

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TABLEAU SOFTWARE, LLC

Petitioner,

v.

iCHARTS LLC

Patent Owner.

Case No. IPR2024-01387

U.S. Patent No. 8,271,892

**SUR-REPLY TO PETITIONER’S REPLY TO PATENT OWNER’S
RESPONSE TO INSTITUTION OF *INTER PARTES* REVIEW**

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Patent Trial and Appeal Board

U.S. Patent and Trademark Office

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I. INTRODUCTION

Petitioner has not met its burden of showing unpatentability of the '892 Patent by the preponderance of the evidence. The Decision Granting Institution ("DI" or "Decision") found a reasonable likelihood that Petitioner would prevail only with respect to a challenge based on the QlikView Manuals or a combination of the QlikView Manuals and Couckuyt (DI pp.23-28). Patent Owner's Response set forth overwhelming evidence not previously before the Board, showing that the QlikView Manuals are not prior art. POR pp.49-78. In any event, because a QlikView document must be recalculated on the server after each change in the logical state, the QlikView document is not self-contained and independent, thus failing to disclose key limitations. POR pp.80-81. Petitioner's Reply falls far short of rebutting these points. Couckuyt, Keys, and Moyer do not make up for the deficiencies of the QlikView Manuals.

As for Petitioners other primary reference, Becerra, the Board correctly found that "Petitioner does not clearly explain how exporting a control panel as a separate file teaches 'enabl[ing] a user to publish or embed the interactive chart'" as required by claim limitation [1E]. DI p.34. Becerra also does not disclose a chart template module, does not disclose re-rendering, and does not disclose modules for generating and sharing an interactive chart as required by the claims. Couckuyt, Jou, Keys, and Moyer do not make up for the deficiencies of Becerra.

II. CLAIM CONSTRUCTION

Petitioner now advances a new claim construction position after the Board was not persuaded that Becerra’s exporting the control panel to a separate file is sufficient to teach the publishing aspect of limitation [1E]. DI p.35. Patent Owner presented evidence that a “POSA would understand that exporting or saving a file is different from publishing or embedding the control panel. EX2001 ¶136.” POR p. 33.

Despite both the Patent Owner and Petitioner agreeing that the terms of the claims should be construed according to their plain and ordinary meaning (Petition pp.4-5; POR p.24), Petitioner now argues that “publish[ing]” should be construed to encompass downloading. But Petitioner never argued that Becerra “downloaded” anything. Petitioner merely pointed to Becerra “saving” or “exporting” a control panel as satisfying the limitation, not downloading. Petition pp.24-27, 29. Becerra does not disclose downloading a file (e.g., copying data from one computer to another) but merely saving the control panel as a file in the storage of the same computer or exporting the control panel. EX1005 [0052].

Even so, the publishing limitation requires more than downloading or saving a document. Petitioner’s reliance on the claim language and prosecution history does not suggest otherwise. Reply pp.1-5.

Turning to the claim language, Petitioner drops or misconstrues key terms when referring to claims 1 and 10. Petitioner misleads twice in saying that (1) that “[c]laims 1 and 10 each recite ‘***publish[ing] or embedding the interactive chart as*** a self-contained and independent electronic document’ (Reply p.1) and (2) claim 1 “recites “*publish[ing] ... as a self-contained and independent electronic document.*” Reply p.2. What claim 1 **actually recites** is “a sharing module **configured to enable a user to publish** or embed ***the*** interactive chart as a self-contained and independent electronic document.” EX1001 18:43-45 (emphasis added). Moreover, in contrast to claim 1, claim 10 refers to “automatically generating an interactive chart” followed by a separate limitation of “publishing and embedding the interactive chart as a self-contained and independent electronic document” (EX1001 19:22-26). The claims require more than downloading a file.

The specification describes the sharing module as allowing a user to publish or embed, not download it. EX1001 2:49-54 (“According to another aspect of the invention, **a sharing module to publish or embed the interactive chart**”); 3:5-6 (“The sharing module may be configured to publish or embed the interactive chart with interactive features”).

The specification makes clear that publishing, embedding, and downloading are three distinct functionalities. *Id.* 11:43-48 (“publishing the chart in a web page (block **832**), embedding the chart in an electronic document (block **836**),

downloading the chart as an interactive self-contained object that can be embedded elsewhere (block **837**), publishing the chart to [t]he public section of the web portal (block **838**)”); 6:50-51 (“The user can then publish the interactive chart online or download and embed the chart”).

As inventor Seymour Duncker testified, downloading is a separate feature from publishing or embedding. EX1071 58:21-25, 59:1.

Petitioner seeks to conflate “publish[ing]” with downloading, which is not supported by the claims or specification.

