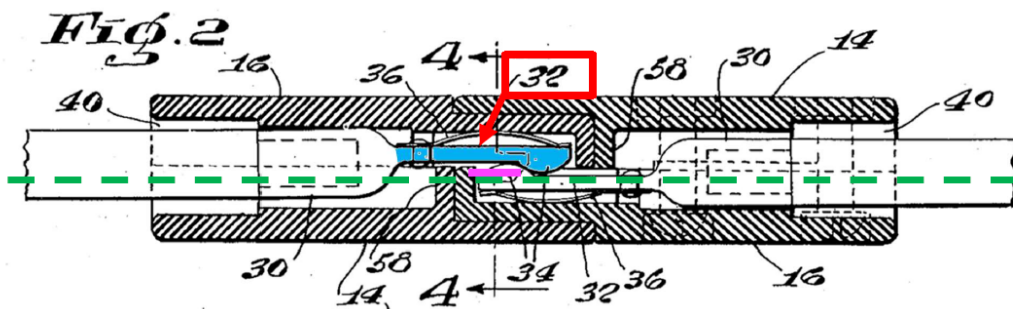
(a) Petitioner Has Failed To Show That Winkler Discloses Limitation 1[f].

Petitioner has failed to show that Winkler discloses Limitation 1[f]. Limitation 1[f] recites: “the second electrical contact being configured to laterally engage with the connecting surface of the first electrical contact when the first connector is mated with the second connector.” (EX1001 at claim 1.) The antecedent basis for Limitation 1[f]’s term “the connecting surface of the first electrical contact” is provided earlier in the claim in Limitation 1[c], which recites: “the first electrical contact having a connecting surface that is substantially parallel with a longitudinal axis of the insulating housing and terminates in a leading end of the first electrical contact.”

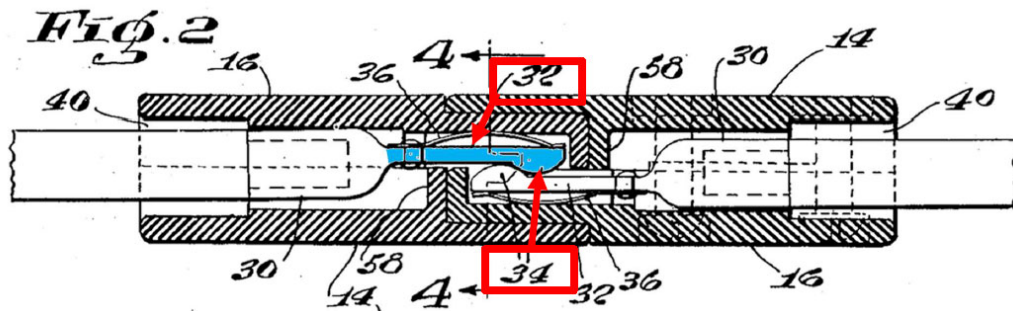
Petitioner has failed to show that Winkler discloses Limitation 1[f] because Petitioner ignores expressly recited limitations of Challenged Claim 1. Specifically, the Petition fails to address Limitation 1[f]'s requirement that the second electrical contact is configured to laterally engage *with the connecting surface* of the first electrical contact. (EX1001 at claim 1.)

Regarding Limitation 1[c], the Petition asserts that Winkler's contact member 22 is the claimed "first electrical contact," Winkler's "flat elongated portion 32 of contact member 22" is the claimed "connecting surface" of the first electrical contact, and Winkler's "convex end portion 34" is the claimed "leading end" of the first electrical contact. (Petition at 23-25.)

The Petition includes the below illustrations identifying the alleged "connecting surface of the first electrical contact" (*i.e.*, elongated flat portion 32, shown in pink) and distinguishing it from the alleged "leading end of the first electrical contact" (*i.e.*, convex end portion 34, the tip of the portion shown in blue):



(Petition at 24 (annotations in original).)



(*Id.* at 25 (annotations in original).)

