

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BOE Technology Group Co., Ltd,  
Petitioner,

v.

Optronic Sciences LLC  
Patent Owner

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IPR2024-01133  
Patent No. 9,263,509

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**PATENT OWNER'S PRELIMINARY RESPONSE**

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**Patent Owner's Exhibit List**

| <b>Exhibit</b> | <b>Description</b>                                                                                                                                                       |
|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2001           | Docket Control Order from <i>Optronic Sciences LLC v. BOE Tech. Group Co., Ltd.</i> , No. 2:23-cv-00549-JRG, Dkt. 33 (E.D. Tex. Aug. 5, 2024).                           |
| 2002           | Optronic Sciences LLC's Infringement Contentions from <i>Optronic Sciences LLC v. BOE Tech. Group Co., Ltd.</i> , No. 2:23-cv-00549-JRG (E.D. Tex. July 19, 2024).       |
| 2003           | BOE Technology Group Co., LTD's Invalidity Contentions from <i>Optronic Sciences LLC v. BOE Tech. Group Co., Ltd.</i> , No. 2:23-cv-00549-JRG (E.D. Tex. Oct. 25, 2024). |

## I. Introduction

The Board should decline to institute the Petition because the prior art fails to teach the inventive auxiliary electrodes disclosed in Patent 9,263,509.

Patent 9,263,509 is titled “Pixel Structure Having Light Emitting Device Above Auxiliary Electrode.” Ex. 1001, cover. None of the prior art teaches a similar auxiliary electrode.

As summarized by the Petitioner, Patent 9,263,509 discloses the pixel structure below:

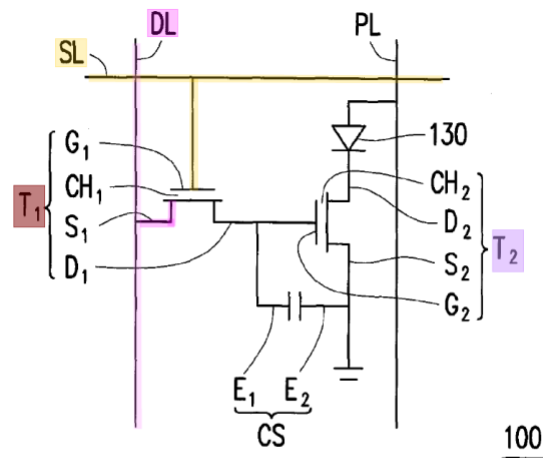


FIG. 1

Petition at 2 (annotated by Petitioner).<sup>1</sup> Figures 2, 3, and 5 below show cross-sectional views of how the transistor T2 electrically connects through the second electrode layer 136 to a light emitting layer 130, which is connected to the first

<sup>1</sup> All coloring herein are annotations.

electrode layer 132. Each embodiment also features various auxiliary electrodes 120/460.

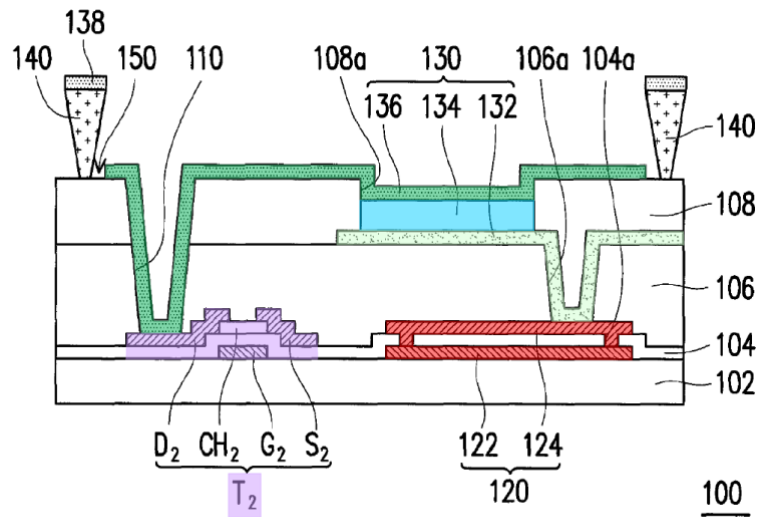


FIG. 2

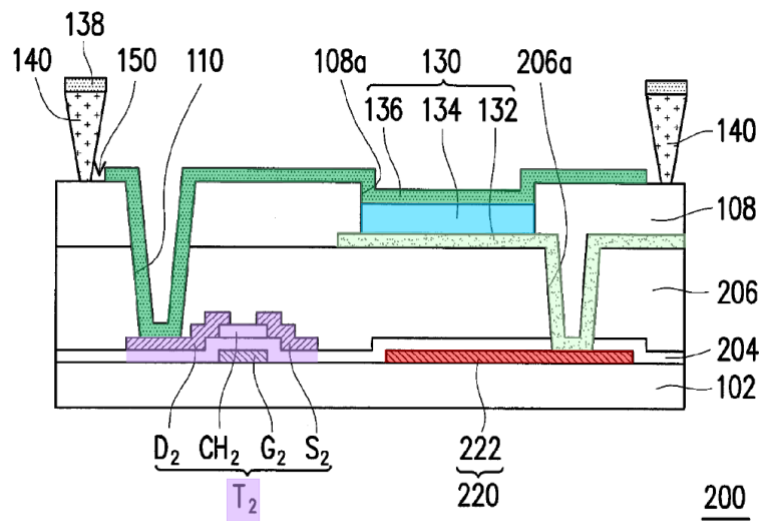


FIG. 3

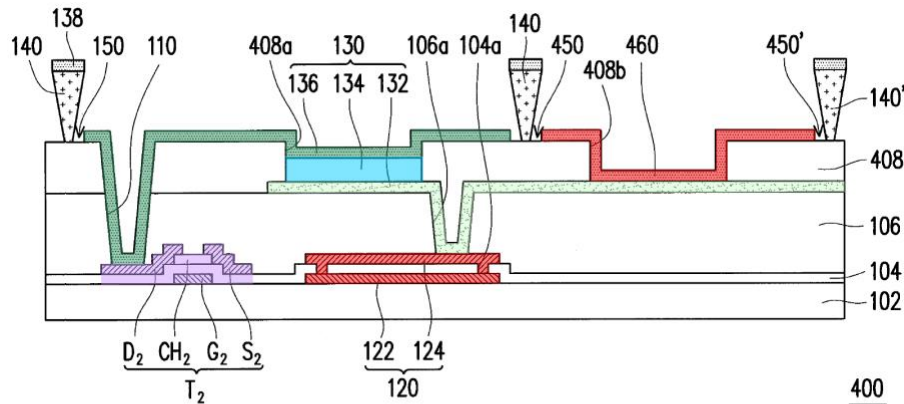


FIG. 5

Petition at 3–4 (annotations by Petitioner). “Therefore, the design of the invention that coordinates the **first electrode layer** of the light emitting device with the **auxiliary electrode** decreases the resistance of the first electrode layer through parallel connection, so as to significantly reduce the total resistance of the pixel structure, thereby improving the overall luminous uniformity of the display panel.” Ex. 1001 at 2:17–23.

