

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TABLEAU SOFTWARE, LLC,
Petitioner,

v.

iCHARTS LLC,
Patent Owner.

IPR2024-01387
Patent 8,271,892 B2

Before DAVID C. McKONE, JASON M. REPKO, and
IFTIKHAR AHMED, *Administrative Patent Judges*.

AHMED, *Administrative Patent Judge*.

JUDGMENT

Final Written Decision

Determining All Challenged Claims Unpatentable

35 U.S.C. § 318(a)

Granting in part, Denying in part, and Dismissing in part

Patent Owner's Motion to Exclude

37 C.F.R. § 42.64(c)

Granting Petitioner's Motion to Strike

37 C.F.R. § 42.23(b)

I. INTRODUCTION

Tableau Software, LLC (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting an *inter partes* review of claims 1–16 of U.S. Patent No. 8,271,892 B2 (Ex. 1001, “the ’892 patent”). iCharts LLC (“Patent Owner”) filed a Preliminary Response (Paper 6). Applying the standard set forth in 35 U.S.C. § 314(a), we instituted an *inter partes* review as to the challenged claims and on the grounds raised in the Petition. Paper 7.

After institution, Patent Owner filed a Patent Owner Response (Paper 12, “PO Resp.”), Petitioner filed a Reply to Patent Owner’s Response (Paper 18, “Reply”),¹ and Patent Owner filed a Sur-reply (Paper 22, “Sur-reply”). An oral hearing was held on February 10, 2026, and a copy of the transcript was entered in the record. Paper 35 (“Tr.”).

We have jurisdiction pursuant to 35 U.S.C. § 6. This Decision is a Final Written Decision under 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73 as to the patentability of the claims on which we instituted trial. To prevail, Petitioner must prove unpatentability by a preponderance of the evidence. *See* 35 U.S.C. § 316(e); 37 C.F.R. § 42.1(d). Having reviewed the arguments and the supporting evidence, we determine that Petitioner has shown, by a preponderance of the evidence, that claims 1–16 of the ’892 patent are unpatentable.

II. BACKGROUND

A. *Real Parties in Interest*

Petitioner, Tableau Software, LLC, further identifies Salesforce, Inc., as a real party in interest. Pet. 94. Patent Owner identifies itself as a real party in interest. Paper 3, 1.

¹ A redacted version of Petitioner’s Reply has been filed as Paper 17.

B. Related Matters

The parties identify the following proceedings as related matters involving the '892 patent: *iCharts LLC v. Tableau Software, LLC*, No. 1:23-cv-01225 (W.D. Tex.); *iCharts LLC v. Tableau Software, LLC*, No. 3:24-cv-03157-WHA (N.D. Cal.)). Pet. 94; Paper 3, 1.

C. The '892 patent

The '892 patent, titled “Creation, Sharing and Embedding of Interactive Charts,” issued September 18, 2012, with claims 1–16. Ex. 1001, codes (45), (54), 18:33–20:24. The '892 patent discloses generating interactive charts “in an online portal that allows users to customize the interactive features of the chart,” and sharing the interactive charts by “embedding the interactive chart in an external electronic document.” *Id.* at code (57).

Figure 2 of the '892 patent, reproduced below, illustrates a block diagram of an illustrative interactive chart generation and sharing system. Ex. 1001, 4:50–51.

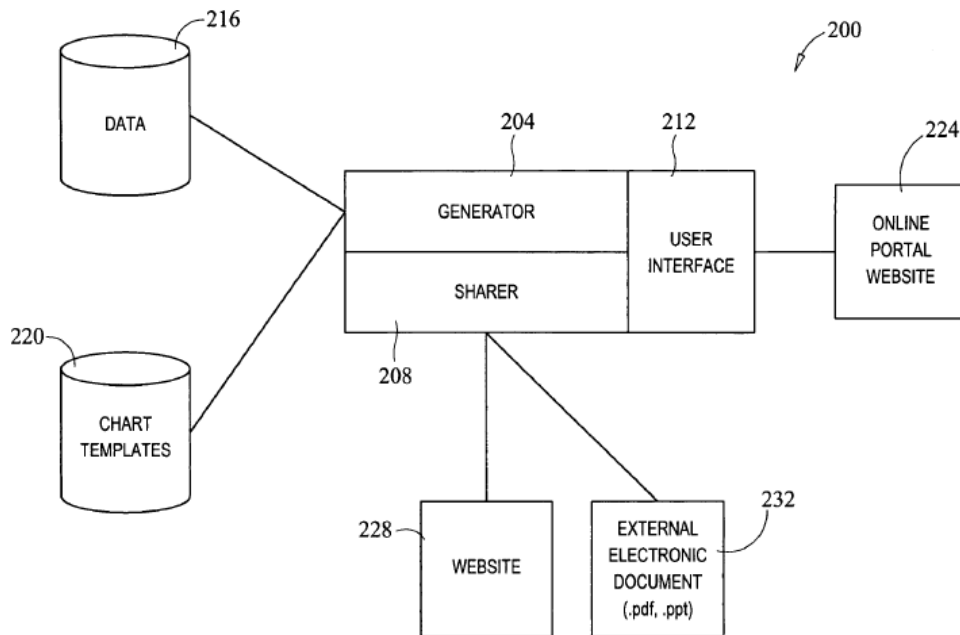


FIG. 2

Figure 2 illustrates an interactive chart online portal for generating and sharing interactive charts. *Id.* at 9:5–7. Interactive chart online portal 200 includes interactive chart generator 204, interactive chart sharer 208, user interface 212, data store 216, and chart template data store 220. *Id.* at 9:13–16. The '892 patent explains that users enter or upload data at a website and the interactive chart generator uses the data and chart templates stored in the chart template data store to generate interactive charts. *Id.* at 9:27–32. The generated interactive chart can be published on an external webpage or embedded in an external document as an interactive chart or static chart. *Id.* at 9:34–38.

Figure 3 of the '892 patent, reproduced below, is a schematic view of an interactive chart. Ex. 1001, 4:52–53.

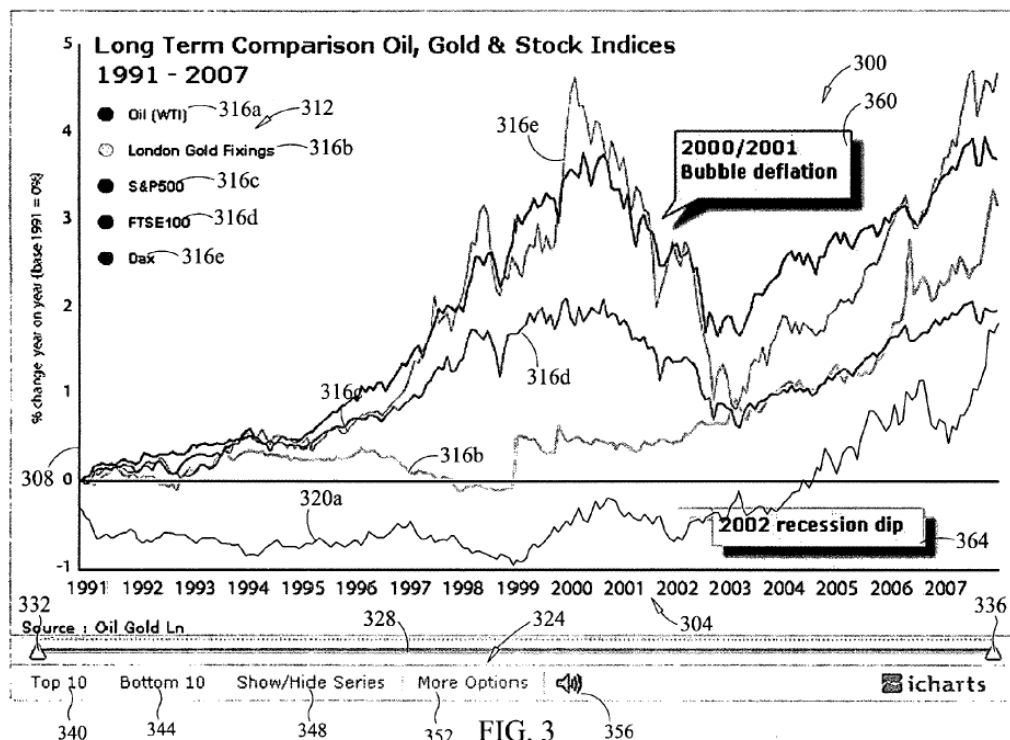


Figure 3 illustrates an exemplary interactive chart 300. *Id.* at 9:49–50. Interactive chart has interactive features that allow a user to interact with the

chart to “modify or change their view of the chart, learn more about the chart data, and the like.” *Id.* at 10:36–40.

D. Challenged Claims

Petitioner challenges claims 1–16 of the ’892 patent. Claims 1 and 10 are independent. Claim 1 is illustrative of the claimed subject matter and is reproduced below:

1. [1P] A computer system comprising:
 - [1A] a data module configured to store data;
 - [1B] a chart template module configured to store chart templates;
 - [1C] a generation module configured to generate an interactive chart on a generation interface,
 - [1D] wherein the generation interface is configured to enable a user to generate the interactive chart from data stored in the data module and a template from the chart template module;
 - [1E] a sharing module configured to enable a user to publish or embed the interactive chart as a self-contained and independent electronic document,
 - [1F] wherein the self-contained and independent interactive chart, when opened in a program in the absence of the generation interface and the chart template module, enables a user to a) render the chart, b) obtain input from a user and c) rerender the chart using the input as a parameter thereby enabling the interactive chart to retain interactivity when published or embedded.

Ex. 1001, 18:33–52 (Petitioner’s annotations added); Pet. 15–28.

E. Asserted Grounds of Unpatentability

We instituted trial based on the following grounds of unpatentability:

Claims Challenged	35 U.S.C. §²	Reference(s)/Basis
1, 2, 4, 5, 7–9	103(a)	Becerra ³
3, 10, 11, 13–16	103(a)	Becerra, Couckuyt ⁴
10, 11, 13–16	103(a)	Becerra, Couckuyt, Keys ⁵
6	103(a)	Becerra, Moyer ⁶
7	103(a)	Becerra, Jou ⁷
12	103(a)	Becerra, Couckuyt, Keys, Jou
1, 2, 5–9	103(a)	QlikView Manuals ⁸
3, 10–16	103(a)	QlikView Manuals, Couckuyt
10–16	103(a)	QlikView Manuals, Couckuyt, Keys
6	103(a)	QlikView Manuals, Moyer

Pet. 10. Additionally, Petitioner supports its challenge with a declaration of Christopher Schmandt (Exs. 1003, 1072). Patent Owner supports its arguments with a declaration of Dr. Jeffrey Miller (Exs. 2001, 2201).

² Because the challenged claims of the '892 patent have an effective filing date before March 16, 2013, patentability is governed by the pre-AIA version of 35 U.S.C. § 103.

³ U.S. Pub. No. 2003/0169295 A1, published September 11, 2003 (Ex. 1005, “Becerra”).

⁴ U.S. Patent No. 6,906,717 B2, issued June 14, 2005 (Ex. 1006, “Couckuyt”).

⁵ U.S. Pub. No. 2001/0050681 A1, published December 13, 2001 (Ex. 1034, “Keys”).

⁶ U.S. Pub. No. 2008/0028037 A1, published January 31, 2008 (Ex. 1010, “Moyer”).

⁷ U.S. Pub. No. 2003/0071814 A1, published April 17, 2003 (Ex. 1007, “Jou”).

⁸ QlikView Reference Manual, v.8.50, 1st ed. (Ex. 1008) and QlikView Server Reference Manual, v8.50, 1st ed. (Ex. 1009) (collectively, “QlikView Manuals”). Petitioner contends that the QlikView Manuals are printed publications that were publicly available at least by July 8, 2008. Pet. 7.

III. ANALYSIS

A. Legal Standards – Obviousness

A claim is unpatentable if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. 35 U.S.C. § 103(a); *see KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations, including (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of skill in the art; and (4) where in evidence, so-called secondary considerations, including commercial success, long-felt but unsolved needs, failure of others, and unexpected results. *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17–18 (1966).

When evaluating a combination of teachings, we must also “determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” *KSR*, 550 U.S. at 418 (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). “[T]here must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Kahn*, 441 F.3d at 988.

“[W]here a party argues a skilled artisan would have been motivated to combine references, it must show the artisan ‘would have had a reasonable expectation of success from doing so.’” *Arctic Cat Inc. v. Bombardier Recreational Prods. Inc.*, 876 F.3d 1350, 1360–61 (Fed. Cir. 2017) (quotations omitted).

B. Level of Ordinary Skill in the Art

We review Petitioner's asserted obviousness grounds in view of the understanding of a person of ordinary skill in the art at the time of the invention. *Graham*, 383 U.S. at 17. The person of ordinary skill in the art is a hypothetical person who is presumed to have known the relevant art at the time of the invention. *In re GPAC, Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995).

Petitioner contends that a person having ordinary skill in the art, would have had a B.S. degree in Computer Science, Computer Engineering, or equivalent experience relating to computing, as well as two to three additional years of academic or industry experience related to web application development and data visualization services. The [person of ordinary skill in the art] would have, therefore, been familiar with client-side scripting technologies, such as JavaScript and/or ActionScript. The [person of ordinary skill in the art] would have further worked as part of a multidisciplinary team and drawn upon not only her own skill but of others on the team, e.g., to solve a given problem.

Pet. 4 (citing Ex. 1003 ¶ 70). Patent Owner does not dispute the level of ordinary skill in the art. *See* PO Resp. 24 (citing Ex. 2201 ¶ 5).

We determine, on the complete record, that the level of ordinary skill proposed by Petitioner is consistent with the '892 patent and the asserted prior art. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001). We adopt that level in deciding unpatentability of the challenged claims.

C. Claim Construction

In this *inter partes* review, claims are construed using the same claim construction standard that would be used to construe the claims in a civil action under 35 U.S.C. § 282(b). *See* 37 C.F.R. § 42.100(b). The claim construction standard includes construing claims in accordance with the

ordinary and customary meaning of such claims as would have been understood by one of ordinary skill in the art at the time of the invention. *See id.*; *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–14 (Fed. Cir. 2005) (en banc). In construing claims in accordance with their ordinary and customary meaning, we take into account the specification and prosecution history. *Phillips*, 415 F.3d at 1315–17.

We address a single claim construction dispute raised by the parties.

1. Publish[ing] . . . the interactive chart as a self-contained and independent electronic document

a) The Parties' Arguments

The Petition proposes that no terms need an explicit construction and that Petitioner had construed the terms according to their ordinary and customary meanings as understood by a person of ordinary skill in the art in view of the specification. Pet. 4–5.

In its Patent Owner Response, Patent Owner agrees with Petitioner that no claim terms need an explicit construction. PO Resp. 24 (citing Ex. 2201 ¶¶ 6–8). Patent Owner, however, argues that a person of ordinary skill in the art would have understood that “exporting or saving a file is different from publishing or embedding a file.” *Id.* at 33 (citing Ex. 2001 ¶ 136). Patent Owner argues that the ’892 patent specification discloses that “a user can share the chart by publishing the chart by selecting the publish button.” *Id.* (citing Ex. 1001, 14:41–43). Patent Owner does not, however, propose an express construction for the claim term. *Id.*; Tr. 30:24–31:2.

In its Reply, Petitioner argues that Patent Owner’s proposed construction of the term, excluding exporting the chart for download from the scope of the claim term, is contradicted by the claims, specification, prosecution history, and inventor’s own cited documents. Reply 1.

Petitioner argues that 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. *Id.* at 1–2 (citing Ex. 1070, 27:1–28:8; Ex. 1071, 96:9–25; Ex. 1072 ¶¶ 7–9; Ex. 1076 ¶¶ 40–46).

Petitioner contends that the ’892 patent specification discloses that “Publish” options shown in Figure 30 expressly include “Download iChart as interactive object,” and the claims cannot be construed to exclude this embodiment. *Id.* at 3 (citing Ex. 1001, 14:45–50, Fig. 30; Ex. 1072 ¶ 11). Petitioner further contends that the prosecution history and the inventor’s own conception documents further support this understanding. *Id.* at 4–5 (citing Ex. 1002, 355; Ex. 1072 ¶¶ 13–14; Ex. 1071, 15:25–16:5; Ex. 1072 ¶ 12; Ex. 2015, 17; Ex. 2200, 20).

Patent Owner responds that the publishing limitation requires more than just downloading or saving a document. Sur-reply 2–3 (citing Ex. 1001 18:43–45; 19:22–26). Patent Owner argues that “[t]he specification describes the sharing module as allowing a user “to publish or embed, not download it,” and “makes clear that publishing, embedding, and downloading are three distinct functionalities.” *Id.* at 3–4 (citing Ex. 1001 2:49–54, 11:43–48). With regard to Figure 30, Patent Owner argues that a *further* popup window appears allowing the user to share the chart, and the user can *then* publish the chart online. *Id.* at 4 (citing Ex. 2001 ¶¶ 33–34). According to Patent Owner, “[t]his is confirmed by embodiments shown in Figs. 40A–40C of the ’892 patent that show separate buttons or interfaces for ‘Publish’ and ‘Download.’” *Id.* (citing Ex. 1001, Figs. 40A–40C; Ex. 1071, 98:5–10).

Patent Owner argues that the prosecution history at most supports that “downloading or saving can be part of publishing, but falls far short of what

is required to publish.” *Id.* at 5–6 (citing Ex. 1002, 355). Patent Owner also argues that images from the conception documents “are not included in the provisional and have no evidentiary value as to the meaning of the claim terms in the patent,” and moreover, the inventor clarified that those documents are mislabeled. *Id.* at 6–7 (citing Ex. 2014, 17; Ex. 1071, 47:13–25, 48:1–11). Patent Owner points us to the inventor’s testimony as supporting its claim interpretation. *Id.* at 4 (citing Ex. 1071, 58:21–25, 59:1).

b) Our Analysis

On the complete record, we agree with Petitioner that the publishing limitation does not exclude exporting the interactive chart as a file for download.

Under the claim construction standard applied in this proceeding, “[t]he words of a claim are generally given their ordinary and customary meaning as understood by a person of ordinary skill in the art when read in the context of the specification and prosecution history.” *Thorner v. Sony Comput. Entm’t Am. LLC*, 669 F.3d 1362, 1365 (Fed. Cir. 2012) (citing *Phillips*, 415 F.3d at 1313). We begin with the claim language at issue. *TQ Delta, LLC v. DISH Network LLC*, 929 F.3d 1350, 1357 (Fed. Cir. 2019). Claim 1, for example, recites “a sharing module *configured to enable a user to publish* or embed the interactive chart *as a self-contained* and independent electronic document.” Ex. 1001, 18:43–45 (emphasis added). We agree with Petitioner that the language does not require two separate steps of creating a self-contained and independent electronic document, and then publishing it. Rather, the claim limitation merely requires the sharing module be configured to *enable a user* to publish the chart as a self-contained and independent electronic document. *Id.* Thus, the claim’s

plain language does not exclude exporting a chart as a self-contained and independent electronic document for download.

We now turn to the Specification of the '892 patent. The Specification includes a discussion of Figure 30 that discloses publishing a chart. Ex. 1001, 14:41–50. Figure 30 of the '892 patent, with Petitioner's annotations, is reproduced below.

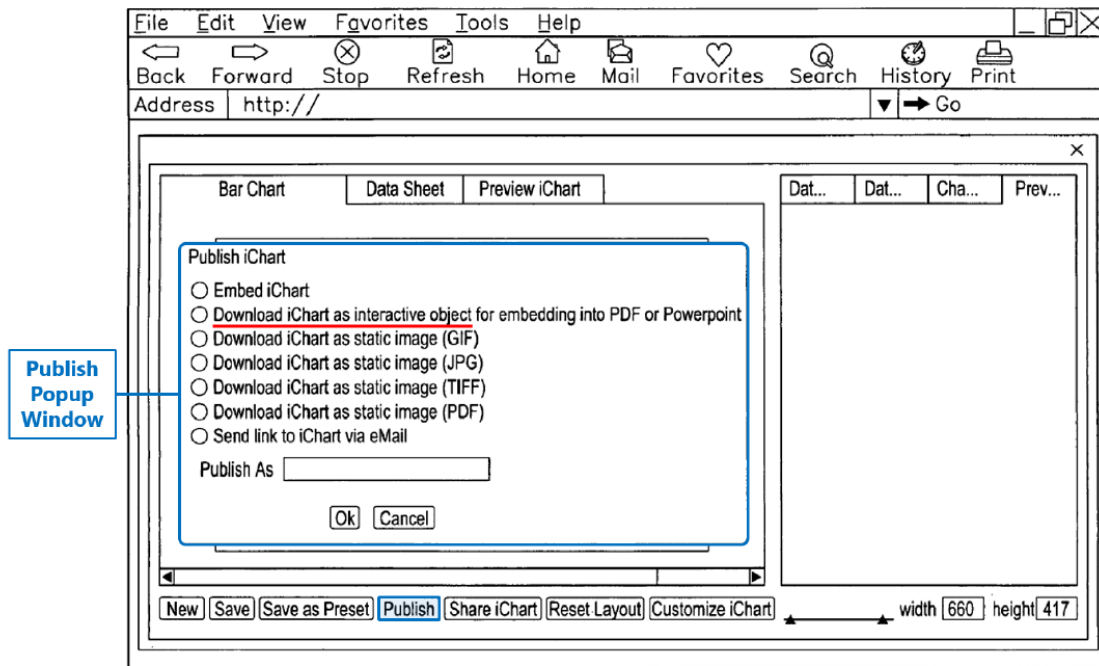


FIG. 30

Petitioner's annotations in blue highlight a portion of Figure 10 labeled by Petitioner as a "Publish Popup Window," and within that window, underline the option "Download iChart as interactive object for embedding into PDF or PowerPoint." Reply 3. The Specification discloses:

The user can also share the chart 1700 by publishing the chart, as shown in FIG. 30, by selecting the publish button 1616. As shown in FIG. 30, a popup window 3000 is accessed when the *publish button* 1616 is selected. The popup window 3000 includes the following *options*: embed ichart, *download ichart as interactive object for embedding into pdf or PowerPoint*, download ichart as static image (GIF), download ichart as static

image (JPG), download ichart as static image (TIFF), download ichart as static image (PDF), send link to ichart via email.

Ex. 1001, 14:41–50 (emphasis added). The Specification therefore makes clear that “download[ing the] ichart as interactive object for embedding into pdf or PowerPoint” is one of the options available in order to “share the chart 1700 by publishing the chart.” *Id.* The popup in Figure 30 is titled “Publish iChart” and provides a “Publish As” placeholder. *Id.* at Fig. 30. Figure 30 and its accompanying description thus support that enabling download of a chart as an interactive object is sufficient to meet limitation “*configured to enable a user to publish the interactive chart as a self-contained and independent electronic document.*”

Patent Owner points us to subsequent disclosure in the Specification that states “[t]he user can then publish the chart online,” to argue that Figure 30 does not support Petitioner’s position. Sur-reply 3 (citing Ex. 2001 ¶ 34; Ex. 1001, 14:60). That disclosure, however, relates to Figure 31 and discusses how a user may *embed* the iChart. *See* Ex. 1001, 14:51–52 (“If the user chooses to embed the ichart, the popup window 3100 is displayed as shown in FIG. 31”); *see also id.* at Fig. 31 (popup labeled “Embed iChart”). These additional steps, however, are unnecessary to enable *publishing* of the chart as a self-contained document.

