UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioners,

v.

MULLEN INDUSTRIES LLC,
Patent Owner.

Case No. IPR2025-00227
U.S. Patent No. 9,635,540

PATENT OWNER'S DISCRETIONARY DENIAL BRIEF

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2001	Acting Director's Stewart's March 26, 2025 Memorandum titled "Interim Processes for PTAB Workload Management"
2002	*Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings With Parallel District Court Litigation*, Vidal, June 21, 2022

Pursuant to Acting Director's Stewart's March 26, 2025 Memorandum titled "Interim Processes for PTAB Workload Management" (the "2025 Memorandum", Ex. 2001), Patent Owner Mullen Industries LLC ("Patent Owner") respectfully requests that the Director exercise discretion and deny institution of Petitioners Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Google LLC's ("Petitioners") Petition for *inter partes* review IPR2025-00227 ("Petition") of U.S. Patent No. 9,635,540 (the "'540 Patent").

I. INTRODUCTION

The Board should deny institution under 35 U.S.C. § 314(a) for at least the following reasons:

First, the PTAB has ***already adjudicated*** the validity of the same patented claims of the '540 Patent challenged in this Petition in IPR2023-00098 and upheld the patent's validity. The PTAB correctly ***denied institution***, finding "***Petitioner has not demonstrated a reasonable likelihood of prevailing in establishing unpatentability of at least one claim of the '540 patent***." IPR2023-00098, Paper 8, at 2 (Jun. 7, 2023). This demonstrates that spending additional resources on a review of these patent claims is a waste of the PTAB's, and the parties', resources. Here, Petitioners reassert in their Petition *the* ***same*** primary prior art reference that the prior petitioner relied on in IPR2023-00098. And, as discussed *infra*, Petitioners'

incorporation of additional prior art references amounts to no more than a recycling of the same invalidity arguments the PTAB previously rejected.

Second, the application for the '540 Patent was filed on March 25, 2003, and the '540 patent issued on April 25, 2017 after fourteen years of examination before the USPTO, has been in force for nearly eight years, and the PTAB has already confirmed its validity—and nothing in Petitioner's challenge warrants further review. Thus, there is a well-settled expectation that the '540 Patent is valid.

Third, the merits of the Petition are weak, and the Petition fails to establish invalidity based on the multiple asserted references for any Ground. As described in detail below, the Petition fails to establish the presence of multiple claim limitations applicable to each of the Grounds of the Petition. For example, for all of Grounds 1-10, the Petition fails to establish anticipation or obviousness of methods for providing the location of a first wireless device to a second wireless device based on location access rights of the first wireless device requested and received by the second wireless device via a server. *Infra*, §III.B. As explained herein, these claimed features are indeed Patent Owner's innovative improvements that improve system security and are in no way taught or suggested by the cited art.

Finally, there is strong additional evidence that the Petition fails to establish invalidity based on the multiple asserted references for any Ground and that instituting review would be wasteful of PTAB and party resources, including

because the Petition resorts to relying excessively on expert testimony in an attempt to cure the plain deficiencies of each Ground. For example, as described in detail below, for all of Grounds 1-10, because the Petition cannot establish anticipation or obviousness based on alleged prior art, the Petition resorts to excessive but conclusory opinion of its retained expert to allege obviousness of the '540 Patent's claimed methods for using a server for providing the location of a first wireless device to a second wireless device based on location access rights of the first wireless device requested and received by the second wireless device via the server. '540 Patent, Claim 1. As explained herein, these claimed features are indeed Patent Owner's innovative improvements that improve system security and are in no way taught or suggested by the cited art, notwithstanding Petitioners' expert's allegations to the contrary.

For each of these independent reasons, institution should be denied.

II. BACKGROUND

A. Mr. Mullen and the '540 Patent

Jeffrey Mullen is an independent inventor who has invented prolifically across a wide array of technologies since the early 2000s, including, for example, with regard to wireless and cellular communications systems and devices, security improvements regarding the same, augmented reality and virtual reality devices, and

autonomous defense systems. Mr. Mullen is the inventor of the '540 Patent and the sole member and founder of the Patent Owner Mullen Industries LLC.

Mr. Mullen disclosed in U.S. Application No. 10/400,296 and its corresponding U.S. Provisional Application No. 60/367,967 his innovation of systems and methods for cellular phones and security measures for the same. These systems and methods provide, *inter alia*, that a wireless device is operable to have its location determined, request location and location access rights from other devices, display options for changing access rights, transmitting requests for location access rights assignments and grant permissions for other wireless devices to access location information about the grantor's location.

The '540 Patent recites one independent claim – Claim 1. Petitioner does not establish that it is reasonably likely to prove that this claim is unpatentable because the Petition fails to sufficiently show that **(1)** Randall (alone or in combination with Darling) discloses "requesting a location of a first wireless device by a second wireless device from a server located remotely from said first and second wireless device" as recited in Claim 1, **(2)** Randall or Sheha in view of Futagami, make obvious the "asking" clause of Claim 1, **(3)** Randall or Sheha in view of Futagami or Darling teach the "storing said location access rights on said server," "determining said access rights assigned by said first wireless device to said second wire-less

device on said server" and "providing said location from said server to said second wireless device dependent upon said access rights" elements of Claim 1.

B. Claim 1

The Petition describes discrete portions of the '540 Patent written description but provides no discussion of claims 1-35 outside of analyzing them against the cited prior art. Pet., 2-3.[1] The invention of the '540 Patent as described in the specification is referenced and explained throughout this Response as appropriate.

Each of the Grounds of the Petition is directed to Claim 1 of the '540 Patent, or a claim dependent on Claim 1. Claim 1 recites a method of using a server for providing the location of a first wireless device to a second wireless device based on location access rights of the first wireless device requested and received by the second wireless device via the server, as follows:

> 1. A method of mobile-to-mobile locating, said method comprising:
>
> requesting a location of a **first wireless device** by a **second wireless device** from a **server** located remotely from said first and second wireless devices;
>
> determining that said **second wireless device** does not have **location access rights** for said **first wireless device**;
>
> asking said **second wireless device** if said **location access rights** are to be requested from said **first wireless device**

[1] At this preliminary stage, and before submission of expert testimony, Patent Owner neither disputes nor consents to Petitioner's definition of a person of ordinary skill in the art. Pet., 3-4.

> after determining that said **second wireless device** does not have said location access rights for said first wireless device;
>
> requesting that said location access rights be **assigned** for said **second wireless device** by said **first wireless device**;
>
> **assigning** said location access rights on said **server** to said **second wireless device** by said **first wireless device**;
>
> storing said location access rights on said **server**;
>
> determining said access rights assigned by said **first wireless device** to said **second wireless device** on said **server**; and
>
> providing said location from said **server** to said **second wireless device** dependent upon said access rights.