All of these auxiliary electrodes have two things in common. First, these auxiliary electrodes are “auxiliary” to the first electrode. See Petition at 5 (Petitioner arguing that these must be “supplemental”). Because they are “auxiliary” or “supplemental,” they do not provide the sole, critical, or primary electrical connections. The system would still function without these “auxiliary” electrodes by way of the first electrode, albeit with higher resistance and less luminous uniformity if the auxiliary electrode is not present. Second, these auxiliary electrodes are

“electrodes.” Electrodes on either side of a load may be referred to as a “cathode” or “anode.” Ex. 1001 at 4:40–42. However, the words “bus line” and “resistor” are not synonyms for “electrode.” *See id.*

Grounds 1–5 should be denied because only the Weaver prior art reference is asserted against the sole independent claim (claim 1), and Weaver does not have an “auxiliary electrode.” The Petition interprets Weaver’s “bus line 430” to be the claimed “first auxiliary electrode.” *E.g.*, Petition at 16–19. This bus line 430 is not “auxiliary” or “supplemental” to anything. Rather, the bus line 430 forms part of the primary means of power delivery in Weaver’s device. Without this bus line, Weaver’s pixel will not function at all. The Petition does not identify any other “primary” power bus that “bus line 430” provides “auxiliary” or “supplemental” power for. More glaringly, a “bus line 430” is not an “electrode.”

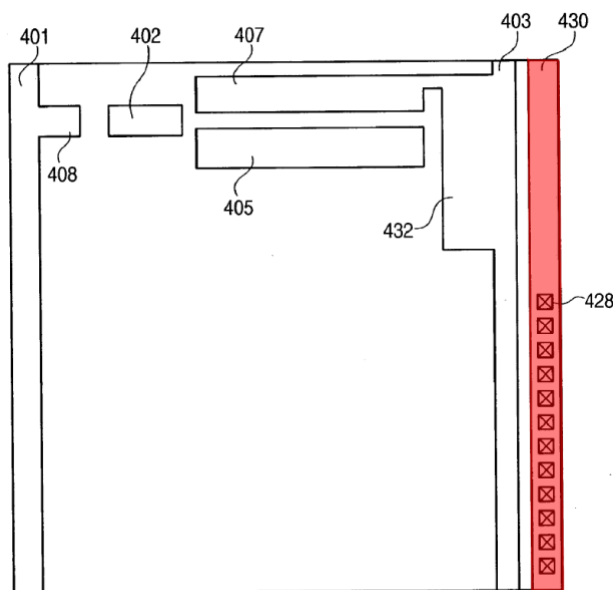


Fig. 6

Petition at 19 (Petitioner showing the bus line 430 that runs the length of the entire device, and no other power bus is indicated as providing primary power supplemented by bus line 430).

Grounds 6–10 should be denied for similar reasons. Petitioner still relies on Weaver’s bus line 430 as an “auxiliary electrode,” despite the fact that Weaver’s bus line 430 is neither auxiliary nor an electrode. Petitioner’s proposed modifications to Weaver fails to fix this problem. The proposed modification is “to combine the teachings of Weaver and either Gupta or Han so that the bus line 430 of Weaver is connected in parallel with anode 406 to voltage supply line VDD in order to reduce the overall resistance of the pixel structure that includes OLED 400. *Id.* [Ex. 1003] ¶223.” Petition at 75. The problem with this proposal is that it merely results in what Petitioner describes: an anode 406 in parallel with a bus line 430, not an anode 406 and an auxiliary electrode. Even if this hindsight combination were made, there would still not be the claimed “auxiliary electrode.”

## **II. Claim Construction**

### **A. “auxiliary electrode”<sup>2</sup>**

The Board should construe two parts of this: “auxiliary” and “electrode.”

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<sup>2</sup> This construction may be adopted for the sake of argument only in this POPR, because the Petition should be denied even under the very construction that Petitioner proposes. Patent Owner does not necessarily agree with any construction and reserves the right to make affirmative or different claim construction arguments at the POR stage and/or in litigation.

For “auxiliary,” the Board may adopt “supplemental,” which appears to be suggested in the Petition at 5. Even under Petitioner’s own proposal, something that is “supplemental” must be supplemental to something distinct that is primary. In context, a “supplemental” electrode cannot itself be a primary electrode that provides a sole, critical electrical connection to a load. Rather, a load should still have an electrical connection via a primary pathway, even if the “auxiliary” or “supplemental” electrode were missing.

This is intrinsically supported. For example, in each of the figures 2, 3, and 5 below annotated by Petitioner, the **auxiliary electrodes 120/460** are supplemental to the **first electrode layer 132**, and the **light emitting layer 130** will still be able to receive power from the power line via the **first electrode layer 132** even if the **auxiliary electrodes 120/460** are removed.

