UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BizLink Technology, Inc.,

Petitioner,

v.

Anderson Power Products, Inc.,

Patent Owner.

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

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# PETITIONER'S AUTHORIZED RESPONSE TO PATENT OWNER'S REQUEST FOR DIRECTOR REVIEW

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# I. INTRODUCTION

Patent Owner's Request for Director Review should be denied, because the Board correctly concluded that the alleged invention, a conventional electrical connector, was disclosed in Patent Owner's own earlier patent issued in 1958—*Winkler*. The inventors suggested as the point of novelty the addition of a pair of "insulating barriers" to block through air paths between the electrical contacts, but *Winkler* teaches an electrical connector pair with this same feature. And when applying for the '017 patent, Patent Owner did not provide *Winkler* to the Examiner. By obtaining its '017 patent, Patent Owner effectively sought to claim the same invention again, over 50 years later. The Board's Final Written Decision righted that wrong by correctly finding the challenged claims anticipated by *Winkler*.

Patent Owner's Request of Director Review is illogical and fundamentally flawed. For example, the Patent Owner repeatedly refers to an "agreed construction" of "within," but then confusingly attacks that same construction as erroneous. Both are wrong. The parties never agreed on a construction for "within" and the allegedly "erroneous" construction the Board adopted was the construction proposed by Patent Owner. Patent Owner's request is riddled with many similar inaccuracies.

For instance, the Board did not err in instituting trial; the Petition established solid grounds. The Board's decision does not have internal inconsistencies; different claims and grounds have different results, because they have different limitations.

The Board did not shift the burden of proof; it found Petitioner's evidence persuasive and not overcome by Patent Owner's limited, conclusory expert testimony.

Petitioner respectfully asks the Director to deny Patent Owner's meritless request to overturn the Board's Final Written Decision.

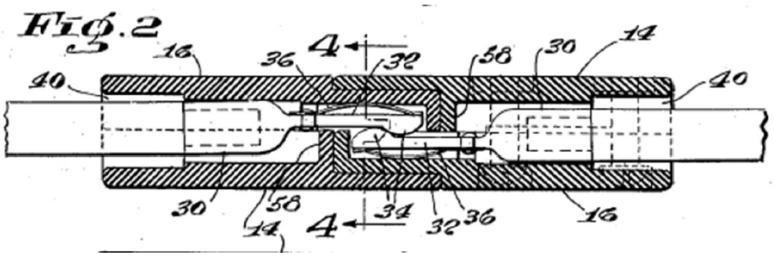
## II. STANDARD FOR DIRECTOR REVIEW

The Director is not required to rehear every Board decision. *See Arthrex, Inc. v. Smith & Nephew, Inc.*, 35 F. 4th 1328, 1338 (Fed. Cir. 2022) (noting the Supreme Court "did not hold that the Director must rehear every Board decision, nor did it require the Director to issue a decision in response to every rehearing request."). Per the USPTO's policy, "Requests for Director Review of a Board's final decision . . . shall be limited to decisions presenting (a) an abuse of discretion, (b) important issues of law or policy, (c) erroneous findings of material fact, or (d) erroneous conclusions of law." *See* https://www.uspto.gov/patents/ptab/decisions/director-review-process. Patent Owner's Request does not meet any of these categories.

## III. BACKGROUND

The '017 patent purports to address electrical arcing when connecting or disconnecting power connectors. Ex.1001, 1:6-8. The three-page long specification begins with acknowledging that nearly all the disclosed structure was known. *Id.*, 3:20-23 ("[t]he embodiment is similar to the prior art design of FIG. 1A, except that the insulating support structures 108, 110 have been replaced by the insulating

barrier structures 200, 202."). The claimed insulating barriers are not novel. *Winkler* described an electrical connector with such insulating barriers:




Ex.1004. Importantly, as noted above, despite that *Winkler* was assigned to Patent Owner's predecessor, and despite that Patent Owner identified *Winkler* on its own patent marking website (Ex.1012), Patent Owner never disclosed *Winkler* to the Examiner during prosecution, nor was *Winkler* considered before issuance of the '017 patent (Ex.1001). The Board found *Winkler* anticipates claim 1. Paper 29.

