

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMERICAN AXLE & MANUFACTURING, INC.,
Petitioner,

v.

NEAPCO COMPONENTS, LLC,
Patent Owner.

IPR2025-00090
Patent 11,434,958 B2

Before LINDA E. HORNER, GEORGE R. HOSKINS, and
FRANCES L. IPPOLITO, *Administrative Patent Judges*.

HOSKINS, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

American Axle & Manufacturing, Inc. (“Petitioner”) has filed a Petition (Paper 1, “Pet.”) pursuant to 35 U.S.C. §§ 311–319 to institute an *inter partes* review of U.S. Patent No. 11,434,958 B2 (Ex. 1001, “the ’958 patent”), claims 1–18.

Neapco Components, LLC (“Patent Owner”) filed a Preliminary Response (Paper 7, “Prelim. Resp.”) opposing institution of review.

Pursuant to 35 U.S.C. § 314(a), institution of review requires the information in the record to show a reasonable likelihood that Petitioner would prevail with respect to at least one challenged claim. Applying that standard on behalf of the Director (37 C.F.R. § 42.4(a)), we institute the petitioned review.

II. BACKGROUND

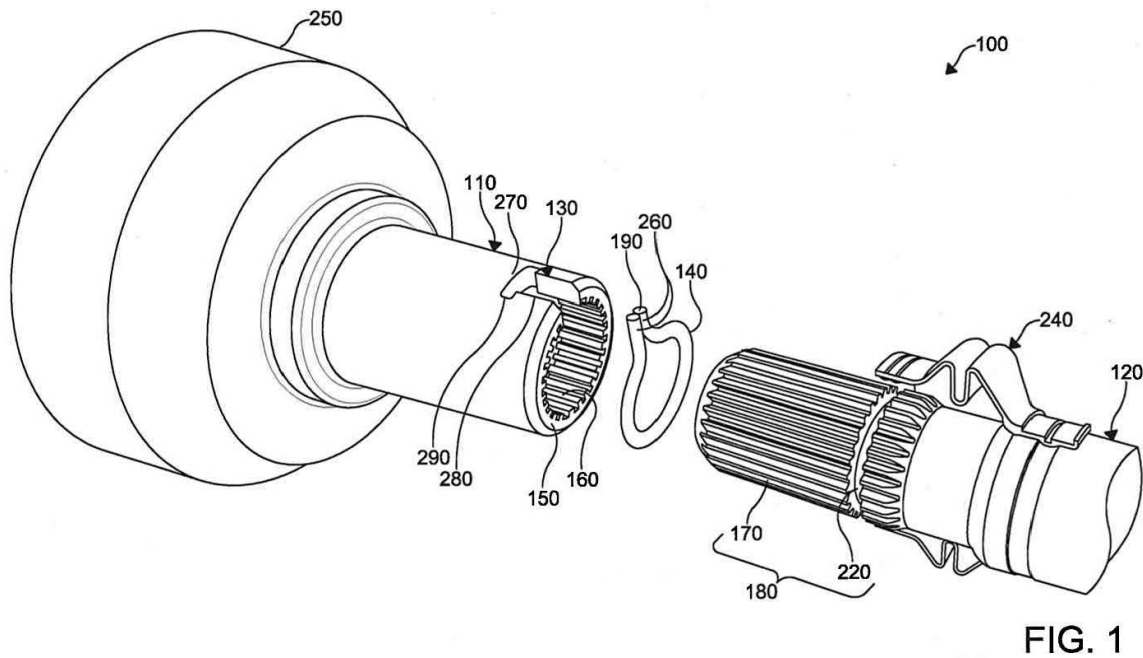
A. *Real Parties-in-Interest and Related Proceedings*

Petitioner identifies its real parties in interest as: American Axle & Manufacturing, Inc.; and American Axle & Manufacturing Holdings, Inc. *See* Pet. 98. Patent Owner identifies its real party in interest as Neapco Components, LLC. *See* Paper 5, 1.

The parties identify *Neapco Components, LLC v. American Axle & Manufacturing, Inc.*, Case No. 2:23-cv-12470-LVP-EAS (E.D. Mich.), as a related matter concerning the ’958 patent. *See* Pet. 98–99; Paper 5, 1.

B. *The ’958 Patent Specification*

The ’958 patent is directed to a propeller shaft joint assembly capable of being disassembled for servicing. *See* Ex. 1001, code (54), 1:14–17. Figure 1 is reproduced below (on the next page).



'958 Patent, Figure 1.

Figure 1 is an exploded perspective view of joint assembly 100 including first member 110, second member 120, retaining ring 140, and seal 240. *See id.* at 3:1–2, 5:65–6:3, 6:20–22.

First member 110 is coupled to constant velocity joint 250, and includes open end 150 comprising internal splines 160. *See id.* at 4:56–5:15, 6:3–4, 6:25–26, 6:32–33.

Second member 120 has portion 180 received within the first member's open end 150 and including external splines 170 to engage internal splines 160 and thereby couple the members together in rotation. *See id.* at 6:4–10, 6:32–35.

Retaining ring 140 retains the axial coupling of the members when joint assembly 100 is assembled, as follows. First, ring 140 is inserted into the first member's open end 150 with its ends 260 sliding into T-shaped window 130, until ring 140 rests within internal annular recess 200 of first member 150 (shown in Figure 3) with ends 260 received in wide portion 290

of window 130. *See id.* at 6:2, 6:10–20, 6:35–57, 7:4–12. Next, second member 120 is inserted into the first member's open end 150, causing ring 140 to expand out into internal annular recess 200, until ring 140 snaps back into external annular recess 220 of second member 120. *See id.* at 6:18–20, 6:35–45, 7:12–29. In that state, ring 140 is partially received in both recesses 200 and 220, and thereby prevents axial displacement between the two members to retain or lock them together. *See id.* at 1:42–45, 6:13–20 (Fig. 3), 7:24–29.

Seal 240 is coupled to second member 120 so that, when joint assembly 100 is assembled, seal 240 covers window 130 to prevent unwanted material such as dust or debris from entering the window. *See id.* at 4:51–53, 6:20–24, 7:32–34.

Joint assembly 100 may be disassembled for service or maintenance, by moving seal 240 to uncover window 130 and utilizing a tool to expand or spread ends 260 of ring 140 apart within wide portion 290 of window 130, thereby releasing second member 120 to be removed from open end 150 of first member 110. *See id.* at 2:47–55, 4:53–55, 7:35–39, 8:12–15.

C. The '958 Patent Claims

The '958 patent includes eighteen claims, all of which are challenged in the Petition, including three independent claims 1, 13, and 15. *See* Ex. 1001, 8:36–10:64; Pet. 19 (listing Petitioner's challenges).

Independent claim 1 illustratively recites:

1. A joint assembly comprising:
a first member having a first engagement means and an interior surface recess;

a second member having a second engagement means and an exterior surface recess, a portion of the second member disposed within the first member, the second engagement means engaging the first engagement means to provide a coupling of the second member to the first member;

a window formed within the first member where the portion of the second member is disposed within the first member;

a retaining means configured to retain the coupling of the second member to the first member, wherein distal ends of the retaining means are accessible through the window, wherein the distal ends of the retaining means extend in a direction radially outwardly into the window to a point at or radially inwardly from an outer wall of the first member, and wherein the retaining means is received partially into each of the interior surface recess of the first member and the exterior surface recess of the second member when the retaining means retains the coupling of the second member to the first member; and

a seal configured to cover the window, the seal coupled to the second member adjacent an end of the first member, the seal coupled to the first member adjacent the window, wherein a cylindrical portion of the seal covers the outer wall of the first member along at least a portion of a perimeter of the window, wherein the seal further includes a corrugated portion disposed adjacent the cylindrical portion, and wherein the corrugated portion is spaced radially from each of the first member and the second member.

Ex. 1001, 8:37–9:3.

D. Asserted Prior Art

Petitioner relies on the following three references as prior art against the '958 patent. *See* Pet. 3, 19.

Name	Reference	Exhibit No.
Renegade Manual	2016 Jeep Renegade Service Manual	1013
Krude '422	US 6,739,422 B2	1008
Sugiyama	US 2018/0003240 A1	1007

Patent Owner disputes Renegade Manual's status as prior art against the '958 patent, as we discuss below in Section III. Patent Owner does not dispute at this time that Petitioner's other two references are prior art against the '958 patent. *See, e.g.*, Pet. 3 (Krude '422); *id.* at 3, 15–19 (Sugiyama).

E. Asserted Grounds

Petitioner asserts two unpatentability grounds, as follows. *See* Pet. 19.

