

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TABLEAU SOFTWARE, LLC
Petitioner

v.

ICHARTS LLC
Patent Owner

Case IPR2024-01387
U.S. Patent No. 8,271,892

PETITIONER’S REPLY TO PATENT OWNER’S RESPONSE

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PETITIONER’S UPDATED EXHIBIT LIST

Exhibit	Description
1001	U.S. Patent No. 8,271,892 to Duncker <i>et al.</i>
1002	Prosecution History of U.S. Patent No. 8,271,892
1003	Declaration of Christopher Schmandt
1004	<i>Curriculum Vitae</i> of Christopher Schmandt
1005	U.S. Publication No. 2003/0169295 to Becerra (“Becerra”)
1006	U.S. Patent No. 6,906,717 to Couckuyt <i>et al.</i> (“Couckuyt”)
1007	U.S. Publication No. 2003/0071814 to Jou <i>et al.</i> (“Jou”)
1008	QlikView Reference Manual V8.50 (June 2008)
1009	QlikView Server Reference Manual V8.50 (June 2008)
1010	U.S. Patent Publication No. 2008/0028037 to Moyer <i>et al.</i>
1011	O’Leary, T.J. & O’Leary, L.L., “Microsoft Office Excel 2003” (2003)
1012	O’Leary, T.J. & O’Leary, L.L., “Microsoft Office PowerPoint 2003” (2003)
1013	U.S. Application No. 61/077,728
1014	QlikView Downloads (Aug. 2, 2008), <i>available at</i> https://web.archive.org/web/20080802064135/http://ftp.qliktech.com:80/qvwebdownloads/
1015	QlikView Product Suite Download Page (July 8, 2008), <i>available at</i> https://web.archive.org/web/20080708191653/http://ftp.qliktech.com/qvwebdownloads/Release8.asp
1016	QlikView 8.50 Downloadable Files (Aug. 17, 2008), <i>available at</i> https://web.archive.org/web/20080817042640/http://ftp.qliktech.com/qvwebdownloads/Release850.asp
1017	QlikView 8.50 Documentation (Aug. 17, 2008), <i>available at</i> https://web.archive.org/web/20080817042629/http://ftp.qliktech.com:80/qvwebdownloads/Docs.asp

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1018	QlikView 8.50 Documentation (Oct. 23, 2008), <i>available at</i> https://web.archive.org/web/20081023184538/http://ftp.qliktech.com:80/qvwebdownloads/Docs.asp
1019	QlikView 8.50 Documentation (Feb. 9, 2009), <i>available at</i> https://web.archive.org/web/20090209142916/http://ftp.qliktech.com:80/qvwebdownloads/Docs.asp
1020	QlikView Community Support (July 2, 2008), <i>available at</i> https://web.archive.org/web/20080702053130/http://www.qlikcommunity.com/support/
1021	QlikNews: Issue 5, Summer 2008 (Mar. 4, 2009), <i>available at</i> https://web.archive.org/web/20090304004927/http://www.qlikcommunity.com/1203/
1022	QlikNews: ProductView (June 26, 2008), <i>available at</i> https://web.archive.org/web/20080626190929/http://www.qlikcommunity.com/1218/
1023	QlikNews: Americas View (June 26, 2008), <i>available at</i> https://web.archive.org/web/20080626195546/http://www.qlikcommunity.com/1213/
1024	QlikView Wine Guide Intro Tab (Jan. 7, 2007), <i>available at</i> http://web.archive.org/web/20070107033756/http://thewinepress2.qliktech.com/en/Default.asp
1025	QlikView Wine Guide How To Tab (Jan. 8, 2007), <i>available at</i> http://web.archive.org/web/20070108145241/http://thewinepress2.qliktech.com/en/HowTo.asp
1026	QlikView Wine Guide Wine Selector Tab (Jan. 7, 2007), <i>available at</i> http://web.archive.org/web/20070107034057/http://thewinepress2.qliktech.com/en/Wine_Selector.asp
1027	QlikView Wine Guide Analysis Tab (Jan. 8, 2007), <i>available at</i> http://web.archive.org/web/20070108140845/http://thewinepress2.qliktech.com/en/Analysis.asp
1028	Richardson, J., et al., “Magic Quadrant for Business Intelligence Platforms,” Gartner ID No. G00154227 (Feb. 1, 2008)

Exhibit	Description
1029	Raab, D.M., “Analytical Database Options,” <i>DM Review</i> (July 2008)
1030	Declaration of Sylvia D. Hall-Ellis, Ph.D.
1031	<i>Curriculum Vitae</i> of Sylvia D. Hall-Ellis, Ph.D.
1032	Internet Archive Declaration #1
1033	Internet Archive Declaration #2
1034	U.S. Publication No. 2001/0050681 to Keys <i>et al.</i> (“Keys”)
1035	Wills, G.J., “NicheWorks—Interactive Visualization of Very Large Graphs” (1999)
1036	Raskin, J., “The Humane Interface” (2000)
1037	Raskin, J., “Led the Team That Created User-Friendly Apple Macintosh Computer,” <i>Los Angeles Times</i> (Mar. 1, 2005)
1038	Austen, I., “I.B.M. Acquires Cognos, Maker of Business Software, for \$4.9 Billion,” <i>The New York Times</i> (Nov. 13, 2007)
1039	Viegas, F.B., et al., “ManyEyes: A site for visualization at internet scale,” <i>IEEE Transactions on Visualization and Computer Graphics</i> , 13(6):1121-1128 (Jan. 1, 2007)
1040	Stolte, C., et al., “A System for Query, Analysis and Visualization of Multi-dimensional Relational Databases,” <i>IEEE Transactions on Visualization and Computer Graphics</i> , 8(1) (Aug. 7, 2002)
1041	Hanrahan, P., et al., “Visual Analysis for Everyone: Understanding Data Exploration and Visualization,” <i>Tableau Software</i> (2007)
1042	Allaire, J., “Macromedia Flash MX—A next-generation rich client” (March 2002)
1043	Macromedia Flash (SWF) File Format Specification, v6 (2002)
1044	Flanagan, D., “JavaScript The Definitive Guide,” 4th edition (2002)
1045	U.S. Patent No. 5,414,809 to Hogan et al.
1046	U.S. Patent No. 7,296,025 to Kung et al.
1047	U.S. Patent No. 6,025,844 to Parsons

Exhibit	Description
1048	U.S. Patent No. 8,099,674 to Mackinlay et al.
1049	Tableau Overview Video, available at https://web.archive.org/web/20080124114801/http://www.tableausoftware.com:80/products/tour
1050	U.S. Patent No. 5,848,424 to Scheinkman et al.
1051	U.S. Publication No. 2007/0243925 to LeMay et al.
1052	U.S. Publication No. 2005/0193330 to Peters
1053	Dance et al., “Faces of the Dead,” <i>The New York Times</i> , https://archive.nytimes.com/www.nytimes.com/interactive/us/faces-of-the-dead.html (last visited Aug. 7, 2024)
1054	U.S. Patent No. 5,535,324 to Alvarez et al.
1055	U.S. Patent No. 6,529,217 to Maguire et al.
1056	Shepherd, G. & Wingo, S., “MFC Internals” (1996)
1057	Negrino, T. & Smith, D., “JavaScript and Ajax” (2007)
1058	Plaintiff iChart’s First Amended Asserted Claims, Infringement Contentions, and Document Production Disclosures (Patent Local Rules 3-1, 3-2), <i>iCharts LLC v. Tableau Software</i> , Case No. 3:24-cv-03157 (with Exhibit A)
1059	QlikView 8.50 Copyright Registration
1060	QlikView 8.50 Copyright Application
1061	Qlik Community Page, Qlikview 8.5 Manual, available at https://community.qlik.com/t5/QlikView-Administration/Qlikview-8-5-Manual/m-p/1742630
1062	Singh <i>et al.</i> , “Efficient and Secure Search of Enterprise File Systems,” 2007 IEEE International Conference on Web Services
1063	White <i>et al.</i> , “Automated Model-based Configuration of Enterprise Java Applications,” 11th IEEE International Enterprise Distributed Object Computing Conference (2007)