Patent Owner also relies on embodiments shown in Figures 40A–40C that show separate buttons or interfaces for “Publish” and “Download.” Sur-reply 4–5. But those figures “illustrate a chart template feature 4000 for automatically modifying a chart by selecting a preset chart template,” (*see* Ex. 1001, 16:20–22) and are not directed to *publishing* a chart as a self-contained document.

During prosecution, Applicants amended claim 1 to further recite a sharing module configured “to enable a user to” publish or embed the interactive chart, and to do so “as a self-contained and independent electronic document.” Ex. 1002, 352. In accompanying remarks, Applicants noted that “the specification provides that the interactive chart can be embedded or published as ‘an electronic document’ . . . which can be downloaded as a ‘self-contained’ file.” *Id.* at 355. These statements support including exporting the chart for download within the scope of the claim term.

Turning to extrinsic evidence, we note that Mr. Schmandt agrees with Petitioner’s proposed construction, whereas Dr. Miller agrees with Patent Owner’s interpretation. Specifically, Dr. Miller testifies that a person of ordinary skill in the art would have understood “that exporting or saving a file is different from publishing or embedding a file.” *See* Ex. 2001 ¶ 136. Although we have considered Dr. Miller’s testimony, we find it “less significant than the intrinsic record in determining the legally operative meaning of” the publishing limitation. *Phillips*, 415 F.3d at 1317 (internal quotations and citations omitted). In particular, we are cognizant of the Federal Circuit’s guidance that we “should discount any expert testimony that is clearly at odds with the claim construction mandated by . . . the written description.” *Id.* at 1318 (internal quotation and citation omitted). In this instance, we find that Dr. Miller’s testimony is clearly at odds with the description of publishing provided in the ’892 patent because that description does not require more than downloading or saving a document for the purposes of “publishing” the document.

And although Patent Owner points to inventor testimony as supporting its interpretation (Sur-reply 4 (citing Ex. 1071, 58:21–25, 59:1)),

such testimony cannot be relied on to change the meaning of the claims. *See Howmedica Osteonics Corp. v. Wright Med. Tech., Inc.*, 540 F.3d 1337, 1347 (Fed. Cir. 2008) (holding that inventor testimony as to the inventor’s subjective understanding is irrelevant to the issue of claim construction).

Lastly, the inventor’s own conception documents support Petitioner’s understanding of the claim term. For example, one of the documents shows creation of a “Self-contained flash object” as an example of the “Publish” feature of the “iCharts Studio Muti-Publishing Options.” Ex. 2015, 17. That self-contained flash object is further illustrated as *embedded* into a PDF or PowerPoint file. *Id.* Although not extrinsic evidence, this document does show that the inventors, at one point, independently understood exporting the chart as an object file to be the same as publishing it. *Id.*; *see also* Ex. 1072 ¶ 14 (testifying that a person of ordinary skill in the art would have interpreted the diagram as showing this to be one way to publish a chart).⁹

In summary, based on the Specification and prosecution history of the ’892 patent, including the plain language of the challenged claims, we construe the claim limitation “publish[ing] . . . the interactive chart as a self-contained and independent electronic document” as encompassing exporting the interactive chart as a file for download.

2. Other Claim Terms

We determine we need not explicitly construe any of these remaining claim terms to resolve Petitioner’s patentability challenges. *See Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (noting that “we need only construe terms ‘that are in

⁹ We find inventor testimony that Patent Owner points us to, contradicting clear depictions in the document, to be less persuasive. *See* Ex. 1071, 47:13–25, 48:1–11 (testifying that the document is simply mislabeled).

controversy, and only to the extent necessary to resolve the controversy” (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)).

D. Obviousness Based on Becerra

Petitioner asserts that claims 1, 2, 4, 5, and 7–9 are unpatentable based on Becerra. Pet. 15–33.

1. Scope and Content of the Prior Art

a) Becerra

Becerra is a patent application publication titled “Method and System for Creating Graphical and Interactive Representations of Input and Output Data.” Ex. 1005, code (54). Becerra relates to “a method and tool which allows users to create interactive representations of input and output data, and simulate the associated algorithms used to manipulate this data.” *Id.* at code (57). In one embodiment, Becerra describes assembling a control panel by allowing a user to select components from a component library, assigning data sources to each component, extracting any applicable math model, and generating a Flash movie that contains the control panel. *Id.* ¶¶ 21–25.

Figure 2 of Becerra, reproduced below, illustrates a computer screen display of a canvas layout tool. Ex. 1005 ¶ 14.

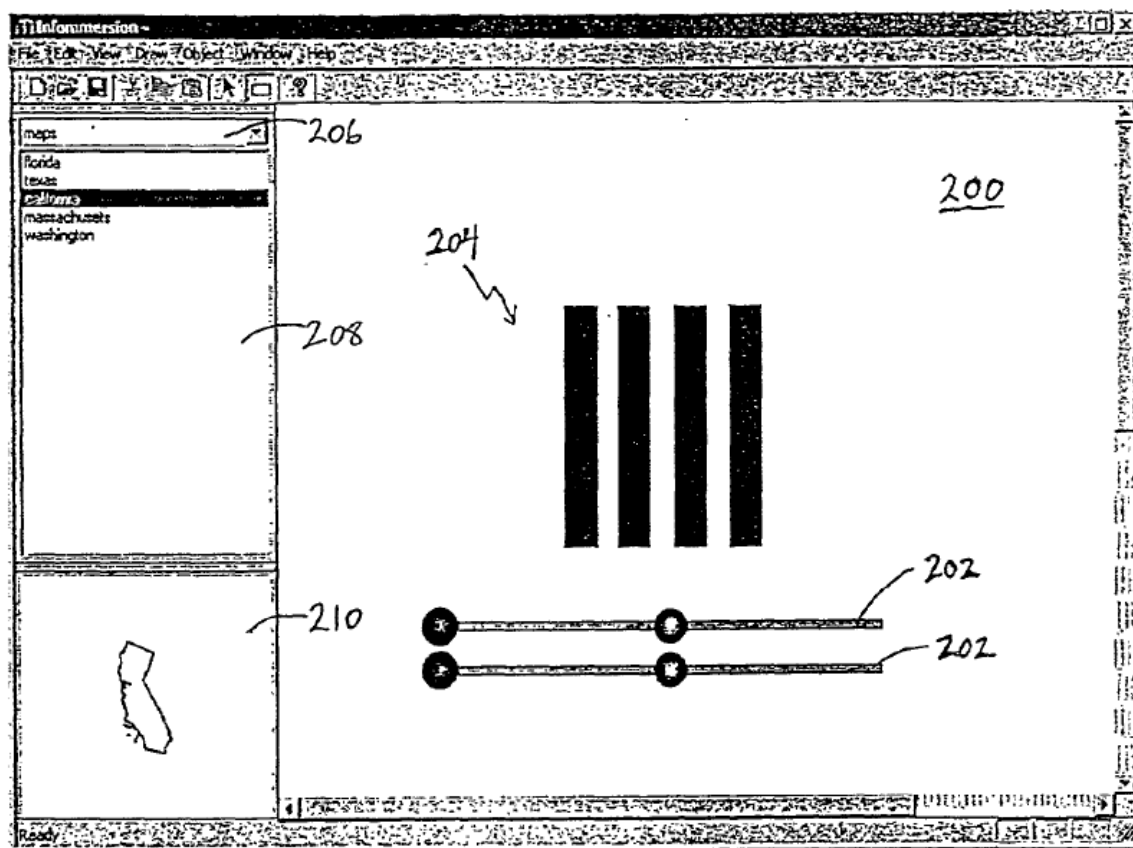


Figure 2 depicts two slider components 202, canvas 200, and a bar chart component 204. *Id.* ¶ 32. Becerra explains that “[o]nce components have been placed on the canvas, . . . they have to be associated with cells on an existing spreadsheet.” *Id.* ¶ 37. In one example, “a user can select a data source by selecting a valid spreadsheet file . . . and one or more cells” to associate with a selected component. *Id.* ¶ 38.

Figure 5 of Becerra, reproduced below, illustrates an exemplary control panel. *Id.* ¶ 17.

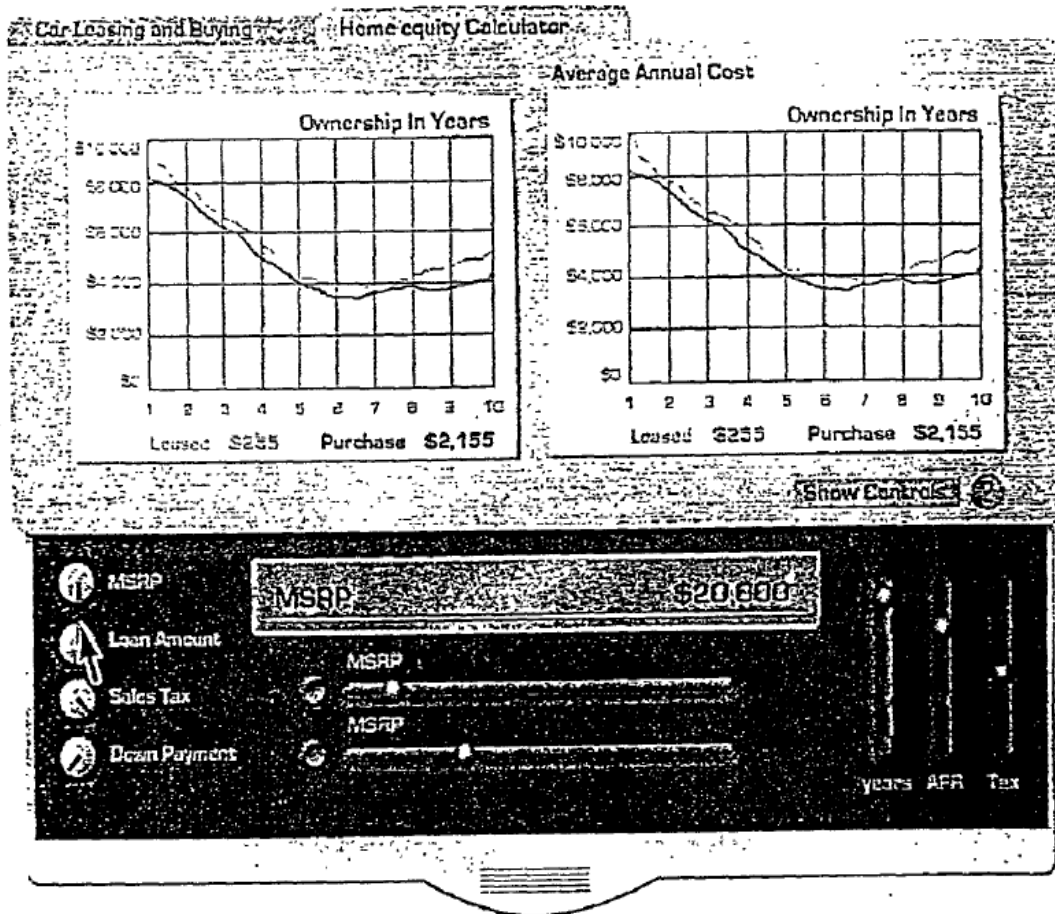


FIGURE 5

Figure 5 illustrates a control panel that provides graphical input and output components. *Id.* ¶ 52. Becerra explains that “[b]y manipulating or adjusting input components, . . . output components will dynamically change” based on mathematical models extracted from the spreadsheet used to create the control panel. *Id.*

2. Independent Claim 1

Petitioner contends that Becerra teaches all of the limitations of claim 1. Pet. 15–28.

a) Preamble [1P]: A computer system comprising:

Petitioner contends that Becerra teaches the preamble by disclosing the use of computers with “conventional components therein (e.g., CPU, hard drive, RAM, keyboard, monitor, graphics processor, etc.).” Pet. 15 (citing Ex. 1005 ¶ 9).

Patent Owner does not present arguments as to the preamble. *See generally* PO Resp. Based on the entirety of the record, we determine that, to the extent the preamble is limiting, Becerra teaches the preamble.

b) Limitation [1A]: a data module configured to store data

Petitioner contends that Becerra teaches “a data module” by disclosing the selection and association of a spreadsheet, including its cells, with a particular graphic component. *See* Pet. 16 (citing Ex. 1005 ¶¶ 10, 19, 38; Ex. 1003 ¶¶ 166–167). Specifically, Petitioner asserts that by storing the data in the spreadsheet in a computer system, the computer system is a data module configured to store data, e.g., a file system storing a spreadsheet file. *Id.* at 17 (citing Ex. 1005 ¶¶ 10, 38; Ex. 1003 ¶ 168). In the alternate, Petitioner contends that once data is selected for association with a component, Becerra discloses storing the selected data and an associated mathematical model. *Id.* at 17–18 (citing Ex. 1005 ¶ 24). Thus, Petitioner contends, Becerra teaches a data module configured to store data, including selected cells and the associated model, within internal data structures. *Id.* at 18 (citing Ex. 1005 ¶¶ 30, 44; Ex. 1003 ¶¶ 169, 179).

Patent Owner responds, with respect to the relied upon Excel spreadsheet in Becerra, that “[t]here is no disclosure that the Excel spreadsheet or the Excel spreadsheet’s numeric values and formulas are stored in a data module.” PO Resp. 26 (citing Ex. 2001 ¶ 121). Patent

Owner contends that the '892 patent “stores the data in a data module, which is separate from any Excel file from which the data was extracted.” *Id.* at 27 (citing Ex. 2001 ¶ 121). Patent Owner argues that although “Becerra’s internal data structure [] can be used to re-create the minimal calculations necessary for selected cells within the spreadsheet,” the “internal data structure is not a module configured to store data.” *Id.* at 27–28 (citing Ex. 1005 ¶ 44); *see also* Sur-reply 7–8 (citing Ex. 1005 ¶¶ 24, 45; Ex. 2001 ¶ 122) (arguing that the internal data structure in Becerra 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”).

Petitioner responds by noting that although the '892 patent describes a “My Data Sheets” tab, separate from any Excel data file, for uploading data, limitation [1A] does not recite that requirement. Reply 6 (citing Ex. 1001, 18:33–34; Ex. 1070, 21:25–23:10). Petitioner further argues that limitation [1A] also does not require any particular type or format of data. *Id.* (citing Ex. 1001, 18:33–34; Ex. 1003 ¶¶ 166–171).

We agree with Petitioner that Patent Owner’s arguments import limitations not recited in the claim. Limitation [1A] recites “a data module configured to store data.” Ex. 1001, 18:33–34. Becerra plainly discloses that data cells on a spreadsheet “contain a mix of numerical values, and formulas that depend either directly or indirectly on those numeric values.” Ex. 1005 ¶ 19. On the complete record, we are persuaded that Becerra teaches limitation [1A].

c) Limitation [1B]: a chart template module configured to store chart templates

Petitioner contends that Becerra teaches “a chart template” because it discloses a control panel that is generated by creating and/or selecting

graphic components or objects and placing them on a graphic canvas. Pet. 18–19 (citing Ex. 1005 ¶ 10). In particular, Petitioner asserts that Becerra’s control panel may be selected from a preexisting component library, which may include a chart, and that the stored preexisting components are configurable “templates” because there is no data associated with those components. *Id.* at 19–20 (citing Ex. 1005 ¶¶ 30, 32–33, 35, Fig. 2; Ex. 1003 ¶¶ 173–177).

Patent Owner responds that Becerra discloses components that “may be created using known graphic development software (e.g., Flash) or selected from preexisting files or libraries (e.g., Flash files),” and that such components are not chart templates and are not in a module for storing chart templates. PO Resp. 29 (citing Ex. 2001 ¶¶ 125–128). Patent Owner asserts that, in the ’892 patent, a chart template “is a preset template of formatting settings, such as colors, chart size, fonts, line thickness, etc.,” and, when selected, “the user can drag and drop data onto [it] to create an interactive chart with that preset template’s look and feel.” *Id.* at 29–30 (citing Ex. 1001, 11:37–41). Patent Owner argues that “Becerra does not disclose or teach preset chart templates with formatting settings.” *Id.* at 30 (citing Ex. 2001 ¶ 128).

Petitioner points out that both parties’ experts agree that chart template formatting settings include the *type* of chart. Reply 6–7 (citing Ex. 1070, 23:22–24:20; Ex. 1071, 18:5–7; Ex. 1003 ¶¶ 173–177). Petitioner argues that “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.,’” and therefore “Becerra teaches ‘*chart templates*’ formatted as particular types of charts.” *Id.* at 7 (Ex. 1005 ¶¶ 19, 32, Fig. 3; Ex. 1003 ¶¶ 173–177).

Patent Owner responds in turn that “[b]eing allowed to pick a preset chart type is not a chart template.” Sur-reply 8. Patent Owner points to Figure 40B in the ’892 patent to argue that selecting a preset is different than selecting a chart type because these options are located on different tabs in Figure 40B. *See id.* at 8–10 (citing Ex. 1001, 13:57–61, 16:22–31, Fig. 40B; Ex. 1070, 23:22–24:2). Patent Owner argues that “Becerra does not disclose that the preexisting files or libraries comprise a module configured to store chart templates.” *Id.* at 11 (citing Ex. 2001 ¶¶ 125–128).

We agree with Petitioner that Becerra teaches this limitation. Becerra discloses storing preexisting *components* that a user may use to configure a canvas to make up a control panel. *See* Ex. 1005 ¶ 30 (“[W]hen the program starts up, the user is presented with a blank canvas, and a palette of visual components which can be placed on the canvas and customized.”). Becerra specifically teaches “a pre-created component library” of such components and teaches that these “components may include, for example, user interface elements (e.g., sliders, buttons, checkboxes), charts, maps, moving characters or objects, ‘special effects,’ etc.” *Id.* ¶¶ 10, 32. These components are in form of a preset template with certain formatting settings.

We are persuaded that this disclosure sufficiently teaches a chart template module configured to store chart templates. Becerra’s components are preset templates that allow a user to create an interactive chart that has a given look and feel. Patent Owner’s requirement that Becerra further disclose specific formatting settings, such as colors, chart size, fonts, and line thickness of these components is not tied to the claim language. We are therefore persuaded that on the complete record that Becerra teaches limitation [1B].

- d) *Limitation [1C]: a generation module configured to generate an interactive chart on a generation interface*
- e) *Limitation [1D]: wherein the generation interface is configured to enable a user to generate the interactive chart from data stored in the data module and a template from the chart template module*

For limitation [1C], Petitioner contends that Becerra discloses a program presenting a blank canvas, and a palette of visual components which can be placed on the canvas and customized. Pet. 20 (citing Ex. 1005 ¶¶ 30–31). Petitioner further contends that Becerra discloses a canvas layout tool for “allowing a user to select components, such as ‘bar chart component 204,’” and “enables a user to ‘associate selected components with data cells of a spreadsheets’” when it is placed on the canvas. *Id.* at 20–21 (citing Ex. 1005 ¶¶ 32, 38; Ex. 1003 ¶¶ 181–182). Petitioner asserts that Becerra’s charts are interactive because, similar to the ’892 patent, “chart components ‘dynamically change’ in response to user input.” *Id.* at 22–23 (citing Ex. 1001, 10:37–40; Ex. 1005 ¶ 52; Ex. 1003 ¶¶ 185–186).

For limitation [1D], Petitioner contends that Becerra discloses the selection of charts (e.g., a bar chart component) and other components from preexisting files or libraries and Becerra also discloses the “selection of a data source by identifying a ‘spreadsheet file (e.g., a file called C:test.xls) and one or more cells (i.e., a range of cells) within the corresponding spreadsheet to associate the one or more cells to a selected component.” *Id.* at 23–24 (citing Ex. 1005 ¶¶ 10, 24, 32, 38, 44; Ex. 1003 ¶¶ 187–188).

Patent Owner responds that rather than disclosing the generation of an interactive chart, “Becerra discloses generating an interactive graphics simulation of a control panel with a bar chart component.” PO. Resp. 30 (citing Ex. 1005 ¶¶ 11, 32). Patent Owner argues that “[i]nstead of

generation based on data and a chart template, Becerra relies on a math model to create [a] Flash movie based on Actionscript code.” *Id.* at 31–33 (citing Ex. 1005 ¶¶ 22–25, 32, 51; Ex. 2001 ¶¶ 132–133).

Petitioner responds that “Becerra teaches selection of data from ‘a data source,’ and ‘the data and associated mathematical model are stored.’” Reply 7 (citing Ex. 1005 ¶¶ 24, 38, 44; Ex. 1003 ¶ 188). Petitioner argues that “[b]oth 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.’” *Id.* (citing Ex. 1003 ¶¶ 168–170, 187–189).

Patent Owner responds in turn by arguing that “[t]he Actionscript code of Becerra is based on expression trees from the math calculations,” and so “the resulting control panel of Becerra is thus not generated from ‘data’ in the ‘data storage module.’” Sur-reply 12 (citing Ex. 1005 ¶ 51; Ex. 2001 ¶ 133).

On the complete record, we agree with Petitioner that Becerra teaches these limitations. Becerra discloses a canvas layout tool for presenting the user with a blank canvas, and a palette of visual components which can be placed on the canvas and customized to create the control panel. Ex. 1005 ¶¶ 30–31, Fig. 2. Becerra further discloses selecting a bar chart component from a pre-created component library. *Id.* ¶¶ 10, 32. Becerra also discloses selection of a spreadsheet file with cells associated with the selected components. *Id.* ¶¶ 38. We agree with Petitioner that both the selected data and extracted associated mathematical model in Becerra are forms of data, and that Becerra’s chart is created using this data. Reply 7. We are therefore persuaded, on the complete record, that Becerra teaches limitations [1C] and [1D].

f) *Limitation [1E]: a sharing module configured to enable a user to publish or embed the interactive chart as a self-contained and independent electronic document,*

Petitioner contends that Becerra teaches this limitation because it discusses exporting a control panel, including an interactive chart. Pet. 24–26 (citing Ex. 1005 ¶ 52; Ex. 1003 ¶¶ 191–195). Petitioner contends that Becerra discloses that the “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.” *Id.* at 25 (citing Ex. 1005 ¶¶ 50–52) (emphasis omitted). Petitioner points to Becerra’s Figure 5 as depicting “an example published control panel, including an ‘*interactive chart*’ (e.g., a line graph).” *Id.* (citing Ex. 1005 ¶ 52). Petitioner further argues, that like the ’892 patent, Becerra’s control panels are “self-contained flash files that can exist independent of” Becerra’s generation interface. *Id.* at 26 (citing Ex. 1001, 9:59–60, 10:7–11; Ex. 1005 ¶¶ 50, 52; Ex. 1003 ¶ 197).

Patent Owner responds that a person of ordinary skill in the art would have understood that “exporting or saving a file is different from publishing or embedding a file.” PO Resp. 32–33 (citing Ex. 1005 ¶ 52; Ex. 2001 ¶ 136). Patent Owner argues that one of ordinary skill in the art would have understood that “subsequently opening the file is not publishing the control panel.” *Id.* at 33 (citing Ex. 2001 ¶ 136; Ex. 2201 ¶ 21). Patent Owner also argues that “embedding requires that the file already exists before you add the interactive chart into it,” and “Becerra only discloses saving a new file with only the control panel in it.” *Id.* (citing Ex. 1005 ¶ 52; Ex. 2001 ¶ 136; Ex. 2201 ¶ 21).

Patent Owner’s arguments are based on Patent Owner’s proposed construction of the publishing limitation, which we do not adopt. *See supra* § III.C.1. As discussed above, we disagree with Patent Owner that publishing the interactive chart as a “self-contained and independent electronic document” excludes exporting the interactive chart as a file for download. *Id.* We therefore agree with Petitioner that Becerra’s disclosure of exporting the control panel to be saved as a separate file that is executable by a standalone program (e.g., Flash Player™) teaches the publishing limitation. *See* Ex. 1005 ¶¶ 50, 52.