35 U.S.C. § ¹	Reference(s)	Claims Challenged
102	Renegade Manual	1–18
103	Renegade Manual, Krude '422, Sugiyama, Knowledge of Person of Ordinary Skill in the Art	1–18

F. Testimonial Evidence

Petitioner relies on the proffered expert witness testimony of Gregory W. Davis, Ph.D., P.E. (Exhibit 1032), as well as the testimony of

¹ Amendments to 35 U.S.C. §§ 102 and 103 enacted by the Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011) ("AIA") took effect in March 2013. The earliest possible effective filing date for the '958 patent is in May 2017. *See* Ex. 1001, code (60). Therefore, we apply the AIA versions of §§ 102 and 103.

several factual witnesses in support of alleging Renegade Manual is a prior art printed publication (Exhibits 1021, 1022, 1023, and 1025). Patent Owner does not rely on opposing witness testimony at this time, apart from an authentication declaration (Exhibit 2003) for Exhibits 2001 and 2002.

III. WHETHER RENEGADE MANUAL IS PRIOR ART

At the institution stage, a petitioner must identify, with particularity, sufficient evidence to establish a reasonable likelihood that an asserted printed publication reference was publicly accessible before the critical date of the challenged patent and thus qualifies as prior art. *See Hulu, LLC v. Sound View Innovations, LLC*, IPR2018-01039, Paper 29, at 12–14 (PTAB Dec. 20, 2019) (precedential, hereafter “*Hulu*”). This “is a higher standard than mere notice pleading, but . . . is lower than the ‘preponderance’ standard to prevail in a final written decision.” *Id.* at 13–14.

Furthermore: “Public accessibility requires more than technical accessibility.” *Id.* at 10 (citation omitted). “A given reference is ‘publicly accessible’ upon a satisfactory showing that such document has been disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art exercising reasonable diligence, can locate it.” *Id.* at 10–11 (quoting *SRI Int’l, Inc. v. Internet Sec. Sys., Inc.*, 511 F.3d 1186, 1194 (Fed. Cir. 2008) (quoting *Bruckelmyer v. Ground Heaters, Inc.*, 445 F.3d 1374, 1378 (Fed. Cir. 2006))).

Petitioner asserts Renegade Manual is prior art to the ’958 patent pursuant to 35 U.S.C. § 102(a)(1), because it is a printed publication that was publicly accessible by July 2016, before May 2017 (the earliest possible

effective filing date for the '958 patent). *See* Pet. 3, 7–15; Ex. 1001, code (60). Patent Owner disputes various aspects of Petitioner’s evidence and argument in this regard. *See* Prelim. Resp. 1–4 (summary), 4–39 (detailed arguments).

Based on our review of the evidence and argument presented, discussed below, we conclude Petitioner has established a reasonable likelihood that Renegade Manual was publicly accessible before May 2017. Therefore, per *Hulu*, Petitioner has justified institution of review to proceed to a final written decision on the issue of whether Renegade Manual qualifies as prior art, if Patent Owner continues to dispute that issue.

A. Renegade Manual — What Is It ?

Renegade Manual is a compact disc (CD) titled “2016 Jeep® Renegade Service Information Manual.” Ex. 1013², 1–2. Thus, Renegade Manual provides service information for the 2016 model of the Jeep Renegade vehicle.

Exhibit 1013 begins with a photograph of the top surface of the CD, which has indicia printed on it. *See id.* at 1. These indicia include the elements reproduced below.



Renegade Manual, at 1 (Excerpt).

² When citing Exhibit 1013, we refer to the pagination added by Petitioner at the bottom right corner of each page. We encourage the parties to do likewise in future briefing.

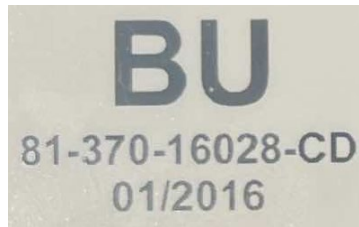
The surface indicia shown above comprises a stylized “M” logo above the word “MOPAR” and next to the phrase “TECH AUTHORITY,” separated by a vertical line. *Id.* Petitioner contends, and Patent Owner does not dispute at this time, that Mopar Tech Authority “is well known in the automotive industry as an established organization that publishes and distributes service information, including service manuals, for Chrysler vehicles, including Jeep® brand vehicles.” Pet. 8 (citing Ex. 1021 ¶ 5; Ex. 1032 ¶ 237; Ex. 1023 ¶¶ 46–47 & Ex. 30).

Launching the Renegade Manual CD directs the user to a landing page shown at page 2 of Exhibit 1013, containing links to information stored on the CD. *See* Ex. 1013, 2–3; Pet. 5–7; Prelim. Resp. 5, 7. Exhibit 1013 includes a “Terms of Use Agreement” for the CD (Ex. 1013, 4–7); a Table of Contents with links to information stored on the CD (*id.* at 8–144); and a portion of the information stored on the CD³ (*id.* at 145–800).

B. Renegade Manual — Indicia of Publication Date

Petitioner asserts the Renegade Manual CD (Exhibit 1013) includes various indicia reflecting that it existed and was publicly available in January 2016. *See* Pet. 4, 8–10 (“*Second*” argument at a, b, c, and e). Petitioner cites indicia printed on the top surface of the CD, as reproduced below (on the next page).

³ *See* Pet. 6–7 (“Petitioner primarily relies on three sub-sections of Chapters 3 and 21[.]”); Prelim. Resp. 25 (“[Petitioner] has only submitted chapters 3 and 21[.]”).



Renegade Manual, at 1 (Excerpt).

The indicia shown above says “BU” in large bold letters, followed by “81-370-16028-CD” and “01/2016” in smaller letters. Ex. 1013, 1. According to Petitioner, the “01/2016” indicia refers to the month (January) and year (2016) that the CD became publicly available. *See* Pet. 8. Petitioner also cites the landing page of Renegade Manual, which states: “Copyright® [sic ‘©’] 2015 Chrysler LLC.” Ex. 1013, 2; *see* Pet. 8–9.

Petitioner further proffers the testimony of Tim Kiefer, a Forensics Manager “in the field of data collection and forensic analysis.” Ex. 1022 ¶¶ 2–6 & Ex. 1; *see* Pet. 10. Mr. Kiefer testifies that he conducted a forensic analysis of the Renegade Manual CD (Exhibit 1013), which revealed that: (1) “the CD was burned (that is, the data was copied onto the CD) on January 7, 2016”; and (2) no item on the CD has a “date created” or “date modified” field later than December 22, 2015. Ex. 1022 ¶¶ 7–17 & Ex. 2; *see* Pet. 10.

Patent Owner responds that Petitioner fails to provide any evidence tying the specific CD proffered as Exhibit 1013 to a time prior to May 2017. *See* Prelim. Resp. 2, 18–26. For example, Patent Owner points out that Petitioner “says nothing about how it obtained” Exhibit 1013. *Id.* at 2, 18–19. Patent Owner also asserts that even if Mr. Kiefer’s testimony establishes “the fact that the CD *existed*” in January 2016, that assumed fact “does not prove that either the CD itself or its contents was *publicly available*.” *Id.* at 2–3, 23–24. According to Patent Owner: “The CD could

very well have been locked away in a file cabinet at Chrysler and kept as Chrysler’s proprietary, non-public information” after its creation. *Id.* at 3, 23.

Patent Owner’s further view is that authenticating an electronic document such as the Renegade Manual CD (Exhibit 1013) is “particularly problematic” because it “could have and likely was revised over and over again,” and “the Renegade Manual itself states that ‘Chrysler reserves the right to ***change any of the information***, including without limitation, testing procedures, specifications, diagnosis, repair methods, or vehicle wiring ***at any time*** without incurring obligation.’” Prelim. Resp. 19 (emphasis by Patent Owner) (citing Ex. 1013, 5); *see also id.* at 24 (“[T]he fact that the Renegade Manual likely went through many revisions undermines [Petitioner’s] assumption that the CD it has now was identical to something otherwise available before [May 2017].”).

Patent Owner moreover asserts the indicia printed on the top surface of the Renegade Manual CD “fail to satisfy [Petitioner’s] burden of establishing that [Exhibit 1013] was publicly accessible” prior to May 2017. Prelim. Resp. 20; *see id.* at 21–23 (“*Second*” and “*Third*” arguments). Patent Owner concedes “a date printed on a reference can have some relevance,” but nonetheless contends “inscription dates and other indicia” are “insufficient based on the inherent nature of CDs” because “a user is unable to discern the contents of a CD until the CD is launched as a CD.” *Id.* at 22. Patent Owner contends the manual’s copyright notice also is insufficient, because “the law is clear that evidence of a copyright date, on its own, does not support the public accessibility of a document.” *Id.* at 22–23 (citations omitted).

