

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. IPR2025-00369
U.S. Patent No. 11,246,024

PATENT OWNER'S PRELIMINARY RESPONSE

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2001	<i>Samsung Launches SmartThings Find, a New Way to Quickly and Easily Located Your Galaxy Devices</i> , https://news.samsung.com/global/samsung-launches-smarththings-find-a-new-way-to-quickly-and-easily-locate-your-galaxy-devices (October 30, 2020)
2002	<i>Samsung SmartThings Find</i> , https://smarththingsfind.samsung.com/login (accessed January 24, 2024)
2003	Acting Director’s Stewart’s March 26, 2025 Memorandum titled “Interim Processes for PTAB Workload Management”
2004	USPTO Memorandum “Guidance on USPTO’s rescission of ‘Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation’” March 24, 2025.
2005	<i>Mullen Industries LLC v. Samsung Elecs. Co., Ltd.</i> , Case No. 2:24-CV-00049-JRG, Order Denying Motion to Transfer, Dkt. 90 (E.D. Tex. Mar. 25, 2025)
2006	Reserved
2007	<i>Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings With Parallel District Court Litigation</i> , Vidal, June 21, 2022

2008	<i>Mullen Industries LLC v. Samsung Elecs. Co., Ltd.</i> , Case No. 2:24-CV-00049-JRG, Order Denying Motion to Stay, Dkt. 71 (E.D. Tex. Jan. 23, 2025)
2009	<i>MyPort, Inc. v. Samsung Elecs. Co., Ltd.</i> , Case No. 2:22-CV-00114-JRG, Order, Dkt. 73 (E.D. Tex. June 13, 2023)
2010	<i>Solas OLED Ltd. v. Samsung Display Co., Ltd.</i> , Case No. 2:19-CV-00152-JRG, 2020 U.S. Dist. LEXIS 125973 (E.D. Tex. July 17, 2020)
2011	<i>Oyster Optics, LLC, v. Infinera Corp.</i> , Case No. 2:19-CV-00257-JRG, Order, Order, Dkt. 87 (E.D. Tex. July 17, 2020)
2012	Docket Navigator, Time to Milestones for Judge Gilstrap (E.D. Tex.) in Patent Cases for the Last 5 Years
2013	<i>Mullen Industries LLC v. Samsung Elecs. Co., Ltd.</i> , Case No. 2:24-CV-00049-JRG, Complaint, Dkt. 1 (E.D. Tex. Jan. 26, 2024)
2014	<i>Mullen Industries LLC v. Samsung Elecs. Co., Ltd.</i> , Case No. 2:24-CV-00049-JRG (E.D. Tex.), Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc.’s Amended Invalidity Contentions
2015	Reserved
2016	Excerpt from <i>Mullen Industries LLC v. Samsung Elecs. Co., Ltd.</i> , Case No. 2:24-CV-00049-JRG (E.D. Tex.), Non-Party Google LLC’s Objections and Responses to Mullen’s Document Subpoena
2017	USPTO Director’s Brief in <i>Apple Inc. v. Vidal</i> , No. 5:20-cv-06128-EJD (N.D. Cal. Sept. 21, 2023)

2018	USPTO Director's Brief in <i>Apple Inc. v. Vidal</i> , No. 2024-1864 (Fed. Cir. Oct. 16, 2024)
2019	Plaintiff-Appellants Brief in <i>Apple Inc. v. Vidal</i> , No. 2024-1864 (Fed. Cir. Aug. 5, 2024) (with Appx. containing <i>Apple Inc. v. Vidal</i> , No. 5:20-cv-06128-EJD, Order Denying Plaintiffs' Renewed Motion for Summary Judgment; Granting Defendant's Motion for Summary Judgment (N.D. Cal. Mar. 31, 2024))
2020	<i>Samsung Display Co., Ltd. v. Pictiva Displays Int'l Ltd.</i> , IPR2024-00855, Paper 13, Director Review Decision (PTAB Jan. 10, 2025)
2021	Centripetal - Public Comment on Advanced Notice of Proposed Rulemaking (ANPRM) Regarding Discretionary Institution Practices
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2023	Pharmaceutical Research and Manufacturers of America (PhRMA) - Public Comment on Advanced Notice of Proposed Rulemaking (ANPRM) Regarding Discretionary Institution Practices
2024	Alliance of U.S. Startups and Inventors for Jobs (USIJ) - Public Comment on Advanced Notice of Proposed Rulemaking (ANPRM) Regarding Discretionary Institution Practices
2025	American Intellectual Property Law Association (AIPLA) - Public Comment on Advanced Notice of Proposed Rulemaking (ANPRM) Regarding Discretionary Institution Practices