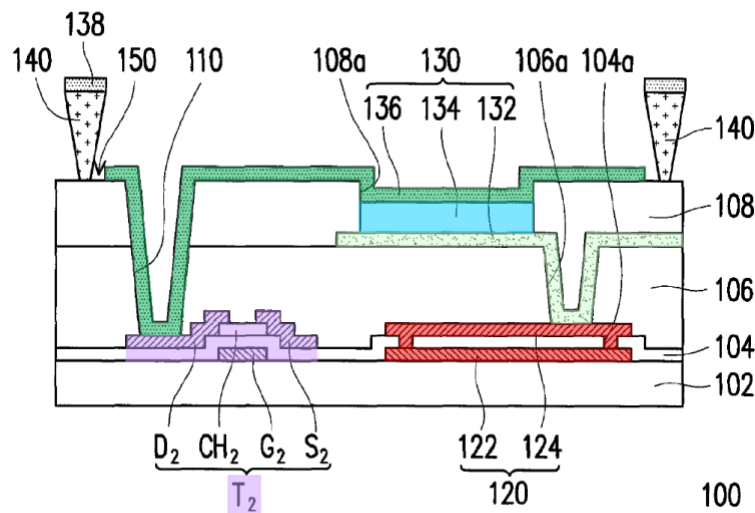


FIG. 2

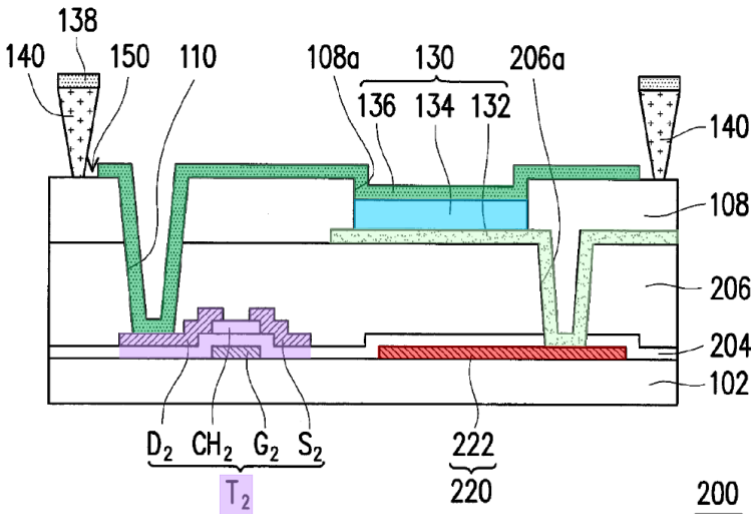


FIG. 3

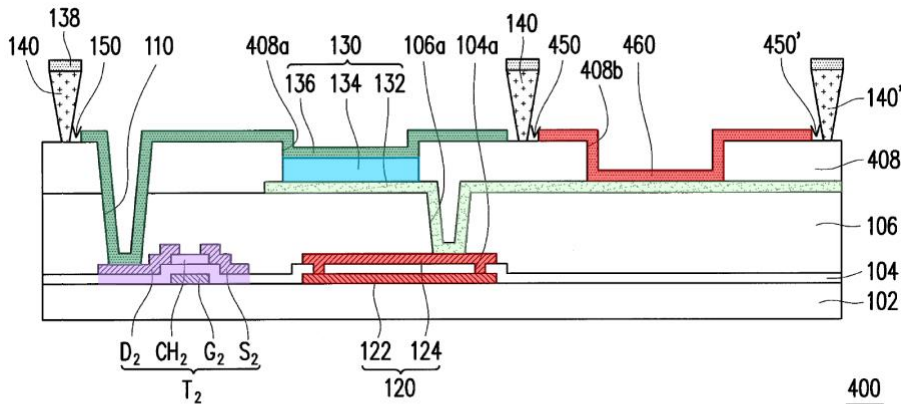


FIG. 5

Petition at 3–4 (annotations by Petitioner).

Next, the Board needs to construe “electrode.” Under its plain and ordinary meaning, examples of “electrode” include an anode or cathode. Under the plain and ordinary meaning or any other reasonable construction, an “electrode” is not the same thing as a “power line,” “bus line,” or “resistor.” Construing “electrode” to

mean a “power line,” “bus line,” or “resistor” would contradict the specification.

Figure 1 of Patent 9,263,509 shows a power line “PL,” but the power line is not shown in from Figure 2. It is undisputed that Figure 2 shows an example “auxiliary electrode” because Petitioner annotated it in red:

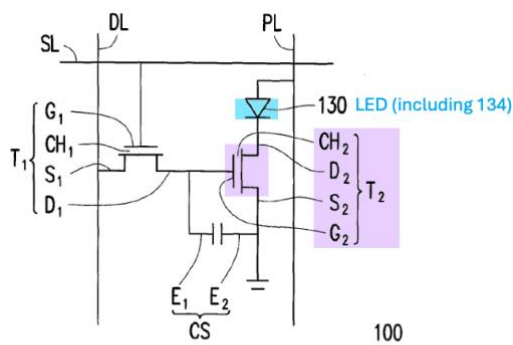


FIG. 1

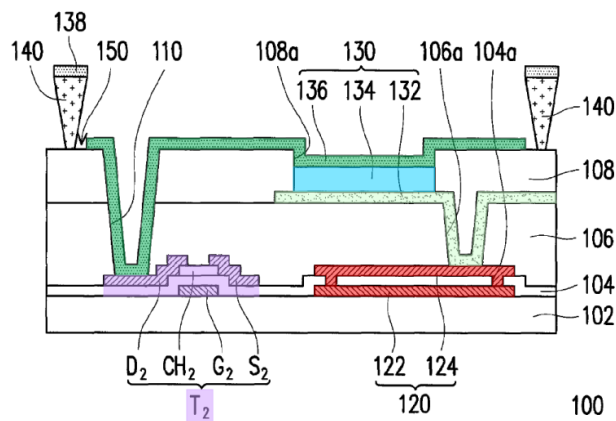


FIG. 2

Ex. 1001 at Fig. 1 (annotated by Patent Owner); Petition at 3 (annotated by Petitioner). The specification of Patent 9,263,509 states, “for illustrative purpose . . . the power line PL [of Figure 1], and so on are omitted from FIG. 2.” Thus, the “auxiliary electrode” shown in Figure 2 cannot also be the “power line PL” that is omitted from Figure 2. Thus, an “auxiliary electrode” cannot be a “power line” or “bus line.”

Under similar reasoning, Figure 1 does not show a schematic symbol for a resistor,” so in the embodiment of Figure 2, the electrode colored in red does not represent a resistor.

Finally, as to whether the “auxiliary electrode” must “reduce the total

resistance of the pixel structure” as suggested by Petitioner, Patent Owner takes no position at this preliminary stage because it is unnecessary to determine institution. Patent Owner reserves the right to brief the “reduce the total resistance of the pixel structure” at a later stage.