Patent Owner also contends that Petitioner’s argument that exporting a chart as a file for download satisfies the publishing limitation is an improper new argument raised in Petitioner’s Reply. Sur-reply 12–13 (citing *Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed Cir. 2016)). We are not persuaded that Petitioner’s argument is new given that the Petition specifically relied on Becerra’s disclosure relating to saving the control panel as a separate file that is executable by a standalone program. Pet. 24 (citing Ex. 1005 ¶ 52). Moreover, Petitioner’s Reply arguments are responsive to Patent Owner’s claim construction arguments first raised in the Patent Owner Response (PO Resp. 33), and are therefore, timely. *See Axonics, Inc. v. Medtronic, Inc.*, 75 F.4th 1374, 1382–83 (Fed. Cir. 2023).

On the complete record, we are persuaded that Becerra teaches Limitation [1E].

- g) *Limitation [IF]: wherein the self-contained and independent interactive chart, when opened in a program in the absence of the generation interface and the chart template module, enables a user to a) render the chart, b) obtain input from a user and c) rerender the chart using the input as a parameter thereby enabling the interactive chart to retain interactivity when published or embedded*

Petitioner contends that Becerra discloses that a control panel “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 in creating it.” Pet. 26 (citing Ex. 1005 ¶ 52). In particular, Petitioner contends that “graphic input and output components are provided by the control panel,” and that “[b]y manipulating or adjusting input components (e.g. sliders and rotating knobs), output components will dynamically change in accordance with the mathematical model extracted from the spreadsheet used to create the control panel.” *Id.* at 27–28 (citing Ex. 1005, Fig. 5, ¶¶ 42, 52) (emphasis omitted); *see also* Reply 10 (citing Ex. 1005 ¶¶ 42, 52; Ex. 1003 ¶ 201).

Patent Owner contends that although Becerra’s “control panel may be saved as a separate file that is executable by a standalone program (e.g., a Flash Player) that is independent of the layout tool or spreadsheet used to create it,” “Becerra does not disclose any ability of the user to render the control panel or rerender the control panel once the Becerra control panel is exported and no longer dependent upon the tool that created it.” PO Resp. 34 (citing Ex. 1005 ¶ 52; Ex. 2001 ¶¶ 137–139). Patent Owner argues that Becerra’s disclosure amounts to “playing a different part of the movie based on the Actionscript code, not rerendering a chart.” *Id.* at 34–35 (citing Ex. 1005 ¶ 52; Ex. 2001 ¶ 139). Patent Owner further argues that Petitioner incorrectly identifies Becerra’s “interactive simulation of a control pane with

a bar chart component” as an interactive chart, and that “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.” Sur-reply 14–15 (citing Ex. 1005 ¶¶ 11, 32; Ex. 1070, 49:24–50:3).

We agree with Petitioner that Becerra teaches limitation [1F]. Becerra’s control panel, once exported, is “no longer dependent in any way on either the tool that created it or the spreadsheet that was used in creating it.” Ex. 1005 ¶ 52. Further, as shown in Figure 5, “[b]y manipulating or adjusting input components (e.g. sliders and rotating knobs), output components will dynamically change in accordance with the mathematical model extracted from the spreadsheet used to create the control panel.” *Id.* Becerra explains that the user is provided with “a dynamic, creative and visually stimulating representation of input and output data and their relational behavior.” *Id.* Becerra lists Flash Player as one example of a standalone program that can execute the control panel file. *Id.* We are persuaded that this disclosure sufficiently teaches the limitation.

Patent Owner takes issue with the manner in which Becerra’s system accomplishes the rerendering. PO Resp. 34. According to Patent Owner, “the control panel is playing a different part of the movie based on the Actionscript code” (*id.*), and that cannot meet the rerendering limitation. But neither the claim language nor the ’892 patent Specification limit the claim in this manner. The claim requires “rerender[ing] the chart using the input as a parameter thereby enabling the interactive chart to retain interactivity when published or embedded.” Ex. 1001, 18:48–52. As Petitioner points out, in one embodiment, the ’892 patent Specification *itself* discloses downloading interactive charts as

“flash files” and using “Adobe flash player” to execute code in the flash file. *Id.* at 10:7–11. And Dr. Miller agrees that interacting with a chart using the Adobe flash player causes rerendering of the chart. *See* Ex. 1070, 39:13–42:17. We therefore agree with Petitioner that Patent Owner’s interpretation of “rerender” would exclude this embodiment disclosed in the ’892 patent Specification, and that Becerra discloses the *same* software to perform the *same* interactions as the ’892 patent Specification.

On the complete record, we are persuaded that Becerra teaches limitation [1F].

h) Objective Indicia of Nonobviousness

Neither Petitioner nor Patent Owner has presented any evidence of objective indicia of nonobviousness in this case.

i) Weighing the Graham Factors

“Once all relevant facts are found, the ultimate legal determination [of obviousness] involves the weighing of the fact findings to conclude whether the claimed combination would have been obvious to an ordinary artisan.” *Arctic Cat*, 876 F.3d at 1361. On balance, considering the complete record before us, Petitioner has established by a preponderance of the evidence that Becerra would have rendered the subject matter of claim 1 of the ’892 patent obvious to one of ordinary skill in the art at the time of the invention.

3. Dependent Claims 2, 4, 5, and 7–9

Claims 2, 4, 5, and 7–9 depend from claim 1. Ex. 1001, 18:53–55, 18:66–67, 19:3–12. Petitioner contends that these claims are also unpatentable over Becerra. Pet. 28–31 (citing Ex. 1003 ¶¶ 204–218).

Petitioner contends that Becerra teaches the additional limitation recited in claim 2 because it discloses transmitting data to its calculation engine for extraction and storage of data within internal data structures. *Id.* at 28–29 (citing Ex. 1005 ¶¶ 24, 38, 44; Ex. 1003 ¶ 205).

Petitioner contends that Becerra teaches the additional limitation recited in claim 4 for the same reasons as those discussed with respect to limitation [1B] and [1E]. *Id.* at 29 (citing Ex. 1005 ¶¶ 50, 52; Ex. 1003 ¶¶ 207–209).

Petitioner contends that Becerra teaches the additional limitation recited in claim 5 for the same reasons as those discussed with respect to limitation [1C] and [1F]. *Id.* at 30 (citing Ex. 1005 ¶¶ 42, 50, 52; Ex. 1003 ¶¶ 210–212).

Petitioner contends that Becerra teaches the additional limitation recited in claim 7 because it discloses using Flash to enables users to generate animations and that a person of ordinary skill in the art would have found it obvious to include an animation feature for the created charts. *Id.* at 30–31 (citing Ex. 1005 ¶¶ 7, 8, 52, 53; Ex. 1003 ¶¶ 213–215).

Petitioner contends that Becerra teaches the additional limitation recited in claim 8 for the same reasons as those discussed with respect to limitation [1E] and [1F]. *Id.* at 31 (citing Ex. 1005 ¶¶ 42, 50, 52; Ex. 1003 ¶ 216).

Petitioner contends that Becerra teaches the additional limitation recited in claim 9 for the same reasons as those discussed with respect to limitation [1C], [1E] and [1F]. *Id.* at 31–33 (citing Ex. 1005 Fig. 2, ¶¶ 10, 50, 52, 53). Petitioner contends that a person or ordinary skill in the art would have thus understood that the interactive features of Becerra’s charts would be customizable. *Id.* at 33 (citing Ex. 1003 ¶¶ 218–222).

Patent Owner does not present separate arguments for these claims.
See PO Resp. 35 (citing Ex. 2001 ¶¶ 140–141).

Based on our review of the complete record, we determine that Petitioner has established by preponderance of the evidence Becerra would have rendered the subject matter of claims 2, 4, 5, and 7–9 of the ’892 patent obvious to one of ordinary skill in the art at the time of the invention.

E. Obviousness Based on Becerra and Couckuyt

Petitioner contends that claims 3, 10, 11, 13–16 are unpatentable based on Becerra and Couckuyt (Ground 2). Pet. 33–48.

1. Motivation to Combine Becerra and Couckuyt

Petitioner argues that a person of ordinary skill in the art would have been motivated to combine the teachings of Becerra and Couckuyt because such a person would have recognized that Couckuyt discloses useful techniques of assigning data to Becerra’s charts, including assigning data to each axis. Pet. 34 (citing Ex. 1005 ¶¶ 19, 52, Fig. 5; Ex. 1003 ¶ 224). Petitioner contends that Couckuyt discloses associating data from a “spreadsheet document” with a chart, such as a “bar graph.” *Id.* at 35 (citing Ex. 1006, 6:1–37; Figs. 3a, 3c).

Petitioner’s annotated version of Couckuyt’s Figure 4 is reproduced below.

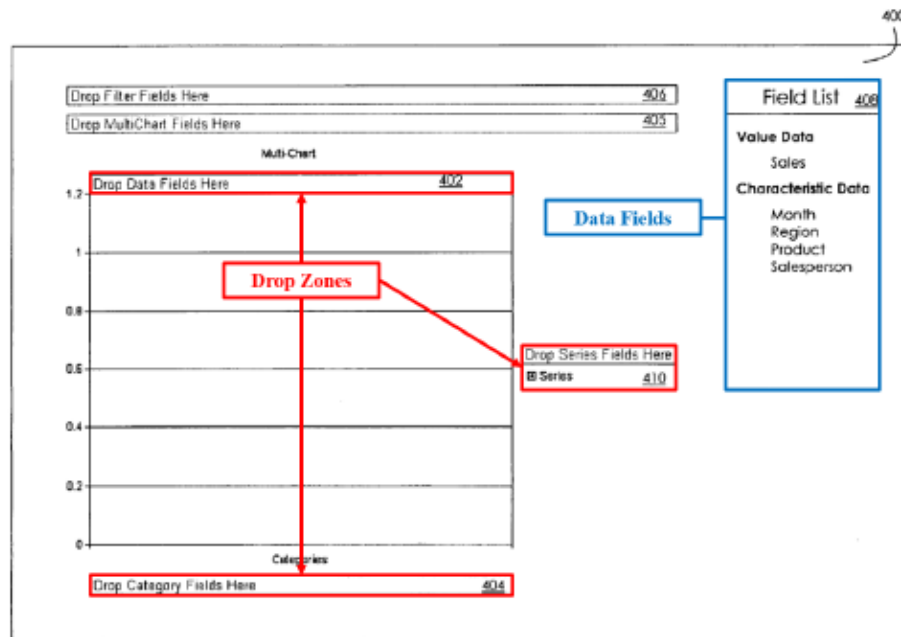


Fig. 4

Petitioner’s annotations to Figure 4 identify “Drop Zones” in red and “Data Fields” in Blue. *Id.* at 36. Petitioner contends Couckuyt discloses a “drag-and-drop user interface (DDUI) . . . associated with a data source, such as the two-dimensional data source 300,” and Figure 4 illustrates the DDUI permitting “value data fields and the characteristic data fields . . . to be dragged and dropped into drop zones.” *Id.* at 35–36 (citing Ex. 1006, 7:10–13). Petitioner contends that a “primary benefit of the charting DDUI is that the user can quickly change the data that is being presented in the chart,” and using Couckuyt’s techniques, a user can “quickly change the data” and see the desired effects. *Id.* at 36 (citing Ex. 1006, 1:18–19; Ex. 1003 ¶ 228). Petitioner contends that when Becerra’s control panel includes multiple charts, Couckuyt’s techniques would allow dragging-and-dropping data from a data source to multiple charts, and would simplify the process of assigning data to multiple control panel components. *Id.* at 36–37

(citing Ex. 1003 ¶ 228). Petitioner further contends that a person of ordinary skill in the art would have also had a reasonable expectation of success combining Becerra with Couckuyt because the combination would amount to nothing more than incorporating Couckuyt's well-known drag-and-drop techniques into Becerra's system. *Id.* at 37 (citing Ex. 1003 ¶¶ 229–231).

Patent Owner responds that Couckuyt focuses on selecting a data icon that corresponds to dragging and dropping data *fields*, not dragging and dropping data, while Becerra teaches that selecting various data ranges from the spreadsheet is desirable. PO Resp. 36–37 (citing Ex. 1004 7:48–52; Ex. 2001 ¶ 146). According to Patent Owner, a person of ordinary skill in the art would not have been motivated to merely select data *fields* that do not limit the selected data in any way. *Id.* Patent Owner further argues Becerra's method of binding components to a spreadsheet range and extracting formulas from a spreadsheet teaches away from the multiple chart generation scheme of Couckuyt that uses drag and dropping of data fields. *Id.* at 37. According to Patent Owner, Couckuyt is directed to the need for a charting DDUI that can generate multiple charts at the same time and such a need does not exist in Becerra which in turn is focused on creating a control panel that is an interactive graphics simulation. *Id.* (citing Ex. 1004, 1:66–67, 2:5–8; Ex. 1005 ¶ 11; Ex. 2001 ¶ 148).

Based on our review of the complete record, we determine that Petitioner provides an adequate reason why one of ordinary skill in the art would have combined the teachings of Becerra and Couckuyt in the manner asserted by Petitioner, with a reasonable expectation of success. As the Federal Circuit has explained in *Intel Corp. v. PACT XPP Schweiz AG*, when two references address the same problem and the second reference discloses a known way to address that problem, that is precisely the reason that there's

a motivation to combine the two references under *KSR*. 61 F.4th 1373, 1380–81 (Fed. Cir. 2023) (citing *KSR*, 550 U.S. at 417). Here both references address the problem of assigning components and data from a source to a chart. We agree with Petitioner that Couckuyt’s data drag-and-drop techniques would have enabled a user to assign data to different chart aspects, such as different axes, and would have simplified the process of assigning data to multiple control panel components. Although Couckuyt discloses dragging and dropping data *fields*, those fields do correspond to a particular set of data. *See* Ex. 1070, 59:18–24 (explaining that “[b]ased on the data field that’s dropped into Couckuyt, the data that is associated with that field then updates the chart.”). Thus, an ordinarily skilled artisan would have understood the benefit of Couckuyt teaching of dragging-and-dropping data when applied to Becerra’s system.

Patent Owner further argues that even if Couckuyt teaches dragging and dropping data, it would not simplify *assigning* of the data to multiple control panel components as required by Becerra’s system. Sur-reply 16 (citing Ex. 1005 ¶ 42). There is no requirement, however, that Couckuyt provide a complete replacement of Becerra’s teachings in order for a person of ordinary skill in the art to find Couckuyt’s teachings beneficial to Becerra’s system. To the extent Patent Owner argues that Becerra’s system would have required other changes to incorporate Couckuyt’s teachings, “the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference.” *In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

Patent Owner’s argument that Couckuyt’s teaching is limited to addressing the need for a charting DDUI that can generate *multiple* charts at the same time is also incorrect. As Petitioner points out, Couckuyt also

teaches use of drag-and-drop techniques to generate a *single* chart. Reply 12 (citing Ex. 1006, 7:10–26); *see also* Ex. 1070, 56:21–57:4.

We are therefore persuaded that a person of ordinary skill in the art would have been motivated to combine Becerra and Couckuyt in the manner proposed by Petitioner and would have had a reasonable expectation of success for the combination.

2. *Dependent Claim 3*

Claim 3 depends from claim 1 and further recites:

wherein the generation interface comprises a data pane and a chart pane and is configured to receive a user selection of data from the data pane and allow the user to drag and drop the data into the chart pane and wherein the generation module automatically generates the interactive chart from the data stored in the data module when the user interface receives an indication that the user has dropped the data into the chart pane.

Ex. 1001, 18:53–55, 18:64–67, 19:3–12.

Petitioner contends that claim 3 is unpatentable over the combination of Becerra and Couckuyt. Pet. 38–41 (citing Ex. 1003 ¶¶ 234–244).

Petitioner relies on its contention as to limitation [1C] to argue Becerra discloses that the generation interface is configured to receive a user selection of data from the data pane. *Id.* at 39 (citing Ex. 1005 ¶ 38; Ex. 1003 ¶¶ 235–236). Referencing Figure 4 of Couckuyt (reproduced above), Petitioner contends that Couckuyt discloses a generation interface that comprises a data pane and a chart pane, and discloses a DDUI that “permits the value data fields and the characteristic data fields . . . to be dragged and dropped into drop zones.” *Id.* at 39–40 (citing Ex. 1006, 1:14–34, 2:22–32, 2:42–55, 7:24–26, 7:64–8:36, Figs. 4–6; Ex. 1003 ¶ 238) (alteration in original). Petitioner contends that Couckuyt’s DDUI also

“automatically generates the interactive chart from the data stored in the data module when the user interface receives an indication that the user has dropped the data into the chart pane.” *Id.* at 40 (citing Ex. 1003 ¶¶ 239–243). According to Petitioner, Couckuyt stores spreadsheet document data and when Couckuyt’s DDUI receives dropped data in the chart pane, the DDUI automatically generates the interactive chart from the stored data. *Id.* at 40–41 (citing Ex. 1003, code (57), 1:32–34, 4:16–37, 5:25–38, 7:26–39, 7:64–8:36, 9:48–52, 10:52–54, Figs. 1, 2, 5, 6; Ex. 1003 ¶¶ 235–236).

Patent Owner presents three arguments in response to Petitioner’s contentions.

First, Patent Owner argues that the combination of Becerra and Couckuyt does not teach providing a generation interface having a data pane and chart pane. PO Resp. 38–39. Patent Owner argues that Becerra’s Figure 2 shows that the layout tool has a combo box window and a list box window for displaying different component categories (e.g., maps) and components belonging a selected category, respectively, but there is no disclosure of a chart pane. *Id.* at 38 (citing Ex. 1005 ¶ 32; Ex. 2001 ¶ 152). Patent Owner further argues Becerra’s Excel spreadsheet is not a data pane. *Id.* (citing Ex. 1005 ¶ 38; Ex. 2001 ¶ 152). Patent Owner also argues Becerra’s canvas layout tool is not a generation interface. And Patent Owner argues that Couckuyt discloses “a place to drag and drop data fields and list of fields, not data.” *Id.* at 39 (citing Ex. 1006, Fig. 4).

As discussed above with respect to claim 1, we are not persuaded by Patent Owner’s argument that Becerra fails to teach a generation interface. Patent Owner’s remaining arguments focus on the teachings of Becerra and Couckuyt separately and do not address Petitioner’s contention that it is the

combination that teaches this limitation. Petitioner incorporates Couckuyt's drag-and-drop techniques into Becerra's system, and as such, incorporates the chart pane and data pane from Couckuyt's Figure 4 (Pet. 40) into Becerra's generation interface (*id.* at 39). Patent Owner therefore does not meaningfully address Petitioner's proposed combination. *See In re Mouttet*, 686 F.3d 1322, 1333 (Fed. Cir. 2012) ("the test for obviousness is what the combined teachings of the references would have suggested to those having ordinary skill in the art") (citing *In re Keller*, 642 F.2d at 425).

Second, Patent Owner argues that the combination of Becerra and Couckuyt does not teach "the generation interface . . . is configured to receive a user selection of data from the data pane and allow the user to drag and drop the data into the chart pane." PO Resp. 40. Patent Owner argues that Couckuyt focuses on selecting a data icon that corresponds to dragging and dropping data fields, so the user is not selecting data from the data pane or dragging and dropping the data into a chart pane. *Id.* (citing Ex. 1006, 7:24–26; Ex. 2001 ¶¶ 156–157). As discussed above, however, Couckuyt's data fields correspond to a set of data, and when a data field is dropped, the data that is associated with that field populates the chart. *See* Pet. 40–41 (citing Ex. 1006, 1:32–34); *see also* Ex. 1070, 56:21–57:4. The combination of Becerra and Couckuyt therefore teaches this limitation.

Lastly, Patent Owner argues that the combination of Becerra and Couckuyt does not teach "the generation module automatically generates the interactive chart from the data stored in the data module when the user interface receives an indication that the user has dropped the data into the chart pane." PO Resp. 40. Patent Owner argues that Becerra does not disclose, teach, or suggest automatically generating an interactive chart because it relies on components, a range assigned to each component,

formulas, a math model, and a Flash movie based on Actionscript code to create a control panel with a bar chart component. *Id.* (citing Ex. 1005 ¶¶ 22–25, 51; Ex. 2001 ¶¶ 158–159). Patent Owner further argues that Couckuyt does not automatically generate the interactive chart from the data stored in the data module because Couckuyt’s dragging and dropping data fields, not data from a data pane. *Id.* at 41 (citing Ex. 1006 7:12–13, 7:15, 7:24–26).

Patent Owner’s arguments are directed to Becerra’s teachings while Petitioner relies on Couckuyt as teaching the automatic generation aspect. Couckuyt discloses that the DDUI permits the data fields (i.e., sets of data) “to be dragged and dropped into drop zones,” and the drop zone “can accept value data fields (e.g., sales) and will chart that data.” Ex. 1006, 7:24–28. Couckuyt also repeatedly discloses when a user drops a field into the drop zone, the charting DDUI will “*automatically generate*” a chart. *Id.* at code (57), 2:12–16, 3:23–28. Patent Owner’s argument is therefore unpersuasive.

Accordingly, we determine that Petitioner has established by a preponderance of the evidence that the combination of Becerra and Couckuyt would have rendered the subject matter of claim 3 of the ’892 patent obvious to one of ordinary skill in the art at the time of the invention.

3. *Independent Claim 10*

a) *Limitations [10P], [10A]–[10B], and [10D]–[10G]*

Petitioner contends that Becerra, either alone or in view of Couckuyt, teaches the preamble and each of limitations [10A]–[10B] and [10D]–[10G] for the reasons discussed with respect to claims 1 and 3. Pet. 41–45 (citing Ex. 1003 ¶¶ 245–258). Petitioner relies on its contentions relating to the preamble of claim 1 and limitations [1A], [1B], [1E], and [1F] as well as

claim 3 for these limitations. *Id.* Additionally, Petitioner contends that limitation [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 [person of ordinary skill in the art].” Reply 11 (citing Ex. 1072 ¶¶ 18–22).

Patent Owner does not present separate arguments as to these limitations, but instead relies on its arguments directed to claims 1 and 3. PO Resp. 41–43 (citing Ex. 2001 ¶¶ 160–166). As discussed above, we are persuaded that Becerra teaches all of limitations of claim 1 and the combination of Becerra and Couckuyt teaches the additional limitations of claim 3. We are therefore persuaded that the combination of Becerra and Couckuyt teaches the preamble of claim 10 as well as limitations [10A]–[10B], [10D]–[10G], as argued by Petitioner.

b) Limitation [10C]: 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;

Petitioner contends that Becerra teaches this limitation because it discloses selecting graphic components or objects and placing them on a graphics canvas. Pet. 42 (citing Ex. 1005 ¶ 10). Petitioner contends that Becerra’s components may be selected from preexisting files or libraries (e.g., Flash files) and may include user interface elements such as sliders, buttons, checkboxes, *charts*, maps, moving characters or objects, special effects, etc. *Id.* (citing Ex. 1005 ¶¶ 10, 32). Petitioner further contends Becerra’s component templates are selected from the chart pane, as shown in Figure 2 of Becerra. *Id.* (citing Ex. 1005 Fig. 2; Ex. 1003 ¶ 250). Petitioner argues that a person of ordinary skill in the art would have been motivated to modify Becerra such that the chart template is stored in a chart template

module located on a remote server, which would have allowed users to access the same templates and would have allowed the organization to update templates. *Id.* at 41–42 (citing Ex. 1005 ¶ 8; Ex. 1003 ¶¶ 251–252).

