

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SOLARIS OILFIELD SITE SERVICES OPERATING, LLC and SOLARIS
OILFIELD SITE SERVICES PERSONNEL, LLC,
Petitioners,

v.

MASABA, INC.
Patent Owner.

Case No. IPR2024-01179

Patent No. 11,780,689

Issue Date: October 10, 2023

Title: Aggregate Transferring System

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner makes the following objections to the following evidence submitted by Petitioner in support of its Reply to Patent Owner's Response:

Exhibit Number	Portion Objected To	Basis of Objection
Ex. 1036	Entirety	Not cited in Reply. Therefore, not relevant under FRE 401.
Ex. 1037	Entirety	No foundation; no authentication. See Anderson Depo. 80:20-83:3.
Ex. 1038	Entirety	No foundation; no authentication. See Anderson Depo. 80:20-83:3.
Ex. 1043	Entirety	Not cited in Reply. Therefore, not relevant under FRE 401. Also no foundation; no authentication. See Brinkman Depo. 136:16-137:5.
Ex. 1045	Entirety	Not cited in Reply. Therefore, not relevant under FRE 401.
Ex. 1046	Entirety	Not cited in Reply. Therefore, not relevant under FRE 401.
Ex. 1060	Entirety	Not cited in Reply. Therefore, not relevant under FRE 401.
Ex. 1103	Entirety	Not cited in Reply. Therefore, not relevant under FRE 401.
Ex. 1104	Entirety	Reply mischaracterizes this exhibit. (Reply, 6 n.4.) As understood in its proper context, this exhibit is not relevant under FRE 401.
Ex. 1107	Entirety	Not cited in Reply. Therefore, not relevant under FRE 401.
Ex. 1108	Entirety	Not cited in Reply. Therefore, not relevant under FRE 401.
Ex. 1109	Entirety	Not cited in Reply. Therefore, not relevant under FRE 401.
Ex. 1110	Entirety	VIOLETION OF ADMINISTRATIVE PROCEDURE ACT UNLESS PATENT OWNER IS ALLOWED TO PROVIDE REBUTTAL EVIDENCE

Exhibit Number	Portion Objected To	Basis of Objection
		Administrative Procedure Act [5 U.S.C. § 554(c) (“The agency shall give all interested parties <i>opportunity for...the submission and consideration of facts [and] arguments....</i> ”); 5 U.S.C. § 556(d) (“A party is entitled to present his case or defense by oral or documentary evidence, <i>to submit rebuttal evidence</i> , and to conduct such cross-examination as may be required for a full and true disclosure of the facts.”)]
Ex. 1110	Paragraphs 20, 22-24, 26-33, 38, 39, 41, 61, 67, 70, 72	IMPROPER REPLY EVIDENCE “Petitioner may not submit new evidence or argument in reply that it could have presented earlier, e.g., to make out a <i>prima facie</i> case of unpatentability.... It is also improper for a reply to present new evidence (including new expert testimony) that could have been presented in a prior filing....” Consolidated Trial Practice Guide (Nov. 2019), pp. 73, 74-75; 35 U.S.C. § 312(a)(3) (the petition must “identif[y], in writing and with particularity, . . . the evidence that supports the grounds for the challenge to each claim”); Administrative Procedure Act [5 U.S.C. § 554(b) (“Persons entitled to notice of an agency hearing shall be <i>timely</i> informed of...the matters of fact and law asserted.”)]; <i>Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.</i>, 821 F.3d 1359, 1369-70 (Fed. Cir. 2016) (affirming Board’s decision not to consider reply and accompanying declaration) (“It is of the utmost importance that petitioners in the IPR proceedings adhere to the requirement that the initial petition identify ‘with particularity’ the ‘evidence that supports the grounds for the challenge to each claim.’ ...Unlike district court litigation — where parties have greater freedom to revise and develop their arguments over time and in response to newly discovered material — the expedited nature of IPRs bring with it an obligation for petitioners to make their case in their petition to institute.”); <i>Acceleration Bay, LLC v.</i>