Exhibit	Description
1064	Nikolaidou <i>et al.</i> “Enterprise Information Systems Configuration: Emphasizing the Symbiotic Relationship Between Applications and the Underlying Network,” 9th IEEE International Conference on Engineering Complex Computer Systems Navigating Complexity in the e-Engineering Age (2004)
1065	<i>Intentionally Left Blank</i>
1066	<i>Intentionally Left Blank</i>
1067	<i>Intentionally Left Blank</i>
1068	Declaration of Deborah C. Lofton, Chief Legal Officer and Corporate Secretary of QlikTech Inc.
1069	Definition of Chart, Merriam-Webster Dictionary
1070	Transcript of Dr. Jeffery Miller’s Deposition (Oct. 9)
1071	Transcript of Mr. Seymour Duncker’s Deposition (Oct. 10)
1072	Declaration of Christopher Schmandt in Support of Petitioner’s Reply
1073	iCharts’ Certification of Conflicts and Interested Entities or Persons Pursuant to Civil Local Rule 3-15, <i>iCharts LLC v. Tableau Software, LLC</i> , Case No. 3-24-cv-03157 (July 29, 2024)
1074	Said Elfarssi, “Inserting a Flash movie into a PowerPoint presentation,” the American Association of Orthodontists (2006)
1075	Microsoft Computer Dictionary, Fifth Edition, Microsoft Press (2002)
1076	Declaration of Jeffrey Miller, Ph.D., <i>iCharts LLC v. Tableau Software, LLC</i> , Case No. 3-24-cv-03157, D.I. 87-1 (August 22, 2024)

I. Introduction

iCharts attempts to distinguish the prior art based on unclaimed features and overly-narrow claim interpretations. iCharts also fails to meet its burden to establish that the '892 patent precedes the QlikView Manuals. The Board should find all claims unpatentable.

II. Claim Construction

iCharts' arguments raise a new, overly-narrow construction of "*publish[ing] ... the interactive chart as a self-contained and independent electronic document,*" as recited in claims 1 and 10.

A. "[P]ublish[ing] ... the interactive chart as a self-contained and independent electronic document" encompasses exporting the interactive chart as a file for download.

iCharts argues "exporting or saving a file is different from publishing or embedding a file," raising a construction of the term excluding exporting the chart as "*a self-contained and independent electronic document*" for download. POR, 33. The claims, specification, prosecution history, and inventor's own cited documents all contradict this narrow construction.

Claims 1 and 10 each recite "***publish[ing]** or embed[ding] the interactive chart as a self-contained and independent electronic document.*"¹ EX1001, 18:43-45, 19:25-26. As iCharts' expert admits, that "*self-contained and independent*

¹ Emphasis added unless otherwise noted.

electronic document” “could be, for example, a Flash file.” EX1070, 27:1-28:8 (referencing testimony regarding claim 1 at EX1076, ¶¶40-46); *see also* EX1071, 96:9-25. Thus, the claim’s plain language encompasses exporting the “*interactive chart as a self-contained and independent electronic document*”—e.g., a Flash file—for download. EX1072, ¶¶7-9. In other words, claim 1 does not recite creating the “*self-contained and independent electronic document*” and subsequently publishing it—it recites “*publish[ing] ... as a self-contained and independent electronic document.*” *Id.*

The specification confirms this understanding. As iCharts notes, in “an exemplary embodiment, the ’892 Patent discloses that a user can share the chart by **publishing the chart by selecting the publish button 1616.**” POR, 33 (citing EX1001, 14:41-43). When the user selects the publish button, the “popup window 3000” of Figure 30 is displayed. EX1001, 14:43-50.