Petitioner’s reliance on the publish button of FIG. 30 for support for its claim construction lacks merit. FIG. 30 does not support a construction that publishing is downloading as read in light of the specification. The description of FIG. 30 states that a “user can share the chart 1700 by publishing the chart, as shown . . . in FIG. 30 [], by selecting the publish button 1616.” EX2001 ¶33. In the two examples described in specification, a further popup window appears allowing the user to share the chart. *Id.* ¶34. “The user can then publish the chart online.” *Id.*

This is confirmed by embodiments shown in FIGS. 40A-40C of the ’892 patent that show separate buttons or interfaces for “Publish” and “Download.” EX1001 FIGS.40A-40C; EX1071 98:5-10, which is consistent with claims 1 and 10, which do not mention downloading or exporting. FIG. 40A is shown below.

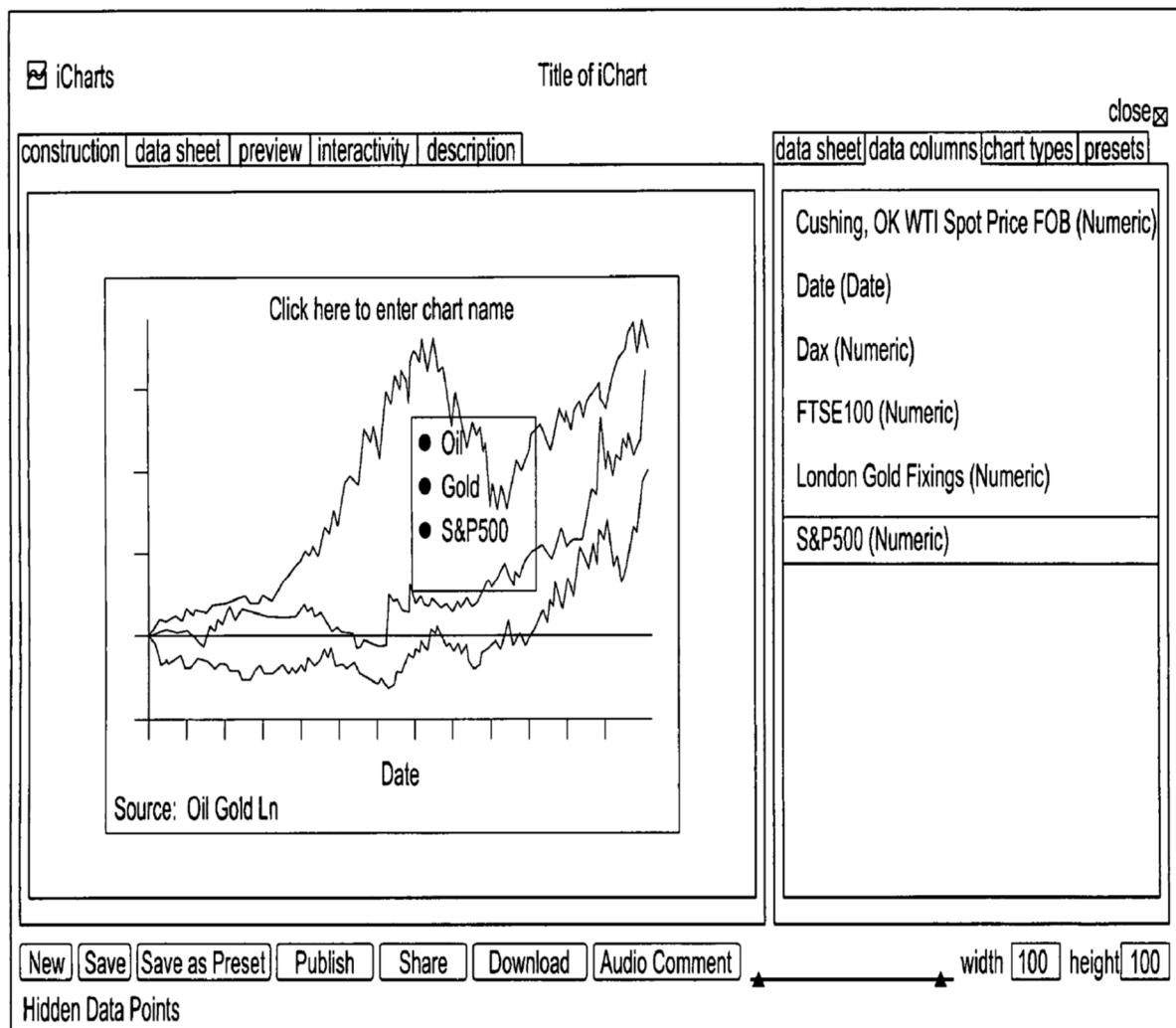


FIG. 40A

In a misguided attempt to find support in the prosecution history, Petitioner drops the last part of the sentence that Petitioner points to. The full sentence of the prosecution history says that “[f]urther, 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 **‘independent of the**

web portal’ (generation interface) (page 21, last two lines).” EX1002 p.355 (emphasis added). The context of this full quote shows two aspects. The first is embedded or published as an electronic document. The second aspect is that an electronic document can be downloaded as a self-contained file independent of the web portal (generation interface). This does not establish that the inventors meant that publishing is downloading. At most, downloading or saving can be part of publishing, but falls far short of what is required to publish. We can all write words on a piece of paper, but that does not mean you have published a book.