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		<i>Activision Blizzard Inc.</i>, 908 F.3d 765, 775 (Fed. Cir. 2018) (affirming Board’s decision not to consider portions of reply declaration “because it constituted new evidence for [petitioner’s] obviousness argument that could have been presented in the petition”). Paragraph 20 attempts to provide additional experience by Dr. Durham in an attempt to qualify him as a POSITA, which could have been presented in his original declaration and with the petition but was not. Paragraphs 22-24 provide additional “simple hypotheticals and diagrams” that could have been presented in Dr. Durham’s original declaration and with the petition but were not. Paragraphs 26-29 provide testimony comparing Waldner’s telescoping gravity fed chute with an articulated conveyor, which could have been presented in Dr. Durham’s original declaration and with the petition but were not. Paragraph 30 constitutes new testimony about the angle of repose that could have been submitted with the petition but was not. Paragraphs 31-33 provide new testimony with an example comparing the relation of the height of the vertical conveyor with the length of the horizontal conveyor to argue a reason for modifying <i>Waldner</i> that could have been submitted with the petition but was not. Paragraphs 29-33 are used in the Reply to introduce a new motivation to modify <i>Waldner</i> based on

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		Petitioners' silos that could have been presented with the Petition but was not. Paragraph 38 provides new testimony concerning a reason to modify <i>Waldner</i> in view of <i>Dynatek</i> based on strain and wear to <i>Waldner</i>'s actuators to reach the leftmost and rightmost silos that could have been submitted with the petition but was not. Paragraph 39 provides new testimony concerning a reason to modify <i>Waldner</i> in view of <i>Dynatek</i> based on adding a pivot point to the horizontal chute or conveyor to reduce the mass needed to moved to adjust the position of the outlet that could have been submitted with the petition but was not. Paragraph 41 provides new testimony concerning a reason to modify <i>Waldner</i> in view of <i>Dynatek</i> to accommodate the discharge rates of trucks that could have been submitted with the petition but was not. Paragraph 61 provides new testimony concerning the tilt actuator 70 of <i>Sleeman</i> as satisfying elements in claims 6 and 7 that could have been submitted with the petition but was not. Paragraph 67 provides new testimony concerning the configuration of <i>Sleeman</i> as a reason to modify <i>Waldner</i>'s bucket elevator to be in the center of the trailer and to use the bucket elevator frame as a trailer frame that could have been submitted with the petition but was not. Paragraph 70 provides new testimony concerning the structures of <i>McIver</i> that satisfy the claim element "arm structure being articulated between opposite first

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		and second ends of the arm structure” that could have been submitted with the petition but was not. Paragraphs 70 and 72 provide new testimony concerning the structures of <i>McIver</i> that satisfy the claim element “arm structure being articulated between opposite first and second ends of the arm structure” that could have been submitted with the petition but was not.
Ex. 1110	Portion of paragraph 35 quoted to the right	IMPROPER REPLY EVIDENCE - Could have been presented with petition but was not “a POSITA would have understood that silos are not always arranged in the same configuration on one side of the silo filling system (such as the single “six-pack” as shown in the ‘689 Patent). To the contrary, both now and at the time the ‘689 Patent was filed, silos are often placed in varying numbers and configurations in several places at an oil or gas well site, and may be located on more than one side of a silo filling system. For example, increasing the range of motion of <i>Waldner’s</i> discharge chute to reach silos outside of a less than 180-degree range of motion would have allowed a single system to better reach more of these silos without having to reposition the <i>Waldner</i> system.”
Ex. 1110	Portion of paragraph 42 quoted to the right	IMPROPER REPLY EVIDENCE - Could have been presented with petition but was not “A POSITA would have further wanted to minimize the weight of the discharge chute of <i>Waldner</i> and its contents, including the weight of the sand being carried on the chute. As sand piles up on the upper conveyor, that would increase the overall weight, which could cause stresses on the system. Therefore, a POSITA would have been motivated to increase the