## IV. ARGUMENT

### A. The Board Correctly Instituted Trial, and There is No Basis to Reverse Institution After the Board's Final Written Decision

Patent Owner asks the Director to undo all the work the Board performed over the last eighteen months, alleging deficiencies in the Petition, but Patent Owner cites no authority supporting such a request, and there is no basis for doing so. The Petition articulated sufficient grounds, including those that ultimately established invalidity of all but one challenged claims.

Further, Patent Owner never requested review of the Institution Decision, despite that the Director Review process became effective on October 31, 2024, i.e.,

before the November 22, 2024, Institution Decision. Only now that its claims have been found unpatentable, does Patent Owner allege an abuse of discretion. Patent Owner relies on the July 2025 Memorandum from Coke Morgan Stewart, but that memorandum addressed the use of "general knowledge" to supply missing limitations, an issue not presented here, and issued well after the institution here.

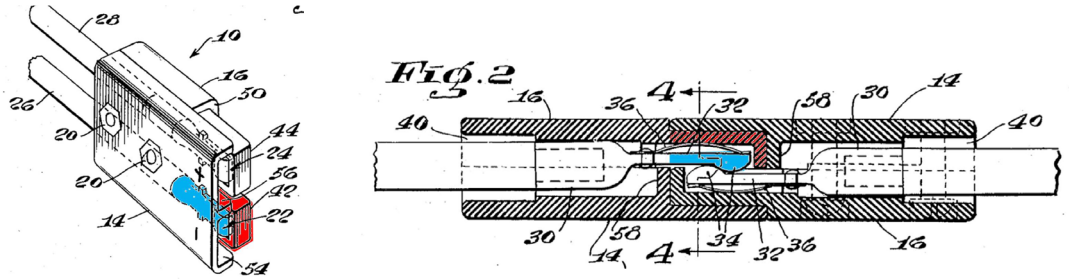
Further, as noted on the USPTO's website:

> As a general matter, a request for Director Review of a final decision is **not an opportunity to raise issues related to the Board's decision on institution**, for example, whether a petition meets the reasonable likelihood standard or how the Board exercised the Director's institution discretion.

https://www.uspto.gov/patents/ptab/decisions/director-review-process (emphasis added). The Board did not abuse its discretion when instituting trial and the Director should reject Patent Owner's request to revisit institution now, after the trial is over.

### 1. The Petition illustrated disclosure of 1[g] in the prior art by identifying the insulating barrier within the connector.

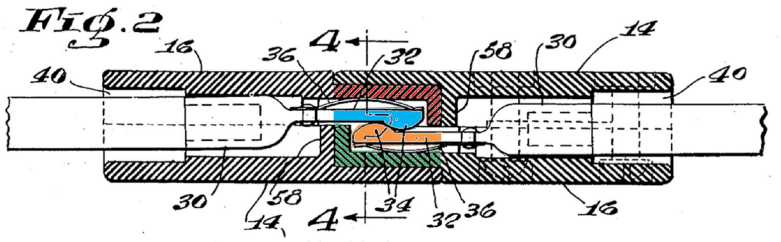
The Director should reject Patent Owner's argument that the Petition fails to identify where limitation 1[g] is found in the prior art. The Petition expressly asserts that *Winkler* anticipates 1[g] and identifies the relevant structure from the prior art that meets the claim limitation. Specifically, the Petition identifies receiving pocket 42 as "the claimed 'first insulating barrier' of 1[g]" and included annotated figures from the prior art showing the relevant structure within the connector:




As the Board correctly concluded in the Institution Decision when rejecting Patent Owner's argument, the Petition adequately specifies where the limitation is found in the prior art and the figures show the receiving pocket "within" the housing without need for further explanation. Paper 7, 25. The Board did not abuse its discretion.

