

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YEALINK (USA) NETWORK TECHNOLOGY CO., LTD., AND YEALINK
NETWORK TECHNOLOGY CO., LTD.,

Petitioners,

v.

BARCO N.V.

Patent Owner.

CASE: IPR2024-01436

U.S. PATENT NO. 10,762,002

PATENT OWNER'S SUR-REPLY

Table of Contents

I.	Introduction.....	1
II.	The Crestron License Strongly Supports Non-obviousness.....	2
III.	The Embodied Products Are A Commercial Success.....	6
IV.	The '002 Patent Claims Are patentable Over the Cited References	7
A.	The Law Of Obviousness.....	7
B.	Ground 1	9
1.	A POSITA Would Not Combine <i>Deforche</i> With Systems That Require Installation.	9
2.	<i>Deforche</i> Does Not Teach “setting up, by means of a first pre-installed generic audio driver of the operating system, a means for audio communication between the peripheral device”(Claims 1, 11, and 21).....	16
C.	Ground 2.....	18
1.	<i>Maeda</i> Requires Software Installation.	18
V.	Dr. Almeroth’s Conclusory Testimony Should Be Afforded No Weight	21
VI.	Conclusion	22

Exhibits

Exhibit Number	Description
Ex. 2001	Reserved
Ex. 2002	Reserved
Ex. 2003	Reserved
Ex. 2004	Declaration of Dr. Michael Brogioli
Ex. 2005	Curriculum Vitae of Dr. Michael Brogioli
Ex. 2006	June 30, 2025 Deposition Transcript of Kevin C. Almeroth in IPR2024-01436
Ex. 2007	July 1, 2025 Deposition Transcript of Kevin C. Almeroth in IPR2024-01439
Ex. 2008	July 2, 2025 Deposition Transcript of Kevin C. Almeroth in IPR2024-01437
Ex. 2009	July 2, 2025 Deposition Transcript of Kevin C. Almeroth IPR2024-01438
Ex. 2010	Barco Sales Data (<i>Confidential and Redacted Versions Filed</i>)
Ex. 2011	Crestron License Agreement (<i>Confidential and Redacted Versions Filed</i>)
Ex. 2012	<i>Barco and Crestron announce patent license agreement regarding a set of essential ClickShare patents</i> , BARCO (Sept. 12, 2023) https://web.archive.org/web/20240810204702/https://www.barco.com/en/about/press-releases/barco-and-crestron-announce-patent-license-agreement-regarding-a
Ex. 2013	<i>ClickShare conferencing & collaboration</i> , BARCO (April 1, 2025), https://web.archive.org/web/20250401012647/https://www.barco.com/en/products/clickshare-conferencing-collaboration#expand

Exhibit Number	Description
Ex. 2014	<i>ClickShare Button</i> , BARCO (February 12, 2025) https://web.archive.org/web/20250212164931/https://www.barco.com/en/product/clickshare-conferencing-button
Ex. 2015	ECF 65, Joint Claim Construction and Prehearing Statement, <i>Barco, Inc. et al v. Yealink (USA) Network Technology Co., Ltd. et al</i> , 2:2023-cv-521 (E.D. Tex. 11/14/2023)
Ex. 2016	ECF 89, Claim Construction Order, <i>Barco, Inc. et al v. Yealink (USA) Network Technology Co., Ltd. et al</i> , 2:2023-cv-521 (E.D. Tex. 11/14/2023)
Ex. 2017	List of Products Covered by Barco Patents accessible at: https://www.barco.com/en/about/terms-conditions/patents
Ex. 2018	<i>Patent</i> , CRESTRON (June 12, 2025) https://www.crestron.com/legal/patents?page=1
Ex. 2019	Crestron Electronics Private Company Profile, PITCHBOOK
Ex. 2020	ECF 55, Consent Judgment and Permanent Injunction, <i>Barco, Inc. et al v. Vivitek Corporation et al</i> , Case No. 4:19-cv-3250 (N.D. Cal. 4/27/2020)
Ex. 2021	<i>Barco Successfully enforces ClickShare IP against competitors in the U.S.</i> , BARCO (May 26, 2020) https://web.archive.org/web/20240424230846/https://www.barco.com/en/about/press-releases/2020-05-26-barco-successfully-enforces-cs-ip-against-competitors-in-the-us
Ex. 2022	Paul Krzyzanowski, <i>Devices</i> , PK.ORG (updated March 24, 2011).
Ex. 2023	Excerpts from April 18, 2025 Deposition Transcript of Andrew Ludke (<i>Confidential and Redacted Versions Filed</i>)
Ex. 2024	<i>USB device class drivers included in Windows</i> , Microsoft (Apr. 9, 2025) https://web.archive.org/web/20250409210411/https://learn.micros