Upon consideration, we determine the present preliminary record indicates that the CD submitted by Petitioner as Exhibit 1013 existed in January 2016, and that its contents have not changed since January 2016. Mr. Kiefer appears to be a qualified witness to opine on those issues, and his corresponding testimony stands unrebutted by contrary evidence in the present record. *See* Ex. 1022; Pet. 10. Based on Mr. Kiefer’s testimony, the objections raised by Patent Owner’s counsel concerning whether the CD submitted as Exhibit 1013 existed prior to May 2017, and whether it may have been altered since the time it was created, and how Petitioner came to possess it, are unavailing based on the present record. Therefore, the decisive issue raised is whether there is a reasonable likelihood that the CD submitted by Petitioner as Exhibit 1013 is an accurate representation of something that was *publicly accessible* prior to May 2017 so as to be a prior art printed *publication* against the ’958 patent.

Concerning that decisive issue, Exhibit 1013 bears several hallmarks of being a CD service manual intended to be produced in several copies and distributed to persons interested in servicing the 2016 model of the Jeep Renegade. *See Hulu*, at 17–18 (holding that “the indicia on the face of a reference, such as printed dates and stamps, are considered as part of the totality of the evidence” concerning public accessibility); *see also C.R. Bard, Inc. v. AngioDynamics, Inc.*, 748 F. App’x 1009, 1014 (Fed. Cir. 2018) (recognizing that “the contents of a document can be relevant to whether the document was publicly accessible” (citing *Nobel Biocare Servs. AG v. Intradent USA, Inc.*, 903 F.3d 1365, 1375–80 (Fed. Cir. 2018))). That is, the top surface of the CD bears printed indicia indicating the CD was produced by Mopar Tech Authority, an established organization that

publishes and distributes service information, including service manuals, for Chrysler vehicles, and contains “2016 Service Information” for the “Renegade” vehicle, with an identification number of “81-370-16028-CD.” Ex. 1013, 1.

The landing page, which contains detailed information for the user on how to use the service manual, further looks intended for public distribution, as opposed to an incomplete draft version of a CD service manual, for example. *See id.* at 2. In addition, the length, substance, and detail of the contents of the CD all indicate that it is a final version of a CD service manual intended for mass production and distribution to interested persons. For example, there would be no need to include the “Terms of Use Agreement” in the CD (Ex. 1013, 4–7) unless Mopar Tech Authority intended for the CD to be distributed, albeit in a limited fashion as indicated by the terms of that agreement (which we discuss below in Section III.H).

Patent Owner does not cite, and we do not discern, anything in Exhibit 1013 to suggest otherwise. Although it is remotely possible that the CD submitted as Exhibit 1013 was hidden in a locked filing cabinet from the time of its creation in or before January 2016 until some time after May 2017 (as Patent Owner speculates), there is a reasonable likelihood that Exhibit 1013 is a representative copy of a service manual that Mopar Tech Authority intended for publication in 2016.

As to whether Renegade Manual was in fact published in 2016, the contents of Exhibit 1013 offer some support for Petitioner. For example, the landing page bears a copyright notice date of 2015. *See* Ex. 1013, 2. Patent Owner correctly argues that such a copyright notice date does not by itself establish publication. *See, e.g., Hulu*, at 18–19. At the same time, however,

a copyright notice date is part of the totality of evidence to be considered in this regard. *See id.* In this case, the indicated copyright notice date of 2015 tends to support Petitioner’s assertion that Exhibit 1013 was published in or before the year 2016, even if it is not determinative on that issue. Moreover, on the record presented, we agree with Petitioner’s position that the “01/2016” indicia on the CD appears to connote a version release date of January 2016. *See, e.g., Nobel*, 903 F.3d at 1375–76 (“[T]he ABT Catalog has the date ‘March 2003’ on its cover. Although the ABT Catalog’s date is not dispositive of the date of public accessibility, its date is relevant evidence that supports the Board’s finding of public accessibility at the March 2003 IDS Conference.”). And, as noted above, the CD submitted by Petitioner as Exhibit 1013 existed in January 2016 and has not changed in content since then. All of this evidence tends to support Petitioner’s assertion that Exhibit 1013 was published in 2016.

Further supporting Petitioner’s assertion is the fact that Exhibit 1013 was produced by Mopar Tech Authority and/or Chrysler. *See* Ex. 1013, 1–2 (Mopar Tech Authority indicia); *id.* at 4 (the CD’s “License” extends to using it “in servicing vehicles manufactured by or for Chrysler LLC (sometimes referred to as ‘Chrysler’) or its affiliates”). As noted above, it is undisputed that Mopar Tech Authority “is *well known* in the automotive industry as an *established organization* that *publishes and distributes* service information, including service manuals, for Chrysler vehicles.” Pet. 8 (emphases added). The Federal Circuit has stated: “When there is an established publisher there is a presumption of public accessibility as of the publication date.” *VidStream LLC v. Twitter, Inc.*, 981 F.3d 1060, 1065–66 (Fed. Cir. 2020) (citing *Giora George Angres, Ltd. v. Tinny Beauty &*

Figure, Inc., 116 F.3d 1497, No. 96-1507, 1997 WL 355479 at *7 (Fed. Cir. 1997)).

Thus, we conclude the contents of the Renegade Manual CD (Exhibit 1013) support Petitioner’s assertion that the CD is representative of something that was publicly available in 2016. We need not decide whether this evidence alone establishes a reasonable likelihood of public accessibility in 2016, however, because Petitioner proffers additional evidence as we discuss next.

C. Jeep Renegade Internet Forum Posts in 2016

Petitioner next proffers several Jeep Renegade Internet forum posts allegedly dated in 2016 as establishing Renegade Manual was publicly accessible in 2016. *See* Pet. 10–13 (“*Third*” argument). Ms. Jodi Gregory, who is “regularly engaged by a wide variety of companies to conduct research regarding the availability of scientific literature” (Ex. 1023 ¶¶ 2–6 & App’x A), provides supporting testimony. *See* Pet. 10–11 (discussing Ex. 1023). Ms. Gregory concludes “the Renegade Manual was publicly accessible before May 3, 2017” based on “[s]everal posts on forums related to the Jeep Renegade dated in 2016.” Ex. 1023 ¶¶ 7–9; *see* Pet. 10–11.

Those posts are:

- a **July 6, 2016** message from **Cruiser** at **www.renegadeforum.com**, stating: “I recently found the service manual on disc at techauthority.com . . . for the 2016 model [of the Jeep Renegade] . . . Here’s the link: <https://www.techauthority.com/en-us/products/81-370-16028-CD>” (Pet. 11 (citing Ex. 1023 ¶¶ 10–15 & Ex. 1));
- another **July 6, 2016** message from **Cruiser**, substantially identical to the statement quoted above (Pet. 11 (citing Ex. 1023 ¶¶ 16–21 & Ex. 7));

- a **July 13, 2016** message from **cruiser66** at **www.jeeprenegadeforum.com**, stating: “Here’s the service manual for the 2016 Renegade on disc . . . Found on techauthority: <https://www.techauthority.com/en-us/products/81-370-16028-CD>” (Pet. 11–12 (citing Ex. 1023 ¶¶ 28–33 & Ex. 18));
- a **July 15, 2016** message from **cruiser66**, stating: “The service manual on disc is available for the 2016 Renegade . . . Here’s the link for the Renegade: <https://www.techauthority.com/en-us/products/81-370-16028-CD>” (Pet. 12 (citing Ex. 1023 ¶¶ 22–27 & Ex. 12));
- a **July 15, 2016** message from **fernandosousa** at **www.jeeprenegadeclub.com**, stating: “I would really like to get my hands on the [Brazilian] Renegade service manual” and “I searched the internet and found the American Renegade service manual for sale, but it costs \$135.00 and the engine is different. . . . Here is the link to what I found: <https://www.techauthority.com/en-us/products/81-370-16028-CD>” (Pet. 12 (citing Ex. 1023 ¶¶ 40–44 & Ex. 28; Ex. 1024)); and
- an **August 18, 2016** message from **raz-0** at **www.jeeprenegadeforum.com**, stating: “Well a tech manual finally came out: <https://www.techauthority.com/en-us/products/81-370-16028-CD>” (Pet. 12–13 (citing Ex. 1023 ¶¶ 34–39 & Ex. 23)).

Petitioner points out that “each of [these] 2016 forum posts linked to the URL, ‘<https://www.techauthority.com/en-us/products/81-370-16028-CD>,’ which includes the same Product ID as that shown on the front of the CD and landing page [in Exhibit 1013], ‘81-370-16028-CD.’” Pet. 11, 13 (citing Ex. 1023 ¶ 48 & Ex. 31; Ex. 1025 ¶¶ 1–5, 7). According to Petitioner, that overlap demonstrates public accessibility of Renegade Manual in 2016. *See id.* at 13.

Patent Owner responds that the Internet posts are inadmissible hearsay because they “are out-of-court statements offered by [Petitioner] to prove the

truth of the matter asserted in the statements,” which is “that a CD containing a Renegade Manual was available at the link posted by each of the users on the date of each post.” Prelim. Resp. 3, 31–34 (citing Fed. R. Evid. 801(c)). Patent Owner argues the Board should not rely on these statements to support granting institution of review, “because websites can be seamlessly updated without changing the underlying URL, so it is impossible to verify that the URL posted to these forums directs to” a webpage providing access to Renegade Manual in 2016. *Id.* at 34–35. Patent Owner further asserts Ms. Gregory’s testimony describing the posts “is inadmissible lay testimony disguised as so-called ‘expert’ testimony.” *Id.* at 3, 35–39.

