

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,

Petitioner

v.

SMITH INTERFACE TECHNOLOGIES, LLC

Patent Owner

IPR2024-01090
Patent 10,725,581

PATENT OWNER PRELIMINARY RESPONSE

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	OVERVIEW OF THE '581 PATENT	1
A.	Independent Claims 1 and 42	3
III.	LEVEL OF ORDINARY SKILL	6
IV.	CLAIM CONSTRUCTION	7
A.	“When:” / “Based on the detected usage where”	8
V.	OVERVIEW OF THE PRIOR ART	11
A.	Blumenberg (EX1004)	11
1.	Inadvertent Touch Functionality	11
2.	<i>Hyperlink Preview Functionality</i>	13
B.	Bhumkar (EX1005)	18
C.	Griffin (EX1006)	21
VI.	GROUND 1: THE PETITION FAILS TO SHOW OBVIOUSNESS OF CLAIMS 1-3, 21, 29-31, 42-44 OVER BLUMENBERG, BHUMKAR, AND GRIFFIN	23
A.	Petitioner’s Combination Fails to Meet All the Claimed Elements of Claims 1 and 42	24
1.	<i>Limitations [1.m.iii], [42.h]</i>	24
2.	<i>Limitations [1.o], [42i]</i>	33
B.	A POSITA Would Not Have Been Motivated to Modify Blumenberg’s Link Information to Have a Menu	46
1.	<i>Petitioner’s Modification is Illogical and Inconsistent with the Teachings of Blumenberg and Bhumkar</i>	47
2.	<i>Petitioner’s Motivations Do Not Resolve the Incongruities in the Purported Modification</i>	53
VII.	CONCLUSION	64

PATENT OWNER'S EXHIBIT LIST

Exhibit	Shorthand	Description
2001	Declaration	Declaration of Marc Davis, Ph.D.
2002	CV	CV of Marc Davis, Ph.D.
2003	JCC	Excerpts of Joint Claim Construction Chart
2004	Ma	Shanshan Ma, 10 Ways Mobile Sites Are Different from Desktop Web Sites, UXMatters, (https://web.archive.org/web/20110321201254/https://www.uxmatters.com/mt/archives/2011/03/10-ways-mobile-sites-are-different-from-desktop-web-sites.php)
2005	Hammer	Hammer.JS, Understanding Gestures, https://web.archive.org/web/20201001103751/https://squadette.github.io/hammer.js/understanding-gestures/
2006	Stay order	October 2, 2024 Order Granting in Part Apple's Motion to Stay in <i>Smith Interface Technologies, LLC v. Apple Inc.</i> , 3-23-cv-01187, S.D. Cal. (DKT. No. 127).

I. INTRODUCTION

Institution should be denied because the Petition fails to establish a reasonable likelihood of prevailing on any challenged claim. The references relied on in the Petitioner's sole Ground fail to disclose or suggest all features of the challenged claims. In addition to blatant inconsistencies in the Petitioner's mapping to the prior art, the Petition improperly attempts to rewrite claim elements in a manner contradictory to their plain meaning to fill the gaps in its obviousness theory. Further, each of the several alternative modifications proposed by the Petition are entirely unworkable. At best, the proposed modifications destroy the functionality of the primary reference and, at worst, the proposed modifications are based on internal inconsistencies that render them impossible to implement.

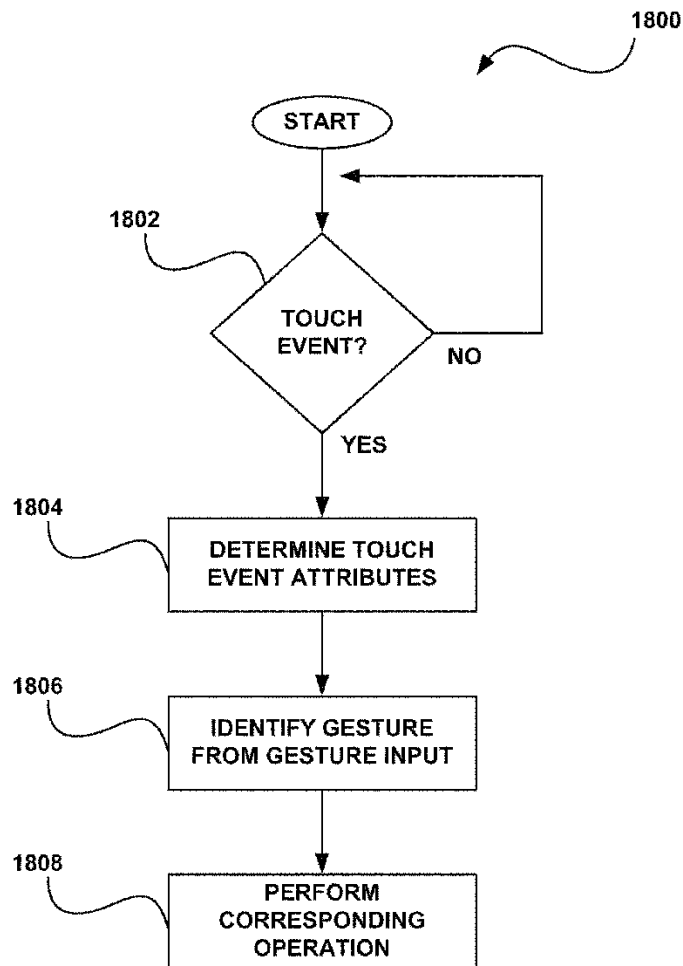
Finally, Petitioner's expert fails to analyze the art from the perspective of a POSITA, who would have understood that user interfaces (UIs) were not necessarily readily transferable across devices. Instead, Petitioner's expert relies on the false premise that elements from desktop UIs and mobile UIs could simply be copied and pasted therebetween without consequence. Institution should therefore be denied.

II. OVERVIEW OF THE '581 PATENT

The '581 Patent describes devices, methods and graphical user interfaces for manipulating user interface objects. EX1001, Title. For example, the '581 Patent describes a mobile device having various components, including user interface

devices such as a touch screen. EX1001, 13:61-14:11. In operation, signals can be received in association with the touch interface (e.g., touch screen) and can correspond to a signal indicative of a touch interface being touched. *Id.*, 14:31-53. The user experience can then be altered utilizing these touch signals. *Id.*, 15:39-51, FIG. 3.

An example of these operations can be seen in FIG. 18, where attributes of touch events are detected, and gesture inputs related to these touch event attributes (both initial and over time) can be identified. 56:32-60.



EX1001, FIG. 18.

These attributes can include the duration of a gestures because often different gestures will be indistinguishable based on initial contact. EX1001, 56:37-60. Once the gesture is identified, a corresponding operation can be performed (step 1808). EX1001, 57:8-10. Such operations can include the modification of one or more display attributes. EX1001, 57:35-36. Some such operations can involve context sensitive embedded hyperlink in a web browser. EX1001, 30:44-49 (“once an appropriate [hyperlink] selection function is chosen, a selection may be defined based upon user input”). And a user can cause different operations (e.g., utilizing a hyperlink contextual menu) to occur when selecting a hyperlink based on a parameter of a gesture (e.g., contact pressure level) being less than or greater than thresholds. EX1001, 31:39-52.

A. Independent Claims 1 and 42

Both claims 1 and 42 describe an electronic device that includes programs with instructions to execute specific functionality based on the detection of three different scenarios, which Petitioner maps to Limitations [1m], [1n], and [1o], respectively. EX1001, 102:50-103:5. With respect to claim 1, these three scenarios include:

[1m] when: */i/* the first web page is displayed via the user interface of the network browser application, */ii/* the duration of the first contact is determined to be less than a first user-configurable predefined duration, and the end of the first contact is detected:

/iii/ avoid display, on the first web page, a result of any operation based on the first contact;

[1n] when: */i/* the first web page is displayed via the user interface of the network browser application, */ii/* the duration of the first contact is determined to be greater than the first user-configurable predefined duration and less than a second user-configurable predefined duration, */iii/* the first contact point of the first contact is determined to correspond with the location of the hyperlink of the first web page, */iv/* it is not determined that there is the contact movement of the first contact between the first contact point and the second contact point, and */v/* the end of the first contact is detected:

/vi/ replace the display of the first web page with the second web page via the user interface of the network browser application;
and

[1o] when: */i/* the first web page is displayed via the user interface of the network browser application, */ii/* the duration of the first contact is

determined to be greater than the second user-configurable predefined duration, *[iii]* the first contact point of the first contact is determined to correspond with the location of the hyperlink of the first web page, *[iv]* it is not determined that there is the contact movement of the first contact between the first contact point and the second contact point, and *[v]* the end of the first contact is not detected:

[vi] output, utilizing the actuator, a first feedback that is perceptible by touch and

[vii] display a menu including at least one option for, in response to detection of a selection thereof, performing an operation on a web address associated with the hyperlink of the first web page, and

[viii] further display at least a portion of the second web page, such that at least the at least portion of the second web page is displayed in at least one first virtual display layer which appears above at least one second virtual display layer that includes at least a portion of the user interface of the network browser application that remains at least partially visible.

Id. Claim 42 includes limitations similar to Limitations [1a]-[1o] of claim 1. *Id.*, 114:53-115:53; *see* Pet., 4-5.

In other words, claims 1 and 42 describe programmable scenarios/operations/conditions (prerequisite elements) that result in some programmed functionality (resulting function elements) being executed.

Specifically, the claims include:

- (1) a temporal aspect; (Claim 1 – “when:”), (Claim 42 – “based on detected usage where:”);
- (2) a number of prerequisites elements; (Claim 1 – Limitations [1.m.i]-[1.m.ii], [1.n.i]-[1.n.v], [1.o.i]-[1.o.v]); and
- (3) functions that are executed when the prerequisites elements are met.
(Claim 1 – Limitations [1.m.iii], [1.n.iv], [1.o.vi]-[1.o.viii])

EX1001, 102:50-103:55; 114:53-115:53. Thus, for claim 1, the program does not execute the resulting function element(s) until a time “when” the prerequisite elements are detected/satisfied. EX1001, 102:50-103:55. Similarly, for claim 42, the method performs the resulting function element(s) “based on detected usage where” the prerequisite elements occur/are satisfied. EX1001, 114:53-115:53.

III. LEVEL OF ORDINARY SKILL

Patent Owner does not agree with all aspects of Petitioner’s proposed level of ordinary skill but does not believe that resolving that level is necessary to resolve the issues raised in this preliminary response.

IV. CLAIM CONSTRUCTION

In the Litigation,¹ Apple contends that the following phrase in the Challenged Claims is indefinite: “when . . . the duration of the first contact is determined to be greater than the second user- configurable predefined duration . . . and the end of the first contact is not detected.” EX2003, 9/15. Contrary to its Litigation position, Petitioner does not assert in its Petition that this phrase is indefinite and, indeed, had no problem understanding the phrase to map it (albeit in a flawed mapping). Pet., 23-25, 64-65.

Patent Owner disputes that this term Petitioner identified in the Litigation is indefinite. The words are common, understandable words, and the arrangement of those words and the surrounding claim language make the plain and ordinary meaning of the phrase apparent, as demonstrated by the Petition itself. As explained in more detail below, the plain and ordinary meaning of the term is readily understandable, and Patent Owner believes no formal constructions are necessary.

¹ *Smith Interface Technologies, LLC v. Apple Inc.*, 3-23-cv-01187, S.D. Cal. (the “Litigation”). On October 2, 2024, the Court granted in part Petitioner’s request to stay the Litigation, staying the Litigation “pending the issuance of the last of the PTAB’s institution decisions on Apple’s pending IPR petitions,” with any “further stay” to be addressed after those decisions. EX2006.

Claims are interpreted according to the *Phillips* standard. 83 Fed. Reg. 51340, 51340-44 (Oct. 11, 2018); *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005). Under this standard, the “ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application.” *Phillips*, 415 F.3d at 1313. It has been repeatedly held that “[t]he best source for understanding a technical term is the specification from which it arose, informed, as needed, by the prosecution history.” *Id.*, 1315 (citations omitted); *see also id.*, at 1316 (“the inventor’s intention, as expressed in the specification, is regarded as dispositive.”).