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		discharge rate from the discharge chute, for example, by using a motorized conveyor even if that would not increase the discharge rate of the overall system.”
Ex. 1110	Portion of paragraph 44 quoted to the right	IMPROPER REPLY EVIDENCE - Could have been presented with petition but was not “A POSITA would have understood that the segments of <i>Waldner’s</i> discharge chute could each be replaced with a conveyor belt as disclosed in <i>Dynatek</i>, or flat conveyor belts as disclosed in <i>Dynatek</i> could be placed within the open space of each chute segment with enough clearance around the belts to avoid any added frictional wear issues.”
Ex. 1110	Portion of paragraph 59 quoted to the right	IMPROPER REPLY EVIDENCE - Could have been presented with petition but was not “In making the proposed combination, a POSITA would attach a truss frame around the conveyor (or <i>Waldner’s</i> discharge chute) like that disclosed in <i>Dynatek</i> to the bucket elevator frame of <i>Waldner</i> in a manner that allows the chute or conveyor to move relative to the deployable frame. Therefore, a POSITA would attach the proximal end of <i>Dynatek’s</i> truss frame to <i>Waldner’s</i> bucket elevator frame using, for example, <i>Waldner’s</i> brackets 252, links 256, and pins 258, or similar structures known to a POSITA.”
Ex. 1110	Portion of paragraph 66 quoted to the right	IMPROPER REPLY EVIDENCE - Could have been presented with petition but was not “...<i>Waldner</i> discloses several embodiments of the disclosed system that differ from the embodiment in Figure 7, all of which would be relevant to the proposed combination of <i>Waldner</i> with <i>Auld</i>. For example, Figure 15 of <i>Waldner</i> shows another embodiment in which the bucket elevator is configured differently and includes a frame surrounding it. And in

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		each embodiment the bucket elevator would be positioned somewhat differently. This would teach a POSITA that <i>Waldner's</i> bucket elevator and/or its frame could be reconfigured and/or repositioned to allow the kingpin to be mounted in a workable location.”
Ex. 1111	Entirety	VIOLETION OF ADMINISTRATIVE PROCEDURE ACT UNLESS PATENT OWNER IS ALLOWED TO PROVIDE REBUTTAL EVIDENCE Administrative Procedure Act [5 U.S.C. § 554(c) (“The agency shall give all interested parties <i>opportunity for...the submission and consideration of facts [and] arguments....</i>”); 5 U.S.C. § 556(d) (“A party is entitled to present his case or defense by oral or documentary evidence, <i>to submit rebuttal evidence</i>, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.”)]
Ex. 1111	Entirety	IMPROPER REPLY EVIDENCE Is used to “confirm Dr. Durham’s opinions on the disputed issues” (Reply, 3), attempting to use declaration to establish prima facie case in Reply.
Ex. 1111	Paragraphs 34-36, 38-68, 103-104, 106, 110, 112-117	IMPROPER REPLY EVIDENCE “Petitioner may not submit new evidence or argument in reply that it could have presented earlier, e.g., to make out a prima facie case of unpatentability.... It is also improper for a reply to present new evidence (including new expert testimony) that could have been presented in a prior filing....” Consolidated Trial Practice Guide (Nov. 2019), pp. 73, 74-75; 35 U.S.C. § 312(a)(3) (the petition must “identif[y], in writing and with particularity, . . . the evidence that supports the grounds for the challenge to each claim”); Administrative Procedure Act [5 U.S.C. § 554(b) (“Persons entitled to notice of an agency hearing shall be <i>timely</i> informed of...the matters of fact and law asserted.”)]; <i>Intelligent Bio-Systems, Inc. v. Illumina</i>