Exhibit Number	Description
	oft.com/en-us/windows-hardware/drivers/usbcon/supported-usb-classes
Ex. 2025	Reserved
Ex. 2026	Dr. Kevin Almeroth's Declaration in IPR2024-01437
Ex. 2027	Dr. Kevin Almeroth's Declaration in IPR2024-01438
Ex. 2028	Reserved
Ex. 2029	Reserved
Ex. 2030	Dr. Kevin Almeroth's Declaration in IPR2025-00597
Ex. 2031	Reserved
Ex. 2032	Modified Protective Order
Ex. 2033	December 1, 2025 Deposition Transcript of Kevin C. Almeroth in IPR2024-01436, IPR2024-01437, IPR2024-01438 and IPR2024-01439

I. INTRODUCTION

The Reply asserts “[t]his is not a close case.” Reply, 17. This admission, in the proper context, could not be more accurate. Petitioner failed to meet its burden that any challenged claim is obvious. The ’002 Patent has been successfully licensed to a significant and sophisticated market competitor. The ’002 Patent is embodied by products which have experienced significant commercial success. The weakness of the multi-reference obviousness challenge that the Petition presents, coupled with the strong, and unrebutted, secondary considerations, overwhelmingly confirms that the Challenged Claims are not obvious.

The Petition presents two Grounds, both fundamentally rooted in hindsight. In each Ground, two references are allegedly combined (Ground 1: *Kaplan* and *Ahmed*; Ground 2: *Maeda* and *Ahmed*) where each performs select functions using custom software—not pre-installed generic drivers. The Grounds then wrongly, and without sufficient support, allege a POSITA would modify these references to use pre-installed generic drivers based on *Deforche*, despite *Deforche* using pre-installed generic drivers in a completely different system to accomplish completely different goals than the audio transfer of the claimed invention. *Deforche* is designed to avoid software installation which is completely undermined by *Kaplan*’s, *Ahmed*’s, and *Maeda*’s reliance (exclusively) on special purpose installed software. Ex. 1030, ¶4; Ex. 2033, 44:11-18 (Dr. Almeroth testifying that there is no motivation to combine

when “there is a particular objective of the primary reference that would be undermined by considering—by trying to combine it with a secondary reference”), 45:7-15, 59:16-60:4. Petitioner’s reliance on *Deforche* is improper. *Deforche* is not a wireless presenting system. It does not disclose use of screen scraped data or audio data. Petitioner also ignores design considerations and technical realities involved in peripheral device implementations in favor of its forced, Frankenstein-like, combinations.

In addition to failing to prove that the ’002 Patent is obvious, the Reply misstates the laws and facts regarding Patent Owner’s secondary indicia, which unquestionably support a finding of non-obviousness.

II. THE CRESTRON LICENSE STRONGLY SUPPORTS NON-OBVIOUSNESS

Industry-leader Crestron has licensed to the ’002 Patent from Patent Owner. The Reply fails to address this undeniable fact and under controlling Federal Circuit case law, the proceeding, which rests entirely on obviousness grounds, can stop here.

Petitioner misstates the law for secondary considerations. “Unlike products, which may incorporate numerous features beyond those claimed or described in a patent and therefore may require careful parsing to establish a nexus, *actual licenses to the subject patent do not demand the same*, as they are, by their nature, directly tied to the patented technology.” *Ancora Technologies, Inc. v. Roku, Inc.*, 140 F.4th

1351, 1362 (Fed. Cir. 2025) (emphasis added).¹ “Licenses to the challenged patent, then, unlike products or other forms of objective evidence of nonobviousness, do not require a nexus with respect to the specific claim at issue, nor does [] nexus law require that a particular patent be the only patent being licensed or the sole motivation for entering into a license.” *Id.*

The Reply fails to provide any explanation for why *Anacora* does not apply. Instead, Petitioner misinterprets caselaw in attempt to impose a stricter nexus requirement for licensed patents. *Id.* For example, *Sibia Neurosciences, Inc. v. Cadus Pharm. Corp.*, a case two-decades before *Anacora*, does not require that licensed patents be practiced by the licensee’s product. Instead, it provides a single instance where a court found the “existence of these licenses is insufficient to ***overcome the conclusion of obviousness***[.]” 225 F.3d 1349, 1358 (Fed. Cir. 2000) (“SIBIA points to three licenses or sub-licenses of the '629 patent, all of which were part of larger licensing packages.”). *Sibia* fails, however, to undermine *Anacora*, which confirms that when a challenged patent is licensed, a nexus is presumed, even if the license includes more than the challenged patent. So too here—Patent Owner’s license covers three patent families that all claim similar technology—and this is not

¹ All emphasis added unless otherwise noted.

