UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NEARMAP US, INC.,
Petitioner

v.

PICTOMETRY INTERNATIONAL CORP.,
Patent Owner

Case IPR2024-00729
Patent 9,182,657

PETITIONER'S REQUEST FOR DIRECTOR REVIEW

TABLE OF CONTENTS

I. FACTUAL BACKGROUND 2

II. THE BOARD'S DECISION IGNORES LARGE PORTIONS OF AND MISCHARACTERIZES THE PETITION 4

III. CONCLUSION 15

TABLE OF AUTHORITIES

Page(s)

Cases

Apple Inc. v. Core Wireless Licensing S.A.R.L.,
IPR2015-01902, Pap.2 (Sept.12, 2015).....9

Boart Longyear Ltd. v. Australian Mud Co.,
IPR2019-01129, Pap.1 (May 24, 2019).....10

Boart Longyear Ltd. v. Australian Mud Co.,
IPR2019-01129, Pap.8 (Nov. 25, 2019).....10

Elite Performance Footwear, LLC v. Reebok Int'l Ltd.,
IPR2017-01689, Pap.2 (June 28, 2017).....10

Elite Performance Footwear, LLC v. Reebok Int'l Ltd.,
IPR2017-01689, Pap.7 (Jan. 12, 2018).....10

NJOY, Inc. v. Fontem Holdings 1 B.V.,
IPR2014-01300, Pap.2 (Aug. 15, 2014).....10

Samsung Elecs. Co. v. Advanced Touchscreen and Gesture Techs., LLC, IPR2016-00652, Pap.2 (Feb. 29, 2016).....9

Samsung Elecs. Co. v. Advanced Touchscreen and Gesture Techs., LLC, IPR2016-00652, Pap.8 (Aug. 31, 2016).....9

Structural Wrap, LLC v. Sys. Stormseal Pty Ltd,
IPR2024-00084, Pap.2 (Oct. 28, 2023).....9

Structural Wrap, LLC v. Sys. Stormseal Pty Ltd,
IPR2024-00084, Pap.13 (May 9, 2024).....9

Twitter, Inc. v. Palo Alto Rsch. Ctr., Inc.,
IPR2021-01398, Pap.12 (Mar. 15, 2022).....9

Twitter, Inc. v. Palo Alto Rsch. Ctr., Inc.,
IPR2021-01430, Pap.2 (Aug. 25, 2021).....9

Twitter, Inc. v. Palo Alto Rsch. Ctr., Inc.,
IPR2021-01430, Pap.9 (Dec. 17, 2021).....9

Twitter, Inc. v. Palo Alto Rsch. Ctr., Inc.,
IPR2021-01458, Pap.11 (Apr. 6, 2022).....9

Xerox Corp. v. Bytemark, Inc.,
IPR2022-00624, Pap.9 (Aug. 24, 2022) (precedential).....11, 12

Xerox Corp. v. Bytemark, Inc.,
IPR2022-00624, Pap.12 (Feb. 10, 2023).....12, 13

Other Authorities

37 C.F.R. § 42.22(a)(2).....4

37 C.F.R. § 42.104(b)(4).....4

Consolidated Trial Practice Guide (Nov. 2019) 8

H.R. Rep. No. 112-98 (2011).....4

Petitioner Nearmap US, Inc. ("Petitioner") requests §42.75[1] Director review of the Board's denial of institution (Pap.9, "Inst.") based on the Board's (i) failure to consider the Petition (Pap.2, "Pet.") in its entirety and resulting refusal to consider the merits of Petitioner's prior art challenges, (ii) mischaracterization of large portions of the Petition, and (iii) misapplication of clear Office precedent and guidance, which together constitute a clear abuse of discretion. The Board here improperly rejected a long-endorsed chart format while ignoring "narrative" arguments in the Petition's charts and earlier sections. Inst.17. The Board also penalized Petitioner for the length of its expert declaration, suggesting improper incorporation by reference but pointing to nothing that was actually incorporated (Inst.21), and penalized Petitioner for mapping the art to the actual words of the claim, as properly construed, rather than to the equivalent definitional words in Petitioner's claim construction. Because institution decisions are non-appealable, review of the Board's arbitrary and unjustified refusal to reach the merits is important to upholding Congress's goals for post-grant trials as an efficient mechanism to improve patent quality and reduce costs.