Patent Owner responds that “[n]either Becerra nor Couckuyt discloses that a chart template is stored in a chart template module on a remote server.” PO Resp. 42 (citing Ex. 2001 ¶ 162). Patent Owner argues that a modification of Becerra’s canvas layout tool with Couckuyt’s drag and drop interface would require impermissible hindsight. *Id.*

We determine Petitioner has provided a sufficient rationale to modify the teachings of Becerra in the proposed manner. Mr. Schmandt testifies that no changes to Becerra’s user interface would be required for this modification and using remote servers to store business application data was well known and common in the art at the time of the ’892 patent. Ex. 1003 ¶¶ 251–252 (citing Ex. 1062, 2, Ex. 1064, 1). He further testifies that Becerra itself expresses a need to support the techniques disclosed in a business environment and such an environment requires uniformity of the business application software across the organization. *Id.* We credit Mr. Schmandt’s testimony because it is consistent with the cited evidence, and we agree with Petitioner that a person of ordinary skill in the art would have been motivated to make such a modification to Becerra’s system. Hosting Becerra’s templates on a remote server would have allowed users to access the exact same templates across an organization and would have allowed updating of templates in a central location. *Id.*

On balance, considering the complete record before us, Petitioner has established by a preponderance of the evidence that the combination of Becerra and Couckuyt would have rendered the subject matter of claim 10 of

the '892 patent obvious to one of ordinary skill in the art at the time of the invention.

4. Dependent Claims 11 and 13–16

Claims 11 and 13–16 depend from claim 10. Ex. 1001, 20:9–10, 20:16–24. Petitioner contends that these claims are also unpatentable over the combination of Becerra and Couckuyt. Pet. 45–48 (citing Ex. 1003 ¶¶ 259–268).

Petitioner contends that Becerra teaches the additional limitation recited in claim 11 for the same reasons as those discussed with respect to claim 9. Pet. 45 (citing Ex. 1003 ¶ 259).

Petitioner contends that Becerra teaches the additional limitation recited in claim 13 for the same reasons as those discussed with respect to claim 2. *Id.* (citing Ex. 1003 ¶ 260).

Petitioner contends that Becerra teaches the additional limitation recited in claim 14 for the same reasons as those discussed with respect to limitation [1A]. *Id.* at 46 (citing Ex. 1005 ¶ 38; Ex. 1003 ¶ 262).

Petitioner contends that Becerra teaches the additional limitation recited in claim 15 because it discloses that a user can select one or more cells (i.e., a range of cells) within a spreadsheet to associate to a selected component using a graphic pointing device, such as a mouse. *Id.* at 46–47 (citing Ex. 1005 ¶ 38; Ex. 1003 ¶¶ 265–266).

Petitioner contends that Becerra teaches the additional limitation recited in claim 16 because it discloses selecting components (e.g., a chart) before associating the component with data. *Id.* at 47–48 (citing Ex. 1005 Fig. 3, ¶ 38; Ex. 1003 ¶¶ 267–269).

Patent Owner does not present separate arguments for these claims. *See* PO Resp. 43–44 (citing Ex. 2001 ¶¶ 167).

Based on our review of the complete record, we determine that Petitioner has established by preponderance of the evidence that the combination of Becerra and Couckuyt would have rendered the subject matter of claims 11 and 13–16 of the ’892 patent obvious to one of ordinary skill in the art at the time of the invention.

F. Obviousness Based on Becerra, Couckuyt, and Key

Petitioner asserts that claims 10, 11, and 13–16 are also unpatentable based on Becerra, Couckuyt, and Keys (Ground 3). Pet. 48–52. Petitioner contends that to the extent Becerra does not explicitly disclose “a chart template module located on a remote server,” Keys provides this teaching. *Id.* at 48–49 (citing Ex. 1034, code (57), Fig. 1; Ex. 1003 ¶ 271). Petitioner contends that Keys discloses “a client-server environment” including a database located on the remote computer for storing template files 116, “i.e., predetermined data files used to generate a visual indication of a final presentation,” and that these template files can include items such as graphs. *Id.* at 49–50 (citing Ex. 1034 ¶¶ 21–22, 25, 42, 71; Ex. 1003 ¶ 272). Petitioner contends that Keys teaches that a user can browse through the gallery of available templates and select a template to be transmitted to the client computer system. *Id.* at 50 (citing Ex. 1034 ¶¶ 35, 40, 46; Ex. 1003 ¶ 273). Petitioner contends that an ordinarily skilled artisan would have been motivated to store Becerra’s chart templates on a remote server, as in Keys, to allow users access to the same, wide variety of templates. *Id.* at 50–51 (citing Ex. 1005 ¶ 8; Ex. 1003 ¶ 274). Petitioner further contends that such a combination would have been a mere design choice and a person of

ordinary skill in the art would have had a reasonable expectation of success. *Id.* at 51–52 (citing Ex. 1003 ¶¶ 275–276).

Patent Owner argues that Keys discloses a system of creating a high-quality presentation using the Internet and discloses the storage of different blank presentation templates that users may choose to create their own presentations. PO Resp. 44 (citing Ex. 1034 ¶¶ 11, 25 28, 68, 70, 71). Patent Owner argues that although Keys refers to graphs, it does not specifically refer to charts, chart templates, or a chart template module, and therefore, does not teach a chart template module located on a remote server. *Id.* at 45 (citing Ex. 2001 ¶¶ 168–173).

As discussed above (*supra* § III.E.3.b), we determine that Petitioner has shown that Becerra alone renders the limitation “a chart template module located on a remote server” obvious. Additionally, we are persuaded that Petitioner has shown that the combination of Becerra and Keys also teaches this limitation. Here too, Patent Owner’s arguments are directed to Key’s teachings *separately* and fail to address the combined teachings of Becerra and Keys, which Petitioner relies on as teaching the claimed chart template module. Accordingly, we find Patent Owner’s arguments unpersuasive.

Based on our review of the complete record, we determine that Petitioner has established by preponderance of the evidence that the combination of Becerra, Couckuyt, and Key would have rendered the subject matter of claims 10, 11, and 13–16 of the ’892 patent obvious to one of ordinary skill in the art at the time of the invention.

G. Obviousness Based on Becerra and Moyer

Petitioner asserts that claim 6 is unpatentable based on Becerra and Moyer (Ground 4). Pet. 52–54. Petitioner contends that Moyer teaches a

“copy-to-my-account feature” because it discloses a website that displays media along with a “Blog This” button, which when clicked, copies the media content and pastes it to the user’s blog account. *Id.* at 52 (citing Ex. 1010 ¶¶ 32–37). Petitioner contends that a person of ordinary skill in the art would have been motivated to use this feature with Becerra’s system to allow users to share/discuss interactive charts with others on the Internet. *Id.* at 53–54 (citing Ex. 1010 ¶¶ 32, 35, 38; Ex. 1039, 1–2, 7; Ex. 1003 ¶¶ 280–282).

Patent Owner responds that Moyer does not disclose, teach, or suggest an interactive chart with interactive features, including interactive features that comprise a copy-to-my-account feature. PO Resp. 45–47 (citing Ex. 2001 ¶¶ 174–183). Patent Owner argues that Moyer’s feature is different than that disclosed in the ’892 patent. *Id.* at 45–46. Patent Owner also argues Moyer is directed to the need to present information about a video in a blog while Becerra discloses creating a control panel that is an interactive graphics simulation. *Id.* at 46 (citing Ex. 1005 ¶ 11; Ex. 1010 ¶ 3). According to Patent Owner, there would be no reason to add a “Copy-To-My-Account” feature as Becerra because Becerra discloses creation of a Flash file that is already capable of being saved. *Id.* (citing Ex. 2001 ¶ 182).

We find that Petitioner persuasively shows that the combination of Becerra and Moyer teaches the “copy-to-my-account” feature. Mr. Schmandt testifies that adding Moyer’s “Blog This” button to Becerra would further facilitate collaboration, allowing users to share and discuss interactive charts with others with a simple click. Ex. 1003 ¶¶ 280–282. We determine that that is sufficient reason for an ordinarily skilled artisan to have combined the teachings of Becerra and Moyer. Patent Owner’s argument that a Flash file is already capable of being *saved* is inapposite to

Petitioner’s combination. Mr. Schmandt testifies that when a user wants to post Moyer’s media content, the host website generates HTML code for the destination web page. *Id.* ¶ 281 (citing Ex. 1010 ¶ 33). Patent Owner does not explain, and we find no reason, why an interactive chart Flash file could also not be posted in the same manner. *See id.* ¶ 282 (testifying that “[t]he feature would have been implemented on the back-end, so users would not be required to personally edit or write HTML code themselves”). As Petitioner points out, the ’892 patent itself discloses a “copy-to-my-account” feature that works with embodiments in which the interactive chart is *saved* as a Flash file. Reply 14 (citing Ex. 1001, 9:49–58, 10:36–55). We find Mr. Schmandt’s testimony to be credible, and therefore, agree with Petitioner that the combination of Becerra and Moyer teaches the additional limitation recited in claim 6.

Based on our review of the complete record, we determine that Petitioner has established by preponderance of the evidence that the combination of Becerra and Moyer would have rendered the subject matter of claim 6 of the ’892 patent obvious to one of ordinary skill in the art at the time of the invention.

*H. Obviousness Based on Becerra and Jou;
Obviousness Based on Becerra, Couckuyt, Key, and Jou*

Petitioner contends that claim 7 is unpatentable based on Becerra and Jou (Ground 5). Pet. 54–57. Petitioner further contends that claim 12 is similarly unpatentable based on Becerra, Couckuyt, Keys, and Jou (Ground 6). *Id.* at 57.

Petitioner contends that Becerra in view of Jou teaches “interactive features” for charts including “a zoom feature,” “a data hide/share feature,” and “a drill-down feature.” *Id.* at 54 (citing Ex. 1007 ¶¶ 10, 14, 36; Ex. 1003

¶ 285). Petitioner contends Jou discloses check, radio, and range filters allowing a user to select data visible in a chart. *Id.* at 55 (citing Ex. 1007 ¶¶ 38–41; Ex. 1003 ¶ 287). Petitioner further contends that Jou also discloses allowing drilling on the dimension axis of charts by moving either up or down the hierarchy of categories of a dimension to obtain a more or less detailed view of the data, and discloses obtaining a closer area view or a wider area view of a map or layer. *Id.* at 55–56 (citing Ex. 1007 ¶¶ 44, 49; Ex. 1003 ¶ 288). Petitioner argues that a person of ordinary skill in the art would have been motivated to incorporate these “interactive features” into Becerra’s system to enable users to better visualize representations of input and output data and their relational behavior. *Id.* at 56–57 (citing Ex. 1005 ¶¶ 8, 34, 52; Ex. 1007 ¶ 34; Ex. 1003 ¶¶ 289–291). Petitioner contends Becerra in view of Couckuyt, Keys, and Jou teaches claim 12 for the same reasons. *Id.* at 57 (citing Ex. 1003 ¶ 293).

Patent Owner responds that absent impermissible hindsight, Becerra and Jou do not provide a basis for modifying the Becerra’s control panel, that is an interactive graphics simulation, with the filtering, drilling, and zooming features of Jou. PO Resp. 47–49 (citing Ex. 2001 ¶¶ 184–191). Patent Owner argues that Becerra and Jou teach away from the combination. *Id.* at 48 (citing Ex. 2001 ¶ 188). According to Patent Owner, Jou is directed to visualization of business data organized according to a dimensional model while Becerra discloses a control panel that is an interactive graphics simulation. *Id.* (citing Ex. 1005 ¶ 11; Ex. 1007 ¶¶ 2, 6); Sur-reply 18.

We are persuaded that Petitioner has shown that an ordinarily skilled artisan would have had reason with rational underpinning to combine the teachings of Becerra and Jou, and that the combination teaches the additional limitations recited in claims 7 and 12.

Patent Owner’s argument that Becerra and Jou are directed to different applications is not persuasive; Patent Owner contends Jou is directed to visualization of business data, but so is Becerra. *See* Ex. 1005 ¶ 8 (“there is a need for a method and system that allows users to associate externally-created graphics and/or animations . . . with input and output data of business application software programs, so as to create a dynamic and interactive graphic representation of the input and output data”). Jou provides certain interactive techniques for visualizing data and we agree with Petitioner that an ordinarily skilled artisan would have been motivated to combine those with Becerra’s system to enable users to better visualize the data. Ex. 1003 ¶ 289. Patent Owner argues Becerra and Jou teach away from a combination but fails to point us to any disclosure that supports that argument. If anything, the fact that Jou’s system is able to support “several hierarchical levels of categories” (PO Resp. 48) would have encouraged, not discouraged, an ordinarily skilled artisan to combine Jou’s teachings with Becerra’s system.

Based on our review of the complete record, we determine that Petitioner has established by preponderance of the evidence that the combination of Becerra and Jou would have rendered the subject matter of claim 7, and the combination of Becerra, Couckuyt, Keys, and Jou would have rendered the subject matter of claim 12, of the ’892 patent obvious to one of ordinary skill in the art at the time of the invention.

I. Obviousness Based on QlikView Manuals

Petitioner asserts that claims 1, 2, and 5–9 are unpatentable based on QlikView Manuals. Pet. 58–76.

1. Scope and Content of the Prior Art

a) QlikView Manuals

The QlikView Manuals include the QlikView First Edition Version 8.5 Reference Manual for Microsoft Windows (Ex. 1008, “QlikView Reference Manual”) and the QlikView Server First Edition Version 8.5 Reference Manual for Microsoft Windows (Ex. 1009, “QlikView Server Reference Manual”). The QlikView Reference Manual explains how to create charts using “a wizard that will help you create the chart.” Ex. 1008, 880.¹⁰

Figure 1 of the QlikView Reference Manual is reproduced below.

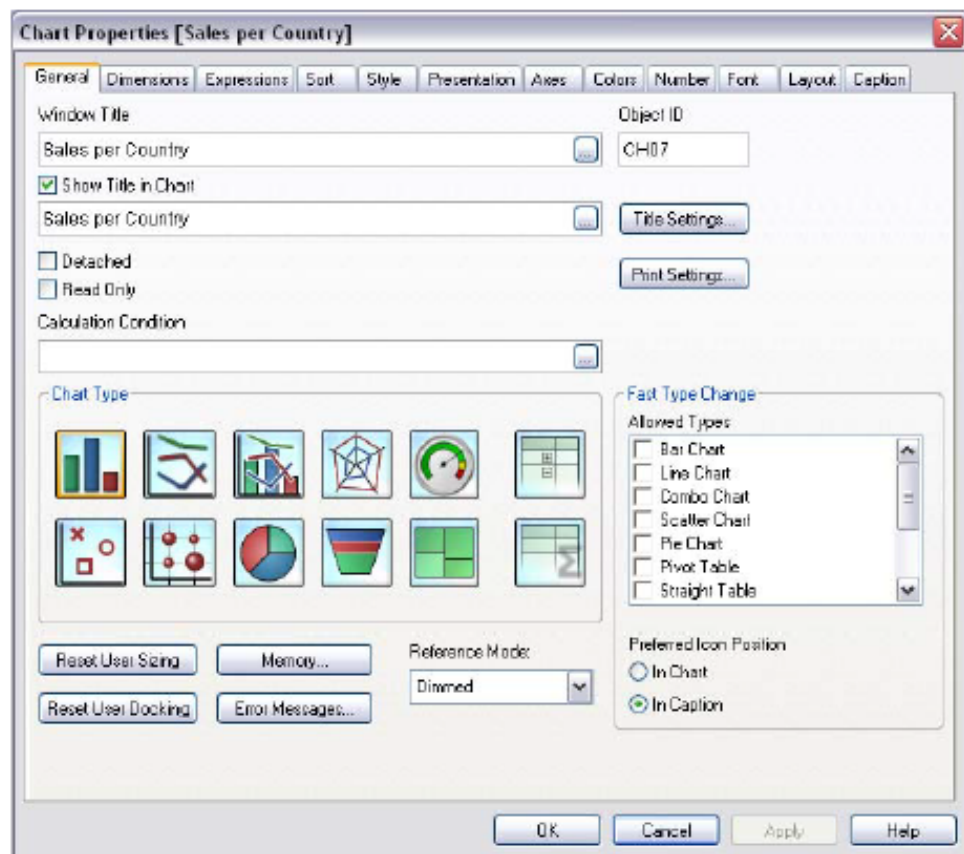


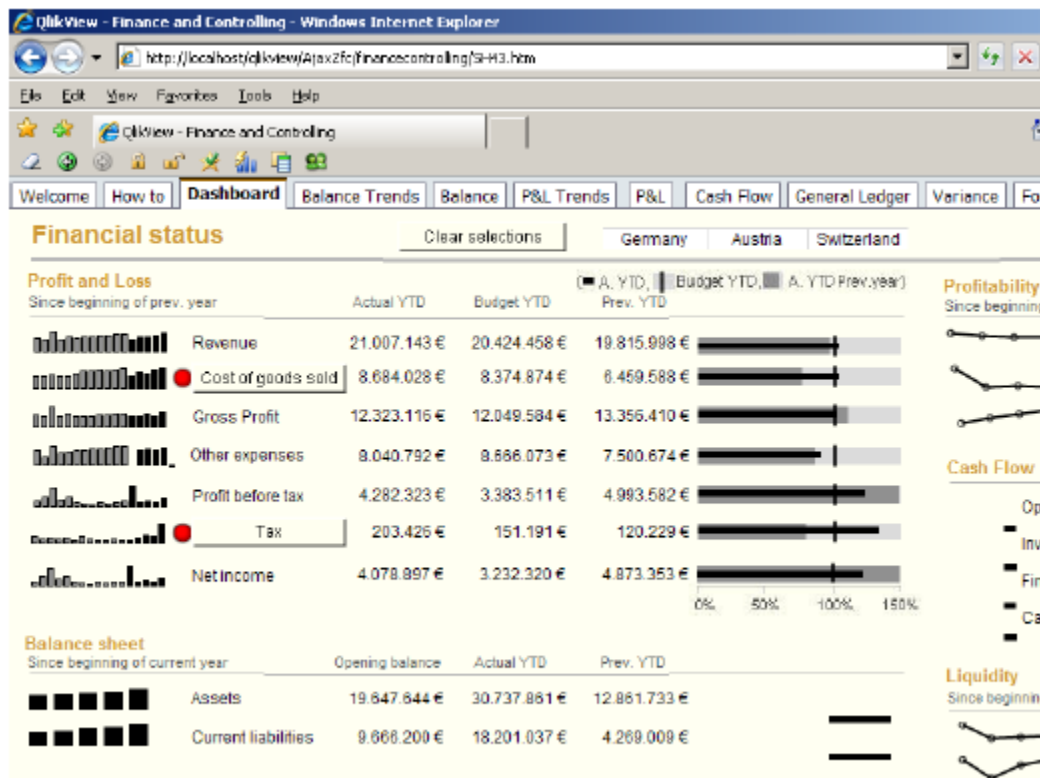
Figure 1. The General page in the Chart Properties dialog

¹⁰ We refer to the internal page numbers at the bottom center of Exhibits 1008 and 1009.

Figure 1 is a screenshot of the “General” page in the “Chart Properties” dialog. *Id.* at 882. The General page allows setting the chart title and chart type, as well as other chart properties. *Id.* at 881–886.

The QlikView Server Reference Manual describes the QlikView Server, which “provides a platform for hosting, distributing, and sharing QlikView information over the Internet/Intranet.” Ex. 1009, 9. The QlikView Server Reference Manual also describes the QlikView AJAX (Asynchronous JavaScript and XML) ZFC (zero-footprint client), which allows the QlikView Server to send “Dynamic HTML (DHTML) pages and XML data to the browser running on” a client’s computer. *Id.* at 155–56.

The below figure from the QlikView Server Reference Manual is a screenshot of a QlikView AJAX client. Ex. 1009, 155.



QlikView AJAX client with the toolbar option

The QlikView Server Reference Manual explains that “[a] QlikView client is required for display and usage of an existing QlikView document,” and describes various clients that can be used with the QlikView server. *Id.* at 123.

2. *Whether QlikView Manuals Qualify as Prior Art*

Petitioner argues that “the QlikView Manuals describe a well-known system and are printed publications available to the public at least by July 8, 2008.” Pet. 7–9. Petitioner offers ample evidence to demonstrate the QlikView Manuals were publicly accessible by July 8, 2008. *See id.* (citing Ex. 1008; Ex. 1009; Ex. 1014–1023; Ex. 1003 ¶ 129–140; Ex. 1030;¹¹ Ex. 1068 ¶¶ 4–7; Ex. 1032; Ex. 1033).

Petitioner contends in 2008, QlikView was a well-known software product sold by QlikTech International AB (“QlikTech”). *Id.* at 8 (citing Ex. 1003 ¶ 129; Ex. 1030 ¶ 23; Ex. 1068 ¶¶ 4–7). Petitioner asserts that QlikTech announced that QlikView version 8.50 was scheduled for release on June 30, 2008, and QlikTech’s website added the “QlikView 8.50” hyperlink by July 8, 2008. *Id.* (citing Ex. 1003 ¶¶ 129–131; Ex. 1022, 1; Ex. 1068 ¶ 7). Petitioner contends that, as of July 8, 2008, a person of ordinary skill in the art would have understood that they could view the QlikView Manuals in the installation package. *Id.* (citing Exs. 1014–1017; Ex. 1003 ¶¶ 131–132; Ex. 1068 ¶ 7). Petitioner further contends that the QlikView Manuals were also available on QlikTech’s website as of this

¹¹ As discussed below (*see infra* § IV.A), we grant Patent Owner’s Motion to Exclude as to certain portions of Exhibit 1030 and do not give them any weight. However, we deny Patent Owner’s Motion as to the remaining portions of Dr. Hall-Ellis’s testimony as well as Ms. Lofton’s testimony and various other exhibits proffered by Petitioner to show public accessibility of the QlikView manuals as of July 8, 2008.

date, and that QlikTech represented to the U.S. Copyright Office that QlikView 8.50 was published on July 8, 2008. *Id.* at 8–9 (citing Exs. 1008, 1009, 1017, 1059, 1060; Ex. 1030 ¶¶ 29, 37).

In its Patent Owner Response, Patent Owner does not contest that the QlikView Manuals were published and publicly available by July 8, 2008. PO Resp. 50 n.2 (noting only that Patent Owner intends to move to exclude evidence Petitioner relies on to establish the publication date for QlikView Manuals); Tr. 45:3–19. We are persuaded that Petitioner has shown by a preponderance of the evidence that the QlikView Manuals were publicly available as of July 8, 2008.¹²

Patent Owner contends that the QlikView Manuals postdate the claimed invention and are not prior art.” PO Resp. 49–78. In the specific context before us, “the petitioner bears the ultimate burden of persuasion on invalidity, which never shifts to the patent owner,” but “when a patent owner attempts to antedate an asserted prior art reference, the patent owner takes on a temporary burden of production.” *Medtronic, Inc. v. Teleflex Innovations S. A.R.L.*, 68 F.4th 1298, 1303 (Fed. Cir. 2023) (citing *Dynamic Drinkware, LLC v. Natl. Graphics, Inc.*, 800 F.3d 1375, 1378–79 (Fed. Cir. 2015)). But “[o]nce that burden is met, the burden shifts back to the petitioner.” *Id.* (citing *Dynamic Drinkware*, 800 F.3d at 1379).