'540 Patent, Claim 1.

C. Claim Construction

The Petition's section addressing claim construction identifies the standard for claim construction applicable to IPR proceedings but does not identify any claim terms for construction. Pet., 4. The Petition, however, ignores that claim construction was disputed in prior proceeding involving the '540 Patent before such proceedings were terminated due to settlement, and at least the same disputed constructions are relevant here. As the Board is aware, claims in IPR proceedings are construed according to the standard the Federal Circuit has specified in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc).

The language of Claim 1 establishes that certain steps must complete before others, including because "the language of a claimed step refers to the completed results of the prior step." *Kaneka Corp. v. Xiamen Kingdomway Grp. Co.,* 790 F.3d 1298, 1306 (Fed. Cir. 2015) (*citing E-Pass Techs., Inc. v. 3Com Corp.*, 473 F.3d 1213, 1222 (Fed. Cir. 2007). Accordingly, relevant to the issues here, Patent Owner submits that the Board should construe the following claim terms as completing in the temporal order detailed below. Patent Owner reserves the right to identify additional claim terms necessitating construction should there be institution. Namely:

- Step [a] must complete before step [h] completes because step [h] refers to providing the location requested in step [a] (i.e., step [a] ("requesting a location …"); step [h] ("providing said location …")). Namely, step [a] must complete before step [h] completes because step [h] refers to providing the location requested in step [a] (i.e., step [a] ("requesting a location …"); step [h] ("providing said location …"));
- Step [f] must complete before step [g] completes because step [g] refers to determining the location access rights on the server that were stored on the server in step [f] (i.e., step [f] ("storing said location access rights on said server"); step [g] ("determining said location access rights … on said server")); and

- Step [g] must complete before step [h] completes because step [h] refers to providing the location from the server "dependent upon" the access rights determined in step [g] (i.e., step [g] ("determining said access rights … on said server"); step [h] ("providing said location from said server … dependent upon said access rights")).

These words must be given meaning and cannot be ignored. *Phillips*, 415 F.3d at 1314 ("[T]he claims themselves provide substantial guidance as to the meaning of particular claim terms."); *see also Exxon Chemical Patents v. Lubrizol Corp.*, 64 F.3d 1553, 1557 (Fed. Cir. 1995) ("We must give meaning to all the words in [the patent's] claims."). This should end the inquiry. It conclusively establishes the temporal order of the specific terms listed above. The Board should reject Petitioners' attempt to read these orders out of the claim.

While no express construction of these terms is necessarily required, given the plain language of the Claim readily teaches a certain temporal order between certain claim elements, it must be appreciated that the Petition's intentional recasting of such plain language to support its invalidity arguments is fatal to each Ground. The words of the claim should be given meaning and not ignored as Petitioners seek to do. *See VLSI Tech. LLC v. Intel Corp.,* 53 F.4th 646, 655-656 (Fed. Cir. 2022) (rejecting purported claim interpretation because "it does not explain the addition of the phrase ... that phrase was meant to serve some purpose ....") (citing *Merck & Co.*

v. Teva Pharms. USA, Inc., 395 F.3d 1364, 1372 (Fed. Cir. 2005) ("A claim construction that gives meaning to all the terms of the claim is preferred over one that does not do so.")); *Exxon Chemical Patents v. Lubrizol Corp.*, 64 F.3d at 1557 ("We must give meaning to all the words in [the patent's] claims.").

III. ARGUMENT

A. The Petition Should Be Discretionarily Denied

The Acting Director's 2025 Memorandum enumerated "relevant considerations" for determining when to discretionarily deny institution of a petition for *inter partes* review under §314(a). The following considerations relevant to the instant matter compel denying institution:

- "Whether the PTAB or another forum has already adjudicated the validity or patentability of the challenged patent claims;"
- "Settled expectations of the parties, such as the length of time the claims have been in force;"
- "The strength of the unpatentability challenge;" and
- "The extent of the petition's reliance on expert testimony[.]"

2025 Memorandum, 2. As discussed in greater detail *infra*, (1) the PTAB has already adjudicated the validity of the challenged patent claims (including dispensing with the same primary reference relied on in a previously denied petition), (2) there is a settled expectation of validity for all claims of the '540 Patent, (3) all ten

unpatentability Grounds are indefensibly weak, and (4) each Ground excessively relies on the declaration testimony of a purported "expert." Accordingly, each of these considerations compel the Acting Director and/or Board to exercise discretion and deny institution of the Petition.

Separate and apart from these considerations, it bears noting that institution of this IPR is purposeless. Petitioners' impetus for preparing the Petition was the assertion of the '540 Patent in a parallel district court litigation. Pet., xiii. However, the '540 Patent was dismissed from the district court litigation. As the '540 Patent is no longer in dispute, Petitioners, notably the Samsung Petitioners, ***have nothing to gain from the institution of the Petition***. Denying institution will not only prevent the unnecessary expenditure of party resources but will ***prevent the unnecessary expenditure of the PTAB's resources.*** As even former Director Vidal pointed out, post-grant proceedings like this one were established to "'limit unnecessary and counterproductive litigation costs.'" Ex. 2002 at 1 (citing H.R. Rep. No. 112-98, pt. 1, at 40 (2011), 2011 U.S.C.C.A.N. 67, 69; *see* S. Rep. No. 110-259, at 20 (2008)). Moreover, should the Board deny institution of this Petition, Patent Owner agrees to not assert again in the future against the Samsung petitioners any claim challenged in this Petition. In view of this stipulation, denying institution of the Petition will undeniably limit unnecessary and counterproductive litigation costs and will conserve the resources of the PTAB.

1. The PTAB Already Adjudicated the Validity of the '540 Patent and Upheld the Patent's Validity

In 2022, Apple, Inc. ("Apple") petitioned the PTAB for *inter partes* review of the same claims challenged by the Petition. IPR2023-00098, Paper 1 (PTAB Oct. 21, 2022) (the "Apple Petition"). Apple's principal unpatentability ground was based on primary reference U.S. Patent No. 7,333,820 ("Sheha"). *Id*., 3. Apple argued Sheha discloses a requesting wireless device that can request the location of a target wireless device from Sheha's "online database and application server" ("ODAS") and that after determining that the requesting device lacks location access rights, the server can present the request for location access rights to the target device. *Id*., 23-25. In the Board's Institution Decision, the Board held that Apple's Sheha unpatentability grounds had "not demonstrated a reasonable likelihood of prevailing in establishing unpatentability of at least one claim of the '540 patent" and denied institution of *inter partes* review ***based on the very same primary reference relied on by Petitioners in the instant case***. IPR2023-00098, Institution Decision, Paper 8, at 2 (PTAB Jun. 7, 2023). Thus, not only has the PTAB already adjudicated the patentability of the '540 Patent, ***the PTAB has already addressed the specific reference*** relied on by Petitioners in the instant Petition.