This denial of institution also upends long-settled expectations of both

[1] Unless stated, statutory and regulatory citations are to 35 U.S.C. or 37 C.F.R., as context indicates, internal citations are omitted, and underlining is added.

petitioners and patentees regarding acceptable petition format and content. It also contradicts both the express guidance of the *Trial Practice Guide*—which encourages the use of claim charts such as those here—and numerous Board precedents, which endorse this very format and reject criticisms like those relied on by the panel. In arbitrarily departing from Board precedent and guidance and introducing unpredictability, uncertainty, and inefficiency that will prejudice and discourage future petitioners, this decision also raises important issues of law and policy. Director review of this denial of institution is thus warranted, and Petitioner respectfully requests remand to a new panel of the Board for consideration of the Petition's merits.

I. FACTUAL BACKGROUND

Nearmap challenged U.S. Patent No. 9,182,657 ("'657") based on, *inter alia*, the Loewen and Fujimoto references (EXS1004-1005). After introducing '657 (Pet.1-5), the Petition described what was known in the art about '657's key claimed features, citing (for each reference) pertinent teachings of Loewen, Fujimoto, and other asserted references (Pet.6-24). The Petition further provided a separate textual overview for each asserted reference (Pet.30-43), and established they were analogous (Pet.40-43). Then, separately for each challenged claim, the Petition collected disclosures from the asserted references and provided a detailed, limitation-by-limitation chart expressly mapping each word of the claims to the disclosures of each relied-upon reference, with citations for each mapped disclosure and additional

narrative explanations giving further detail. Pet.44-115.

Patent Owner's ("PO") preliminary response (Pap.6, "POPR") ignored the Petition's explanations and citations, argued the Petition didn't address the claims "with particularity," and criticized Petitioner's claim chart format as providing no "explanation" or citations. POPR.12-19. PO further suggested the Petition skirted word limits and incorporated by reference Petitioner's expert's declaration—complaining of its length. POPR.20. But the POPR never identified even a *single* fact or argument it alleged was improperly incorporated. Finally, the POPR argued the Petition failed to show obviousness of limitation 1.f, which requires "the computer system controls the first and second image-capturing devices separately." Petitioner filed a 3-page reply (Pap.7, "Rep.") and PO filed a sur-reply (Pap.8, "Sur-Rep.").

The Board denied institution without analyzing whether the asserted art disclosed the limitations of the challenged claims. Instead, the Board restated and adopted PO's criticisms of (i) the Petition's claim chart format, (ii) the length of Petitioner's expert's declaration, and (iii) the supposed incorporation-by-reference of Petitioner's expert's declaration. *E.g.*, Inst.16-22. In complaining that Petitioner presented charts rather than "narrative discussion" (Inst.16-17), the Board ignored the detailed narrative explanations provided in the charts themselves and the Petition's extensive discussions of the asserted references in sections preceding and introducing the charts. And like PO, the Board didn't identify a *single* opinion

improperly incorporated from the declaration—instead repeatedly making this unsupported criticism (albeit conditionally)—again refusing to engage on the merits of Petitioner's submission. *E.g.,* Inst.19, 21, 26 ("to the extent"). Petitioner addresses each of the Board's criticisms below, showing why the institution denial is both an abuse of the panel's discretion and raises important issues of law and policy.

II. THE BOARD'S DECISION IGNORES LARGE PORTIONS OF AND MISCHARACTERIZES THE PETITION

The Office's rules require petitions to raise challenges with particularity, including "a detailed explanation of the significance of the evidence," §42.22(a)(2), and an explanation of "where each element of the claim is found in the prior art…." § 42.104(b)(4). But the rules don't require a "narrative" format (indeed, the Board explicitly endorses using claim charts), and don't impose word or length limits on expert declarations (rather, the Board rejects declarations merely parroting the words of the petitions). The panel's rewrite of these rules and long-standing practice deprives Petitioner of due process, renders the institution process arbitrary and unpredictable, and frustrates Congress's goal for post-grant proceedings: "improving patent quality and providing a more efficient system…." H.R. Rep. No. 112-98, at 39-40 (2011). Without reaching the merits, the panel (i) took issue with the Petition's chart format while ignoring "narrative" in the charts, footnotes and earlier sections (Inst.16-17), (ii) penalized Petitioner for the length and word counts of its expert declaration, citing supposed "incorporation by reference" but pointing to nothing