Further according to Patent Owner, even if the Internet posts are taken at face value despite being hearsay, “they demonstrate that the users of the forum recognized that the Renegade Manual was restricted to Chrysler’s service network and the individuals in the forum should not have access to the information.” *Id.* at 15–16. Patent Owner cites:

- a **July 21, 2015** message from **Rufus** at **www.jeeprenegadeforum.com**, allegedly “doubt[ing] that any service manual would be available, stating ‘[t]his would be great if they actually sold service manuals’” (Prelim. Resp. 17 (citing Ex. 1023, Ex. 12));
- a **July 29, 2015** message from **MRM331** at **www.jeeprenegadeforum.com**, stating he/she “really wish[ed] a tech manual [for the Jeep Renegade’s ‘Latitude’ trim] was available somewhere other than a Jeep dealer” (Prelim. Resp. 17 (citing Ex. 1023, Ex. 23));
- a **July 29, 2015** response to **MRM331**’s comment by **syzygy**, stating: “*That might leave the forum open to copyright infringement*”

(Prelim. Resp. 17 (emphasis by Patent Owner) (citing Ex. 1023, Ex. 23));

- a **July 30, 2015** response to **MRM331**'s comment by **raz-0**, stating "the last tech manual he obtained was '*pirated*' and that the particular OEM 'didn't want customers seeing it'" (Prelim. Resp. 17 (emphasis by Patent Owner) (citing Ex. 1023, Ex. 23));
- a **December 1, 2015** message from **Jack Kuykendall** at **www.renegadeforum.com**, stating: "Does anyone know how I can get a service manual for the 2015 Jeep Renegade? I have been told that it is currently web-based and *accessible by dealer and other authorized service people*. Is this true?" (Prelim. Resp. 16 (emphasis by Patent Owner) (citing Ex. 1023, Ex. 7));
- a **December 20, 2015** response to **Mr. Kuykendall**'s query by **Jbell**, stating: "My husband said that is true so far" (Prelim. Resp. 16 (citing Ex. 1023, Ex. 7));
- a **June 19, 2016** response to **Mr. Kuykendall**'s query by **Todd Harris**, stating: "[s]eams [sic] like FCA is *restricting information*" (Prelim. Resp. 16 (emphasis by Patent Owner) (citing Ex. 1023, Ex. 7));
- a **February 6, 2016** message from **Barebuttminer** at **www.jeeprenegadeforum.com**, stating: "Service manuals for the Renegade are *not yet available to the general public* or to the dealers service center for that matter" (Prelim. Resp. 16 (emphasis by Patent Owner) (citing Ex. 1023, Ex. 18)); and
- a **May 18, 2016** message from **Todd Harris** at **www.renegadeforum.com**, stating "a dealer told him that 'they access this information through web via Jeep headquarters'" without "stat[ing] that this dealer told him he could access the Renegade Manual on his own" (Prelim. Resp. 16 (citing Ex. 1023, Ex. 1)).

Patent Owner asserts “[t]hese forum posts demonstrate that there were significant doubts that the Renegade Manual was available to users of the forum at all, but if it was available, the users clearly believed they should not have access to it.” Prelim. Resp. 17.

We firstly note that the *Hulu* decision did not reach the issue of whether a petitioner’s evidence must be admissible under the Federal Rules of Evidence to justify institution. *See Hulu*, at 12 n.4. Nonetheless, the Board’s Rules specify that “the Federal Rules of Evidence shall apply to a proceeding” (37 C.F.R. § 42.62(a)), and define the term “proceeding” to include a “preliminary proceeding” that “ends with a written decision as to whether a trial will be instituted” (*id.* § 42.2). Thus, we apply the Federal Rules of Evidence here.

We agree with Patent Owner’s argument that the Internet forum posts cited by Petitioner fall under the definition of “hearsay” set forth in Fed. R. Evid. 801(c). However, based on the present preliminary record, we further determine that the residual exception to hearsay applies here. That is, the Internet forum posts are “supported by sufficient guarantees of trustworthiness . . . considering the totality of circumstances under which [they were] made,” and they are “more probative on the point for which [they are] offered than any other evidence that [Petitioner] can obtain through reasonable efforts.” Fed. R. Evid. 807(a).

The sufficient guarantees of trustworthiness include: the number of Internet posts at issue; the consistent specificity concerning the website (www.techauthority.com) where the 2016 model year Jeep Renegade service manual could be obtained, which includes the same product identification code printed on the face of the CD submitted as Exhibit 1013

(“81-370-16028-CD”); and the lack of any apparent connection between the declarants and the parties to this proceeding.

As to probity on the point for which the statements are offered, the statements appear to be contemporaneous (that is, made in 2016) efforts to help members of various Jeep Renegade enthusiast forums obtain the service manual for the 2016 model Jeep Renegade. Although there may be other evidence that could establish exactly when the service manual was published, contemporaneous statements by interested persons that the service manual was in fact publicly accessible in 2016 are highly probative on the issue of public accessibility in 2016. Furthermore, given that context, we discern little reason to doubt the accuracy of the statements being made based on the present preliminary record.

There also is a rough time line established by the collection of statements as a whole. That is, statements in February 2016 and earlier (by **Rufus**, **MRM331**, **Jack Kuykendall**, **Jbell**, **Barebuttminer**, and **Todd Harris**) reflect a lack of knowledge, and perhaps even doubt, as to whether Jeep Renegade service manuals were publicly available. Then, statements in July 2016 and later (by **Cruiser**, **cruiser66**, **fernandousa**, and **raz-0**) indicate service manuals (including for the 2016 model of the Jeep Renegade) could be obtained at www.techauthority.com. Indeed, many of those later posts were provided in response to the earlier posts to notify users that service manuals could be obtained at www.techauthority.com. *See* Ex. 1023, Ex. 1 (**Cruiser** responding to **Todd Harris**); Ex. 1023, Ex. 7 (**Cruiser** responding to **Jack Kuykendall** and **Jbell**); Ex. 1023, Ex. 12 (**cruiser66** responding to **Rufus**); Ex. 1023, Ex. 18 (**cruiser66** responding to **Barebuttminer**); Ex. 1023, Ex. 23 (**raz-0** responding to **MRM331**).

Concerning **Rufus**'s statement on July 21, 2015 that it "would be great if they actually sold service manuals" (Ex. 1023, Ex. 12), that statement referred to the website at <https://ta.snapon.com> not the website at www.techauthority.com (*see id.*). It therefore has little relevance to Petitioner's reliance on the latter website as publishing Renegade Manual in 2016.

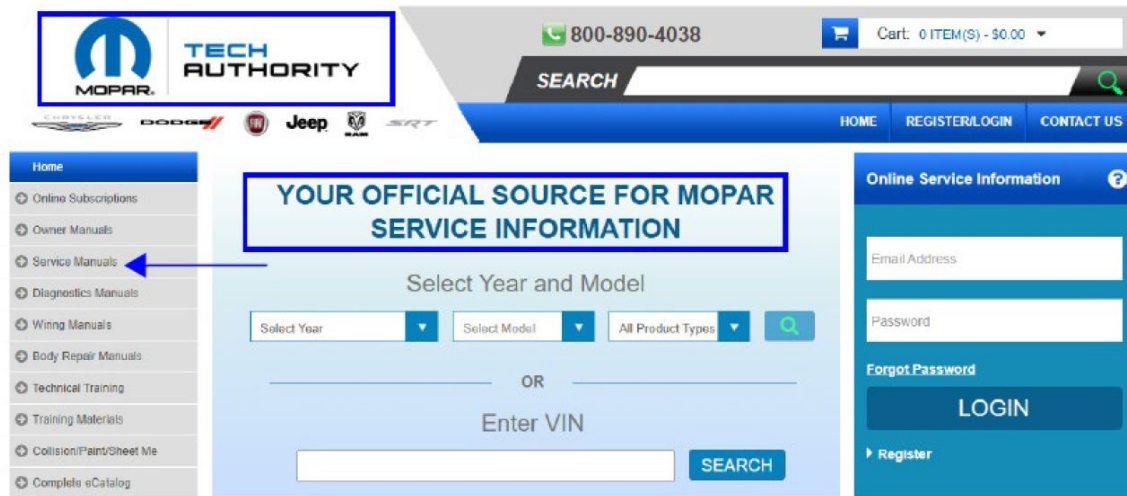
Of course, Patent Owner remains free to maintain its hearsay objection to Petitioner's evidence in this regard in the upcoming trial instituted by this Decision. *See, e.g.*, 37 C.F.R. § 42.64(b)–(c) (providing procedures for objections to evidence and motions to exclude evidence).