Accordingly, this consideration strongly favors denying institution of the Petition.

2. Settled Expectations of Validity Warrant Discretionary Denial

There is a well-settled expectation that the '540 Patent is valid. The application that led to the '540 Patent was filed over twenty years ago on March 25, 2003. After ***fourteen years*** of prosecution before the USPTO, the '540 Patent issued. The '540 Patent has been ***in force for nearly eight years***, and the PTAB has already confirmed its validity. After fourteen years of detailed examination by the USPTO, confirmation via the PTAB's refusal to institute a prior petition for *inter partes* review, and being in force for nearly a decade, nothing in Petitioner's challenge warrants ***yet a further review*** of the '540 Patent. Thus, there is a well-settled expectation that the '540 Patent is valid, warranting discretionary denial of the Petition.

3. The Merits of All Grounds Are Again Weak

Petitioners' unpatentability challenges are extremely weak. As shown in the prior sections regarding claim construction, and in the following Section III.B, Petitioners' arguments on the merits (including Petitioners' failure to address known claim construction disputes) do not meet the "reasonable likelihood" standard required to ward off discretionary denial. S*ee Vector Flow, Inc. v. HID Glob. Corp.*, IPR2023-00353, Paper 8 at 23-24 (PTAB July 27, 2023).

Here, the Petition (i) strategically chose not to address known disputes over the claim terms' meaning, (ii) recycles prior art grounds already dispensed with by

the PTAB, and (iii) misreads both the claims and the cited references, which demonstrates the weakness of the Petition and favors denial of institution. *See e.g., supra* at Sections II.C; *infra* at Section III.B; *see also e.g., Samsung Electronics Co, Ltd. v. California Institute of Technology*, IPR2023-00130, Paper 10 at 26 (PTAB May 4, 2023) (exercising discretion to deny institution because "[f]or essentially the reasons posed by Patent Owner, we agree that Petitioner's showing is less than compelling, as it rests tenuously upon apparent logical leaps"); *Samsung Display Co., Ltd. v. Pictiva Displays Int'l Ltd.*, IPR2024-00855, Paper 12 at 13 (PTAB November 19, 2024) (exercising discretion to deny institution because "Petitioner's challenges do not meet the compelling merits standard because a genuinely-disputed issue surrounds the correct [claim] construction …. That genuine dispute, in turn, casts doubt upon whether Petitioner 'is highly likely' to prevail in showing that the [claim] limitation would have been obvious over the asserted prior art references").

Moreover, as discussed in greater detail below, Petitioners' Grounds are either directly castoff from the Apple Petition that the PTAB already denied, or they are foundationally predicated on the same arguments made in that petition, just with substitute but equivalent prior art references. Petitioners' strategy of repurposing unsuccessful prior art and materially similar additive references warrants discretionary denial, as does Petitioners' attempt to buttress lacking obviousness combinations with unsupported expert testimony.

Accordingly, this consideration strongly favors denying institution of the Petition.

4. The Petition's Reliance on "Expert" Testimony is Excessive and Telling as to the Petition's Weakness

The Petition relies heavily on the testimony of a purported expert to support Petitioners' arguments that the challenged claims of the '540 Patent are unpatentable. *See* Ex. 1003. The 222 page declaration, while voluminous, is replete with the conclusory, and unsupported opinions of Mr. Williams. Indeed, the Petition cites to Mr. Williams' declaration *hundreds* of times. Pet., *passim*. For example, as noted below, Mr. Williams repeatedly mischaracterizes the figures from Futagami to argue Futagami teaches or suggests Claim 1[c], while ignoring the express disclosures of Futagami that contradict Mr. Williams' conclusions. The Petition excessively relies on the declaration of Mr. Williams' to cure deficiencies such as Futagami never teaching or suggesting "asking said second wireless device if said location access rights are to be requested from said first wireless device." '540 Patent, Claim 1. Mr. Williams offers this testimony without technical explanations or evidence to support his conclusions. *SFC Co., Ltd. v. LG Chem, Ltd.*, IPR2020-00178, Paper 16, at 37-39 (May 29, 2020); *TRW Automotive US LLC v. Magna Elecs. Inc.*, IPR2014-00258, Paper 16, at 19-23 (PTAB. Jun. 26, 2014) (rejecting

obviousness analysis that failed to support rationale with supporting evidence and technical reasoning).

Accordingly, this consideration strongly favors denying institution of the Petition.

B. Grounds 1-10 of the Petition Fail to Teach or Render Obvious Any Claim of the '540 Patent

The Board should decline to institute Grounds 1-10 because the cited references fail to teach or suggest critical claim limitations of Claim 1, and thus fail to teach or suggest any claim dependent upon Claim 1. The Petition's arguments with regard to these claim limitations are based on Petitioners' fundamental misreading of the claim language, discussed *supra* at Sections II.C.

1. All Randall Grounds Fail to Demonstrate a Reasonable Likelihood that Petitioner Will Prevail on Claim 1

The Petition, recognizing the failures of Sheha in the Apple Petition (discussed *infra* §III.B.2), introduces Randall as the primary reference in Grounds 1-5. Petitioners do not establish a reasonable likelihood that Claim 1 of the '540 Patent is unpatentable based on Randall. The Petition fails to show that skilled artisans would have understood that Randall alone or in view of Darling and/or Futagami teaches or makes obvious at least the following limitations:

- "requesting a location of a first wireless device by a second wireless device from a server located remotely from said first and second wireless devices";

- "asking said second wireless device if said location access rights are to be requested from said first wireless device after determining that said second wireless device does not have said location access rights for said first wireless device";

- "storing said location access rights on said server";

- "determining said access rights assigned by said first wireless device to said second wireless device on said server;" and

- "providing said location from said server to said second wireless device dependent upon said access rights."

a. The Petition Fails to Demonstrate that Any Randall Ground Teaches or Renders Obvious "Requesting a Location of a First Wireless Device by a Second Wireless Device from a Server Located Remotely from Said First and Second Wireless Devices"

This limitation in Claim 1 requires that a second wireless device requests a location of a first wireless device from a remotely located server. The Petition fails to demonstrate that Randall alone, or in combination with Darling, teaches or suggests this limitation.