A. “When:” / “Based on the detected usage where”

Independent claim 1 recites “one or more programs, wherein the one or more programs are stored in the memory and configured to be executed by the one or more processors, the one or more programs including instructions to:” (a) “when” certain conditions are met, (b) perform one or more functions (e.g., avoid display, replace the display, display a menu). EX1001, 102:50-103:55. A plain reading of claim 1 requires a program with instructions that cause the functions (e.g., displaying a context menu and further displaying at least a portion of the second web page) to be executed “when” the prerequisite elements are satisfied. *See e.g.*, EX1001, 57:9-10

(“Once the gesture has been identified, the corresponding operation is performed”); *supra*, II.A; *see also* EX2001, ¶¶60, 74, 82.

Independent claim 42 recites a method of steps that include (a) “based on detected usage where:” certain conditions are met, (b) one or more functions are performed. As with claim 1, claim 42 requires the functions to be executed “based on detected usage where” the prerequisite elements are satisfied. *Supra*, II.A.

Petitioner seeks to add ambiguity into the claim language by proposing three different “conditional relationships:” (1) “a basic when-then conditional relationship,” (2) “a causal conditional relationship,” and (3) “an exclusive causal/conditional relationship.” Pet., 52 n.8. Specifically, Petitioner asserts, that:

Elements [1.o.i]-[1.o.viii] only recite a basic when-then relationship and do not use typical causal language (such as “in response to”) or exclusive conditional language (such as “only when”) between the stated touch condition at Elements [1.o.i]-[1.o.v] and the stated functionality at Elements [1.o.vi]-[1.o.viii].

Id.

But this purported distinction is merely an attempt to fill the gaps in Petitioner’s invalidity theories. The petition does not cite to any supporting evidence, caselaw, or other explanation as to the operational differences between these conditional relationships. And this distinction is not self-apparent to a POSITA. EX2001, ¶¶79-81.

For example, a POSITA would not distinguish the claim language (which Petitioner alleges to be merely a “basic when-then relationship”) from “typical causal language (such as ‘in response to’).” EX2001, ¶79 (quoting EX1003, ¶157 n.8). And a POSITA would understand there is no apparent difference between a program that executes a function “when” a condition is met vs. “in response to” the condition being met. EX2001, ¶79; *see e.g.*, EX1004, *claim 24* (“which **when** executed by a portable electronic device with a touch screen display, cause the device to”); EX1006, *claim 1* (“performing a function **when** the touch meets the modified touch threshold”).

Further, Petitioner’s distinction regarding the exclusive conditional language (“only when”) is misguided and inconsistent with the plain reading of the claims. As explained above, a plain reading of Limitation [1.o] includes a program that executes three resulting function elements [1.o.vi]-[1.o.viii] when the prerequisite elements [1.o.i]-[1.o.v] are satisfied. *See* Section II.A. The inclusion of the term “only when” would limit the claims in a different manner than asserted by the Petitioner as this would require that the claimed function could only be executed when (or in response to) the prerequisite elements are met and otherwise would not be executed. To provide an illustration with the claim 1, Limitation [1.n.vi] requires the program to “replace the display of the first web page with the second web page” “when” the prerequisite conditions [1.n.i]-[1.n.v] are met. *See* Section II.A. As

claimed, this functionality (replacing the display with a different webpage) could also be performed in other scenarios (e.g., entering a different URL in the address bar) while still meeting the claim. Thus, the claimed functionality is not executed “only when” the prerequisite conditions are met. Accordingly, a POSITA would understand the inclusion of “only” is inconsistent with the claims. *See* EX2001, ¶81.

Regardless of Petitioner’s ambiguous distinctions between conditional relationships, the plain reading of claim 1 is clear that the program executes the resulting function element(s) when the prerequisite elements are detected / satisfied. EX2001, ¶82.

V. OVERVIEW OF THE PRIOR ART

A. Blumenberg (EX1004)

Blumenberg discloses a portable electronic device 200 that includes a touch screen 208 which can be contacted by a user’s fingers 212 to perform certain functions on the device. EX1004, ¶[0034]. The most relevant functions are described below.

1. Inadvertent Touch Functionality

As depicted in Blumenberg’s FIG. 2 (inset below), one function of device 200 is the use of a keyboard 210 where “a user may select one or more of the icons, and thus, one or more of the corresponding symbols, by making contact or touching the keyboard 210.” *Id.*

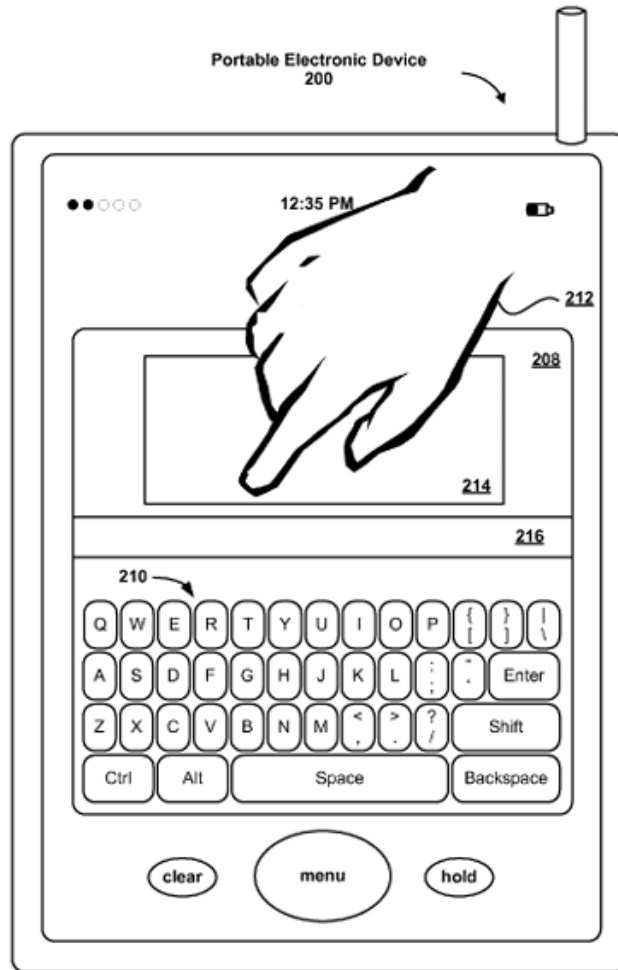


FIG. 2

This contact can correspond to a specific gesture that is associated with the selectable icon, such as one or more taps, swipes, or a rolling of a finger. *See id.* By linking the contact to a specific gesture, “inadvertent contact with an icon” can be avoided. *See id.* “For example, a swipe gesture that sweeps over an icon may not select a corresponding symbol if the gesture corresponding to selection is a tap gesture.” EX1004, ¶[0034].

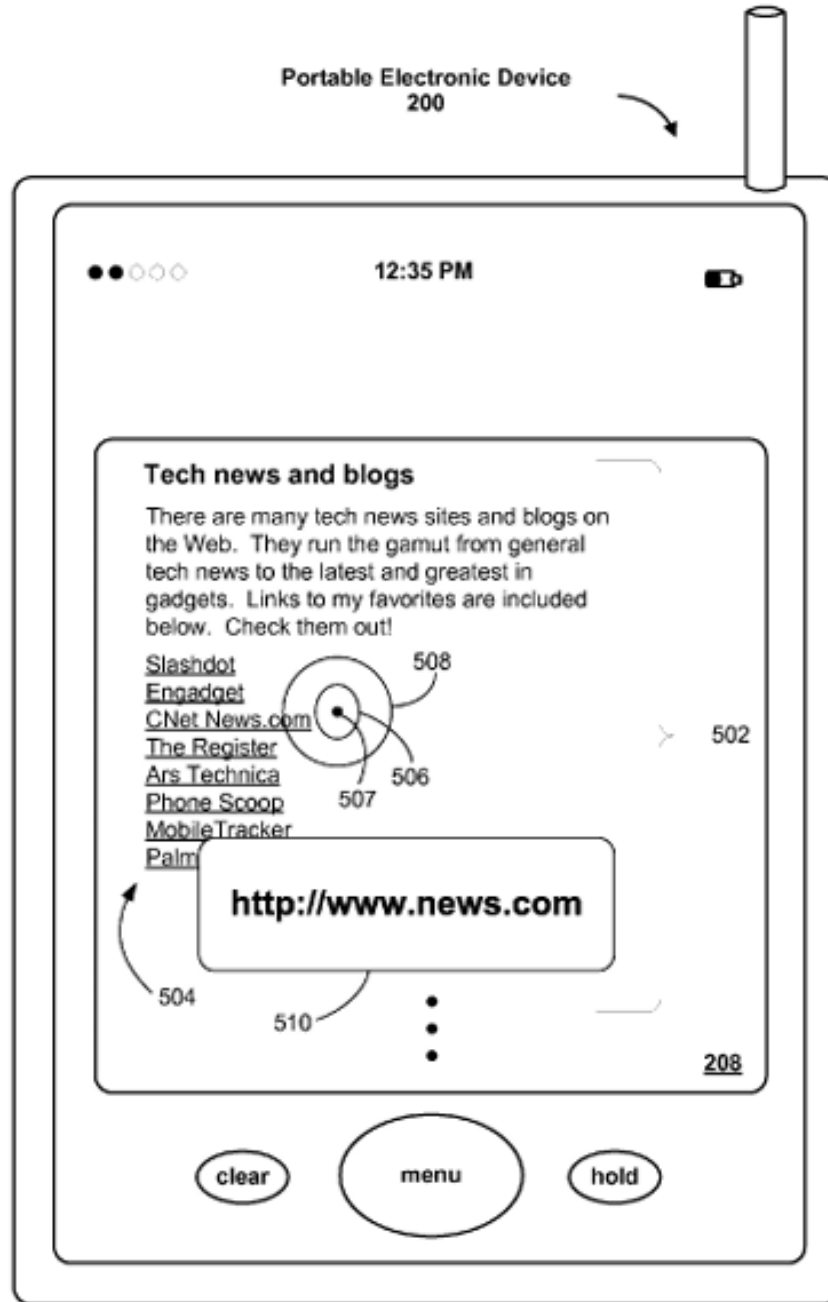
To further illustrate, a user typing “patent” on Blumenberg’s keyboard 210 must tap—initiate and break contact—on each icon/letter to spell the word. *See*

EX1004, ¶[0034]; EX1004, ¶37. If a user contacts the “P” icon and then drags their finger to the “A” icon before breaking contact, the device will consider this contact inadvertent and not register a selection (as opposed to selecting every icon between the “p” and “a” icons). *See id.*

2. *Hyperlink Preview Functionality*

The primary focus of Blumenberg is a graphical user interface (“GUI”) for “activating hyperlinks on a portable electronic device.” EX1004, ¶[0002]. Blumenberg’s GUI is designed to overcome the “small screen size” of portable devices that hinders the user’s ability to get information on and navigate hyperlinks. *Id.*, ¶[0004] (navigating hyperlinks “takes on a hit-or-miss character [that] frustrate[s] users”).