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		<i>Cambridge Ltd.</i>, 821 F.3d 1359, 1369-70 (Fed. Cir. 2016) (affirming Board’s decision not to consider reply and accompanying declaration) (“It is of the utmost importance that petitioners in the IPR proceedings adhere to the requirement that the initial petition identify ‘with particularity’ the ‘evidence that supports the grounds for the challenge to each claim.’ ...Unlike district court litigation — where parties have greater freedom to revise and develop their arguments over time and in response to newly discovered material — the expedited nature of IPRs bring with it an obligation for petitioners to make their case in their petition to institute.”); <i>Acceleration Bay, LLC v. Activision Blizzard Inc.</i>, 908 F.3d 765, 775 (Fed. Cir. 2018) (affirming Board’s decision not to consider portions of reply declaration “because it constituted new evidence for [petitioner’s] obviousness argument that could have been presented in the petition”) Paragraphs 34 and 35 introduce new dictionary definitions of “conveyor” that could have been submitted with the petition but were not. Paragraph 36 introduces new testimony about “gravity conveyors” that could have been submitted with the petition but was not. Paragraphs 38-40, 58, 59-60 attempt to introduce a new set of motivations for modifying <i>Waldner</i> that could have been submitted with the petition but was not. Paragraphs 41 and 43-66 introduce and analyze a new four-option theory of obviousness (based on the new motivations for modifying <i>Waldner</i>) that could have been submitted with the petition but was not.

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		Paragraph 42 constitutes new testimony about the angle of repose that could have been submitted with the petition but was not. Paragraphs 67-68 attempt to introduce new motivations for modifying Waldner (“to accommodate new methods” and “to minimize the weight of the discharge chute of <i>Waldner</i> and its contents”) that could have been submitted with the petition but were not. Paragraphs 103-104 attempt to introduce a new motivation for looking to Auld that could have been submitted with the petition but was not. Paragraph 106 constitutes new testimony about gooseneck and fifth wheel hitches that could have been submitted with the petition but was not. Paragraph 110 constitutes new testimony based on Sleeman in connection with Ground 3 (that does not rely on Sleeman). This testimony could have been submitted with the petition but was not. Paragraphs 112-117 constitute new testimony about “attach[ing] a trailering coupler...directly to [a] conveyor” (discussing Exs. 1144, 1147, 1145, 1146, 1148, 1149). This testimony could have been submitted with the petition but was not.
Ex. 1111	Portion of paragraph 32 quoted to the right	IMPROPER REPLY EVIDENCE - Could have been presented with petition but was not “An image of a Liebherr mobile tower crane is shown below. Experience designing the mechanical aspects of these types of systems would also be relevant to a

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		POSITA designing systems like those in the '689 Patent.”
Ex. 1111	Portion of paragraph 91 quoted to the right	IMPROPER REPLY EVIDENCE - Could have been presented with petition but was not “Clearly, the chute of Waldner and the conveyors of Dynatek are different. One is angled while the other is horizontal. Clearly, a POSITA would have understood that a different mounting system would be required, and would try to implement the slewing ring based pivot of Dynatek. A POSITA would have known that the slewing ring needs to be mounted in a horizontal configuration, and that the bottom support for the stationary portion of the slewing ring would need to be a platform at least as big as the slewing ring. A POSITA would have known how to, and would be motivated to use a platform for mounting the slewing ring, and would be able to design and implement such a platform with folding capabilities as required by the basic design specifications. This is an every-day type task for a POSITA, and a POSITA would have had every expectation of success in implementing such a system.”
Ex. 1111	Portion of paragraph 101 quoted to the right	IMPROPER REPLY EVIDENCE - Could have been presented with petition but was not “In making the proposed combination, a POSITA would attach a truss frame around the conveyor (or <i>Waldner's</i> discharge chute) like that disclosed in <i>Dynatek</i> to the bucket elevator frame of <i>Waldner</i> in a manner that allows the chute or conveyor to move relative to the deployable frame. Therefore, a POSITA would attach the proximal end of <i>Dynatek's</i> truss frame to <i>Waldner's</i> bucket elevator frame using, for example, <i>Waldner's</i> brackets 252, links 256, and pins 258, or similar structures known to a POSITA.”