Randall refers to employing a remote database that stores different "fields" of information for a multitude of individuals, with each individual pre-defining those who can access those fields. Randall, [0047]. Randall discloses a user, e.g. Alice, affirmatively choosing "to subscribe to the service which allows" another, Bob, to track her. *Id.*, [0021]. After doing so, Alice then must provide an "ADS" number to Bob. *Id*., [0049]. Upon receipt of the ADS number, Bob "sends Alice's ADS number

to the server" which "recognizes Bob's device and allows that device to read Alice's information held on the database which is specified as being accessible to Bob[.]" *Id*. Thus, only if Alice preemptively specified her location as accessible for Bob, and only if Bob has been given Alice's ADS number, can Bob view Alice's location. If she doesn't make this information available to Bob or others, he cannot.

This process does not describe a second device requesting the location of a first device. Randall instead describes a second device ***incapable*** of requesting a location, whereby location information is only made available upon the first device preemptively granting location information, and even then only accessible after receipt and entry of an ADS number on the first device. This multi-step process, originating with Randall's equivalent "first wireless device" is wholly divorced from Claim 1's requirement of a specific *request* for a location of a first wireless device originating from the second wireless device.

Petitioner implicitly concedes that Randall does not teach or suggest this limitation by incorporating Darling. Pet., 14. Darling does not cure this deficiency. Darling refers to location information for Darling's "second wireless device" being transmitted to the server prior to the claimed wireless telephone "requesting a location of [the] second wireless device from a server." Darling, 2:1-3. As discussed *supra* §II.C, the plain language of Claim 1 mandates that step [a] must complete before step [h] completes because step [h] refers to providing the location requested

in step [a] (i.e., step [a] ("requesting a location …"); step [h] ("providing said location …"). Darling's teachings are directly contrary to the plain language of the claim.

Petitioners' reliance on the testimony of Williams for this claim element is unavailing. Williams does not explain how Randall's remote database of "fields" with pre-defined rules for third-party access, nor how the pre-requisite separate steps of (1) disclosure and (2) entry of an ADS number, refers to "requesting a location of a first wireless device by a second wireless device" as required by Claim 1. Ex. 1003, [0123]-[0128]. Williams instead makes the conclusory statement that "Randall thus discloses Element [1A]." *Id.*, [0127]. Williams does so, all while acknowledging the prerequisite steps of Randall's system that distance Randall from Claim 1. For example, Williams acknowledges that Bob must first send "to the server an unchanging pointer or key (an 'ADS Number') which is unique to" Alice. *Id*., [0126] (quoting Randall, [0049]); *see also id.* (acknowledging that only "if Alice has ***given Bob the appropriate permissions***" can Bob view Alice's location). Williams further completely ignores the Darling's initial step of ***sending location information to the server prior to any request***, ignoring the plain language of the claim, which renders his conclusion unsupported, and contradictory to the express language of Darling, Randall, and the Claim. *Id*., [0128].

For these reasons alone, the Petition and Randall (alone or in combination with Darling) fails to teach or suggest Claim 1, or any claim dependent thereon.

b. The Petition Fails to Demonstrate that Any Randall Ground Teaches or Renders Obvious "Asking Said Second Wireless Device if Said Location Access Rights are to be Requested from Said First Wireless Device After Determining That Said Second Wireless Device Does Not Have Said Location Access Rights for Said First Wireless Device"

This limitation recites that, after determining that the second wireless device does not have location access rights for the first wireless device, the second wireless device is asked whether such rights should be requested from the first wireless device. The Petition concedes that Randall does not disclose asking a requesting device (i.e., second wireless device) if location access rights for a target device (i.e., first wireless device) are to be requested, but alleges that Futagami provides this teaching and that skilled artisans would have been motivated to incorporate Futagami's disclosures into the Randall system. Futagami is technologically set against Randall, and worse, fails to teach or suggest this claim element.

Futagami does not teach or suggest asking a requesting device if location access rights for a target device are to be requested after it has been determined that the requesting device does not have location access rights for the target device. Futagami contemplates using its system for "names, telephone numbers, addresses, dates of birth, and electronic mail address"—***not location information***. Futagami,

4:10-12. Futagami discloses an "information processing apparatus" that upon receipt of a "keyword" (i.e., a search term) from a "client terminal" (i.e., a device operated by a requesting party), retrieves information associated with that keyword, and transmits that information to the requesting client terminal. *Id*., 2:1-21. When access to the requested information is "not permitted or is restricted," Futagami refers to "***inquiring of the owner of the personal information*** whether or not to give permission as to providing of the personal information[.]" *Id*., 2:33-35 (emphases added). Thus, Futagami does not teach or suggest "asking said second wireless device if said location access rights are to be requested from said first wireless device"—it inversely immediately questions the owner of the personal information (as Petitioner would have it, the "second wireless device") if the restriction should be removed. *Id*. The Petition disregards this critical difference between Claim 1 and Futagami.

The Petition, ignoring this difference, points to Futagami's statement that should a non-permitted requester "still want[] to access the retrieved personal information, the ***user transmits a message (restriction removal request message)*** to the management server 6." Futagami, 15:56-60. Writing and sending a message to request access is not asking the requesting device if said location access rights are to be requested from the target device. Futagami never teaches or suggests "asking said second wireless device if said location access rights are to be requested" because

Futagami does not operate in that manner. Rather, upon issuing a refusal, the process stops, and the user, without being asked, independently sends a message to the server. *Id*., 19:20-26 ("because the access requester does not transmit a restriction removal request ... the access requester cannot acquire the personal information"). Futagami further states that if a user receives a refusal message and decides to not write and "transmit a restriction removal request … the management server 6 does not transmit a restriction removal inquiry message to the personal information owner." 19:15-23. This is a stark difference from the '540 Patent's method that includes "asking said second wireless device if said location access rights are to be requested from said first wireless device[.]" '117 Patent, Claim 1, 12:34-35.

