

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD., AND
SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioner

v.

KEYLESS LICENSING LLC,
Patent Owner

Case IPR2025-00529
U.S. Patent No. 11,503,144

**PATENT OWNER PRELIMINARY RESPONSE
UNDER 37 C.F.R. § 42.107(a)**

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
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PATENT OWNER'S UPDATED EXHIBIT LIST

Exhibit No.	Description
2001	Amended Docket Control Order [43], <i>Keyless Licensing LLC v. Samsung Electronics America, Inc.</i> , Case No. 2:24-cv-00464 (E.D. Tex. Jan. 10, 2025)
2002	Federal Court Management Statistics (December 31, 2024)
2003	Defendants' Invalidity Contentions, <i>Keyless Licensing LLC v. Samsung Electronics America, Inc.</i> , Case No. 2:24-cv-00464 (E.D. Tex. Jan. 29, 2025)
2004	Defendants' Subject Matter Eligibility Contentions, <i>Keyless Licensing LLC v. Samsung Electronics America, Inc.</i> , Case No. 2:24-cv-00464 (E.D. Tex. Jan. 29, 2025)
2005	Complaint [1], <i>Keyless Licensing LLC v. Samsung Electronics America, Inc.</i> , No. 2:24-cb-00464 (E.D. Tex. June 20, 2024),
2006	Order Denying Motion to Stay [52], <i>Keyless Licensing LLC v. Samsung Electronics America, Inc.</i> , No. 2:24-cb-00464 (E.D. Tex. May 30, 2025)
2007	Patent Trial and Appeal Board Appeal Statistics: April 2025, USPTO (Apr. 30, 2025), https://www.uspto.gov/sites/default/files/documents/fy2025_appeal_stats_april2025.pdf
2008	FAQs for Interim Processes for PTAB Workload Management, USPTO (Mar. 26, 2025), https://www.uspto.gov/patents/ptab/faqs/interim-processes-workload-management
2009	Plaintiff's Opposition to Samsung's Motion to Stay Pending <i>Inter Partes</i> Review [47], <i>Keyless Licensing LLC v. Samsung Electronics America, Inc.</i> , No. 2:24-cb-00464 (E.D. Tex. May 15, 2025)

Exhibit No.	Description
2010	Protective Order [41], <i>Keyless Licensing LLC v. Samsung Electronics America, Inc.</i> , No. 2:24-cb-00464 (E.D. Tex. Oct. 14, 2024)
2011	“T65 Take you straight to where the action is,” Ericssoners, accessed at https://ericssoners.wordpress.com/2016/11/21/t65/ (Sept. 4, 2001), last accessed July 7, 2025
2012	“Ericsson T65 pictures,” GSM Arena, accessed at https://www.gsmarena.com/ericsson_t65-pictures-266.php , last accessed July 7, 2025
2013	U.S. Patent No. 6,035,180 to Kubes et al.

I. INTRODUCTION

The Board should deny institution of *inter partes* review because Petitioner has not met its burden to show a reasonable likelihood that any of claims 1-20 (the “challenged claims”) of U.S. Patent No. 11,503,144 (“the ’144 patent”) are unpatentable. The Petition presents five invalidity grounds, none of which presents a compelling reason demonstrating that the challenged claims of the ’144 patent are unpatentable.

Petitioner relies on Pensjo as the primary reference in each of Grounds 1-5. But Pensjo is a deeply flawed reference. Its description is severely limited, with a brief specification of just fifteen paragraphs. And its figures show only components relevant to the disclosed pen detection mechanism—the focus of the reference. Indeed, Pensjo is silent on many components that were commonly found in a mobile device and required for it to properly operate. Petitioner improperly relies on these missing components and Pensjo’s lack of detail to allege that Pensjo discloses that mobile device does *not* include physical keys on the front surface and that none of the components noticeably extend out from the housing. However, for recited negative limitations, mere silence in a reference is insufficient to demonstrate that the claimed feature is not present.

Petitioner further leans into Pensjo’s lack of detail to suggest that Pensjo’s display practically covers the entire front surface of the device housing as claimed.

However, Petitioner ignores the common components that are missing from Pensjo's device that would constrain the display to the areas shown in the figures and prevent the display from practically covering the entire front surface. Further, Petitioner improperly relies on relative sizes in Pensjo's figures even though it does not indicate the figures are to scale.

None of the secondary references, Benoit, Kobayashi, and Jambhekar, cure Pensjo's numerous deficiencies, nor does Petitioner suggest that they do.

For at least these reasons, Petitioner has not met—and cannot meet—its burden to show a reasonable likelihood that the challenged claims are unpatentable. Proceeding with such a facially flawed Petition would be an inefficient use of Board resources. Accordingly, the Board should deny institution.

II. THE '144 PATENT

A. The '144 patent describes a novel way of entering data on to a handheld device.

Before the '144 patent's invention, existing systems for data input typically used multi-press systems on a standard telephonic numeric keypad, miniaturized QWERTY keypads, and/or voice recognition. EX1001, 1:31-50. The '144 patent improved on these previous systems by providing data entry systems that are fast, reliable, and efficient, while also reducing—or removing completely—physical keys on the device used to input data. *Id.*, 1:67-2:3, 7:25-31, 8:65-9:2, 98:2-8, FIG. 68a.

For example, the '144 patent describes implementing the data entry system on a device using as little as four keys for all alphabetical and numerical characters of the language. *Id.*, 91:40-45, FIG. 65a. Additionally, “instead of physical keys (e.g. 6501-6506), virtual (e.g. soft keys) may be defined on a display unit” of the device. *Id.*, 91:49-52. As shown in Figure 68a, the disclosed data entry system allows the electronic device to include a large display that “practically covers the entire front surface of said housing.” *Id.*, claim 1; *see also id.*, claims 9, claim 15, 98:2-6.

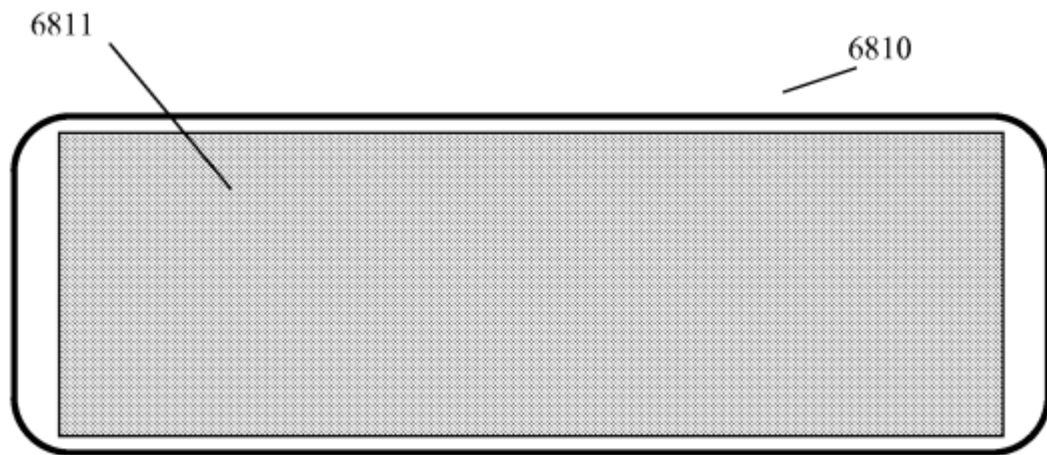


Fig. 68a

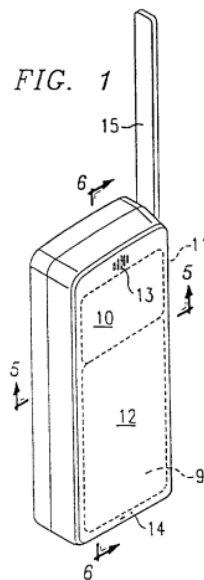
EX1001, FIG. 68a.