There is no support for Petitioner’s position that creation of a Flash file is a form of publishing. Reply p.2. A plain reading of the claims requires both a generation module to create an interactive chart and a sharing module to share/publish it. In fact, Mr. Duncker testified the product allowed a “user to create the interactive chart, [and] there was **then** the capability to publish that chart.” EX1071 10:22-24 (emphasis added).

EX2015—a power point presentation concerning the development of the iCharts product—does not support Petitioner. These images are not included in the provisional and have no evidentiary value as to the meaning of the claim terms in the patent. Further, at deposition Seymour Duncker made clear that the Shockwave Flash File shown in EX2015 p.17 was downloaded, not created by publishing: “So I’m pretty certain, if we would—this would—should be written, should be actually

saying download, not publish. And we probably didn't sufficiently think to the exact meaning of the phrases at that time when we wrote this. So the bottom part is download. The upper part is publish.” EX1071 47:13-25, 48:1-11.

In sum, the plain and ordinary meaning of publish is not simply creating and saving a file as the Board correctly observed when noting that Petitioner failed to show Becerra teaches the publishing aspect of limitation [1E]. DI p.35.

III. EACH GROUND FAILS TO SHOW THAT THE CHALLENGED CLAIMS WOULD HAVE BEEN OBVIOUS

A. Ground 1: Becerra Alone

1. Element [1A]

Petitioner has failed to point to any data module in Becerra configured to store data. Jeffrey Miller’s testimony that the data module of claim 1 of the ’892 patent is part of the computer system (EX1070 22:12-14), does not help the Petitioner. Becerra discloses binding components to cells of a spreadsheet application program and then extracting an applicable math model. EX1005 [0036]-[0042]. Becerra discloses that the program automatically extracts the formulas from the spreadsheet that are necessary to reproduce the mathematical model implicit in the selected cells. EX1005 [0024]. Thus, the spreadsheet of Becerra acts as a source for extracting formulas, not as a data module.

The internal data structure referred to by Petitioner is not a module to configured to store data. EX2001 ¶122. It is generated by a Calculation Engine and consists of a set of expression trees which represent each of the formulas in the intermediate and output cells. EX1005 [0045]:3-6.

2. Element [1B]

Although Becerra discloses components selected from preexisting files or libraries that may include charts, EX1005 [0010]:1-10, Becerra does not disclose that those charts are chart templates. EX2001 ¶128. Becerra does not disclose preset chart templates with formatting settings. *Id.*

Being allowed to pick a preset chart type is not a chart template. As stated in the specification, “users can store the chart **1700** as a chart template by selecting the save as preset button **1612**. **Chart templates allow the users to create interactive charts in the future that have the same look and feel as the generated chart 1700.**” EX1001 13:57-61 (emphasis added). The ’892 patent further recites:

“FIG. 40A illustrates a chart 4004 that has a first look and feel. As shown in FIG. 40B, a user can select the preset tab 4008 which includes several selectable preset chart templates 4012. If a user selects one of the preset chart templates 4012, the chart 4004 is automatically updated to have the look and feel as the selected preset

template chart 4012, as shown in FIG. 40C. **The preset chart templates 4012 store formatting settings, such as colors, chart size, fonts, line thickness, etc., as a set.** A preset can be created by saving any chart as a preset.”

EX1001 16:22-31 (emphasis added). Jeffrey Miller’s testimony regarding FIG. 40B is consistent with this. Mr. Miller testified that the presets show chart *templates*. EX1070 23:22-24:2.

Moreover, “Chart types” is shown in a separate tab on Figure 40B than the “presets” tab, as shown below