[REDACTED]

the case of a broad portfolio-wide license. The Crestron license here is targeted to specific patents necessary for the practiced technology.

Likewise, in *Merck & Cie v. Gnosis S.P.A.*, a licensee identified another patent in the licenses as being the more desirable from a licensing perspective. 808 F.3d 829, 838 (Fed. Cir. 2015) (“A Pamlab executive explained that Pamlab desired this stable form ‘[b]ecause of its uniqueness and its novel properties’”). It was this desire for another licensed patent which resulted in the difficulty in determining “the extent to which the licensing agreement was a result of the novel features in the [challenged patent], as opposed to the other patents involved.” *Id.* Here, no such evidence exists, and *Anacora*’s clear direction is not overcome by the unique factual circumstances of *Merck*. [REDACTED]

[REDACTED] Ex. 2023, 58:14-19. Conversely, Barco has many other unrelated, unlicensed patents in its portfolio. Ex. 2017.

Last, the Reply cites to *Teva Pharmaceuticals Int’l GmbH v. Eli Lilly & Co.*, in attempt to require a mapping between the licensed patents and the licensee’s products. Reply, 21 (citing 8 F.4th 1349 (Fed. Cir. 2021)). However, here, just like in *Teva*, Petitioner’s “argument loses sight of the true purpose of the nexus requirement, which is to consider whether the fact-finder can infer that the licensing arose out of recognition and acceptance of the subject matter claimed in the patents.” *Teva*, 8 F.4th at 1364. The Crestron license is a license involving three patent

[REDACTED]

families (or 20 patents total) involving related technology. Ex. 2011. This is not comparable to *Teva*, where the license involved 188 patents, so “the nexus between the license and the validity of any particular claim is rather tenuous to say the least.” *Teva*, 8, F.4th at 1363. Moreover, the Reply provides no argument that somehow *Teva*, should govern over the more recent *Anacora*, which is crystal clear: “Licenses to the challenged patent, then, unlike products or other forms of objective evidence of nonobviousness, do not require a nexus with respect to the specific claim at issue, nor does [] nexus law require that a particular patent be the only patent being licensed or the sole motivation for entering into a license.” *Ancora v. Roku*, 140 F.4th at 1362.

Notwithstanding Petitioner’s misunderstanding of the case law, the Reply is also flawed with respect to the relevant facts. Patent Owner has demonstrated a nexus between the challenged patent and the Crestron License. For example, Crestron identifies the ’002 Patent as embodied in its AM-TX3-100 and AM-TX3-2 products. Ex. 2018.² [REDACTED]

[REDACTED] Ex. 2023, 58:14-19. Indeed, as the Reply itself notes, the ’002 Patent is independently valuable. Reply, 18-19 (citing Ex.

²<https://web.archive.org/web/20250616134131/https://www.crestron.com/legal/patents?page=1>

[REDACTED]

1078, 141:20-143:18). Dr. Almeroth did not form any specific opinions in relation to Creston and its license of the '002 Patent, and Petitioner offers no evidence that Creston does not practice the '002 Patent. Ex. 2033, 13:20-14:4, 14:16-21. In summary, the Reply's position (Reply, 20-21) regarding the Creston License is unsupported by law and fact.

Petitioner simply fails to overcome the significance of the Creston license. Ex. 2011, 15; Ex. 2023, 28:22-29:16. Creston, a world-wide company with a sophisticated IP portfolio of its own, [REDACTED] [REDACTED] using the claimed patented technology. Ex. 2023, 28:10-18, 58:14-19; Ex. 2019 (showing Creston owns 460 patent families). [REDACTED] Ex. 2023, 76:1-18. Creston itself identifies that its AM-TX3-100 and AM-TX3-2 products practice the '002 Patent. Ex. 2018. This *direct and un rebutted* acquiescence and licensing by a sophisticated entity that owns over 460 patent families strongly favors a finding of non-obviousness.