Patent Owner Mullen Industries LLC (“Patent Owner”) submits this Preliminary Response to the Petition for *inter partes* review IPR2025-00369 (“Petition”) of U.S. Patent No. 11,246,024 (the “’024 Patent”) filed by Petitioners Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Google LLC’s (“Petitioners”).

I. INTRODUCTION

The Board should deny institution of the Petition under 35 U.S.C. § 314(a) because the Petition fails establish invalidity of any challenged claim 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 1-4, the Petition fails to establish anticipation or obviousness of a system capable of determining a second wireless device does not have location access rights for a first wireless device, receiving a request from the second wireless device for location access rights assignment by the first wireless device, receiving from a first wireless device an assignment of location access rights for a second wireless device, and storing location access rights. ’024 Patent, Claim 45. The Petition attempts to cure deficiencies in the cited references with excessive reliance on conclusory expert testimony. 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.

As addressed in full in Patent Owner's Discretionary Denial Briefing, the imminent trial in the underlying district court litigation will resolve the invalidity disputes at issue in this Petition, and therefore institution of this Petition is a waste of valuable PTAB resources. Paper 12. These considerations, in addition to the weakness of Petitioners' unpatentability challenges, and excessive reliance on expert testimony, warrant denying institution of the Petition.

II. BACKGROUND

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 '024 Patent and the sole member and founder of the Patent Owner Mullen Industries LLC. Patent Owner filed the underlying district court case more than a year ago in January 2024 to seek remedies for Petitioner Samsung's unlawful use of Mr. Mullen's patented technologies, including but not limited to with regard to the '024 Patent.

Mr. Mullen disclosed in U.S. Application No. 11/841,765 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 itself grant a permission for another wireless device to access location information about that location—all of this more than 18 years *before* Samsung released its Samsung SmartThings Find technology containing the same features. EX2001; EX2002.

III. ARGUMENT

A. Grounds 1-4 Of The Petition Are Weak on the Merits and Fail To Establish Obviousness of Any Claim

Each of the Grounds¹ of the Petition is directed to independent Claim 45 of the '024 Patent, or a claim dependent on Claim 45.

Among other things, as relevant to this Preliminary Response with respect to the weakness of the invalidity grounds, Claim 45 recites a remote system capable of receiving location requests from one device for another, determining location access rights between the two devices, and receiving requests from one device for an assignment of location access rights for another device. '024 Patent, Claim 45. These

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

summarized features of Claim 45 addressed in this Preliminary Response are seen in the below emphasized text of Claim 45. Claim 45 specifies several additional features, as seen below in the Claim, as do corresponding dependent claims 46-78, which would need to be addressed if there were institution.

Limitation	Claim Language
[pre]	A system comprising:
[a]	a remote system comprising a server, the remote system capable of communicating with a first wireless device and a second wireless device over a communications network and further capable of:
[b]	<i>receiving a request for a location of said first wireless device from said second wireless device;</i> ²
[c]	<i>determining that said second wireless device does not have location access rights for said first wireless device;</i>
[d]	<i>after determining that said second wireless device does not have said location access rights for said first wireless device, receiving a request from said second wireless device that said location access rights be assigned for said second wireless device by said first wireless device;</i>
[e]	receiving from said first wireless device an assignment of said location access rights for said first wireless device to said second wireless device;
[f]	storing said location access rights; and
[g]	providing said location to said second wireless device dependent upon said location access rights.

The Board should decline to institute Grounds 1-4 at least because the cited references fail to teach or suggest at least the following claim limitations of independent Claim 45:

² All emphases added herein except where otherwise noted.