that was actually improperly "incorporated" (Inst.19-21, 26), and (iii) improperly faulted Petitioner for providing and applying a clear claim construction and showing invalidity using the words of the challenged claims themselves rather than the particular words of Petitioner's interpretive claim construction (Inst.22-26).

Board guidance has endorsed the Petition's claim chart format. The Board criticizes the claim chart for "discuss[ing] all claims and all grounds in a single 72-page claim chart." Inst.15. But there is no prohibition on presenting arguments in a claim chart—as discussed below, the Board's *Trial Practice Guide* endorses doing so. And the Petition here provides 11 charts (one for each challenged claim), each reciting the claim language and precisely dividing and matching up the specific corresponding portions of each reference. *E.g.*, Pet.44-72 (claim 1), Pet.72-85 (claim 3), Pet. 85 (claim 2), Pet.85-88 (claim 4), Pet. 88-92 (claim 5), Pet.92-95 (claim 14), Pet.95-97 (claim 19), Pet.97-102 (claim 20), Pet.103-107 (claim 21), Pet.107-110 (claim 26), Pet.111-115 (claim 27). Where applicable, the charts also include obviousness arguments summarizing the relied-upon disclosures and detailing the reasons POSITA would have been motivated to combine the specific portions of each reference with a reasonable expectation of success. *E.g.*, Pet.65-67, 70-72, 76-78, 80-82, 86-89, 91-92, 95-97, 99-102, 104-110, 113-115.

As an illustration of the Petition's charts, the Board provided this partial excerpt from one of the four pages of claim chart addressing '657's limitation 1.d:

[1.d]	**Loewen discloses this limitation.** EX1003, ¶158. **Loewen discloses a computer system** (*e.g.*, EX1004, 3:3-10 ("onboard computer (a central processing unit) containing operational software"); 7:13-31 ("onboard aircraft computer 42" (Fig.8)); Abstract ("central processing unit containing operational software"))[10] **receiving and storing said first and second image-data signals and said at least one geo-locating signal** (*e.g.*, EX1004, 3:51-57 ("still and video images, along with the geographic coordinates are transmitted to data storage units on board the aircraft"); 8:65-9:5 ("computer recording all the GPS data strings as well as continuous laser readings [] into a text file… file also contains… time stamp of the time when the laser altimeter located a transmission tower structure, and in cooperation with the GPS, the longitude/latitude coordinates of each tower"); 3:37-50 ("position of the aircraft in longitude and latitude coordinates" is "transmitted to the onboard computer"); 6:31-58 ("cameras… write their information directly to the onboard computer"); 7:13-31 ("onboard aircraft computer 42 is interconnected with the GPS and trigger system, and also the data storage unit"); Fig.8 ("onboard aircraft computer 42")). *See* EX1003, ¶159-167; EX1004, 7:34-55, Figs.8-10; *see also id.* 1:16-24, 2:50-3:2, 3:3-10, 4:31-34, 7:59-61, 9:14-31, 9:32-39, 9:40-47, 11:19-28, *supra*, p.18 (discussing Loewen).

Inst.16. The Board concluded "[t]here is no argument in the claim chart addressing how Loewen teaches these claim limitations, nor is there any narrative discussion of how Petitioner views the disclosures of Loewen." Inst.16-17. The Board acknowledged, however, the charts include explanatory footnotes, citing Pet.60 n.10, which the Board characterized as "discussing whether Loewen teaches or discloses that 'its onboard computer receives and stores the image-data signals from Loewen's image-capturing devices'"—the very explanation the Board contended was missing:

> Loewen expressly discloses its "cameras… writ[ing] their information directly to the onboard computer" (*e.g.*, EX1004 6:49-51), and thus its onboard computer receives and stores the image-data signals from Loewen's image-capturing devices. EX1003, ¶159 n.14. Loewen further discloses, alternatively, that such data can be stored on "data storage units 44" "incorporated and operatively associated with the onboard computer." *E.g.*, EX1004, 6:45-49; EX1003, ¶159 n.14. Such "data storage units" (*e.g.*, "CDs and/or removable hard drives...