III. THE EMBODIED PRODUCTS ARE A COMMERCIAL SUCCESS

The Reply does not dispute that a Barco Base unit, when used with a ClickShare Button, practices the claimed invention. Reply, 17-19. While certain Barco Base units includes features not covered by the '002 Patent, it is undisputed that the '002 Patent is practiced by a Barco Base unit used in connection with a

ClickShare Button. *See* POR, 49-62. Further, as Mr. Six testified when deposed by Petitioner, when a Barco Base unit is used, 85% (or more) of users prefer to use the ClickShare Button over the ClickShare Application. Ex. 1078, 199:23-200:11.

Moreover, “the degree of correspondence between a product and a patent claim falls along a spectrum.” *Fox Factory, Inc. v. SRAM, LLC*, 944 F.3d 1366, 1374 (Fed. Cir. 2019). The Reply does not identify any unclaimed features or otherwise advance any evidence to counter Patent Owner’s mapping of the products to the claims. The Reply’s argument that the ClickShare System is not coextensive with the claimed subject matter is conclusory, unsupported by any evidence, and thus unpersuasive. Ex. 2033, 10:21-11:8, 11:16-12:1, 12:14-22, 13:9-12.

IV. THE ’002 PATENT CLAIMS ARE PATENTABLE OVER THE CITED REFERENCES

A. The Law Of Obviousness

In *KSR*, the Supreme Court recognized that, to determine obviousness [o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was *an apparent reason* to combine the known elements in the fashion claimed by the patent at issue.

KSR Intern. Co. v. Teleflex Inc., 550 U.S. 398, 418 (2007). The Petition and Reply do not consider these aspects. Instead, Petitioner alleges that, because a teaching is

well-known, that it is obvious. *See* Reply, 4, 7, 10, 13 (referring to pre-installed generic drivers as “ubiquitous”). This is not the law, and Petitioner cites no law that supports this misapplication of Supreme Court precedent.

The existence of pre-installed generic drivers was not disputed. Ex. 1001, 3:65-67. However, “[i]t does not suffice to simply be known. A reason for combining must exist.” *Virtek Vision Int’l ULC v. Assembly Guidance Sys., Inc.*, 97 F.4th 882, 888 (Fed. Cir. 2024). Rather than meet its burden to provide a motivation to combine, the Reply does the opposite and alleges “[t]here is no reason why it would not be obvious to use Deforche’s ubiquitous ‘*pre-installed generic drivers*’ to implement a solution based on the combination of Kaplan, Ahmed, and Deforche.” Reply, 4 (emphasis in original). This is emblematic of the Petition’s misapplication of the law, shifting the burden to Patent Owner, once again contrary to clear precedent. *See Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015) (“the burden of persuasion... never shifts to the patentee”); 35 U.S.C. § 316(e). Petitioner fails to carry its burden to combine the myriad disparate teachings of the prior art, and its hindsight-riddled challenges fail.

B. Ground 1

1. A POSITA Would Not Combine *Deforche* With Systems That Require Installation.

Deforche discloses a clear aim: “[i]t is the aim of the present invention to provide a wireless modem device and a method for operating same, ***with which the need for installation of an appropriate driver can be avoided.***” Ex. 1030, ¶4. *Deforche* achieves this aim through “a pre-installed generic driver of an operating system installed on the computer device [] used for setting up modem/host communication interfaces by means of which the wireless modem device and the computer device can communicate with each other.” *Id.*, ¶9. “This has the advantage that the need for a specific driver of the communication between the wireless modem device and the computer device can be avoided.” *Id.*

This is the ***exact language*** the Petition relies on for the **only** alleged motivation to modify *Ahmed* and *Kaplan* with *Deforche*. Petition, 27 (citing Ex. 1030, ¶9). This advantage allows a user to use a device with the modem when the user rights are restricted. Ex. 1030, ¶9. These “features... contribute to the advantage that any modification to settings in the kernel protocol stack or in the operating system can be avoided... As used herein, this effect is termed a ‘zero footprint’[.]” *Id.*, ¶16.

Despite explicitly relying on the zero footprint benefits to allege a motivation to combine, the Reply states “Deforche’s zero-footprint solution is largely irrelevant.” Reply, 4. In actuality, the benefit of *Deforche*’s teaching that the Petition relies on would not be achieved by *Kaplan* or *Ahmed*, or the proposed combination.