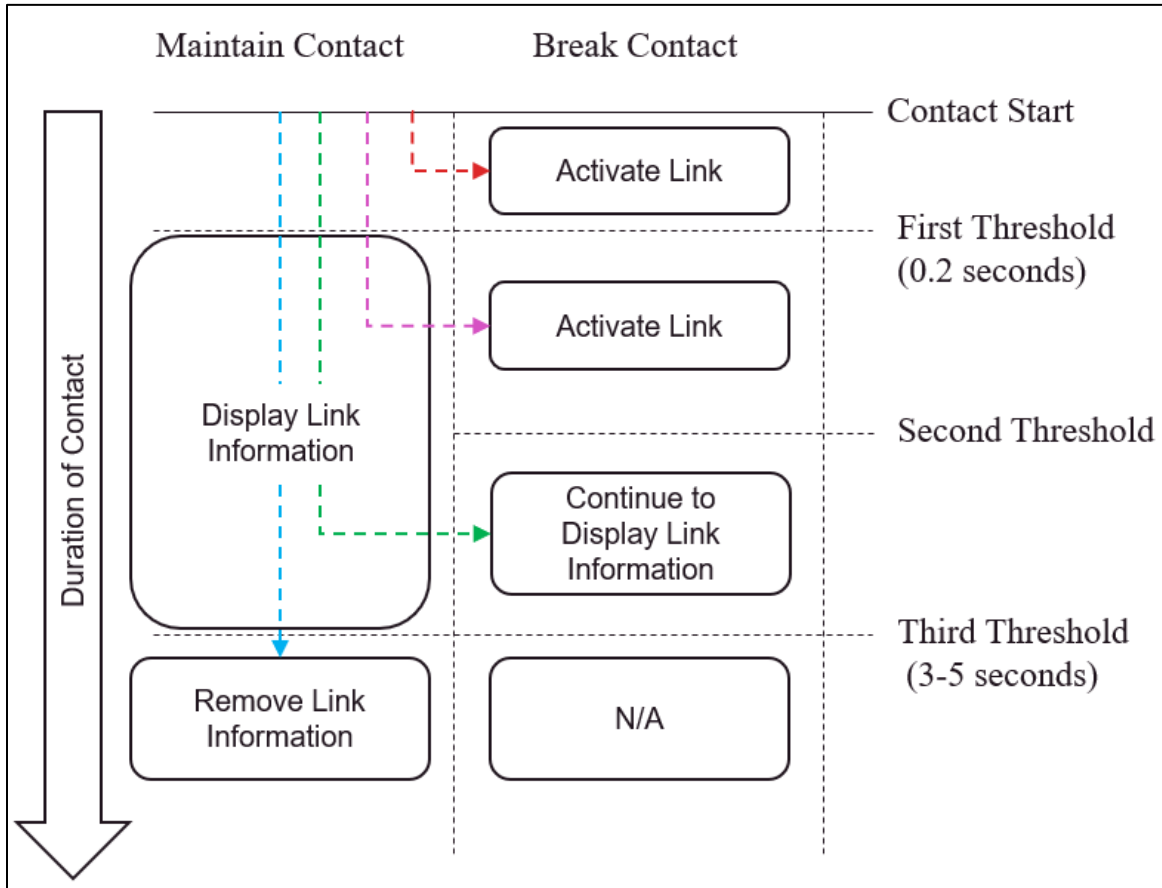
As depicted in FIG. 5C (inset below), Blumenberg seeks to mitigate this issue by introducing a hyperlink preview (e.g., link information 510) that provides quick, easy to read information to help the user confirm correct finger contact with the selected hyperlink. *See id.*, ¶¶[0048], [0053]; EX2001, ¶39.



The selection of a target link 504 is determined based on a user's contact with the touch screen 208 (e.g., at contact area 506 and/or contact point 507). EX1004, ¶[0047]. After contact is determined, one or more criteria (e.g., distance from link 504 to contact point 507) can be used to select a link that is most likely to correspond

to the user's target link. *Id.* Once the target link is determined, the link can be activated such that "the device navigates to the page to which the determined link points and the contents of the linked page are displayed." EX1004, ¶¶[0044], [0050]; *see id.*, FIG. 4 (step 410); EX2001, ¶40.

In addition to activating the target link based on the contact (*id.*, ¶¶[0042]-[0044]), Blumenberg discloses other scenarios in which the user can maintain their contact to perform other functions, such as displaying link information 510 (e.g., the URL name associated with the target link) in a hyperlink preview window. EX1004, ¶[0049]; EX2001, ¶41. For example, this link information 510 "is displayed after the contact is maintained for at least a predetermined time (e.g., 0.2 seconds, or another value between 0.1 and 0.25 seconds)." *Id.* And, if the contact continues to be maintained (e.g., three to five seconds), "the information 510 may be removed." *Id.* Blumenberg also discloses performing certain operation after contact is broken, where the operation is based on the amount of time the contact was maintained before the contact break. *See* EX1004, ¶¶[0049]-[0051]. Thus, as shown in the below flow chart, Blumenberg discloses four different operations based on the time that the contact is maintained and when the contact is broken. *See* EX1004, ¶¶[0049]-[0051]; EX1003, ¶¶59-64 (describing four scenarios); EX2001, 41-48 (describing same four scenarios).



Each scenario starts with a contact being detected on the touchscreen at or near a link 504. *See* EX1004, ¶¶[0049]-[0051]; EX2001, ¶42. The Petition focuses on three of the above scenarios (Pet., 9-10), which are described below in more detail.

a. Petitioner’s Identified First Scenario

In Petitioner’s first scenario (**red line in above flowchart**), a contact on the touchscreen occurs at or near a link and that contact is not maintained for the “predetermined time” which Petitioner references as “the selection threshold” (e.g., 0.2 seconds). Pet., 9 (citing EX1004, ¶[0049]). In this scenario, “the link may be

activated” so that “the device 200 navigates to the page 511 to which the determined link points (FIG. 5D).” EX1004, ¶[0050]. This operation is similar to the operation shown in FIG. 4 in which a link is activated (without displaying a hyperlink preview) based on a contact. EX1004, ¶¶[0043]-[0044] (activating link without displaying hyperlink preview); *see also id.*, claim 20 (“the determined link is activated with a tap gesture”); EX2001, ¶45. Blumenberg also states “the activation [of the link] is triggered by breaking the contact” and clarifies the activation can occur “after the breaking of contact *before* or after a first predetermined amount of time has elapsed.” *Id.*, ¶[0051]. In Petitioner’s first scenario, the breaking of contact also occurs *before* the predetermined amount of time associated with the selection threshold (e.g., 0.2 seconds) and, thus, the link would be activated. EX2001, ¶43-45; EX1004, ¶¶[0050]-[0051]; *see also* EX1004, ¶¶[0042]-[0044] and FIG. 4 (describing and depicting Petitioner’s first scenario).

b. Petitioner’s Identified Second and Third Scenarios

When “the contact [on or near the link] is maintained for at least a predetermined time (e.g., 0.2 seconds[.]” (i.e., selection threshold) the link information 510 is displayed. EX1004, ¶[0049]. After the link information 510 is displayed, Blumenberg discloses an embodiment where “the selected link is activated by a contact break if the link information was displayed less than the first predetermined amount of time, and if the link information was displayed for more

than that amount of time, then the user must break contact and tap the link information (which is continued to be displayed after the contact break) to activate the selected link” EX1004, ¶[0051].

Petitioner identifies the breaking of contact “if the link information was displayed less than the first predetermined amount of time” (EX1004., ¶[0051]) as the second scenario. Pet., 9. In this scenario ([purple line in above flowchart](#)), contact is held past the initial “selection threshold” but is broken off before an “activation threshold” resulting in the activation of the selected link. Pet., 9 (citing EX¶[0051]).

Petitioner identifies the displaying of the link information “for more than that amount of time” (EX1004., ¶[0051]) as the third scenario. Pet., 9. In the third scenario ([green line in above flowchart](#)), the contact is held past the “activation threshold.” *Id.* Here, the breaking of the contact does not automatically activate the link and some further action must be taken to open the link. EX1004., ¶[0051].

Blumenberg describes on additional scenario that is not identified by the Petition. In this fourth scenario ([blue line in above flowchart](#)), the contact continues to be maintained in the same position (contact does not end) and the link information is removed. EX2001, ¶48.

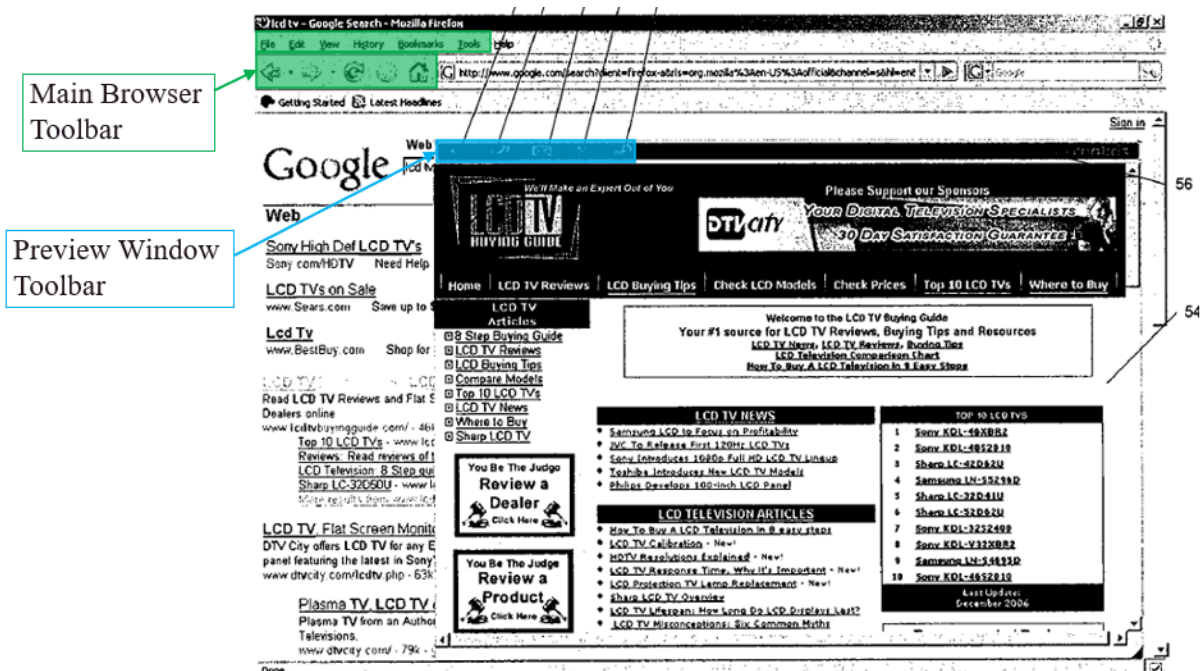
B. Bhumkar (EX1005)

Bhumkar discloses systems and methods for enhancing internet experiences on desktop computers by displaying “[p]reviews of a target web site or other

Internet-accessible resource ... in response to cursor control events.” EX1005, Abstract; EX2001, ¶50. Bhumkar explains that when a user is selecting between hyperlinks “it is often difficult for the searcher to differentiate between relevant and irrelevant results because of the limited information returned by the search engine,” which includes text of the URL name of the hyperlink and “a few lines of text clipped from the target web page.” *Id.*, ¶[0005]. Because this text “provides the searcher with little or no information” to determine relevance of the link, the user must “click through to the target web page associated with the link” to determine whether the link is relevant. *Id.*, ¶[0006].

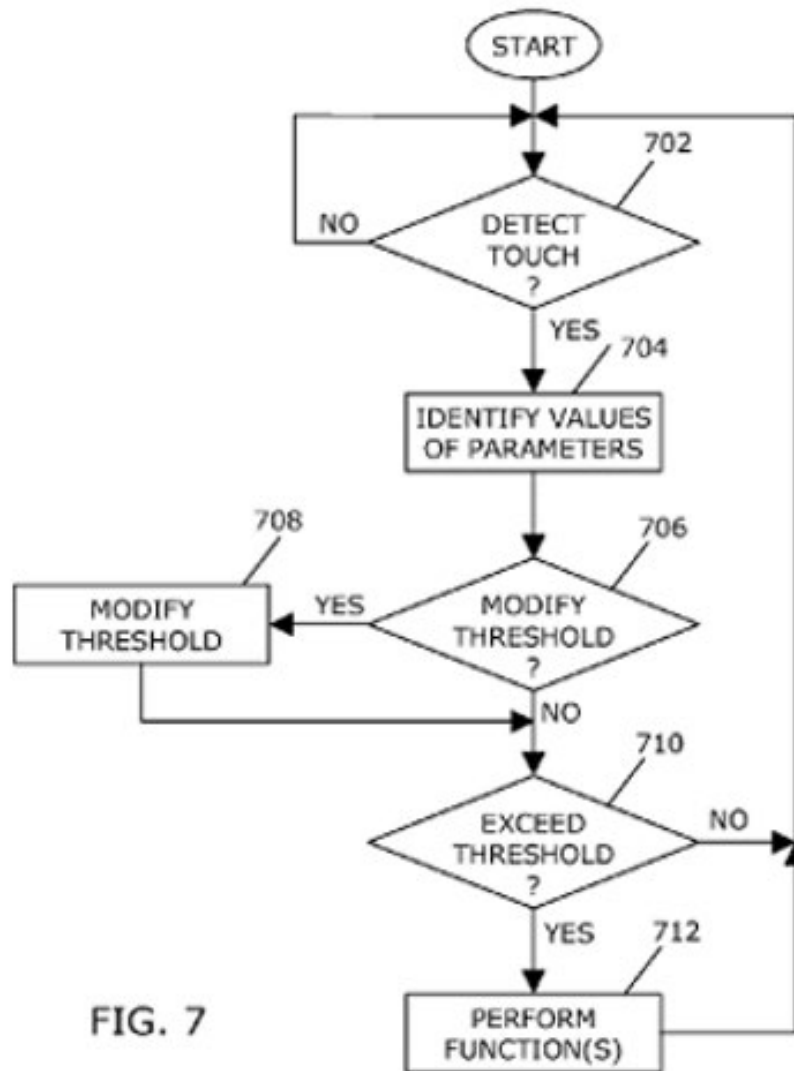
Bhumkar seeks to solve this limited information problem by providing “a ‘quick view’ or ‘preview’ of a target web site.” EX1005, ¶[0038]. Bhumkar provides two different embodiments for its preview window: (1) a non-functional embodiment where the window includes a static image of a webpage (EX1005, ¶¶[0041], [0049]-[0050] (FIG. 2 illustrates “an image of the actual web page”)) and (2) a functional embodiment where the window includes a navigable webpage (EX1005, ¶¶[0071]-[0072] (FIG. 5 illustrates “a fully functioning web page”)). EX2001, ¶51. Bhumkar includes a toolbar with conventional browser functionality in its functional embodiment. EX2001, ¶51; EX1005, FIGs. 2, 4. But does **not** include this toolbar in its non-functional embodiments. EX2001, ¶51; EX1005, FIG. 5.