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Ex. 1111	Portion of paragraph 105 quoted to the right	IMPROPER REPLY EVIDENCE - Could have been presented with petition but was not “In many situations, fifth wheel and goose neck connections on trailers are interchangeable, but each has its own advantages and disadvantages. For example, 5th wheel hitches are well known to enhance stability, and generally offer smoother, quieter towing. Gooseneck hitches are primarily designed to attach to a ball in the bed of a pickup truck. Gooseneck hitches are less invasive, are typically less expensive, and take up less space in the truck bed.”
Ex. 1111	Portion of paragraph 108 quoted to the right	IMPROPER REPLY EVIDENCE - Could have been presented with petition but was not “...<i>Waldner</i> discloses several embodiments of the disclosed system that differ from the embodiment in Figure 7, all of which would be relevant to the proposed combination of <i>Waldner</i> with <i>Auld</i>. For example, Figure 15 of <i>Waldner</i> shows another embodiment in which the bucket elevator is configured differently and includes a frame surrounding it. And in each embodiment the bucket elevator would be positioned somewhat differently. This would teach a POSITA that <i>Waldner</i>’s bucket elevator and/or its frame could be reconfigured and/or repositioned to allow the kingpin to be mounted in a workable location.”
Ex. 1111	Portion of paragraph 111 quoted to the right	IMPROPER REPLY EVIDENCE - Could have been presented with petition but was not “...prior to the ‘689 Patent, there were numerous examples of systems in which a portable stacker/conveyor was attached via a fifth wheel/king pin mount.” (citing Exs. 1144, 1145, and 1146).

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Ex. 1112	Entirety	VIOLETION OF ADMINISTRATIVE PROCEDURE ACT UNLESS PATENT OWNER IS ALLOWED TO PROVIDE REBUTTAL EVIDENCE Administrative Procedure Act [5 U.S.C. § 554(c) (“The agency shall give all interested parties <i>opportunity for...the submission and consideration of facts [and] arguments....</i>”); 5 U.S.C. § 556(d) (“A party is entitled to present his case or defense by oral or documentary evidence, <i>to submit rebuttal evidence</i>, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.”)]
Ex. 1112	Entirety	IMPROPER REPLY EVIDENCE Is used to “confirm Dr. Durham’s opinions on the disputed issues” (Reply, 3), attempting to use declaration to establish <i>prima facie</i> case in Reply.
Ex. 1112	Paragraph 7	Inadmissible for lack of personal knowledge under Fed.R.Evid. 602, since Mr. Weinstein testifies that he did not start at Solaris until 2020.
Ex. 1112	Paragraph 10	IMPROPER REPLY EVIDENCE “Petitioner may not submit new evidence or argument in reply that it could have presented earlier, e.g., to make out a <i>prima facie</i> case of unpatentability.... It is also improper for a reply to present new evidence (including new expert testimony) that could have been presented in a prior filing....” Consolidated Trial Practice Guide (Nov. 2019), pp. 73, 74-75; 35 U.S.C. § 312(a)(3) (the petition must “identif[y], in writing and with particularity, . . . the evidence that supports the grounds for the challenge to each claim”); Administrative Procedure Act [5 U.S.C. § 554(b) (“Persons entitled to notice of an agency hearing shall be <i>timely</i> informed of...the matters of fact and law asserted.”)]; <i>Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.</i>, 821 F.3d 1359, 1369-70 (Fed. Cir. 2016) (affirming Board’s decision not to consider reply and accompanying declaration) (“It is of the