Kaplan and *Ahmed* both require installation of special purpose software to function. Patent Owner Response (POR), 27-29. *Kaplan*’s custom software solution is installed and used to access video footage or other media on the computer and to transmit the media to the receiver and provides the additional benefit of user-defined channels not available with conventional techniques. Ex. 1027, Abstract, ¶22; Ex. 2004, ¶¶81-82. This installation is explicitly relied on in the Petition. Petition, 32 (“Kaplan uses the plug-and-play feature to *install software* to so that the transmitter 120 may begin to operate as a ‘wireless transmitter’ to send, for example ‘video footage.’”). Meanwhile, *Ahmed* provides a “novel software solution” which would not come pre-installed on a generic computer. Ex. 1014, 7:26-9, 29:20-22; Ex. 2004, ¶¶85-86. Even the relied-upon drivers of *Ahmed* are special purpose and installed. Ex. 1014, 18:27-30.

There is no basis to conclude a POSITA would be motivated to modify *Kaplan* and *Ahmed* to use pre-installed generic drivers when software installation would still be necessary. This would undermine *Deforche*’s clear purpose. Ex. 1030, ¶9; Ex.

2004, ¶67; Ex. 2033, 44:11-18 (Dr. Almeroth opining that there is no motivation to combine when “there is a particular objective of the primary reference that would be undermined by considering – by trying to combine it with a secondary reference”), 45:7-15, 59:16-60:4. The benefit, realized through *Deforche*, of using pre-installed generic drivers is unique to *Deforche*’s goal of utilizing its wireless modem even when a user does not have administrator rights to install software. Ex. 1030, ¶9. *Kaplan* and *Ahmed* would not receive the benefits alleged by Petitioner due to its installed software components, as user administrator rights would still be required.

a. The Reply’s Arguments Regarding Ground 1

In addition to its allegation addressed with Section IV.B.1 above that “*Deforche*’s zero-footprint solution is largely irrelevant” and that “it’s unclear what if any relevance *Kaplan*’s and *Ahmed*’s disclosure of special purpose software has” to the combination (Reply, 4), the Reply includes several additional flaws in its Reply arguments for Ground 1.

The Reply confusingly includes discussion of a reference, *Ono*, which is not part of any Ground in the Petition. *See* Petition, 2-3; Reply, 3, 5, 10. As *Ono* has no impact on the challenged claims, such argument must be ignored.

The Reply contends that because Barco’s system installs special purpose software, *Kaplan*’s and *Ahmed*’s use of special purpose software does not prove problematic for the proposed combination between these references and *Deforche*.

Likewise, Dr. Almeroth alleges that “Dr. Brogioli testified that such a system still has a ‘zero-footprint’ despite having a driver installed permanently on a user’s computer.” Ex. 1083, ¶¶7, 16 (citing Ex. 1070, 20:11-24:23); *see also* Ex. 2033, 39:24-40:12 (Dr. Almeroth testifying that he has not defined zero footprint). What Dr. Brogioli actually testified to, is that an *application* could be zero footprint and be compatible with custom drivers, not that the system was zero-footprint. Ex. 1070, 22:1-9. Petitioner’s preference to over-state deposition testimony is not confined to this single instance. Reply, 1, 6, 10, 12 (Ex. 1072, 72:13-73:13); Reply, 5 (citing Ex. 1072, 6:1-24); Reply, 8 (Ex. 1070, 12:2-9); Ex. 1070, 12:2-19; Reply, 10, 11 (Ex. 1070, 20:2-24:23).

Petitioner conflates an example embodiment of the ’002 Patent with why a POSITA would not be motivated to combine the cited references. Patent Owner agrees that the independent claims of the ’002 Patent do not require a zero-footprint implementation. However, that does not obviate Petitioner’s burden of proving a motivation to combine.

The Reply asserts that *Kaplan’s* application could be installed as a zero-footprint application. Reply, 5 (“There is nothing prohibiting implementing Kaplan’s application as a zero-footprint application.”). This modification is a brand-