Here, Patent Owner attempts to antedate the QlikView Manuals by (1) claiming priority to July 2, 2008, the date of the provisional patent

¹² Arguments not raised by Patent Owner in its Patent Owner Response are deemed waived. *See* Paper 8, 9; *see also In re NuVasive*, 842 F.3d 1376, 1380–81 (Fed. Cir. 2016) (finding that Patent Owner waived its public accessibility arguments before the Board when it failed to raise them in its Patent Owner Response).

application, or (2) showing conception by June 4, 2008, and reasonably continuous diligence in reducing the invention diligent reduction to a constructive reduction to practice. PO Resp. 50–78. We address each in turn.

a) Provisional Filing

The '892 patent issued from U.S. Patent Application 12/205,802 (the "'802 application"), filed September 5, 2008, and claims priority to provisional U.S. Patent Application No. 61/077,728, filed on July 2, 2008. Ex. 1001, codes (22), (60); Ex. 1013 (the "'728 provisional"). Patent Owner contends that the challenged claims are entitled to the filing date of the '728 provisional. PO Resp. 50–55 (citing Ex. 2201 ¶ 36).

Petitioner argues that the '728 provisional does not have 35 U.S.C. § 112 support for the issued claims because Applicants added substantial new matter in the '802 application. Pet. 5 (citing Ex. 1002, 2–88; Ex. 1013, 0045–0046, 0054–0073). For example, Petitioner argues, the '728 provisional does not provide § 112 support for a system or method that comprises a sharing module configured to enable a user to “publish or embed the interactive chart as a self-contained and independent electronic document.” *Id.* (citing Ex. 1003 ¶¶ 61–66). Petitioner further argues that the '728 provisional does not describe a “module,” a “data pane,” a “computer system,” a “computer-implemented method,” or audio, video, animation, drill-down, and data gliding features recited in the challenged claims. *Id.* at 6 (citing Ex. 1003 ¶¶ 67–68). In its Reply, Petitioner argues that additional claim limitations, including those related to the computer system architecture, and a “chart template module,” are not supported by the disclosure of the '728 provisional. Reply 17–21 (citing Ex. 1003 ¶¶ 61–68). Petitioner also argues that Patent Owner fails to address written description

support in its papers and improperly incorporates Dr. Miller's declaration. *Id.* at 17 (citing 37 C.F.R. § 42.6(a)(3)).

Patent Owner responds with charts contending that all challenged claim limitations have written description support in the disclosure of the '728 provisional. PO Resp. 51–55 (citing Ex. 2201 ¶¶ 28–36); Sur-reply 20.

We are not persuaded that the '728 provisional application satisfies the written description requirement for any of the challenged claims.

As a threshold matter, we agree with Petitioner that Patent Owner improperly incorporates by reference arguments from Dr. Miller's declaration in violation of 37 C.F.R. §42.6(a)(3). *See* Reply 17. Patent Owner's claim charts, both in its Patent Owner Response and Sur-reply, are bare-bones and fail to provide meaningful explanation as to how the cited portions of the '728 provisional support the various claim limitations that Petitioner has challenged. For this reason alone, Patent Owner has failed to meet its burden to show that the challenged claims are entitled to the priority date of the '728 provisional. *See Parus Holdings, Inc. v. Google LLC*, 70 F.4th 1365, 1371 (Fed. Cir. 2023) ("The burden of production cannot be met simply by throwing mountains of evidence at the Board without explanation or identification of the relevant portions of that evidence.").

Moreover, even considering the cited disclosure, the '728 provisional has a minimal, page-and-a-half of disclosure that is *very* different from that of the '802 application that issued as the '892 patent. *Compare* Ex. 1013, 45–46 *with* Ex. 1002, 2–88. As Petitioner points out, the Applicants expressly relied on this new matter in prosecuting the challenged claims.

See e.g., Ex. 1002, 355 (citing to the new matter in support of the “publish” limitation); Pet. 5.

We agree with Petitioner that many of the claim limitations lack written description support in the disclosure of the ’728 provisional. For example, Patent Owner cites to a single page and three figures as providing support for claim limitation [1E], which recites publishing or embedding an interactive chart as “a self-contained and independent electronic document.” PO Resp. 53 (citing Ex. 1013, 0045, 0059, 0060, 0064). Although the ’728 provisional mentions that the “[t]he user can then publish the chart online or download and embed the chart into for example a .pdf, .ppt, etc. file,” there is no mention of a *self-contained* and *independent* electronic document. *See* Ex. 1013, 0045, 0059, 0060, 0064.

Similarly, Patent Owner cites to a single page of the ’728 provisional as providing support for claim limitation [1C], which recites a chart template module configured to store chart templates. PO Resp. 53 (citing Ex. 1013, 0045); Sur-reply 20 (citing Ex. 1013, 0045, 0061). But there is simply no disclosure of a chart template module in the ’728 provisional. *See* Ex. 1013, 0045. The “Personal chart gallery” disclosed on page 0061 refers to a collection of charts, not chart templates. *See* Ex. 1013, 0061 (explaining that the gallery lets the user store “[a]ll your charts in one place.”).

We also agree with Petitioner the computer system architecture recited in claims 1 and 10 is not supported by the disclosure of the ’728 provisional and was added as part of the ’802 application. Ex. 1002, 2–88. Claim 1 recites a computer system as well as various modules; Claim 10 additionally recites a remote server. Dr. Miller testifies 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.” Ex. 2201

¶ 31. There is no disclosure of any the claimed module, implemented a code or hardware for a specific function, or a remote server, anywhere in the '728 provisional. *See* Ex. 1013.

We are therefore not persuaded that the '728 provisional provides written description support for the challenged claims and that the claims are entitled to a priority date of July 2, 2008, based on the filing of the '728 provisional. *See Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc) (To satisfy the written description requirement, the disclosure must “clearly allow persons of ordinary skill in the art to recognize that [the inventor] invented what is claimed.”).

b) Conception and Reduction to Practice

Alternatively, Patent Owner contends that each of the challenged claims have a priority date of no later than June 4, 2008, based on documentary evidence showing conception and reduction to practice. PO Resp. 49–50 (citing Ex. 2201 ¶¶ 22–27).

The Federal Circuit has explained the following:

In considering whether or not a reference qualifies as prior art under pre-AIA 35 U.S.C. § 102(e), we must consider whether or not “the invention was described in . . . a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent.” A patent owner may antedate an asserted prior art patent by showing conception of the claimed invention prior to the critical date and either actual reduction to practice prior to the critical date or “reasonably continuous diligence” in reducing the invention to practice until its effective filing date.

Medtronic, 68 F.4th at 1302–03 (citing *ATI Techs. v. Iancu*, 920 F.3d 1362, 1369 (Fed. Cir. 2019); *Tyco Healthcare Grp. v. Ethicon Endo-Surgery, Inc.*, 774 F.3d 968, 975 (Fed. Cir. 2014)) (alteration in original). Additionally,

“[i]nventor declarations submitted to antedate a reference must be corroborated, and corroboration is governed by a ‘rule of reason’ standard.” *Id.* at 1303 (citing *Perfect Surgical Techs., Inc. v. Olympus Am., Inc.*, 841 F.3d 1004, 1007–09 (Fed. Cir. 2016)). “To establish actual reduction to practice before the critical date, it must have been shown that “(1) [the inventors] constructed an embodiment or performed a process that met all the limitations of the [claimed invention]; and (2) [the inventors] determined that the invention would work for its intended purpose.” *Id.* (citing *Cooper v. Goldfarb*, 154 F.3d 1321, 1327 (Fed. Cir. 1998)) (alterations in original).

Thus, we first assess the parties’ evidence and arguments to determine whether Patent Owner has shown that it conceived of the claimed invention no later than June 4, 2008. *Id.*

Patent Owner relies on one of the inventors, Seymour Duncker’s declaration (Ex. 2200) and numerous other documents to establish conception. PO Resp. 56–74 (citing Exs. 2180–2196, 2200). Patent Owner contends that “[a]s detailed in Mr. Ducker’s [sic] declaration, he first conceived of the concept of sharing charts over the [I]nternet in December 2006 while jogging along the beach,” and then “enlisted [co-inventor] Tyron Montgomery, a Flash expert, to fully materialize the invention that is embodied in the ’892 Patent.” *Id.* at 56 (citing Ex. 2200 ¶¶ 5–6). According to Patent Owner, “[a]fter the concept was crystalized, Montgomery and Dunker [sic] hired an India-based group named Compassites to write the source code for the iCharts program that embodied the invention of the ’892 Patent, and exchanged hundreds of emails during the development process.” *Id.* (citing Ex. 2200 ¶¶ 11–13, 38; Exs. 2180–2196). Patent Owner contends that “[t]he inventors’ extensive interaction with each other and directions to Compassites, as summarized [Patent Owner’s claim chart] and detailed in

Mr. Dunker’s [sic] declaration, is evidence that the inventors conceived of the invention by June 4, 2008.” *Id.* (citing Ex. 2200 ¶¶ 14–15; Exs. 2002–2030).

Patent Owner once again offers a claim chart that includes various screenshots from some of the documents offered to show conception, but provides little explanation of how each of those documents show conception of the claimed invention. PO Resp. 57–74. For this reason alone, Patent Owner has failed to meet its burden to show that the challenged claims are entitled to a conception date of June 4, 2008. *See Parus Holdings*, 70 F.4th at 1371 (“One cannot reasonably expect the Board to sift through hundreds of documents, thousands of pages, to find the relevant facts.”); *Gen. Access Sols., Ltd. v. Sprint Spectrum L.P.*, 811 F. App’x. 654, 658–59 (Fed. Cir. 2020) (affirming the Board’s decision finding that the conclusory assertions in the Patent Owner Response were insufficient to meet the Patent Owner’s burden of establishing prior conception).

Even considering Patent Owner’s cited evidence as best as we can, we agree with Petitioner that Patent Owner has not shown conception of a complete and operative invention by June 4, 2008. *See* Reply 21–25. For example, as with the ’728 provisional, the cited documents do not disclose the conception of claim limitations relating to a computer system architecture comprising various modules. The cited portions do not mention any module in terms of specific software or hardware that corresponds to each of the specifically claimed modules. PO Resp. 57–61 (claim chart for claim 1). The disclosure that Patent Owner points us to is of a “Web Service” and an iCharts Studio, but there is nothing to link them to the various modules with express functions recited in the claims. Patent Owner argues that it has shown conception of the computer system architecture

because “a [person of ordinary skill in the art] would understand both software and hardware are required.”¹³ Sur-reply 22. That, however, is insufficient for a showing of conception of the specific claim limitations. *See REG Synthetic Fuels, LLC v. Neste Oil Oyj*, 841 F.3d 954, 962 (Fed. Cir. 2016) (“Conception must include every feature or limitation of the claimed invention.”).

We also agree with Petitioner that Patent Owner has not demonstrated the inventors conceived the chart templates recited in claims 1 and 10. Reply 21–24. Patent Owner cites to the discussion of “chart types” in the cited documents as showing conception of chart templates. PO Resp. 58 (citing Ex. 2007). Chart types, however, are not the same as chart templates, as disclosed by the ’892 patent specification itself. *Compare* Ex. 1001, 10:17–22 (“Exemplary chart types include column, bar, combination, bubble, stacked, line, area, pie, doughnut, scatter, candlestick, waterfall, logarithmic, spline, radar, kagi, spark, gantt, funnel, pyramid, gauge, and the like.”) *with id.* at 16:29–31 (“The preset chart templates 4012 store formatting settings, such as colors, chart size, fonts, line 30 thickness, etc., as a set.”). Patent Owner’s conception documents disclose that iChart “[w]orks for different chart types,” such as (1) “Simple table signal buttons,” (2) “Sparklines graph,” (3) “Bar chart,” and (4) “Combination chart.” *See* Ex. 2007, 6; PO Resp. 58. The concept of chart templates is, however, missing from the cited disclosure. Patent Owner argues “the chart shown in [Exhibit 2007] shows that they include presets such as colors, chart size, fonts, line thickness, etc.” Sur-reply 21. Patent Owner’s argument appears

¹³ Patent Owner relies entirely on Mr. Duncker’s testimony, which as explained below, we find insufficient to corroborate Patent Owner’s claim of conception.

to refer to the various colors, fonts, etc., shown in each of the charts, but we see nothing in Exhibit 2007 that discusses storing various formatting settings in form of a template. *See generally* Ex. 2007. Patent Owner also argues that Exhibit 2002 states that “[f]rom a gallery, users can select finished charts with predefined content from marquee professional data service providers (Bloomberg, etc.).” Sur-reply 21. That, however, refers to “predefined content,” not a predefined setting for a chart or a template. *See* Ex. 2002, 1.

Patent Owner’s cited documents therefore do not demonstrate that the inventors had conceived of claim elements relating to a computer system architecture comprising various modules, or chart templates, as recited in the challenged claims, as of the claimed June 4, 2008, date.

c) Evidence of Conception and Diligence

In addition to the cited documents, Patent Owner relies heavily on Mr. Duncker’s testimony, including his explanations of the various documents, to establish conception. PO Resp. 56–78 (citing Ex. 2200)

Petitioner contends that without adequate corroboration of Mr. Duncker’s testimony, Patent Owner cannot establish conception or diligence because Mr. Duncker is an inventor on the ’892 patent. Reply 25–26 (citing *Mahurkar v. C.R. Bard, Inc.*, 79 F.3d 1572, 1577 (Fed. Cir. 1996); *Apator Miitors ApS v. Kamstrup A/S*, 887 F.3d 1293, 1294–96 (Fed. Cir. 2018)). We agree.

Mr. Duncker’s testimony, without adequate corroboration, is entitled to little weight. The Federal Circuit has held that inventor testimony of prior conception is not sufficiently corroborated where all supporting evidence depends solely on the inventor. *Apator*, 887 F.3d at 1293. In *Apator*, the

inventor provided a declaration in which he stated that he conceived of his invention before the effective filing date of the prior art, corroborated entirely with documents from the inventor, including various drawings of the claimed invention indicating dates of creation before the filing date of the prior art. *Id.* at 1294–95. For each of the documents, the only record evidence explaining their content and date came from the inventor’s declaration. *Id.* at 1296–97. There, the court held that patent owner had failed to provide evidence corroborating inventor testimony of prior conception. *Id.* at 1297; *see also Kolcraft Enters., Inc. v. Graco Children’s Prods., Inc.*, 927 F.3d 1320, 1325 (Fed. Cir. 2019).

The facts before us are similar to those in *Apator*. Patent Owner argues that it relies on documentary evidence, yet without Mr. Duncker’s testimony, we cannot independently discern the dates of the various documents that Patent Owner relies on or whether the content of those documents shows aspects of the claimed invention in the manner argued. Patent Owner effectively relies on Mr. Duncker’s testimony to fill in these gaps.¹⁴ *See, e.g.*, Sur-reply 21–22 (relying on Mr. Duncker’s testimony to argue that the documents show a computer system architecture and that “there are remote servers involved with respect to chart templates”). Specifically, Patent Owner relies on Exhibits 2002, 2004, 2005, 2007, and 2015 to show conception of various limitations of claim 1 (PO Resp. 57–61) and to support Mr. Duncker’s testimony as to the conception of these aspects of the claimed invention, but the only evidence to support the timing and

¹⁴ Patent Owner’s attempt to distinguish written declaration testimony from oral testimony is inapposite because the court addressed written declaration testimony in context of an *inter partes* review in *Apator*. 887 F.3d at 1294.

authenticity of these exhibits as well as the relationship between these various exhibits comes from Mr. Duncker's testimony *itself*. For example, Exhibit 2007 is an iCharts presentation, with a copyright date of 2007, but there is no specific date listed on the presentation. *See generally* Ex. 2007. The last page of the exhibit does list "Related Dates" (*id.* at 31) but evidence to support these related dates comes *solely* from Mr. Duncker's testimony (Ex. 2200 ¶ 37). There is thus no corroborating evidence as to the origins or date of this presentation.

Similarly, Patent Owner relies on numerous unwitnessed emails between the inventors and third parties at Compassites dated before the effective filing date to support Mr. Duncker's testimony showing diligent reduction to practice for the entire relevant period.¹⁵ PO Resp. 75–77 (citing Exs. 2031–2106, 2109–2110, 2113–2138, 2140–2167, 2169–2171). Again, the only evidence to support the timing and authenticity of these emails comes solely from Mr. Duncker's testimony (Ex. 2200 ¶¶ 17–33).

As in *Apator*, Patent Owner here is "stuck in a catch-22 of corroboration," where Patent Owner attempts to corroborate Mr. Duncker's testimony with the emails and presentations, but the emails and presentations can only provide that corroboration with help from Mr. Duncker's testimony.¹⁶ *Apator*, 887 F.3d at 1296.

¹⁵ We note also that some of these emails are in German, with no translation provided. *See, e.g.*, Exs. 2040, 2075.

¹⁶ We find Patent Owner's owner reliance on *Cooper v. Goldfarb* to be misplaced. 154 F.3d at 1330. In *Cooper*, the court found that the testimony of two other witnesses credibly corroborated the inventor's testimony on conception. *Id.* at 1329–30. Patent Owner here offers no such evidence on corroboration.

Considering all the evidence presented, we find that Patent Owner has not met its burden of producing corroborating evidence that the named inventors of the '892 patent conceived the invention and worked diligently to reduce it to practice such that the challenged claims would be entitled to a priority date of no later than June 4, 2008.

The challenged claims are therefore entitled to a priority date of September 5, 2008, the filing date of the '802 application that issued as the '892 patent, and the QlikView Manuals are prior art to the challenged claims.

3. Independent Claim 1

a) Preamble [1P]: A computer system comprising:

Petitioner contends that the QlikView Manuals teach the preamble. Pet. 58. Petitioner contends that the QlikView Manuals describe a computer system having a QlikView Server, a Web server, and clients. *Id.* at 58–59 (citing Ex. 1008, 1326–27; Ex. 1009, 95, 98).

Patent Owner does not specifically respond to these arguments. *See generally* PO Resp. On the complete record, we are persuaded that the QlikView Manuals teach the preamble of claim 1.

b) Limitation [1A]: a data module configured to store data

Petitioner contends that the QlikView Manuals teach this limitation. Pet. 59–60. Petitioner contends that the QlikView Manuals explain how QlikView loads data and stores the data in database tables, including from external databases and local files. *Id.* (citing Ex. 1008, 61–63, 79, 229, 234–35, 242–47, 269; Ex. 1003 ¶ 307). Petitioner further contends that once loaded, QlikView stores the data in database tables within the QlikView file. *Id.* (citing Ex. 1008, 238–39, 241, 269, 348, 505–08).

Patent Owner does not specifically respond to these arguments. *See generally* PO Resp. On the complete record, we are persuaded that the QlikView Manuals teach limitation [1A].

c) Limitation [1B]: a chart template module configured to store chart templates

Petitioner contends that the QlikView Manuals teach this limitation. Pet. 60–61. Petitioner contends that the QlikView Manuals explain how QlikView stores chart themes, which are files containing chart properties, which QlikView calls “templates.” *Id.* (citing Ex. 1008, 795–805, 1323; Ex. 1003 ¶¶ 309–315). According to Petitioner, once created, QlikView’s Theme Maker Wizard saves the defined chart theme/template in a dedicated theme folder. *Id.* at 61 (citing Ex. 1008, 795, 804; Ex. 1003 ¶ 313).

Patent Owner does not specifically respond to these arguments. *See generally* PO Resp. On the complete record, we are persuaded that the QlikView Manuals teach limitation [1B].

d) Limitation [1C]: a generation module configured to generate an interactive chart on a generation interface

Petitioner contends that the QlikView Manuals teach this limitation because they teach a Chart Wizard. Pet. 61 (citing Ex. 1008, 667; Ex. 1003 ¶¶ 316–330). Petitioner contends that the user interface (“UI”) of the Chart Wizard shown in Figure 1 of the QlikView Reference Manual (reproduced above) teaches a “generation interface” that allows a user to select different chart types and chart styles. *Id.* at 62 (citing Ex. 1008, 665, 883–85, 887–89; Ex. 1003 ¶¶ 317–320). Petitioner contends that QlikView charts are interactive because selections in field data can be made directly in most of QlikView’s charts and tables by clicking or painting with the mouse. *Id.*

at 62–63 (citing Ex. 1008, 13, 154–55, 668–69, 881, 1306–07; Ex. 1003 ¶¶ 321–329).

Patent Owner does not specifically respond to these arguments. *See generally* PO Resp. On the complete record, we are persuaded that the QlikView Manuals teach limitation [1C].

- e) *Limitation [1D]: wherein the generation interface is configured to enable a user to generate the interactive chart from data stored in the data module and a template from the chart template module*

Petitioner contends that the QlikView Manuals teach this limitation. Pet. 63–64. Figure 4 of the QlikView Reference Manual, reproduced below, is a screenshot of the Dimensions page in the “Chart Properties” dialog. Ex. 1008, 882.

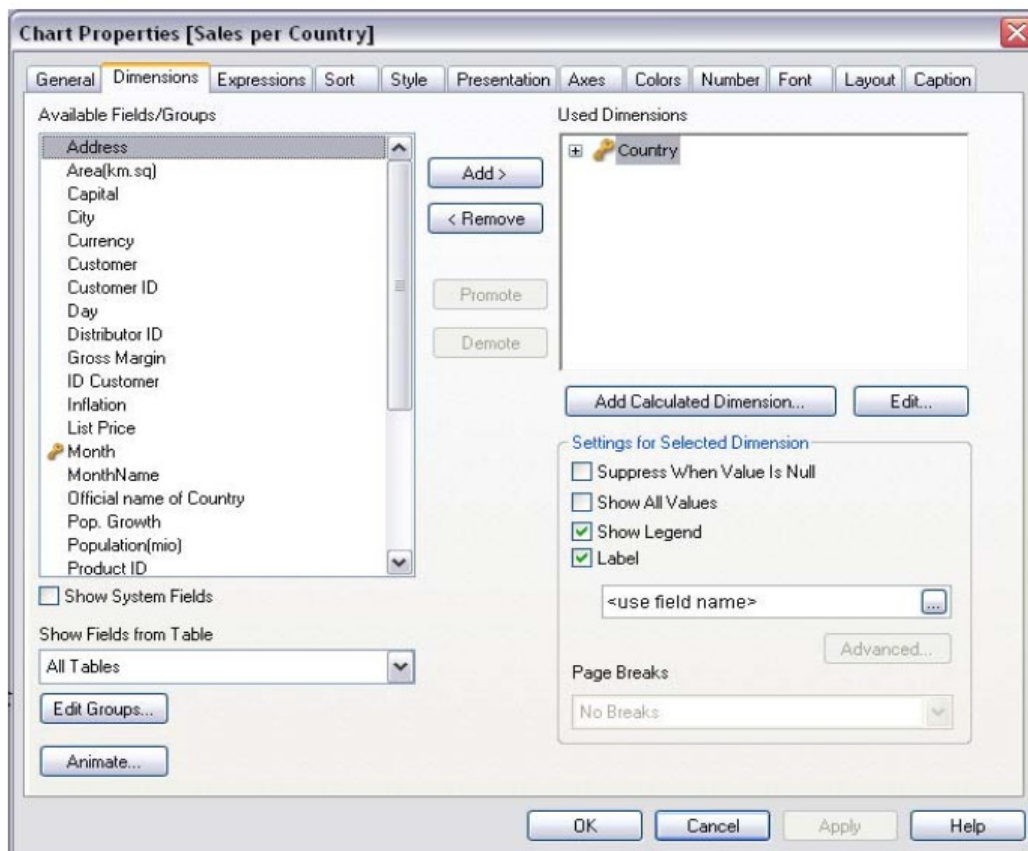


Figure 4. The Dimensions page in the Chart Properties dialog

Petitioner asserts that QlikView’s Chart Wizard UI allows the user to add available fields/groups in the data module’s database or data file to generate the chart. Pet. 63 (citing Ex. 1008, 894–95, 901–14; Ex. 1003 ¶¶ 332–334). Petitioner further contends that QlikView’s Chart Wizard UI includes a Layout tab that provides the user with options to apply a chart theme or template from the Theme Maker Wizard. *Id.* at 64 (citing Ex. 1008, 939, 942; Ex. 1003 ¶ 335).