The '144 patent further describes using sweeping actions to perform multiple functions on the electronic device. The sweeping actions can be used to enter words by sweeping a finger or pen over one or more zones on the device that correspond to certain characters. *Id.*, 80:52-81:61, FIGS. 56a and 56b.

Furthermore, the '144 patent describes mirroring a plurality of applications and icons from a computer onto a display of a handheld device, and navigating to different displayed icons through input on the device. *Id.*, 31:4-19, FIG. 19.

B. Prosecution History

The '144 patent was thoroughly examined—the Examiner issued three Office Actions. EX1004, 330-337, 366-378, 534-549. In the only Office Action that applied references with a priority date before the '144 patent, the Office rejected claim 1 as allegedly being anticipated by US 6,035,180 to Kubes. *Id.*, 332-333. Kubes is similar to references asserted in Petitioner's grounds. For example, Kubes includes display areas 9, 10, a “larger aperture 13” for a speaker above the display, and a “smaller aperture 14” for a microphone below the display. EX2013, 4:30-35, 7:50-8:41, FIG. 1 (reproduced below).



EX2013, FIG. 1.

Patent Owner successfully amended independent claim 1 to overcome the rejection based on Kubes, and the Office subsequently allowed the application. EX1004, 357-363, 578-584.

C. Person of Ordinary Skill in the Art (POSA)

For purposes of this Preliminary Response, Patent Owner applies Petitioner's level of skill for a person of ordinary skill in the art (POSA). Pet., 16. Patent Owner reserves the right to contest Petitioner's level of skill for a POSA should trial be instituted.

D. Claim Construction

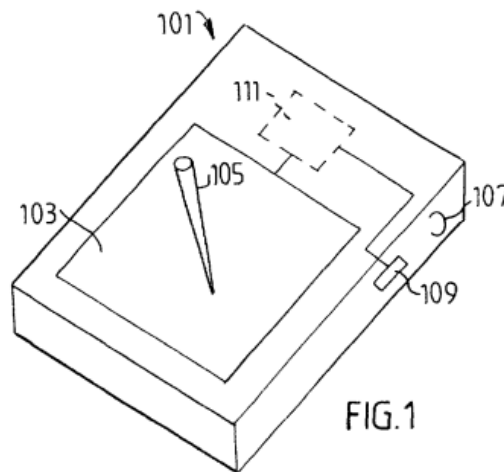
For purposes of this Preliminary Response, Patent Owner agrees the *Phillips* standard applies. See Pet., 13-14. No express construction is required for the Board to deny institution. See *Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019) ("The Board is required to construe 'only those terms...that are in controversy, and only to the extent necessary to resolve the controversy.'"). (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)). Patent Owner reserves the right to contest Petitioner's implicit or explicit constructions should trial be instituted.

III. OVERVIEW OF THE ART APPLIED IN THE PETITION

A. Pensjo

Pensjo is directed to a PDA or smart phone with a front face that has a display 103, 303, 503. EX1021, ¶[0001], FIGS. 1, 3, and 5. Pensjo's short

specification—just fifteen paragraphs—only describes features surrounding a pen detection system 109. *Id.*, ¶¶[0004]-[0006], [0008]-[0009]. The pen detection system 109 adjusts an appearance of a user interface on a display screen 103 of the device when a pen 105 is removed from a pen holder 107 and detected by the mechanism 109. *Id.*, ¶¶[0004], [0009], FIGS. 1 and 2.



EX1021, FIG. 1.

Pensjo's brief specification only discusses five components of device 101: display 103, pen 105, pen holder 107, detecting mechanism 109, and control unit 111. *See* EX1021, ¶¶[0008]-[0009], FIG. 1. Accordingly, Pensjo is narrowly focused on the pen detection mechanism 109 and is silent regarding any other component (e.g. a battery, a CPU, physical buttons/keys, a microphone, a speaker, etc.) that were commonly found on portable electronic devices at the time.

IV. PENSJO DOES NOT DISCLOSE THAT “SAID MOBILE PHONE DEVICE DOES NOT INCLUDE A PHYSICAL KEY ON THE FRONT SURFACE.”

Independent claim 1 recites that “said mobile phone device *does not include a physical key on the front surface,*” and independent claim 9 recites that “said front surface of the mobile phone *does not have a physical button.*” EX1001, Claims 1 and 9. These negative limitations expressly recite that a feature—a physical key/button—is *not* included on the front surface of the housing. Petitioner relies on Pensjo for this feature in Grounds 1 and 3 (and Grounds 2 and 4 based on their dependency on Grounds 1 and 3). Pet., 38-40, 73-75. But Pensjo does not affirmatively disclose that physical keys are expressly or purposefully absent from the front surface of Pensjo’s device for at least three reasons: (1) Pensjo’s silence regarding physical keys does not demonstrate they are affirmatively absent from the device; (2) Pensjo’s figures would not reasonably teach a POSA that physical keys are not included on the front surface; and (3) Pensjo does not discuss any reason to remove physical keys from a front surface of a mobile device. Thus, the Petition is facially flawed, and the Board should deny institution.

A. Petitioner’s reliance on mere silence in Pensjo is legally insufficient to show that Pensjo affirmatively discloses a mobile device that does *not* include a physical key on the front surface.

Petitioner improperly relies on Pensjo’s mere neglect to show and describe common components (required for the device to operate) in its figures and

specification in an attempt to demonstrate that Pensjo purposefully removes physical keys from the front surface of the device. Pet., 38-40, 73-75. Petitioner's approach is directly contrary to legal precedent.

Indeed, claims 1 and 9 recite negative limitations—that the mobile device *does not include* a physical key/button on the front surface. Thus, Petitioner must show something more than mere silence in a reference to prove that the negative claim limitations are disclosed in the prior art. *See* MPEP 2173.05(i) (“The mere absence of a positive recitation is not the basis for an exclusion.”) Indeed, the Federal Circuit has stated that for negative limitations “[s]ilence [] would not by itself suffice for the Petitioner to meet its burden to prove, by a preponderance of the evidence,” that a claimed feature is not present in a prior art reference. *See Int’l Bus. Machs. Corp. v. Iancu*, No. 2018-1065, 15 (Fed. Cir. Apr. 1, 2019) (nonprecedential). Yet Petitioner’s approach here is precisely what the law forecloses—relying on silence itself for an expressly recited negative limitation.