Regarding Limitation 1[f], the Petition asserts that “[c]ontact members 22 in *Winkler* (first and second electrical contacts) ‘laterally engage’ with one another as claimed because they are in ‘interlocking engagement with each other when fully engaged.’” (Petition at 29 (quoting EX1004 at 4:50-56); *see also id.* at 28 (“*Winkler* discloses 1[f]. *Winkler* discloses connectors 10 and 12 that, when mated, have contact members 22 (‘electrical contacts’) that laterally engage.”).) The Petition further asserts that “as the connectors approach full engagement, the springs 36 effect upward movement of the terminals in their pockets to present the curved portions 34 in hooked or interlocked relation to each other.” (*Id.* at 29-30 (quoting EX1004 at 3:18-27).)

As noted above, Challenged Claim 1 does not simply recite first and second electrical contacts configured to laterally engage with each other. (EX1001 at claim 1.) Rather, Challenged Claim 1 expressly recites a second electrical contact configured to laterally engage *with the connecting surface* of the first electrical contact. (*Id.*)

The Petition, however, ***does not assert*** that Winkler's second electrical contact is configured to laterally engage ***with the alleged connecting surface*** of Winkler's first electrical contact (*i.e.*, Winkler's "elongated flat portion 32"). (Petition at 28-30; *see also* EX1003, ¶ 74.) Rather, the Petition merely asserts that Winkler's first and second electrical contacts laterally engage ***with one another***. (*Id.*)

While the Petition argues that Winkler's first and second electrical contacts laterally engage with one another because "curved portions 34" are presented "in hooked or interlocked relation to each other" (Petition at 29-30; *see also* EX1003, ¶ 75 (same)), Winkler's "curved portion 34" ***is not the alleged connecting surface*** of Winkler's first electrical contact. Rather, Winkler's "elongated flat portion 32" is the alleged connecting surface. (Petition at 24 (showing alleged connecting surface in pink); *see also id.* at 25 (distinguishing Winkler's end portion 34 from the alleged connecting surface 32).) The Petition's analysis of Limitation 1[f] does not even mention Winkler's alleged connecting surface (*i.e.*, elongated flat portion 32) and does not assert that Winkler's second electrical contact is configured to laterally engage with the "elongated flat portion 32" (*i.e.*, the alleged connecting surface) of the first electrical contact, as Challenged Claim 1 requires. (*Id.* at 28-30.)

Accordingly, Petitioner has failed to show that Winkler discloses Limitation 1[f].

(b) Petitioner Has Failed To Show That Winkler Discloses Limitation 1[g].

Petitioner has failed to show that Winkler discloses Limitation 1[g]. Limitation 1[g] recites: “a first insulating barrier within the first connector extending beyond and covering the leading end of the first electrical contact.” (EX1001 at claim 1.)

In the Petition, Petitioner asserts that Winkler’s “receiving pocket 42” is “a first insulating barrier that extends beyond and covers a leading end of contact member 22...” (Petition at 31; *see also id.* at 30; EX1003, ¶ 76.)

However, Limitation 1[g] expressly recites, *inter alia*, “a first insulating barrier ***within the first connector.***” (EX1001 at claim 1 (emphasis added).) The Petition ***does not even assert*** that Winkler’s “receiving pocket 42” (*i.e.*, the alleged first insulating barrier) is within Winkler’s first connector 10, as Challenged Claim 1 requires. (Petition at 30-31; *see also* EX1003, ¶ 76.)

Accordingly, Petitioner has failed to show that Winkler discloses Limitation 1[g].

(c) Petitioner Has Failed To Show That Winkler Discloses Limitation 1[i].

Petitioner has failed to show that Winkler discloses Limitation 1[i]. Limitation 1[i] recites: “the second insulating barrier being configured so as to be in close proximity with the first insulating barrier when the first and second connectors

are partially disconnected and the first and second electrical contacts are separated by a short distance, thereby blocking substantially all through-air arcing paths between the first and second electrical contacts.” (EX1001 at claim 1.)

In attempting to show that Winker discloses Limitation 1[i], the Petition relies entirely on a diagram that is not disclosed anywhere in Winkler and was created by Petitioner and/or its expert for the purposes of this proceeding. (Petition at 32-34 (Petitioner failing to cite to any disclosures in Winkler); *see also* EX1003, ¶¶ 80-84 (same).) Petitioner’s manufactured diagram (which, again, does not appear in Winkler) is reproduced below:



Diagram created based on Ex. 1004, Fig. 2, (modified to show connector 10 and connector 12 partially disconnected)

(Petition at 33; *see also* EX1003, ¶ 80 (same).)