Patent Owner does not specifically respond to these arguments. *See generally* PO Resp. On the complete record, we are persuaded that the QlikView Manuals teach limitation [1D].

- f) Limitation [1E]: a sharing module configured to enable a user to publish or embed the interactive chart as a self-contained and independent electronic document,*
- g) Limitation [1F]: wherein the self-contained and independent interactive chart, when opened in a program in the absence of the generation interface and the chart template module, enables a user to a) render the chart, b) obtain input from a user and c) rerender the chart using the input as a parameter thereby enabling the interactive chart to retain interactivity when published or embedded*

(1) The Parties’ Arguments

Petitioner contends that the QlikView Manuals teach limitation [1E]. Pet. 64–68. Petitioner contends that QlikView’s Objects Client Page Generator enables users to generate a webpage once an interactive chart is generated. *Id.* at 64–65 (citing Ex. 1008, 807; Ex. 1009, 134; Ex. 1003 ¶ 338). Petitioner points to QlikView’s disclosure that “generated pages will be saved in a location of your choice in separate folders for each client type, *ready for publication* on your web server.” *Id.* at 65 (citing Ex. 1008, 807;

Ex. 1009, 134; Ex. 1003 ¶ 339). Petitioner further contends that the Objects Client Page Generator can generate a webpage for different clients, such as Java Objects, QlikX, and AJAX, and that the user can publish or embed QlikView objects (e.g. charts) as webpages with all the clients. *Id.* at 65–66 (citing Ex. 1009, 9, 123–24, 133–49, 155–66; Ex. 1003 ¶¶ 339, 340–343). Petitioner contends that QlikView AJAX allows the QlikView server to produce and send Dynamic HTML (DHTML) pages and XML data to the browser running on the client computer and that the embedded charts displayed on the client computer retain interactive features. *Id.* at 66–67 (citing Ex. 1008, 35–36; Ex. 1009, 16–17, 57, 133, 155–56; Ex. 1003 ¶ 344).

According to Petitioner, the published webpages are stored in a separate directory folder as QlikView files and chart objects, and they rely on self-contained applications that display the interactive charts independently from the generation module/interface. *Id.* at 67–68 (citing Ex. 1008, 23, 807–08; Ex. 1009, 59–60, 134, 199; Ex. 1003 ¶¶ 346–347).

Petitioner contends that QlikView Manuals also teach limitation [1F]. Pet. 68–70. Petitioner contends that when QlikView’s interactive chart is opened in an applet on an Internet browser outside of QlikView Developer, the web client enables a user to render the chart and provide input via various features such as buttons and slider objects. *Id.* at 68–69 (citing Ex. 1009, 12, 16–17, 19, 133, 155, 204). According to Petitioner, QlikView uses the user input as a parameter to rerender the chart thereby enabling the interactive chart to retain interactivity when published or embedded. *Id.* at 69–70 (citing Ex. 1008, 355–59, 689; Ex. 1009, 12, 123; Ex. 1003 ¶ 354).

Alternatively, Petitioner contends QlikView manuals teach limitation [1E] by disclosing that a user may “publish or embed the interactive chart (e.g., a QlikView table chart) as a Microsoft Excel document,” and that one

of ordinary skill in the art would have understood that an Excel document is “a self-contained and independent electronic document” as claimed “because it can be saved locally, sent to third parties, and modified without QlikView.” *Id.* at 68 (citing Ex. 1009, 69–70, 204; Ex. 1008, 30, 1064–65, 1084–85; Ex. 1003 ¶ 348). Petitioner contends that the Excel file can be saved locally and Microsoft Excel enables a user to change and manipulate data and/or table format and rerender the chart using the user’s input as a parameter, as required by limitation [1F]. *Id.* at 70 (citing Ex. 1003 ¶ 361).

Patent Owner responds that 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.” PO Resp. 78 (citing Ex. 2201 ¶ 41).

According to Patent Owner, a “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.” PO Resp. 81 (citing Ex. 2201 ¶ 50). Patent Owner argues that the “QlikView server never relinquishes control of an electronic document, so no electronic document is self-contained and independent.” *Id.* More specifically, Patent Owner contends that “QlikView electronic documents are rendered on the QlikView server, are stored on the QlikView server, can be interacted with via QlikView Clients connected to the QlikView server,” but “are never shared as self-contained and independent documents given that recalculation is done on the QlikView server after each change in the logical state.” *Id.*

Patent Owner further argues that none of the disclosed versions of the QlikView Analyzer that are used to access QlikView documents—“(1) an installed Windows client, (2) a plug-in to Internet Explorer, (3) a Java applet

client, or (4) an AJAX Zero Footprint Client (ZFC)”—permit modifications of the layout of a document. *Id.* 79. Specifically, with respect to the QlikView Analyzer Java Client and the QlikView Analyzer Java Objects Client, Patent Owner argues that Petitioner’s contention that the use of Java results in a chart that is self-contained and independent is mere speculation. *Id.* at 82. With respect to the QlikView Analyzer AJAX ZFC, Patent Owner argues that the asynchronous update capability disclosed is for providing feedback to the server and not interacting with a self-contained and independent document. *Id.* at 84–85.

With respect to Excel, Patent Owner argues that “QlikView Manuals only disclose exporting data and tables—not interactive charts—to Excel.” *Id.* at 86 (citing Ex. 2001 ¶ 217). Patent Owner contends that “[w]hat the user can export to Excel is the underlying data, which is a straight table equivalent to the chart.” *Id.* (citing Ex. 1008, 892, 950, 1003, 1015, 1025, 1035, 1047). Patent Owner argues that “data and tables are not charts, so this feature does not satisfy the claim limitation of an interactive chart.” *Id.* at 87 (citing Ex. 2201 ¶ 61). Patent Owner further argues that the radar and scatter charts disclosed do not have an export-of-data-to-Excel feature. *Id.* (citing Ex. 1008, 972–74, 984–86; Ex. 2201 ¶ 59).

Petitioner responds that the QlikView Manuals disclose that the Objects Client Page Generator enables users to “publish or embed interactive charts (e.g., a .qvw file) as a webpage,” and that the generated pages will be saved in a location of the user’s choice, in separate folders for each client type, ready for publication on a web server. Reply 26–27 (citing Ex. 1009, 134; Ex. 1008, 807; Ex. 1001, 1:23–26).

With respect to Excel, Petitioner responds that the QlikView Manuals disclose a sharing module enabling a user to publish or embed an interactive

chart by exporting QlikView tables to Excel. *Id.* at 27–28 (citing Ex. 1009, 69–70; Ex. 1008, 30, 1064–65, 1084–85; Ex. 1003 ¶ 348). Petitioner contends that a table is a chart both under the plain and ordinary meaning of the term as well as under the inventors’ own documentation. *Id.* (citing Ex. 1008, 1313; Ex. 1072 ¶ 47; Ex. 2007, 7).

Petitioner reiterates that the Objects Client Page Generator in QlikView “enables a user to publish or embed a .qvw file containing interactive charts as a webpage for use with a Java Objects client.” *Id.* at 28–29. Petitioner argues that “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.’” *Id.* at 29 (citing Ex. 1009, 199; Ex. 1003 ¶¶ 346–347).

In its Sur-reply, Patent Owner responds that Petitioner’s interpretation that a “chart is ‘self-contained and independent’ because the chart is viewable and interactive without the generation interface” departs from the plain and ordinary meaning of the claim term. Sur-reply 26. Patent Owner asserts that the language in limitation [1F]—“wherein the self-contained and independent interactive chart, when opened in a program in the absence of the generation interface . . .”—does not define what it means for a chart to be “self-contained and independent,” but rather sets forth an additional limitation. *See id.* Patent Owner reiterates that because the QlikView server never relinquishes control of an electronic document, it does not teach a self-contained and independent document or a sharing module. *Id.* at 25–26 (citing Ex. 2201 ¶¶ 50, 52).

Patent Owner further argues that data and tables are not charts, so QlikView’s disclosure of the exporting to Excel feature does not satisfy the

claim limitation. *Id.* at 27. Patent Owner asserts that Petitioner’s proposed meaning of “chart” as including a table is based on a generic dictionary definition, not specific to computer science, and should be ignored. *Id.* According to Patent Owner, the ’892 patent specification refers to charts as “presenting data as visualization using shapes, colors, and chart types to highlight trends and comparisons, and not tables that display exact values in rows and columns.” *Id.* (citing Ex. 1001, Figs. 3–7).

(2) *Our Analysis*

Based on the complete record, we are persuaded that the QlikView Manuals teach limitations [1E] and [1F]. Claim 1 requires that “a sharing module configured to enable a user to publish or embed the interactive chart as a self-contained and independent electronic document,” and further requires that

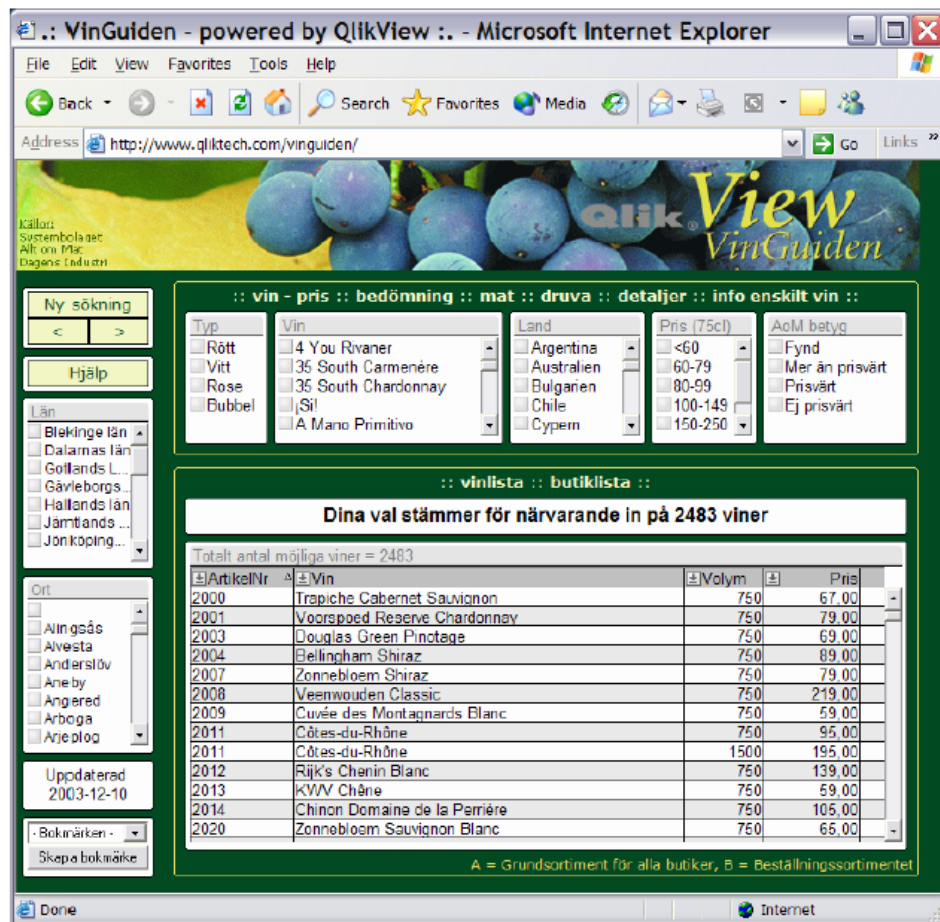
the self-contained and independent interactive chart, when opened in a program in the absence of the generation interface and the chart template module, enables a user to a) render the chart, b) obtain input from a user and c) rerender the chart using the input as a parameter thereby enabling the interactive chart to retain interactivity when published or embedded.

Ex. 1001, 18:33–52.

As detailed in Petitioner’s contentions, the QlikView Manuals teach each of these limitations. Pet. 64–70. The QlikView Manuals disclose generating webpages for clients such as Java Objects and AJAX, embedding QlikView objects as webpages, and saving the webpages, such that they are ready for publication on a web server. *See* Ex. 1008, 35–36, 807; Ex. 1009, 9, 16–17, 57, 123–24, 133–49, 155–66.

Petitioner persuasively shows that once an interactive chart is rendered in QlikView, the chart can obtain input from the user via drop-

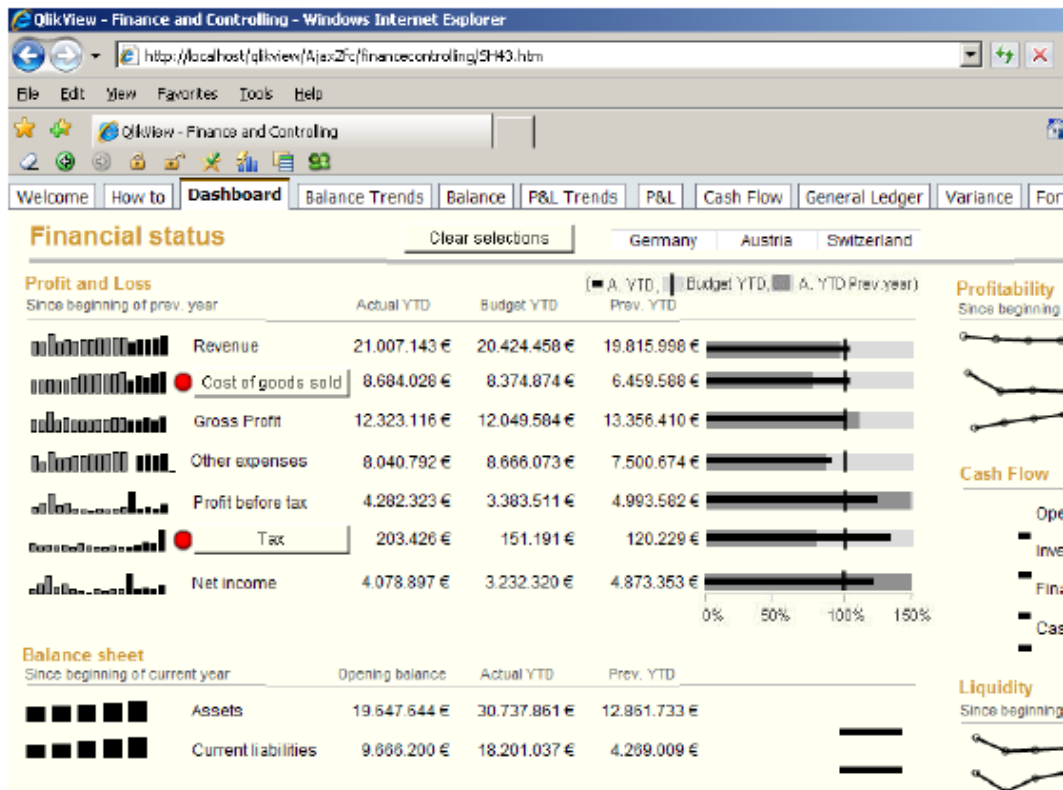
down select in tables, slider objects, buttons, and interactive search feedback. Pet. 69 (citing Ex. 1009, 16–17, 19, 133). A figure from the QlikView Reference Manual, reproduced below, is a screenshot of the QlikView Java Objects client in Internet Explorer. Ex. 1009, 133.



QlikView Java Objects client in Internet Explorer.

Mr. Schmandt testifies that the Java Objects Client shown above “enables a user to change the data presented in the chart and sort columns in the chart itself.” Ex. 1003 ¶ 352.

Petitioner also points to another figure from the QlikView Reference Manual, reproduced below, that is a screenshot of the QlikView AJAX client with toolbar options that allow a user to interact with charts. Ex. 1009, 155; Pet. 69.



QlikView AJAX client with the toolbar option

Mr. Schmandt testifies that “[u]sing the user’s input as a parameter (e.g., a mouse click to sort chart data), the client enables the user to rerender the chart, thereby enabling the interactive chart to retain interactivity when published or embedded.” Ex. 1003 ¶ 354 (citing Ex. 1008, 689; Ex. 1009, 12, 123). He further testifies that a person of ordinary skill in the art “would have understood that the QlikView Manuals disclose interactive charts that retain interactivity when published or embedded.” *Id.* ¶ 355. We find Mr. Schmandt’s testimony credible because it is consistent with the disclosure of the QlikView Manuals discussed above.

Patent Owner’s contention that a connection between the QlikView client displaying the interactive chart and the QlikView server is required for the interactive chart to work is unpersuasive. PO Resp. 81 (arguing that QlikView clients must maintain a connection to the QlikView server). As

Petitioner points out, QlikView discloses that once an interactive chart is created, 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 client. *See* Ex. 1008, 807; Ex. 1009, 134; Ex. 1003 ¶ 338.

Petitioner persuasively argues that “Java programs . . . are *self-contained applications* written in Java,” and the charts that run in the Java client are self-contained and independent “because they rely on self-contained applications that display the interactive charts independently from the generation module/interface.” Pet. 67 (quoting Ex. 1009, 199; citing Ex. 1003 ¶¶ 346–347). We agree with Petitioner that the Java Runtime Environment (“JRE”) is a plug-in to an Internet browser which creates a “sand-box” for running applets written in Java inside the browser. *Id.* at 68 (citing Ex. 1009, 199); Reply 29 (citing Ex. 1003 ¶¶ 346–347; Ex. 1072 ¶¶ 54–56). Thus, the interactive chart, when part of the Java client running in the JRE sand-box, teaches a “self-contained and independent interactive chart,” as recited in limitations [1E] and [1F].

Patent Owner argues that none of the disclosed versions of the QlikView Analyzer that are used to access QlikView documents permit modifications of the layout of a document. PO Resp. 79. Patent Owner argues that the QlikView Manuals disclose that each open chart/table must be recalculated on the server after each *change in the logical state*. *Id.* at 80 (citing Ex. 1009, 168). The claim limitation, however, does not require modifications of the layout of a document; it requires rerendering the chart *using user input as a parameter*. Thus, receiving updates from a server does not mean that the chart is not independent and self-contained, as claimed. Moreover, as Petitioner notes, the ’892 patent specification itself discloses that updates to the logical state of the interactive charts are stored on a server

and then received when a browser is refreshed. Reply 29–30 (citing Ex. 1001, 2:45–48, 3:38–39, 15:40–44; Ex. 1072 ¶¶ 50–53; Ex. 2200 ¶ 20).

We are also persuaded by Petitioner’s contention, presented in the alternative, that QlikView Manuals disclose “publishing or embedding” an interactive chart as a Microsoft Excel document to satisfy limitations [1E] and [1F]. *See* Pet. 68, 70. Patent Owner’s response to this contention is based on its claim interpretation that tables do not satisfy the claim term “charts.” *See* PO Resp. 86–87; Sur-reply 27–28. We do not agree. Patent Owner offers no support in the claim language or ’892 patent Specification for its narrow claim interpretation, which is also contrary to Patent Owner’s own documentation, offered to show conception of the claimed invention. *See, e.g.*, Ex. 2007, 6 (listing a “[s]imple table with signal buttons” as one of the different chart types that iChart works with); *see also* Ex. 2200 ¶ 12. Similarly, the QlikView Manuals define “chart” as including pivot tables and straight tables. *See* Ex. 1008, 1313. Patent Owner argues that the QlikView Manuals offer a generic dictionary definition of “chart,” not specific to computer science, that should be ignored (Sur-reply 27), but we are not persuaded that is the case. *See* Ex. 1008, 1312–23 (the QlikView Glossary defining various terms specific to computer science). We are therefore persuaded that the QlikView Manuals disclosure relating to Excel teaches limitations [1E] and [1F] under the plain and ordinary meaning of the term “chart.”

The QlikView Manuals disclose that a user can export an interactive chart as a Microsoft Excel document. Ex. 1008, 30, 1064–65, 1084–85, Ex. 1009, 204. Mr. Schmandt testifies that a person of ordinary skill in the art would have understood when reading the QlikView Manuals that the Excel file can be saved locally, sent to third parties, as well as modified

without QlikView, and that Microsoft Excel enables a user to render the chart, provide input (e.g., change and manipulate data and/or table format), and rerender the chart using the user's input as a parameter. Ex. 1003

¶¶ 360–361. We find Mr. Schmandt's testimony credible because it is consistent with the evidence discussed above.

On the complete record, we are persuaded that the QlikView Manuals teach limitations [1E] and [1F].

h) Motivation to Combine the QlikView Manuals

Petitioner argues that a person of ordinary skill in the art would have been motivated to combine the QlikView Reference Manual and the QlikView Server Reference Manual because they describe the same product suite and they cross reference one another. Pet. 58 (citing Exs. 1008, 1009; Ex. 1003 ¶¶ 294, 295).

Patent Owner does not specifically respond to these arguments. *See* PO Resp. Based on our review of the complete record, we determine that Petitioner provides an adequate reason why one of ordinary skill in the art would have combined the teachings of the QlikView Manuals in the manner asserted by Petitioner, with a reasonable expectation of success.

i) Summary as to Claim 1

For the reasons discussed above with regard to claim 1, we are persuaded by Petitioner's contentions that the QlikView Manuals teach of each of the limitations of claim 1.

j) Weighing the Graham Factors

“Once all relevant facts are found, the ultimate legal determination [of obviousness] involves the weighing of the fact findings to conclude whether the claimed combination would have been obvious to an ordinary artisan.”

Arctic Cat, 876 F.3d at 1361. On balance, considering the complete record before us, Petitioner has established by a preponderance of the evidence that the QlikView Manuals would have rendered the subject matter of claim 1 of the '892 patent obvious to one of ordinary skill in the art at the time of the invention.

4. *Dependent Claims 2 and 5–9*

Claims 2 and 5–9 depend from claim 1. Ex. 1001, 18:53–55, 18:66–19:12. Petitioner contends that these claims are also unpatentable over the QlikView Manuals. Pet. 70–75 (citing Ex. 1003 ¶¶ 364–384).

With regard to claim 2, Petitioner argues that QlikView user interface provides many ways to receive and add user data to a QlikView file's data structure, and that QlikView also discloses various ways to transmit data within QlikView file's data structure. *Id.* at 70–73 (citing Ex. 1008, 229, 894, 901, 1321; Ex. 1003 ¶¶ 363–368).

With regard to claim 5, Petitioner relies on its contentions as to claim 1 to argue that QlikView Manuals disclose charts with various interactive features. *Id.* at 73–74 (citing Ex. 1003 ¶¶ 369–370).

With regard to claim 6, Petitioner argues that the QlikView Manuals disclose a feature called features cloning where a user can copy interactive charts to their clipboard. *Id.* at 74 (citing Ex. 1008, 126–28, 599, 892; Ex. 1009, 165; Ex. 1003 ¶¶ 371–73).

With regard to claim 7, Petitioner contends that the QlikView Manuals disclose the interactive features such as a data mouse-over pop-up window, an animation feature, and a drill-down feature. *Id.* (citing Ex. 1008, 895, 899–900, 919, 1306–07; Ex. 1003 ¶¶ 374–377).