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		utmost importance that petitioners in the IPR proceedings adhere to the requirement that the initial petition identify ‘with particularity’ the ‘evidence that supports the grounds for the challenge to each claim.’ . . . Unlike district court litigation — where parties have greater freedom to revise and develop their arguments over time and in response to newly discovered material — the expedited nature of IPRs bring with it an obligation for petitioners to make their case in their petition to institute.”); <i>Acceleration Bay, LLC v. Activision Blizzard Inc.</i>, 908 F.3d 765, 775 (Fed. Cir. 2018) (affirming Board’s decision not to consider portions of reply declaration “because it constituted new evidence for [petitioner’s] obviousness argument that could have been presented in the petition”).
Ex. 1112	Portion of paragraph 9 quoted to the right	IMPROPER REPLY EVIDENCE – could have been presented with petition but was not “airslides were a commonly-used type of conveyor in the marketplace at that time”
Ex. 1112	Portion of paragraph 11 quoted to the right	IMPROPER REPLY EVIDENCE – could have been presented with petition but was not “the articulated loader concept...was well known and commonly used”
Ex. 1112	Paragraph 13	IMPROPER REPLY EVIDENCE – could have been presented with petition but was not; being used in Reply as the basis for a new motivation to modify <i>Waldner</i> that could have been presented with the petition but was not
Ex. 1112	Paragraph 16	IMPROPER REPLY EVIDENCE To the extent this testimony is used to assert additional motivations to modify/combine, it is improper reply evidence that could have been presented with the petition but was not.

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		“Petitioner may not submit new evidence or argument in reply that it could have presented earlier, e.g., to make out a prima facie case of unpatentability.... It is also improper for a reply to present new evidence (including new expert testimony) that could have been presented in a prior filing....” Consolidated Trial Practice Guide (Nov. 2019), pp. 73, 74-75; 35 U.S.C. § 312(a)(3) (the petition must “identif[y], in writing and with particularity, . . . the evidence that supports the grounds for the challenge to each claim”); Administrative Procedure Act [5 U.S.C. § 554(b) (“Persons entitled to notice of an agency hearing shall be <i>timely</i> informed of...the matters of fact and law asserted.”)]; <i>Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.</i>, 821 F.3d 1359, 1369-70 (Fed. Cir. 2016); <i>Acceleration Bay, LLC v. Activision Blizzard Inc.</i>, 908 F.3d 765, 775 (Fed. Cir. 2018).
Ex. 1112	Portion of paragraph 22 quoted to the right	IMPROPER REPLY EVIDENCE – could have been presented with petition but was not “elements like a conveyor and slew gear...were commonly and widely used in the industry at that time”
Ex. 1112	Paragraph 32	Hearsay. Reports out-of-court statement by Dan Trantham, a third party: “Dan Trantham later told me that Mr. Stanton was having a stress-related issue that day that prevented him from coming out to meet us because he needed to rest.” Hearsay. Reports out-of-court statement by Dan Trantham, a third party, or by Mike Stanton, a third party: “Either Mr. Stanton or Mr. Trantham later told me that Mr. Stanton had received medical treatment around that same time related to stress issues.”
Ex. 1112	Portion of paragraph 34	IMPROPER REPLY EVIDENCE – could have been presented with petition but was not

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	quoted to the right	“[Masaba’s design] was based on...obvious design choices”
Ex. 1112	Portion of paragraph 36 quoted to the right	Hearsay. Reports out-of-court statement by unidentified third party: “We later learned that the cause of the accident was that Masaba chose an axle that was designed to only accommodate 2 wheels mounted in line with the axle, but Masaba mounted 4 wheels offset from the axle.”
Ex. 1112	Paragraph 38	Hearsay. Reports out-of-court statements by Dan Trantham, a third party.
Ex. 1113	Portions objected to in transcript	Objections noted in transcript. Ex. 1113 does not include errata sheet.
Ex. 1114	Portions objected to in transcript	Objections noted in transcript.
Ex. 1115	Portions objected to in transcript	Objections noted in transcript. Ex. 1115 does not include an errata sheet or otherwise indicating review by deponent.
Ex. 1116	Entirety	Not cited in Reply. Therefore, not relevant under FRE 401.
Ex. 1117	Entirety	Not cited in Reply. Therefore, not relevant under FRE 401.
Ex. 1118	Entirety	Not cited in Reply. Therefore, not relevant under FRE 401.
Ex. 1119	Entirety	Not cited in Reply. Therefore, not relevant under FRE 401.
Ex. 1120	Entirety	IMPROPER REPLY EVIDENCE – could have been presented with petition but was not
Ex. 1121	Entirety	Not cited in Reply. Therefore, irrelevant under FRE 401.
Ex. 1122	Entirety	Not cited in Reply. Therefore, irrelevant under FRE 401.