The Petition further asserts, without any explanation or analysis, that the above diagram shows that “the first and second insulation barriers [depicted in red and green, respectively] block substantially all through-air arcing paths between the first contact member and the second contact member [depicted in blue and orange, respectively].” (Petition at 33.) Petitioner’s supporting expert declaration simply

repeats the above sentence *verbatim* with no additional analysis or explanation. (EX1003, ¶ 81.)

Petitioner has failed to show that Winkler discloses Limitation 1[i] for several reasons.

First, as noted above, the Petition's "analysis" of Limitation 1[i] does not cite to, or rely upon, any of Winkler's disclosures. (Petition at 32-34; *see also* EX1003, ¶¶ 80-84 (same).) Rather, the Petition relies entirely on a manufactured diagram that is not disclosed anywhere in Winkler. (*Id.*) Petitioner's reliance on a manufactured diagram that does not exist in Winkler confirms that Winkler fails to disclose Limitation 1[i]. Petitioner's failure to analyze Winkler's actual disclosures is dispositive that Petitioner cannot show that Winkler discloses Limitation 1[i].

Second, the Petition's assertion that Winkler discloses the claimed first and second insulating barriers configured to "block substantially all through-air arcing paths" between the first and second electrical contacts is conclusory and cannot establish a reasonable likelihood of prevailing. The Petition simply says "see the diagram above" with no explanation or analysis. (Petition at 33.) Petitioner's supporting expert declaration merely repeats this conclusory statement *verbatim*. (EX1003, ¶ 80.) A petitioner cannot establish a reasonable likelihood of prevailing with expert testimony that "merely repeats, verbatim, the conclusory assertion for which it is offered to support." *See Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624,

Paper 9 at 15 (PTAB Aug. 24, 2022) (precedential); *see also Markforged, Inc. v. Continuous Composites, Inc.*, IPR2022-01431, Paper 7 at 14 (PTAB Jan. 18, 2023) (holding that petitioner had failed to establish a reasonable likelihood of prevailing where petitioner's expert's testimony merely parroted the petition's conclusory argument).

Third, even if the Board looks past Petitioner's manufactured diagram and Petitioner's and its expert's conclusory assertion that the diagram discloses the claimed first and second insulating barriers configured to "block substantially all through-air arcing paths" between the first and second electrical contacts (it should not), Petitioner still cannot prove anticipation as a matter of law.

"[I]t has long been understood that ambiguous references do not, as a matter of law, anticipate a claim." *Wasica Fin. GmbH v. Cont'l Auto. Sys., Inc.*, 853 F.3d 1272, 1284 (Fed. Cir. 2017).

Here, Petitioner's manufactured diagram is ambiguous at best. Petitioner's manufactured diagram is a cross-sectional view of an electrical connector pair 10, 12. (Petition at 33.) This cross-sectional view depicts the arrangement of the alleged insulating barriers vis-à-vis the alleged electrical contacts **at only a single, unspecified location** along the width of the electrical connector pair. (*Id.*) Petitioner's manufactured cross-sectional diagram **does not disclose** anything about the alleged insulating barriers or their arrangement at other locations along the width

of the electrical connector pair. (*Id.*) Thus, Petitioner's manufactured diagram is at best ambiguous as to whether the alleged first and second insulating barriers are configured to "block substantially all through-air arcing paths" between the first and second electrical contacts, as claimed. For example, Petitioner's manufactured diagram is ambiguous as to whether there are any gaps between, or discontinuities in, the alleged insulating barriers at other locations along the width of the electrical connector pair that would provide through-air arcing paths. (*Id.*)

Simply put, that Petitioner's manufactured diagram purportedly shows the alleged first and second insulating barriers in close proximity with each other *at a single, unspecified location* along the width of the electrical connector pair cannot, as a matter of law, support Petitioner's broader conclusion that Winkler discloses first and second insulating barriers configured to "***block substantially all through-air arcing paths***" between the first and second electrical contacts, as claimed. *See, e.g., Polycom, Inc. v. FullView, Inc.*, IPR2019-00647, Paper 12 at 11-14 (PTAB July 10, 2019) (denying institution of review and holding that petitioner failed to demonstrate anticipation where petitioner relied on an annotated cross-sectional view to argue that a reference disclosed the claimed vertical support member intersecting a reflective pyramidal mirror, but the cross-sectional view was ambiguous as to how the reference's pyramidal mirror was supported and disclosed at most that the pyramidal mirror contacted the support member); *Kranos*