new argument which was not raised in the Petition.³ Ex. 2033, 48:2-23 (“my initial declaration didn’t rely on distinctive aspects of different embodiments as a basis for invalidity. It was as the invention of Kaplan is described.”). Moreover, this modification removes a key benefit of *Kaplan*’s application, namely, the ability to provide user-defined channels. The software application provides for “proprietary features such as user-defined channels” which are made available with “metadata associated with the video content stored on the computer[.]” Ex. 1027, ¶29. Metadata, which contains information on previous system uses, cannot be utilized in a zero footprint system where a device is supposed to “leave no trace[.]” Ex. 1030, ¶16. This newly raised argument highlights a thematic issue with the Petition relying on features of a reference without contemplating, or in some cases expressly ignoring, the teachings relating to the relied upon feature. Likewise, the Reply baldly alleges that installing these “novel” or “custom” software solutions do not “require” installation without any evidence to the contrary. Reply, 5; Ex. 1014, 7:6-11, 7:27-29, 8:7-13, 29:19-22; Ex. 1027, ¶¶22, 29. Dr. Almeroth agrees that such disclosure is indicative of the scope of the cited reference’s invention. Ex. 2033,

³ The Reply cites to the Petition at pages 26 to 28 in making this argument. Any allegation that this modification to *Kaplan* was raised in the Petition is unfounded. The phrase “portable application” does not even appear in the Petition.

30:18-24 (Dr. Almeroth explaining to figure out the scope of a cited reference's invention he looks to "[g]enerally, the reference. I don't see any reason why there wouldn't be an aspect of the invention or the disclosure, the – the exhibit, that you wouldn't look at."); 43:8-16. However, Dr. Almeroth ignores express disclosure and extends *Kaplan's* teachings well beyond the scope of what is disclosed based on boilerplate language. *See*, Ex. 2033, 34:21-35:12 (citing "the boilerplate paragraph at 65" in *Kaplan* as justifying modification); Ex. 1027, ¶65.

Finally, Petitioner posits that because *Ahmed* allegedly teaches using driver for audio and video streams, and *Deforche* allegedly teaches using pre-installed generic drivers, that it would be obvious to use one pre-installed generic driver for video and one pre-installed generic driver for audio. Reply, 6. The Reply, and the Petition are entirely deficient of any allegation that the function of *Ahmed's* drivers, can be replaced by pre-installed generic drivers. *See* PO Response, 31-33. Rather, Petitioner improperly abstract the identified elements completely from their intended function.

The Petition specifically relies on the specific drivers (i.e., not pre-installed generic drivers) *Ahmed* discloses for the functions that they perform. Petition, 26-27, 32-33, 34-35. Petitioner makes ***no attempt*** to identify pre-installed generic drivers that perform the equivalent functions to the specific drivers disclosed in *Ahmed*. The only identified pre-installed generic drivers, either 1) communicate data

from a human interface device (e.g., a keyboard), or 2) communicate data from a mass storage device. Ex. 1001, 14:39-46; Ex. 1030, ¶10; Ex. 2004, ¶94.

In contrast, the special mirror driver is used “for capturing the contents of a primary display associated with the computer” and a virtual audio driver “installed as a normal audio driver that can be selected as a default playback and/or recording device.” Ex. 1014, 8:7-12, 9:27-28, 18:27-30; Ex. 2004, ¶95. The Reply’s allegation that “it would have been a simple substitution to use [“a pre-installed generic driver”] as taught by *Deforche*” (Reply, 7) is not based in fact, as there has been no evidence that the drivers identified in *Deforche* perform the same functions as of the driver disclosed by *Ahmed*.

Petitioner’s view that the type of data is meaningless (Reply, 8) itself is contrary to its own interpretation of *Ahmed* which supposedly shows “it would have been obvious to use different drivers for audio and video streams[.]” This is an acknowledgement that the different types of drivers were not only known, but served different purposes. Ex. 2033, 19:24-21:22. Notably, Dr. Almeroth himself agrees that (1) there are at least 25 different driver classes on the windows operating system, (2) each of these drivers operate in different ways, (3) and vendor specific drivers operate based on the specific function the vendor was providing to the USB peripheral, such that there are a near-infinite number of driver implementations while using USB such that the proposed combination would necessarily require

undue experimentation. Ex. 2024; Ex. 2033, 56:8-9, 56:17-24. Notwithstanding these facts, Dr. Almeroth provides no evaluation of how these different functions relate to the implementation of the identified combination. *See generally*, Ex. 1002; Ex. 1083. The Petition—even with the support of Dr. Almeroth—has not met its burden that there is a motivation to combine the cited reference with a reasonable expectation of success.

The Petition attempts to paint a picture where all systems would only use one driver to communicate data. Rather than even consider the different design considerations in USB systems, the Reply summarily concludes that using one driver over another is “a simple substitution” and nothing more. *E.g.*, Reply, 1, 7. But, this alleged “simple substitution” fails to accompany *any* argument about why such a substitution would be made.