Because the preview window displays a functioning web page—not just an image or snippets—the preview window “may offer or permit any conventional browser functionality, such as Back, Jump to, Close, Share, Lock, RSS, WAP, Sidekick, Stumble, Full Screen, etc., in order to further facilitate solutions to the aforementioned problems” EX1005, ¶[0040]; EX2001, ¶52. That is, all of the functionality of the main desktop browser window can also be implemented into the preview window. *Id.*; see also *id.*, ¶[0066] (“Because the quick view relies on the use of a hidden frame within the browser, all of the functionality available to the browser is available to the quick view process.”). As shown in the annotated version of Bhumkar’s FIG. 5 (inset below), this functionality can be implemented in a toolbar 56 on the preview window 54, similar to the toolbar used in the main window of the web browser. EX2001, ¶52.



C. Griffin (EX1006)

Griffin discloses “an apparatus for and method of modifying a touch threshold” that may be used to “trigger performance of functions, such as provision of tactile feedback.” EX1006, ¶[0014]. Griffin’s FIG. 7 (inset below) provides an illustration of “a method of modifying a touch threshold.” *Id.* ¶[0039].



In this method, a touch is detected at step 702 and parameters associated with the touch are identified at step 704. EX1006, ¶[0040]. A determination is then made as

to whether to modify a touch threshold at step 706. *Id.*, ¶[0041]. The parameters associated with the touch can then be compared to the original threshold or the modified threshold. *Id.*, ¶[0053]. If the parameters associated with the touch do not exceed the touch threshold, the process continues at 702; on the other hand, if the parameters do exceed the touch threshold, then one or more functions are performed at step 712.

The decision of whether to modify one or more touch thresholds (at 706) can utilize various parameters or characteristics of the touch, such as contact area, touch rate, touch location, and touch force as well as parameters from other sensors (e.g., accelerometer). EX1006, ¶[0041]. Griffin provides one example of modifying a touch threshold when a large “number of instances of inadvertent touches occurs during a period of time” such as when the device is “being carried in a pocket or bag.” *Id.*, ¶[0043]. In such a scenario, “the force threshold aspect of the touch threshold may be increased for a fixed period of time or until the inadvertent touches are not detected.” *Id.* In this way, a greater force is required to perform functions so that the inadvertent touches do not activate any unintended functions (e.g., pocket-dial). *See id.*, ¶[0061] (“reduces the occurrence of inadvertent touches causing functions to be performed, such as ... calling a contact”); EX2001, ¶57.

VI. GROUND 1: THE PETITION FAILS TO SHOW OBVIOUSNESS OF CLAIMS 1-3, 21, 29-31, 42-44 OVER BLUMENBERG, BHUMKAR, AND GRIFFIN

“In an [inter partes review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring inter partes review petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)). Petitioner bears the burden of persuasion to prove unpatentability of each challenged claim by a preponderance of the evidence. 35 U.S.C. § 316(e). This burden never shifts to Patent Owner. *Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015).

Under the obviousness standard, the demonstration that portions of the claims were independently disclosed in the prior art is not sufficient to establish obviousness. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (“a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art”). Instead, obviousness requires the additional showing that a person of ordinary skill at the time of the invention would have selected and combined those prior art elements in the normal course of research and development to yield the claimed invention. *See id.*; *see also Unigene Labs., Inc. v. Apotex, Inc.*, 655 F.3d 1352, 1360 (Fed. Cir.

2011); *Bayer Schering Pharm. AG v. Barr Labs., Inc.*, 575 F.3d 1341, 1350 (Fed. Cir. 2009) (Newman, J., dissenting) (“The statutory criterion is whether the invention would have been obvious to persons of ordinary skill at the time of the invention, not whether it is sufficiently simple to appear obvious to judges after the discovery is finally made....”).

A. Petitioner’s Combination Fails to Meet All the Claimed Elements of Claims 1 and 42

Petitioner’s combination must include programs that perform the same functions in the manner they are claimed to establish obviousness. For the reasons explained below, Petitioner fails to establish its combination of Blumenberg, Bhumkar, and Griffin would arrive at each of the claimed limitations.

1. Limitations [1.m.iii], [42.h]

Limitation [1m] includes two prerequisite elements [1m.i] and [1m.ii] and one resulting function element [1m.iii]. Pet., vi-vii; EX1001, 103:10-17. As claimed, “when” the prerequisite elements are met, the resulting function element is executed. EX1001, 103:10-17. Thus, the program includes instructions such that “when” the conditions that “the first web page is displayed via the user interface of the network browser application” ([1m.i]) and “the duration of the first contact is determined to be less than a first user-configurable predefined duration, and the end of the first contact is detected” ([1m.ii]) are satisfied, the programing instructions cause the device to “avoid display, on the first web page, a result of any operation based on

the first contact” ([1m.iii]). *Id*; EX2001, ¶¶59-60. Claim 42 includes similar features ([42.h]). EX1001, 115:7-13; EX2001, ¶60.

a. Petitioner’s Theory is Contradicted by Blumenberg

Petitioner contends that Blumenberg discloses this claimed feature. Pet., 34-36. Specifically, Petitioner alleges that “Blumenberg teaches that information associated with the link will not be displayed until and unless ‘the contact is maintained for at least a predetermined time (e.g., 0.2 seconds, or another value between 0.1 and 0.25 seconds).’” Pet., 34 (citing EX1004, ¶[0049]). But this disclosure only states what occurs “*after* the contact is maintained for at least a predetermined time”—the link information is displayed. EX1004, ¶[0049].² The cited portion of Blumenberg does not provide any detail on what occurs when contact is broken *before* the predetermined time. EX2001, ¶¶43-44, 61.

Petitioner *assumes*—with no evidence or further explanation—that contacting the hyperlink for less than the predetermined time will not display the link. *See* Pet., 9, 34. The sole evidence cited to support this assumption comes from a *different embodiment* of Blumenberg that discusses inadvertent contact with a keyboard icon in paragraph [0034]. *See* Pet., 34; EX1003, ¶118 (“Blumenberg’s statement about disregarding inadvertent contact with icons ... would certainly *apply*

² All emphasis added unless otherwise noted.

to *Blumenberg's preferred embodiments* about hyperlinks.”). However, Petitioner seeks to combine a *different embodiment* of Blumenberg, such that the necessary modification and motivation for combining these embodiments must be articulated. Petitioner fails to provide this analysis, and Ground 1 must fail for this reason alone.

Regardless, Petitioner's assumption cannot be supported by the disclosures of Blumenberg. *See* EX2001, ¶¶62-64. Paragraph [0034] states “inadvertent contact with an icon”—not a webpage hyperlink—“may not select a corresponding symbol” from the keyboard and Blumenberg provides the example that “a swipe gesture that sweeps over an icon may not select a corresponding symbol if the gesture corresponding to selection is a tap gesture.” EX1004, ¶[0034]. In other words, Blumenberg teaches not selecting tap-enabled icons when a swipe gesture occurs over the icon. *See id*; EX2001, ¶62. This differentiation in the *movement* of gestures is independent from and unrelated to the *duration*—as claimed and alleged by the Petition (Pet., 34-35)—and fails to support Petitioner's assumption. Even if a POSITA combined the separate disclosures of Blumenberg, it would ignore a swipe over the hyperlinks. EX2001, ¶62. There is nothing that supports the assumption that a tap on the link of less than 0.2 seconds, as mapped by the Petition (Pet., 34), would be deemed inadvertent. *See* EX2001, ¶62 (citing EX2005, 1/2) (0.2 seconds is not an exceedingly short duration as framed by Petitioner as 100 milliseconds (0.1 second) is the upper bound threshold for a tap gesture). In fact, Blumenberg

explicitly discloses such operations. *Supra*, §V.A.2; EX1004, ¶¶[0042]-[0044]; EX1004, *claims* 2 and 20 (claiming activating link with “a tap gesture” without also claiming displaying the link information).

Notwithstanding Petitioner’s evidentiary shortcomings—which are independently fatal to Ground 1—the alleged operation is not consistent with Blumenberg’s teachings or the logical operation of portable electronic devices. *See id.* Petitioner’s expert contends a POSITA would have reached the purported operation “by applying basic common sense and reasoning.” EX1003, ¶118. But this is false. EX2001, ¶64. And it is also legally insufficient. *Arendi S.A.R.L. v. Apple Inc.*, 832 F.3d 1355, 1366 (Fed. Cir. 2016) (Board erred in relying on common sense because such reliance was based merely upon “conclusory statements and unspecific expert testimony.”).

In Petitioner’s theory, the hyperlink cannot be opened until the contact is greater than the predetermined time, e.g., 0.2 seconds (*see* Pet., 34), at which point the information 510 will be displayed. In other words, Petitioner’s theory would mean that a user cannot open the hyperlink except by holding the link until the information 510 is displayed. EX2001, ¶65; *see* EX1004, ¶[0049].

At base, this operation is explicitly contradicted by Blumenberg, which allows for activating links without having to first display the link information. *Supra*, §V.A.2.a; *see* EX1004, FIG. 4 (depicting operation where link is activated without

displaying link information); ¶[0044] (discussing activating the link in the context of FIG. 4); ¶[0050] (discussing activating the link in the context of FIGs. 5A-5D); ¶[0051] (stating “activation of the link may be triggered in a variety of ways” and providing an example where activation of the link is triggered “*before*” a predetermined amount of time has elapsed); *Claims* 1, 2, 18 (covering activation of a link without displaying link information). Thus, Blumenberg does not support Petitioner’s alleged operation. EX2001, ¶66.

Petitioner’s alleged operation is also impractical in other common browsing scenarios, such as when viewing documents or pages where the links are isolated or separated. EX2001, ¶67. For example, in the annotated FIG. 5A of Blumenberg (inset below), the top or bottom links (circled in red) are clearly separated and do not risk being inadvertently clicked. *Id.* However, under Petitioner’s theory, the user cannot simply tap the top or bottom links (circled in red) to activate these links, despite the clear separation between these links. *Id.*