The reference applied in *Int’l Bus. Machs. Corp. v. Iancu* was silent on the content of an accessCard being used to allegedly show a claimed “single-sign-on operation.” *Id.* The Board found this silence supported a finding that there was no user authentication action. *Id.* But the Federal Circuit found that the Board erred in its decision and emphasized that the Board “simply could not tell one way or the other whether the accessCard contains credentials” and that “[s]ilence [] would not

by itself suffice for the Petitioner to meet its burden to prove, by a preponderance of the evidence, that there was no user authentication action in this scenario.” *Id.*

Similarly here, Pensjo’s silence regarding physical keys does not demonstrate they are affirmatively absent from the device. Indeed, Pensjo’s limited disclosure is narrowly focused on a pen detection mechanism 109. EX1021, Abstract, ¶¶[0004], [0009], FIG. 1. Pensjo discloses a portable electronic device 101 that adjusts the appearance of a user interface on a display screen 103 when a pen 105 is removed from a pen holder 107 and detected by the mechanism 109. *Id.*, ¶¶[0004], [0009], FIGS. 1 and 2. But Pensjo’s short specification—just fifteen paragraphs—only describes features surrounding the pen detection system. It is silent regarding any other components that were commonly found on portable electronic devices. Indeed, Pensjo only discusses five components of the portable device 101: the display 103, the pen 105, the pen holder 107, the detecting mechanism 109, and the control unit 111. *Id.*, ¶¶[0008]-[0009]. Pensjo is silent about physical buttons/keys, and certainly does not discuss intentionally removing or replacing physical buttons or keys from a front surface of the housing.

Moreover, a POSA would have understood that a portable electronic device, such as disclosed in Pensjo, included many more components and functions than simply detecting pen movement and changing a user interface. For example, similar portable devices around the time of Pensjo’s filing included a battery, a

CPU, an antenna, a microphone, a speaker, a power button, a data or power socket, volume buttons, a home screen button, etc. But Pensjo's specification and drawings are similarly silent on any of these common features. Yet according to Petitioner's logic, Pensjo would disclose that its electronic device does not have a battery. The absurdity of this notion proves the point: a reference's mere silence regarding a particular feature does not support that it affirmatively discloses its absence. Pensjo's lack of detail regarding common features is not because the common features are not present in the device, as Petitioner suggests, but because Pensjo's specification is narrowly drafted to describe only features of the specific invention—the pen detection mechanism.

Indeed, paradoxically, Petitioner relies on these undisclosed common features in their arguments against independent claim 9 in view of Pensjo. *See* Pet., 72-73. Despite Pensjo's silence on a microphone and speaker—like its silence on physical keys—Petitioner argues that “[a] POSITA would have understood that Pensjo's smart phone or mobile telephone at the time of the invention included a microphone and speaker for conducting phone conversations.” Pet., 72, 73. So, under Petitioner's own logic, Pensjo would also include physical keys because they were common to mobile devices at the time.

Further still, not only is Pensjo silent regarding many common features of a portable electronic device, some components closely related to the invention, like

pen holder 107, are “not shown” in some of the figures. EX1021, ¶¶[0008], [0010], [0012]. Pensjo’s figures are basic, showing only the core components of the invention, in places not even showing those, and without showing other components that would commonly be found on or in a mobile device. Moreover, Pensjo actually implies that its device includes physical buttons. Pensjo discusses that when the pen 103 is placed in the pen holder 105, the device may enter “a passive state when the *screen display 103 is not responsive to input by touching.*” *Id.*, ¶[0009]. But in the passive state, Pensjo’s device may still “be capable of displaying incoming calls or messages, calendar triggered reminders etc.” *Id.* Pensjo does not disclose that the pen must be used to answer the call when the screen is “not responsive,” so Pensjo’s device must include another component—like a physical button—to be able to answer the call. Thus, despite Pensjo’s silence on multiple common components, Pensjo implies that additional components, such as physical buttons, are also included.

Therefore, the absence of features in Pensjo’s specification and/or figures cannot be relied upon as an affirmative disclosure that the feature is expressly or purposefully absent from Pensjo’s device.

B. Pensjo’s figures would not reasonably teach a POSA that its mobile device does not include a physical key on the front surface.

The MPEP states that “the description of the article pictured can be relied on, in combination with the drawings, for what they would reasonably teach one of

ordinary skill in the art.” MPEP § 2125 (*citing In re Wright*, 569 F.2d 1124, 1127-28, 193 USPQ 332, 335-36 (CCPA 1977)).

Petitioner’s arguments rely heavily on what Pensjo does not show in its basic figures. Pet., 38-40, 73-75 (stating “Pensjo’s disclosure of virtual keyboard’s *[sic]* and failure to disclose any physical keyboard would have indicated to a POSITA that Pensjo is disclosing a mobile phone that does not have a physical keyboard to enter text.” (emphasis in original omitted)). But this reliance is unreasonable in view of what the figures in Pensjo would teach a POSA and directly contradicts other arguments Petitioner makes.

As discussed above, Pensjo’s short specification discusses a total of only five components of device 101. EX1021, ¶¶[0008]-[0009]. But a POSA would have understood, of course, that Pensjo’s device requires more than just the five listed components to function and properly operate. Indeed, a POSA would have understood that without any express description otherwise, Pensjo’s mobile device would reasonably include common features to operate as a mobile device, for example, a battery, a CPU, an antenna, a microphone, a speaker, a power button, a data or power socket, volume buttons, a home screen button, etc. It also was common for devices like the one in Pensjo to include physical keys on a front surface of the housing to, for example, power the device on or off, dial a phone number, adjust the volume, and/or return the display to a home screen with a home

button. But Pensjo’s specification and drawings are silent on any of these common features. Pensjo’s lack of detail regarding common features would not reasonably teach a POSA that these features are missing from Pensjo’s device. Rather, a POSA would have understood that Pensjo’s lack of detail is because Pensjo’s specification is narrowly drafted to describe only features of the specific invention—the pen detection mechanism.

Further, Petitioner even relies on these undisclosed common features in their arguments against independent claim 9. *See* Pet., 72-73. Despite Pensjo’s silence on a microphone and speaker—like its silence on physical keys—Petitioner argues that “[a] POSITA would have understood that Pensjo’s smart phone or mobile telephone at the time of the invention included a microphone and speaker for conducting phone conversations.” Pet., 72, 73. Accordingly, even Petitioner acknowledges that Pensjo’s figures do not reasonably teach a POSA that common features are missing from the device, only that they are not shown or described by Pensjo’s brief specification and sparse figures.

Moreover, Pensjo even discusses that some components closely related to the invention, like pen holder 107, are “not shown” in some of the figures. EX1021, ¶¶[0008], [0010], [0012]. Pensjo’s figures are basic, showing only the core components of the invention, in places not even showing those, and without showing other components that were commonly part of a mobile device. Therefore,

Pensjo’s figures would not reasonably teach a POSA that these components are missing from the device, only that Pensjo brief specification does not describe them.