In fact, the allegation that using pre-installed generic drivers would have been “the first choice of a POSA because the software is so common and ubiquitous” is inexplicable in light of both *Kaplan* and *Ahmed* being implemented *without* these drivers. This is despite both reference being filed after these drivers allegedly became commonplace. Reply, 7.

2. *Deforche* Does Not Teach “setting up, by means of a first pre-installed generic audio driver of the operating system, a means

for audio communication between the peripheral device”
(Claims 1, 11, and 21)

The Reply blatantly misrepresents Dr. Brogioli’s testimony regarding *Deforche* in attempt to prove this limitation. Reply, 6 (Ex. 1072, 72:13-73:13). An actual inspection of the cited testimony makes it clear that Dr. Brogioli did not agree that *Deforche* taught this limitation:⁴

[Q.] And I think we've established that Deforche discloses using pre-installed generic drivers. Is that correct?

A. (Pause.)

That's correct. I was just refreshing myself on Deforche, that it uses a pre-installed generic driver.

Q. And also describes using the pre-installed HID and MSD drivers. Correct?

A. That's correct, yes.

Q And the MSD driver, for example, sets up a means for communication between a peripheral device and a processing device. Correct?

A Yes, *per the functionality of the mass storage device driver*.

Q And the same is true for the HID driver. Correct?

⁴ Notably, this line of questioning occurred with respect to claim 1 of the '676 Patent which does not claim *communication of audio data*. Nevertheless, Petitioner’s practice of misrepresentation continues.

A That's correct, *per the HID driver or the supported driver functionality*.

Ex. 1072, 72:20-73:13.

The Reply presents no additional evidence as to why *Deforche* allegedly teaches this limitation. As neither *Kaplan* nor *Ahmed* teach this limitation, Ground 1 fails for this reason alone.

C. Ground 2

With Ground 2, the Reply provides nearly identical arguments as with Ground 1. In fact, the Reply does not include a *single* citation to *Maeda*, the only reference unique to Ground 2. These arguments are flawed as explained in Section IV.B which is incorporated by reference herein. To the extent these arguments differ based on disclosure in *Maeda*, Patent Owner responds in the foregoing.

1. *Maeda* Requires Software Installation.

As described in Section IV.B.1, a POSITA would not combine *Deforche* with a system which requires software installation, and the Reply's allegation that "Deforche's zero-footprint solution is largely irrelevant" is contrary to the Petitioned Grounds. *See* Reply, 10.

Maeda utilizes special purpose software. Notably, Dr. Almeroth recognizes that *Maeda* utilizes special purpose software. Ex. 1083 ("Maeda's use of special purpose software is unimportant..."). *Maeda* relies on functional components which are implemented as software. Ex. 1031, ¶22; Ex. 2004, ¶¶116-117. The proposed

combination of *Maeda* and *Ahmed* would undermine *Deforche*'s objective. Ex. 2033, 44:11-18 (Dr. Almeroth opining that there is no motivation to combine when "there is a particular objective of the primary reference that would be undermined by considering—by trying to combine it with a secondary reference"), 45:7-15, 59:16-60:4.

On one hand, the Reply alleges, without justification, that installation would not be required to implement *Maeda*'s system. Reply, 11. Dr. Almeroth agrees that such disclosure is indicative of the scope of the cited reference's invention. Ex. 2033, 18:24 (Dr. Almeroth explaining to figure out the scope of a cited reference's invention he looks to "[g]enerally, the reference. I don't see any reason why there wouldn't be an aspect of the invention or the disclosure, the – the exhibit, that you wouldn't look at."); 43:8-16. The use of specific software is not compatible with *Deforche*.

On the other hand, and for the first time, Petitioner raises in the Reply that *Maeda* could be implemented with a portable application. Reply, 11 (citing Ex. 1083, ¶¶16-18). This modification is a brand-new argument which was not raised in the Petition. Moreover, neither the Petition, nor Dr. Almeroth provide any explanation for how this would or even could be achieved, let alone why a POSITA would be motivated to make such modification. See Reply, 11; Ex. 1083, ¶¶16-18.

Notwithstanding the fact this argument was improperly raised for the first time in Reply, there is no basis to conclude that a portable application could even be implemented in *Maeda*. Petitioner's late raised argument, even if considered, does not meet its burden. There is no evidence in the record that a LAN card is capable of storing a portable application run on a processing device. Instead, devices and associated drivers are designed to interface with computers with certain tasks in mind. Ex. 2024; Ex. 2033, 19:24-21:22.