As to Patent Owner's argument that the Internet forum posts show the limited nature of public access to Renegade Manual, we address those arguments below in Section III.H along with the Terms of Use Agreement in Renegade Manual.

We conclude the Internet forum posts provided by Petitioner and authenticated by Ms. Gregory, in combination with the contents of the Renegade Manual CD (Exhibit 1013) discussed above in Section III.B, establish a reasonable likelihood that Renegade Manual was publicly accessible at www.techauthority.com in 2016 — that is, prior to May 2017. We nonetheless continue to consider additional evidence cited by Petitioner seeking to establish Renegade Manual is prior art to the '958 patent, and Patent Owner's objections to that evidence.

D. *www.techauthority.com in October 2016*

Petitioner further alleges that in October 2016, the website at www.techauthority.com contained the excerpted webpage shown below. *See* Pet. 9, 13 (citing Ex. 1023 ¶¶ 45–47 & Ex. 30; Ex. 1025 ¶¶ 1–5, 7).



Pet. 9 (Annotated by Petitioner).

Petitioner annotates this webpage to identify three specific portions:

(1) a blue rectangle in the upper left corner identifies the Mopar Tech Authority emblem, which is substantially identical to the emblem printed on the top surface of the Renegade Manual CD (Exhibit 1013); (2) a blue rectangle in the central area identifies text that states “YOUR OFFICIAL SOURCE FOR MOPAR SERVICE INFORMATION”; and (3) a blue arrow at the left edge identifies a “Service Manuals” menu item. *Id.* at 9.

Petitioner asserts the “Service Manuals” menu item is “a link for customers to access ‘Service Manuals’ like the Renegade Manual.” *Id.* at 13.

Petitioner concludes this alleged October 2016 version of www.techauthority.com helps to establish that Renegade Manual was publicly accessible in or before October 2016. *See id.* at 9 (“*Second*” argument at d), 13.

Patent Owner responds that “even if there was *some* CD offered for sale on *some* website” in 2016, “there is zero evidence tying the actual CD relied upon by Petitioner (Ex. 1013) to any such CD or its contents.” Prelim. Resp. 3. Patent Owner further objects to Petitioner’s proffered evidence seeking to authenticate the alleged October 2016 version of www.techauthority.com. *See id.* at 28–30 (citing Pet. 13–14; Ex. 1023 ¶ 48 & Ex. 31; Ex. 1025 ¶¶ 1, 5 & Ex. A).

We agree with Patent Owner’s position that Petitioner’s proffered authentication for the alleged October 2016 version of www.techauthority.com is suspect. In particular, Petitioner’s Internet Archive affidavit (Exhibit 1025) authenticates a different website (<http://investor.pharmion.com>) containing a “News Release” titled “Clinical Data Presented on Pilot Pharmacokinetic Study of Oral Azacitidine.” Ex. 1025, Ex. A. Nonetheless, Ms. Gregory testifies that she “used the Internet Archive’s WayBack Machine to access . . . the URL[] ‘<https://www.techauthority.com/>,’” and that Exhibit 30 to her declaration is “a true and accurate copy of a screenshot of the Internet Archive’s record of the archived file for the URL . . . on the date specified in the URL, October 9, 2016.” Ex. 1023 ¶¶ 45–47 & Ex. 30. Thus, the preliminary record includes the material aspects of what Petitioner intended to file as Exhibit 1025, but for an apparent clerical error. *See id.*; Pet. 9. In these circumstances, and in the interests of justice, we accept the alleged October 2016 version of www.techauthority.com as proffered by Petitioner for purposes of this Decision. *See* 37 C.F.R. § 42.5(a)–(b). Nonetheless, Patent Owner remains free to object to Petitioner’s authentication evidence in this regard in the upcoming trial instituted by this Decision. *See, e.g.,*

37 C.F.R. § 42.64(b)–(c) (providing procedures for objections to evidence and motions to exclude evidence).

Next, as to the substance of the alleged October 2016 version of www.techauthority.com, it supports Petitioner’s case by indicating the website was operated by Mopar Tech Authority in 2016. This lends credibility to the Internet forum posts discussed above in Section III.C, stating that the service manual for the 2016 model of the Jeep Renegade could be obtained on CD at www.techauthority.com/en-us/products/81-370-16028-CD. As already noted, it is undisputed that Mopar Tech Authority “is *well known* in the automotive industry as an *established organization* that *publishes and distributes* service information, including service manuals, for Chrysler vehicles.” Pet. 8 (emphasis added); *see also VidStream*, 981 F.3d at 1065–66 (“When there is an established publisher there is a presumption of public accessibility as of the publication date.”).

We tend to agree with Patent Owner’s argument that the alleged October 2016 version of www.techauthority.com does not *by itself* support Petitioner’s assertion that Renegade Manual was publicly accessible in 2016. In particular, the only portion of the website bearing any potential relationship to Renegade Manual is the “Service Manuals” menu item, but that menu item does not say anything about particular service manual(s) being published by Mopar Tech Authority in October 2016. Assuming the menu item is a clickable icon to bring up another webpage as Petitioner asserts, nothing in the present record supports Petitioner’s assertion that the other webpage allowed the user to access or otherwise obtain service manuals in 2016.

Despite that, we conclude the alleged October 2016 version of www.techauthority.com, in combination with the Internet forum posts discussed above in Section III.C, and the contents of the Renegade Manual CD (Exhibit 1013) discussed above in Section III.B, establish a reasonable likelihood that Renegade Manual was publicly accessible at www.techauthority.com in 2016 — that is, prior to May 2017. We nonetheless continue to consider additional evidence cited by Petitioner seeking to establish Renegade Manual is prior art to the '958 patent, and Patent Owner's objections to that evidence.

E. Automotive Industry Custom When Releasing Vehicle Models

Petitioner next relies on the testimony of Jamie Pace, a Senior Engineering Technician employed by Petitioner, that “Stellantis released the 2016 Jeep® Renegade in Fall 2015.” Pet. 4 (citing Ex. 1021 ¶ 3). Petitioner also cites this declarant's testimony that “OEMs [Original Equipment Manufacturers] distribute information on how to service their vehicles to dealerships and customers,” and it is a “custom in the automotive industry for OEMs to distribute service information shortly after releasing the vehicles to dealerships” so the vehicles can be serviced. Ex. 1021 ¶¶ 4, 6; *see* Pet. 7–8 (“*First*” argument).

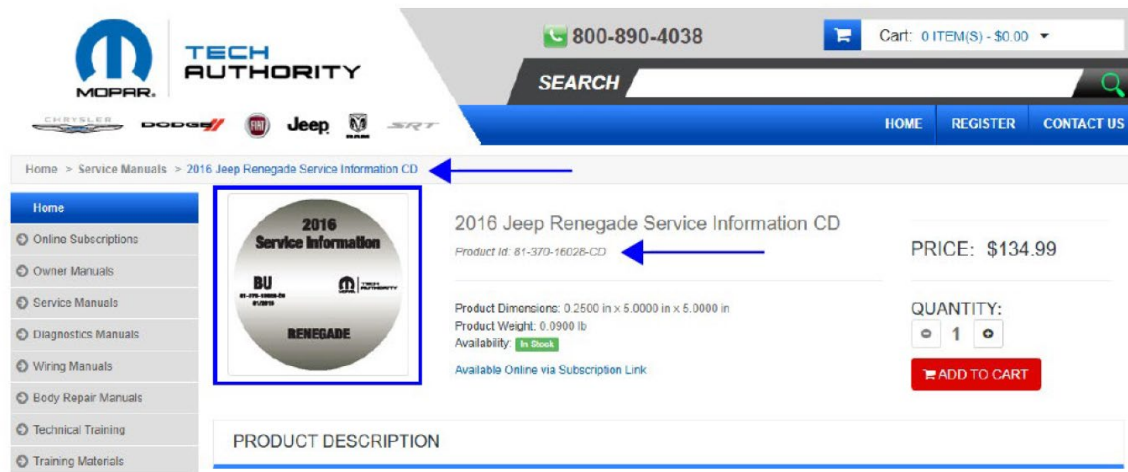
Patent Owner responds that this testimony “fail[s] to satisfy [Petitioner's] burden of establishing that [Exhibit 1013] was publicly accessible” prior to May 2017. Prelim. Resp. 20–21 (“*First*” argument). Patent Owner asserts the testimony rests on “unsupported assumption[s]” concerning Chrysler / Mopar's business practices in general, and does not

address how such general practices might have been implemented for the 2016 model year Jeep Renegade specifically. *Id.*

We agree with Patent Owner that the testimony in Exhibit 1021 is too speculative, and lacking in persuasive documentary support in the present preliminary record, to justify institution of review. The speculative nature of the testimony is demonstrated by the conclusion that the 2016 model year Jeep Renegade “would have been released” (not “was released”) in the Fall of 2015, and “I expect” (not “I know”) that Chrysler published related service manuals shortly after that alleged release. Ex. 1021 ¶¶ 3, 7. Even more problematic for Petitioner is the lack of citation to documentary evidence in support, despite that the factual issue (i.e., the release date of the 2016 model year Jeep Renegade) is one that we expect probably is documented somewhere. *See id.* ¶¶ 1–7. Thus, we do not rely on the testimony in Exhibit 2021 as justifying institution of review.