Petitioner selectively argues that because Pensjo does not discuss any of these common components—specifically, physical keys on the front surface of the device—the device in Pensjo does not include them. Pet. 38-40, 73-75. But this assertion is unreasonable in view of the figures and disclosure of Pensjo “for what they would reasonably teach one of ordinary skill in the art.” MPEP § 2125. Therefore, Petitioner’s reliance on the figures in Pensjo for not showing physical keys on a front surface of the device is improper.

C. Pensjo does not disclose any reason to remove physical keys from a front surface of a mobile device.

Finally, Petitioner exaggerates what Pensjo discloses in its attempt to arrive at the claimed negative limitation of a mobile device not including physical keys on the front surface. Petitioner alleges that “Pensjo teaches that the touchscreen includes a virtual keyboard, thus removing the need for a physical key.” Pet., 38-39, *citing* Pensjo, ¶¶[0005], [0009], [0011], [0014]. But Petitioner’s assertion is misleading and overstated. None of paragraphs Petitioner cites in Pensjo, nor the remainder of Pensjo’s specification for that matter, disclose or suggest removing a physical key, much less removing *all* physical keys from the front surface of the housing. The only “removal” discussion in the cited Pensjo paragraphs relates to

removing the pen from the pen holder to trigger the appearance of an alphabetic keyboard. *See* EX1021, ¶¶[0005], [0009], [0011], [0014]. Therefore, counter to Petitioner’s arguments, Pensjo does not disclose or suggest any reason or motivation to remove physical keys from a front surface of the housing as claimed.

* * *

For at least these reasons, Pensjo does not disclose or suggest that “said mobile phone device does not include a physical key on the front surface” and thus, does not disclose all the elements of independent claims 1 and 9.

Accordingly, Grounds 1-4 are deficient and the Board should deny institution.

V. PETITIONER IMPROPERLY RELIES ON MERE SILENCE IN PENSJO AND FAILS TO MEET ITS BURDEN TO SHOW THAT “NONE OF SAID COMPONENTS [OF THE DEVICE] NOTICEABLY EXTEND[] OUT FROM SAID HOUSING” AS CLAIMED.

Independent claim 1 recites that “said components of the mobile phone are integrated within said housing such that none of said components is noticeably extended out from said housing.” EX1001, Claim 1. Claims 14 and 19 that depend from independent claims 9 and 15, respectively, recite similar features. *Id.*, claims 9, 14, 15, and 19. The claimed negative limitation expressly recites that the components of the mobile device do not noticeably extend out from the housing. Petitioner relies on Pensjo for this feature in Grounds 1-3. Pet., 40-41, 62, 77. But Pensjo does not affirmatively disclose that the components of the device do not noticeably extend out from the housing. Thus, the Petition is facially flawed, and

the Board should deny institution.

Petitioner improperly relies on Pensjo's mere neglect to show and describe common components (required for the device to operate) in its figures and specification in an attempt to demonstrate that Pensjo purposefully does not include components that noticeably extend out from the housing. Pet., 40-41, 62, 77. Petitioner's approach is directly contrary to legal precedent.

Indeed, claims 1, 14, and 19 recite negative limitations—that “none of [the] components [of the mobile phone] noticeably extend[] out from said housing.” Thus, Petitioner must show something more than mere silence in a reference to demonstrate that the negative claim limitations are disclosed in the prior art. *See* MPEP § 2173.05(i) (“The mere absence of a positive recitation is not the basis for an exclusion.”) Indeed, the Federal Circuit has stated that for negative limitations “[s]ilence [] would not by itself suffice for the Petitioner to meet its burden to prove, by a preponderance of the evidence,” that a claimed feature is not present. *See Int’l Bus. Machs. Corp.*, No. 2018-1065, 15. Yet Petitioner's approach here is precisely what the law forecloses—relying on silence itself for an expressly recited negative limitation.

Similar to the contents of the accessCard in *IBM*, Pensjo's silence regarding any component extending out from the housing does not demonstrate they are affirmatively absent from the device. As discussed above with respect to the

physical keys, Pensjo's disclosure is narrowly focused on a pen detection mechanism 109. EX1021, Abstract, ¶¶[0004], [0009], FIG. 1. Pensjo's brief specification—just fifteen paragraphs—only describes features surrounding the pen detection system. It is silent regarding any other components that were commonly found on portable electronic devices. Indeed, Pensjo's limited and brief specification only discusses five total components of device 101. *See* EX1021, ¶[0009], FIG. 1. Pensjo is silent about many common features of a mobile device, and does not discuss intentionally removing or replacing components that extend out from the housing.

Moreover, a POSA would have understood that a portable electronic device, such as the one disclosed in Pensjo, included many more components and functions than simply detecting pen movement and changing a user interface. For example, similar portable devices at the time of Pensjo included a battery, a CPU, an antenna, a microphone, a speaker, a data or power socket, etc. But Pensjo's specification and drawings are silent on any of these common features. As discussed above, according to Petitioner's logic, Pensjo would disclose that its electronic device does not have a battery. But this is nonsensical and demonstrates why a reference's mere silence regarding a particular feature does not support that it affirmatively discloses its absence. Pensjo's lack of detail regarding common features is not because the common features are not present in the device, as

Petitioner suggests, but because Pensjo's specification is narrowly drafted to describe only features of the pen detection mechanism.

Indeed, Petitioner relies on these undisclosed common features in its arguments related to independent claim 9 in view of Pensjo. *See* Pet., 72-73. Despite Pensjo's silence on a microphone and speaker, Petitioner argues that "[a] POSITA would have understood that Pensjo's smart phone or mobile telephone at the time of the invention included a microphone and speaker for conducting phone conversations." Pet., 72-73. So, under Petitioner's own logic, Pensjo's device would just as likely also include components extending out from the housing, such as an antenna.

Further still, not only is Pensjo silent on many common features of a portable electronic device, some components closely related to the invention, like pen holder 107, are "not shown" in some of the figures. EX1021, ¶¶[0008], [0010], [0012]. Pensjo's figures are basic, showing only the core components of the invention, in places not even showing those, and without showing other components that would commonly be found on a mobile device. Therefore, the absence of features in Pensjo's specification and/or figures cannot be relied upon as an affirmative disclosure that the features are expressly or purposefully absent from Pensjo's device.

Therefore, Petitioner has not met their burden of proof in showing by a

preponderance of the evidence that none of the components extend out from the housing of the device in Pensjo.

For at least these reasons, Pensjo does not disclose or suggest that “said components of the mobile phone are integrated within said housing such that none of said components is noticeably extended out from said housing” and thus, does not disclose all the elements of independent claim 1 or dependent claims 14 and 19. Accordingly, Grounds 1-3 are deficient and the Board should deny institution.