Corporation v. Riddell, Inc., IPR2016-01646, Paper 10 at 30-31 (PTAB Feb. 14, 2017) (holding that petitioner had not shown a reasonable likelihood of prevailing in its assertion that the “Sears” reference anticipated claim 13 of the challenged patent where claim 13 recited a football helmet comprising a plurality of vent openings formed on each side of a raised central band, but the diagram petitioner relied on showed only one side of the raised central band).

Fourth, Petitioner’s assertion that its manufactured diagram looks like a figure in the ‘017 patent is irrelevant. (Petition at 33-34; EX1003, ¶ 83.) The prior art must be compared to the **claims**, not the specification. *See, e.g., Momentum Dynamics Corp. v. WiTricity Corp.*, IPR2021-01167, Paper 31 at 41 (PTAB Nov. 22, 2022) (“the claim, not the specification, is what is compared with the prior art.”).

Fifth, to the extent the Board construes the Petition as raising an inherency argument, the Petition fails to show that Winkler inherently discloses Limitation 1[i] because Petitioner’s expert does not opine, let alone show, that Limitation 1[i] is necessarily present in Winkler. (See EX1003, ¶¶ 80-84; *see also Trintec Indus.*, 295 F.3d at 1295; *Therasense*, 593 F.3d at 1332.) What a reference suggests to a POSITA, what a POSITA would envision from a reference, and/or what would have been obvious to a POSITA is irrelevant to whether a reference discloses a limitation. *See, e.g., Vivint*, 741 Fed. Appx. at 792; *Eli Lilly*, 849 F.3d. at 1076; *Nidec Motor*,

851 F.3d at 1274-75. In any case, as discussed above, Petitioner's ambiguous manufactured diagram cannot disclose Limitation 1[i] either expressly or inherently.

Accordingly, Petitioner has failed to show that Winkler discloses Limitation 1[i].

2. Petitioner Has Failed To Show That Winkler Anticipates Dependent Challenged Claims 2-4 And 9.

Petitioner has failed to show that Winkler anticipates dependent Challenged Claims 2-4 and 9 in view of their dependency on Challenged Claim 1. Challenged Claims 2-4 and 9 depend from Challenged Claim 1, and thus incorporate each and every limitation of that claim. *See* 35 U.S.C. § 112(d). Because Petitioner has failed to show that Winkler anticipates Challenged Claim 1, Petitioner has likewise failed to show that Winkler anticipates Challenged Claims 2-4 and 9.

B. Grounds 1B-D: Petitioner Has Failed To Show That There Is A Reasonable Likelihood That Winkler In View Of Winkler2, Handbook, Or Poliak Renders Dependent Challenged Claims 7-8 And 10-12 Obvious.

Petitioner has failed to show that dependent Challenged Claims 7-8 and 10-12 are obvious in view of their dependency on Challenged Claim 1. Challenged Claims 7-8 and 10-12 depend from Challenged Claim 1, and thus incorporate each and every limitation of that claim. *See* 35 U.S.C. § 112(d). Because Petitioner has failed to show that Challenged Claim 1 is unpatentable over Winkler, Petitioner has likewise failed to show that Challenged Claims 7-8 and 10-12 are unpatentable.

C. Ground 2A: Petitioner Has Failed To Show That There Is A Reasonable Likelihood That Kataoka Anticipates Challenged Claims 1-4.

1. Petitioner Has Failed To Show That Kataoka Discloses Every Limitation Of Challenged Claim 1.

(a) Petitioner Has Failed To Show That Kataoka Discloses Limitation 1[d].

Petitioner has failed to show that Kataoka discloses Limitation 1[d]. Limitation 1[d] recites: “a second connector having a second insulating housing.” (EX1001 at claim 1.)

Petitioner has failed to show that Kataoka discloses the claimed “second insulating housing” under the proper construction of the term “insulating” (*i.e.*, “electrically insulating”).