**2. The Petition set forth *Winkler*'s disclosure of 1[i] with diagrams depicting *Winkler*'s disclosure as understood by a person of ordinary skill in the art.**

Patent Owner's argument that the Petition "relied solely on a made-up diagram" is easily dismissed. The Petition included expert testimony and annotated versions of Figure 2, as it appears in *Winkler,* mapping the various claim elements:




*Ex. 1004, Fig. 2 (annotated highlighting a first electrical contact in blue and a first insulating barrier in red of a first connector, and a second electrical contact in orange and a second insulating barrier in green of a second connector)*

Paper 1, 32. The Petition additionally included a modified diagram that was created based on the above figure, showing what a person of ordinary skill would understand to be the partially disconnected state:

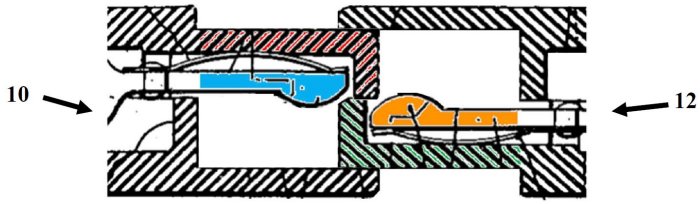



*Diagram created based on Ex. 1004, Fig. 2, (modified to show connector 10 and connector 12 partially disconnected)*

Paper 1, 33. Petitioner's expert, Dr. Eldering, discussed the annotated figure in his declaration and explained how a person of ordinary skill would reasonably understand the *Winkler* disclosure using figures analogous to those included in the '017 patent. Ex.1004, ¶¶ 79-84. The Board correctly rejected Patent Owner's criticisms:

> Petitioner's reliance on the modified Figure 2 diagram not explicitly shown in *Winkler* is not *per se* improper, so long as the skilled artisan would have reasonably understood that that is what *Winkler* discloses." Institution Decision, 26 (citing *Acoustic Tech., Inc. v. Itron Networked Solutions, Inc.*, 949 F.3d 1366, 1373 (Fed. Cir. 2020)).

Paper 7, 26. This decision was not an abuse of discretion in finding the *Winkler* discloses limitation 1[i], nor was the ultimate decision to institute trial.

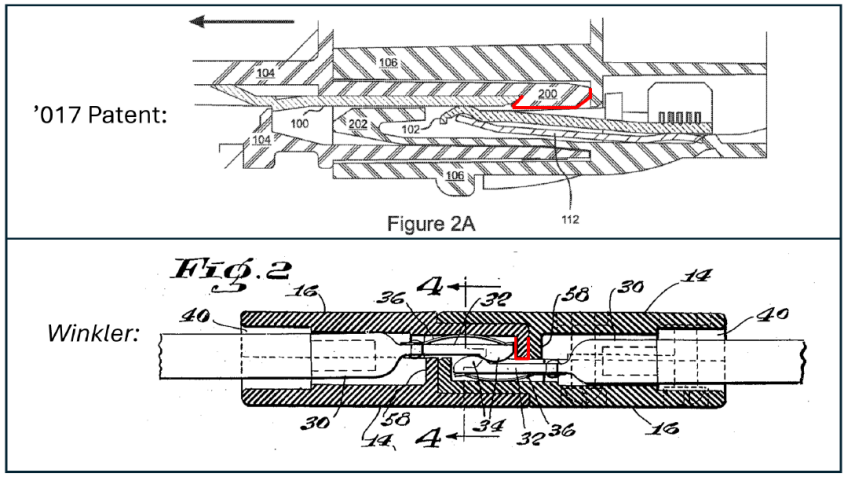
### B. The Board's Detailed and Thorough Final Written Decision is Sound and Should Not Be Reversed

#### 1. Patent Owner mischaracterizes the record and the conclusions of the Board regarding the "within" limitation and should be rejected.

Patent Owner's mischaracterizations of the record are bold and numerous and do not support reversing the Board's finding that 1[g] is disclosed in *Winkler*. Most importantly, Petitioner never agreed with Patent Owner's attempt to rewrite the

claim language, changing "within" to mean "on the inside of." Petitioner argued that Patent Owner's construction of "within" is unnecessary and unsupported by the specification, which does not provide any lexicography or disavowal of claim scope to warrant departure from the plain and ordinary meaning. Paper 15, 3-5; *see also* Hearing Tr., 9:6-24, 18:21-26. Petitioner expressly and continuously rejected Patent Owner's proposed construction.