VI. PENSJO DOES NOT DISCLOSE THAT “SAID DISPLAY UNIT PRACTICALLY COVERS THE ENTIRE FRONT SURFACE OF SAID HOUSING.”

Independent claim 1 further recites that “said display unit practically covers the entire front surface of said housing.” EX1001, claim 1. Independent claim 9 similarly recites that “said display unit, practically occup[ies] the entire front surface of the mobile phone.” *Id.*, claim 9. Likewise, independent claim 15 recites that “said display unit occup[ies] practically the entire surface of the front surface of said device.” *Id.*, claim 15. Petitioner relies on Pensjo for this feature in every Ground of the Petition. Pet., 35-38, 60, 73, 77-80. But Pensjo does not disclose or suggest a display unit that practically covers the entire front surface of the housing for at least three reasons: (1) Pensjo’s figures do not reasonably teach a POSA that the display practically covers the entire front surface of the housing; (2) Pensjo’s figures are not to scale and cannot be relied on for particular or relative sizes; and

(3) redesigning Pensjo's internal components to make space for an expanded display would have required a complete overhaul and redesign of Pensjo's device. Thus, the Petition is facially flawed, and the Board should deny institution.

A. Petitioner improperly relies on Pensjo's figures as allegedly disclosing that the display unit practically covers the entire front surface of the housing.

Petitioner improperly relies on Pensjo's figures as allegedly disclosing that the display unit practically covers the entire front surface of the housing. Pet., 35-38, 60, 73. Pensjo's limited specification only discusses five components and is silent on other basic features of a portable electronic device that would take up real estate on the front surface such that Pensjo's display unit cannot practically cover the entire front surface.

The MPEP states that "the description of the article pictured can be relied on, in combination with the drawings, for what they would reasonably teach one of ordinary skill in the art." MPEP 2125 (citing *In re Wright*, 569 F.2d 1124, 1127-28, 193 USPQ 332, 335-36 (CCPA 1977).) However, Pensjo's silence regarding common features on the disclosed mobile device would not reasonably teach a POSA that the display practically covers the entire front surface because: (1) common components not discussed by Pensjo would occupy real estate on the front surface and prevent expansion of Pensjo's display; (2) products on sale by Pensjo's own applicant at the time of filing show the common components

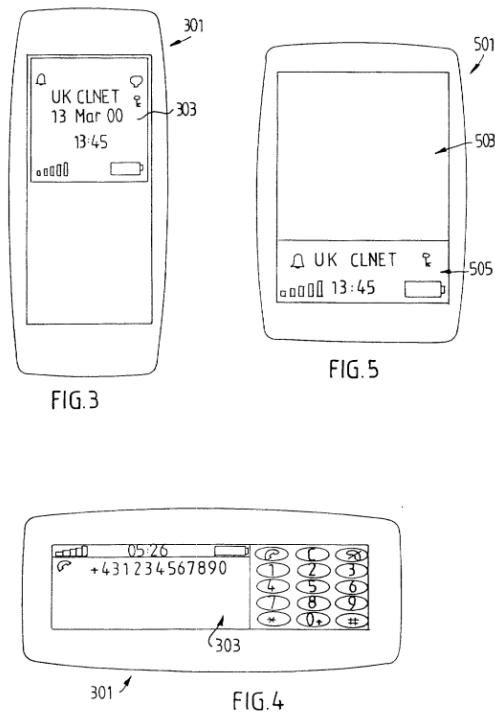
occupying real estate on the front surface that prevent expansion of Pensjo's display; (3) unlike the '144 patent, Pensjo does not discuss alternative placements for the microphone and speaker that would allow the display unit to practically cover the entire front surface of the housing.

1. Pensjo does not discuss common components that would occupy real estate on the front surface preventing the display from practically covering the entire front surface of the house.

As discussed above, Pensjo only discusses five components of device 101. Pensjo, ¶[0009]. A POSA would have understood that Pensjo's device would need more than the five discussed components to operate, and that these additional common features would be located on the front surface of the device in locations that would prevent expansion of its display. For example, a POSA would have understood that features such as a speaker, a microphone, and/or buttons to power the device on or off, adjust a volume of the device, or return the display to a home screen with a home button were commonly located on the front surface, above, below, or to the sides of the display. However, Pensjo does not show these components anywhere—not because these common features are not present in the device, but because Pensjo's specification is narrowly drafted to describe only the pen detection mechanism.

Pensjo discusses a PDA or smart phone with a front face that has a display 103, 303, 503. *Id.*, FIGS. 1, 3, and 5. The only other hardware that Pensjo

describes is a control unit 111, a pen detecting mechanism 109, and a pen 105 that is received in a pen holder 107. *Id.*, ¶[0009]. As shown in Pensjo's Figures 1, 3, and 5, the display covers a portion of the front surface, but there are spaces above and below the display that would accommodate common components such as buttons, microphones, and/or speakers. Indeed, these spaces would reasonably teach a POSA that such components would occupy this real estate above and below the display on the front surface of Pensjo's device. Accordingly, Pensjo does not disclose that the display unit practically covers the entire front surface of the housing.



EX1021, FIGS. 3-5.

- 2. Products on sale by Pensjo's own applicant at the time of filing show common features on the front surface that prevent the display from practically covering the entire front surface of the housing.**

Pensjo's Applicant is listed as Telefonaktiebolaget LM Ericsson AB ("Ericsson"). EX1021, (71). Shortly after Pensjo was filed, Ericsson released the T65 mobile device. *See* EX2011. The Ericsson T65 mobile device shares a similar profile to the device shown in Pensjo's Figure 3, as shown in the comparison below. As shown, the Ericsson T65 mobile device included common features that are not specifically shown in Pensjo, for example, a large speaker above the display at the top of the device, and physical keys below the display and extending toward the bottom of the device.

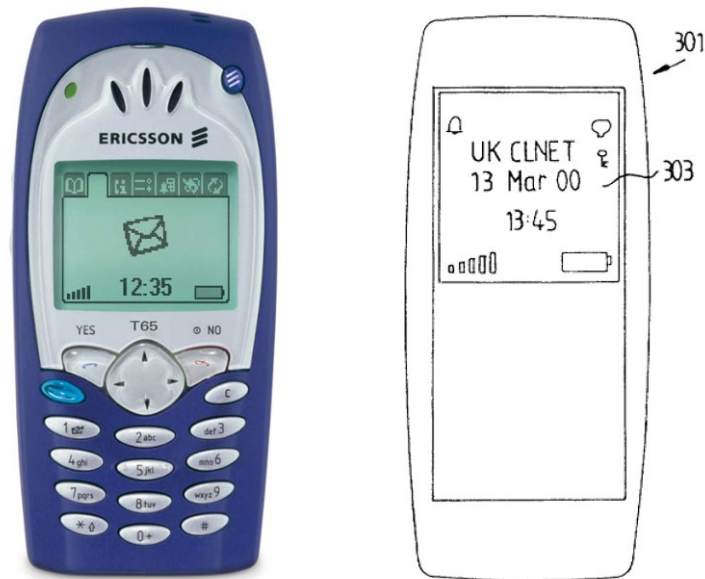


FIG. 3

Ericsson T65 device, released September 4, 2001¹ and EX1021, FIG. 3.

Thus, even after Pensjo was filed, new Ericsson mobile devices included speakers that covered a substantial portion of the front surface, with the display positioned below the speaker. This speaker occupied significant real estate on the front surface of the housing of the T65 device, preventing the display from expanding into this area.