**B. “disposed at a side of”**

The construction of this term is unnecessary for the institution stage, so Patent Owner reserves the right to brief this term at a later stage.

**III. Summary of the Weaver Prior Art (Ex. 1004)**

Weaver is titled “Device Including OLED Controlled by N-Type Transistor.” Ex. 1004, cover. Unlike Patent 9,263,509, Weaver is not directed at using supplemental electrodes to decrease the resistance of electrode layers to improve luminous uniformity. Ex. 1001 at 2:17–23; *see* Ex. 1004 at [0002]–[0004]. Instead, Weaver focuses on a design that uses an N-type transistor. *Id.*

As explained below, Weaver Figures 1–3 show schematics of OLED circuits, but none of them are described as providing a “supplemental” or “auxiliary” electrode to the OLED. Figure 4 shows a cut-away view of the OLED and transistor, but there is no “supplemental” or “auxiliary” electrode to the OLED. Figures 5–7 show processing steps in forming the OLED device, including an anode layer and a cathode layer, but no “supplemental” or “auxiliary” electrode layers for the OLED.

Weaver’s summary explains that there is an “n-type transistor having a gate

and two current-carrying electrodes. The device also includes a non-inverted organic light emitting device . . . having an anode and a cathode. This cathode is connected to one of the current-carrying electrodes of the n-type transistor.” Ex. 1004 at [0004]. Weaver thus mentions primary anodes/cathodes, but Weaver’s summary makes no mention of auxiliary/supplemental electrodes being connected to the OLED. *Id.*

Weaver Figure 2 shows a schematic diagram of a circuit for Weaver’s OLED device. *Id.* at [0006]. According to the detailed description, “The OLED 202 has an anode 214 and a cathode 216.” *Id.* at [0019]. Weaver makes no mention of any anode, cathode, or electrode that is “auxiliary” or “supplemental.”

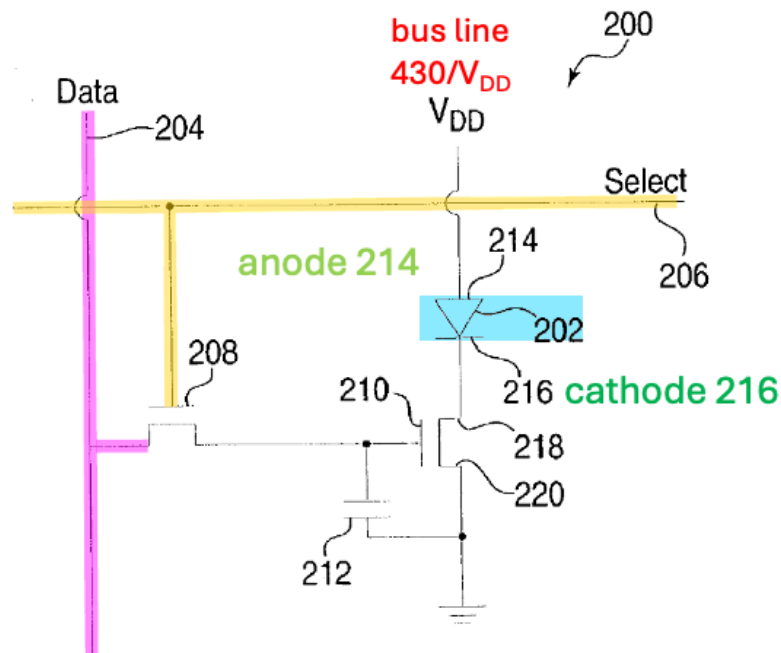


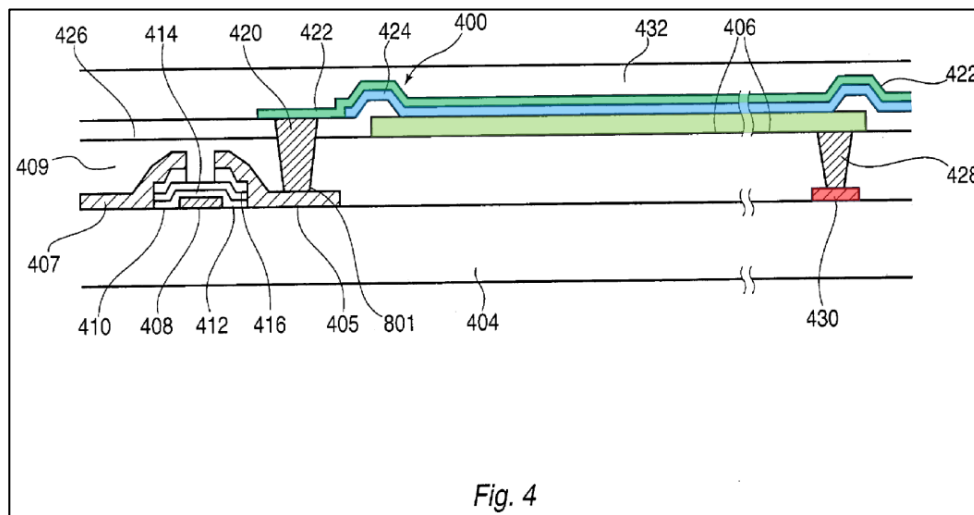
*Fig. 2*

Petition at 12 (further annotated by Patent Owner). Figures 1 and 3 show minor

schematic variations. Ex. 1004 at Figs. 1, 3, [0017] (disparaging Figure 1 design), [0021] (describing Figure 3 as plurality of Fig. 2). Neither Fig. 1 nor Fig. 3 are described as having an anode, cathode, or electrode that is “auxiliary” or “supplemental.” *Id.*

For Figure 4, Patent Owner refers to Petitioner’s description of the relevant part:

Figure 4 of Weaver, in relevant part, discloses that OLED 400 includes three layers (cathode 422, organic layer 424, anode 406), which are disposed above bus line 430. *Id.* [0026], Fig. 4.



Petition at 20. Notably, the OLED 400 has one cathode and one anode. There is no mention of any anode, cathode, or electrode that is “auxiliary” or “supplemental.” Ex. 1004 at [0022]–[0031].