Aware of this deficiency, the Petition again attempts to cure the absence of "asking" the requesting device if location access rights are to be requested from the target device in Futagami with purported expert testimony of Williams. Pet., 20 *citing* Ex. 1003, [0136]. But the cited testimony—"POSAs would have understood, for example, that an obvious implementation to solicit the "yes" or "no" to be "input by the user" would include a question prompt in the refusal message"—provides no supporting evidence or technical reasoning, just a conclusory statement. *Xerox Corp. et al. v. Bytemark, Inc.*, IPR2022-00624, Paper 12, at 5 (PTAB Feb. 10, 2023) (Precedential) ("The declaration does not provide any technical detail, explanation, or statements supporting *why* the expert determines that the feature in question was

required or would have been obvious based on the prior art disclosure.") (emphasis in original). In his declaration, Williams postulates that "POSAs would have been motivated to implement this asking, to provide (Bob) with a way to obtain location access rights from another user (Alice) if he has not already been given" access. Ex. 1003, [0138]. Williams ignores in his conclusion that Futagami discloses a way for users to request access to information (albeit not location information), it is just *done in a completely different manner* than "asking" Futagami's user if access rights are to be requested. Instead of asking the requesting user if location access rights are to be requested from the target device, Futagami teaches "if the user still wants access …the user transmits a message (restriction removal request message)." Futagami, 15:56-59. Williams' testimony that a skilled artisan would have been motivated to implement the claimed feature of 1[c] thus wholly unsupported given Futagami discloses a separate, requesting-user-initiated, method to request information. A skilled artisan would not have been motivated to modify Futagami to function in the manner of Claim 1 because Futagami itself discloses its own manner of gaining access when there is none—to say otherwise is quintessential hindsight bias. *InTouch Techs., Inc. v. VGO Commc'ns, Inc*., 751 F.3d 1327, 1352 (Fed. Cir. 2014) (concluding that expert "succumbed to hindsight bias in her obviousness analysis" by focusing on what "one of ordinary skill in the art could" allegedly have done instead of what "they would have been motivated to do"). This extensive reliance

on unsupported "expert" testimony fails to establish a reasonable likelihood of success and alone warrants discretionary denial.

Moreover, Randall and Futagami are technically very different and incompatible. Randall refers to the preemptive assignment of third-party rights to a user's information, obtainable only *after* assignment and provision of a unique "ADS" number. Futagami on the other hand employs a "personal information acquisition process" whereby a user requests third party information matching certain "keywords". Futagami, 14:50-54. *Prior to* obtaining or checking permission rights, the direct opposite of Randall, Futagami's server gathers the requested (non-location) information. *Id.*, 14:59-65. Only after collecting the requested information does Futagami begin its access restriction process, whereas before any information is collected in Randall's system, Randall's users need to first (1) be granted access rights by the owner preemptively, (2) be given the owner's ADS number, and (3) authenticated. Randall, [0047]-[0049]. Williams does not address these differences, nor provide a technical explanation or evidence of how the references could be combined.

Further, Futagami does not disclose or even hint at using its system for sharing location information, making it even less likely a skilled artisan would have been motivated at the time of the invention to combine the disclosures of Randall and Futagami. Petitioner's declarant's conclusory testimony that "POSAs would have

understood Futagami's technique to be desirable" cannot overcome the stark differences amongst the references. *Xerox Corp*, IPR2022-00624, Paper 12, at 5. This, too, is fatal to all of Petitioners' Grounds based on Randall.

Accordingly, the Board should find that the Petition has failed to demonstrate invalidity of these claim limitations by a "reasonable likelihood," much less a "compelling case" of purported invalidity, and thus should decline to institute Grounds 1-5. *See e.g., Samsung Electronics Co, Ltd. v. California Institute of Technology*, IPR2023-00130, Paper 10 at 26 (May 4, 2023) (exercising discretion to deny institution because "we agree that Petitioner's showing is less than compelling, as it rests tenuously upon apparent logical leaps"); *AT&T Services, Inc. v. ASUS Technology Licensing Inc.*, IPR2024-01142, Paper 14 (Jan. 27, 2025) (exercising discretion to deny institution because "Patent Owner has identified a plausible understanding of the meaning of the claims … and potential dispositive inadequacies in Petitioner's approach to accounting for features of those claims …. Petitioner's proposed grounds cannot be said to rise to the level of a 'compelling' meritorious challenge").

c. The Petition Fails to Demonstrate that any Randall, Darling, Futagami Combination Teaches or Renders Obvious "Storing Said Location Access Rights on Said Server" "Determining Said Access Rights Assigned by Said First Wireless Device to Said Second Wireless Device on Said Server" and "Providing Said Location From Said Server to Said Second Wireless Device Dependent Upon Said Access Rights"

Fatal to all Randall based grounds is Petitioners' unsupported conclusion that "POSAs would have understood that claim elements [1F]-[1H] need not be performed in any particular order[.]" Pet., 30. This conclusion ***completely ignores the plain language*** of Claim 1 which plainly provides that step [f] must complete before step [g] completes because step [g] refers to determining the location access rights on the server that were stored on the server in step [f] (i.e., step [f] ("storing said location access rights on said server"); step [g] ("determining said location access rights … on said server")). The Petition further ignores that step [g] must complete before step [h] completes because step [h] refers to providing the location from the server "dependent upon" the access rights determined in step [g] (i.e., step [g] ("determining said access rights … on said server"); step [h] ("providing said location from said server … dependent upon said access rights")).

The Petition ascribes no meaning to this claim language and thus fails to substantively address how its prior art combinations teach or suggest the actual language of Claim 1. As a result of the Petitioners' error, Petitioners in effect seek

to improperly rewrite these claim terms to read: "storing ~~said~~ any location access rights on ~~said~~ any server; determining ~~said~~ any access rights assigned by ~~said first~~ a wireless device to ~~said second~~ any other wireless device on ~~said~~ any server; and providing ~~said~~ a location from ~~said~~ any server to ~~said second~~ any other wireless device dependent upon ~~said~~ access rights." This is not what is claimed, and to accept Petitioners' argument that "claim elements [1F]-[1H] need not be performed in any particular order" would improperly strip the claims of their actual words and common meaning. *See VLSI Tech. LLC v. Intel Corp.*, 53 F.4th 646, 655-656 (Fed. Cir. 2022) (rejecting purported claim interpretation because "it does not explain the addition of the phrase 'as a result of being used for electrical interconnection not directly to the bond pad.' . . . that phrase was meant to serve some purpose ....") (*citing Merck & Co. v. Teva Pharms. USA, Inc*., 395 F.3d 1364, 1372 (Fed. Cir. 2005) ("A claim construction that gives meaning to all the terms of the claim is preferred over one that does not do so.")); *Exxon Chemical Patents v. Lubrizol Corp.*, 64 F.3d at 1557 ("We must give meaning to all the words in [the patent's] claims."). This distinction is again important and specifically relates to Patent Owner's innovation regarding improving system security. '540 Patent, 1:43-45 ("One object of the present invention is to provide ***a security feature which allows*** a user to limit and/or deny location ***access to a particular user***.") (emphases added).

Accordingly, the Petition fails to substantively or accurately apply its Grounds against the plain language of Claim 1 and as a result fails to teach or disclose Claim 1 or any claim dependent thereon.