- “receiving a request for a location of said first wireless device from said second wireless device”;
- “determining that said second wireless device does not have location access rights for said first wireless device”;
- “after determining that said second wireless device does not have said location access rights for said first wireless device, receiving a request from said second wireless device that said location access rights be assigned for said second wireless device by said first wireless device”.

The Petition fails to show that skilled artisans would have understood that Randall or Sheha in combination with Futagami and/or Darling teach or suggest at least these limitations, and accordingly fails to show the cited references teach or suggest Claim 45 or dependent claims 46-78.

1. Grounds 1 and 2 Based on Randall Fail to Demonstrate a Reasonable Likelihood that Petitioner Will Prevail on Any Claim

Petitioner does not establish a reasonable likelihood that Claim 45 of the '024 Patent is unpatentable based on Randall. The Petition fails to show that skilled artisans would have understood that Randall teaches or makes obvious at least the following limitations of Claim 45:

- “receiving a request for a location of said first wireless device from said second wireless device”; and
- “after determining that said second wireless device does not have said location access rights for said first wireless device, receiving a request from said second wireless device that said location access rights be assigned for said second wireless device by said first wireless device”.

a. The Petition Fails to Demonstrate That Randall, Alone

***or in Combination with Darling Teaches or Renders
Obvious “Receiving a Request For a Location of Said
First Wireless Device From Said Second Wireless
Device”***

This limitation in Claim 45 requires that the remote system be capable of receiving a request from a second wireless device for a location of a first wireless device. Petitioners fail to demonstrate that Randall alone or in combination with Darling teach or render obvious 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 does not subscribe to the service that allows location tracking, or does not designate this location information for Bob, or does not give Bob her ADS number, Bob cannot see Alice’s location. This multi-step process, originating with Randall’s

equivalent “first wireless device” (i.e., Alice’s device) never involves a location request, and is wholly divorced from Claim 45’s requirement that a second wireless device (i.e., Bob’s device) *requests* a location of a first wireless device (i.e., Alice’s device). This process does not contemplate Bob ever requesting Alice’s location—it contemplates the inverse where Alice provides her location to Bob without his request.

Petitioners point to Randall’s disclosure that “location information” can be transmitted “to the i-server” which enables “*authorized people* to track the location of the GPS wireless information” from the owner of the wireless device. Randall, 24. Again, this is referring to Alice—the first device—preemptively assigning Bob the ability to view certain information associated with her device, thereby *preemptively authorizing* Bob to view location information. At no point in this disclosure does Randall teach or suggest Bob’s device requesting a location of Alice’s device—it is Alice preemptively assigning to Bob the right to view her location. Randall is explicit in this regard: “the server recogni[z]es Bob’s device and determine[s] the database access rights *which Alice has given him.*” Randall, [0067] (emphases added). Petitioners rely heavily on the testimony of declarant Williams to remedy this fundamental difference between this claim element and Randall’s system. However, Williams’ testimony in the cited paragraphs of his declaration are

purely a parroting of the same arguments made in the Petition, without any corroborating explanation or detail. EX1003 [0128]-[0130].

Petitioner implicitly concedes that Randall does not teach or suggest this limitation by incorporating Darling. Pet., 15. Darling does not cure this deficiency. Darling refers to location information for Darling’s “second wireless device” being transmitted to the server regardless of whether a request has been received or not. Darling, 2:1-3 (“the invention provides a method of communication information ... the method comprising: receiving at a server, location information for a first user[.]” Thus, Darling’s first device sends location information with or without a “request” from a second device. Much like Randall, Darling’s “second device” has to first opt into having its location “being stored” on Darling’s server—otherwise location information is not even collected, never mind requestable by a first device. Darling, 3:9-12.

Further, Williams completely ignores the Darling’s initial step of sending location information to the server prior to any request, which renders his conclusion that “Darling reinforces Randall’s teaching” conclusory, unsupported, and contradictory to the express language of Darling. *Id.*, [0132]. Williams’ conclusion points to no facts or technical reasoning for this conclusion and is therefore unsupported testimony which should be given no weight. 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.”).