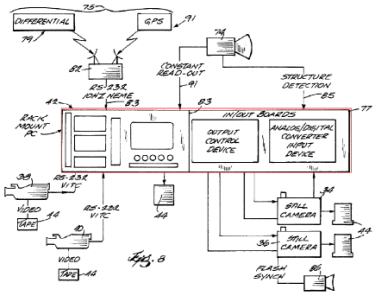
> interconnected with the onboard computer," EX1004, 7:59-61) are thus part of the same "onboard computer" system running software executing Loewen's functions. *E.g.*, EX1003, ¶159 n.14.

Pet.60 n.10. The Petition's claim 1 chart addressed the other aspects of limitation 1.d identified in the bullets at Inst.17, providing a narrative for each prior limitation, because those limitations appeared earlier. *E.g.*, Pet.54 n.6 (addressing Loewen's still and video images), Pet.54 n.7 ("Loewen expressly discloses each camera issues image-data signals corresponding to images it captures"). The Board never engaged with the merits or substance of these narrative explanations—having apparently adopted PO's argument that "any arguments only made in a footnote are forfeited" (POPR.8-9)—and never explains why this footnote does not "address[]" limitation 1.d. Inst.16 n.3 (citing Pet. 60 n.10). There is no rule supporting this or prohibiting footnote arguments in an IPR (Rep.2 n.3); doing so is arbitrary and unsupported.

The Board also ignores earlier sections of the Petition introducing the charts and explaining how the art maps to specific limitations. This includes the Petition's discussion of '657's prosecution history, concluding the claim—apart from controlling "the first and second image-capturing devices separately"—is anticipated by Loewen (Pet.4), and the explicit narrative addressing the claim's key features earlier in the Petition. For example, the Petition (Pet.18) described how "Loewen disclosed its onboard computer receives and stores both image-data and geo-locating signals":

4. A ***computer system that receives and stores*** image-data and/or geo-locating signals (*e.g.*, EX1002, 112, 114, 257):

- Loewen disclosed its onboard computer receives and stores both image-data and geo-locating signals: "***longitude and latitude coordinates***" are "***transmitted to the onboard computer*** and… embedded… the geographic location of the tower is associated with the image of that tower," and "***cameras… write their information directly to the onboard computer***" (EX1004, 3:38-49, 6:45-51, 7:17-20, 3:51-54, Fig.8 ("Rack Mount PC" ("Onboard Computer 42") connected to "Still Camera[s]" and "GPS"); EX1003, ¶53):



The Board similarly ignored Petitioner's introduction of Loewen (Pet.30-32), which explained "Loewen further discloses its cameras, *e.g.*, 'write their information directly to the onboard computer system.' EX1004, 6:49-51, Fig.8[;] EX1003, ¶83," and "the position of the aircraft in longitude and latitude coordinates" is "transmitted to the onboard computer and… embedded in the collected data in association with the image of the particular tower structure" (Pet.32 (citing EX1004, 3:38-51; EX1003, ¶84)). Only by ignoring the Petition's multiple narrative explanations for this aspect of limitation 1.d—both before and in the chart—could the Board reach its erroneous conclusion. *E.g.*, Inst.15-17. And these errors, concerning straightforward aspects of the Petition understandable when properly considered as presented, illustrate the Board's abuse of discretion in refusing to address the Petition's merits.