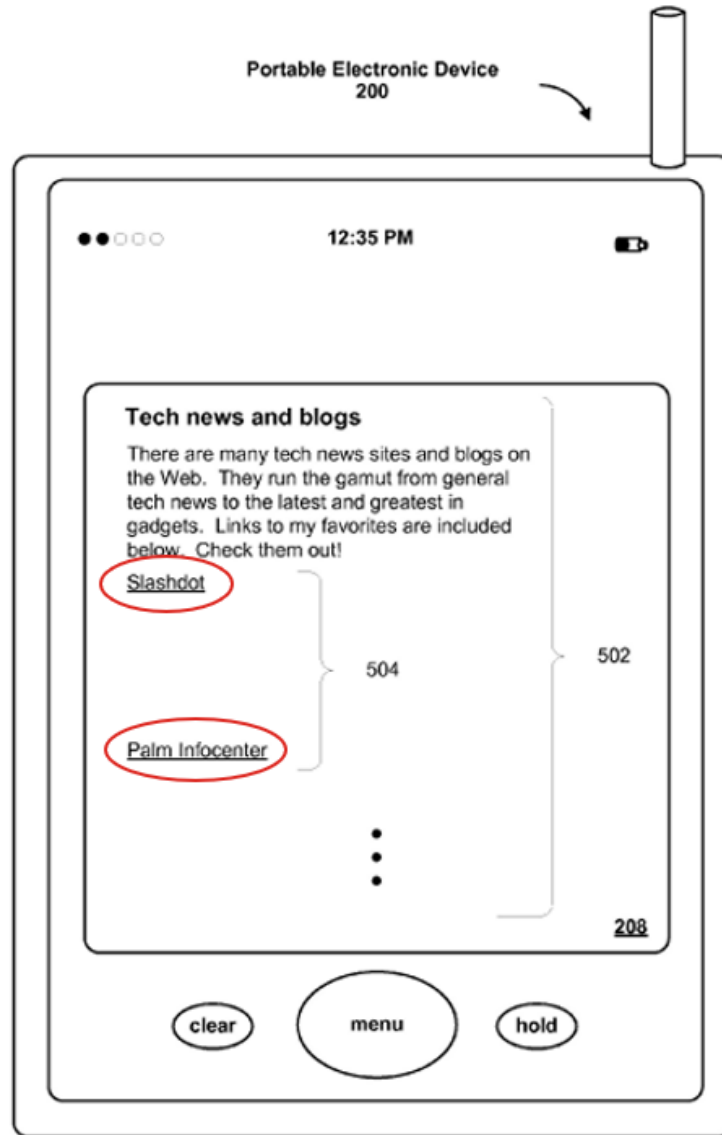


FIG. 5A

Instead, the user must go through the superfluous process of displaying the hyperlink preview window and interacting with the pop-up window to visit the website that the user clearly intended to click (i.e., with no neighboring links to misclick). EX2001, ¶¶67-68. This is antithetical to Blumenberg’s objective to provide “more efficient ways to ... select hyperlinks in portable devices.” EX1004, ¶[0005]. A POSITA, realizing Blumenberg’s objective, would understand the tap and hold

functionality to display information 510 does not replace all selection functionality for hyperlinks, but provides an **additional** option for accurately selecting links when they are too small or too close together. EX2001, ¶68. Thus, Petitioner’s theory also fails when “applying basic common sense and reasoning.”

At best, Petitioner’s theory relies on the ambiguous disclosure that is contrary to Blumenberg’s objectives and a POSITA’s understanding and cannot legally support a finding of obviousness. *Wasica Finance GmbH v. Continental Automotive Systems Inc.*, 853 F.3d 1272, 1284 (Fed. Cir. 2017) (“[a]mbiguous references do not anticipate a claim” [nor a claim element]); *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1376 (Fed. Cir. 2016) (“no burden shifts from the patent challenger to the patentee ... especially [] where the only issues to be considered are what the prior art discloses, whether there would have been a motivation to combine the prior art, and whether that combination would render the patented claims obvious.”).

b. Griffin Fails to Cure the Deficiencies in the Petition

To start, the Petition does not propose any modification of Blumenberg to not activate a link when the contact is less than the “selection threshold.” Pet., §VI.A.4. Thus, any citation to Griffin for information that is allegedly “[c]onsistent with and complementing Blumenberg’s disclosure” is irrelevant and does not cure the deficiencies explained in Section VI.A.1.a, above. As described in Section VI.A.4.(b)-(c) of the Petition (Blumenberg-Griffin Combination), there is no

modification to change the operation of Blumenberg if the contact is less than the predetermined time. *See e.g.*, Pet., 22-23. The only motivations/modifications concerning Griffin relate to the threshold being a “user-configurable predefined duration,” which does not remedy the failure of the Petitioner’s modification to achieve the resulting function element [1m.iii]. *See id.* Although, Petitioner cites to portions of Griffin that disclose “inadvertent” touching there is no modification to employ such features, let alone the necessary motivation to establish obviousness with the required particularity. *See* 35 U.S.C. § 312(a)(3) (requiring petitions to identify “with particularity ... the grounds on which the challenge to each claim is based”); *see also* *Hunting Titan, Inc. v. Dynaenergetics Eur. Gmbh*, No. IPR2018-00600, Paper 67 at 4 (P.T.A.B. July 6, 2020) (aff’d by Fed. Cir. (28 F.4th 1371)) (the Board has no such authority to raise a ground of unpatentability that is insufficiently developed in the petition).

Regardless, Petitioner’s mischaracterization of Griffin’s inadvertent input functionality cannot establish obviousness. The cited portion of Griffin discloses reducing inadvertent input in the context of when the device “is carried in a pocket or bag.” EX1006, ¶¶[0033], [0043]; Pet., 35 (citing the same). In this scenario, Griffin detects scenarios—after a large number of “inadvertent touches occur[.]”—indicating that the device is “being carried in a pocket or bag.” EX1006, ¶[0043]; *see supra*, §V.C. When this scenario occurs, Griffin describes increasing a force

threshold—pressure required to register a touch—to prevent activation of unintended functions (e.g., pocket-dial). *Id.* Alternatively, Griffin describes that touch entry can be suspended until inadvertent touches are no longer detected. *Id.* This disclosure does not remedy the deficiencies in Petitioner’s modification, nor would it have prompted a POSITA to modify Blumenberg to operate in a manner contrary to Blumenberg’s disclosure. *See* EX2001, ¶¶70-72.

Unlike Griffin, Petitioner’s mapping relies on a simple contact of less than 0.2 seconds and does not include a large number of inadvertent touches that necessitates modification of the selection threshold. Pet., 34. And, although Griffin states that a touch may be considered inadvertent based on the “duration of touch,” a POSITA would not have understood this as teaching that a single tap would be deemed inadvertent. EX2001, ¶72. Further, there is nothing in Griffin that teaches to not activate a hyperlink after it is determined that a user touches that link. *See generally* EX1006. Thus, even to the extent Petitioner seeks modifying Blumenberg based on Griffin, a POSITA would not have done so in a way that eliminates the operations that are explicitly described in Blumenberg. EX2001, ¶72; *supra* V.A.2.a.

In fact, the only link between Blumenberg and Griffin appears to be that they both disclose “inadvertent” contact. Pet., 34-35. But Petitioner fails to make any modification based on this “inadvertent” contact (Pet., 19-23) and the mere commonality of inadvertent contact cannot establish that a POSITA would have

modified Blumenberg to arrive at the claimed features. *KSR*, 550 U.S. at 418, (“[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”).

For at least these reasons, Petitioner fails to show claim 1 is obvious. As explained above in Section II.A, Limitation [42.h] of claim 42 is similar to Limitation [1.m] of claim 1 and Petitioner provides no independent analysis for claim 42. Pet., 64. Thus, for at least the same reasons, Petitioner fails to show claim 42 is obvious.

2. Limitations [1.o], [42i]

Claim Limitation [1.o] includes five prerequisite elements [1.o.i]–[1.o.v] and three resulting function elements [1.o.vi]–[1.o.viii]. Pet., vi-vii; EX1001, 102:32-55. As claimed, “when” the prerequisite elements are met, the resulting function element is executed. *Id.* As compared to Limitation [1n], the prerequisite elements [1.o.i]–[1.o.v] of Limitation [1.o] differ in two ways: (1) “the duration of the first contact is determined to be ***greater than*** the second user-configurable predefined duration” ([1.o.ii] – “activation threshold prerequisite”³) and “the end of the first contact is ***not detected***” ([1.o.v] – “contact prerequisite”). Thus, “when” the

³ This term is solely used to match the terminology advanced in the Petition

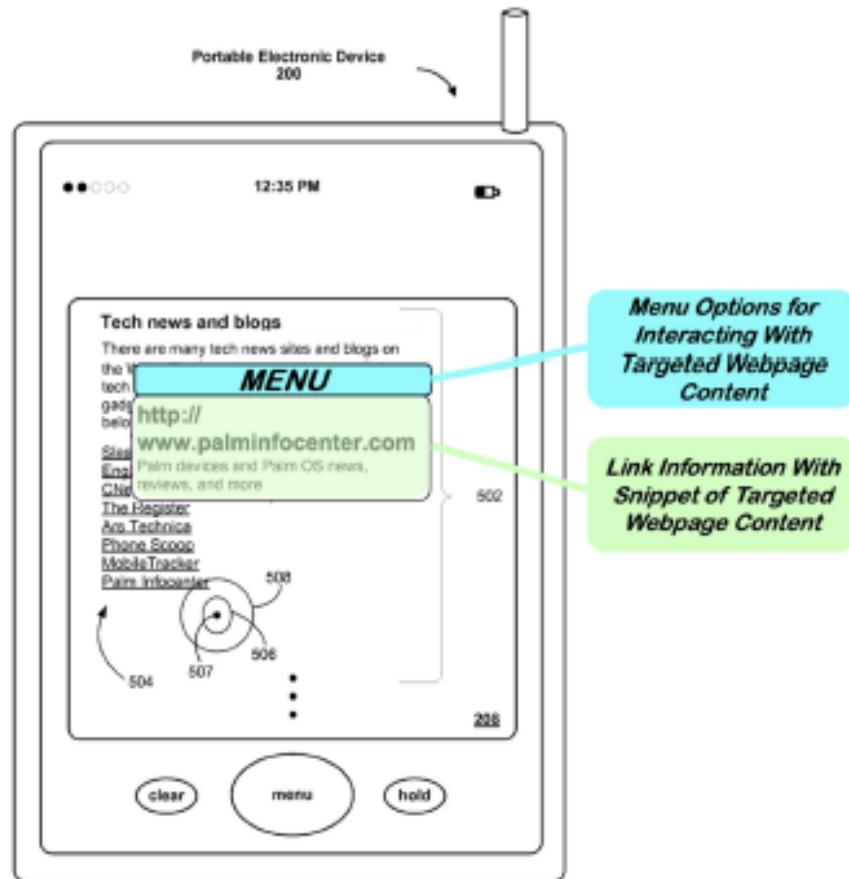
conditions of the activation threshold prerequisite and contact prerequisite are satisfied, the programming instructions cause the device to:

[vii] display a menu including at least one option for, in response to detection of a selection thereof, performing an operation on a web address associated with the hyperlink of the first web page, and

[viii] further display at least a portion of the second web page, such that at least the at least portion of the second web page is displayed in at least one first virtual display layer which appears above at least one second virtual display layer that includes at least a portion of the user interface of the network browser application that remains at least partially visible.

EX1001, 102:32-55. Claim 42 includes similar features ([42.h]). *Id.*, 115:30-53.

As shown in Petitioner's modified FIG. 5F of Blumenberg (inset below), Petitioner modifies Blumenberg's link information 510 (green) to include an accompanying menu (blue). Pet., 13-14.



Petitioner contends the depicted blue menu corresponds to the claimed menu in Limitation [1.o.vii] and the link information 510 corresponds to the claimed portion of the second web page in Limitation [1.o.viii]. Pet., 46, 49. Petitioner provides at least two modifications in analyzing Limitation [1.o] to address the alleged different conditional relationships. See Pet., 46-53.

In Petitioner's first proposed modification (the "Initial Modification"), the toolbar and link information are displayed simultaneously after the contact exceeds the "selection threshold" (e.g., 0.2 seconds) described in paragraph [0049]. Pet., 37 (in the Combination, when "the contact duration is greater than the selection

threshold (first user-configurable predefined duration), the link is selected and information associated with the link is displayed”). Petitioner states that the “combination incorporates Bhumkar’s teaching to display a menu of options” which are displayed on a “toolbar” menu. Pet., 46 (citing EX1005, [0071] and FIG. 5) Bhumkar discloses a toolbar that is integrated with its preview window and displayed simultaneously with its preview window. EX1005, ¶[0071] (preview window 54 includes a toolbar 56), FIG. 5 (depicting launched preview window with integrated toolbar 56).

In Petitioner’s second proposed modification (the “Alternative Modification”), “the display of a menu (as taught by Bhumkar) occur in response to the user’s contact duration exceeding the activation threshold.” Pet., 52. Further, Petitioner explains that the display of Blumenberg’s link information (alleged second webpage portion) “would be paired with tactile *feedback* and a *menu* only after and as a consequence of the activation threshold.” Pet., 53 (emphasis in original). Thus, in this Alternative Modification both Blumenberg’s link information and the incorporated toolbar from Bhumkar are displayed at the same time—when the contact exceeds the second “activation threshold.”

As explained below, both of these modifications fail.

**a. [1.o.vii]-[1.o.viii] – Petitioner’s Initial Modification
Does Not Disclose the Claimed Limitations**

Petitioner’s Initial Modification does not meet claim Limitation [1.o] or [42i].

In fact, Petitioner tacitly concedes that its mapping fails to meet claim element [1.o.vii]. Pet., 46 n.7.; Pet., 64 (incorporating analysis into claim 42) Similarly, Petitioner’s modification also fails to meet claim element [1.o.viii].