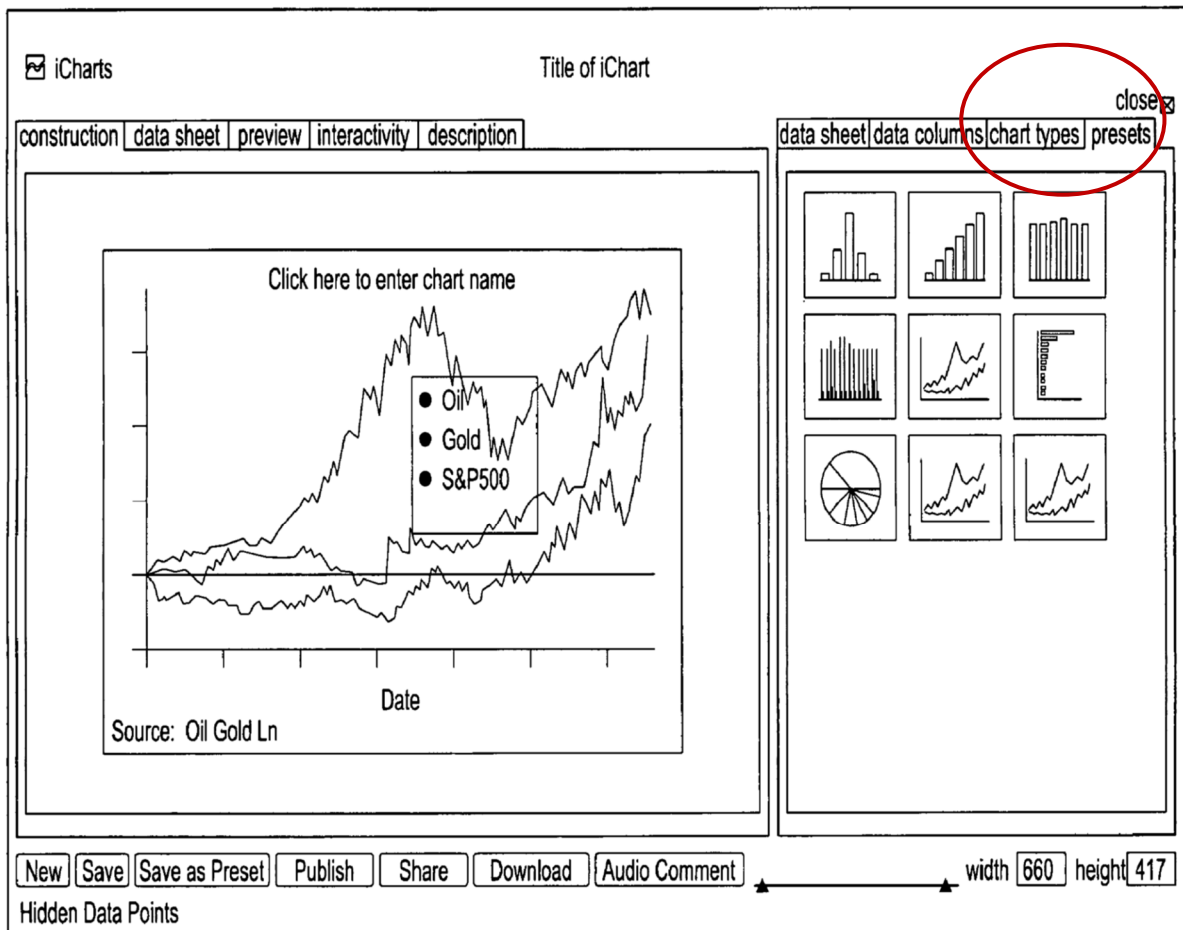


FIG. 40B

Contrary to Petitioner's suggestion, Seymour Duncker's testimony is consistent with this. EX1071 25:18-21.

In short, a chart type (e.g., bar chart) is not a chart template.

Petitioner's citation to Plaintiff iCharts' First Amended Asserted Claims, Infringement Contentions, and Document Production Disclosures (EX1058), is an improper "gap-fill" that should be disregarded. *See* PTAB Consolidated Trial

Practice Guide pp. 73-75 (November 2019) (“CTPG”). In any event, infringement contentions are meant to provide notice of where the infringing features can be found in the accused product, not to detail the infringement to the level of an expert report, so this evidence is irrelevant other than to note that Tableau’s product does contain chart templates consistent with the plain and ordinary meaning relied upon by Patent Owner.¹

Becerra does not disclose that the preexisting files or libraries comprise a module configured to store chart templates. EX2001 ¶¶125-128. Although Becerra refers to various components such as sliders, buttons, checkboxes, charts, maps, moving characters or objects, special effects, bar graphs, line plots, and pie charts, EX1005 [0010], [0019], [0032], Becerra does not disclose a module configured to store chart templates.

3. Elements [1C] and [1D]

Becerra relies on a math model to create a Flash movie based on Actionscript code. EX2001 ¶132. Becerra discloses that the program automatically

¹ The URL at EX1058 p.0038 discloses picking details, such as color and size.

EX1058 at p.0039 refers to the Tableau Show Me tab that shows multiple chart templates.

extracts formulas from the spreadsheet that are necessary to reproduce the mathematical model implicit in the selected cells. EX1005 [0024]. The Actionscript code of Becerra is based on expression trees from the math calculations. EX1005 [0051]. Despite Petitioner's arguments to the contrary, the resulting control panel of Becerra is thus not generated from "data" in the "data storage module." EX2001 ¶133. Although the '892 patent references Flash, Becerra fails to disclose the generation interface of claim 1.

4. Element [1E]

Petition relies on Becerra's disclosure of exporting the control panel or saving the control panel as a separate file to satisfy the publication limitation. Petition p.25. The Board correctly found, however, "Petitioner does not clearly explain how exporting a control panel as a separate file teaches 'enabl[ing] a user to publish or embed the interactive chart'" as required by claim limitation [1E]. DI p.34.

In the Reply, Petitioner has introduced new arguments regarding the publishing and embedding limitations by arguing that saving is downloading which in turn satisfies the publishing limitation. These new arguments are improper and must be disregarded. *See Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed Cir. 2016).

As Patent Owner set forth in Section II above, there is no support for the Petitioner's view that publishing encompasses exporting the interactive chart as a self-contained and independent electronic document for download.