Pensjo does not show or describe a speaker, but Petitioner acknowledges that “[a] POSITA would have understood that Pensjo’s smart phone or mobile telephone at the time of the invention included a microphone and speaker for conducting phone conversations.” Pet., 72, 73. Indeed, later-in-time Ericsson

¹ See EX2011 and EX2012.

products support that Pensjo's figures, with notable gaps between the edge of the device and the display, would "reasonably teach" a POSA that at least a speaker was likely positioned in this gap above the Pensjo display.

Therefore, Pensjo's figures reasonably teach a POSA that the gaps around the display would have been occupied by common features of a mobile device. Accordingly, Pensjo would *not* reasonably teach a POSA that the display unit practically covers the entire front surface of the housing.

3. The '144 patent discloses alternative placements of the microphone and speaker that allow the display unit to practically cover the entire front surface of the housing—Pensjo does not.

Unlike Pensjo's disclosure, the '144 patent discloses placing the speaker and microphone in alternative locations around the device. For example, the '144 patent positions the microphone and speaker within the device, disclosing "a microphone may be integrated within said electronic device." EX1001, 19:43-44. The '144 patent also discloses attaching a microphone and/or speaker to a separate device and wirelessly linking them to the phone. *Id.*, 22:47-51, 26:18-21, 26:23-28, 30:24-67, FIG. 27.

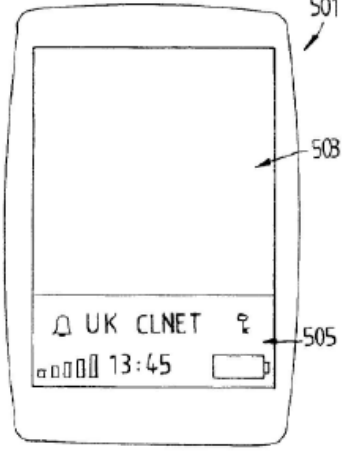
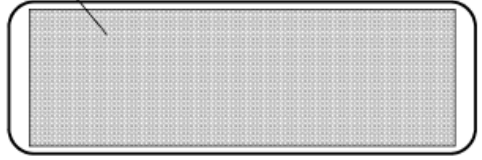
Pensjo, however, does not disclose any similar alternative positioning for these common features that would allow Pensjo's screen to "practically cover[] the entire front surface of [the] housing" as claimed. Thus, Pensjo does not discuss any alternatives for placement of common components of the device that would

reasonably teach a POSA that Pensjo's display would practically cover the entire front surface of the housing as claimed.

B. Petitioner improperly relies on relative dimensions in Pensjo's not-to-scale drawings and the device in the '144 patent.

Petitioner improperly relies on Pensjo's figures, suggesting that the relative sizes or dimensions of display 503 are comparable to the device shown in the '144 patent. However, "it is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue." *Hockerson-Halberstadt, Inc. v. Avia Group Int'l*, 222 F.3d 951, 956, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000). Pensjo is "completely silent on the issue"—that is, Pensjo does not state its figures are to scale. Therefore, Pensjo's figures "may not be relied on to show particular sizes." *Id.*

Petitioner argues that the display shown in the Pensjo figures practically covers the entire front surface, with the display shown in Figure 5 covering "an even greater amount of the front surface of the housing" than Figures 3 and 4. Pet., 36. Petitioner provides a comparison (reproduced below) showing the device in Pensjo's Figure 5 and the device in Figure 68a of the '144 patent. Petitioner alleges that these screens "have similar coverage . . . with limited framing along the length of the screen and slightly more framing along the short dimension." *Id.*, 36.

Drawing from <i>Pensjo</i>	Drawing from '144 Patent
 FIG. 5 <i>Pensjo</i>, Fig. 5; see also <i>id.</i>, Fig. 3.	 Fig. 68a Ex. 1001, Fig. 68a.

Petitioner's comparison of Pensjo's device with the '144 patent. Pet., 37.

Despite the comparison of the two devices clearly showing a difference in screen coverage, Pensjo is completely silent on the relative scale of the drawings. Accordingly, the drawings cannot be relied upon to show particular sizes of the disclosed devices.

Therefore, Petitioner's reliance on the relative display sizes based on the figures of Pensjo and the '144 patent is improper and Petitioner's arguments are therefore fundamentally flawed.

C. Modifying Pensjo's display to practically cover the entire front surface of the housing would not have been a simple and predictable alteration as Petitioner suggests.

Petitioner argues that modifying Pensjo's display to practically cover the entire front surface as claimed "would merely entail a simple and predictable alteration of the phone's dimensions based on the knowledge of a POSITA." Pet., 38. Not so.

Redesigning Pensjo's internal components to make space for the display while maintaining the device's functionality would have required a complete overhaul and redesign of the portable electronic device that would not have been obvious to a POSA. *See* MPEP § 2143.02 VI (*citing In re Ratti*, 270 F.2d 810, 813, 123 USPQ 349, 352 (CCPA 1959), stating "[t]he court reversed the rejection holding the 'suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference].'"). And Petitioner fails to meet its burden of persuasion to show that Pensjo could be modified in such a way for the display to cover the entire front surface. "In an inter partes review, the burden of persuasion is on the petitioner to prove 'unpatentability by a preponderance of the evidence,' 35 U.S.C. § 316(e), and that burden never shifts to the patentee." *FanDuel, Inc. v. Interactive Games LLC*, 966 F.3d 1334, 1341 (Fed. Cir. 2020).

As discussed above, a POSA would have understood that, at the time,

multiple common features of a mobile device would be disposed on the front surface of Pensjo's device. Accordingly, for the Pensjo display to be expanded to cover a larger portion of the front surface, the common features (e.g. speaker, microphone, physical keys) would need to be rearranged and moved to make space for the larger display. However, a POSA would have understood that these common components cannot be simply removed; they would need to be repackaged, redesigned, and adjusted to fit within the housing. Indeed, in the parallel petition in IPR2025-00528, Petitioner acknowledges a greater amount of modification is required to expand the screen size (*see* -528 petition, 45-46) than “merely [] a simple and predictable alteration of the phone's dimensions” as Petitioner alleges here. Pet., 38.

Petitioner argues in the parallel -528 petition, directed to the same '144 patent, that to increase the size of the screen, the speaker/antenna would be combined as taught by Wedel, to reduce their space requirements and make room for the screen. IPR2025-00528 Petition, 45-46. Accordingly, by Petitioner's own admission, technology from an entirely different reference (Wedel) is allegedly required just to combine the antenna and speaker components to reduce space in the device. *Id.* However, even after this modification, which Patent Owner does not concede would be valid, the -528 petition does not provide any clear disclosure that the display would then fill the space saved by the consolidation of parts, or

how other components (e.g. the physical keys, the microphone, etc...) would be similarly modified to allegedly make space for the larger display elsewhere on the front surface. *See id.*, 30-32, 45-46

Petitioner posits that modifying Pensjo to change the phone's dimensions would be a simple and predictable alteration. But Pensjo is silent on any information that would teach or suggest a POSA that such modifications are possible. As discussed above, Pensjo's specification is brief and focused on a pen detection mechanism. Nothing in Pensjo suggests rearranging components so that the display can practically cover the entire front surface. And Petitioner provides no additional evidence in the Petition to show how a POSA might modify Pensjo's device such that the display would cover the entire front surface of the housing. Accordingly, Petitioner fails to show that such a modification would have been obvious.