Even if the Board declines to adopt Patent Owner’s proposed construction of “insulating,” Petitioner still cannot show that Kataoka discloses the claimed “second insulating housing.”

(i) Petitioner Has Failed To Show That Kataoka Discloses Limitation 1[d] Under The Proper Construction Of “Insulating.”

Petitioner has failed to show that Kataoka discloses Limitation 1[d] under the proper construction of the term “insulating.”

As demonstrated in Section IV(A), *supra*, the proper construction of the term “insulating” is “electrically insulating.” Thus, under the proper construction of the

term “insulating,” the claimed “second insulating housing” recited in Limitation 1[d] must be an electrically insulating housing.

Here, Petitioner asserts that Kataoka's housing 7 is the claimed “second insulating housing.” (Petition at 70.) However, Petitioner **does not assert** that Kataoka's housing 7 is electrically insulating. (*Id.* at 68-70; *see also* EX1003, ¶ 142 (same).) Indeed, the Petition is silent as to housing 7's material properties. (*Id.*) Likewise, the cited portions of Kataoka do not disclose that housing 7 is electrically insulating and do not specify what material housing 7 is made of. (EX1005 at FIGS. 6A-B, 4:56-66, 10:19-29, 12:17-43; Petition at 70 (citing the same).)

Tellingly, Petitioner asserts that Kataoka's housing 5 (*i.e.*, the alleged “first insulating housing”) is an “insulating housing” because “it is formed of **non-conductive resin**” (Petition at 64 (citing EX1005 at 9:38-45) (emphasis added).)

However, Petitioner **does not assert** that Kataoka's housing 7 (*i.e.*, the alleged “second insulating housing”) is non-conductive or made of resin. (*Id.* at 68-70; *see also* EX1003, ¶ 142 (same).) Again, the Petition is silent as to housing 7's material properties. (*Id.*)

Thus, the Petition itself confirms that: (i) Petitioner understood the term “insulating housing” to mean an electrically insulating housing; (ii) Petitioner agrees that the proper construction of the term “insulating” is electrically insulating; and

(iii) Petitioner cannot meet its burden of showing that Kataoka discloses the claimed “second insulating housing” under the proper construction of the term.

Accordingly, Petitioner has failed to show that Kataoka discloses Limitation 1[d] under the proper construction of the term “insulating.”

(ii) Petitioner Has Failed To Show That Kataoka Discloses Limitation 1[d] Regardless Of Whether The Board Adopts Patent Owner's Proposed Construction.

Even if the Board declines to adopt Patent Owner's proposed construction of “insulating,” Petitioner still cannot meet its burden of showing that Kataoka discloses Limitation 1[d].

According to the Petition, Kataoka's housing 7 constitutes the claimed “second insulating housing” because housing 7 “surrounds the contact members and protects them from the environment.” (Petition at 70 (citing EX1005 at FIGS. 6A-B, 4:56-66, 10:19-29, 12:17-43); EX1003, ¶ 142 (same).)

Petitioner cannot meet its burden of showing that Kataoka discloses Limitation 1[d] for at least two reasons.

First, Petitioner cannot meet its burden of showing that Kataoka discloses Limitation 1[d] because Petitioner's argument is conclusory and cannot establish a reasonable likelihood of prevailing. Petitioner does not explain why a POSITA would have considered a housing that “surrounds the contact members and protects them from the environment” to be an “*insulating* housing,” as claimed. (Petition at

70; EX1003, ¶ 142.) As a matter of common sense, that a housing may surround an object and/or provide some degree of environmental protection does not make the housing an *insulating* housing. For example, a copper housing (like any housing) may provide some degree of environmental protection, but copper is a conductor. Petitioner's expert simply repeats the conclusory Petition *verbatim* and does not explain why a POSITA would have considered a housing that "surrounds the contact members and protects them from the environment" to be an "*insulating* housing." (EX1003, ¶ 142 (repeating the Petition *verbatim*).) A petitioner cannot establish a reasonable likelihood of prevailing with expert testimony that "merely repeats, *verbatim*, the conclusory assertion for which it is offered to support." *See Xerox Corp.*, IPR2022-00624, Paper 9 at 15; *Markforged*, IPR2022-01431, Paper 7 at 14.