The Petition's format is consistent with the Office's rules, and the Board's *Consolidated Trial Practice Guide* (Nov. 2019) expressly encourages "claim charts," which "can streamline the process of identifying key features of a claim and comparing those features with specific evidence." *Id.*, 45, 40. In contrast, this

decision wipes away long-settled understandings. Indeed, multiple decisions have rejected challenges to the chart format used here. For example, in *Twitter, Inc. v. Palo Alto Research Center, Inc.*, IPR2021-01398, Pap.12, 44-45 (Mar. 15, 2022), the Board instituted an over-length petition that used the same chart format employed here over that patentee's argument that "Petitioner 'employs numerous claim charts… with little to no explanation, instead relying on citations to the alleged prior art, extensive references to its expert declaration, and lengthy footnotes.'" *Id.* at 44. The Board disagreed, finding that "the Petition provides a sufficient showing… including… by providing 'citations to the alleged prior art.' In addition, the Petition supplements the claim charts with explanations outside of the charts." *Id.* at 45 (citation omitted). *See, e.g.*, *Twitter, Inc. v. Palo Alto Rsch. Ctr., Inc.*, IPR2021-01458, Pap.11, 19 (Apr. 6, 2022) ("Although many of the quotations in Twitter's claim charts are abbreviated and lack specific citations, Twitter adequately directs our attention to the" relevant prior-art passages); *Twitter, Inc. v. Palo Alto Rsch. Ctr., Inc.*, IPR2021-01430, Pap.2, 26-81 (Aug. 25, 2021) (instituting, over patentee's criticism (Pap.9, 2, 15-17), near-word-limit petition using similar chart); *Structural Wrap, LLC v. Sys. Stormseal Pty Ltd*, IPR2024-00084, Pap.2, 32-82 (Oct. 28, 2023) (instituted, IPR2024-00084, Pap.13); *Samsung Elecs. Co. v. Advanced Touchscreen and Gesture Techs., LLC*, IPR2016-00652, Pap.2, 21-37, 44-59 (Feb. 29, 2016) (instituted, IPR2016-00652, Pap.8); *Apple Inc. v. Core Wireless Licensing S.A.R.L.*,

IPR2015-01902, Pap.2, 13-41, 48-59 (Sept.12, 2015) (using similar chart format); *NJOY, Inc. v. Fontem Holdings 1 B.V.*, IPR2014-01300, Pap.2, 13-26, 30-56, 37-43, 46-50, 52-59 (Aug. 15, 2014) (similar). And in *Elite Performance Footwear, LLC v. Reebok International Ltd.*, the Board instituted a petition with claim charts far less detailed than those here, including limitations (*e.g.*, 1.4) for which only an annotated prior-art figure and bare citation was provided. The Board explained that it considered the petition in its entirety, finding "the citations provided together with the claim charts and other explanation are sufficient, at this stage, to satisfy the requirements of our rules." IPR2017-01689, Pap.2, 33 (June 28, 2017); *id.* Pap.7, 18 (Jan. 17, 2018); *see also Boart Longyear Ltd. v. Australian Mud Co.*, IPR2019-01129, Pap.1, 20-41, 45-56, 60-88, 89-98 (May 24, 2019) (instituted, IPR2019-00129, Pap.8) (charts with quotations not accompanied by narrative explanations).

This panel's unsupported (and unacknowledged) departure from years of precedent and the *Trial Practice Guide* is not only an abuse of discretion: as a policy matter it also presents conflicting instructions to future petitioners who will be unable to discern whether they will be arbitrarily deprived of the opportunity to have their challenges heard based on unknowable format preferences of particular panels.

The Board identified no incorporation by reference. The Board accepted PO's argument regarding the length of Dr. Forsyth's declaration:

> Patent Owner also asserts that [using] Dr. Forsyth's declaration to

> explain the citations in the Petition's claim charts [] amounts to improper incorporation by reference. Prelim. Resp. 19–20. [PO] asserts that "Dr. Forsyth's Declaration is a lengthy 85,008-word, 392-page document" (excluding Dr. Forsyth's CV).