F. www.techauthority.com in October 2017

Petitioner moreover alleges that in October 2017, the website at www.techauthority.com contained the excerpted webpage shown below (on the next page). *See* Pet. 13–14 (citing Ex. 1023 ¶ 48 & Ex. 31; Ex. 1025 ¶¶ 1–5, 7).



Pet. 13 (Annotated by Petitioner).

Petitioner annotates this webpage to identify three specific portions:

(1) a first blue arrow identifies a navigation bar underneath the top banner, stating “Home > Service Manuals > 2016 Jeep Renegade Service Information CD”; (2) a blue box identifies an image of the 2016 Jeep Renegade Service Information CD; and (3) a second blue arrow identifies the “Product Id” of the CD as “81-370-16028-CD.” *Id.* at 13–14. Petitioner asserts the CD image on this alleged webpage “matches” the indicia on the top surface of the Renegade Manual CD (Exhibit 1013).⁴ Pet. 14–15 (citing Ex. 1013, 1; Ex. 1023 ¶ 48 & Ex. 31). Petitioner also asserts the webpage reproduced above indicates the CD can be purchased for the “PRICE” of “\$134.99,” by adding the CD to a cart for purchase. *See id.* at 14. Petitioner asserts all of this information is consistent with the other evidence discussed above in Sections III.A–E, and “confirms” Renegade Manual was publicly accessible before May 2017. *Id.* at 13–15.

⁴ Due to the low resolution of the webpage CD images in the Petition at pages 13 and 15 and in Exhibit 1023 (Ex. 31), we are unable to confirm this information matches.

Patent Owner responds that the alleged October 2017 version of www.techauthority.com is “dated *after* the May 3, 2017 critical date of the ’958 patent,” so it is “irrelevant” to whether Renegade Manual was publicly accessible prior to that critical date. Prelim. Resp. 3, 27–29 (citing Pet. 13–14; Ex. 1023 ¶¶ 48 & Ex. 31; Ex. 1025 ¶¶ 1, 5). Further according to Patent Owner, “merely referencing an archive of a website does nothing more than show the website existed at a certain point in time,” and the alleged 2017 version of www.techauthority.com “provides no information of whether one could purchase the CD, whether one would have to provide additional credentials, or whether any additional steps to purchase were required” so “[t]he static page alone is insufficient.” *Id.* at 30–31. Patent Owner also points out the problem with Exhibit 1025, which we have discussed above. *See* Prelim. Resp. 29–30.

Patent Owner’s objections concerning the authenticity of the alleged October 2017 version of www.techauthority.com are addressed above in Section III.D concerning the alleged October 2016 version of the same website. In short, we agree with Patent Owner’s position that Petitioner’s proffered authentication is suspect, but we conclude Ms. Gregory’s testimony is sufficient to accept the alleged October 2017 version of www.techauthority.com as proffered by Petitioner for purposes of this Decision. *See* Ex. 1023 ¶¶ 45–48 & Ex. 31. Nonetheless, Patent Owner remains free to object to Petitioner’s authentication evidence in this regard in the upcoming trial instituted by this Decision. *See, e.g.*, 37 C.F.R. § 42.64(b)–(c) (providing procedures for objections to evidence and motions to exclude evidence).

Next, as to the substance of the alleged October 2017 version of www.techauthority.com, we agree with Patent Owner that establishing a CD was publicly accessible in October 2017 does not establish, by itself, that the CD was publicly accessible before May 2017. For at least two reasons, we need not delve into the separate issue of whether the alleged October 2017 version of www.techauthority.com might have *some* relevance to the public accessibility of the Renegade Manual CD (Exhibit 1013) before May 2017. First, based on the present record, we conclude Petitioner does not articulate any such theory of relevancy, and Petitioner instead ignores the fact that October 2017 does not predate the '958 patent's earliest possible effective filing date in May 2017. *See, e.g.*, Pet. 13–15. Second, other evidence of record justifies institution without the alleged October 2017 version of www.techauthority.com. *See supra* Sections III.A–D. Thus, we do not rely on the alleged October 2017 version of www.techauthority.com as justifying institution of review.

G. Dr. Davis's Investigation in November 2024

Petitioner's expert witness Dr. Davis testifies that, on November 4, 2024, he accessed the website at <https://stellantisiop.com/iop/app/landing>,⁵ which he describes as “Stellantis’ ‘Independent Operator Portal’” where Mopar Tech Authority “[n]ow . . . publishes service manuals for Jeep vehicles, including the 2016 Jeep Renegade, online by way of a subscription service.” Ex. 1032 ¶ 238; *see* Pet. 10. Dr. Davis states he obtained “a 3-day

⁵ The Petition identifies the URL as <https://stellantisiop.com/iop/app/secure/dashboard>. *See* Pet. 10. Patent Owner explains this difference in noting that accessing the URL cited in the Petition redirects the user to the URL cited by Dr. Davis. *See* Prelim. Resp. 14.

Tech Authority subscription” to access the November 2024 version of the 2016 Jeep Renegade service manual, which he compared with the Renegade Manual CD (Exhibit 1013). Ex. 1032 ¶ 238; *see* Pet. 10. Dr. Davis concludes those two service manuals “contain[] the same disclosure.” Ex. 1032 ¶ 238; *see* Pet. 10.

Patent Owner responds that Dr. Davis’s comparison “proves nothing about what, if anything, was available before the ’958 priority date,” because Petitioner has failed to authenticate Exhibit 1013 as being publicly accessible before May 2017. Prelim. Resp. 3, 24–25. Patent Owner’s view is that “whether [Petitioner] and [Dr. Davis] could access a document today is irrelevant to establishing whether the document was publicly accessible as of the priority date.” *Id.* at 13, 18, 25.

Patent Owner further questions the thoroughness of Dr. Davis’s comparison, given his terse conclusion that the two versions of the service manual “contain[] the same disclosure” without further explanation. Ex. 1032 ¶ 238; *see* Prelim. Resp. 25–26. Patent Owner points out that Exhibit 1013 is only an excerpt of the Renegade Manual CD but still is 800 pages long, and the entire CD contents likely span thousands of pages. *See* Prelim. Resp. 25–26.

We agree with Patent Owner that establishing a CD was publicly accessible in November 2024 does not establish, by itself, that the CD was publicly accessible before May 2017. For at least three reasons, we need not delve into the separate issue of whether Dr. Davis’s testimony might have *some* relevance to the public accessibility of the Renegade Manual CD (Exhibit 1013) before May 2017. First, based on the present record, we conclude Petitioner does not articulate any such theory of relevancy. *See*,

e.g., Pet. 10. Second, we agree with Patent Owner’s argument that Dr. Davis does not explain persuasively exactly how he concluded that the service manual he obtained in November 2024 “contains the same disclosure” as the Renegade Manual CD (Exhibit 1013). Ex. 1032 ¶ 238; *see also* 37 C.F.R. § 42.65(a) (“Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.”). Third, other evidence of record justifies institution without this testimony from Dr. Davis. *See supra* Sections III.A–D. Thus, we do not rely on Dr. Davis’s testimony in this regard as justifying institution of review.

H. Restrictions on Use and Distribution of Renegade Manual

Patent Owner argues Renegade Manual cannot have been publicly accessible prior to May 2017 because, by its own terms, “its use and distribution is heavily restricted.” Prelim. Resp. 1–2 (citing Ex. 1013, 2, 4); *see also id.* at 5–10 (discussing Ex. 1013, 2, 4–6). Patent Owner asserts: “*Anyone outside Chrysler and its service network cannot have it or use it (without written consent of Chrysler) . . . according to its express terms.*” *Id.* at 2 (emphasis added). In particular, according to Patent Owner, the “License,” “Restrictions,” and “Cautions” sections of the Terms of Use Agreement provided in Renegade Manual “demonstrate[] how the license granted to the original purchaser of the Renegade Manual is restricted to those individuals or companies *within Chrysler’s service network.*” *Id.* at 7–8 (emphasis added) (citing Ex. 1013, 4); *id.* at 9 (citing Ex. 1013, 5). Patent Owner also cites various legal authorities as establishing that those terms and conditions prevent Renegade Manual from being publicly

accessible because it “could only be distributed narrowly.” *Id.* at 10–13.

According to Patent Owner, “these restrictions comport with common sense and industry practice: auto companies like Chrysler would restrict access to and use of its service manuals for obvious safety reasons and to prevent an unauthorized ‘do-it-yourself’ or rogue repair job that could endanger drivers of its vehicles.” *Id.* at 10.