2. All Sheha Grounds Fail to Demonstrate a Reasonable Likelihood that Petitioner Will Prevail on Claim 1

Petitioners do not establish a reasonable likelihood that Claim 1 of the '540 Patent is unpatentable based on Sheha. The Petition fails to show that skilled artisans would have understood that Sheha alone or in view of Darling and/or Futagami teaches or makes obvious at least the following limitations:

- "determining that said second wireless device does not have location access rights for said first wireless device";
- "asking said second wireless device if said location access rights are to be requested from said first wireless device after determining that said second wireless device does not have said location access rights for said first wireless device";
- "storing said location access rights on said server";
- "determining said access rights assigned by said first wireless device to said second wireless device on said server"; and
- "providing said location from said server to said second wireless device dependent upon said access rights."

a. The Petition Fails to Demonstrate That Sheha Discloses "Determining That Said Second Wireless Device Does Not Have Location Access Rights for Said First Wireless Device"

This limitation in Claim 1 requires that a determination be made that the second wireless device does not have location access rights for the first wireless device. The Petition fails to demonstrate that Sheha discloses these elements.

The Petition, citing to nearly an entire column of Sheha addressing five different embodiments, alleges that Sheha's reference to its ODAS server verifying the "privacy settings" or "permission settings" of a "remote device" teaches this claim limitation. However, Sheha implements communications between users in a fundamentally different manner than that which is recited in the instant limitation of Claim 1. Sheha describes that a phone number or a device may have "privacy settings" or "permission settings" that indicate whether a caller can obtain a location. Sheha, 4:35-40, 4:62-5:2, 5:3-11, 5:15-19, 5:37-45, 10:17-26, 10:47-50, 11:3-8, 12:1-4. The "privacy settings" or "permission settings" are not described as targeting other specific devices or users, but are rather described as follows:

> Once the user has logged on to the personal computer via authentication and authorization procedures, any call that originates or is destined to their telephone number can identify the position of the other landline telephone number, based on predetermined ***privacy settings associated with the other landline telephone number.*** Sheha, 4:35-40 (emphasis added)
>
> In one embodiment, if a mobile device user specifies a telephone number of another position-enabled mobile device, the system would

> query the remote mobile device and verify its ***privacy setting.*** If there are no ***privacy settings,*** the system would request the position information from the remote mobile device and forward it back to the local mobile device. *Id.,* 4:62-5:2 (emphasis added)
>
> In another embodiment, the destination remote mobile device receiving the telephone call ***obtains the position information*** from the calling local mobile device, ***based on permission settings of the calling local mobile device,*** for the performance of various operations, such as mapping and calculating driving directions. In this case, the calling local mobile device has ***privacy settings*** that determines the period of the position transfer to the destination remote mobile device. *Id.,* 5:3-11 (emphasis added)

Any time one of Sheha's callers makes a call, the ODAS system provides whatever information is available, as dictated by the call recipient's privacy settings. The absence or presence of privacy settings, and thus ODAS's ability to provide position information, is not the same as "determining that ***said*** second wireless device does not have location access rights ***for said*** first wireless device." Rather, it is an automatic, indiscriminate dissemination of information that is agnostic as to the identity of the caller.

Petitioner tenuously postulates that Sheha's use of phrase "***only*** with the device owner's permission" means "there are scenarios where the system *determines that said second wireless device does not have permission* to receive the location (i.e., *location access rights) for said first wireless device*." Pet., 74 (emphasis in original). First, Sheha neither says nor suggest Petitioner's manifested "teaching." *Id*., 74. Second, the sentence fragment from Sheha on which Petitioner relies for its

phantom teaching ("only with the device owner's permission") is entirely unrelated to "determining" location access rights. Rather, unsurprisingly, this cherry-picked quote simply refers to the aforementioned pre-assigned "privacy settings," and that a device owner can also require a voice or video connection to be established prior to providing position information. Sheha, 5:41-44. The Petition's stitching together disparate quotes from Sheha, and failing to consider Sheha holistically is an improper and critical failure. *In re Enhanced Security Research, LLC*, 739 F.3d 1347, 1355 (Fed. Cir. 2014) (holding it impermissible to "stitch together an obviousness finding … without considering the references as a whole"),

Petitioner's reliance on its declarant's testimony on this point is unavailing. The cited portion of Mr. Williams' declaration upon which Petitioner relies merely parrots the language in the petition, without any explanation, technical or otherwise, to support this unsupported conclusion. Ex. 1003, [0321]. Again, this pervasive reliance on unsupported "expert" testimony alone warrants discretionary denial.

Petitioners' reliance on Sheha's reference to a "group database" is similarly unavailing. Sheha references creating a "group database" that only certain ***landline*** users may access using proprietary login information ("authorization and authentication protocols"). Sheha, 11:65-12:1. Sheha further describes the "mobile" concept as involving "privacy settings" or "authorization and authentication protocols" for providing position information. *Id*., 12:1-7. Neither disclosure teaches

determining that a specific third-party device ("second wireless device") lacks access rights as Claim 1 requires. Petitioner's mischaracterization of Sheha's system is unsupported and fails to teach or render obvious this claim element.

Petitioner's recycled arguments regarding the meaning of this claim element fare no better this time around. Pet., 75-76 (mischaracterizing Patent Owner statements in IPR2023-00098, and repackaging the same arguments made by the petitioner in that matter based on the same reference). Petitioners contend that Sheha "describes device-local privacy filters"—Sheha does not describe any such thing. Pet., 75. Petitioner does not provide any supporting citation to Sheha for this premise, instead relying exclusively on the premise "POSAs would have understood," Sheha's "privacy settings" that apply universally to any caller are somehow device specific. *Id*., 76. The Petition relies on Sheha's employ of "using telephone information form a known database or databases" (functionally a digital phonebook), and again, ODAS checking if privacy settings permit position information disclosure. Sheha, 11:55-12:7. The Petition cites to Mr. Williams' declaration to support this conclusion, which again merely parrots the Petition's arguments without more. *Id*. *citing* Ex. 1003, [0327]-[0328].

Indeed, the Petition's incorporation of Darling and Futagami implicitly concedes that Sheha does not teach or suggest this claim limitation. Pet., 76-78. The Petition fails to even suggest an actual combination of Sheha with Darling or

Futagami with respect to this claim element. *Id*. Instead, the Petition incorporates by reference the combination of ***Randall*** with Darling/Futagami for this claim element but does not address any combination of ***Sheha*** with either secondary reference. *Id*., 77.