Inst.19-20. But the Board never identified any specific opinions that were improperly incorporated by reference. Inst.19-22, 26. Instead, the Board simply compared the length of the Petition claim chart for limitation 1.d (4 pages, Pet.60-63) to the length of the corresponding portions of Dr. Forsyth's declaration, and assumed—without addressing the declaration's substance—that there must be improper incorporation. Inst.19-22, 26. A review of the substance of Dr. Forsyth's declaration, however, would have revealed that approximately one third of it—134 pages—is just a full-length claim chart providing *the same mappings, citations, and arguments as the Petition*—as well as the same parenthetical quotations, but in unabridged format, allowing a reader to see all full-length quotes in one place. *Compare* Pet.60-63 (mapping limitation 1.d) *with* EX1003, 311-320; *see also* Inst.24 (identifying the same arguments and Loewen disclosures in the Petition and the declaration (citing Pet.68 n.12 and EX1003, ¶182)). And the body of Dr. Forsyth's declaration includes the citations from the Petition's claim chart and the same unabridged quotes in Dr. Forsyth's concluding chart (containing quotes from the same cited portions of the references), along with "additional supporting evidence" and "technical reasoning" supporting his opinions and the Petition's arguments (as the Board *requires*, *Xerox*

Corp. v. Bytemark, Inc., IPR2022-00624, Pap.9, 15-16 (Aug. 24, 2022) (precedential) ("*Xerox*")), *affirmed on sua sponte review*, *id.*, Pap.12, 5).

Dr. Forsyth's declaration, like the Petition, addresses every aspect of limitation 1.d (the Board's excerpted example), and Petitioner cannot properly be penalized merely for the length of its expert's thorough assessment of the claim limitation. Indeed, as required by *Xerox*, Dr. Forsyth provided supporting testimony and technical reasoning. EX1003, ¶¶160 ("computer system"), 161-163 ("receiving and storing said first and second image-data signals"), 164-166 ("computer system receives and stores at least one geo-locating signal"). The Board's improper refusal to analyze the merits of Petitioner's challenge due to the length of Dr. Forsyth's declaration is an abuse of discretion and arbitrarily imposes unspecified and unknowable word limits on expert declarations. The Board's decision effectively holds that expert declarations that a particular panel feels are too long or too detailed doom a petition. Neither Patent Office rules nor any Board precedent support such a finding.

Nor does Office policy permit this: not only does this outcome deprive petitioners of the ability to know whether their petitions will be arbitrarily rejected, but it is also contrary to clear Board precedent ***requiring*** expert declarations to provide additional supporting evidence and technical reasoning ***beyond what is in the petition***. In its precedential decision in *Xerox*, Pap.9, 15-16, the Board denied institution where the "only evidence" for a key assertion was expert testimony that:

> merely repeats, verbatim, the conclusory assertion for which it is offered to support. . . . Dr. Jones does not cite to any additional supporting evidence or provide any technical reasoning to support his statement. Thus, the cited declaration testimony is conclusory and unsupported… and is entitled to little weight.

See also id., Pap.12, 5. Following the decision here, petitioners face an impossible "Goldilocks" conundrum: they can't be sure whether expert declarations will be deemed too short (running afoul of precedential *Xerox*'s clear requirements), too long (violating the apparent, unspecified word and length limits set here), or just right such that their petitions' merits are actually considered. Director review is necessary to provide guidance to the Board and all parties on this important issue.

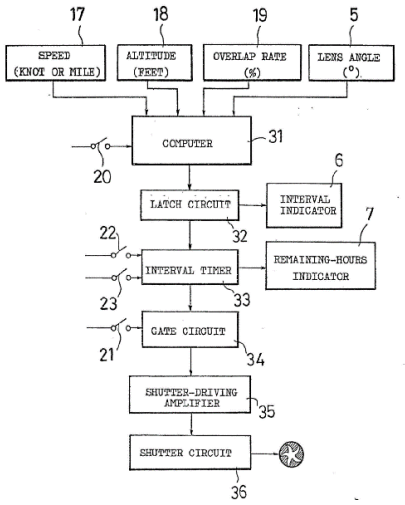
Petitioner construed cl.1f and then applied that construction in analyzing the words of the claim. The Board improperly rejected Petitioner's analysis of limitation 1.f because Petitioner used the actual claim language rather than the words of Petitioner's construction. Inst.22-26. Limitation 1.f requires "the computer system controls the first and second image-capturing devices separately." Petitioner construed this to mean "control data sent by the computer system that cause image-capturing devices to capture images at different instants and/or at different intervals." Pet.27. Having made clear Petitioner was applying this construction (*e.g.*, Pet.27; EX1003, ¶26), the Petition used claim's words to show this limitation was disclosed. For example, the Petition explained, first, that Loewen's geo-locating