Second, Petitioner cannot meet its burden of showing that Kataoka discloses Limitation 1[d] because Petitioner's argument is unsupported. Petitioner has no evidence that Kataoka's housing 7 protects the contact members from the environment, as Petitioner alleges. Nothing in the cited portions of Kataoka discloses that Kataoka's housing 7 protects the contact members from the environment. (*See generally* EX1005 at FIGS. 6A-B, 4:56-66, 10:19-29, 12:17-43; *see also* Petition at 70 (citing the same); EX1003, ¶ 142 (same).)

Third, to the extent the Board construes the Petition as raising an inherency argument, the Petition fails to show that Kataoka inherently discloses Limitation 1[d]

because Petitioner's expert does not opine, let alone show, that Limitation 1[f] is necessarily present in Kataoka. (See EX1003, ¶ 142; see also *Trintec Indus.*, 295 F.3d at 1295; *Therasense*, 593 F.3d at 1332.) What a reference suggests to a POSITA, what a POSITA would envision from a reference, and/or what would have been obvious to a POSITA is irrelevant to whether a reference discloses a limitation. See, e.g., *Vivint*, 741 Fed. Appx. at 792; *Eli Lilly*, 849 F.3d. at 1076; *Nidec Motor*, 851 F.3d at 1274-75.

Accordingly, even if the Board declines to adopt Patent Owner's proposed construction of "insulating," Petitioner cannot show that Kataoka discloses Limitation 1[d].

(b) Petitioner Has Failed To Show That Kataoka Discloses Limitation 1[i].

Petitioner has failed to show that Kataoka discloses Limitation 1[i]. Limitation 1[i] recites: "the second insulating barrier being configured so as to be in close proximity with the first insulating barrier when the first and second connectors are partially disconnected and the first and second electrical contacts are separated by a short distance, thereby blocking substantially all through-air arcing paths between the first and second electrical contacts." (EX1001 at claim 1.)

In analyzing whether Kataoka discloses the claimed first and second insulating barriers configured to "block substantially all through-air arcing paths" between the first and second electrical contacts, the Petition relies entirely on a

Petitioner-created diagram that is not disclosed anywhere in Kataoka. (Petition at 81-83; *see also* EX1003, ¶ 156.) Petitioner's manufactured diagram is reproduced below:

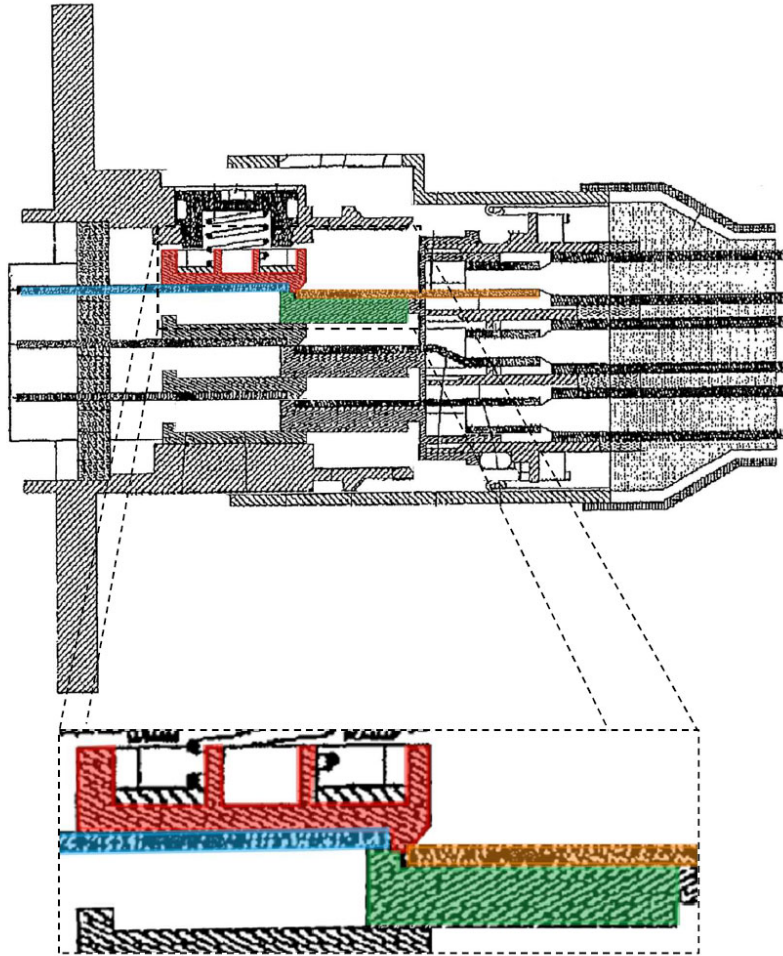


*Diagram created based on Ex. 1005, Fig. 3 (top), and enlarged portion (bottom) (showing a **first insulating barrier in red** and a **second insulating barrier in green** of a connector pair in a partially disconnected configuration, a **first electrical contact in blue**, and a **second electrical contact in orange**)*

(Petition at 82; *see also* EX1003, ¶ 156 (same).)

The Petition further asserts, without explanation or analysis, that the above diagram shows that “the first insulating barrier and the second insulating barrier

[depicted in red and green, respectively] ‘block[] substantially all through-air arcing paths between the first and second electrical contacts [depicted in blue and orange, respectively],’ ... because there is no air gap or other through-air arcing path between the first insulating barrier and the second insulating barrier.” (Petition at 83; EX1003, ¶ 156 (same).)

Petitioner has failed to show that Kataoka discloses Limitation 1[i] for several reasons.

First, as noted above, the Petition’s “analysis” of whether Kataoka discloses the claimed first and second insulating barriers configured to “block substantially all through-air arcing paths” between the first and second electrical contacts does not cite to, or rely upon, any of Kataoka’s disclosures. (Petition at 81-31; *see also* EX1003, ¶ 156 (same).) Rather, the Petition relies exclusively on a manufactured diagram that is not disclosed anywhere in Kataoka. (Petition at 81-31; *see also* EX1003, ¶ 156 (same).) Petitioner’s reliance on a manufactured diagram that does not exist in Kataoka confirms that Kataoka fails to disclose Limitation 1[i]. Petitioner’s failure to analyze Kataoka’s actual disclosures is dispositive that Petitioner cannot show that Kataoka discloses Limitation 1[i].

Second, the Petition’s assertion that Kataoka discloses the claimed first and second insulating barriers configured to “block substantially all through-air arcing

paths” between the first and second electrical contacts is conclusory and cannot establish a reasonable likelihood of prevailing.

The Petition simply says “see the diagram above” with no explanation or analysis and then repeats the claim language. (Petition at 82-83.) Petitioner’s reasoning is circular and conclusory, and Petitioner’s supporting expert declaration repeats Petitioner’s conclusory argument nearly *verbatim*. (EX1003, ¶ 156.) Under these circumstances, Petitioner cannot show that Kataoka discloses Limitation 1[i]. *See Xerox Corp.*, IPR2022-00624, Paper 9 at 15; *Markforged*, IPR2022-01431, Paper 7 at 14.

Third, even if the Board looks past Petitioner’s manufactured diagram and Petitioner’s and its expert’s conclusory assertion that the diagram discloses the claimed first and second insulating barriers configured to “block substantially all through-air arcing paths” between the first and second electrical contacts (it should not), Petitioner still cannot prove anticipation as a matter of law because Petitioner’s manufactured diagram is ambiguous at best. *See Wasica*, 853 F.3d at 2184. (“[I]t has long been understood that ambiguous references do not, as a matter of law, anticipate a claim.”).

Petitioner’s manufactured diagram is a cross-sectional view of an electrical connector pair 2, 3. (Petition at 82.) This cross-sectional view depicts the arrangement of the alleged insulating barriers vis-à-vis the alleged electrical contacts

at only a single, unspecified location along the width of the electrical connector pair. (*Id.*) Petitioner's manufactured cross-sectional diagram ***does not disclose*** anything about the alleged insulating barriers or their arrangement at other locations along the width of the electrical connector pair. (*Id.*) Thus, Petitioner's manufactured diagram is at best ambiguous as to whether the alleged first and second insulating barriers are configured to "block substantially all through-air arcing paths" between the first and second electrical contacts, as claimed. For example, Petitioner's manufactured diagram is ambiguous as to whether there are any gaps between, or discontinuities in, the alleged insulating barriers at other locations along the width of the electrical connector pair that would provide through-air arcing paths. (*Id.*)

Simply put, that Petitioner's manufactured diagram purportedly shows the alleged first and second insulating barriers in close proximity with each other ***at a single, unspecified location*** along the width of the electrical connector pair cannot, as a matter of law, support Petitioner's broader conclusion that Kataoka discloses first and second insulating barriers configured to "***block substantially all through-air arcing paths***" between the first and second electrical contacts, as claimed. *See, e.g., Polycom*, IPR2019-00647, Paper 12 at 11-14; *Kranos Corp.*, IPR2016-01646, Paper 10 at 30-31.