Figures 5–7 show the processing steps in forming the OLED device. *Id.* at [0009]–[0011], [0032]. Figure 5 shows the substrate 404 and features of transistors

and a capacitor electrode. *Id.* at [0033]. Figure 6 shows other features, including **data line 401**, **bus line 430**, and a capacitor electrode. *Id.* at [0033]–[0036]. The **data line 410** and **bus line 430** correspond to the “data” line 204 and “V<sub>DD</sub>” power line from Figure 2. Weaver then describes the final layer deposits using Figure 7. These include the **cathode 422**, **organic layer 424**, and **anode 406**. *Id.* at [0036].

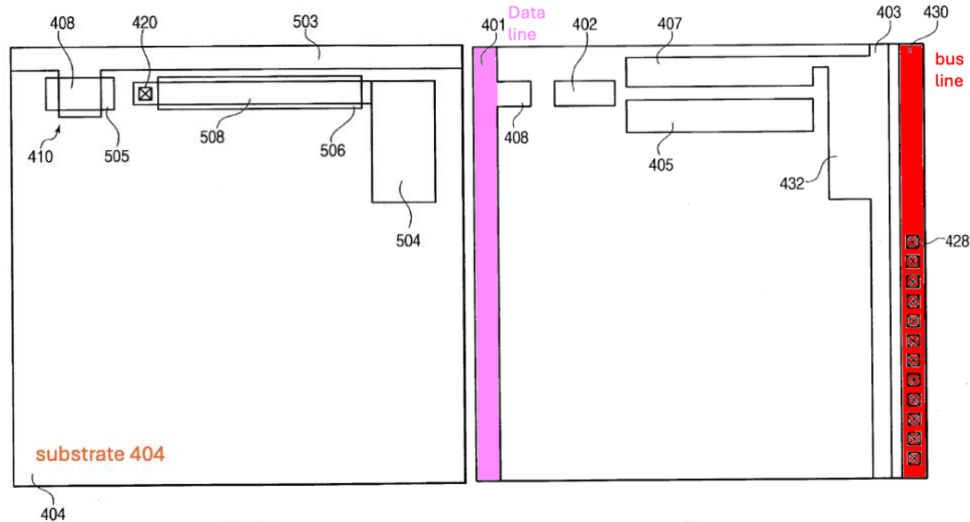


Fig. 5

Fig. 6

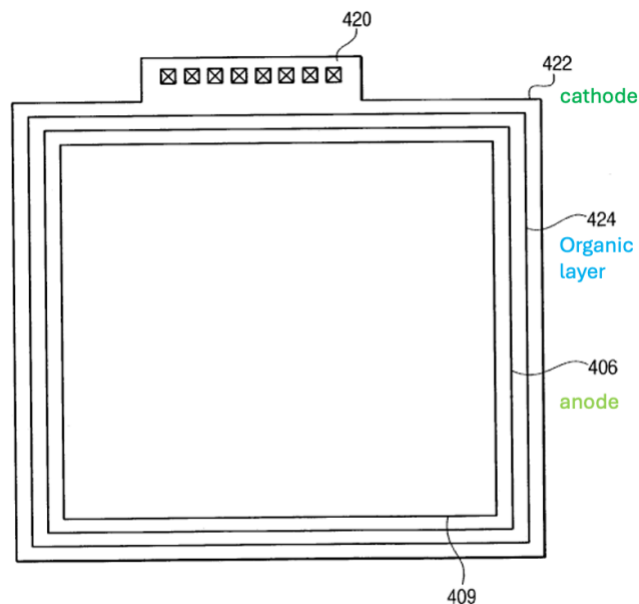


Fig. 7

*Id.* at Figs. 5–7. Notably, Figure 7 makes it explicit that Weaver has only one OLED anode layer 406 and only one OLED cathode layer 422. There is no mention of any anode, cathode, or electrode that is “auxiliary” or “supplemental.” Ex. 1004 at [0032]–[0036].

#### **IV. Ground 1: Not Anticipated by Weaver Under § 102**

##### **A. Claim 1: Missing All “auxiliary electrode” Elements [1c], [1d], [1e]**

The Petition relies on Weaver’s **bus line 430** for the claimed “first auxiliary electrode,” but this reading is incorrect. *E.g.*, Petition at 16 (alleging that Weaver discloses “a first auxiliary electrode (**bus line 430**)” for claim [1c]), 19 (same for claim [1d]), 20 (same for claim [1e]).

Weaver’s bus line 430 cannot be an “auxiliary electrode” under any reasonable construction for two reasons. First, the bus line 430 is not “auxiliary” or “supplemental” to something else that is primary. Second, the bus line 430 is not an “electrode.”

The technology in this case is similar to the technology in related IPR2024-01134 regarding U.S. Pat. 9,406,733. Patent Owner respectfully submits that Petitioners’ arguments in these two cases should be evaluated for inconsistencies with each other. For example, in IPR2024-01133, the Petition argues on page 19 that a “bus line 430” is an electrode. In IPR2024-01134, the Petition at 19 appears to argue that a wire is an electrode. Then, in IPR2024-01134, the Petition at 35 argues

that an “electrode pattern 45” is an electrode (the only argument that is plausible).

**1. Weaver’s bus line 430 is the sole, primary line for delivering voltage—not something “auxiliary”**

Weaver’s bus line 430 is not “auxiliary” (or “supplemental,” as construed in the Petition at 5). Weaver Figures 2, 4, and 6 (annotated below) collectively show that the LED 202 in Fig. 2 (corresponding to OLED 400 in Fig. 4) is contacted on one side by anode 214, which is then connected in series through via 428 to the bus line 430 to the power supply  $V_{DD}$ . Thus, the bus line 430 provides a primary and critical connection for power delivery. Without the bus line 430, there is no other way for a voltage to be provided to the anode 214 of the LED 202/OLED 400. The bus line 430 does not play an “auxiliary” or “supplemental” role.