Claim Limitation [1.o] performs its resulting functions “when” “the duration of the first contact is determined to be *greater than* the second user-configurable predefined duration.” EX1001, 102:32-55; EX2001, ¶84. As described in Section V.A.2.b above, Petitioner identifies a “selection threshold” and an “activation threshold” in Blumenberg that allegedly correspond to the claimed “first user-configurable predefined duration” and “second user-configurable predefined duration,” respectively. *See also* Pet., 36-38. In Petitioner’s proposed modification, the link information 510 and accompanying menu are displayed when the contact exceeds the “selection threshold” (first user-configurable predefined duration). *See* Pet., 36-38 (alleging the “information associated with the link [i.e., 510] is displayed” when “the contact duration is greater than the selection threshold (*first user-configurable predefined duration*)”). Thus, Petitioner’s modification executes the function of displaying the alleged “menu” ([1.o.vii]) and “portion of the second web page” ([1.o.viii]) *before* the second user-configurable predefined duration (i.e., activation threshold) is met. *Id*; EX2001, ¶84.

In Petitioner’s words, the menu ([1.o.vii]) and portion of the second web page ([1.o.viii]) are displayed when the “selection threshold” is met (first user-configurable predefined duration) not *when* the “activation threshold” is met (second user-configurable predefined duration)—as required by the claim. *Id.* Recognizing this deficiency, Petitioner contends that the combination “continues displaying the link information” when the user maintains the contact for a duration greater than the activation threshold. Pet., 49. But this operation fails to meet the plain language of the claims, which requires that the function (e.g., displaying a context menu and further displaying at least a portion of the second web page) is executed when the prerequisite elements are satisfied. *Supra*, §II.A. Petitioner provides no explanation that Blumenberg executes a function to continue displaying the already displayed link information when the activation threshold is met. And “a POSITA would understand that Blumenberg is not programed to execute instructions to display link information 510 when the contact exceeds the activation threshold because the link information 510 is already displayed.” EX2001, ¶85.

As tacitly conceded by Petitioner, Blumenberg does *not* include programs with instructions that are executed to: display the list information “when” the prerequisite elements are satisfied. *See* Pet., 46 n.7. Here, because the modified menu and link information snippet are displayed prior to satisfying the activation

threshold prerequisite—as opposed to “when” the activation threshold prerequisite is satisfied—Petitioner’s modification fails to establish obviousness of claim 1.

b. Petitioner’s Alternative Modification is Deficient and Internally Inconsistent

As explained above, Petitioner’s Alternative Modification results in Blumenberg’s link information being displayed “only *after* and as a consequence of the activation threshold.” Pet., 52 (citing EX1003, ¶158). This is admittedly contrary to Blumenberg’s teachings where the “link information (second webpage portion) is initially displayed *before* the activation threshold.” *Id.* Notably, Petitioner and Petitioner’s expert do not provide any motivation for making the modification to display Blumenberg’s link information after the activation threshold. *See* Pet., 52-53; EX1003, ¶158. While the Petition cites to the “‘Fourth’ motivation rationale” for modifying the display of a menu, the Petition does not offer or cite to any rationale for modifying the display of the link information. As the Petition provides no motivation to make the Alternative Modification, it cannot legally establish obviousness. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007), (there must be “a reason” for a skilled artisan “to combine the elements in the way the claimed new invention does”); *Virtek Vision Int’l v. Assembly Guidance Sys.*, 97 F.4th 882, 887 (Fed. Cir. 2024) (“KSR did not do away with the requirement that there must exist a motivation to combine various prior art references in order for a skilled artisan to make the claimed invention.”).

In addition to being legally deficient, Petitioner's Alternative Modification is also internally inconsistent. EX2001, ¶¶86-87. In analyzing Limitation [1.n.ii], Petitioner explains that "in the Combination" when "the contact duration is greater than the selection threshold (first user-configurable predefined duration), the link is selected and information associated with the link is displayed." Pet., 37. As described above (*supra*, §V.A.2), Blumenberg discloses operations that may be performed after link information is displayed. In Blumenberg's second scenario, "the selected link is activated by a contact break *if the link information was displayed* less than the first predetermined amount of time." *Id.*; see EX1004, ¶[0051]. Thus, Petitioner's mapping to Limitation [1.n.ii] requires that the "the link information was displayed" at the selection threshold and the user ends the contact before the activation threshold. Pet., 37.

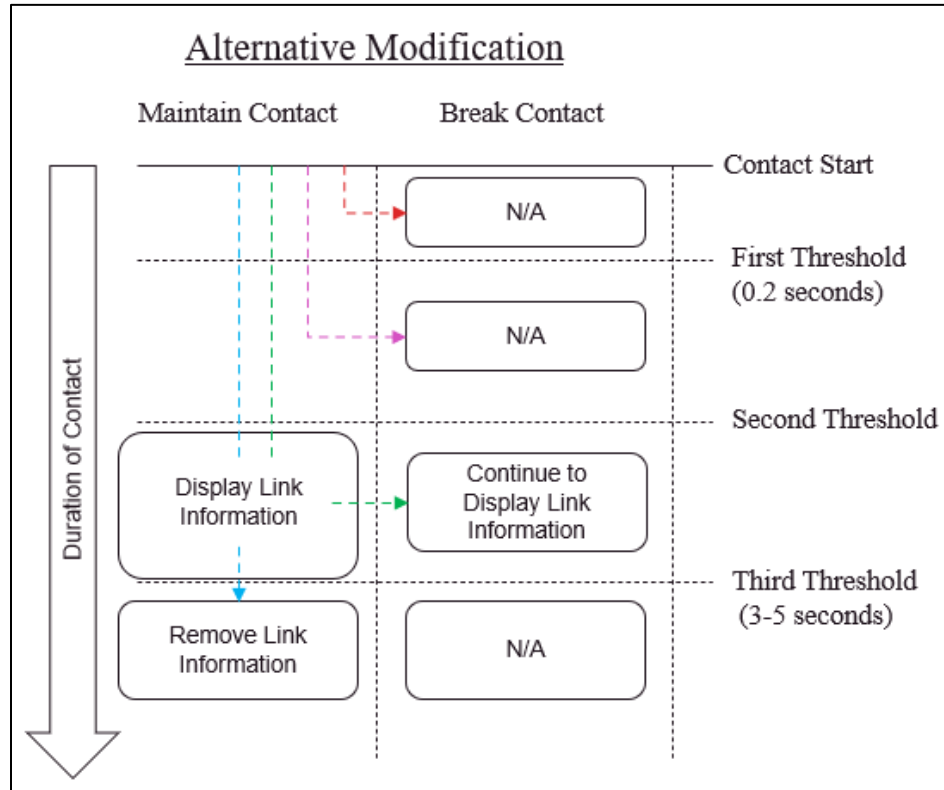
On the other hand, Petitioner's Alternative Modification requires that the link information would not be displayed until after the activation threshold. Pet., 52. Thus, Petitioner's Alternative Modification requires the impossibility that the link information be both displayed and not displayed at the selection threshold. See EX2001, ¶87. By eliminating the display of the link information, Petitioner destroys the functionality to activate the link by breaking contact after the display of the link information but before the activation threshold. *Id.* This is fatal to Ground 1. See *e.g., Ex Parte O'Brien*, Appeal No. 2002-1846, 2002 WL 33950052, at *2 (BPAI

Sept. 20, 2002) (non-binding) (reversing rejections that were “not adequately articulated and appear[ed] *internally inconsistent*”).

c. A POSITA Would Not Have Made Petitioner’s Alternative Modification

Blumenberg displays the link information 510 (the *alleged* portion of the second web page) when the *selection* threshold is exceeded and not when the activation threshold is exceeded. EX1004, ¶¶[0049]-[0051]; Pet., 52. Petitioner’s Alternative Modification results in Blumenberg’s link information being displayed “only *after* and as a consequence of the activation threshold.” Pet., 52. As explained in Section VI.A.2.b, Petitioner’s failure to provide a motivation for this modification is independently fatal to Ground 1. Regardless, there is no logical reason that would have prompted a POSITA to delay the display of Blumenberg’s link information 510 until after the activation threshold is met. EX2001, ¶88.

An illustration of Petitioner’s Alternative Modification is shown in the flowchart below.



As shown, no functionality can occur unless the contact is maintained until after the second threshold (activation threshold) is met. Accordingly, this modification would render Blumenberg’s first, “selection” threshold useless as there would no longer be any function associated with that threshold (e.g., no display of link information or menu). EX2001, ¶89.

In addition to destroying the functionality of Blumenberg’s selection threshold, Petitioner’s Alternative Modification would also result in a slower and less efficient interface. EX2001, ¶90. As illustrated above, the user would no longer be able to open the link except by maintaining contact for a much longer time than envisioned by Blumenberg. *Supra*, §§V.A.2.a (describing activating link after tap

in first scenario); V.A.2.b (describing activating link before second, activation threshold in second scenario). Moreover, the user would no longer be able to open the link with a single contact. EX2001, ¶90. Instead, the user could only activate the hyperlink by tapping and holding until the activation threshold and then by breaking contact and performing an additional confirmatory tap on the link information 510. *See* EX1004, ¶[0051] (“the user must break contact and tap the link information (which is continued to be displayed after the contact break) to activate the selected link”); Pet., 15 (fewer user inputs allows a user to accomplish tasks “more quickly and efficiently”).

Thus, the Alternative Modification would require the user to maintain contact for a much longer period to activate the link information 510 and would also require additional user inputs. EX2001, ¶90. Such a modification is contrary to the motivations advanced by Dr. Cockburn—to perform tasks “more quickly and efficiently (e.g., with fewer user inputs).” EX1003, ¶73. Accordingly, there is no logical explanation or reasoning as to why a POSITA would have made such a modification. EX2001, ¶90. For at least these additional reasons, Ground 1 must fail.

d. A POSITA Would Not Have Made Any Other Alternative Modification

To the extent Petitioner intends to propose a third modification, in which Blumenberg’s link information is displayed after the selection threshold and the

menu is displayed after the activation threshold, such a modification would also be deficient. *See* Pet., 46 n.7 (alleging a POSITA would have pursued an unspecified design option); EX2001, ¶¶91-94.

To start, Petitioner does not allege this modification with the specificity required in IPR proceedings. 35 U.S.C. § 312(a)(3) requires an IPR petition to identify “with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim.” Further, PTAB’s Trial Practice Guide advises petitioners to “avoid submitting a repository of all the information that a judge could possibly consider, and instead focus on concise, well-organized, easy-to-follow arguments supported by readily identifiable evidence of record.” 77 Fed. Reg. 48,756, 48,763 (Aug. 14, 2012). By failing to explicitly assert this modification the Petition fails to identify the proposed grounds for review “with particularity” as required by 35 U.S.C. § 312(a)(3). *See Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (“[T]he expedited nature of IPRs bring with it an obligation for petitioners to make their case in their petition to institute.”).

Next, such a modification in which Blumenberg’s link information is displayed after the selection threshold fails to meet the claimed operation for the same reasons as the Initial Modification. *Supra* VI.A.2.a (Petitioner’s modification executes the function of displaying the alleged “portion of the second web page”

([1.o.viii]) *before* the second user-configurable predefined duration (i.e., activation threshold) is met).

Turning to the Petition, Petitioner incorporates its “‘Fourth’ motivation rationale” from Section VI.A.4.a (*id.*) to explain a “design option” that would purportedly meet Limitation [1.o.vii]. Pet., 46 n.7. This fourth motivation attempts to “introduc[e] menu options to the displayed webpage preview after the duration of the user’s touch surpasses Blumenberg’s activation threshold.” Pet., 18 (emphasis in original).

At base, this self-created modification is hindsight that is not supported by either Blumenberg or Bhumkar. Blumenberg discloses displaying all information associated with its hyperlink preview (e.g., URL, title, snippet of content, etc.) at the same time, after exceeding the *selection* threshold. See EX1004, ¶¶[0048]-[0049], FIGs. 5C, 5E. Similarly, Bhumkar displays its preview window 54 simultaneously with its integrated toolbar 56. See EX1005, ¶[0071], FIG. 5. Thus, neither Blumenberg nor Bhumkar (nor any other evidence of record) disclose an operation of displaying a pop-up window and then subsequently displaying a toolbar of that pop-up window based on a subsequent action. See *e.g.*, EX1003, ¶79-82 (citing no independent evidence).