Petitioner's assertion that its manufactured diagram is consistent with Kataoka's disclosure that connector 1 is intended "to prevent unintentional contact and electrical shock to a foreign object such as a hand or finger of a worker, etc." is of no help to Petitioner. (EX1005 at 15:12-22; Petition at 83 (citing EX1005 at 15:12-22).) Limitation 1[i] expressly recites that the first and second insulating barriers are configured to "block[] substantially all through-air arcing paths ***between the first and second electrical contacts.***" (EX1001 at claim 1 (emphasis added).) That Kataoka's connector 1 is intended to prevent electrical shock to a ***hand or finger*** does not disclose what is claimed, is merely a statement of intended purpose, and is irrelevant.

Fourth, to the extent the Board construes the Petition as raising an inherency argument, the Petition fails to show that Kataoka inherently discloses Limitation 1[i] because Petitioner's expert does not opine, let alone show, that Limitation 1[i] is necessarily present in Kataoka. (See EX1003, ¶ 156; see also *Trintec Indus.*, 295 F.3d at 1295; *Therasense*, 593 F.3d at 1332.) What a reference suggests to a POSITA, what a POSITA would envision from a reference, and/or what would have been obvious to a POSITA is irrelevant to whether a reference discloses a limitation. See, e.g., *Vivint*, 741 Fed. Appx. at 792; *Eli Lilly*, 849 F.3d. at 1076; *Nidec Motor*, 851 F.3d at 1274-75. In any case, as discussed above, Petitioner's ambiguous manufactured diagram cannot disclose Limitation 1[i] either expressly or inherently.

Accordingly, Petitioner has failed to show that Kataoka discloses Limitation 1[i].

2. Petitioner Has Failed To Show That Kataoka Anticipates Dependent Challenged Claims 2-4.

Petitioner has failed to show that Kataoka anticipates dependent Challenged Claims 2-4 in view of their dependency on Challenged Claim 1. Challenged Claims 2-4 depend from Challenged Claim 1, and thus incorporate each and every limitation of that claim. *See* 35 U.S.C. § 112(d). Because Petitioner has failed to show that Kataoka anticipates Challenged Claim 1, Petitioner has likewise failed to show that Kataoka anticipates Challenged Claims 2-4.

D. Ground 2B: Petitioner Has Failed To Show That There Is A Reasonable Likelihood That Kataoka In View Of The Handbook Renders Dependent Challenged Claims 7-10 Obvious.

Petitioner has failed to show that dependent Challenged Claims 7-10 are obvious in view of their dependency on Challenged Claim 1. Challenged Claims 7-10 depend from Challenged Claim 1, and thus incorporate each and every limitation of that claim. *See* 35 U.S.C. § 112(d). Because Petitioner has failed to show that Challenged Claim 1 is unpatentable over Kataoka, Petitioner has likewise failed to show that Challenged Claims 7-10 are unpatentable.

VI. CONCLUSION

Accordingly, for at least the foregoing reasons, Patent Owner respectfully requests that the Board refuse to institute an *inter partes* review because Petitioner

has failed to establish a reasonable likelihood that any of the Challenged Claims of the '017 patent will be found unpatentable.

Dated: August 29, 2024

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This paper complies with the requirements of 37 C.F.R. § 42.24 and contains 7,335 words (exclusive of the table of contents, the table of exhibits, the certificate of service, and this certification).

This paper complies with the typeface requirements of 37 C.F.R. § 42.6 and has been prepared in 14 point Times New Roman proportionally spaced typeface with normal spacing.

Respectfully submitted,

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The undersigned hereby certifies that on the below date, I caused the forgoing to be served by electronic mail to the following:

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