* * *

For at least these reasons, Pensjo does not disclose or suggest that a "display unit practically covers the entire front surface of said housing" and thus, does not disclose all the elements of independent claims 1, 9, and 15. The Board should therefore reject Grounds 1-5 and deny institution.

VII. KOBAYASHI, JAMBHEKAR, AND BENOIT DO NOT CURE THE DEFICIENCIES OF PENSJO.

Petitioner relies on Pensjo in every Ground in the Petition. In Grounds 1 and 3, Petitioner relies on Pensjo for allegedly disclosing that the mobile phone device does not include a physical key on the front surface, as recited in independent claims 1 and 9. Petitioner relies on Pensjo in Grounds 1-3 for allegedly disclosing that none of the components of the device noticeably extend out from the housing, as recited in independent claim 1 and dependent claims 14 and 19 that depend from independent claims 9 and 15 respectively. Petitioner relies on Pensjo in Grounds 1-3 for allegedly disclosing that the display practically covers the entire front surface of the housing, as recited in all independent claims. Each of Grounds 1-3 are deficient for at least the reasons presented above in Sections IV, V, and VI. Because Grounds 4 and 5 depend on Grounds 3 and 2 respectively, all of the Petition's Grounds are deficient. *See* Pet., 15-16.

None of Kobayashi, Jambhekar, and Benoit, relied on in various combinations with Pensjo in Grounds 2-5, disclose or suggest a device not including a physical key on the front surface, component not extending out from the housing, or a display that practically covers the entire front surface. Therefore, Petitioner's secondary references do not cure the deficiencies in Pensjo. Accordingly, the Board should deny institution.

VIII. IF THE BOARD FINDS THAT PETITIONER FAILS TO MEET ITS BURDEN FOR LESS THAN ALL OF THE CHALLENGED CLAIMS AND/OR PROPOSED GROUNDS, THE BOARD SHOULD DENY INSTITUTION TO CONSERVE RESOURCES.

Patent Owner identifies several deficiencies in Petitioner’s arguments above.

Should the Board determine that Petitioner met its burden for some claims, but failed to meet its burden for other claims or Grounds, the Board should still deny institution to conserve the Board’s valuable resources. *See* EX2008, 3; *Chevron Oronite Co. v. Infineum USA L.P.*, IPR2018-00923, Paper 9 at 10–11 (P.T.A.B. Nov. 7, 2018).

Pursuant to 35 U.S.C. § 314(a), an *inter partes* review may not be instituted “unless . . . the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” But even when a petitioner demonstrates a reasonable likelihood of prevailing with respect to one or more claims, institution of review remains discretionary. *SAS Inst. Inc. v. Iancu*, 138 S. Ct. 1348, 1356 (2018) (“[Section] 314(a) invests the Director with discretion on the question whether to institute review” (emphasis omitted)); *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1367 (Fed. Cir. 2016) (“[T]he PTO is permitted, but never compelled, to institute an IPR proceeding.”). 35 U.S.C. § 316(b) also provides that, when determining whether to exercise its discretion, the Board should consider the effect of any regulations on “the efficient

administration of the Office [and] the ability of the Office to timely complete proceedings.” Additionally, 37 C.F.R. § 42.1(b) provides that the Board should also take into account the requirement to construe the rules to “secure the just, speedy, and inexpensive resolution of every proceeding.” The Trial Practice Guide also explains that the Board may consider the number of claims and grounds that meet and do not meet the reasonable likelihood standard when deciding whether to institute *inter partes* review under 35 U.S.C. § 314(a). Patent Trial and Appeal Board Consolidated Trial Practice Guide November 2019, 64 (Nov. 20, 2019), available at <https://www.uspto.gov/TrialPracticeGuideConsolidated> (“CTPG”) (“[T]he panel will evaluate all the challenges and determine whether, in the interests of efficient administration of the Office and integrity of the patent system, the entire petition should be denied.”).

Here, should the Board determine that Petitioner failed to meet its burden of establishing unpatentability for some but fewer than all of the challenged claims of the ’144 patent as discussed in Sections IV, V, and VI, the Petition should still be denied in order to conserve the Board’s valuable time and resources. *See* Interim Processes Memo, 3; *Deeper, UAB. v. Vexilar, Inc.*, IPR2018-01310, Paper 7 at 43 (P.T.A.B. Jan. 24, 2019) (finding that because Petitioner only demonstrated a reasonable likelihood of prevailing with respect to a subset of the 23 challenged claims, “instituting a trial with respect to all twenty-three claims . . . would not be

an efficient use of the Board's time and resources."). Similarly, should the Board determine that Petitioner has failed to meet its burden of establishing unpatentability for some but not all grounds, the Petition should again be denied in order to conserve the Board's valuable time and resources. *See* Interim Processes Memo, 3; CTPG, 64; 35 U.S.C. § 316(b); 37 C.F.R. § 42.1(b).

IX. THE BOARD SHOULD DENY THIS PETITION BECAUSE PETITIONER FAILS TO SHOW ANY CAUSE FOR THIS SECOND PARALLEL PETITION CHALLENGING THE '144 PATENT.

Petitioner filed two separate petitions concurrently challenging the validity of the '144 patent claims: IPR2025-00528 ("the -528 IPR") and this IPR. Paper 2, 1. Despite clear guidance from the Board that institution of multiple petitions challenging a single patent is disfavored, Petitioner attempts to justify its second petition by alleging that its circumstances fall under an example that warrants institution of multiple petitions. *See id.* But, the true circumstances here do not constitute any cause that is recognized by the Board as necessitating multiple petitions. Rather, the multiple petitions here are a transparent attempt to circumvent the Board's guidance on filing multiple petitions. Instituting both proceedings would place a substantial and unnecessary burden on both Keyless and the Board. Thus, the Board should decline to institute this proceeding if the Board institutes the -528 IPR and vice versa.

A. Petitioner’s alleged reasons for the parallel petitions do not constitute any cause recognized by the Board for multiple petitions.

The CTPG sets forth the straight forward principle that one petition should be sufficient to challenge the claims of a patent. CTPG, 59. The Board has recognized that:

Two or more petitions filed against the same patent at or about the same time (e.g., before the first preliminary response by the patent owner) may place a substantial and unnecessary burden on the Board and the patent owner and could raise fairness, timing, and efficiency concerns. *See* 35 U.S.C. § 316(b). In addition, multiple petitions by a petitioner are not necessary in the vast majority of cases. To date, a substantial majority of patents have been challenged with a single petition.