For these reasons alone, the Petition and Randall (alone or in combination with Darling) fails to teach or suggest claim 45, or any claim dependent thereon.

b. The Petition Fails to Demonstrate that Randall, Alone or in Combination With Darling or Futagami Teaches or Render Obvious “After Determining That Said Second Wireless Device Does Not Have Said Location Access Rights For Said First Wireless Device, Receiving a Request From Said Second Wireless Device That Said Location Access Rights be Assigned For Said Second Wireless Device by 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 remote system receives a request from the second wireless device asking that the first wireless device assign location access rights to the second wireless device. Petitioner does not and cannot alleged that Randall teaches or suggests this claim element. Instead, Petitioner improperly combines Randall with the inapposite disclosures of Futagami and Darling. However, neither reference cures this deficiency.

Futagami also does not teach or suggest receiving a request from a second wireless device that location access rights be assigned by a first wireless device after determining the second wireless device does not have location access rights. Indeed, Futagami only contemplates using its system for “names, telephone numbers,

addresses, dates of birth, and electronic mail address”—***not location information or location access rights***. 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. Petitioners disregard these critical differences between Claim 45 and Futagami.

Moreover, the Petition’s motivation to combine Randall and Futagami is woefully deficient. In cursory fashion, the Petition alleges that skilled artisans “would have been motivated to implement [Futagami’s] request capability [with Randall] to provide a user (Bob) with a way to obtain location access rights from another user (Alice) if he has not already been given” those rights. Pet., 21. Putting aside the nearly express admission that Randall does not disclose element 45[b] (“receiving a request for a location”), the alleged motivation completely ignores that Randall’s goal of providing means for “Alice, who is publishing” only the information she intends for third parties to access. Randall, [0053]. Randall is consistent in its goal of providing a service for “publishing content to a group” and putting full control of data accessibility with the owner—not permitting third parties to request access to information Alice does not want them to have. *Id.*, [0244], *see also id.* [0137] (“When creating and manipulating an Identity the user must be able

to categorise data clearly along the lines of Public and Private”), [0140] (“The user must be able to determine who is viewing their Public data”), [0495] (“If Bob has no specific access rights, then he is returned just to Alice’s public information”). Simply put, there is no motivation to water down the strict access control disclosures and goals of Randall with Futagami’s contact information retrieval service.

Williams’ declaration does not explain why a skilled artisan would have been motivated to combine Randall’s system with the goal of publishing, with Futagami’s contact information retrieval. Instead, Williams’ cursorily alleges the references “discuss overlapping, complementary, and beneficial techniques” and that “Futagami’s technique” that “allows the requesting user to” “disturb the other user” or not would be desirable for incorporation with Randall. EX1003, [0120]. Randall is about the intentional publication of specific information to discrete persons, not allowing third parties to request more information than what the owner intentionally allowed the third party to view. Randall teaches away from any option to be disturbed, and contrarily presupposes its owners only give out the information they preemptively choose.

Randall and Futagami are also technically very different and incompatible, and neither the Petition, nor Williams explain how a technical combination of the references is feasible, never mind that a skilled artisan would have expected success in combining them. *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). 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 contact 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 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]. There is no place in Randall’s process for Futagami’s “keyword” search functionality, as Randall is predicated on the premeditated exchange of ADS numbers for even viewing an owner’s profile.

The Petition’s incorporation of Darling is similarly unavailing at least because the Petition does not even address a specific motivation to combine, nor a reasonable expectation of success in doing so for Darling and Randall for this claim element.

Pet., 21-22. Instead, the Petitioner merely cites to two paragraphs from the declaration of Williams where he parrots nearly identical language from the Petition. EX1003, [0145]-[0146].

For these reasons too, the Petition and Randall (alone or in combination with Futagami or Darling) fails to teach or suggest claim 45, or any claim dependent thereon.

The Board should reject Petitioners' hindsight attempt to reinterpret Futagami as teaching or suggesting something more. That the security advantages provided by the '024 Patent's claimed inventions are only disclosed by the '024 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 the Randall Grounds. *See 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 “we agree that Petitioner’s showing is less than compelling, as it rests tenuously upon apparent logical leaps”).