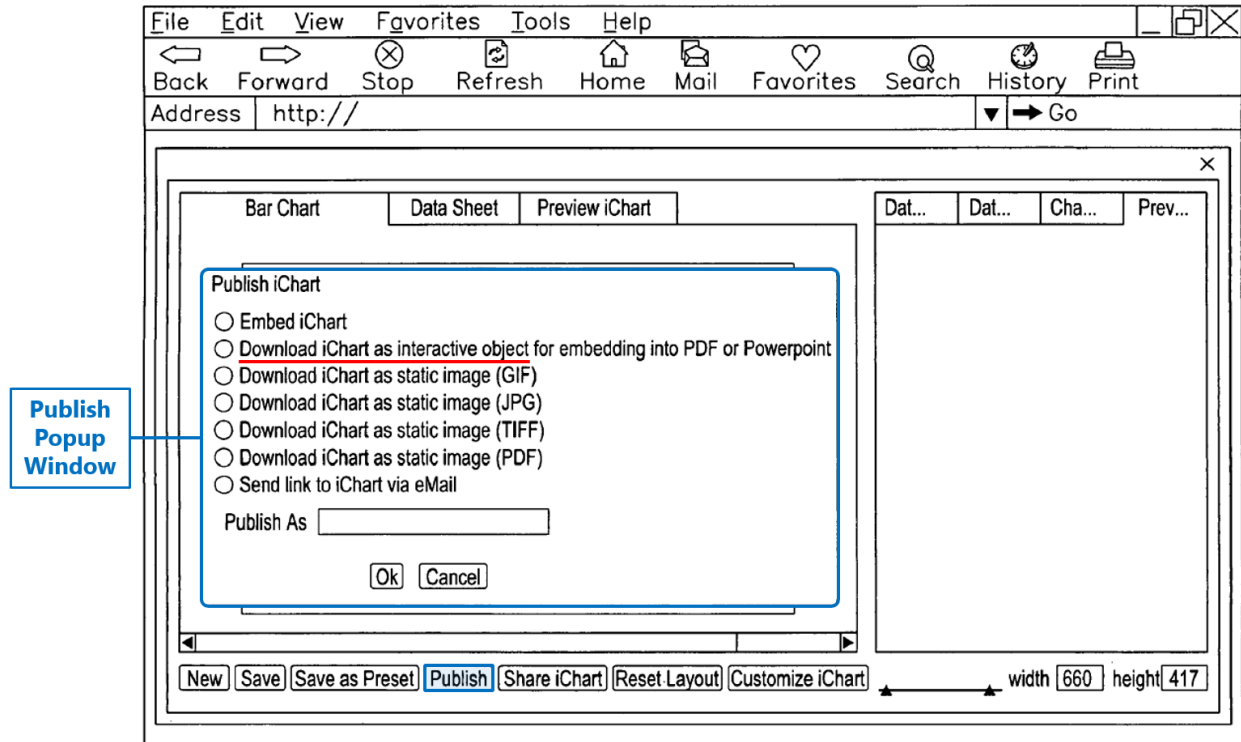


FIG. 30

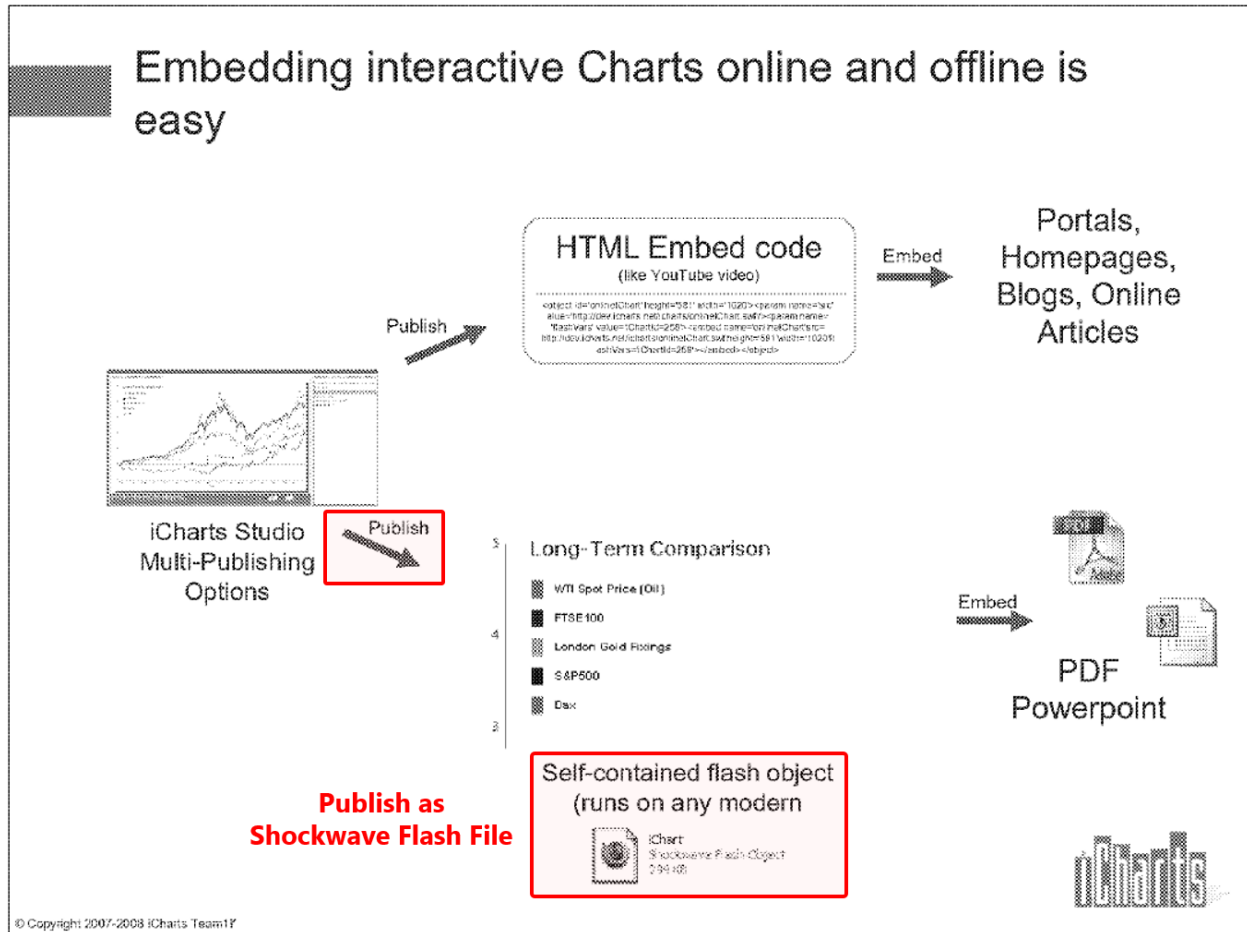
EX1001, FIG. 30 (annotated); EX1072, ¶10.

As illustrated above, the '892 patent's "Publish" options expressly include **"Download iChart as interactive object"**—e.g., downloading a Flash object—as well as other download options. EX1001, FIG. 30, 14:45-50 (discussing popup window 3000's publishing **"options"**); EX1072, ¶11. The claims cannot be construed to exclude this publishing embodiment. *Oatey Co. v. IPS Corp.*, 514 F.3d 1271, 1276-78 (Fed. Cir. 2008); *MBO Labs., Inc. v. Becton, Dickinson & Co.*, 474 F.3d 1323, 1333 (Fed. Cir. 2007) (rejecting claim construction excluding embodiments illustrated in the drawings).

This understanding is also consistent with the prosecution history. After

amending the claims to include the “*publish[ing]*” element, iCharts explained, “the specification provides that the interactive chart can be embedded or **published as ‘an electronic document’ (page 19, line 4) which can be downloaded as a ‘self-contained’ file.**” EX1002, 0355; EX1072, ¶12.

The inventor’s own alleged conception documents further corroborate this understanding. For example, Mr. Duncker submitted evidence (relied on to support this claim element) illustrating that creation of a Flash file is a form of publishing within the scope of the invention. EX2015, 17; EX2200, 20; EX1072, ¶¶13-14; *see also* EX1071, 15:25-16:5 (confirming publishing occurs before embedding).



EX2015, 17 (annotated).

Accordingly, “publish[ing] ... the interactive chart as a self-contained and independent electronic document” encompasses exporting the interactive chart as a file for download. EX1072, ¶15.

III. Ground 1: Becerra

A. Becerra renders obvious element [1A].

Becerra teaches this element by: (1) providing “a file system storing a spreadsheet file,” and (2) “stor[ing] the selected data and the associated mathematical model” in an “internal data structure.” Pet., 17-18. PO’s attacks

focus on distinctions found nowhere in the claim.

First, iCharts alleges the '892 patent describes a “My Data Sheets” tab for uploading data, which “is separate from any Excel data file.” POR, 27. But claim 1 merely requires “[a] computer system comprising: a data module configured to store data.” EX1001, 18:33-34. Becerra’s file system satisfies that element. Pet., 16-17; EX1070, 21:25-23:10.

Second, iCharts faults Becerra’s “internal **data** structure” for allegedly storing only certain types of data (e.g., only numeric values and formulas). POR, 27-28. But claim 1 does not require any particular type or format of data. EX1001, 18:33-34; Pet., 15-18; EX1003, ¶¶166-171.

B. Becerra renders obvious element [1B].

Becerra teaches “a ‘*module*’ for storing and selecting preexisting graphic components (e.g., charts, maps) for use in a ‘control panel.’” Pet., 18-20 (citing EX1005, ¶¶10, 32). iCharts does not dispute Becerra discloses selecting chart components from a pre-created component library. POR, 29. Rather, iCharts disputes Becerra’s “charts” are “preset chart templates with formatting settings.” POR, 29-30. Wrong.

Both experts and Mr. Duncker agree chart template formatting settings include the type of chart. EX1070, 23:22-24:20 (the '892 patent discloses a “bar chart template” “formatted in the form of a bar chart”); EX1071, 18:5-7 (“chart

template” includes “formatting settings one of which can be a type of chart”); EX1003, ¶¶173-177; *see also* EX1058, 0038 (iCharts accusing “Chart Types templates” of infringement). Becerra undisputedly discloses “a pre-created component library” with selectable components formatted as different types of charts, including “bar graphs, line plots, maps, pie charts, etc.” EX1005, ¶¶19, 32; Pet., 18-20; *see also* EX1005, FIG. 3 (illustrating map templates formatted as individual states (e.g., “[C]alifornia”). Thus, Becerra teaches “*chart templates*” formatted as particular types of charts. Pet., 18-20; EX1003, ¶¶173-177.

C. Becerra renders obvious elements [1C] and [1D].

iCharts argues, “Becerra relies on a math model to create [a] Flash movie based on Actionscript code.” POR, 30-32. This argument is illogical. Becerra teaches selection of data from “a data source,” and “the data and associated mathematical model are stored.” Pet., 24 (citing EX1005, ¶¶24, 38, 44); EX1003, ¶188. Both the selected data and extracted associated mathematical model are forms of “*data*” within the scope of claim 1, and Becerra’s “*interactive chart*” is created using this “*data*.” Pet., 17-18, 23-24; EX1003, ¶¶168-170, 187-189. Moreover, the ’892 patent similarly uses Flash for its “*interactive chart*.” EX1001, 1:65; EX1003, ¶¶95-96; POR, 31.

D. Becerra renders obvious element [1E].

1. Becerra teaches “publish[ing] ... the interactive chart as a self-contained and independent electronic document” under its proper construction.

The Petition explains, “Becerra discloses ‘*a sharing module configured to enable the user to publish*’ a control panel, including ‘*the interactive chart,*’” by exporting the control panel as a Flash file. Pet., 24-25; EX1003, ¶¶191-196. As discussed in Section II.A, “*publish[ing] ... the interactive chart as a self-contained and independent electronic document,*” recited in claim 1, encompasses exporting the interactive chart as a file for download. Becerra does just that by “export[ing]” the control panel, which “may be saved as a separate file that is executable by a standalone program (e.g., Flash Player™).” EX1005, ¶¶50, 52; Pet., 24-25; EX1072, ¶¶16-17.

2. Even under iCharts’ limiting construction, Becerra renders obvious this element.

Under iCharts’ limiting construction, Becerra still teaches element [1E].² Specifically, claim 1 requires “*a sharing module **configured to enable a user to publish or embed the interactive chart as a self-contained and independent***

² Tableau is entitled to present argument/evidence addressing iChart’s new construction. *Axonics, Inc. v. Medtronic, Inc.*, 75 F.4th 1374, 1382-1383 (Fed. Cir. 2023).

electronic document.” EX1001, 18:43-45. In other words, the recited “*sharing module*” is not required to perform “*publish[ing] or embed[ding]*”; it simply needs to be “*configured to enable a user to*” to perform one of those functions. EX1072, ¶18.