Patent Owner further argues “retracing Dr. Davis’s footsteps [(see *supra* Section III.G)] shows that the Manual *may not be publicly accessible even today.*” *Id.* at 13–14. Patent Owner notes that the Stellantis website cited by Dr. Davis (<https://stellantisop.com/iop/app/landing>), which Patent Owner provides as Exhibit 2001, is an “Independent Operator Portal” requiring an Email and Password to log in, and provides a “Terms and Conditions” link at the bottom of the page. Ex. 2001; *see* Prelim. Resp. 14. Patent Owner asserts selecting that link leads the user to a webpage provided at Exhibit 2002, indicating “[a]ccess to Stellantis NV’s Independent Operator Portal system is controlled” which “is consistent with the Renegade Manual’s Terms of Use Agreement restricting access to only Chrysler and its service network.” Prelim. Resp. 14–15 (citing Ex. 1013, 4–7; Ex. 2002, 1, 3).

We conclude Renegade Manual and the other evidence of record do not support Patent Owner’s contention that Mopar / Chrysler *limited* distribution of Renegade Manual to *only* persons within Chrysler’s professional service network. Concerning Renegade Manual itself, Patent Owner cites the following provision found on the landing page:

**NO PART OF THIS PUBLICATION MAY BE
REPRODUCED, STORED IN A RETRIEVAL SYSTEM,
OR TRANSMITTED, IN ANY FORM OR BY ANY**

**MEANS, ELECTRONIC, MECHANICAL,
PHOTOCOPYING, RECORDING, OR OTHERWISE
WITHOUT THE PRIOR WRITTEN PERMISSION OF
CHRYSLER LLC.**

Ex. 1013, 2. This provision does limit distribution of Renegade Manual after it has been obtained by an individual. However, it does not place any limitation on who may obtain Renegade Manual from Mopar / Chrysler in the first instance, such as by utilizing the www.techauthority.com website in 2016, as discussed above.

Patent Owner also cites various provisions in Renegade Manual's Terms of Use Agreement, as follows:

Terms of Use Agreement

"You" means the individual or company that is the original purchaser of this CD or DVD. Your access to the information on this CD or DVD and the use of this information is subject to the following terms and conditions:

1. License. You may access and use this information for Your personal use in servicing vehicles manufactured by or for Chrysler LLC (sometimes referred to as "Chrysler") or its affiliates that You own or that You service as part of Your business. You may print those portions of the information reasonably necessary for this purpose.

2. Restrictions. You cannot use this information for any purpose other than as permitted in the license granted under Section 1 above. If You are a company, You cannot provide this information to any person who is not an employee. If You are an individual, You cannot provide this information to any other person. Except as expressly permitted by the license granted under Section 1, no part of any of the information may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise without first obtaining the written consent of Chrysler.

...

7. Cautions.

ALL SERVICE AND REBUILDING INSTRUCTIONS CONTAINED IN THE SERVICE MATERIALS ARE APPLICABLE TO, AND FOR THE CONVENIENCE OF, THE AUTOMOTIVE TRADE ONLY. All test and repair procedures on components or assemblies in non-automotive applications should be conducted in accordance with instructions supplied by the manufacturer of the total product.

Proper service and repair is important to the safe, reliable, operation of all motor vehicles. The service procedures recommended and described in this information, and in particular in the Service Information, were developed for professional service personnel and are effective methods for performing vehicle repair. Following these procedures will help assure efficient economical vehicle performance and service reliability. Some of these service procedures require the use of special tools designed for specific procedures. These special tools should be used when recommended.

Ex. 1013, 4–5. As with the provision on the landing page, these terms limit distribution of Renegade Manual after it has been obtained by an individual. However, they do not place any limitation on who may obtain Renegade Manual from Mopar / Chrysler in the first instance.

Indeed, the terms define “You” broadly to include “the original purchaser of this CD,” rather than limiting “You” to a member of Chrysler’s professional service network. *Id.* at 4. The terms also license “You” to “access and use this information for *Your personal use* in servicing vehicles . . . *that You own* or that You service as part of Your business.” *Id.* (emphases added). These terms expressly contemplate use of the CD by members outside of Chrysler’s professional service network, such as owners of Chrysler vehicles.

The ”Cautions” terms provide the best support for Patent Owner’s position, by stating that “**ALL SERVICE AND REBUILDING INSTRUCTIONS CONTAINED IN THE SERVICE MATERIALS ARE APPLICABLE TO, AND FOR THE CONVENIENCE OF, *THE AUTOMOTIVE TRADE ONLY***,” and “[t]he service procedures recommended and described in [Renegade Manual] were *developed for professional service personnel*.” *Id.* at 5 (italics added). Based on the present record, we conclude these terms simply warn persons outside of the professional automotive trade to be cautious when servicing a vehicle utilizing instructions contained in Renegade Manual. They do not prevent such persons from accessing and reading the manual.

As to the other evidence of record, the 2016 Internet forum posts (*see supra* Section III.C) do not suggest there were any material restrictions to accessing www.techauthority.com to obtain the 2016 model year Jeep Renegade service manual. *See* Ex. 1023, Ex. 1 (**Cruiser** message dated July 6, 2016); Ex. 1023, Ex. 7 (**Cruiser** message dated July 6, 2016); Ex. 1023, Ex. 12 (**cruiser66** message dated July 15, 2016); Ex. 1023, Ex. 18 (**cruiser66** message dated July 13, 2016); Ex. 1023, Ex. 23 (**raz-0** message dated August 18, 2016); Ex. 1023, Ex. 28 (translated at Ex. 1024, **fernandousa** message dated July 15, 2016). Similarly, **Todd Harris** stated on May 18, 2016 that “presently nothing [was] available through techauthority.com,” but then on July 12, 2016 (after getting advice from **Cruiser**) **Mr. Harris** stated he “just received the DVD from techauthority.com,” without discussing any restrictions in accessing the website. Ex. 1023, Ex. 1. Further, **Barebuttminer** stated on February 6, 2016 that “Service manuals for the Renegade are not yet available to the

general public or to the dealers service center for that matter,” but “[w]hen they do become available you will find them here <https://www.techauthority.com/>.” Ex. 1023, Ex. 18.

Indeed, reading the various posts as a whole, it appears that by July 2016 the main concern with obtaining service manuals via www.techauthority.com was the purchase price for the manuals, not accessing the website. In this regard, **fernandousa** stated on July 15, 2016, that he “found the American Renegade service manual for sale, but it costs US\$135.00 . . . Here’s the link to what I found: <https://www.techauthority.com/en-us/products/81-370-16028-CD>.” Ex. 1023, Ex. 28 (translated at Ex. 1024). Similarly, the alleged October 2017 version of www.techauthority.com proffered by Petitioner indicates the “2016 Jeep Renegade Service Information CD” with a product identification of “81-370-16028-CD” could be purchased for the “PRICE” of \$134.99. Pet. 13; Ex. 1023 ¶ 48 & Ex. 31. Further, in November 2024, Dr. Davis was able to access the Stellantis Independent Operator Portal (<https://stellantisop.com/iop/app/landing>) “using a 3-day Tech Authority subscription” to obtain a service manual for the 2016 model of the Jeep Renegade. Ex. 1032 ¶ 238. Based on this evidence, it appears that service manuals from Mopar / Chrysler may have been expensive in 2016, but the cost likely was not so prohibitive so as to prevent interested persons from obtaining the service manuals.

Next, we have reviewed the February 2025 terms and conditions for accessing the Stellantis Independent Operator Portal, as cited by Patent Owner. *See* Exs. 2001–2003; Prelim. Resp. 13–15. Those terms are similar to the Terms of Use Agreement in Renegade Manual discussed above, in

that they limit dissemination of information found in the Portal, but they do not place any limitation on who may access the Portal in the first instance. *See, e.g., Ex. 2002, 2* (“We authorize you to view the Materials on this Site, and download those Materials expressly made available for downloading by us, *only for your personal use in the repair or servicing of motor vehicles.*” (emphasis added)).

Finally, for all the reasons discussed above, the evidence of record does not support Patent Owner’s assertion that the Internet forum members recognized they “should not have” had access to Renegade Manual. Prelim. Resp. 15–16, 17. Moreover, Patent Owner does not cite and we are not aware of any legal authority holding that a reference that in fact becomes publicly accessible in violation of confidentiality restrictions does not qualify as a prior art printed publication. That is, so far as we are aware, a bootlegged or pirated reference is still a publication per 35 U.S.C. § 102 if it meets the public accessibility standard established by Federal Circuit case law in the pertinent time frame.

Thus, we conclude, based on the present preliminary record, that the limitations imposed by Mopar / Chrysler on the use and distribution of Renegade Manual did not prevent interested persons from obtaining the manual via www.techauthority.com or other authorized Mopar / Chrysler sources in 2016.