2. Grounds 3 and 4 Based on Sheha Fail to Demonstrate a Reasonable Likelihood that Petitioner Will Prevail on Any Claim

Petitioner does not establish a reasonable likelihood that Claim 45 of the ’024 Patent is unpatentable based on Sheha. The Petition fails to show that skilled artisans would have understood that Sheha teaches or makes obvious at least the following limitations of Claim 45:

- “determining that said second wireless device does not have location access rights for said first wireless device”; and
- “after determining that said second wireless device does not have said location access rights for said first wireless device, receiving a request from said second wireless device that said location

access rights be assigned for said second wireless device by said first wireless device”.

a. The Petition Fails to Demonstrate that Sheha, Alone or in Combination with Darling and/or Futagami Teaches or Renders Obvious “Determining That Said Second Wireless Device Does Not Have Location Access Rights for Said First Wireless Device”

This limitation in Claim 45 requires that the remote system be capable of determining that the second wireless device does not have location access rights for the first wireless device. The Petition fails to demonstrate that Sheha alone or in combination with Darling and/or Futagami teach or render obvious this limitation.

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 45. 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., 63-64. First, Sheha neither says nor suggests Petitioners’ manifested “teaching.” *Id.*, 63. 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. Petitioners’ 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. EX1003, [0319].

Petitioners’ reliance on Sheha’s reference to a “group database” is similarly unavailing. Sheha’s 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 or suggests *determining* that a specific third-party device (“second wireless device”) lacks access rights as Claim 45 requires. Petitioners’ mischaracterization of Sheha’s system is unsupported and fails to teach or render obvious this claim element, and

Petitioners' recycled arguments regarding the meaning of this claim element fare no better this time around. Pet., 64-65 (mischaracterizing Patent Owner statements in IPR2023-00149, 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., 65. 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.*, 65-66. The Petition relies on Sheha's employ of "using telephone information from 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. William's declaration to support this conclusion, which again merely parrots the Petition's arguments without more. *Id. citing* EX1003, [0325].

Indeed, the Petition's incorporation of Darling and Futagami implicitly concedes that Sheha does not teach or suggest this claim limitation. Pet., 66-67. 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.*

Moreover, the Petition provides *absolutely no* explanation for “implementing into Sheha’s system” the disclosures of Darling and Futagami. Pet., 67. 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 [0330]-[0331] of the declaration of Williams, which again *contains no explanation* of what specific combination is being made, how this combination teaches or suggests the “determining” portion of this claim element, and merely incorporates the combination of Futagami and Darling with *Randall*—not the primary reference of grounds 3 and 4, Sheha.

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 disclosures of Futagami or Darling. Instead, these arguments are presented as a “pick and choose” different elements of different references.

Petitioners’ 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. EX1003, [0308]. 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.*, [0309]. 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 45, or any claim dependent thereon.

b. The Petition Fails to Demonstrate that Sheha Alone or in Combination With Darling or Futagami Teaches or Render Obvious “After Determining That Said Second Wireless Device Does Not Have Said Location Access Rights For Said First Wireless Device, Receiving a Request From Said Second Wireless Device That Said Location Access Rights be Assigned For Said Second Wireless Device by Said First Wireless Device”

This limitation first recites determining that the second wireless device does not have location access rights for the first wireless device, which as demonstrated in §III.A.2.a, the Sheha grounds do not teach or suggest. This limitation further recites that the remote system receives a request from the second wireless device asking that the first wireless device assign location access rights to the second wireless device. Sheha does not teach or suggest this limitation.