Moreover, the Petition provides ***absolutely no*** explanation for "implementing Sheha's system" the disclosures of Darling and Futagami. Pet., 77. Instead, Petition says to combine Darling and Futagami with Sheha "in the manner discussed" with respect to ***Randall***—a completely distinct reference and technology. *Id.* Devoid of explanation, the Petition points to paragraphs [0332]-[0333] of the declaration of Williams, which again ***contains no explanation*** of what specific combination is being made, how this combination teaches the "determining" portion of this claim element, and merely incorporates the combination of Futagami and Darling with ***Randall***—not the primary reference of Grounds 5-10, Sheha. *Id*.

Putting aside the failure by the Petition to properly address any combination of Sheha with Futagami or Darling, Darling and Futagami do not cure Sheha's deficiency at least because the secondary references are technically unfitting. First, the sole purpose of Sheha is associating address information with phone numbers, whereas Futagami is silent on location information. On this point alone, skilled artisans would not have been motivated to combine these references on this discrepancy. Moreover, where Futagami employs keyword searching for relevant

information with individualized "access restrictions information associated with the . . . .personal information itself," Sheha's "privacy settings" provide a blanket wall across all location data that either permits or does not permit disclosure to other callers. *See, e.g.,* Futagami 2:1-21, 15:4-7; Sheha, 4:35-40, 4:62-5:2, 5:3-11, 5:15-19, 5:37-45, 10:17-26, 10:47-50, 11:3-8, 12:1-4. Neither the Petition, nor Williams, explain what technical modifications to Sheha would be required to implement the teachings of Futagami or Darling. Instead, these arguments are presented as a "pick and choose" different elements of different references. *In re Wesslau*, 353 F.2d 238, 241 (CCPA 1965) (holding that there is an enduring admonition against impermissibly "pick[ing] and choos[ing]" from a reference "only so much … as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to" a POSITA); *In re Enhanced Security Research, LLC*, 739 F.3d 1347, 1355 (Fed. Cir. 2014) (holding it impermissible to "stitch together an obviousness finding … without considering the references as a whole").

Petitioner's reliance on the declaration of Williams does not cure this problem because Williams' opinions are generic and conclusory rationales, devoid of explanation as to what modifications to either system are required to effectively combine them. For example, Mr. Williams incorrectly contends that all three references "determine[] whether the second user has access rights"—as explained

above, Sheha does no such thing. Ex. 1003, [0312]. On this flawed premise, Williams concludes "a POSA implementing Sheha's system would have been motivated to incorporate teachings and techniques" from the secondary references specifically "access control techniques" because the "references discuss overlapping, complementary, and beneficial techniques for controlling access to personal information." *Id*., [0313]. In making this allegation, Mr. Williams fabricates a disclosure where none exists by relying on impermissible hindsight. *W.L. Gore & Assocs. v. Garlock, Inc*., 721 F.2d 1540, 1553 (Fed. Cir. 1983) ("To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.").

For these reasons alone, the Petition and Sheha (alone or in combination with Futagami or Darling) fail to teach or suggest claim 1, or any claim dependent thereon.

b. The Petition Fails to Demonstrate that Any Sheha Ground Teaches or Renders Obvious "Asking Said Second Wireless Device if Said Location Access Rights are to be Requested from Said First Wireless Device After Determining That Said Second Wireless Device Does Not Have Said Location Access Rights for Said First Wireless Device"

This limitation recites that, after determining that the second wireless device does not have location access rights for the first wireless device, the second wireless device is asked whether such rights should be requested from the first wireless device. As demonstrated above, Sheha, alone or in combination with Darling and/or Futagami does not teach or suggest "determining that said second wireless device does not have said location access rights for said first wireless device. *Supra* §III.B.2.a. As a result, no Sheha + Darling + Futagami combination teaches or renders obvious "asking said second wireless device if said location access rights are to be requested from said first wireless device *after determining that said second wireless device does not have said location access rights for said first wireless device*." '540, Claim 1.

In its earlier decision denying institution of this patent, the PTAB correctly found that Sheha does not "disclose[] or suggest[] asking the requesting device [second device] if location access rights are to be requested from the target device [first device]." IPR2023-00098, Institution Decision, Paper 8, at 13 (PTAB Jun. 7, 2023) (denying institution). The Petition concedes that Sheha does not disclose

asking a requesting device ("second wireless device") if location access rights for a target device ("first wireless device") should be requested but alleges that Futagami provides this teaching and that skilled artisans would have been motivated to incorporate this teaching into the Sheha system. The Petition fails to show that Futagami remedies this deficiency.

The Petition does not even allege an actual combination of Sheha with Futagami for this claim element. Instead, the Petition again incorporates the combination made with ***Randall*** and Futagami for a *Sheha*-based combination. Pet., 77 (pointing to rationales from section VI.E.1.c of the Petition, Ground 1: Randall+Futagami). For the same reasons Futagami does not cure Randall's deficiencies, the same goes for Sheha in combination with Futagami and/or Darling. Further, as discussed in III.B.1.b, the technology of Futagami is wholly unsuitable for combination with Sheha's phone number system. For these reasons alone, the Petition and Sheha fail to teach or suggest Claim 1, or any claim dependent thereon.

Apart from failing to provide an actual combination of ***Sheha*** with Futagami, the Petition fails to even argue that any portion of this claim element is taught or rendered obvious. Instead, Petitioner concludes without explanation "the requested personal information is the *first wireless device's* location, and the access rights are *location access rights*, meeting [1C]." Pet., 77 (emphasis in original). The Petition's only alleged support for this conclusion is again the declaration of Mr. Williams.

But Williams does not cure this problem because Williams' opinions are generic and conclusory rationales, devoid of explanation as to what modifications to either system are required to effectively combine them. For example, Mr. Williams merely contends skilled artisans would have been motivated to supplement Sheha "in a way that allows the requesting user to control whether to disturb the target user with an access request." Ex. 1003, [0334]. This explanation is nonsensical and irrelevant to this claim limitation. Even worse, in conclusory fashion, Williams' "reasonable expectation of success" in combining Sheha with Futagami is incomprehensible: "POSAs would have reasonably expected success based on Futagami's teachings of successful implementation of such functionality in a system like Sheha's with a server sharing private information among wireless device users." *Id*., [0334]. Williams' reasoning for why a POSA combining Sheha's telephone number registry system, and Futagami's virtual rolodex search engine is *purely* based on "Futagami's teachings of successful implementation" of Futagami's system. Williams does not explain what "successful implementations" he alludes to, or why the alleged "success" of one reference necessarily means a skilled artisan would reasonably expect success in combing that reference with another. This is plainly insufficient.