There is no dispute that downloading a Flash file, as in Becerra’s system, would “*enable a user to publish or embed the interactive chart.*” EX1072, ¶¶19-20. As iCharts’ own expert testified, “[i]f the user selected that second option of downloading iChart as interactive object for embedding into PDF or PowerPoint, **that would enable them to embed that, that iChart as an interactive object into a PDF or a PowerPoint.**” EX1070, 33:11-20, 35:6-10; *see also* EX1070, 34:9-17. Similarly, Mr. Duncker agreed that “**downloading** the interactive chart as a shockwave Flash object **would enable a user to embed the interactive chart.**” EX1071, 48:12-25. Indeed, programs like Microsoft PowerPoint already included functionality enabling a user to embed a Flash file. EX1072, ¶¶19-20 (citing EX1074). That is sufficient to satisfy element [1E].

A POSA also would have recognized the benefit of publishing or embedding the Flash file after download. EX1072, ¶21. As Mr. Schmandt explains, Flash allows users “to create dynamic presentations for the World Wide Web” and “can be added to a PowerPoint presentation for dynamic effect.” EX1072, ¶21 (citing EX1074, 1).

E. Becerra renders obvious element [1F].

iCharts contends Becerra does not “re-render the control panel” in response to input because, allegedly, “the control panel is playing a different part of the movie based on the Actionscript code, not rerendering a chart.” POR, 34. The ’892 patent contradicts this argument, which, like Becerra, uses “Adobe flash player” to “show the interactive charts.” EX1001, 10:7-11. The claims cannot be construed to exclude this embodiment. *Oatey*, 514 F.3d at 1276-78.

Becerra expressly discloses that “output components,” such as the charts in Becerra’s Figure 5, “will dynamically change” in response to user input. Pet., 27-28 (citing EX1005, ¶¶42, 52; EX1003, ¶201). By changing the chart graphic in response to user input, Becerra teaches “*rerender[ing] the chart*” on screen. EX2072, ¶¶24-26 (citing EX1075, 449). PO’s own expert agreed that when executing a “Flash file” containing an interactive chart, interactions including “zooming in on the chart,” “changing input values,” and “receiving an input to perform an animation” can “cause rerendering of the chart.” EX1070, 39:13-42:17. Becerra acts no differently. Pet., 27-28.

F. Becerra renders obvious “interactive features” (claim 7).

iCharts does not dispute Becerra teaches “an animation feature.” POR 35-36; Pet., 30-31. That is sufficient. PO’s argument that “the claim language requires [] two interactive features” is contradicted by its own cited case law. *Abbott Lab ’ys v.*

Baxter Pharm. Prods., Inc., 334 F.3d 1274, 1281 (Fed. Cir. 2003) (explaining language like “and mixtures thereof,” when added to “a Markush group,” means “**at least one** member of the group”—not two or more); *see also* EX1070, 42:22-44:6 (iCharts’ expert agreeing).

IV. Ground 2: Becerra-Couckuyt

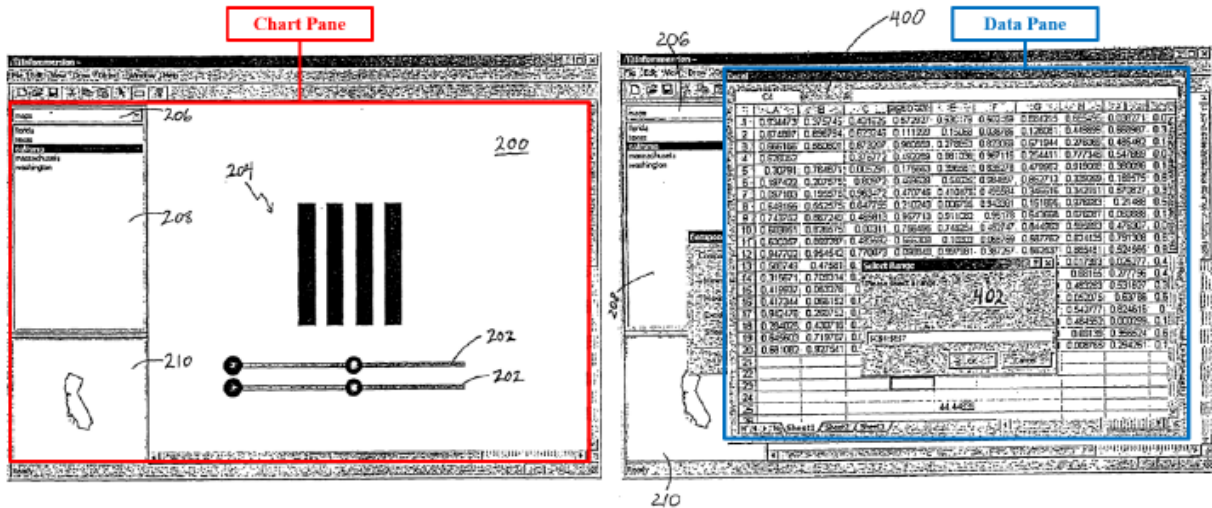
1. Shared Elements of Claims 1 and 10

iCharts relies on its arguments for claim 1 to dispute similar elements in claim 10. POR, 41-44. Becerra renders obvious these elements for the reasons discussed above and in the Petition. *See* Section III; Pet., 15-28, 38-45. Of note, element [10F] (“*publishing or embedding the interactive chart*”) is rendered obvious for the reasons discussed for element [1E]. Section III.D. Aside from teaching “*publishing*,” element [10F] is also met by a user performing this step using a computer, e.g., by inserting a Flash file into a PowerPoint presentation, which would have been obvious to a POSA. *Id.*; EX1072, ¶¶18-22.

2. The Combination of Becerra-Couckuyt

iCharts challenges the motivation to combine Becerra and Couckuyt, contending: (1) “Couckuyt focuses on ... dragging and dropping data fields, not dragging and dropping data”; and (2) Couckuyt teaches a “multiple chart generation scheme.” POR, 36-37.

iCharts’ first argument ignores the presented combination. Becerra teaches receiving user selection of data from a “*data pane*,” illustrated below. Pet., 38-39.



EX1005, FIGs. 2, 4 (annotated).

Couckuyt’s data drag-and-drop techniques would “enable a user to assign data to different chart aspects (e.g., different axes)” and “simplify the process of assigning data to multiple control panel components.” Pet., 36-37; EX1003, ¶¶228-231. That Couckuyt’s example embodiments use data fields to represent data does not “teach away from [the] combination.” POR, 37. As iCharts’ expert concedes, Couckuyt’s “data fields correspond to a particular set of data,” and “[b]ased on the data field that’s dropped into Couckuyt, the data that’s associated with that field then updates the chart.” EX1070, 57:5-59:24. Thus, Couckuyt teaches the concept of dragging-and-dropping data into a chart. Pet., 35-41.

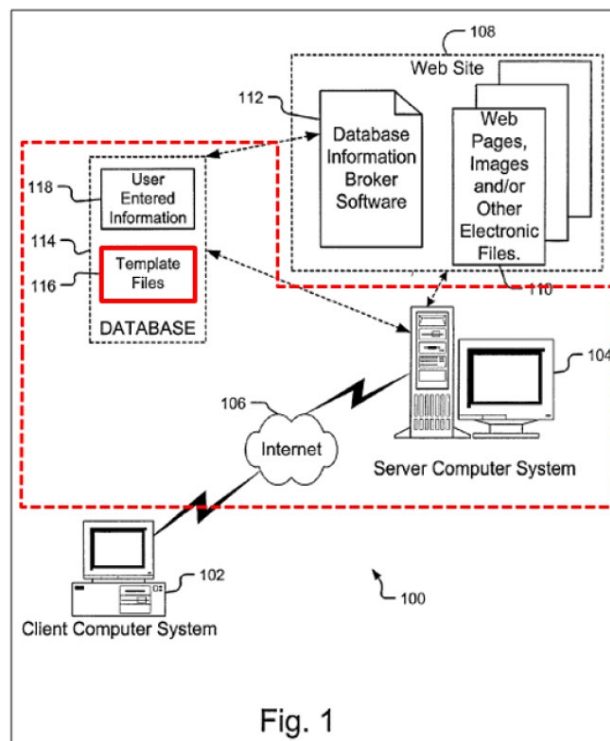
iCharts’ second argument ignores Couckuyt teaches use of drag-and-drop techniques to generate a *single* chart—it is not limited to “multiple chart generation.” EX1006, 7:10-26; EX1070, 56:12-57:4; POR, 37. Thus, incorporation of Couckuyt’s drag-and-drop techniques provide “a suitable option” for linking

data to a chart in *Becerra. Pet.*, 35-41; *Intel Corp. v. PACT XPP Schweiz AG*, 61 F.4th 1373, 1380 (Fed. Cir. 2023).