Instead, Petitioner relies on unsupported hindsight—conjuring up its own problems to find a solution in the claimed operation—that is insufficient to meet

Petitioner's burden. Here, Petitioner makes a modification to incorporate Bhumkar's toolbar and then identifies the problems with its own modification in order to propose a second modification to delay displaying of this toolbar until after the activation threshold. But this second modification is not supported by record evidence and is only found in the claims. Further, as explained below in Section VI.B.2.d, this modification is not commensurate with the scope of the analysis provided with the "Fourth motivation rationale."⁴

B. A POSITA Would Not Have Been Motivated to Modify Blumenberg's Link Information to Have a Menu

Although all of the Petitioner's proposed modifications fail to arrive at the claimed limitations, Petitioner's motivation to modify Blumenberg's link information (i.e., hyperlink preview window) is independently deficient. Petitioner's motivations largely assume that the use of components in user interfaces is readily transferable to all mediums. But a POSITA would have been aware that the functionality of user interfaces in desktop browsers was quite different than the functionality of user interfaces in portable electronic devices. EX2001, ¶¶99; *See* EX2004, 1/12 (Mobile Sites Are Different from Desktop Web Sites). Against this backdrop, none of the proposed motivations provide a plausible reason to

⁴ Petitioner's other alternative modifications to swap Blumenberg's snippet for Bhumkar's preview (Pet., 50) are also deficient. EX2001, ¶¶95-98.

incorporate Bhumkar's conventional, desktop web browser toolbar into Blumenberg's mobile device interface.

1. Petitioner's Modification is Illogical and Inconsistent with the Teachings of Blumenberg and Bhumkar

Petitioner has not adequately shown that a POSITA would have found it obvious to apply Bhumkar's desktop browser functionality into Blumenberg's portable electronic device, especially given the device's "small screen size," which "limits the amount of information and/or the size of the information that can be shown on the screen." *See* EX1004, ¶[0004]; EX2001, ¶¶100-101. Blumenberg provides a hyperlink preview (e.g., magnification of the URL and, optionally, a snippet of text from the URL) that provides quick, easy to read information to help the user confirm correct finger contact with the selected hyperlink. *Supra*, §V.A.2; *see also* EX1004, ¶[0053] (text in hyperlink preview "is displayed at a legible size, such as 14 point or larger" including "18 point text."). This emphasis on large text size in conjunction with the small screen size of portable devices limits the amount of information that can be displayed in, and the functionality of, the hyperlink preview. EX2001, ¶100.

This is incompatible with Bhumkar's objective to provide a preview window of "a fully functioning web page" (EX1005, ¶[0070]) in a conventional desktop browser, where the preview window includes the same functionality (e.g., toolbar) provided in the conventional desktop browser (*id.*, ¶[0040]). *Supra*, §V.B; *see also*

FIG. 5 (depicting full webpage of preview window in foreground and main window with toolbar in background). In fact, Bhumkar notes that the URL name and snippet of text—which are displayed in Blumenberg’s hyperlink preview (EX1004, ¶[0040])—provide “little or no information on which to base a decision as to the relevance of the associated web page.” EX1005, ¶[0006]; *see also id.*, ¶[0005] (the “few lines of text clipped from the target web page ... is usually limited to a few words which may or may not help the searcher in assessing the relevancy of the returned result”). Thus, Bhumkar explicitly criticizes the reliance on the information shown in Blumenberg’s non-functional hyperlink preview to perform user operations. EX2001, ¶103.

Additionally, a POSITA would understand that the implementation of a conventional desktop browser toolbar—as in Bhumkar’s fully operational web preview window (EX1005, ¶[0071])—would be inapplicable in Blumenberg’s non-functional hyperlink preview. EX2001, ¶103. This is explicitly taught in Bhumkar—where a toolbar is *only added* in the embodiments with “a fully functioning web page.” *Supra*, §V.B. And this toolbar is *actively omitted* in windows that are non-functional (i.e., static) like those described in Blumenberg. EX2001, ¶103. Thus, even Bhumkar avoids the modification proposed by the Petition. *See id.*

Notwithstanding these discrepancies between the references, Petitioner contends a POSITA would be motivated to add Bhumkar's toolbar functionality into Blumenberg's hyperlink preview. *See* Pet., 15, 46. However, a POSITA would have understood that functionalities in desktop interfaces were not interchangeable with mobile interfaces. EX2004, 1-2/12; EX2001, ¶¶100-101. And because of the differences between mobile and desktop interfaces, the functionalities in Bhumkar's toolbar were, at best, severely diminished in Blumenberg's mobile operation and, at worst, completely inapplicable.

First, Petitioner contends that a POSITA would incorporate Bhumkar's sharing functionality into a toolbar integrated within Blumenberg's hyperlink preview. *See* Pet., 15, 46. Thus, despite Bhumkar's teaching that the information provided in Blumenberg's hyperlink preview provides "little or no information" on the relevancy of the hyperlink (EX1005, ¶[0006]), Petitioner alleges that a POSITA would provide a menu option to allow a user to blindly share this hyperlink without actually viewing the webpage associated with that hyperlink. *See* Pet., 15. Conspicuously, Petitioner contends a POSITA would make such modification by applying the teachings of Bhumkar. Yet, as explained above, Bhumkar teaches the exact opposite. *see* EX1005, ¶[0006] (to determine relevancy "the searcher must

actually click through to the target web page”).⁵ As Bhumkar explicitly criticizes the information shown in Blumenberg’s non-functional hyperlink preview, a POSITA would understand that the implementation of the sharing functionality provided in the conventional desktop browser would be inapplicable in Blumenberg’s non-functional hyperlink preview. EX2001, ¶104.

Second, Petitioner contends that a POSITA would incorporate Bhumkar’s full screen functionality into a toolbar integrated within Blumenberg’s hyperlink preview. Pet., 48 (quoting EX1005, ¶[0073]). In this modification, selecting the full screen icon “initiates ‘a full-screen mode to enhance the consumption of *information displayed* in the *current preview window*.” Pet., 48 (quoting EX1005, ¶[0073]). Thus, selection of the full screen icon would result in the information (URL name and snippet) displayed in the current preview window (Blumenberg’s link information) to displayed on the entire screen. But this makes little sense given that the *entirety* of Blumenberg link information is visible in the preview window. EX1004, ¶[0040]; *see* FIGs. 5C, 5E-5H; EX2001, ¶¶105-107.

A POSITA would have understood that the full screen functionality is beneficial in Bhumkar’s fully navigable preview window so that the “the content

⁵ Bhumkar states this problem applies “to any web page whether or not it is a search results page” *Id.*

[(i.e., functioning webpage)] of the preview window may be more easily consumed in the full screen mode.” EX1005, ¶[0073]. For example, the fully operational webpage shown in the Bhumkar’s preview window can include information and text that is not shown in the window—as indicated by the horizontal and vertical scrollbars in Bhumkar’s FIG. 5. EX2001, ¶105. Unlike Bhumkar’s fully navigable webpage—which includes portions that are *not visible* in the window (See EX1005, FIG. 5)—there is no reason to enhance the unobstructed, visible text displayed in Blumenberg’s link information. *Id.* Accordingly, a POSITA would have understood that implementing a “full screen icon” into Blumenberg’s hyperlink preview offers no improvement in functionality or any other logical benefit.⁶ See EX2001, ¶105. Such a superfluous modification is completely devoid of any functionality or improvement and, as such, “we are left with only hindsight bias that *KSR* warns against.” See *Metalcraft of Mayville, Inc. v. The Toro Company*, 848 F.3d 1358, 1367 (Fed. Cir. 2017) (Fed. Cir. 2017); see also *Ex parte Rinkevich*, Appeal No. 2007-1317, slip op. at 8-9 (BPAI May 29, 2007) (noting that “the problem proffered

⁶ To the extent Petitioner is conflating “full screen mode” with a “zoom in” function, this is deficient as the text in Blumenberg’s hyperlink preview window is already displayed “at a legible size.” EX1004, ¶[0053] (“URL may be displayed using 18 point text”).

by the Examiner is already solved” by the primary reference, and explaining that “a person of ordinary skill in the art having common sense at the time of the invention would not have reasonably looked at [a secondary reference] to solve a problem already solved by [the primary reference].”).

Further, any proposed modification that would perform a function different than Bhumkar’s full screen functionality is unsupported and contrary to the teachings of Bhumkar and the understanding of a POSITA. EX2001, ¶¶107-108. For example, Petitioner contends that Bhumkar’s full-screen mode would “navigat[e] to the webpage at the web address” displayed in Blumenberg’s link information. Pet., 48. But this modification is contradictory to Bhumkar’s full-screen mode, which “initiates a full-screen mode ... of information displayed in the current preview window 54.” EX1005, ¶[0073]. As explained above, the URL name and a snippet of text—not a functional webpage—are the information displayed in Blumenberg’s current preview window. Thus, any modification to navigate to the webpage associated with the URL name by selecting a full screen icon is not supported by Bhumkar and is contrary to a POSITA’s understanding of full screen functionality. EX2001, ¶107.

Because the design of mobile interfaces does not follow the same guidelines as desktop interfaces, simply integrating the components of desktop UIs into mobile UIs can result in problems—illustrated by Petitioner’s proposed functionality above.

EX2001, ¶108. This is further confirmed by looking at the remaining functionality of Bhumkar's conventional toolbar. EX1005, ¶[0040] (Back, Jump to, RSS, WAP, Sidekick, Stumble, Full Screen). This functionality—which is designed for fully functional webpages—would be inapplicable and unworkable when applied to Blumenberg's non-functioning link information. EX2001, ¶108. For example, the back function (allows a user to trace his/her click history within a current preview session) cannot be performed on Blumenberg's link information 510 as there is functional operation to go “back” on. Because the functionality (e.g., sharing and full screen as proposed by the Petition) of Bhumkar's *desktop toolbar* is not applicable or severely diminished when incorporated into Blumenberg's mobile interface, a POSITA would not include this functionality in Blumenberg's mobile device. EX2001, ¶108 (mobile designs “include only the most crucial functions and features”) (quoting EX2004, 1-2/12). For at least this reason, a POSITA would not have incorporated Bhumkar's desktop toolbar into the hyperlink preview window of Blumenberg's mobile device.

For at least this reason, Petitioner's modification must fail.

2. Petitioner's Motivations Do Not Resolve the Incongruities in the Purported Modification

As explained herein, Petitioner's four proposed motivations do not remedy the deficiencies of Petitioner's combination.

a. The Use of Menus in Applications or Other Context Does Not Establish Obviousness

First, Petitioner contends that “providing menu options associated with the displayed content of an application or information window was a ubiquitous feature in computer GUIs.” Pet., 14-15. Petitioner continues that “Bhumkar employs a menu to augment a webpage preview for this purpose, and it would have been axiomatic for a POSITA to do the same in the context of Blumenberg’s ‘link information’ that similarly previews webpage.” *Id.*

The thrust of Petitioner’s argument is that menus were widely used in mobile *applications* and, thus, would be obvious to employ on Blumenberg’s link information pop-up. *Id.*, (menu options associated with the displayed content of an *application*); EX1003, ¶71 (“[a]ll but the simplest *applications* have menus.” (quoting EX1037, p.1)). However, a POSITA would have understood that Blumenberg’s link information is not an application, as used in the context of mobile devices. EX2001, ¶112; *see* EX1004, ¶[0030] (listing “[e]xamples of applications” that do not include the hyperlink preview). And while the web browser, itself, is an application (*id.*) the specific features or functions of that web browser (e.g., link information) would not be considered applications. EX2001, ¶112. Thus, the foundation of Petitioner’s motivation is an overgeneralization that asserts nothing more than menus—in contexts different from the modification—were known. This fails to establish that a POSITA would have been motivated to implement

Bhumkar's desktop toolbar into Blumenberg's mobile interface and, therefore fails to establish obviousness. *TQ Delta*, 942 F.3d 1352, 1357 ("Identifying a motivation to combine the prior art is important because 'inventions in most, if not all, instances rely on building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known.'") (citing *KSR*, 550 U.S. 398, 418-419).