Mr. Williams' conclusory opinions *completely* ignore the functionality of Sheha. Sheha only refers to sharing position information when one user *calls* (i.e.,

disturbs) another user. Regardless of whether Sheha could technically be combined with Futagami (Mr. Williams provides no explanation or evidence of how Sheha and Futagami could be modified from a technical standpoint), Sheha is not concerned with disturbing users because it is focused on the simultaneous exchange of location information when the parties are on a phone call with one another. Sheha, 7:12-16; 7:50-57; 7:58-67; 9:57-10:4; 11:10-23; 11:44-51. Further, the sole purpose of Sheha is associating address information with phone numbers, whereas Futagami is silent on location information. On this point alone, skilled artisans would not have been motivated to combine these references on this discrepancy. Moreover, where Futagami employs keyword searching using an information processing apparatus for relevant information with individualized "access restrictions information associated with the . . . .personal information itself," Sheha's "privacy settings" provide a blanket wall across all location data that either permits or does not permit disclosure to other callers. *See, e.g.,* Futagami 2:1-21, 15:4-7; Sheha, 4:35-40, 4:62-5:2, 5:3-11, 5:15-19, 5:37-45, 10:17-26, 10:47-50, 11:3-8, 12:1-4. For these reasons alone, the Petition and Sheha (alone or in combination with Futagami) fails to teach or suggest Claim 1, or any claim dependent thereon.

The Board should also reject Petitioners' hindsight attempt to reinterpret Sheha as teaching or suggesting something more. That the security advantages provided by the '540 Patent's claimed inventions are only disclosed by the '540

Patent, and not the cited references, should not be taken lightly. *In re Wesslau*, 353 F.2d 238, 241 (CCPA 1965) (holding that there is an enduring admonition against impermissibly "pick[ing] and choos[ing]" from a reference "only so much … as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to" a POSITA); *In re Enhanced Security Research, LLC*, 739 F.3d 1347, 1355 (Fed. Cir. 2014) (holding it impermissible to "stitch together an obviousness finding … without considering the references as a whole"); *see also e.g.*, *InTouch Techs., Inc. v. VGO Commc'ns, Inc.*, 751 F.3d 1327, 1352 (Fed. Cir. 2014) (concluding that expert "succumbed to hindsight bias in her obviousness analysis" by focusing on what "one of ordinary skill in the art could" allegedly have done instead of what "they would have been motivated to do").

Petitioners' fundamental misreading of these claim limitations, and corresponding erroneous mapping of these claim limitations to the cited references, demonstrates that the Petition fails to demonstrate invalidity of this claim limitation, let alone a "compelling case" of purported invalidity. Accordingly, the Board should find that the Petition has failed to demonstrate invalidity of these claim limitations by a "reasonable likelihood," much less a "compelling case" of purported invalidity, and thus should decline to institute Grounds 1-4. *See e.g., Samsung Electronics Co, Ltd. v. California Institute of Technology*, IPR2023-00130, Paper 10 at 26 (May 4,

2023) (exercising discretion to deny institution because "we agree that Petitioner's showing is less than compelling, as it rests tenuously upon apparent logical leaps").

c. The Petition Fails to Demonstrate that any Sheha, Darling, Futagami Combination Teaches or Renders Obvious "Storing Said Location Access Rights on Said Server" "Determining Said Access Rights Assigned by Said First Wireless Device to Said Second Wireless Device on Said Server" and "Providing Said Location From Said Server to Said Second Wireless Device Dependent Upon Said Access Rights"

Fatal to all Sheha based grounds is Petitioners' unsupported conclusion that "POSAs would have understood that claim elements [1F]-[1H] need not be performed in any particular order[.]" Pet., 80-81. This conclusion ***completely ignores the plain language*** of Claim 1 which plainly provides that step [f] must complete before step [g] completes because step [g] refers to determining the location access rights on the server that were stored on the server in step [f] (i.e., step [f] ("storing said location access rights on said server"); step [g] ("determining said location access rights … on said server")). The Petition further ignores that step [g] must complete before step [h] completes because step [h] refers to providing the location from the server "dependent upon" the access rights determined in step [g] (i.e., step [g] ("determining said access rights … on said server"); step [h] ("providing said location from said server … dependent upon said access rights")).

The Petition ascribes no meaning to this claim language and thus fails to substantively address how its prior art combinations teach or suggest the actual language of Claim 1. As a result of the Petitioners' error, Petitioners in effect seek to improperly rewrite these claim terms to read: "storing ~~said~~ any location access rights on ~~said~~ any server; determining ~~said~~ any access rights assigned by ~~said first~~ a wireless device to ~~said second~~ any other wireless device on ~~said~~ any server; and providing ~~said~~ a location from ~~said~~ any server to ~~said second~~ any other wireless device dependent upon ~~said~~ access rights." This is not what is claimed, and to accept Petitioners' argument that "claim elements [1F]-[1H] need not be performed in any particular order" would improperly strip the claims of their actual words and common meaning. *See VLSI Tech. LLC v. Intel Corp.*, 53 F.4th 646, 655-656 (Fed. Cir. 2022) (rejecting purported claim interpretation because "it does not explain the addition of the phrase 'as a result of being used for electrical interconnection not directly to the bond pad.' . . . that phrase was meant to serve some purpose ....") (*citing Merck & Co. v. Teva Pharms. USA, Inc*., 395 F.3d 1364, 1372 (Fed. Cir. 2005) ("A claim construction that gives meaning to all the terms of the claim is preferred over one that does not do so.")); *Exxon Chemical Patents v. Lubrizol Corp.*, 64 F.3d at 1557 ("We must give meaning to all the words in [the patent's] claims."). This distinction is again important and specifically relates to Patent Owner's innovation regarding improving system security. '540 Patent, 1:43-45

("One object of the present invention is to provide ***a security feature which allows*** a user to limit and/or deny location ***access to a particular user***.") (emphases added).

Accordingly, the Petition fails to substantively or accurately apply its Grounds against the plain language of Claim 1 and as a result fails to teach or disclose Claim 1 or any claim dependent thereon.

IV. CONCLUSION

For any or all of the above-described reasons, Patent Owner respectfully requests that the Acting Director or Board deny institution.

Dated: April 17, 2025

Respectfully submitted,

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CERTIFICATE OF WORD COUNT

The undersigned certifies that the portions of the above-captioned PATENT OWNER'S DISCRETIONARY DENIAL BRIEF specified in 37 C.F.R. § 42.24 have 9,507 words, in compliance with the 14,000 word limit set forth in 37 C.F.R. § 42.24(b)(1). This word count was prepared by the word-processing program used to prepare this paper (Microsoft Word).

Dated: April 17, 2025

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CERTIFICATE OF SERVICE

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