At the hearing, Petitioner discussed the meaning of "within" at length with the Board. Petitioner used the following annotated diagram from its Reply outlining the claimed "insulating barrier" structure in the patent and the prior art:




Paper 15, 11. Patent Owner argued that an additional, separate, unclaimed housing piece is needed to meet Patent Owner's definition of "within." Petitioner rejected that argument, explaining that there does not need to be a separate piece, and that "in the context of Winkler, I think 'within' just means that it is part of -- that it is within the bounds of the housing." Hearing Tr., 19:22-20:8; *see also id.*, 12:7-24.

In its Request for Director Review, Patent Owner relies a cropped sentence of an exchange between Petitioner and the Board to argue that Petitioner agreed to Patent Owner's construction and the Board confirmed *Winkler* does not teach the limitation under that construction. Request, 6-8. Neither is true, as confirmed when reviewing the complete exchange discussing the above annotated figure:

> PETITIONER'S COUNSEL: Yeah. I would say that "within" means it's on the inner side of the housing.
>
> THE BOARD: So, then it looks like you wouldn't win on that, right, because on one piece, there is no exterior housing?
>
> * * *
>
> PETITIONER'S COUNSEL: So, the horizontal piece would be the housing, and the red piece dangling down would be within the housing.
>
> THE BOARD: Oh, I see. So, you'd treat the horizontal piece as the housing?
>
> PETITIONER'S COUNSEL: Right.
>
> THE BOARD: And because the red piece hangs down from it --
>
> PETITIONER'S COUNSEL: It's within the housing.
>
> THE BOARD: -- it's 'within'? Okay, thank you.

Hearing Tr., 22:2-13. Patent Owner's representation that in this exchange the Board "confirmed at the hearing that Winkler's receiving pocket is not 'within' Winkler's first connector 10 under the correct and agreed construction of 'within'" (Request, 8), is a blatant and inexcusable mischaracterization of the record. This exchange does not support Patent Owner's argument that the Board erred in its decision.

### 2. The Board's finding that *Winkler* discloses limitation 1[g] is supported by the evidence and is not based on erroneous fact findings or legal conclusions.

Notwithstanding that Patent Owner's construction is unnecessary, and not supported by lexicography or disavowal, Petitioner demonstrated that even under Patent Owner's construction, limitation 1[g] is disclosed in *Winkler*. The Board agreed and correctly found *Winkler's* insulating barrier "within" the connector.

Patent Owner claims the Board adopted a "new construction" that is "different than the parties agreed construction," but that is not the case (and there was never an agreed construction). The Board adopted Patent Owner's own construction. Paper 29, 20 ("[W]e construe "within" to mean "on the inside of."). The Board, however, explained that Patent Owner's construction does not require the insulating barriers to be *entirely* on the inside of the housing (which Patent Owner never proposed), because that "would not be commensurate with the scope of the claim, the Specification of the '017 patent, or Patent Owner's dictionary evidence." *Id.*

The Board analyzed the disclosures of *Winkler*, Figure 1 in particular, and correctly concluded that even under Patent Owner's construction, limitation 1[g] is disclosed. The Board noted "the width and height of the receiving pocket are less than those of the housing, and the receiving pocket does not extend laterally beyond or exterior of the housing." Paper 29, 38-39. As such, "the receiving pocket is inside

of the housing because it is inside the boundaries, the physical area delineated by the width and height, of the housing." Paper 29, 39. The Board committed no error.

Patent Owner now complains that that Board's application of Patent Owner's own construction is erroneous and renders the term "within" meaningless, but that is not the case. As the Board noted, there is no "lexicography or clear disavowal of claim scope that alters our view of what an ordinarily skilled artisan would have understood the term to mean" and "the intrinsic evidence is not entirely clear as to the meaning of the term 'within.'" Paper 29, 19. Accordingly, there is no basis to construe the term as narrowly as Patent Owner requires to avoid the disclosure in *Winkler*. Patent Owner's hot dog analogy misses the mark and only serves to confirm the correctness of the Board's decision. A hot dog that is longer than a bun is nevertheless "within" the bun where two of the three dimensions of the hot dog are less than the corresponding dimensions of the bun.