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		The entirety of the text message/thread has not been provided, and therefore the exhibit is inadmissible under at least FRE 106 and/or FRE 1002.
Ex. 1123	Entirety	Not cited in Reply. Therefore, irrelevant under FRE 401. Not authenticated as an email from Dan Trantham. To the extent this exhibit is used in an attempt to prove the truth of the matters asserted therein, it is hearsay because it reports out-of-court statements from Dan Trantham, a third party.
Ex. 1124	Entirety	Not cited in Reply. Therefore, irrelevant under FRE 401.
Ex. 1125	Entirety	Not cited in Reply. Therefore, irrelevant under FRE 401.
Ex. 1126	Entirety	IMPROPER REPLY EVIDENCE - Relied on in new Weinstein declaration as part of evidence that could have been presented with petition but was not.
Ex. 1127	Entirety	IMPROPER REPLY EVIDENCE - Relied on in new Weinstein declaration as part of evidence that could have been presented with petition but was not.
Ex. 1128	Entirety	IMPROPER REPLY EVIDENCE - Relied on in new Weinstein declaration as part of evidence that could have been presented with petition but was not.
Ex. 1129	Entirety	IMPROPER REPLY EVIDENCE – used in Reply to support proposition(s) that “Petitioners’ silos...predated the ‘689 Patent” and that “To provide the reach needed to convey dry sand into Petitioners’ silos... <i>Waldner’s</i> bucket elevator would need to be about 33 feet taller, and its gravity-fed chute would need to be about 10 feet longer, than if it used a belt conveyor.” (Reply, 8.) This is new evidence cited in support of a new theory of obviousness that could have been presented with the petition but was not.

Exhibit Number	Portion Objected To	Basis of Objection
Ex. 1130	Entirety	Not cited in Reply. Therefore, not relevant under FRE 401. IMPROPER REBUTTAL EVIDENCE Could have been presented with petition but was not
Ex. 1131	Entirety	Dictionary is undated and therefore it has not been shown to be relevant. FRE 401. IMPROPER REBUTTAL EVIDENCE Could have been presented with petition but was not
Ex. 1132	Entirety	Dictionary was published in India and therefore it has not shown to be probative of usage of those of ordinary skill in the United States. FRE 401. IMPROPER REBUTTAL EVIDENCE Could have been presented with petition but was not
Ex. 1133	Entirety	IMPROPER REBUTTAL EVIDENCE Could have been presented with petition but was not
Ex. 1134	Entirety	No foundation; no authentication. IMPROPER REBUTTAL EVIDENCE Could have been presented with petition but was not
Ex. 1135	Entirety	No foundation; no authentication. IMPROPER REBUTTAL EVIDENCE Could have been presented with petition but was not
Ex. 1136	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.
Ex. 1137	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.

Exhibit Number	Portion Objected To	Basis of Objection
Ex. 1138	Entirety	Improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.
Ex. 1139	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.
Ex. 1140	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.
Ex. 1141	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.
Ex. 1142	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.
Ex. 1143	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.
Ex. 1144	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.
Ex. 1145	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.
Ex. 1146	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.

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Ex. 1147	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.
Ex. 1148	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.
Ex. 1149	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.
Ex. 1150	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.
Ex. 1151	Entirety	Improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.
Ex. 1152	Entirety	Not cited in Reply. Therefore not relevant under FRE 401. Also improper reply evidence. Relied on in new Durham declaration as part of evidence that could have been presented with petition but was not.
Ex. 1153	Entirety	Improper reply evidence. Relied on in new Smith declaration as part of evidence that could have been presented with petition but was not.

DATED this 4th day of August, 2025.

Respectfully submitted,

By /David R. Todd/

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, I hereby certify that on this 4th day of August, 2025, I caused the foregoing **PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(b)(1)** to be served via email, on the following counsel of record for Petitioner:

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