The Petition and the Reply have consistently alleged, in conclusory fashion, that a POSITA would be motivated to modify references, and that such modification could be made with a reasonable expectation of success. Notably, Dr. Almeroth himself agrees that (1) there are at least 25 different driver classes on the windows operating system, (2) each of these drivers operate in different ways, (3) and vendor specific drivers operate based on the specific function the vendor was providing to the USB peripheral, such that there are a near-infinite number of driver implementations while using USB such that the proposed combination would necessarily require undue experimentation. Ex. 2024; Ex. 2033, 56:8-9, 56:17-24. Notwithstanding these facts, Dr. Almeroth provides no evaluation of how these different functions relate to the implementation of the identified combination. *See generally*, Ex. 1002; Ex. 1083. Not only are such allegations conclusory and without sufficient support to even allow a reasonable opportunity for Patent Owner to

respond, to the extent they are clear they are not supported by technical fact. It is not enough to merely conclude that such modification could be made with a reasonable expectation of success without considering these technical details.

V. DR. ALMEROOTH'S CONCLUSORY TESTIMONY SHOULD BE AFFORDED NO WEIGHT

When asked basic questions, such as the support for his conclusion that the claims are obvious “based on [his] experience and understanding of the relevant technology and law,” Dr. Almeroth was unable to provide any explanation for this “understanding of the relevant...law.” *See* Ex. 2033 at 53:7-55:12. This “trust me” approach is replete throughout his conclusions as it relates to the substitution of drivers and functionality from one system to another. *See e.g.*, Ex. 1002, ¶¶94-95 (“A POSITA would have, likewise, recognized the combination as a simple application of known techniques—applying Ahmed’s driver-level specifics... for communication between Kaplan’s host computer and the USB-attached transmitter to achieve Kaplan’s transmission of audio/video data.... [and] further use Deforche’s teachings of ‘pre-installed generic audio driver’ because, at least, the combination would result in a system that [is] easier and more efficient for the user”) This becomes even more problematic when he opines that certain teachings of the references he reviewed are not actually part of the invention of the reference. *See e.g.*, Ex. 2033 at 27:12-15; 31:12-35:12 (“It’s my opinion that Kaplan’s use of the

word ‘install’ is nonlimiting to the disclosure and is not a requirement to implement Kaplan’s system”). Dr. Almeroth’s willingness to eschew teachings of the various cited references simply because he deems them not part of the invention is further evidence of his results-oriented approach to obviousness, and calls into question his conclusions about the prior art and how a POSITA would have interpreted the references.

VI. CONCLUSION

For the reasons set forth in the POR and above, the patentability of all claims of the ’002 Patent should be upheld.

Dated: December 15, 2025

Respectfully submitted,

By: /Erik J. Halverson/
Erik Halverson
Reg. No. 73,552
K&L GATES LLP
4 Embarcadero Center, Suite 1200
San Francisco, CA 94111
erik.halverson@klgates.com
T: (415) 882-8238
F: (415) 882-8220

Counsel for Patent Owner

Certification of Word Count Under 37 C.F.R. § 42.24(d)

The undersigned hereby certifies that the foregoing contains 4,759 words according to the word count of the word-processing software used to prepare the foregoing.

By: /Erik J. Halverson/
Erik Halverson
Reg. No. 73,552
K&L GATES LLP
4 Embarcadero Center, Suite 1200
San Francisco, CA 94111
erik.halverson@klgates.com
T: (415) 882-8238
F: (415) 882-8220

CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2025 a true and correct copy of the foregoing was caused to be served on the following counsel of record for Petitioner by electronic mail at the following addresses:

Stephen Yang (Reg. No. 70,589)
stephen.yang@dentons.com
Kevin R. Greenleaf (Reg. No. 64,062)
kevin.greenleaf@dentons.com
Timothy C. Bickham (Reg. No. 41,618)
timothy.bickham@dentons.com
Forrest Gothia (Reg. No. 80,399)
forrest.gothia@dentons.com
Dentons US LLP
233 South Wacker Drive,
Suite 5800
Chicago, IL 60606
Tel: (212) 398-4890
Fax: (212) 768-6800
Email: ipt.docketchi@dentons.com

By: /Erik J. Halverson/
Erik Halverson
Reg. No. 73,552