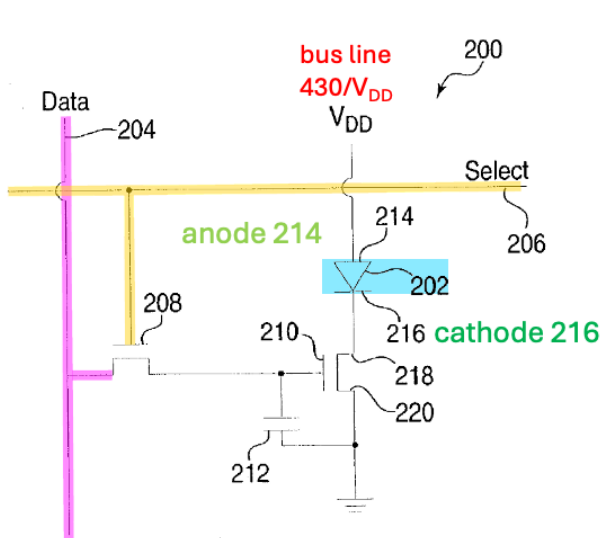


*Fig. 2*

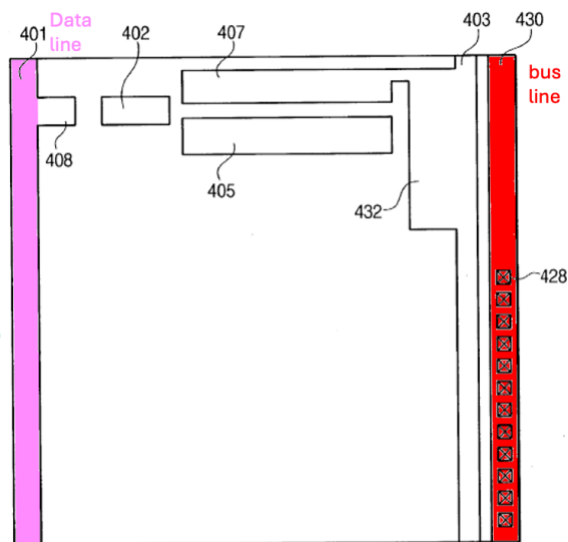


Fig. 6

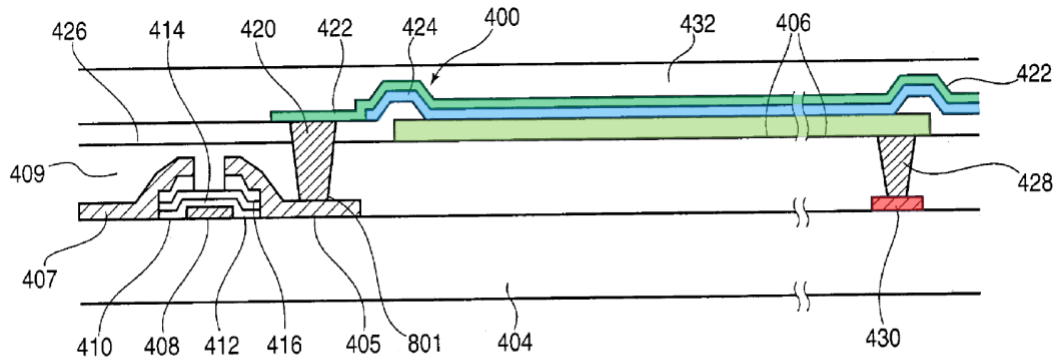
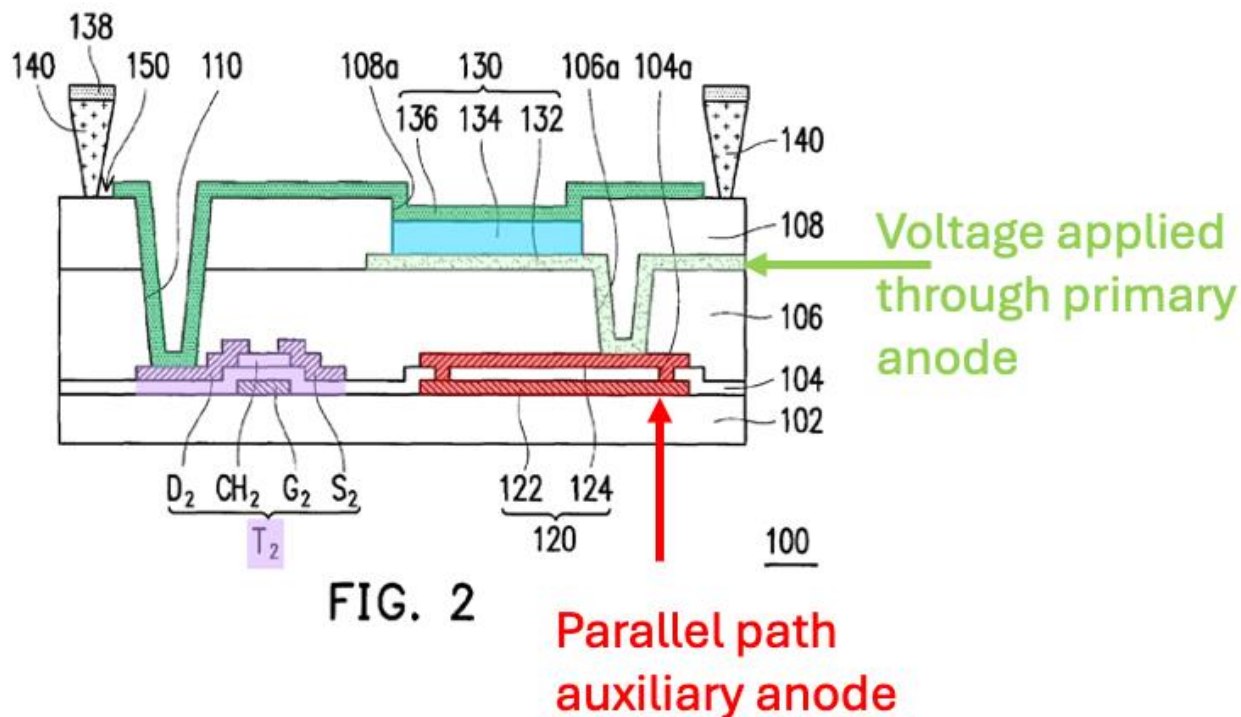


*Fig. 4*

Weaver's bus line 430 plays a very different role when compared to the auxiliary electrode described in challenged Patent 9,263,509. As described in Patent 9,263,509, the auxiliary electrode is connected in parallel with the first electrode layer 132 to reduce the total resistance of the pixel structure. Ex. 1001 at 2:13–23, 5:53–6:8. The auxiliary electrode is not described as providing the primary, critical supply of power or voltage, as this would not be “auxiliary” or “supplemental.”