Sheha’s disclosures do not describe a request from a second wireless device requesting an assignment of location access rights that a second device change its privacy or permission settings. Instead, Sheha indicates that position information is only provided according to a sender’s designated permissions:

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.” Sheha, 5:3-9 (emphasis added)

The calling local mobile device can also choose not to reveal its local position to the destination remote mobile device for privacy purposes at anytime and can conversely enable position transfer **permissions** at anytime and for any period of time or as long as the call is active.” *Id.*, 15-19 (emphasis added)

The mobile device location information can be provided only, due to **privacy settings**, if the user configured the mobile device **18a** to allow position information [] while calls are received. In another embodiment, the **privacy configuration** also includes settings such as the option to ***never send position information, or to send position information while receiving and/or sending calls, and whether the transfer of position information should be allowed only for an instance or for a given period of time.*** This provides the user the opt-in capability for position information transfer. *Id.*, 10:17-26 (emphasis added)

“The remote user that is logged on to a wireless or landline position-enabled computing device is verified by the networked server’s authentication and authorization protocol procedures. The server queries the remote party of the position request for **permission** on whether the position request can be granted based on criteria such as duration of request. If granted, both parties have access to each other’s position information, which can be used for real-time driving directions or collaboration purposes.” *Id.*, 5:24-33 (emphasis added)

These disclosures do not involve requesting access rights – they disclose position information that will only be provided according to rules set up by the owner of position information.

Sheha does not explain what happens if permission is denied. Sheha explains what happens if permission is granted and that is all. For example, the embodiment relied on by the Petition at column five, line 21-46 does not teach that after the target device denies a request for position information, the requesting device sends a request to the remote system asking for location access rights for the target device. *Id.*, 5:31-33. Petitioners' allegations are unsupported and "rely on nothing more than impermissible hindsight to arrive at the claimed invention." *SFC Co., Ltd. v. LG Chem. Ltd.*, IPR2020-00178, Paper 16, at 37-39 (PTAB May 29, 2020).

The Petition's hypothesizing that the server can "quer[y] the remote party of the position request for permission" on whether the position request can be granted somehow relates to a request for access rights is flatly incorrect. Pet.67-68. Querying the target for permission to receive position information is *not a request for access rights* – it is a request for position information, akin to the preceding clause in Claim 45 of the '024 Patent, namely "receiving a request for a location of said first wireless device from said second wireless device." Sheha does not disclose two different types of requests as recited in Claim 45, i.e., an initial request for the location of the first wireless device *and then* a request for access rights. Sheha discloses one type of request, i.e., a request for position information. Simply put, if the permission or privacy settings do not allow for disclosing position information, Sheha provides no methodology for the caller to request position information, never mind a change in

location access rights. The Petition's continued reliance on the same provisions of Sheha are unavailing.

Implicitly conceding that Sheha does not teach or suggest this claim limitation, the Petition again incorporates the combination made with *Randall* and Futagami/Darling for a *Sheha*-based combination. Pet., 67 (pointing to rationales from §VI.E.1.d of the Petition, Ground 1: Randall+Darling+Futagami). For the same reasons Futagami nor Darling cure Randall's deficiencies, the same goes for Sheha in combination with Futagami and/or Darling. Further, as discussed in §III.A.2.a, the technologies of Futagami and Darling are wholly unsuitable for combination with Sheha's phone number system. For these reasons alone, the Petition and Sheha fail to teach or suggest claim 45, or any claim dependent thereon.

Apart from failing to provide an actual combination of *Sheha* with secondary references Futagami and Darling, 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 [45D]." *Id.* (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 “to allow for obtaining location access rights while controlling whether to disturb the target user with an access request.” EX1003, [0331]. 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 and Darling stops at “similarities among the described systems” and that the “three references discuss overlapping, complementary, and beneficial techniques for controlling access to personal information.” EX1003, [0309]. 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 or Darling) fails to teach or suggest claim 45, or any claim dependent thereon.

The Board should reject Petitioners’ hindsight attempt to reinterpret Sheha as teaching or suggesting something more. That the security advantages provided by the ’024 Patent’s claimed inventions are only disclosed by the ’024 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 the Sheha Grounds. *See 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 “we agree that Petitioner’s showing is less than compelling, as it rests tenuously upon apparent logical leaps”).

IV. CONCLUSION

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

Dated: April 16, 2025

Respectfully submitted,

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CERTIFICATE OF WORD COUNT

The undersigned certifies that the portions of the above-captioned PATENT OWNER'S PRELIMINARY RESPONSE specified in 37 C.F.R. § 42.24 have 6,324 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 16, 2025

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CERTIFICATE OF SERVICE

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