Petitioner's other new improper argument—that “[t]here is no dispute that downloading a Flash file, as in Becerra's system, would “*enable a user to publish or embed the interactive chart*”, Reply p.9—also lacks merit. Becerra does not teach “downloading,” “publishing,” or “embedding.” Instead, Becerra states the following:

“After a control panel is created as described above, it may be exported such that it is no longer dependent in any way on either the tool that created it or the spreadsheet that was used to create it...In a preferred embodiment, this control panel may be saved as a separate file that is executable by a standalone program (e.g., Flash Player™) that is independent of the layout tool or spreadsheet used to create it.”

EX1005 [0052].

Claims 1 and 10 of the '892 patent refer to “published or embedded” and neither of those claims refers to downloading, which according to the specification is a separate functionality. EX1001 6;50-51; 11:43-48; 18:52, 20:7-8.

Furthermore, the testimony of Dr. Miller and Mr. Duncker that the Petitioner relies upon for support (Reply p.9) refers to Patent Owner's **own inventive**

system, not to that of Becerra, so that testimony does not provide support for Petitioner. See EX1070 30:6-35:10, EX1071 46:24-48:25. It is impermissible to use the challenged patent itself as a roadmap in analyzing the prior art. *TQ Delta, LLC v. Cisco Sys.*, 942 F.3d 1352, 1360 (Fed Cir. 2019).

Petitioner's other new improper argument is based on the Elfarssi article (EX1074), which an improper "gap-fill" that should be disregarded. See PTAB CTPG pp.73-75. In any event, Becerra makes no mention of embedding or publishing, or even hints at embedding or publishing, so there is no teaching, suggestion, or motivation of a combination with the Elfarssi article. Petitioner is using impermissible hindsight based on the contents of the '892 patent to add features to Becerra—which the Petition relied upon for a one-reference obviousness argument—that are not contemplated by Becerra. See *TQ Delta, LLC*, 942 F.3d at 1360.

5. Element [1F]

Petitioner is mistaken in arguing that the fact that Becerra and the '892 patent both disclose Flash players means that "rerender" limitation of the '892 patent is met by Becerra. Becerra discloses generating an interactive simulation of a control pane with a bar chart component, EX1005 [0011]:1-6, [0032], not an interactive chart.

What Becerra discloses is that by manipulating or adjusting input components of Becerra (e.g., sliders and rotating knobs), output components of the control panel dynamically change in accordance with a mathematical model within the range of the component. EX1005 [0052]:8-12. The control panel is playing a different part of the movie based on the Actionscript code, not rerendering a chart. EX2001 ¶139. In other words, Becerra's system is limited to re-executing a fixed simulation with a defined mathematical model, lacking the ability to perform a rerender of the chart's structure or data outside that hardcoded model. *see id.*, EX1070 49:24-50:3 ("Becerra does not allow rerendering to happen because the data is not present in the control panel. It's only the mathematical models that are used to create expression trees that changes the image that is shown in Becerra's control panel."). Petitioner incorrectly points to the specification of the '892 patent because it uses Adobe flash player to carry out the rerendering to imply that Becerra also performs rerendering, but that is not the case as Dr. Miller explained in his testimony. *Id.* 49:2-50:11.

Additionally, the testimony of Dr. Miller that the Petitioner relies upon (Reply p.10) refers to the description of the '892 patent, not to that of Becerra, so that testimony does not provide support for Petitioner. *See* EX1070 39:13-42:17. Becerra does not disclose rerendering a chart. EX2001 ¶139.

6. Claim 7

Because Petitioner has failed to show that Becerra renders claims 1 and 5 obvious, Petitioner necessarily fails to show that Becerra teaches claim 7 given that claim 7 depends on claim 5, which depends on claim 1. EX2001 ¶¶140-141.²

B. Ground 2: Becerra-Couckuyt, claims 3, 10-11, and 13-16

Becerra teaches away from Couckuyt’s “drag and drop” because Becerra would require much more than taking spreadsheet 400 of Becerra and dropping it elsewhere. EX1005 [0042] (“[t]he process of associating components with cells involves not only associating components to data values found in those cells but also associating the components to underlying mathematical formulas or models that determine the data values of those cells.”). Thus, Couckuyt does not simplify the assigning of data to multiple control panel components. *See* EX2001 ¶146. The fact that data source 300 of Couckuyt contains data does not help Petitioner.

Couckuyt may disclose generating a chart report having a single chart, EX1006 7:10-11, but Couckuyt’s ability to quickly change data fields to make display comparisons does not supply a motivation to combine Couckuyt with

² Patent Owner agrees that the language of claim 7 requires only at least one member of the Markush group.

Becerra. *See* EX2001 ¶148. The single chart option of Couckuyt would not be a suitable option because Becerra would require more than taking spreadsheet 400 of Becerra and dragging it elsewhere, as discussed above.

C. Ground 3: Becerra-Couckuyt-Keys

1. Becerra in view of Couckuyt and Keys does not render obvious claims 10-11 and 13-16

Petitioner's only argument is that Keys refers to graphs. However, Keys does not refer to chart(s), chart templates, or a chart template module. EX2001 ¶¶168-173.