CTPG, 59. Although the Board recognizes there may be circumstances in which more than one petition may be necessary, the Board notes this “should be rare.” *Id.*

Petitioner alleges that the parallel petitions fall under an example provided by the CTPG for justifying the institution of multiple petitions because it is a “dispute about priority date.” *See* Paper 2, 3-4 (citing CTPG, 59). However, this justification falls apart upon a closer look at the true circumstances of the petitions here. The circumstances envisioned by the CTPG, in which the priority dispute “require[es] arguments under multiple prior art references,” are circumstances in which one set of arguments *are* affected by the priority dispute, “requiring” a second set of arguments that are *not* affected by the priority dispute. *See* CTPG, 59.

Here *both* Petitions have issues with references that are not indisputably prior art—thus, a second petition is not truly required to avoid a priority date dispute.

In this Petition, Petitioner relies on Pensjo and Benoit in its challenges. Paper 2, 1–2. Petitioner acknowledges that both references are published less than one year prior to the priority date of the '144 patent. *Id.* However, rather than presenting a second petition with *earlier* prior art, Petitioner filed the -528 IPR, which relies on reference (Bast and Wedel) with priority dates *after* the priority date of the '144 patent. *Id.*, 2. Petitioner acknowledges the -528 IPR *also* has a priority date dispute because it states Bast “would be indisputably prior art *if the Board agrees with Petitioners’ priority arguments.*” Paper 2, 3-4 (emphasis added). The priority date issue did not, therefore, require the filing of this Petition.

Petitioner also argues “the strength of the Petitions also counsels in favor of instituting both.” Paper 2, 4. However, strength of the merits is not a recognized reason in the CTPG as one of the “rare” circumstances where two petitions may be needed. *See* CTPG, 59. And to be sure, for the reasons set forth above, the merits of this Petition are not strong.

Despite the fact that Petitioner challenges only 19 claims², Petitioner also attempts to justify the multiple petitions by arguing that “the number and length of

² Claim 6 of the '144 patent is not challenged in the Petition. *See* Pet., 15-16.

claims makes it impossible to address both the *Pensjo* and *Bast* grounds in a single petition.” Paper 2, 4. A quick glance at the ’144 patent’s claims reveals that Petitioner’s assertion is not credible.

Although the CTPG has indicated multiple petitions may be necessary when there are “a large number of claims” (CTPG, 59), that circumstance is not present here. The length of the claims also does not justify a second petition. Petitioner is not using the second petition to challenge additional claims, but rather challenges the same claims in both petitions. The ’144 patent contains only three independent claims, which share many of the same limitations, and there is a significant overlap in the dependent claims. In fact, in its Petition, Petitioner takes advantage of the similarities by referring to the discussion of prior claims for some of its challenges. *See e.g.*, Pet., 59-62.

Thus, upon examination, Petitioner’s alleged justifications quickly unravel. The multiple petitions here are a transparent attempt to circumvent the Board’s guidance that “one petition should be sufficient.” CTPG, 59. This is even more apparent from Petitioner’s assertion that the obviousness grounds contain material differences (Paper 2, 2-3)—a reason not recognized as justification in the CTPG because additional challenges based on different art are exactly the abuse the Board seeks to prevent by making clear two petitions “should be rare.” Instituting a

second petition here would be unfair to Keyless and place a substantial and unnecessary burden on both the Board and Keyless.

B. The Board panel has authority to deny a parallel petition challenging the same patent without cause.

When, as here, multiple parallel petitions are filed by a petitioner challenging the same patent, the current Trial Practice Guide provides patent owner the right to respond, in its preliminary response or in a separate paper filed with the preliminary response, “and explain why the Board should not exercise its discretion to institute more than one petition (if it institutes at all).” CTPG, 60-61. This guidance has not been rescinded by the “Interim Processes for PTAB Workload Management” (the “Interim Processes Memo”). Indeed, the FAQs for Interim Processes for PTAB Workload Management (“FAQs”) provide for the Board panel to address discretionary considerations when authorized by the Director and in certain circumstances. *See* EX2008, Question 9.

The panel has such authority here to not institute a second petition when Petitioner fails to show cause on why multiple petitions are necessary. In particular, the authority to deny a second parallel petition has been provided to the panel pursuant to the direction and authorization provided in the CTPG—issued under the Director’s authority and not rescinded under the Interim Processes Memo—to consider Petitioner’s ranking paper “on why the Board should exercise its discretion to institute additional petitions if it identifies one petition that

satisfies petitioner's burden" and Keyless's response to the ranking paper.³ *See* CTPG, 60-61. Similar to considerations on whether a petition presents an insufficient number of challenges that meet the reasonable likelihood standard (discussed in FAQ9), it is also necessary and appropriate for the Board panel to consider whether a second petition should be instituted if it determines to institute on one of the petitions.

Because Petitioner has not shown good cause (or indeed any real cause) for its multiple petitions, this Petition should be denied if the -528 IPR is instituted and vice versa.

X. CONCLUSION

The Petition fails to show a reasonable likelihood that any of the challenged claims is unpatentable as obvious in view of the cited art and, therefore, the Board should deny institution.

³ To the extent it is ambiguous that the authority is provided in the CTPG, should this Petition be referred to a merits panel, Keyless requests the Director provide explicit authority. *See* Paper 9, 9 n.3 (Keyless's request to the Director to consider the POPR).

Respectfully submitted,

KRAMER ALBERTI LIM & TONKOVICH, LLP

/ David Alberti /

David L. Alberti
Registration No. 43,465
Lead Attorney for Patent Owner

Date: July 9, 2025

950 Tower Lane, Suite 1725
Foster City, California 94404
(650) 825-4300 x104

CERTIFICATE OF WORD COUNT (37 C.F.R. § 42.24(d))

1. This Patent Owner Preliminary Response complies with the type-volume limitation of 14,000 words, comprising 8,376 words, excluding the parts exempted by 37 C.F.R. § 42.24(a)(1).

2. This Patent Owner Preliminary Response complies with the general format requirements of 37 C.F.R. § 42.6(a) and has been prepared using Microsoft® Word 2016 in 14-point Times New Roman font.

Respectfully submitted,

KRAMER ALBERTI LIM & TONKOVICH, LLP

/ David Alberti /

David L. Alberti
Registration No. 43,465
Lead Attorney for Patent Owner

Date: July 9, 2025

950 Tower Lane, Suite 1725
Foster City, California 94404
(650) 825-4300 x104

CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PATENT OWNER PRELIMINARY
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electronic mail:

Joshua L. Goldberg (Lead Counsel)
Kevin D. Rodkey (Back-up Counsel)
Tyler M. Akagi (Back-up Counsel)
Daniel C. Cooley (Back-up Counsel)
Chen Zang (Back-up Counsel)
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
joshua.goldberg@finnegan.com
kevin.rodkey@finnegan.com
tyler.akagi@finnegan.com
daniel.cooley@finnegan.com
chen.zang@finnegan.com

Respectfully submitted,

KRAMER ALBERTI LIM & TONKOVICH, LLP

/ David Alberti /

David L. Alberti
Registration No. 43,465
Lead Attorney for Patent Owner

Date: July 9, 2025

950 Tower Lane, Suite 1725
Foster City, California 94404
(650) 825-4300 x104