I. Conclusion

For all the foregoing reasons, we conclude the present preliminary record establishes a reasonable likelihood that Renegade Manual was publicly accessible in 2016, and therefore was a printed publication before

May 2017, so Renegade Manual is prior art to the '958 patent under 35 U.S.C. § 102(a)(1). As a result, Petitioner has justified institution of review to proceed to a final written decision on the issue of whether Renegade Manual qualifies as prior art, if Patent Owner continues to dispute that issue. *See Hulu*, at 12–14.

IV. PETITIONER’S UNPATENTABILITY GROUNDS

A. *Legal Standards — Petitioner’s Burden*

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring *inter partes* review petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)). This burden of persuasion never shifts to the patent owner. *See Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015).

B. *Legal Standards — Anticipation*

A patent claim is unpatentable as anticipated under 35 U.S.C. § 102 “if each and every limitation is found either expressly or inherently in a single prior art reference.” *WhitServe, LLC v. Computer Packages, Inc.*, 694 F.3d 10, 21 (Fed. Cir. 2012) (quoting *Celeritas Techs., Ltd. v. Rockwell Int’l Corp.*, 150 F.3d 1354, 1361 (Fed. Cir. 1998)). An anticipatory reference must further “disclose those elements ‘arranged as in the claim.’” *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1369 (Fed. Cir. 2008) (quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir. 1983)).

C. Claim Construction

We interpret the '958 patent claims “using the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. 282(b).” 37 C.F.R. § 42.100(b).

Petitioner proposes constructions for terms recited in representative claim 1 and other claims: “engagement means” (*see* Pet. 36–37); “retaining means” (*see id.* at 37–38); “perimeter of the window” (*see id.* at 38–39); “cylindrical portion of the seal” (*see id.* at 39–40); and “corrugated portion of the seal” (*see id.* at 40–41). The Preliminary Response does not address Petitioner’s proposed constructions, or otherwise address claim construction in any fashion.

Based on the arguments and evidence presented at this time, we determine that we need to construe only “engagement means” and “retaining means.” *See, e.g., Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019) (“The Board is required to construe ‘only those terms . . . that are in 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)).

We presently agree with Petitioner’s contention that “engagement means” and “retaining means” are both means-plus-function limitations. *See* Pet. 36–38. We also agree with Petitioner’s argument that the claimed function of the “engagement means” is “coupling the first member to the second member,” and the corresponding structures of the '958 patent specification include “fasteners, keys and keyways, male-female couplings, interlocking features, splines, and equivalents thereof.” *Id.* at 36, 37; *see* Ex. 1001, 8:38–45, 10:11–18 (claimed function); *id.* at 4:33–43, 6:32–35

(corresponding structure). We also agree with Petitioner’s argument that the claimed function of the “retaining means” is “retaining the coupling of the first member and the second member,” and the corresponding structures of the ’958 patent specification include “retaining ring, snap ring, and equivalents thereof.” Pet. 37, 38; *see* Ex. 1001, 8:49–50, 10:22–23 (claimed function); *id.* at 6:35–38, 7:46–8:18 (corresponding structure). We apply these constructions when comparing claim 1 and Renegade Manual below in Section IV.D.

D. Ground One — Anticipation by Renegade Manual

In Ground One, Petitioner asserts claims 1–18 of the ’958 patent are unpatentable as anticipated by Renegade Manual. *See* Pet. 19, 41–73. Patent Owner’s sole opposition is that Renegade Manual does not qualify as prior art, which we address above in Section III.

We summarize a portion of the disclosure in Renegade Manual, then we consider Petitioner’s contentions as to claim 1, and we conclude Petitioner has shown a reasonable likelihood of prevailing on those contentions.

1. Renegade Manual — Removing and Installing a Propeller Shaft

Renegade Manual contains Section 03 entitled “Differential and Driveline” with a subsection on the “Propeller Shaft” including its “Removal and Installation” in the “1.4 TURBO MULTIAIR” model of the Jeep Renegade. Ex. 1013, 9 (Table of Contents), 194 (index header stating “03 – Differential and Driveline / Propeller Shaft / Removal and Installation”). Thus, Renegade Manual provides step-by-step instructions for removing a propeller shaft (*see id.* at 194–200) and installing a propeller

shaft (*see id.* at 200–204), both with associated photographs of a Jeep Renegade undercarriage as seen by a person following the instructions. These processes involve either uncoupling or coupling the propeller shaft at a power transfer unit (PTU) at the front end of the vehicle, and at a rear driveline module at the rear end of the vehicle. *See, e.g., id.* at 194 (“CAUTION” statement for removal), 200 (“CAUTION” statement for installation).

2. *Claim 1*

Petitioner provides arguments and evidence in support of contending claim 1 is unpatentable as anticipated by Renegade Manual. *See* Pet. 41–54; Ex. 1032 ¶¶ 240–244, 260–280.

In particular, Petitioner and Dr. Davis map the claimed “joint assembly” to either of two alternatives: (1) the front coupling of the propeller shaft (the “second member” of claim 1) to the PTU (the “first member” of claim 1); or the rear coupling of the propeller shaft (the alternative “first member” of claim 1) to the rear driveline module (the alternative “second member” of claim 1). *See* Pet. 41–49; Ex. 1032 ¶¶ 262–272. Petitioner and Dr. Davis also explain how those front and rear couplings both include the claimed “engagement means” (i.e., splines); “interior surface recess” (i.e., an internal groove) and “window” formed in the first member; “retaining means” (i.e., a snap ring); and “seal” (i.e., a dust cover) including “a cylindrical portion” and “a corrugated portion.” *See* Pet. 41–54; Ex. 1032 ¶¶ 262–279.

We conclude Petitioner’s foregoing contentions, which Patent Owner does not oppose at this time, are supported sufficiently by the cited

disclosures in Renegade Manual and the testimony of Dr. Davis to show a reasonable likelihood that Petitioner would prevail with respect to challenging claim 1 as anticipated by Renegade Manual.

3. *Claims 2–18*

Petitioner provides arguments and evidence in support of contending claims 2–18 are unpatentable as anticipated by Renegade Manual. *See* Pet. 54–73; Ex. 1032 ¶¶ 281–396.

Again, Patent Owner’s sole opposition at this stage is that Renegade Manual does not qualify as prior art. *See, generally*, Prelim. Resp.

“When instituting *inter partes* review, the Board will authorize the review to proceed on all of the challenged claims and on all grounds of unpatentability asserted for each claim.” 37 C.F.R. § 42.108(a). Thus, pursuant to USPTO rules and policy implementing *SAS Inst. Inc. v. Iancu*, 584 U.S. 357, 366 (2018), we “either (1) institute as to all claims challenged in the petition and on all grounds in the petition, or (2) institute on no claims and deny institution.” Patent Trial and Appeal Board Consolidated Trial Practice Guide (Nov. 2019) (“CTPG”), 5–6, 64.⁶ We “will not institute on fewer than all claims or all challenges in a petition.” *Id.* at 5, 64; *see also* *PGS Geophysical AS v. Iancu*, 891 F.3d 1354, 1359–60 (Fed. Cir. 2018) (stating a decision to institute is “a simple yes-or-no institution choice respecting a petition, embracing all challenges included in the petition”).

Thus, because we have decided to grant institution on the anticipation challenge to claim 1 based on Renegade Manual, we do the same for

⁶ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

claims 2–18. *See supra* Section IV.D.2; 37 C.F.R. § 42.108(a); CTPG 5–6, 64.

E. Ground Two — Obviousness over Renegade Manual, Krude '422, Sugiyama, and Knowledge of a Person of Ordinary Skill in the Art

In Ground Two, Petitioner asserts claims 1–18 of the '958 patent are unpatentable as having been obvious over Renegade Manual, Krude '422, Sugiyama, and the knowledge of a person of ordinary skill in the art. *See* Pet. 19, 73–95. Patent Owner's sole opposition is that Renegade Manual does not qualify as prior art, which we address above in Section III. Also as discussed above, because we have decided to grant institution with respect to Ground One, we do the same for Ground Two. *See supra* Section IV.D.3; 37 C.F.R. § 42.108(a); CTPG 5–6, 64.

V. CONCLUSION

For the above reasons, we determine the information in the record shows a reasonable likelihood that Petitioner would prevail with respect to at least one challenged claim. We, therefore, institute the petitioned *inter partes* review. *See* 35 U.S.C. § 314(a); 37 C.F.R. § 42.108(a).

At this preliminary stage, the Board has not made a final determination with respect to the patentability of the challenged claims or any underlying factual or legal issue, including the prior art status of Renegade Manual. The Board's final determination will be based on the record as developed during the *inter partes* review. Any arguments not raised by Patent Owner in a timely-filed response may be deemed waived.

VI. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review is instituted for claims 1–18 of the '958 patent on all challenges presented in the Petition;

FURTHER ORDERED that, pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial, which commences on the entry date of this decision.

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