D. Ground 4: Becerra-Moyer, claim 6

A POSA would not have been motivated to combine Becerra with Moyer. EX2001 ¶182. Moyer is directed to the need to present information about a video in a blog. EX1010 [0003]:1-14. Becerra, on the other hand, discloses creating a control panel that is an interactive graphics simulation. EX1005 [0011]:1-6. Petitioner's view that Moyer's "Blog This" button would be beneficial is based on impermissible hindsight based on the disclosure of the '892 patent. *See TQ Delta, LLC*, 942 F.3d at 1360. There simply was no teaching, suggestion, or motivation in the prior art to modify Becerra to include such a button.

The fact that the '892 patent has a copy to account feature and an interactive chart can be saved as a flash file does not provide support for Petitioner because it

is impermissible to use the challenged patent itself as a roadmap in analyzing the prior art. *TQ Delta, LLC*, 942 F.3d at 1360. The patent itself cannot supply a motivation to combine as Petitioner is arguing.

IV. Grounds 5 (Claim 7: Becerra and Jou) and 6 (Claim 12: Becerra, Couckuyt, Keys, and Jou)

Petitioner's reliance on Becerra's reference to data of business application software programs is misplaced because Becerra and Jou teach away from a combination. EX2001 ¶188. Becerra discloses a control panel that is an interactive graphics simulation, EX1005 [0011]:1-6, which contrasts with Jou, which is directed to visualization of business data organized according to a dimensional model, which may include several hierarchical levels of categories. EX1007[0002]:1-4, [0006]:1-13.

Testimony by Dr. Miller that a zoom feature for maps can be useful does not help Petitioner because such a modification would involve impermissible hindsight based on the disclosure of the '892 patent. *See* EX2001 ¶188.

Petitioner fails to refute Patent Owner's position that claim 12 cannot be used "as a frame, and individual, marked parts of separate prior art references ... employed as a mosaic to recreate a facsimile of the claimed invention." *Interconnect Planning v. Feil*, 774 F.2d 1132, 1143 (Fed. Cir. 1985). Response p.49.

A. The QlikView Manuals are not prior art

Petitioner has failed to undermine the extensive evidence Patent Owner has supplied showing that the QlikView Manuals are not prior art.

Petitioner is misguided in arguing that Patent Owner does not dispute the evidence supplied regarding the publication date of the QlikView Manuals. Patent Owner intends to move to exclude evidence that Petitioner relies on to establish the publication date for the QlikView Manuals, which in any event is after the priority date of the '892 patent. Response p.50.

1. The '892 patent is entitled to the filing date of the '728 provisional

Because the provisional provides §112 support for all elements, Qlikview is not prior art.

Petitioner's newfound concern about alleged incorporation by reference is at odds with Petitioner's own practices in this proceeding. For example, the 236-page Declaration of Schmandt (EX1003) includes a 27-page Technology Overview regarding Data Visualization Tools, Flash, JavaScript, Drag and Drop, and Panes. EX1003 ¶¶72-116. *See also* EX1003 ¶¶229-230, 318-329, 355-358 (Wine Selector Tool).

The claims of the '892 patent are supported by the provisional and do not rely on new matter. Response pp.52-55.

Contrary to Petitioner’s argument, a comparison of the claim limitations to the paragraphs cited in the Response makes clear that the limitations are found in the provisional. Response pp.51-55, e.g.:

Claim limitations	Provisional citations from Response
“computer system” architecture	EX1013 p.0045 (“on-line services for creating, sharing and embedding interactive charts”); EX2201 ¶¶33, 35.
“chart template module”	EX1013 p.0045 (“The service may include chart templates. Users can store templates that allow them to create charts that all have the same look and feel.”) and p.0061 (“Personal chart gallery...”); EX2201 ¶35.
“self-contained and independent document”	EX1013 p.0045 (“chart that can be embedded or published can be interactive.”)

2. The Patent Owner has shown conception of the claimed inventions.

For any claim limitation that is supported in the provisional, that limitation is sufficiently conceived of. Thus, this section is only relevant as to the limitations the Board finds are not disclosed in the provisional. Petitioner argues that Patent Owner has not shown conception of the claim template or computer system limitations through its additional conception evidence.

However, with respect to the chart template limitation ([1B] of claim 1 and [10C] of claim 10), the chart shown in EX2007 shows that they include presets such as colors, chart size, fonts, line thickness, etc., which are the presets set forth in the '892 patent. EX2007; EX1001 16:22-31. Also, EX2002 states that “[f]rom a gallery, users can select finished charts with predefined content from marquee professional data service providers (Bloomberg, etc.).”

With respect to [10C] of claim 10, EX2005 refers to “create an iChart” and “store” after the iWiz. This exhibit shows the selection of a chart template and storage of a chart template.