V. Ground 3: Becerra-Couckuyt-Keys

iCharts does not dispute the motivation to combine Becerra-Couckuyt-Keys but alleges “Keys does not disclose a chart template module.” POR, 44-45. iCharts cannot overcome obviousness by attacking references individually. *In re Merck & Co., Inc.*, 800 F.2d 1091 (Fed. Cir. 1986); *In re Mouttet*, 686 F.3d 1322, 1333 (Fed. Cir. 2012).

Keys teaches storing templates on a remote server. *Pet.*, 49-50 (citing EX1034, ¶¶21-22, 25, 42, 71; EX1003, ¶¶271-272).



Pet., 49 (annotating EX1034, FIG. 1).

Becerra already teaches using a “*chart template module*” to store “*chart template[s]*.” Pet., 18-20. In combination, Becerra’s “*chart template[s]*” would be stored “*on a remote server*,” as in Keys. Pet., 50-51. Moreover, contrary to iCharts’ contention, POR, 45, Keys’ templates can include “graphs, etc.” (“*chart[s]*”), further supporting the combination. EX1034, ¶71; Pet., 50; EX1003, ¶272.

VI. Ground 4: Becerra-Moyer

Moyer teaches a “*copy-to-my-account feature*” allowing a user to copy-paste media content to the user’s blog account. Pet., 52-53; EX1010, ¶¶32-37. iCharts alleges, “[t]here would be no reason to add a ‘Copy-To-My-Account’ feature [to] Becerra because Becerra discloses creation of a Flash file that is already capable of being saved.” POR, 45-47. That Becerra creates a Flash file does not negate the combination. Indeed, the ’892 patent includes a “Copy-to-my-account” feature despite supporting embodiments in which the interactive chart is saved as a “flash file.” EX1001, 9:49-58, 10:36-55. Moyer’s “Blog This” button would beneficially allow a user to “share an interactive chart on her or his blog account with a simple click.” EX1003, ¶¶280-282; Pet., 53-54.

VII. Ground 5 and 6: Becerra-Jou and Becerra-Couckuyt-Keys-Jou

If the Board determines Becerra renders obvious “*an animation feature*,” recited in claims 7 and 12, these claims are rendered obvious. Nevertheless, there is no dispute Jou discloses additional “*interactive features*” including, at least, “a

zoom feature,” and *“a drill-down feature.”* POR, 47; EX2001, ¶186; EX1070, 45:15-24, 46:22-47:4. iCharts’ motivation-to-combine challenge, POR, 48, ignores that, like Jou, Becerra is directed to visualizing “data of business application software programs,” EX1005, ¶8, and nowhere does Becerra discourage the use of Jou’s interactive features (e.g., zoom and drill-down features). EX1070, 53:9-14; *Meiresonne v. Google, Inc.*, 849 F.3d 1379, 1382 (Fed. Cir. 2017). Indeed, iCharts’ expert conceded “a zoom feature for maps”—a type of chart in Becerra—“can be useful,” supporting the proposed combinations. EX1070, 53:20-55:11.

VIII. The QlikView Manuals are prior art.

iCharts does not dispute the overwhelming evidence establishing the QlikView Manuals (EX1008, EX1009) were published by early July 2008. Both QlikTech Inc.’s Deborah Lofton and Dr. Sylvia Hall-Ellis provide unrebutted evidence establishing public accessibility before this date. *See, e.g.*, EX1068, ¶7; EX1030 (citing EX1015-EX1017; EX1059; EX1060); Pet., 7-9.

iCharts tries to disqualify the QlikView Manuals by: (A) claiming priority to U.S. Provisional Application No. 61/077,728; and (B) establishing earlier conception and diligence to a constructive reduction to practice. POR, 49-78. Both attempts fail. First, iCharts added substantial new matter to its non-provisional application, severing the priority claim. Second, iCharts’ uncorroborated conception evidence is piecemeal, failing to show full possession of the claimed

invention, even when taken together.

A. The '892 patent is not entitled to the filing date of the '728 provisional.

When “neither the PTO nor the Board has previously considered priority, there is simply no reason to presume that claims in [an] application are entitled to the earlier effective filing date of an earlier filed application.” *PowerOasis, Inc. v. T-Mobile USA, Inc.*, 522 F.3d 1299, 1305 (Fed. Cir. 2008). Accordingly, when relying on an earlier filing date of a provisional application, a patent owner must show §112 support for the claims of the later-issued patent. *Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375 (Fed. Cir. 2015); *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1376 (Fed. Cir. 2016).

iCharts has not met its burden. Not only is iCharts’ bare-bones analysis in the POR deficient, the non-provisional application’s new matter impacted claim scope in a manner that severs its priority claim.

1. iCharts’ POR claim charts are deficient.

iCharts’ POR includes two claim charts³ mapping elements to pages of the

³ After providing bare string citations for certain claim elements, iCharts alleges Petitioner “effectively conced[es]” all other elements are present in the provisional application.POR, 52. But iCharts bears the burden of establishing §112 support for all claim elements. *Dynamic Drinkware*, 800 F.3d 1375.

'728 provisional. POR, 52-55. But iCharts did not provide *any* explanation why these pages support and enable the claims. *See id.*

Dr. Miller's declaration provides some color, but the Board's rules prohibit arguments incorporated-by-reference. 37 C.F.R. §42.6(a)(3). This "eliminates abuses that arise from incorporation and combination" and prevents the Board from being forced to "play archeologist with the record." 77 Fed. Reg. 48,612, 48,617 (Dep't of Commerce Aug. 14, 2012) (citing *DeSilva v. DiLeonardi*, 181 F.3d 865, 866-67 (7th Cir. 1999)). The Board enforces this rule routinely, and the Federal Circuit has upheld it. *E.g.*, *3M Co. v. Evergreen Adhesives, Inc.*, 860 Fed.Appx. 724, 725-28 (Fed. Cir. 2021).

This case is not an exception. As in *3M*, the arguments in iCharts' brief are "skeletal at best." *Compare id.*, with POR, 50-55. Especially where the POR here already exceeds the word limit by over 1,000 words, the Board should not consider incorporated-by-reference arguments from Dr. Miller's declaration.

2. iCharts added substantial new matter that impacted claim scope.

Even considering Dr. Miller's analysis improperly incorporated-by-reference, the '892 patent is not entitled to priority because the '892 patent application was completely re-written. *Compare* EX1013, 0045-46, 0054-73, with EX1001; Pet., 5-6. Like the USPTO's policy to reject claims under §112 when new matter is added to a specification (MPEP §2163.06(I)), adding new matter in a

non-provisional application severs provisional priority.

Claims broader than the invention disclosed in earlier parent applications are not entitled to priority. *Research Corp. Techs. v. Microsoft Corp.*, 627 F.3d 859, 872 (Fed. Cir. 2010). For example, in *D Three*, new embodiments encompassed by claims of a non-provisional application severed priority to the provisional application. *D Three Enterprises LLC v. SunModo Corp.*, 890 F.3d 1042, 1045, 1050-52 (Fed. Cir. 2018); *see also Anascape, Ltd. v. Nintendo of America, Inc.*, 601 F.3d 1333, 1338-41 (Fed. Cir. 2010) (determining no priority to parent application because child application incorporated new embodiments).

Similarly, the '892 patent claims are broader than the embodiments described in the '728 provisional. Indeed, iCharts relied on new matter during the prosecution history of the '892 patent to support its understanding of the claims. Pet., 5 (citing EX1002, 0355). iCharts also relies on new matter throughout its POR. *E.g.*, POR, 3, 5, 27 (relying on Figures 2 and 8 of the '892 patent, which are not in the '728 provisional). Mr. Duncker even includes one of the new figures (Figure 2) as “a visual aid” for the claims. EX2200, 18.

The new matter enlarges the claim scope in at least the following ways.

Computer System Architecture:

First, claim 1 recites “[a] computer system comprising: a data module ... a chart template module ... a generation module ... [and] a sharing module.” Claim

10 recites “[a] computer-implemented method” involving “a chart template module” and “a server.” This system architecture was not in the ’728 provisional. As Mr. Duncker confirmed, iCharts added its system architecture (Figure 1) and its module architecture (Figure 2) when filing the non-provisional application. EX1071, 80:18-82:6 (confirming figures were “not in the provisional application”); EX1003, ¶¶67-68.