The '017 patent does not describe any limitations that distinguish the claimed invention from *Winkler*. The Board correctly found limitation 1[g] anticipated.

### 3. The Board correctly credited the testimony of Dr. Eldering and dismissed the conclusory and limited testimony of Mr. Locati when finding limitation 1[i] taught in *Winkler*.

Patent Owner criticizes the Board for its appropriate reliance on Dr. Eldering's testimony concerning a figure from the *Winkler* reference that he modified to show

what a person of ordinary skill in the art would have understood from *Winkler*. Here again, the Board did not err or abuse its discretion.

Patent Owner is wrong to suggest that it is impermissible to rely on drawings that do not appear in the prior art reference, as the Board noted in both the Institution Decision and the Final Written Decision. Paper 7, 26; Paper 29, 42 (*citing Acoustic Tech., Inc. v. Itron Networked Solutions, Inc.*, 949 F.3d 1366, 1373 (Fed. Cir. 2020) ("In an anticipation analysis, the dispositive question is whether a skilled artisan would 'reasonably understand or infer' from a prior art reference that every claim limitation is disclosed in that single reference. . . . Expert testimony may shed light on what a skilled artisan would reasonably understand or infer from a prior art reference." (citations omitted))."). Petitioner's expert, Dr. Eldering, described how the figure was created in his declaration (Ex. 1003, ¶ 80) and again in his deposition (Ex.2002, 1:55:21-156:11), supporting his opinion of why a person of ordinary skill in the art would understand limitation 1[i] to be disclosed in *Winkler*.

In its Request, Patent Owner repeatedly refers to "uncontroverted evidence" but shows none. Notably, although Patent Owner and Mr. Locati had every opportunity to explain or illustrate what a person of ordinary skill would have understood from *Winkler*, they elected not to do so. The only "evidence" Patent Owner attempted to introduce was more of a denial than any evidence—a conclusory statement from Mr. Locati that he "would never envisage this diagram from

*Winkler*'s actual figures and disclosures" (Ex 2001, ¶ 102). Tellingly, he refused to explain what he would "envisage," how he would reasonably understand the structure differently, or how he would modify the figures in the Petition to correspond to his understanding of *Winkler*. Ex.1022, 77:11-78:14, 84:20-87:15. Additionally, as the Board correctly noted, Mr. Locati limited his testimony to the express disclosures of *Winkler*. Paper 29, 43; Ex.1022 77:4-87:15. In view of Mr. Locati's limited and conclusory testimony, no response was warranted.

Patent Owner also incorrectly asserts that Petitioner did not dispute that the diagram is inconsistent with *Winkler*; that is a central dispute between the parties that has been extensively briefed. Importantly, Patent Owner's criticism of the modified diagram is that it fails to account for alleged "gaps" between the two receiving pockets and instead shows the two insulating barriers in contact. But that criticism is irrelevant to claim 1, which does not require elimination of all gaps. Patent Owner argued that for limitation 1[i] "the claimed insulating barriers need not be in physical contact" and "at no point did Plaintiff assert that the claims of the '017 patent preclude a 'gap' between the insulating barriers." Ex.1026, 7-9. The Board correctly found that Patent Owner's criticism of the drawing does not undermine the finding of anticipation of claim 1. Paper 29, 44-47. The diagram is accurate enough, in combination with the credible testimony of Dr. Eldering, to prove anticipation.

**4. The Board's anticipation findings are internally consistent and that is not a valid basis for reversing the decision.**

Patent Owner argues the Final Written Decision is internally inconsistent, but ignores the different claim limitations of claims 1 and 4. Claim 1 does not preclude the existence of a gap between the insulating barriers. Claim 4 does, requiring "a barrier tensioning mechanism that presses the first and second insulating barriers against each other when the first and second connectors are partially disconnected . . . ." *See* Ex.1001, claim 4. When analyzing claim 1, the Board found that any alleged inconsistencies in the modified diagram do not undermine the finding of anticipation. In contrast, because claim 4 requires that the insulating barriers be in contact and be pressed together, the Board found Petitioner did not carry its burden. These separate findings are not inconsistent, because of the two distinct limitations.