Mr. Duncker clarified that. “But, you know, you have a client server paradigm around the studio, right, and then you have, you know, remote servers where we can distribute towards. So you have multiple server constructs here.” EX1070 72:21-73:11. It follows from the above testimony of Mr. Duncker that there are

remote servers involved with respect to chart templates. Therefore, there is conception support for limitation [10C].

Patent Owner has therefore shown possession of elements [1B] and [10C].

Further, Patent Owner has shown conception of the computer system architecture. Response pp.57-74. In these cited pages, a POSITA would understand both software and hardware are required, as Mr. Dunker testified. EX1071 34:13-25 (“a web service requires hardware to—to implement.”); 73:3-5 (“Yeah, just to be clear, so from an overall construct, you have got multiple servers, multiple clients involved into making this entire construct work.”).

3. Patent Owner’s conception and diligence evidence is corroborated.

Petitioner argues Qlikview’s publication date is July 8, 2008. This date only matters as to the claim elements Petitioner claims (and the Board finds) are not sufficiently disclosed in the provisional filed on July 2, 2008. The utility application was filed shortly after, on September 5, 2008, leaving just a two-month gap between the provisional and utility filings. Thus, Petitioner’s hyper-technical, lack-of-corroboration arguments fail.

Patent Owner supplied ample evidence of conception by the inventors such as correspondence between the inventor and others, detailing the inventors were in possession of the invention before the critical date of July 8, 2008. Correspondence

further included evidence of reduction to practice, presentations, and marketing materials, along with corroborating metadata, and an inventor declaration. *See* EX2002-2196. Correspondence evidence from individuals other than the inventor include names, dates, and times in order to provide further corroboration that they originated from people beyond the inventor and his oral testimony. *See, e.g.,* EX2017, 2019, 2024, 2029, 2034, 2036, 2049, 2059, 2113, 2122, 2159, 2165, 2180, etc. It is undisputed that the iCharts company was launched with a fully functioning website on September 8, 2008—just three days after the filing of the utility application. EX2200 ¶32. To take Petitioner’s argument at face value would deny common sense.

Petitioner mistakenly equates standalone *oral* testimony with the written declaration, related exhibits, and deposition testimony that occurred here. In fact, Petitioner’s own cited decisions support *Patent Owner’s* position that inventor testimony *supported by more* allows for proper analysis under the recognized “rule of reason” analysis, where “all pertinent evidence is examined.” *Apator Miitors ApS v. Kamstrup A/S*, 887 F.3d 1293, 1295 (Fed. Cir. 2018); *see also, e.g., Medichem S.A. v. Rolabo, S.L.*, 437 F.3d 1157, 1171-72 (Fed. Cir. 2006); *Hahn v. Wong*, 892 F.2d 1028, 1032 (Fed. Cir. 1989). Contrary to Petitioner’s assertions, “the law does not impose an impossible standard of ‘independence’ on corroborative evidence by requiring that every point of a reduction to practice be

corroborated by evidence having a source totally independent of the inventor,” *Cooper v. Goldfarb*, 154 F.3d 1321, 1330 (Fed. Cir. 1998) (citations omitted), *even* in instances where the testifying party has an interest in the litigation as the same standard applies equally to any witnesses. *Finnigan Corp. v. United States Int’l Trade Comm’n*, 180 F.3d 1354, 1367-68 (Fed. Cir. 1999). Moreover, “it is not necessary to produce an actual over-the-shoulder observer” to corroborate every piece of evidence but, “[r]ather, sufficient circumstantial evidence of an independent nature can satisfy the corroboration requirement.” *Cooper*, 154 F.3d at 1330.

Additionally, the current proceedings are distinguishable from *Microsoft Corp. v. Surfcaster, Inc.*, IPR2013-00292, Paper 93 at *17-20 (P.T.A.B. Oct. 14, 2014), because there, the offered exhibits were challenged as to their authenticity and only *testimony* of financially interested parties were used to corroborate that evidence. Here, Patent Owner provided metadata to establish the dates and times of all documents relied upon.³

³ Petitioner raises improper evidentiary objections in its Reply at pp.25-26. Petitioner must file a motion to exclude or strike evidence based on authenticity. 37 C.F.R. §§ 42.12(b)(2), 42.20(a), 42.5(a), 42.7(a) (authority for motion to strike);

B. Ground 7: The QlikView Manuals: Claims 1, 2, and 5-9

Although the QlikView Manuals are not prior art, Patent Owner nevertheless addresses Petitioner's arguments regarding obviousness.

Each QlikView document is not self-contained and independent given that each open chart/table in a QlikView document must be recalculated on the server after each change in the logical state. EX2201 ¶50. Thus, there is no sharing module in the QlikView system for enabling a user to publish or embed an interactive chart as a self-contained and independent electronic document because a QlikView .qvw file is not self-contained and independent. EX2201 ¶50.