Chart Template Module:

The ’728 provisional also does not provide §112 support for “a chart template module configured to store chart templates,” as recited in claim 1, or “wherein the chart template is stored in a chart template module located on a remote server,” as recited in claim 10. iCharts relies on a single page of the ’728 provisional without any explanation. POR, 53-54 (citing EX1013, 0045 for both [1B] and [10C]). iCharts does *not* rely on the figures. *Id.*

The ’728 provisional includes two sentences about chart templates: “The service may include chart templates. Users can store templates that allow them to create charts that all have the same look and feel.” EX1013, 0045. These sentences do not explain how or where the chart templates are stored. Nor do they show how the chart templates are used to generate interactive charts. And for claim 10, there is no mention of storing templates on a “remote server.” Rather, the server 104 was added with Figure 1, which was not in the ’728 provisional. *See* EX1001, 8:4-9:4,

FIG. 1; EX1071, 81:17-19. Such bare-bones description of chart templates is deficient.

Self-Contained and Independent Electronic Document:

iCharts has also not shown §112 support for publishing or embedding an interactive chart as “*a self-contained and independent electronic document*” as recited in claims 1 and 10. EX1003, ¶¶61-66. iCharts relies on a single page of the ’728 provisional and three figures but does not explain how these citations support this limitation. POR, 53 (citing EX1013, 0045, 0059, 0060, 0064 for [1E] and [10F]). The ’728 provisional also does not provide any mechanism (code, hardware, or otherwise) to publish or embed interactive charts as “*a self-contained and independent electronic document.*” Although §112 does not require *in haec verba* description, it nonetheless requires an applicant to reasonably convey possession of the subject matter. *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563-64 (Fed. Cir. 1991). The ’728 provisional fails to meet this standard. EX1003, ¶¶63-66.

The ’728 provisional does not contain adequate disclosure for the full breadth of the ’892 patent claims.⁴ The ’892 patent’s effective filing date is

⁴ Claims 7 and 12 are also not supported because iCharts added new interactive features to the ’892 patent, including audio, video, animation, and drill-

September 5, 2008.

B. iCharts does not show conception of the claimed inventions.

iCharts also alleges the inventors conceived of the invention “as early as June 4, 2008.” POR, 56. “Conception is the formation ‘in the mind of the inventor of a definite and permanent idea of the complete and operative invention, as it is therefore to be applied in practice.’” *Kridl v. McCormick*, 105 F.3d 1446, 1449 (Fed. Cir. 1997). Conception must encompass all limitations of the claimed invention, *see id.*, and “is complete only when the idea is so clearly defined in the inventor’s mind that only ordinary skill would be necessary to reduce the invention to practice.” *Burroughs Wellcome Co. v. Barr Lab’ys., Inc.*, 40 F.3d 1223, 1228 (Fed. Cir. 1994).

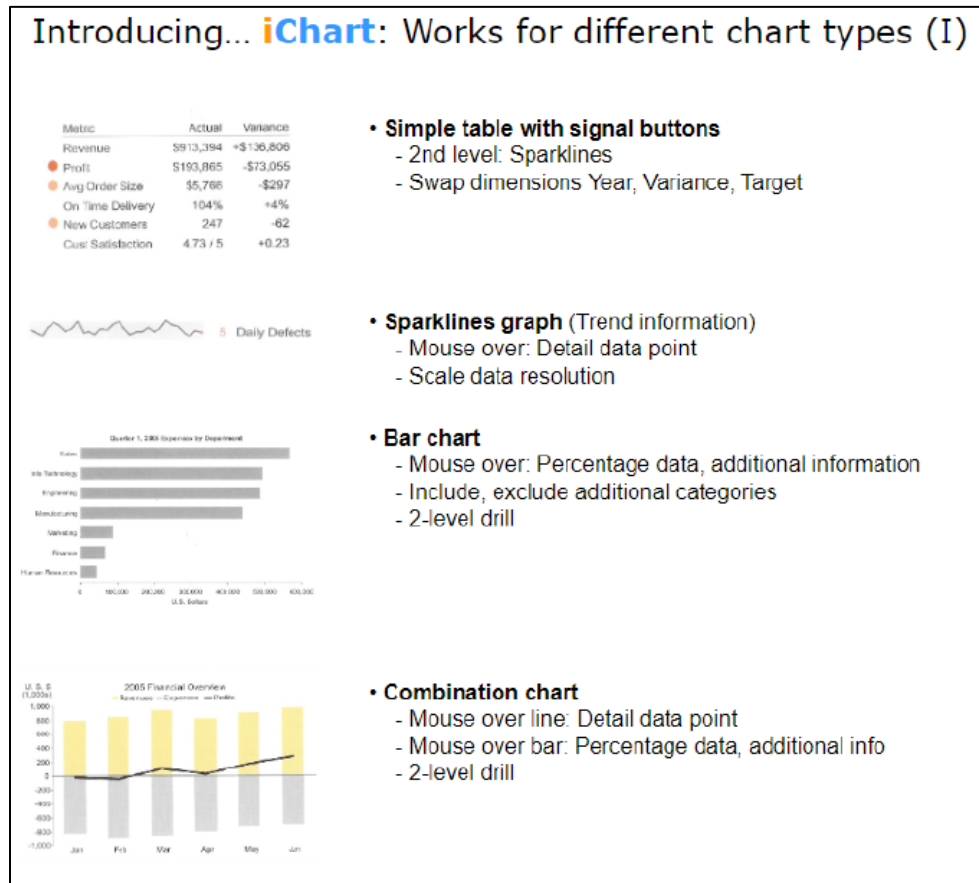
iCharts has not shown conception of a complete and operative invention by June 4, 2008.

1. iCharts does not show that the inventors used chart templates.

iCharts has not demonstrated the inventors conceived of “*a chart template module configured to store chart templates*,” as recited in claim 1 ([1B]), or “*receiving a user selection of a chart template in the chart pane, wherein the chart template is stored in a chart template module located on a remote server*,” as

down. EX1003, ¶68.

recited in claim 10 ([10C]). iCharts cites the following excerpt:

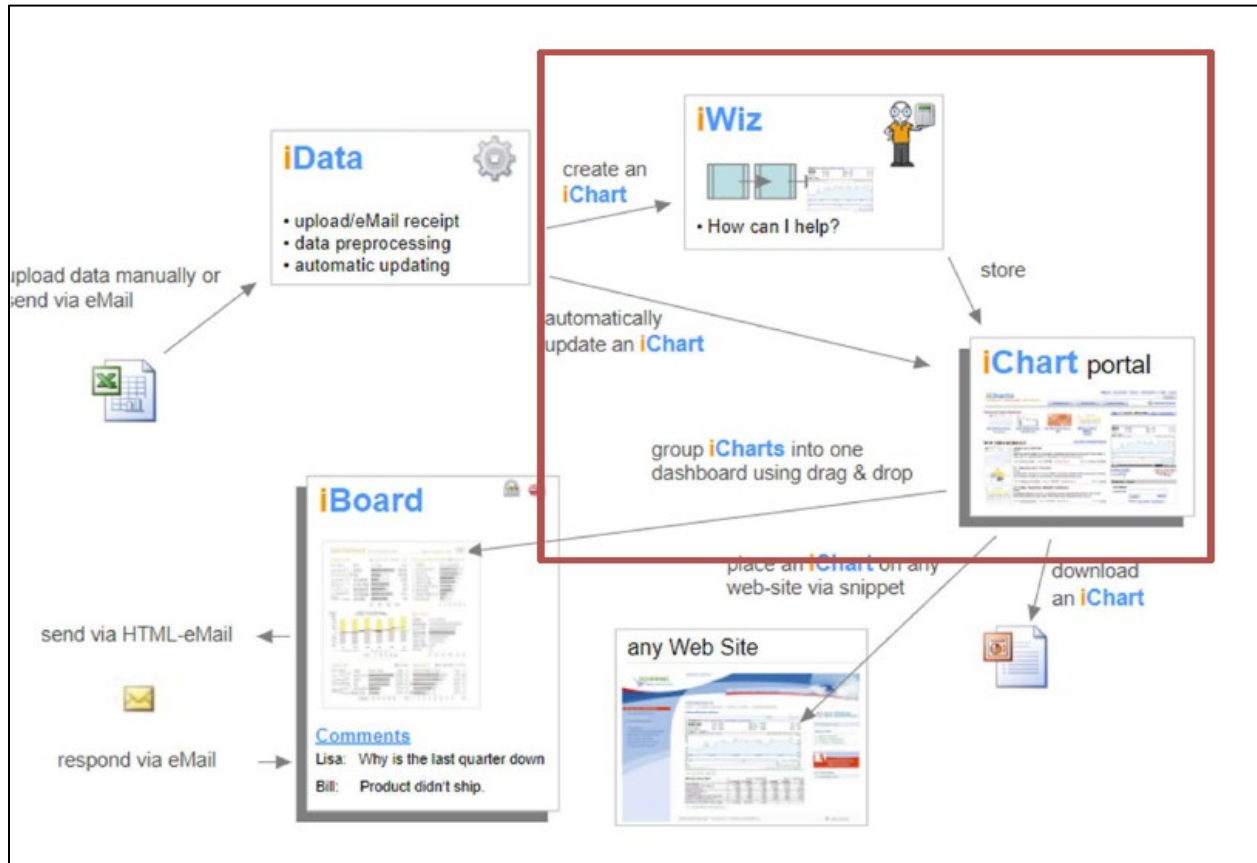


POR, 58 (citing EX2007).

Although a chart type can be part of a chart template (EX1071, 18:5-7, 24:24-25:2; EX1070, 23:22-24:20), the '892 patent differentiates between the two. EX1001, 10:17-22 (exemplary chart types), 16:28-30 ("The preset chart templates 4012 store formatting settings...."), FIG. 40B (including preset chart templates and chart types in separate tabs); EX1072, ¶¶28-34. As Mr. Duncker conceded, a chart template requires more than chart type alone. EX1071, 25:11-21.

For [10C], iCharts cites the following excerpt, which does not refer to chart

templates or chart types at all. EX1072, ¶¶35-37. Nor does the following excerpt show a “*chart template module located on a remote server.*” See EX1071, 70:25-71:3 (“This is a user flow ... it does not show a server.”).



POR, 68 (citing EX2005).

During deposition, Mr. Duncker alleged that a server existed at the iChart portal but conceded the template module is not stored on this server. See EX1071, 71:9-73:24. Accordingly, iCharts’ conception evidence does not show a chart template module located on a remote server—or chart template modules at all. EX1072, ¶37.

Mr. Duncker’s mapping of the evidence likewise does not show chart

templates.⁵ Mr. Duncker cites the same two excerpts and additional excerpts showing chart types. EX2200, 11-13, 43. That iCharts allegedly worked for different chart types does not show possession of elements [1B] and [10C]. EX1072, ¶¶35-36.

2. iCharts does not show possession of the computer system architecture recited in claims 1 and 10.

Claim 1 recites “[a] computer system comprising: a data module ... a chart template module ... a generation module ... [and] a sharing module.” Claim 10 recites “[a] computer-implemented method” involving “a chart template module” and “a remote server.” iCharts has not shown conception of this computer system architecture.

According to iCharts and Dr. Miller, “[a] POSITA would have understood that a module is a self-contained unit of code or hardware that performs a specific function that can be combined with other modules to create a larger system.” EX2201, ¶31; POR, 52 (citing EX2201, ¶31). Mr. Duncker admitted his conception evidence does *not* show code or hardware. *E.g.*, EX1071, 29:16-23, 33:25-35:5, 46:20-23. He also admitted the evidence does not show a template module located on a remote server, as recited in claim 10. *See* EX1071, 70:25-

⁵ The Board should also not consider Mr. Duncker’s improperly incorporated-by-reference arguments. 37 C.F.R. §42.6(a)(3).

73:24. Tableau’s expert, Mr. Schmandt, agrees with Mr. Duncker. EX1072, ¶¶38-42. The conception evidence is deficient on this additional basis.

C. iCharts’ conception and diligence evidence is not corroborated.

Even if Mr. Duncker’s testimony and documents showed every element of the claims (they do not), the evidence is not sufficiently corroborated to establish conception. Mr. Duncker’s testimony must be corroborated because he is an inventor with a [REDACTED] financial interest in this case [REDACTED]. [REDACTED]. *Mahurkar v. C.R. Bard, Inc.*, 79 F.3d 1572, 1577 (Fed. Cir. 1996); EX1071, 95:12-14; EX1077, 2. Indeed, “[e]ven the most credible inventor testimony is *a fortiori* required to be corroborated by independent evidence.” *Medichem S.A. v. Rolabo, S.L.*, 437 F.3d 1157, 1171-72 (Fed. Cir. 2006).

An “inventor ... must provide independent corroborating evidence in addition to his own statements and documents.” *Hahn v. Wong*, 892 F.2d 1028, 1032 (Fed. Cir. 1989). And neither the inventor nor interested party can authenticate the date or origin of the corroborating evidence. *See Apator Miitors ApS v. Kamstrup A/S*, 887 F.3d 1293, 1294-96 (Fed. Cir. 2018) (affirming inventors’ emails and documents provided insufficient corroborative evidence); *Microsoft Corp. v. Surfcaster, Inc.*, IPR2013-00292, Paper 93 at *17-20 (P.T.A.B. Oct. 14, 2014).

Similar to *Apator*, iCharts relies on Mr. Duncker’s testimony, emails, and

documents to support conception and diligence. POR, 55-78. For example, iCharts cites EX1015 as evidence of conception, alleging the last modified date is June 4, 2008. *E.g.*, POR, 61; EX2200, 20-21. iCharts has not filed any evidence, outside of inventor testimony, to verify this date. Nor has iCharts filed evidence to verify the dates listed on the other documents cited for corroboration. Without adequate corroboration, iCharts cannot establish conception or diligence. *Aptator*, 887 F.3d at 1296-97.

IX. Ground 7: The QlikView Manuals

According to iCharts, the “QlikView Manuals do not disclose (1) a sharing module, (2) a self-contained and independent electronic document, or (3) a self-contained and independent interactive chart.” POR, 78. iCharts is incorrect.

A. The QlikView Manuals disclose a sharing module.

The QlikView Manuals disclose “*a sharing module*” configured to enable a user to publish or embed interactive charts. The QlikView Manuals include at least two sharing modules for this purpose. Pet., 64-68.

First, QlikView includes an “Objects Client Page Generator” enabling users to publish or embed interactive charts (e.g., a qvw file) as a webpage. EX1009, 0134; EX1008, 0807; Pet., 64-66. “[G]enerated pages will be saved in a location of your choice in separate folders for each client type, **ready for publication** on your web server.” EX1008, 0807. A webpage is an example of an electronic document.

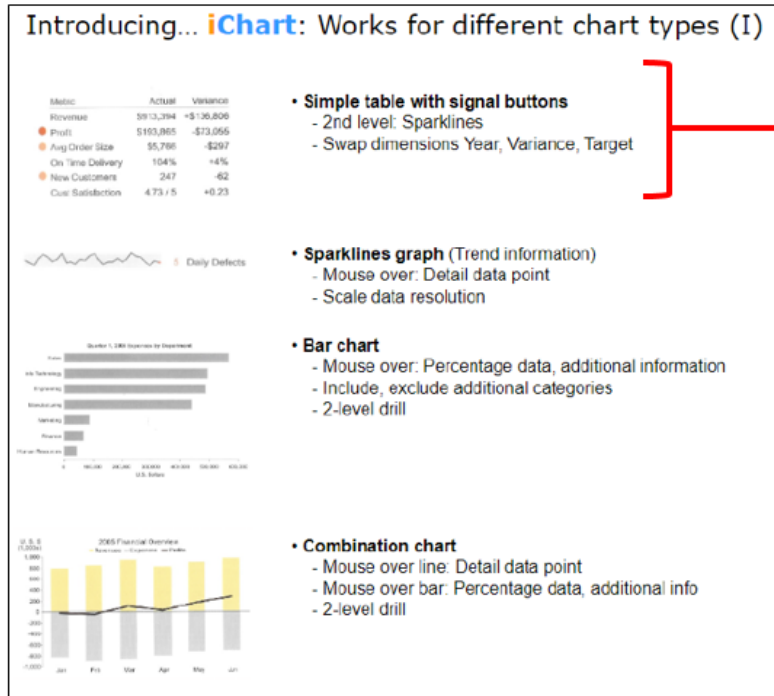
EX1001, 1:23-26; Pet., 64.

