

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TESSELL, INC.
Petitioner,

v.

NUTANIX, INC.
Patent Owner.

Case No. IPR2025-00322
Patent No. 11,010,336

**PETITIONER'S AUTHORIZED REPLY¹
TO PATENT OWNER'S PRELIMINARY RESPONSE**

¹ Per the Board's instructions (EX3001), the identical paper (identical except for the caption) is being filed in IPR2025-00298 and IPR2025-00322

Patent Owner (“PO”) alleges that “[u]nder *Arendi S.A.R.L. v. Apple, Inc.*,” 832 F.3d 1355, 1361-62 (Fed. Cir. 2016) (“*Arendi*”), “a **POSA’s background knowledge** should be invoked...only when ‘the [missing] limitation in question [is] unusually simple and the technology particularly straightforward,’” and “‘cannot be used as a wholesale substitute for reasoned analysis and evidentiary support, especially when dealing with a limitation missing from the prior art references specified.’” -00298 POPR at 11; -00332 POPR at 11-12 (emphasis added) (quoting *Arendi*). PO’s selective quotation mischaracterizes *Arendi*’s statements, which do not concern reliance on evidence of a POSA’s background knowledge. What *Arendi* actually said was that “**common sense** [can be] invoked to supply a limitation” when the limitation is “unusually simple,” and that “**common sense...** cannot be used as a wholesale substitute for reasoned analysis and evidentiary support....” *Arendi* at 1362 (emphasis added). The Petition here does not rely on “common sense,” and it has plenty of “reasoned analysis and evidentiary support.”

The Federal Circuit in *Koninklijke Philips N.V. v. Google LLC*, 948 F.3d 1330 (Fed. Cir. 2020) (“*Philips*”) rejected PO’s misapplication of *Arendi*. The IPR petition in *Phillips* established “obvious[ness] over SMIL 1.0 in light of the general knowledge of a skilled artisan” about pipelining, by “[c]iting Hua” (a background reference) “and an expert declaration as authority” evidencing POSAs’ background knowledge of pipelining. *Philips* at 1338, 1334. The patentee, like PO here,

alleged the case was “analogous to *Arendi*” and that the petitioner “was required to make Hua ‘part of the combination’” rather than “rely[ing] on Hua as evidence of general knowledge.” *Philips* at 1338, 1334. The Federal Circuit “disagree[d],” and explained that, whereas the Board in *Arendi* improperly relied on only “conclusory statements and unspecific expert testimony” on “common sense,” the *Philips* Board properly “relied on expert **evidence**, which was **corroborated** by Hua, in concluding that pipelining was not only in the prior art, but also within the general knowledge of a [POSA].” *Philips* at 1338 (emphasis added).

Like in *Philips*, the Petition here properly demonstrates obviousness over Sivasubramanian and Zha, in view of a POSA’s background knowledge which is evidenced by expert testimony that is amply corroborated by background references. The Petition discusses “well-known background knowledge” with extensive reasoned analysis and evidentiary support (*cf. Arendi* at 1362), including Dr. Bhattacharjee’s expert testimony which is corroborated by numerous pieces of documentary evidence (*e.g.*, EX1012-1014, EX1017, EX1024-1032); the Petition further addresses both motivation and reasonable expectation of success in combining the background knowledge with Sivasubramanian and Zha. -00298 Pet. at 35-38 (cited at POPR at 12); -00332 Pet. at 32-35 (cited at POPR at 13). This is more than sufficient evidence to demonstrate obviousness. *Philips* at 1339.

Date: April 11, 2025

/Anant K. Saraswat/
Anant K. Saraswat, Reg. No. 76,050

CERTIFICATE OF SERVICE UNDER 37 C.F.R. § 42.6 (E)(4)

I certify that on April 11, 2025, a copy of the foregoing document, including any exhibits filed therewith, is being served via electronic mail, as previously consented to by Patent Owner, upon the following:

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