## 2. Weaver's bus line 430 is not an "electrode"

Weaver never describes its "bus line 430" as an "electrode." Nor does Weaver ever describe its bus line 430 as an "anode" or "cathode," which are types of electrodes. This is because Weaver's bus line 430 is not an electrode.

Weaver regularly refers to "anode" and "cathode" where appropriate. For example, when describing Figure 4 that Petitioner relies upon, Weaver explicitly refers to a single "cathode 422" and a single "anode 406" of the OLED 400. Ex. 1004 at [0022]–[0026]. Weaver does not identify any other structure as an auxiliary/supplemental "anode," "cathode," or "electrode." More importantly, Weaver never refers to its "bus line 430" as an anode, cathode, or electrode.

**B. Dependent Claims 2–5, 9, 12–13: Not Anticipated For Same Reason**

Dependent claims 2–5, 9, and 12–13 depend from claim 1. None of Petitioner’s arguments regarding these dependent claims cures the deficiencies regarding independent claim 1. Because the Petition fails to demonstrate a reasonable likelihood that the underlying independent claims are anticipated for at least the reasons discussed above, the Petition similarly fails to demonstrate a reasonable likelihood of success regarding these dependent claims.

**V. Grounds 2–5: Not Obvious For Same Reason Over Weaver**

Grounds 2–5 address dependent claims 6–8, which depend from claim 1. None of Petitioner’s arguments regarding these dependent claims cures the deficiencies regarding independent claim 1. Because the Petition fails to demonstrate a reasonable likelihood that the underlying independent claims are anticipated for at least the reasons discussed above, the Petition similarly fails to demonstrate a reasonable likelihood of success regarding these dependent claims.

**VI. Ground 6: Not Obvious For Same Reason Over Weaver and Gupta/Han**

In Ground 6, Petitioner proposes to modify Weaver’s design in view of Gupta or Han. However, Petitioner still relies on Weaver’s **bus line 430** as the claimed “auxiliary electrode.” Petition at 72 (“Weaver, in combination with Gupta or Han renders obvious ‘a first auxiliary electrode (Weaver’s **bus line 430** modified with a parallel connection with **anode 406**)’”).

Specifically, Petitioner proposes as the modification “that bus line 430 of Weaver is connected in parallel with anode 406 to voltage supply line VDD.” Petition at 75. Although it is unclear what exactly Petitioner means by this, taking it at face value results in nothing more than what Petitioner described: a bus line in parallel with an anode. The modification appears to be intended to somehow put the bus line in an auxiliary or supplemental role, but the proposed modification still does not change the fact that a “bus line” is not an “electrode.”

For the reasons discussed in Ground 1 above, Petitioner’s argument is unlikely to succeed, and institution should be denied.

**A. Claim 1: The Proposed Modification Still Lacks All “auxiliary electrode” elements [1c], [1d], [1e] Because Weaver’s Bus Line 430 is Not an “electrode”**

Even if Weaver were modified as proposed by Petitioner, the result is, as petitioner describes: “bus line 430 of Weaver is connected in parallel with anode 406 to voltage supply line VDD.” Petition at 75; *see also id.* at 72 (arguing that “a first auxiliary electrode” is “Weaver’s **bus line 430** modified with a parallel connection to **anode 406**”).

This modification does not change the fact that a bus line is not an anode or cathode. For a more relatable example, imagine a car battery whose electrical terminals are the “anode” and “cathode.” If the car battery dies, the car battery can receive a jump charge by connecting the dead car battery electrodes using power

cables to the corresponding electrodes of a live car battery (or other power source). For example, the dead battery anode would be connected in series with a power cable to the live battery anode. Petitioner is proposing the equivalent of “modify this car battery setup so that the dead car battery anode is connected in parallel with its power cable, and then the parallel connection of the dead car battery anode and its cable should touch the live battery anode”—something so nonsensical that only a patent lawyer would imagine it in hindsight. Still, taking it at full face value, the result is merely that the car battery anode is somehow connected in parallel with its power cable. The power cable does not suddenly become a new car battery anode just because the power cable is connected in parallel.

For this reason, the proposed combination (“Weaver’s **bus line 430** modified with a parallel connection to **anode 406**”) does not convert Weaver’s **bus line 430** into any type of “electrode” as recited in the claim by the mere modification of connecting it in parallel. Petition at 72. At best, the parallel connection arguably relegates the bus line 430 to a “auxiliary” or “supplemental” connection.<sup>3</sup> But it does not turn a bus line into an electrode. In the proposed modified system, there is still only one primary anode in parallel with a bus line, without any auxiliary

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<sup>3</sup> This appears to be real the motivation for this redundant Ground 6, and it is an implicit acknowledgement by the Petitioner that its § 102 argument in Ground 1 has flaws. Still, this hindsight proposal, at best, addresses only the “auxiliary” half of “auxiliary electrode.”

“electrode.” For the reasons in Section IV(A)(2) above, Weaver never describes its “bus line 430” as an “electrode,” and Petitioner has offered no evidence or argument that its proposed modification turns a bus line into an “electrode.”

**B. Dependent Claims 2–5, 9, 12–13: Not Obvious For Same Reason**

Dependent claims 2–5, 9, and 12–13 depend from claim 1. None of Petitioner’s arguments regarding these dependent claims cures the deficiencies regarding independent claim 1. Because the Petition fails to demonstrate a reasonable likelihood that the underlying independent claims are obvious for at least the reasons discussed above, the Petition similarly fails to demonstrate a reasonable likelihood of success regarding these dependent claims.

**VII. Grounds 7–10: Not Obvious For Same Reasons**

Grounds 7–10 address dependent claims 6–8 and 10–11, which depend from claim 1. None of Petitioner’s arguments regarding these dependent claims cures the deficiencies regarding independent claim 1. Because the Petition fails to demonstrate a reasonable likelihood that the underlying independent claims are anticipated for at least the reasons discussed above, the Petition similarly fails to demonstrate a reasonable likelihood of success regarding these dependent claims.