Patent Owner's argument about inconsistencies between the *Winkler* and *Kataoka* grounds is equally baseless. For *Kataoka*, the Board focused on the differences between Figures 3 and 4 of *Kataoka*, one of which showed the components "pressed together," and the other of which showed the components in a "relaxed, loosened state." *Id.*, 68-70. *Winkler* does not have "pressed" and "loosened" states like *Kataoka*, so the Board's finding for *Kataoka* is irrelevant.

Patent Owner's reliance on *Honeywell Int'l Inc. v. Mexichem Amanco Holding S.A. DE C.V.*, 865 F.3d 1348, 1354 (Fed. Cir. 2017) is similarly flawed. There, the

Board was treating the same evidence inconsistently, dismissing it for one purpose and relying on it for another. *Id.* There is nothing analogous in this case.

Contrary to Patent Owner's argument: (1) the Board's decision did not rely solely on a "made-up" diagram for limitation 1[i], but also credible expert testimony about what would have been understood by a person of ordinary skill in the art from *Winkler*, (2) any alleged deficiencies in the diagram do not impact the analysis of limitation 1[i], which does not precludes a gap between the insulating barriers, and (3) the above findings are not internally inconsistent.

**5. The Board did not shift the burden of proof to the Patent Owner; the burden was met by Petitioner's showing.**

In arguing that the Board improperly shifted the burden, Patent Owner again mischaracterizes the Board's decision and factual findings.

Patent Owner argues the Board placed the burden on it to prove that Petitioner's limitation 1[i] diagram is inaccurate, but the Board did not do so. Petitioner's expert testimony and analysis (which included the diagram) proved limitation 1[i] was disclosed in *Winkler*. The Board correctly found that Petitioner's proof was not undermined by the testimony of Mr. Locati, who (1) testified only about the express teachings of *Winkler*, and (2) did not articulate what a person of ordinary skill would have understood or "envisaged," or how it would have differed in any relevant way from Dr. Eldering's testimony. Patent Owner argues it did

provide diagrams (Request, 15), but cite only diagrams in which Mr. Locati highlighted gaps, not diagrams illustrating the relative arrangement of the insulating barriers, which did not undermine Petitioner's proof for limitation 1[i].

Patent Owner's other complaint, that the Board held that Patent Owner failed to prove the discussion of arcing in *Winkler* is "dispositive" with regard to limitation 1[i], is also baseless. First, it is factually inaccurate, in that *Winkler* does not describe "significant" or "pervasive" electrical arcing, merely that any pitting caused by arcing is alleviated by a self-cleaning mechanism. *See* Paper 29, 46, Ex. 1004, 1:54-61, 3:40-47. Second, because limitation 1[i] does not require blocking *all* through-air arcing paths, the Board correctly found that the references to arcing in *Winkler* do not undermine Petitioner's proof that limitation 1[i] was disclosed.

In neither instance did the Board shift the burden of proof to Patent Owner. Patent Owner failed to overcome Petitioner's showing. "[W]e conclude that Petitioner has demonstrated by a preponderance of the evidence that claims 1–3 and 7–12 of the '017 patent are unpatentable." Paper 29, 72-73.

## V. CONCLUSION

The Board's Decision correctly found Petitioner proved claims 1-3 and 7-12 of the '017 patent were anticipated by *Winkler*. Because the Patent Owner's Request presents no abuse of discretion and no erroneous findings of material fact or conclusions of law, the Request should be denied.

Date: December 16, 2025

Respectfully Submitted,

/Ming-Tao Yang/
Ming-Tao Yang, Lead Counsel
Reg. No. 62,019

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing **Petitioner's Authorized Response to Patent Owner's Request for Director Review** was served on December 16, 2025, via email directed to counsel of record for the Patent Owner at the following:

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