With regard to claim 8, Petitioner contends that the QlikView Manuals disclose that the interactive charts retain interactive features when

published. *Id.* at 74–76 (citing Ex. 1009, 16, 17, 57, 133, 155; Ex. 1008, 35, 36; Ex. 1003 ¶¶ 378–381).

With regard to claim 9, Petitioner contends that QlikView Manuals disclose a chart wizard that customizes the charts’ interactive features. *Id.* at 76 (citing Ex. 1008, 583, 893, 895, 899–903, 917, 919, 947, 1306–07; Ex. 1003 ¶¶ 382–384).

Patent Owner does not present separate arguments for these claims. *See* PO Resp. 87 (citing Ex. 2001 ¶ 220). Based on our review of the complete record, we determine that Petitioner has established by a preponderance of the evidence that the QlikView Manuals would have rendered the subject matter of claims 2 and 5–9 of the ’892 patent obvious to one of ordinary skill in the art at the time of the invention.

J. Obviousness Based on QlikView Manuals and Couckuyt

Petitioner asserts that claims 3 and 10–16 are unpatentable based on QlikView Manuals and Couckuyt. Pet. 76–93.

1. Claim 3

Claim 3 depends from claim 1 and further recites:

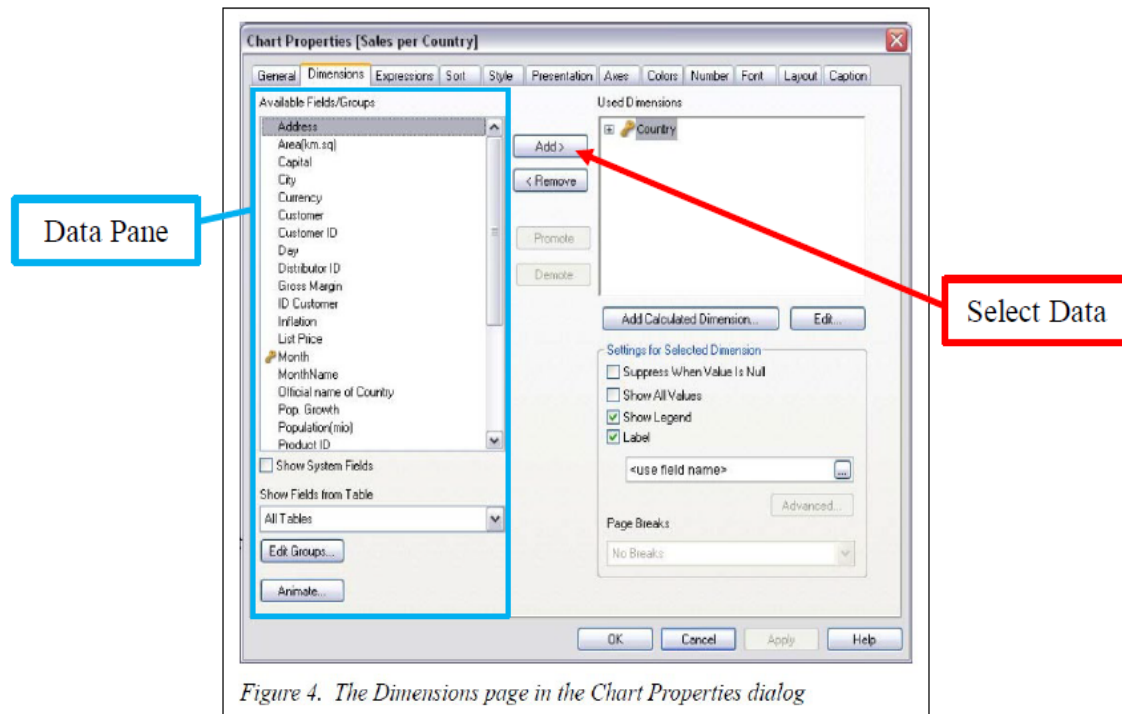
wherein the generation interface comprises a data pane and a chart pane and is configured to receive a user selection of data from the data pane and allow the user to drag and drop the data into the chart pane and wherein the generation module automatically generates the interactive chart from the data stored in the data module when the user interface receives an indication that the user has dropped the data into the chart pane.

Ex. 1001, 18:53–55, 18:64–67, 19:3–12.

Petitioner contends that claim 3 is unpatentable over the combination of QlikView Manuals and Couckuyt. Pet. 80–82 (citing Ex. 1003 ¶¶ 393–397). Petitioner contends that the QlikView Manuals teach a

generation interface comprising a data pane and configured to receive a user selection of data from the data pane. *Id.* at 80 (citing Ex. 1003 ¶ 393).

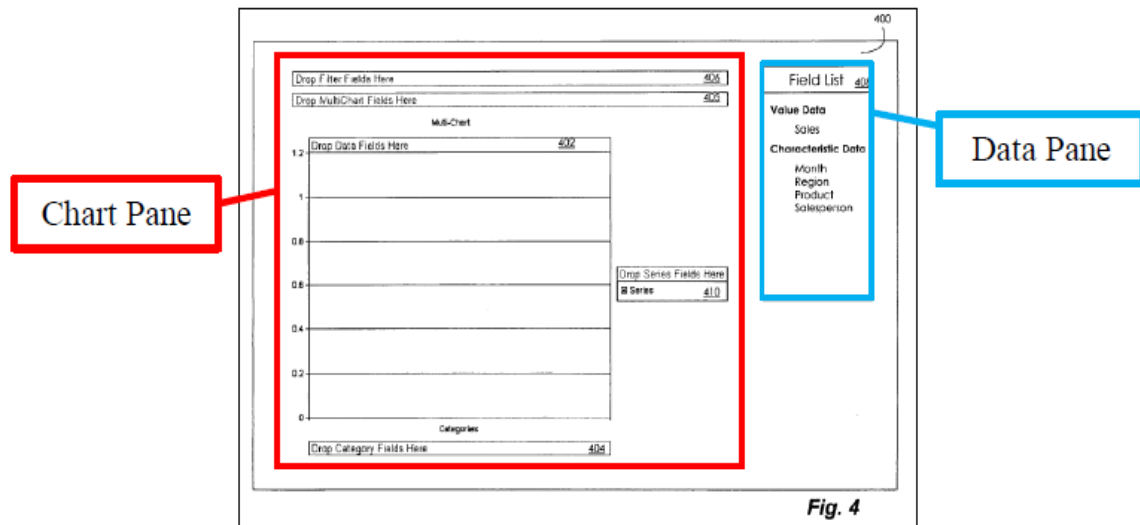
Petitioner's annotated version of Figure 4 from the QlikView Reference Manual is reproduced below.



Id. (annotating Ex. 1008, 894, Fig. 4). Figure 4 is a screenshot of the Dimensions page in the Chart Properties dialog, and Petitioner adds blue annotation to refer to the list of Fields/Groups as a “Data Pane” and adds red annotation to refer to the Add/Remove buttons as “Select Data.” *Id.*

Petitioner acknowledges that the QlikView Manuals do not explicitly disclose drag-and-drop of data from the data pane into a chart pane, but contends that Couckuyt discloses a drag-and-drop UI. *Id.* at 80–81 (citing Ex. 1006, 7:24–26, Fig. 4; Ex. 1008, 894; Ex. 1003 ¶¶ 393–394).

Petitioner's annotated version of Couckuyt's Figure 4 depicting the DDUI is reproduced below.



Id. at 81 (annotating Ex. 1006, Fig. 4). Petitioner contends that Couckuyt's Figure 4 depicts a DDUI that permits the value data fields and the characteristic data fields to be dragged and dropped into drop zones. *Id.* (citing Ex. 1006, 1:14–34, 2:22–32, 2:42–55, 7:24–26, 7:64–8:36, Figs. 4–6; Ex. 1003 ¶ 395). Petitioner argues that Couckuyt will “automatically generate” a chart from stored data when a field icon is dropped into Couckuyt's drop zone via a user releasing a click of mouse. *Id.* at 81–82 (citing Ex. 1006, code (57), 1:32–34, 2:12–16, 3:23–28, 7:14–16, 7:26–39, 7:64–8:36, 9:48–52, 10:52–54, Figs. 5, 6; Ex. 1003 ¶¶ 396–397). Petitioner argues that the QlikView Manuals in view of Couckuyt teach the additional limitations recited in claim 3. *Id.* at 82.

Patent Owner does not specifically respond to these arguments. *See* PO Resp. 88–89 (arguing motivation to combine QlikView Manuals with Couckuyt, which we address below).

a) Motivation to Combine QlikView Manuals and Couckuyt

Petitioner argues that a person of ordinary skill in the art would have been motivated to combine the teachings of the QlikView Manuals and Couckuyt because the “QlikView interface is not as intuitive as other design options [and a person of ordinary skill in the art] would have looked for other references about adding data to charts,” and Couckuyt “describes a data visualization tool that generates a chart by dragging-and-dropping data fields into ‘drop zones’ of the chart.” Pet. 76–79 (citing Ex. 1003 ¶¶ 385–391).

Petitioner asserts that combining Couckuyt’s DDUI with QlikView’s Chart Wizard would be equivalent to combining known methods to yield predictable results. *Id.* at 79 (citing Ex. 1003 ¶ 389). Petitioner argues that dividing a user interface window into multiple panes was a basic building block of user interface design, and that drag-and-drop capabilities were well known in the industry. *Id.* (citing Ex. 1003 ¶¶ 103–116, 389). According to Petitioner, because both of these techniques were well known, an ordinarily skilled artisan “would have known how to predictably combine the two methods within a data visualization tool.” *Id.* (citing Ex. 1003 ¶¶ 103–116, 389).

Petitioner also contends that applying Couckuyt’s DDUI to QlikView would have improved a similar device in the same way. *Id.* (citing Ex. 1003 ¶ 390). Petitioner contends that both references (1) describe data visualization tools used to create charts, (2) source data from spreadsheets and databases using Microsoft products, and (3) select data from a field list to populate charts. *Id.* (citing Ex. 1008, 61–63, 887–89, 894–95; Ex. 1006, 1:29–31, 5:29–38). Petitioner argues that an ordinarily skilled artisan would have had a reasonable expectation of success in combining these teachings

because Couckuyt’s drag-and-drop interface can work with “any program module operative to graphically render charts or graphs or any other graphical display of data.” *Id.* (citing Ex. 1006, 5:27–29, Ex. 1003 ¶ 391).

Patent Owner responds that the QlikView program’s Quick Chart feature was developed for the user who wants to create a simple chart in a quick and easy way without bothering about the great number of different setting and options available. PO Resp. 88 (citing Ex. 1008, 216).

According to Patent Owner, because the QlikView Manuals already describe a straightforward way to add data fields to QlikView’s Chart Wizard, an ordinarily skilled artisan would not have been motivated to implement Couckuyt’s DDUI in QlikView’s interface. *Id.* (citing Ex. 1008, 894; Ex. 2001 ¶¶ 221–225; *Virtek Vision Int’l ULC v. Assembly Guidance Sys., Inc.*, 97 F.4th 882 (Fed. Cir. 2024)).

Based on our review of the complete record, we determine that Petitioner provides an adequate reason why one of ordinary skill in the art would have combined the teachings of the QlikView Manuals and Couckuyt in the manner asserted by Petitioner, with a reasonable expectation of success. We agree with Petitioner that the proposed combination is more intuitive than QlikView’s button options and an ordinarily skilled artisan would have understood that applying drag-and-drop to select data for a chart would have improved a similar interface in the same way. *See* Pet. 78 (citing Ex. 1003 ¶ 388); *Intel*, 61 F.4th at 1380–81 (explaining that when two references address the same problem and the second reference discloses a known way to address that problem, that is precisely the reason that there’s a motivation to combine the two references).

Accordingly, Petitioner has established by a preponderance of the evidence that the combination of QlikView Manuals and Couckuyt would

have rendered the subject matter of claim 3 of the '892 patent obvious to one of ordinary skill in the art at the time of the invention.

2. Independent Claim 10

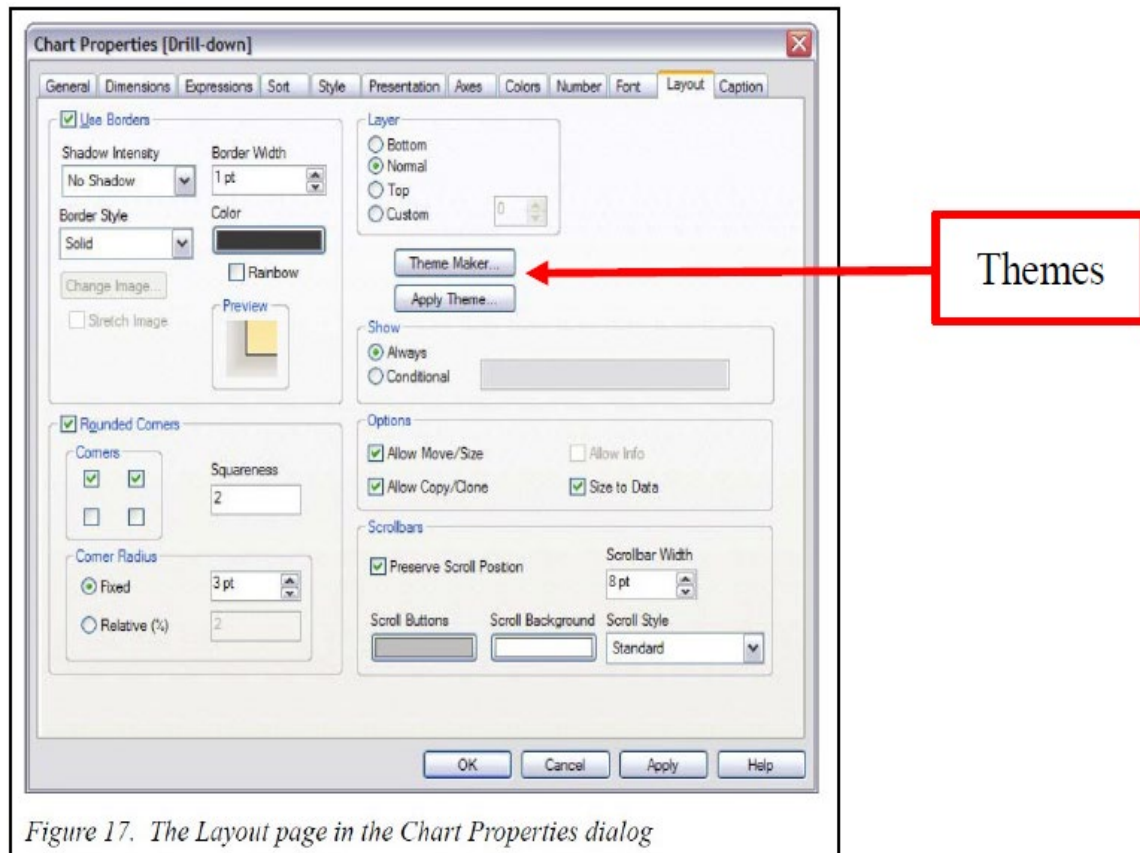
a) Limitations [10P], [10A]–[10B], and [10D]–[10G]

Petitioner contends that the QlikView Manuals, either alone or in view of Couckuyt, teach the preamble and each of limitations [10A]–[10B] and [10D]–[10G] for the reasons discussed with respect to claims 1 and 3. Pet. 82, 85–86.

b) Limitation [10C]: 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;

Petitioner contends that the QlikView Manuals in view of Couckuyt disclose this limitation. Pet. 83–85. Petitioner asserts that The QlikView Manuals disclose “a chart template module configured to store chart templates” via QlikView’s Theme Wizard. *Id.* at 83 (citing Pet. X.B.3); *see supra* § III.I.3.c. Petitioner further contends that a person of ordinary skill in the art would have understood that default chart themes would also be saved on the QlikView Server and pushed to all clients, enabling a company to maintain a consistent “look and feel” across its clients. *Id.* (citing Ex. 1008, 590–91, 795; Ex. 1003 ¶ 406).

Petitioner contends that the QlikView Chart Wizard (Figure 17 from the QlikView Reference Manual), reproduced below, discloses “receiving a user selection of a chart template.”



Id. at 83–84 (annotating Ex. 1008, 939). Figure 17 is a screenshot of the Layout page in the Chart Properties dialog of QlikView. Ex. 1008, 939. Petitioner’s red annotation highlights the location of the “Theme Maker” and “Apply Theme” buttons. Petitioner asserts that moving these theme buttons in the Chart Wizard to “a chart pane” would have been an obvious design choice that would not change Theme Maker’s functionality. Pet. 84 (citing Ex. 1003 ¶¶ 408–409). Petitioner argues that a person of ordinary skill in the art would have combined that design choice change with adding Couckuyt’s chart pane to QlikView’s Dimensions tab, with a reasonable expectation of success. *Id.* at 84–85 (citing Ex. 1003 ¶ 409). We agree, and find that a skilled artisan would have had reason, with rational underpinning, to combine the teachings of QlikView Manuals and Couckuyt, with a reasonable expectation of success.

Patent Owner does not present separate arguments for claim 10. *See* PO Resp. 89–90 (presenting arguments related to motivation to combine the QlikView Manuals and Couckuyt, and similar arguments as those presented for claim 1, both of which we address above). Based on our review of the complete record, we determine that the combination of the QlikView Manuals and Couckuyt teaches each of the limitations of claim 10.

3. Dependent Claims 11–16

Claims 11–16 depend from claim 10. Ex. 1001, 18:53–55, 18:64–67, 19:3–12. Petitioner contends that these claims are also unpatentable over the combination of QlikView Manuals and Couckuyt. Pet. 86–90 (citing Pet. §§ X.B, X.F, X.H; Ex. 1003 ¶¶ 420–437).

With regard to claim 11, Petitioner relies on its contentions as to claim 9 and argues that the combination of QlikView Manuals and Couckuyt renders claim 11 obvious. *Id.* at 86.

With regard to claim 12, Petitioner relies on its contentions as to claim 7 and argues that the combination of QlikView Manuals and Couckuyt renders claim 12 obvious. *Id.*

With regard to claim 13, Petitioner relies on its contentions as to claim 2, and argues that the combination of QlikView Manuals and Couckuyt renders claim 13 obvious. *Id.* at 86–87.

With regard to claim 14, Petitioner relies on its contentions related to a data module recited in claim 1 and argues that the combination of QlikView Manuals and Couckuyt renders claim 14 obvious. *Id.* at 87 (citing Ex. 1006, 4:55–57, 5:29–38, Fig. 1; Ex. 1003 ¶ 428).

With regard to claim 15, Petitioner relies on its contentions as to claim 10, and argues that both the QlikView Manuals and Couckuyt both

disclose the additional limitation of claim 15. *Id.* at 88 (citing Ex. 1008, 13, 15, 881, 894–95; Ex. 1003 ¶¶ 430–432).

With regard to claim 16, Petitioner argues that QlikView’s Chart Wizard provides options for a user to select different chart templates and then allows QlikView to receive a user’s data selection. *Id.* at 88–90 (citing Ex. 1008, 798–805, 882, 894, 939; Ex. 1003 ¶¶ 434–437).

Patent Owner does not present separate arguments for these claims. *See* PO Resp. 90 (citing Ex. 2001 ¶ 234). Based on our review of the complete record, we determine that Petitioner has established by a preponderance of the evidence that the combination of QlikView Manuals and Couckuyt would have rendered the subject matter of claims 11–16 of the ’892 patent obvious to one of ordinary skill in the art at the time of the invention.

a) Summary as to Claims 3 and 10–16

Based on our review of the complete record, we determine that Petitioner has established by a preponderance of the evidence that the combination of QlikView Manuals and Couckuyt would have rendered the subject matter of claims 3 and 10–16 of the ’892 patent obvious to one of ordinary skill in the art at the time of the invention.

K. Obviousness Based on QlikView Manuals, Couckuyt, and Key

Petitioner asserts that claims 10–16 are unpatentable based on QlikView Manuals, Couckuyt, and Keys (Ground 9). Pet. 91–92 (citing Ex. 1003 ¶¶ 439–446). Petitioner contends that to the extent QlikView does not disclose “a chart template module located on a remote server” (limitation [10C]), Keys provides that teaching. *Id.* at 91 (referring to its contentions as to Ground 3, Pet. § VII). Petitioner contends that a person of ordinary skill

in the art would have been motivated to store QlikView’s chart templates on a remote server, as in Keys, allowing users access to the same company-themed templates. *Id.* (citing Ex. 1003 ¶ 443). Petitioner contends that this functionality was a well-known attribute of client-server environments and nothing more than a mere design choice. *Id.* (citing Ex. 1003 ¶¶ 443–444).

Patent Owner responds that Keys does not disclose, teach, or suggest a “chart template module located on a remote server,” recited in claim 10. PO Resp. 90 (citing Ex. 2001 ¶¶ 235–241).

As discussed above (*supra* § III.J.2.b), we determine that Petitioner has shown that the QlikView Manuals teach “a chart template module located on a remote server.” Additionally, we determine that Petitioner persuasively shows, supported by Mr. Schmandt’s testimony, that the combination of the QlikView Manuals and Keys also teaches this limitation.

Based on our review of the complete record, we determine that Petitioner has established by a preponderance of the evidence that the combination of QlikView Manuals, Couckuyt, and Keys would have rendered the subject matter of claims 10–16 of the ’892 patent obvious to one of ordinary skill in the art at the time of the invention.

L. Obviousness Based on QlikView Manuals and Moyer

Petitioner asserts that claim 6 is unpatentable based on the QlikView Manuals and Moyer (Ground 10). Pet. 92–93. Petitioner contends that to the extent QlikView does not disclose a “copy-to-my-account feature,” Moyer provides this teaching. *Id.* at 92 (referring to its contentions as to Ground 4, Pet. § VIII). Petitioner contends that a person of ordinary skill in the art would have been motivated to use a “Blog This” feature, as disclosed in Moyer, with interactive charts published or embedded with QlikView to

allow users to share and discuss interactive charts with others on the Internet. *Id.* (citing Ex. 1010 ¶¶ 32, 35; Ex. 1003 ¶ 449). Such a feature, Petitioner contends, would have further facilitated collaboration, allowing users to share/discuss interactive charts with others given that interactive charts were known to be collaborative and the QlikView Manuals allow users to share content. *Id.* at 92–93 (citing Ex. 1008, 16, 36, 777–781; Ex. 1009, 113–15; Ex. 1039, 1–2, 6–7; Ex. 1003 ¶¶ 450–451).

Patent Owner responds Moyer does not disclose, teach, or suggest an interactive chart with interactive features. PO Resp. 91 (citing Ex. 2001 ¶¶ 241–248). Patent Owner further argues that a person of ordinary skill in the art would not have been motivated to combine QlikView Manuals with Moyer because those references are not directed to the same technical problem, and in fact, they teach away from a combination. *Id.* (citing Ex. 2001 ¶ 247).

Similar to Petitioner’s Ground 4 (*supra* § III.G), we determine that Petitioner persuasively shows, supported by Mr. Schmandt’s testimony, that the combination of the QlikView Manuals and Moyer teaches a “copy-to-my-account feature,” as claimed. Petitioner further offers a sufficient reason for an ordinarily skilled artisan to have combined the teachings of the QlikView Manuals and Moyer, with a reasonable expectation of success.

Based on our review of the complete record, we determine that Petitioner has established by a preponderance of the evidence that the combination of QlikView Manuals and Moyer would have rendered the subject matter of claim 6 of the ’892 patent obvious to one of ordinary skill in the art at the time of the invention.