Second, the QlikView Manuals disclose a sharing module enabling a user to publish or embed an interactive chart via Microsoft Excel. Pet., 68. For example, a Web Folders page and QlikView Analyzer both enable a user to export QlikView tables to Excel. EX1009, 0069-70, 0204; *see also* EX1008, 0030, 1064-65, 1084-85; EX1003, ¶348. iCharts disputes that tables are charts. POR, 86-87. But under the plain and ordinary meaning, which both parties apply, tables are charts:

Chart A common name for bar charts, pie charts, funnel charts, line charts, grid charts, scatter plots, *pivot tables* and *straight tables*. Charts show aggregated values of the data, i.e. one item in a chart (*a cell in a pivot table*, a bar in a bar chart, etc.) corresponds to several records in the logical tables.

EX1008, 1313; *see also* Pet., 62; EX1072, ¶¶43-46.

iCharts' documentation at the time of the alleged invention also referred to tables as charts. EX1072, ¶47.



Listing Table as a
Chart Type

POR, 58; EX2007, 0007.

B. In QlikView, the published or embedded interactive chart/electronic document is “self-contained and independent.”

The QlikView Manuals also disclose that the published or embedded interactive chart/electronic document⁶ is “*self-contained and independent.*” For example, the Objects Client Page Generator enables a user to publish or embed a qvw file containing interactive charts as a webpage for use with a Java Objects

⁶ iCharts appears to differentiate “*the self-contained and independent interactive chart*” and the “*self-contained and independent electronic document.*” POR, 78. But these elements are one and the same, with the former antecedently referencing the latter in claim 1.

client. Pet., 67 (citing EX1009, 0134). The Java Objects client is “self-contained and independent” from the generation module used to create the interactive charts (e.g., QlikView Publisher). EX1003, ¶¶346-347. Indeed, as shown in the Petition (at 67-68), the Java Objects client leverages Java programs, which are “self-contained applications written in Java” and a Java Runtime Environment, which is “a plug-in to an internet browser which creates a ‘sand-box’ for running applets written in Java inside the browser.” EX1009, 0199.

Indeed, the applicant explained during prosecution that the interactive chart/electronic document is “self-contained” and “independent” relative to the “generation interface.” EX1002, 0355; EX1072, ¶¶54-55. The same is true with QlikView. An interactive chart can be embedded or published as “an electronic document” which can be downloaded as a “self-contained” qvw file. EX1072, ¶56. The qvw file can then be opened in a client (e.g., a Java client) independent of QlikView Publisher. *Id.*

iCharts argues QlikView charts published on a webpage are not self-contained and independent because “each open chart/table must be recalculated on the server after each change in the logical state.” POR, 80. But re-publishing or updating a chart with new data through a back-end server is analogous to the ’892 patent, which modifies the data associated with the interactive chart by generating a second flash object and then re-publishes the modified interactive chart. EX1001,

2:45-48, 3:38-39, 15:40-44; EX1072, ¶¶50-53. Indeed, for this claim element, iCharts relies on HTML embed code with a file path to iCharts' server. POR, 61; EX2200, 20; *see also* EX2014 (HTML code displaying whatever Flash file is located at "src=http://pilot.icharts.net/icharts/onlineIChart.swf"). Similar to QlikView, the self-contained and independent interactive chart would be updated when the file at this source is updated with new data and the browser was refreshed. *See* EX1071, 55:10-56:4; EX1072, ¶¶51-53. Nonetheless, the chart is "self-contained and independent" because it is viewable and interactive without the generation interface (e.g., QlikView Publisher).

With respect to publishing or embedding QlikView tables as an Excel document, iCharts does not dispute the published or embedded table is "self-contained and independent." *See* POR, 86-87. If the Board determines tables are charts (they are), the export to Excel function discloses this element.

X. Ground 8: QlikView Manuals-Couckuyt

A. Motivation to Combine

iCharts alleges QlikView already "describe[s] a straightforward way to use the Chart Wizard to add data fields to the Chart." POR, 88. However, that a reference describes one way of performing a function does not make another, more intuitive way any less obvious. *See In re Fulton*, 391 F.3d 1195 (Fed. Cir. 2004), 1201; *Intel*, 61 F.4th at 1380.

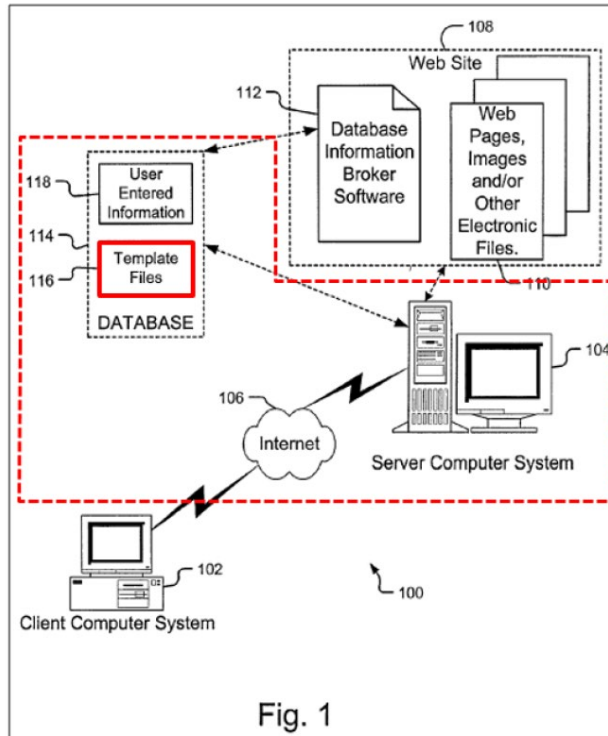
As Mr. Schmandt explains, there are advantages for implementing Couckuyt's drag-and-drop into the dimensions tab of QlikView's UI. EX1003, ¶¶385-391; Pet., 78. This is contrary to *Virtek Vision* (cited at POR, 88), where the expert admitted *eleven times* he did not provide a reason to combine. *See Virtek Vision Int'l ULC v. Assembly Guidance Sys., Inc.*, 97 F.4th 882, 887 (Fed. Cir. 2024). Moreover, iCharts does not dispute that dragging data from one pane to another was well known and that its use yielded predictable results. *Compare* Pet., 79, *with* POR, 87-88.

B. Ground 8 discloses every element of claims 3 and 10-16.

If the Board determines QlikView teaches the elements in claim 1 and a POSA would have combined QlikView and Couckuyt, iCharts does not dispute any other elements of these claims. POR, 88-90.

XI. Ground 9: QlikView Manuals-Couckuyt-Keys

iCharts does not dispute the motivation to combine but alleges "Keys does not disclose, teach, or suggest ... a 'chart template module located on a remote server.'" POR, 90. As explained above, Keys stores templates on a remote server. *Supra* Section V. Combined with QlikView, which uses chart templates (also called themes), the template files would be "*in a chart template module located on a remote server.*" Pet., 91; EX1003, ¶443.



Pet., 49 (annotating EX1034, FIG. 1).

XII. Ground 10: QlikView Manuals-Moyer

Tableau disagrees with iCharts' arguments. Pet., 92-93; POR, 92. However, the Board need not resolve this dispute because iCharts does not dispute QlikView's teaching of a "*copy-to-my-account feature*." POR, 87; Pet., 74 (including claim 6 in Ground 7).

XIII. Conclusion

The Board should find the challenged claims unpatentable.

Respectfully submitted,

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CERTIFICATE OF WORD COUNT (37 C.F.R. § 42.24(d))

1. This Petitioner's Reply complies with the type-volume limitation of 5,600 words, comprising 5,600 words, excluding the parts exempted by 37 C.F.R. § 42.24(c).

2. This Petitioner's Reply complies with the general format requirements of 37 C.F.R. § 42.6(a) and has been prepared using Microsoft® Word 2016 in 14-point Times New Roman font.

Respectfully submitted,

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

I certify that the above-captioned **PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE** and associated Exhibits 1069-1076 were served in their entireties upon the Patent Owner on October 29, 2025, upon the following parties via email:

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