devices (GPS and altimeter) transmit signals to its computer system, and the computer system "in turn trigger[s]" its "still cameras to capture images." Pet.68 n.12. The Petition also explained Loewen's computer is "operatively connected to the cameras… to automatically activate the still cameras." Pet.31, 67 (citing limitation 1.a, including annotated Figs.9 and 10 showing "Trip Still Cameras" and "Trip Still Camera"), and that if further disclosure were required, it would have been obvious to "implement Loewen's computer system" to meet this limitation. Pet.68 n.12.

The Petition explained Fujimoto teaches the remainder of 1.f, stating it discloses "controlling multiple-image capturing devices separately" (the claim's words) because it discloses "a computerized control for opening the shutters of a plurality of cameras independently of one another," and further explained "POSITA would have been motivated and found it obvious… to implement Loewen's computer system using Fujimoto's teachings of using *separate* controls for multiple image-capturing devices." Pet.70 (citing EX1005 (Fujimoto), ¶0006). The mapping included Fujimoto claim 1 (Pet.70), which discloses "***an output device for producing shutter driving signals***… enabling each shutter to be driven at independently different interval time." EX1005, cl.1. The Petition thus showed—by using the words of limitation 1.f, as explained by Petitioner's construction—this is disclosed in the prior art. Moreover, the Petition's "Obviousness Grounds" section explained Fujimoto claim 1 provides "computerized control for opening the shutters of a plurality of

cameras independently of one another," and reproduces Fig.3, showing "Shutter-Driving Amplifier" 35, connected with arrows to the "Shutter Circuit" of each camera. Pet.34 (citing EX1005, Fig.3 (right)). The Board cites no law saying it can ignore entire sections—particularly those providing "narrative" argument—the very thing the Board said is missing here. And the Board certainly recognized the Petition's reliance on these disclosures, acknowledging Fujimoto "includes 'an output device for producing shutter driving signals' for each camera mounted in the airplane." Inst.12.

FIG. 3



Despite the Petition's clear mappings and explanations, the Board adopted PO's argument that the Petition "fails to sufficiently explain how the combination… teaches the 'control data' in Petitioner's proposed construction." Inst.25. In so finding, the Board penalizes Petitioner for using the actual claim language—as properly construed—to explain where that limitation is found, but cites no case saying that the interpretive words of a proposed construction must instead be recited in a chart.

III. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests remand to a new panel of the Board for consideration of the Petition's merits.

Respectfully submitted: */Megan Raymond/* November 8, 2024

CERTIFICATE OF PAGE COUNT

The undersigned certifies that the foregoing PETITIONER'S REQUEST FOR DIRECTOR REVIEW complies with the 15-page limit set forth in 37 C.F.R. §§ 42.24(a)(1)(v) and 42.75.

Dated: November 8, 2024

Respectfully Submitted,

By: /*Megan Raymond*.

Megan Raymond (Reg. No. 72,997)
Groombridge, Wu, Baughman & Stone LLP
801 17th Street, NW, Suite 1050
Washington, DC, 20006
P: (202)-505-5878
megan.raymond@groombridgewu.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served in its entirety on the Patent Owner ("PO"). Pursuant to agreement with PO's counsel, the copy has been served on November 8, 2024, by causing the aforementioned document to be electronically mailed to the following attorneys for PO listed below:

Counsel Authorized to Accept Service:	Gregory P. Webb HAYNES AND BOONE, LLP 6000 Headquarters Dr. Suite 200 Plano, TX 75024 greg.webb@haynesboone.com Patricia Hauglum HAYNES AND BOONE, LLP 6000 Headquarters Dr. Suite 200 Plano, TX 75024 patricia.hauglum@haynesboone.com By Electronic Mail

Dated: November 8, 2024

Respectfully submitted,

By: /*Sayem Osman*/
Sayem Osman