IV. PATENT OWNER’S MOTION TO EXCLUDE

Patent Owner filed a Motion to Exclude seeking to exclude Exhibits 1003, 1014–1027, 1030, 1061, 1068, and 1072. Paper 26 (“Motion” or “Mot.”). Petitioner filed an opposition (Paper 27 (“Pet Opp.”)) and Patent Owner filed a reply (Paper 31 (“PO Reply”)).

Patent Owner, as the moving party, has the burden of proof to establish that it is entitled to the requested relief. 37 C.F.R. §§ 42.20(c), 42.62(a).

A. Exhibit 1030

Exhibit 1030 is a declaration from Dr. Sylvia D. Hall-Ellis dated September 26, 2024, testifying in part as to the authenticity and public accessibility of the QlikView Manuals. Mot. 2. Patent Owner objects to the declaration based on FEDERAL RULES OF EVIDENCE 401–403, 602, 702, and 703. *Id.* at 3–5.

Patent Owner contends that Dr. Hall-Ellis “is the wrong ‘expert’ here; as a librarian, she does not fit the [person of ordinary skill in the art] requirements.” *Id.* at 3. Patent Owner further contends that Dr. Hall-Ellis is a professor with a degree in library science, and “she cannot opine from the perspective of a person of ordinary skill in the art as to the public accessibility to such persons.” *Id.* at 3–4. As a result, Patent Owner argues, “Exhibit 1030 should be excluded or given no weight as it is purported expert testimony, but it is not ‘based on sufficient facts or data’ or is not ‘the product of reliable principles and methods,’ or application of the particular facts of the matter at hand.” *Id.* at 5 (citing FEDERAL RULES OF EVIDENCE 702(b)–(d)). Patent Owner further contends that because she is an unqualified expert without personal knowledge of the QlikView Manuals,

her testimony should also be excluded under FEDERAL RULE OF EVIDENCE 602. *Id.* at 3. Patent Owner also argues that Dr. Hall-Ellis’s testimony is not helpful to determining the publication date of the QlikView Manuals and fails under FEDERAL RULES OF EVIDENCE 401–403. *Id.* at 5.

Petitioner responds that Dr. Hall-Ellis has a Ph.D. in Library and Information Science, with over fifty years of relevant experience in her field and over 100 publications, and is qualified as an expert under FEDERAL RULES OF EVIDENCE 702–703. Pet. Opp. 2 (citing Ex. 1030 ¶¶ 6–9). Petitioner further argues that her testimony is based on sufficient facts or data, e.g., she shows that QlikView was a well-known product and shows how a person of ordinary skill in the art could have located the QlikView Manuals based on the Internet Archive. *Id.* at 3 (citing Ex. 1030 ¶¶ 23–25, 27, 30, 35, 38). Petitioner contends that Patent Owner has not disputed any of those facts and has also not deposed Dr. Hall-Ellis. *Id.* at 3–4. Petitioner further contends that “Dr. Hall-Ellis does not substitute the Copyright Act’s definition of ‘publication’ for patent law’s ‘printed publication’ standard,” but instead “uses the Copyright Office’s records to corroborate the date when the QlikView Manuals were posted on Qlik’s ftp website.” *Id.* at 4–5 (citing Ex. 1030 ¶¶ 30, 38; *VidStream LLC v. Twitter, Inc.*, 981 F.3d 1060, 1066 (Fed. Cir. 2020)).¹⁷

We agree with Patent Owner that to the extent Dr. Hall-Ellis testifies from the perspective of a person of ordinary skill in the art in relation to the QlikView Manuals, she is not qualified to do so.

¹⁷ Patent Owner submits additional arguments in a Reply in support of its Motion as to Exhibit 1030. PO Reply 1–3. Because, as discussed below, we grant Petitioner’s Motion to Strike (*see infra* § V), we do not consider some of Patent Owner’s Reply arguments.

FEDERAL RULES OF EVIDENCE 702 provides the following:

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

(a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;

(b) the testimony is based on sufficient facts or data;

(c) the testimony is the product of reliable principles and methods; and

(d) the expert has reliably applied the principles and methods to the facts of the case

FED. R. EVID. 702. Dr. Hall-Ellis has a Masters Degree in Library Science and a Ph.D. in Library and Information Science, and has held various positions in the field of library and information resources. Ex. 1030 ¶ 6. Her other experience is also in the field of library sciences. *Id.* ¶¶ 2–8; *see also* Ex. 1031. As discussed above, however, we determine that a person of ordinary skill in the art would have had a B.S. degree in Computer Science, Computer Engineering, or equivalent experience relating to computing, as well as two to three additional years of academic or industry experience related to web application development and data visualization services. *See supra* § III.B (citing Pet. 4). We agree with Patent Owner that Dr. Hall-Ellis does not fit the requirements of a person of ordinary skill in the art.

Petitioner argues that Dr. Hall-Ellis is not merely a librarian, she is an adjunct professor who teaches graduate-level courses in library and information services. Pet. Opp. 2. Petitioner also argues that the requirement that an expert also be a person of ordinary skill in the art is reserved for experts opining on technical issues. *Id.* at 2–3. We disagree. Dr. Hall-Ellis's opinions go to directly to what a person of ordinary skill in the art would have understood or done. For example, she testifies that “such

a person would have been engaged in research, learning thorough [sic] study and practice in the field and possibly through formal instruction about products relevant to his or her research,” and “[i]n the 2008 timeframe, such a person would have had access to and would have known that software products included documentation (e.g. user manuals).” Ex. 1030 ¶ 18; *see also id.* ¶ 25 (opining that QlikView was a well-known product). In other portions, Dr. Hall-Ellis simply repeats testimony offered by Ms. Lofton testimony relating to QlikTech’s software as her own testimony. *Id.* ¶ 36 (citing Ex. 1068 ¶ 7). Petitioner does not explain how Dr. Hall-Ellis is “qualified as an expert by knowledge, skill, experience, training, or education” to provide such opinions. *See Kyocera Senco Indus. Tools Inc. v. Int’l Trade Comm’n*, 22 F.4th 1369, 1377 (Fed. Cir. 2022) (“to be qualified to offer expert testimony on issues from the vantage point of an ordinarily skilled artisan in a patent case, an expert must at a minimum possess ordinary skill in the art”); *Sundance, Inc. v. DeMonte Fabricating Ltd.*, 550 F.3d 1356, 1362 (Fed. Cir. 2008) (“Admitting testimony from a person . . . with no skill in the pertinent art, serves only to cause mischief and confuse the factfinder.”).

We find, however, that these inadmissible opinions are limited to portions of her testimony found in paragraphs 18, 24–25, 28, 33, 36, 40. We therefore grant Patent Owner’s Motion in part only as to these portions of Dr. Hall-Ellis’s declaration.

We are, however, not persuaded by Patent Owner’s arguments as to the remaining testimony offered by Dr. Hall-Ellis. Dr. Hall-Ellis has specialized knowledge in library sciences and is very much qualified to opine on publication dates and public availability of documents found in libraries. She is an expert in library cataloging systems as well as metadata,

and is qualified to opine on the Internet Archive, including to issues such as why it is trustworthy and how it archives dates by which the webpages were accessible, as this is an information resource on which librarians reasonably rely. *See* FED. R. EVID. 703. We agree with Petitioner that Dr. Hall-Ellis does have personal knowledge of the facts stated in the remaining testimony (e.g., what she actually downloaded from websites), and that FEDERAL RULE OF EVIDENCE 602 is inapplicable to her testimony offered as an expert. *See* Pet. Opp. 5–6 (citing Ex. 1030 ¶¶ 26, 29–32, 35, 37–39). We find her testimony to be relevant to the issues presented and specifically to whether the QlikView documents were publicly accessible. We also find no danger that the testimony would confuse the issues or mislead the Board or present unfair prejudice to Patent Owner. Accordingly, we deny Patent Owner’s Motion as to the remaining portion of Dr. Hall-Ellis’s declaration.

B. Exhibit 1068

Exhibit 1068 is a declaration from Deborah Lofton, the current Chief Legal Officer and Corporate Secretary of QlikTech. Mot. 6. Patent Owner’s objections to Exhibit 1068 are based on FEDERAL RULES OF EVIDENCE 401–403, 602, 802, and 901. *Id.* at 5–6. Patent Owner argues that Ms. Lofton’s testimony fails to indicate any statements made on personal knowledge and belief. *Id.*

Petitioner responds that Ms. Lofton has personal knowledge in her capacity as a corporate representative and that testimony is in-court testimony that does not need authentication and is plainly relevant. Pet. Opp. 7–9. Petitioner further contends that even if Ms. Lofton was not employed with QlikTech at the time the QlikView Manuals were published, she has sufficient knowledge as QlikTech’s Chief Legal Officer and

Corporate Secretary to authenticate these business records. *Id.* at 8–9 (citing Ex. 1068 ¶¶ 1–7; *Conoco Inc. v. Dep’t of Energy*, 99 F.3d 387, 391 (Fed. Cir. 1996)). Petitioner further contends that Ms. Lofton’s testimony is plainly relevant because it shows that the QlikView Manuals are authentic and were available to customers by July 2008. *Id.* at 9. Petitioner also argues that there is no unfair prejudice to Patent Owner because Patent Owner had an opportunity to depose Ms. Lofton and submit any arguments or evidence in response, but refused to depose Ms. Lofton. *Id.*

We are not persuaded that any of Patent Owner’s objections to Ms. Lofton’s testimony are proper. Patent Owner offers no basis to exclude this testimony other than to argue that Ms. Lofton was not employed with QlikTech at the time the QlikView Manuals were created and she lacks personal knowledge of these manuals. But Ms. Lofton’s testimony is based on her personal knowledge of the QlikView Manuals, owned by QlikTech, as QlikTech’s Chief Legal Officer and Corporate Secretary. *See* Ex. 1068 ¶¶ 1–7. These are reference manuals that were regularly produced and kept in the normal course of QlikTech’s business and she is a proper witness to testify about facts relating to the release of QlikTech’s software and the publication of the accompanying manuals. *Id.* ¶¶ 6–7. Notably, her testimony is not about the functionality of the QlikView product or the content of the QlikView Manuals. *Id.* ¶ 3. We find no unfair prejudice to Patent Owner given that Patent Owner has had ample opportunities to depose Ms. Lofton and to respond to Petitioner’s arguments. We therefore deny Patent Owner’s Motion as to Exhibit 1068.

C. Exhibits 1014–1023 and 1061

Exhibits 1014–1023 and 1061 are a series of Wayback Machine and website screenshots. Mot. 6. Patent Owner argues that the Wayback Machine archival dates may indicate the date on which the archive was collected, they do not indicate the date by which those archived webpages were originally published and cannot indicate the authenticity of any links or affiliations on the pages themselves. *Id.* at 6–7. As for Exhibit 1061, Patent Owner complains that the links that appear on the exhibit are not fully visible. Patent Owner contends these exhibits are improperly authenticated, impermissible hearsay, irrelevant and unfairly prejudicial, and should be excluded under FEDERAL RULES OF EVIDENCE 401–403, 802, and 901.

Petitioner responds that these exhibits are webpages that were properly authenticated, are either not hearsay or subject to a hearsay exception, are relevant, and are not unfairly prejudicial to Patent Owner. Pet. Opp. 10. Petitioner points out that it submitted two sworn affidavits from the Internet Archive to authenticate these exhibits. *Id.* Petitioner argues that it is immaterial that the Internet Archive dates do not show the earliest date these exhibits were accessible because the dates establish when the webpages were accessible. *Id.* (citing Ex. 1032 ¶ 5; Ex. 1033 ¶ 6; Ex. 1030 ¶ 22). Petitioner contends that Exhibit 1061 is an authentic copy of a webpage and clicking the link at the bottom of the exhibit redirects to the correct webpage. *Id.* at 10–11.

We are not persuaded by Patent Owner’s objections to these exhibits. We agree with Petitioner that Exhibits 1014–1023 and 1061 are relevant and are not unfairly prejudicial to Patent Owner. We also agree with Petitioner that the declarations from Mr. Nathaniel Frank-White are sufficient to authenticate these exhibits. The Board routinely allows archived webpages

from the Wayback Machine as admissible evidence when similarly authenticated. We also find that these exhibits are not offered for the truth of the matters asserted and, therefore, are not hearsay. We therefore deny Patent Owner’s Motion as to Exhibits 1014–1023 and 1061.

D. Exhibit 1024–1027

Exhibits 1024–1027 are documents relating to a “QlikView Wine Guide.” Mot. 7–8. Patent Owner objects to these exhibits based on FEDERAL RULES OF EVIDENCE 401–403, 802, and 901. *Id.* at 8–10.

As Patent Owner notes, Petitioner “has not relied upon any of these exhibits as part of any grounds, but purports to rely on them to establish the state of the art.” *Id.* at 8. We do not rely on Exhibits 1024–1027 in reaching our decision that the challenged claims are unpatentable. Accordingly, we dismiss Patent Owner’s Motion as to Exhibits 1024–1027 as moot.

E. Exhibits 1003 and 1072

Patent Owner’s objects to portions of Exhibits 1003 and 1072, which are Mr. Schmandt’s declarations. Mot. 10–14. Patent Owner argues that paragraphs 71–117 and 163–456 of Exhibit 1003 should be excluded under FEDERAL RULES OF EVIDENCE 401–403, 702, and 703. *Id.* at 10–12. Patent Owner contends that these opinions are conclusory, unreliable, and fail to disclose underlying facts and data. *Id.* at 10. Patent Owner further contends that Mr. Schmandt parrots Petitioner’s attorney arguments, makes bald conclusions regarding unpatentability, and his testimony lacks factual grounding as well as a reliable methodology. *Id.* at 11–12.

Patent Owner also contends that paragraphs 4 and 6–56 of Exhibit 1072 should be excluded under FEDERAL RULES OF EVIDENCE 702 and 703. *Id.* at 12–13. Patent Owner once again argues that Mr. Schmandt’s opinions

are conclusory, unreliable, and fail to disclose underlying facts and data, and that his Reply declaration shows that he did not consider all of the evidence submitted with the Patent Owner Response in developing his opinions. *Id.*

Lastly, Patent Owner argues paragraphs 8, 19–21, 26, and 44 of Exhibit 1072 should be excluded under 37 C.F.R. § 42.23 and FEDERAL RULES OF EVIDENCE 401–403. *Id.* at 13–14. Patent Owner contends that these portions of Mr. Schmandt’s testimony improperly exceed the scope of a reply because they rely on newly submitted exhibits to form new and inadmissible gap-filling arguments. *Id.* at 14. Patent Owner also argues these portions are irrelevant and unfairly prejudicial and should be excluded under FEDERAL RULES OF EVIDENCE 401– 403. *Id.*; *see also* PO Reply 4–5.

Petitioner responds that Patent Owner does not challenge Mr. Schmandt’s qualifications as an expert and Patent Owner’s objections are directed to the weight of the evidence, not admissibility. Pet. Opp. 13–14. Petitioner points to specific examples where Mr. Schmandt relies on Petitioner’s evidence to support his opinions. *Id.* Petitioner argues that Patent Owner’s contention that Mr. Schmandt did not consider all of Patent Owner’s evidence is also incorrect because Mr. Schmandt specifically testifies that he did, and was available for Patent Owner to be deposed on these exhibits. *Id.* at 14. Petitioner also argues that Patent Owner offers no reason to find the cited portions of Mr. Schmandt’s testimony irrelevant, and given that Patent Owner had an opportunity to depose him, his opinions cannot be considered unfairly prejudicial. *Id.* at 15. Petitioner contends that Mr. Schmandt’s Reply testimony is responsive to issues raised our decision to institute *inter partes* review and in Patent Owner’s Response and does not improperly exceed the scope of a reply. *Id.*

We have reviewed the challenged portions of Mr. Schmandt's declaration testimony and do not agree with Patent Owner's arguments that any of the portions of Mr. Schmandt's declaration testimony should be excluded under FEDERAL RULES OF EVIDENCE 401–403, 702, or 703. At bottom, Patent Owner's objections relate to the proper weight to be given to his testimony and not to its admissibility.

As Petitioner points out, Patent Owner does not challenge Mr. Schmandt's qualifications or his industry experience. *See* Ex. 1003 ¶¶ 9–18. Once an expert has been qualified, the gatekeeping inquiry focuses on the expert's methodology and on whether the methodology is sufficiently tied to the facts of the case. *See Summit 6, LLC v. Samsung Elec. Co., LTD.*, 802 F.3d 1283, 1298 (Fed. Cir. 2015).

In this case, Mr. Schmandt's testimony is supported by underlying facts and we do not find his testimony in Patent Owner's cited portions to be conclusory or unreliable. Further, Patent Owner's objection that Mr. Schmandt's testimony relies on evidence not specifically cited in the Petition and the fact that his testimony at times mirrors portions of Petition's analysis are not a proper bases to exclude a declarant's testimony. Nor is there any reason to believe that Mr. Schmandt failed to review Patent Owner's evidence prior submitting his Reply declaration. *See e.g.*, Ex. 1072 ¶ 27 (testifying that he did review Patent Owner's evidence)

Patent Owner also fails to provide a reasonable basis to find the cited portions of Mr. Schmandt's testimony to be irrelevant or unfairly prejudicial.

As for Patent Owner's arguments that Mr. Schmandt's Reply declaration testimony improperly exceeds the scope of a reply, our Trial Practice Guide explains that a motion to exclude is not the proper vehicle for addressing such arguments. *See* Patent Trial and Appeal Board

Consolidated Trial Practice Guide (Nov. 2019)¹⁸ (“CTPG”), at 79 (“Nor should a motion to exclude address arguments or evidence that a party believes exceeds the proper scope of a reply or sur-reply.”). Moreover, we agree with Petitioner that Mr. Schmandt’s Reply testimony in Patent Owner’s cited paragraphs is properly responsive to issues raised in our institution decision and the Patent Owner Response. *See Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1078 (Fed. Cir. 2015) (a Reply declaration that fairly responds to arguments made in a patent owner’s Response does not violate 37 C.F.R. § 42.23(b)).

We therefore conclude that Mr. Schmandt’s testimony is properly included and relevant to the issues in this proceeding and that Patent Owner’s objections are properly directed to the weight to be given to his testimony, not to its admissibility. For these reasons, we deny Patent Owner’s Motion as to Exhibits 1003 and 1072.

V. PETITIONER’S MOTION TO STRIKE (PAPER 32)

Petitioner filed a Motion to Strick Sections II.A.1 and II.A.2 of Patent Owner’s Reply in Support of the Motion to Exclude Evidence. Paper 32 (“Pet. Mot.”). Patent Owner filed an opposition (Paper 33, “PO Opp.”) and Petitioner filed a reply (Paper 34). Petitioner contends that Patent Owner’s arguments in these sections of Patent Owner’s Reply on the Motion to Exclude are not evidentiary, and instead raise new arguments on the sufficiency of the evidence, which is improper. Pet. Mot. 1 (citing CTPG 79; PO Reply). Petitioner points out that Patent Owner specifically argues that “Dr. Hall-Ellis’s reliance on Wayback screenshots is misplaced [because] Internet Archive webpages are generally *not sufficient* evidence of

¹⁸ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

public accessibility.” *Id.* at 2 (citing PO Reply 3). Petitioner further points out that Patent Owner argues that Ms. Lofton’s declaration shows only that the QlikView Manuals were available to customers but not to a person of ordinary skill in the art. *Id.* at 3 (citing PO Reply 3). Petitioner contends Patent Owner never raised these arguments in its merits briefing, and therefore, these arguments should be stricken from the record. *Id.* at 2–3 (citing CTPG 79–81; 37 C.F.R. § 42.23(b))

Patent Owner responds that it presented valid evidentiary counterarguments in its Reply that directly respond to and rebut Petitioner’s arguments that Dr. Hall-Ellis and Ms. Lofton’s testimony is relevant and not unfairly prejudicial. PO Opp. 1–2.

We agree with Petitioner that Patent Owner’s Reply on its Motion to Exclude belatedly raises new arguments on the merits. *See* PO Reply 1–3 (arguing that the evidence does not sufficiently show that the QlikView Manuals were available to a person of ordinary skill in the art). Patent Owner in fact cites to caselaw on public accessibility and argues how Dr. Hall-Ellis and Ms. Lofton *do not* provide testimony to meet that standard—these arguments have nothing to do with relevance of the testimony *actually offered* by Dr. Hall-Ellis and Ms. Lofton. We agree with Petitioner that these arguments should have been presented in Patent Owner’s merits briefing, which Patent Owner did not do. *See* PO Resp. 50 n.2 (stating that Patent Owner intends to file a motion to exclude challenging the admissibility of Petitioner’s evidence on public accessibility of the QlikView Manuals). Moreover, counsel for Patent Owner conceded at oral argument that Patent Owner had not presented arguments challenging the public accessibility of the QlikView Manuals in its merits briefing. *See* Tr. 45:3–19. It is improper for Patent Owner to present these arguments for

the first in its Reply in support of the Motion to Exclude, thereby denying Petitioner any reasonable opportunity to respond to them. We therefore agree with Petitioner that these arguments should be struck from the record and grant Petitioner's Motion to Strike Sections II.A.1 and II.A.2 of Patent Owner's Reply in Support of the Motion to Exclude Evidence.

VI. CONCLUSION

For the reasons discussed above, Petitioner has demonstrated, by a preponderance of the evidence, that claims 1–16 of the '892 patent are unpatentable.¹⁹

¹⁹ Should Patent Owner wish to pursue amendment of the challenged claims in a reissue or reexamination proceeding subsequent to the issuance of this decision, we draw Patent Owner's attention to the April 2019 *Notice Regarding Options for Amendments by Patent Owner Through Reissue or Reexamination During a Pending AIA Trial Proceeding*. See 84 Fed. Reg. 16,654 (Apr. 22, 2019). If Patent Owner chooses to file a reissue application or a request for reexamination of the challenged patent, we remind Patent Owner of its continuing obligation to notify the Board of any such related matters in updated mandatory notices. See 37 C.F.R. § 42.8(a)(3), (b)(2).

Our conclusions regarding the challenged claims are summarized below:

Claims Challenged	35 U.S.C. §	Reference(s)/Basis	Claims Shown Unpatentable	Claims Not Shown Unpatentable
1, 2, 4, 5, 7–9	103(a)	Becerra	1, 2, 4, 5, 7–9	
3, 10, 11, 13–16	103(a)	Becerra, Couckuyt	3, 10, 11, 13–16	
10, 11, 13–16	103(a)	Becerra, Couckuyt, Keys	10, 11, 13–16	
6	103(a)	Becerra, Moyer	6	
7	103(a)	Becerra, Jou	7	
12	103(a)	Becerra, Couckuyt, Keys, Jou	12	
1, 2, 5–9	103(a)	QlikView Manuals	1, 2, 5–9	
3, 10–16	103(a)	QlikView Manuals, Couckuyt	3, 10–16	
10–16	103(a)	QlikView Manuals, Couckuyt, Keys	10–16	
6	103(a)	QlikView Manuals, Moyer	6	
Overall Outcome			1–16	

VII. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that claims 1–16 of U.S. Patent No. 8,271,892 B2 are determined to be unpatentable;

FURTHER ORDERED that Patent Owner’s Motion to Exclude (Paper 26) is *granted-in-part, denied-in-part, and dismissed-in-part*;

FURTHER ORDERED that Petitioner’s Motion to Strike portions of Patent Owner’s Reply on its Motion to Exclude (Paper 32) is *granted*; and

FURTHER ORDERED that, because this a Final Written Decision, parties to this proceeding seeking judicial review of this Decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

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Patent 8,271,892 B2

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