Petitioner is incorrect in asserting that the QlikView chart is self-contained and independent because it is viewable and interactive without the generation interface. QlikView server never relinquishes control of an electronic document, so

42.64(c) (motion to exclude). When Petitioner objected to the authenticity under 37 C.F.R. § 42.64(b)(1), Patent Owner provided additional evidence of authenticity, which was served but not yet filed with the Board pursuant to 37 C.F.R. § 42.64(b)(2). Should Petitioner file a motion to exclude, Patent Owner will rely on the additional evidence that has been served on Petitioner.

no electronic document is “self-contained and independent;” thus there is no “sharing module.” EX2201 ¶50.

Petitioner has departed from the plain and ordinary meaning of claim 1 by saying that a chart is “self-contained and independent” because the chart is viewable and interactive without the generation interface. EX1001 cl. 1[E], [F]. The plain and ordinary language of the claim shows that the sharing module limitation refers to “a self-contained and independent electronic document” and that this is preliminary to the rest of the claim. *Id.* 1[E]. The subsequent “wherein” limitation of 1[F] is not defining what it means to be “self-contained and independent.” Instead, it sets forth further limitations of this element.

The QlikView Manuals do not disclose sufficient details of how the QlikView Analyzer Java Client or the QlikView Analyzer Java Objects Client operate for Petitioner to meet its burden of proof. EX2201 ¶52. Petitioner is merely impermissibly speculating that the use of Java results in a chart that is self-contained and independent. *Id.*

Petitioner departs from the agreed upon use of the plain and ordinary meaning of the claim limitation “self-contained and independent” by resorting to the prosecution history to argue a different construction. This new argument is improper and must be disregarded. In any event, the prosecution history does not

help Petitioner given that the context was showing support in the specification for the amendment. EX1002 p.355.

Petitioner argues that the '892 patent “modifies the data associated with the interactive chart by generating a second flash object and then re-publishes the modified interactive chart.” Reply p.29. Petitioner’s argument lacks merit, however, because Petitioner is referring to an alternative embodiment of republishing, which is not claimed. Republishing is claimed in other iCharts patents where institution was denied. *See* IPR2024-01388, IPR2024-01389.

What QlikView Manuals disclose as being exported to Excel comprise data and tables. EX2001 ¶219. The data and tables are not charts, so this feature does not satisfy the claim limitation of an interactive chart. EX2201 ¶61. Petitioner has attempted to gap fill by relying on an alternative meaning of “chart” in a generic dictionary definition that should not only be ignored because it was readily available before Petitioner filed its IPR, but also because it is not specific to computer science. It is clear the specification refers to charts as presenting data as visualizations using shapes, colors, and chart types to highlight trends and comparisons, and not tables that display exact values in rows and columns. *See* EX1001 FIGs. 3-7. What is shown in EX2007 is a sparkline visualization associated with a simple table (with colored signal buttons) that is the source of

data for the sparkline visualization, allowing the user to generate “2nd level: Sparklines” showing trend information, thus not providing support for Petitioner.

In sum, Petitioner has not shown that a table can be an “interactive chart.”

C. Ground 8: QlikView Manuals-Couckuyt

Petitioner asserts that a reference describing one way of performing a function does not make another, more “intuitive” way any less obvious. But implementing the drag-and-drop feature in QlikView is not more intuitive than the straightforward way to add data fields to a chart

A reason for combining must exist. *Virtek Vision Int’l ULC v. Assembly Guidance Sys., Inc.*, 97 F.4th 882, 888 (Fed. Cir. 2024). Petitioner has not shown a reason to combine.

D. Ground 9: QlikView Manuals-Couckuyt-Keys

Although Keys refers to “graphs,” nowhere in Keys does Keys refer to chart(s), chart templates, or a chart template module. *Id.* ¶241.

E. Ground 10: QlikView Manuals-Moyer

Petitioner incorrectly contends that Patent Owner does not dispute QlikView’s teaching of a “copy-to-my-account” feature of claim 6. Patent Owner argued that Petitioner failed to show that the QlikView Manuals teach claim 5, Response p.87, so it necessarily follows that claim 6, which is dependent upon claim 5, likewise is not invalid in view of the QlikView Manuals. Patent Owner also argued Moyer

does not disclose, teach, or suggest interactive features that comprise a copy-to-my-account feature. Response p.92.

V. CONCLUSION

For the foregoing reasons, the Patent Owner respectfully requests that the Board find each of the claims of the '892 patent not invalid under the alleged grounds.

Dated: December 10, 2025

Respectfully submitted,

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Lead Counsel for Patent Owner
iCharts LLC

IPR2024-01387

U.S. Patent No. 8,271,892

CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(d), the undersigned certifies that this Response complies with the type-volume limitation of 37 C.F.R. § 42.24(b). The word count application of the word processing program used to prepare this Sur-Reply indicates that the Sur-Reply contains 5,434 words.

Dated: December 10, 2025

Respectfully submitted,

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U.S. Patent No. 8,271,892

CERTIFICATE OF SERVICE

The undersigned certifies that on December 10, 2025, a true and correct copy of the foregoing was served on Counsel for Petitioner via filing through the P-TACTS System, as well as by delivering a copy via electronic mail to the following:

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