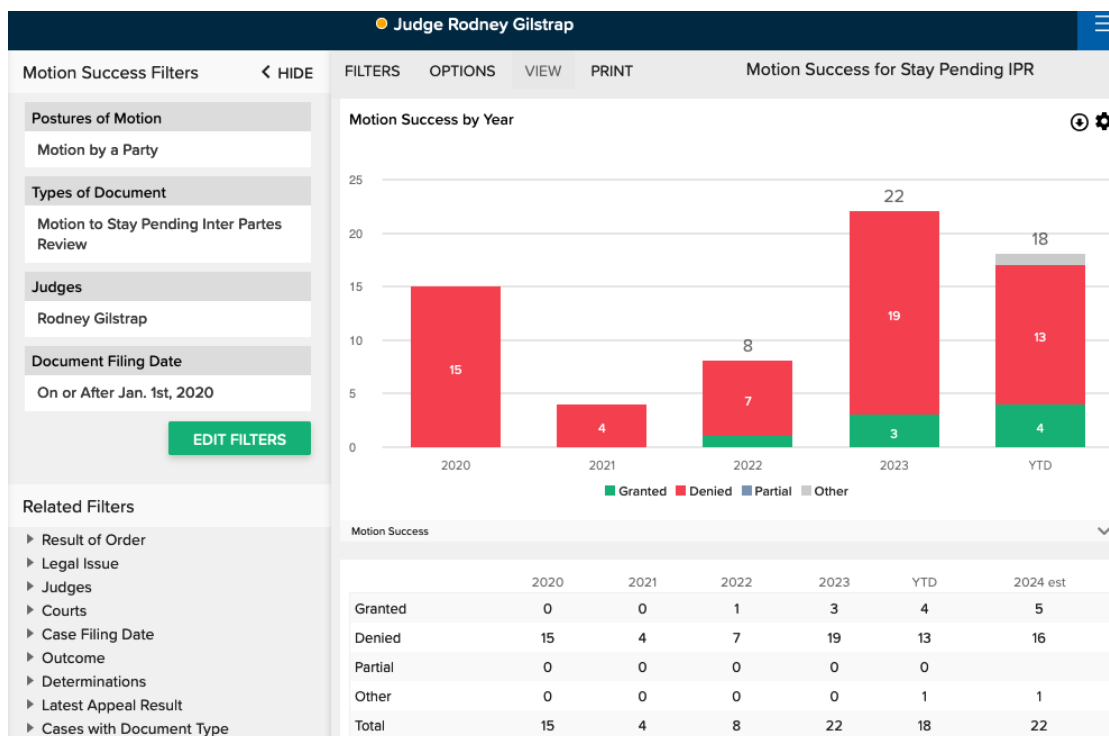
**VIII. The Board Should Deny Institution Under *Fintiv***

The Board should not waste its limited resources on reconsidering the same types of repeatedly rejected arguments when, under the *Fintiv* factors, the Board’s

decision will likely have no effect whatsoever on trial. The final written decision is not expected until January 29, 2026, after the trial scheduled for January 5, 2026.

The *Fintiv* factors are: 1) whether the court granted a stay, or evidence exists that one may be granted if a proceeding is instituted; 2) a comparison of the district court trial date to the Board's statutory deadline; 3) an investment in the district court proceedings; 4) overlap between issues raised in the petition and in the parallel proceeding; 5) overlapping parties; and 6) other considerations. *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 13-14 (PTAB Mar. 20, 2020) (precedential).

Factor 1 (a stay) weighs against institution. Judge Gilstrap has rarely stayed a patent case pending *inter partes* review, only granting 8 of 67 motions to stay pending an IPR (12%) since 2020 according to a report from Docket Navigator:



Docket Navigator Motion Outcomes Report (October 17, 2024)

Because of the 88% chance that a stay will be denied, this factor weighs against institution.

Factor 2 (the trial and written decision deadlines) also weighs against institution. Trial is set for January 5, 2026. Ex. 2001 at 1. The final written decision is not expected until January 29, 2026, almost a month after trial. These facts in favor of denying institution. *Fintiv* at 9.

Factor 3 (investment in court proceedings) is neutral. The deadline for an institution decision is January 29, 2025. By then, the parties will have spent *over a year* litigating in district court and be close to the start of the claim construction process set for March 11, 2025. Even though the case will be near its pre-*Markman* stage, the year-long investment in this case by the parties should make this factor be neutral. *Fintiv* at 9–10.

Factor 4 (overlap of the issues) weighs against institution because Petitioner asserts the same prior art in district court, without a *Sotera*-type stipulation, such that the duplicative arguments in these two forms are inefficient. *See Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 at 18–19 (Dec. 1, 2020) (precedential). In litigation, Petitioner asserts 11 patent publications. Ex. 2003 at 40–41. Petitioner also asserts 5 systems as prior art. Regardless of what the Board does, Petitioner is likely to wastefully proceed with parallel invalidity arguments in

litigation asserting at least one of its 5 systems as prior art in litigation. The Board should deny institution in the interest of efficiency, so that Petitioner will pick its best prior art references—including from among any system art—and present Petitioner’s best arguments in a single proceeding.

Petitioner asserted claims 1, 5, 10, and 12 in the district court. Ex. 2002, *passim*. Here, Patent Owner challenges other dependent claims, but as seen in Section V above, the arguments rise or fall with their independent claim 1. Thus, there is substantial, but not complete, overlap. This factor should be neutral.

Factor 5 (same parties) favors denial. It is undisputed that the parties in the IPR are the same as those in litigation, so “this factor supports denying institution.” *Sotera*, Paper 12 at 19.

The final *Fintiv* factor considers the merits and other circumstances. For the reasons in Section IV–VII above, the Petition is not likely to succeed on the merits, much less reach any level of compelling merit. This factor heavily weighs against institution.

#### **IX. Conclusion: The Board Should Deny the Petition**

The Board should deny the Petition on the merits because both primary references fail to disclose or render obvious various claim elements. Alternatively, the Board should deny institution under *Fintiv* to avoid wasting its limited resources writing a decision that will not issue until more about a month after trial.

Respectfully submitted,

Dated: October 29, 2024

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**CERTIFICATION REGARDING WORD COUNT**

Pursuant to 37 C.F.R. §42.24(d), Patent Owner certifies that there are 3,803 words in the paper excluding the portions exempted under 37 C.F.R. §42.24(a)(1).

Dated: October 29, 2024

/s/ Qi Tong  
Qi Tong

**CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e)(1))**

The undersigned hereby certifies that the above document was served on October 29, 2024, by filing this document through P-TACTS as well as delivering a copy via electronic mail upon the following attorneys of record for Petitioners:

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