Additionally, Petitioner's assertion that Bhumkar's webpage preview and Blumenberg's link information "similarly previews webpage content" (Pet., 15) is false. EX2001, ¶113. Again, Bhumkar's desktop webpage preview window is a fully functioning webpage, and the preview window merely includes similar browsing functionality (e.g., in a toolbar) that are employed in traditional fully functioning web browser windows. EX1005, ¶[0040] ("The preview window displayed in accordance with the present invention may offer or permit any conventional browser functionality, such as Back, Jump to, Close, Share, Lock, RSS, WAP, Sidekick, Stumble, Full Screen, etc."); see EX2001, ¶52 (Bhumkar depicts a toolbar in the main window of the web browser with overlapping functionalities as the preview window (e.g., back icon, full-screen icon, close icon, etc.)) (citing EX1005, FIG. 5). On the other hand, Blumenberg's link information provides a non-functional window that displays information considered irrelevant by Bhumkar. See *supra*, §VI.B.1. Contrary to Petitioner's assertions, it would **not** have been

axiomatic for a POSITA to add a toolbar with conventional desktop browser functionality to the non-functional link information in Blumenberg's mobile interface. EX2001, ¶113. And, in fact, Bhumkar explicitly contradicts this conclusion by not including a toolbar 56 in its non-functional windows. *See* EX2001, ¶113, n.4.

In addition to being contradicted by the cited references, Petitioner's modification to add multiple icons in a menu displayed within Blumenberg's hyperlink preview window would introduce the exact hit-or miss functionality that Blumenberg tries to avoid. *See* EX1004, ¶[0004]. The use of a toolbar (with several small icons that are grouped together (*See* EX1005, FIG. 5)) would be contradictory to Blumenberg's objectives as it would require placing small icons next to one another in a mobile interface and would increase the risk on an inadvertent selection. EX2001, ¶114. This is something that Blumenberg would have avoided.

b. Petitioner Fails to Establish Bhumkar's Sharing Functionality Would Necessitate a Menu or Improve Usability

Second, Petitioner contends that "applying Bhumkar's teaching of a menu for a webpage preview window would predictably improve Blumenberg's browser from a usability standpoint" because providing menu options "allow the user to accomplish common tasks associated with the target webpage (e.g., sharing the page

with an acquaintance) more quickly and efficiently (e.g., with fewer user inputs).”
Pet., 15.⁷

At the outset, Petitioner’s attempt to broaden a single sharing function into “common tasks” (Pet., 15) is squashed by the fact that most of the described functionality of a conventional desktop browser (e.g., Back, Jump to, RSS, WAP, Sidekick, Stumble, Full Screen) is not applicable in Blumenberg’s non-functional hyperlink preview. *Supra*, §VI.B.1; EX2001, ¶116.

Regardless, Petitioner’s motivation is deficient. Petitioner’s analysis of this motivation almost exclusively relies on the concept of providing a superior web browser than competitors. *See* Pet., 15-16 (“competing web browsers”). But importantly, Petitioner fails to show its modification to include a menu on Blumenberg’s link information would actually result in a superior web browser. *See id.* Initially, Petitioner mistakes the functionality of “web browsers” with the link

⁷ Both Petitioner and Dr. Cockburn rely on EX1038 to support this motivation, but it is not prior art. *See* EX1038, 1 (2012 25th IEEE Canadian Conference); *see also* Pet., 5 (claimed priority date of August 5, 2011). Nevertheless, EX1038 is directed to the usability of mobile device *applications* (EX1038, Title, 1) and, as discussed above, Blumenberg’s link information is not an application. *Supra*, §VI.B.2.a; EX2001, ¶112.

information functionality taught in Blumenberg, which is described as being independent from a web browser. EX1004, ¶[0045] (describing the hyperlink preview functionality is not limited to “a webpage” but would also function with “other document[s]” (i.e., documents not displayed in a web browser)). Further, the only identified improvement in the Petition is that the modification would allow the user to share the page (associated with the hyperlink) with fewer user inputs. Pet., 15. But this is unsupported and is inconsistent with the disclosures of Bhumkar or Blumenberg. *See* EX2001, ¶117.

First, as explained in Section VI.B.1, the modification is inconsistent with the teachings of Bhumkar or Blumenberg. Bhumkar’s preview window includes a toolbar because it is a fully functioning webpage, and it simply seeks to include the same functionality that a user would experience when browsing the webpage with the main, conventional browser. *Supra*, V.B, VI.B.1; EX1005, ¶¶[0040], [0070]-[0071]. Instead of blindly sharing the hyperlink after viewing the URL and text clipped from the target web page, Bhumkar allows the user to view the content of the webpage associated with the hyperlink in the preview window and then “share some or all of the content of the preview window.” EX1005, ¶[0043]; *see also id.*, ¶[0021] (“share **contextual information** concerning the second Web page,” not just the hyperlink). In Petitioner’s modification, the user cannot navigate the webpage to determine whether the associated link is truly relevant. EX2001, ¶118; EX1004,

¶[0040]. A POSITA would understand that the share function associated with Bhumkar's preview window is beneficial because the preview window is a fully functioning web page that allows the user to determine that its associated link is truly relevant. EX2001, ¶118 (citing EX1005 ¶¶[0005]-[0006], [0039], [0071]).

To the contrary, Blumenberg's link information does not allow full navigation of the webpage or even display the webpage associated with the hyperlink, thus, there is no reason to provide Bhumkar's toolbar functionality into Blumenberg's link information. EX2001, ¶118. Additionally, in Petitioner's modification, the user can only send the hyperlink, rather than any contextual information of the webpage, as the webpage is not accessible and has not been activated (i.e., loaded) yet. *Id.*; Pet., 9-10, 42 (discussing third scenario where link is not activated until the user executes a confirmatory tap). Thus, Petitioner's modification fails to provide the advantages of Bhumkar's functionality or provide a solution to the problems discussed in either Blumenberg or Bhumkar.

Second, Petitioner's comparative improvement (sharing the webpage "with fewer user inputs") is flawed as there is no point of comparison—either to Blumenberg or other "competing web browsers" to evaluate this allegation. Pet., 15; *see* EX2001, ¶119. Petitioner merely adds functionality that is not explicitly disclosed in Blumenberg and concludes that this functionality is performed more

quickly and efficiently. Such an incomplete and one-sided comparison cannot support obviousness.

When making a meaningful comparison with a functional alternative, Petitioner's assertions fall apart. *See* EX2001, ¶112. For example, consider a scenario ("example modification") where Blumenberg's hyperlink functionality was employed in a web browser that included a toolbar with a share function, similar to the conventional web browsers described in Bhumkar. *See* EX1005, ¶[0040] (conventional browser functionality includes a Share function). This example requires the same number of inputs as Petitioner's modification. To illustrate, the user could activate the link (first input) to be taken to the webpage—as in Blumenberg's first or second scenario (*supra*, §V.A.2)—browse the webpage to determine its relevancy, and then select the share icon from the browser toolbar (second input) to bring up the sharing interface of Bhumkar. This is the same amount of user input as would be required in Petitioner's modification—first contact to bring up link information 510 and second contact to select share icon in modified menu. *See* Pet., 21 (requirement to give a confirmatory tap input). EX2001, ¶112. Thus, even to the extent a POSITA would want to implement this sharing functionality, Petitioner's incomplete comparative analysis does not provide an explanation as to why the POSITA would implement the sharing functionality in the manner alleged in the Petition (e.g., in a menu).

Thus, by providing an actual point of comparison, Petitioner's only alleged improvement is proven false. As there is no logical reason to pursue Petitioner's modification, this motivation must fail.

c. Bhumkar's Teachings are Contrary to Petitioner's Modification

Third, Petitioner contends that "a POSITA would have been prompted to pursue this combination based on Bhumkar's express teachings and motivations." Pet., 16. Without providing any detailed comparison of the two systems, Petitioner alleges a POSITA would understand "the similarities between Blumenberg's 'link information' and Bhumkar's webpage preview" and "sought to predictably improve Blumenberg's browser in the same way Bhumkar did." *Id.*

Petitioner's assertion is unsupported by any detailed explanation or analysis in the Petition itself or from Petitioner's expert. *See* EX1003, ¶¶75-76. Petitioner's expert simply concludes that both references "promote[] the idea of previewing web content," (*id.*, ¶76); but this is devoid of any actual analysis regarding the modification. This conclusory statement also wholly fails to explain why incorporating a menu into Blumenberg's non-functional hyperlink preview window would "improve Blumenberg's browser in the same way Bhumkar did." Further, this fails to address Bhumkar's disparagement of the type of snippets used by Blumenberg. *See* EX1005, ¶¶[0005]-[0008] (displaying text clipped from the

webpage in conjunction with the hyperlink “is so minimal as to make it virtually impossible to know whether or not the linked site is truly relevant”).

As explained above, Bhumkar’s “window to display a *preview of a target webpage* for a hyperlink” (Pet., 16) is not similar to Blumenberg’s enhanced display of the URL of a hyperlink. *Supra*, §VI.B.1. Petitioner fails to provide any analysis to support this alleged similarity and a POSITA would have been aware of the “very large differences between desktop and mobile user interfaces.” EX2001, ¶122. Accordingly, the underlying functionality of the two windows and the features associated with each window are not similar and would not “improve Blumenberg’s browser in the same way Bhumkar did.” *Id.*

d. Blumenberg’s Teachings are Contrary to Petitioner’s Modification

Fourth, Petitioner contends that “a POSITA would have been prompted to pursue this combination based on the teachings, suggestions, and motivations evident from Blumenberg.” Pet., 17. Specifically, Petitioner references Blumenberg’s “third” scenario where the link information is maintained on the display after contact is broken. Pet., 17; EX1004, ¶[0049].

In this scenario, Petitioner identifies “the user’s competing interests in [i] potentially interacting with the candidate target webpage; and/or [ii] leaving the current webpage” and asserts that to address these competing interests “the POSITA would have sought to integrate functionality for the user to interact with the target

webpage without leaving the current webpage.” Pet., 17-18. In light of this, Petitioner contends Bhumkar “provides exemplary teachings on the subject of interactive webpage previews and, therefore, would have commended itself to the POSITA.” Pet., 18. But, this motivation is not commensurate with Petitioner’s modification to add a menu. There is no analysis or discussion from either the Petition nor Petitioner’s expert as to how the addition of a menu and share icon to Blumenberg’s hyperlink preview would address the alleged “competing interests.” See EX1003, ¶¶79-80. Further, even if Bhumkar “commended itself to the POSITA,” this does not explain why that POSITA would make the purported modification to add a toolbar with a share icon to Blumenberg’s link information window.

Petitioner’s expert merely provides the conclusory statement that “[i]n attempt to address the user’s competing interests, the POSITA would have sought to integrate functionality for the user to interact with the candidate target webpage without leaving the current webpage.” EX1003, ¶80. However, the sharing functionality alleged in the modification (Pet., 47) does *not* allow “the user to interact with the candidate target webpage,” as Petitioner’s expert contends. EX2001, ¶124. The modification merely allows the user to *email the hyperlink* of the webpage and provides no ability to *interact with the target webpage*. In other words, Petitioner’s modification provides nothing more than copying and pasting

the hyperlink into an email interface. EX2001, ¶124; Pet., 47 (“launching an interface containing the web address”). But Petitioner fails to explain how this limited functionality would address the purported interests or explain how it would allow a user to “interact with the target *webpage*,” rather than merely interacting with the *hyperlink* of that webpage. See EX1003, ¶¶79-80. Petitioner largely makes unsupported assumptions that are not tied to the modification that is proposed and are not supported by the teachings, suggestions, and motivations evident from Blumenberg. Petitioner cannot satisfy its burden of proving obviousness by employing “mere conclusory statements,” but “must instead articulate specific reasoning, based on evidence of record, to support the legal conclusion of obviousness.” *Magnum Oil Tools*, 829 F.3d at 1380. For the reasons explained above, Petitioner’s combination must fail.

VII. CONCLUSION

For the reasons explained above, the Board should deny institution because Petitioner has not established any reasonable likelihood of success on any of its proposed grounds.

Dated: October 23, 2024

Respectfully submitted,

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CERTIFICATE OF WORD COUNT

Pursuant to 37 C.F.R. § 42.24(a)(i), the undersigned certifies that this Paper—exclusive of the table of contents, table of authorities, certificate of service, and this certificate of word count—includes 12,586 words. The undersigned relies upon the word count generated by Microsoft Word.

/Eagle H. Robinson/
Eagle H. Robinson (Reg. No. 61,361)

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on October 23, 2024, complete copies of Patent Owner Preliminary Response and EX2001-EX2006 were served on Petitioner via email (by consent), at the following email address(s):

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