

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TANKLOGIX, LLC,

Petitioner,

v.

SITEPRO, INC.,

Patent Owner.

PTAB Case No. IPR2025-00651

Patent No. 11,175,680

PATENT OWNER'S PRELIMINARY RESPONSE

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EXHIBIT LIST

No.	Exhibit Description
Ex. 2001	Docket Navigator - Motion Success for Stay Pending IPR for Judge Xavier Rodriguez
Ex. 2002	Scheduling Order for <i>SitePro, Inc. v. TankLogix, LLC</i> , 6:24-cv-00642-XR-DTG, pending in the United States District Court for the Western District of Texas.
Ex. 2003	SitePro's Preliminary Infringement Contentions, 6:24-cv-00642-XR-DTG, pending in the United States District Court for the Western District of Texas.
Ex. 2004	U.S. Patent No. 12,019,461
Ex. 2005	SitePro's Response to TankLogix's Motion to Stay, <i>SitePro, Inc. v. TankLogix, LLC</i> , 6:24-cv-00642-XR-DTG, Dkt. 33.
Ex. 2006	File History of U.S. Patent Application No. 12/794,898
Ex. 2007	File History of U.S. Patent Application No. 14/579,141
Ex. 2008	Screenshots of Patent Center website of U.S. Patent Application No. 12/794,898
Ex. 2009	Declaration of Dr. Robert A. Durham, Ph.D., FIEEE

I. INTRODUCTION

TankLogix, LLC (“TankLogix” or “Petitioner”) filed a petition for *Inter Partes* Review (“IPR”) against Claims 1-3, 6, 7, and 9-20 (“Challenged Claims”) of U.S. Patent No. 11,175,680 (the “’680 patent”) based on four grounds. Each of Petitioner’s grounds fails to demonstrate a likelihood of prevailing, as demonstrated in the sections below. Patent Owner requests the Board deny institution of this IPR.

The ’680 patent is a continuation in a series of granted patents directed to the remote control of fluid-handling devices, such as valves, pumps, process chambers, process filters, level switches, and the like for various oil and gas industrial systems. *See* Ex. 1001, title, 2:1-4, 5:53-65. The systems and methods described in the ’680 patent provide the computing infrastructure for users to remotely receive and analyze data of monitoring and control equipment for fluid-handling devices and to remotely command and control them via a user interface over a network (e.g., web browser over a web-based network in some embodiments). *See id.*, 3:8-55, FIG. 1, Claims 1, 15. The fluid-handling devices are thereby “controlled remotely without the need to install special-purpose software on the computing device through which remote control is exercised” (*id.*, 3:30-37), which solves several deficiencies in the art at the time of the ’680 patent, including manual on-site control or specialized software required for devices on a site-by-site basis. *See id.*, 1:42-61. Furthermore, the

systems of the '680 patent enable an advantageous user authorization and management scheme where certain users are allowed to monitor and control the fluid-handling devices, while other users are only permitted to view data associated with the fluid-handling devices for a particular oil and/or gas facility or facilities. *See id.*, 4:24-44.

Claim 1, for instance, is directed to a computer program product that effectuates operations for a server and a controller of a fluid-handling device via a network. The method involves, *inter alia*, the server receiving a command with a target value of a fluid-handling device and determining the network address that identifies the controller of the fluid-handling device, to send the target value to the network address. The controller uses the target value in determining whether a sensed measurement of the fluid handled by the fluid-handling device satisfies the target value and acts accordingly when the measurement does not satisfy the target value, including obtaining a set point based on the command and controlling the actuator based on the set point. *See id.*, Claim 1.

Petitioner's challenges to Claim 1, based on the disclosures of U.S. Patent No. 8,667,091 ("Almadi," Ex. 1005), U.S. Patent Publication No. 2015/0308244 ("Cardamone," Ex. 1006), U.S. Patent No. 9,709,995 B2 ("Gutierrez," Ex. 1007), and non-patent publication titled "Supervisory Control and Data Acquisition," 4th

Edition ("SCADA," Ex. 1008) fall woefully short since these references do not anticipate or render obvious each claimed feature and the claimed computer product as a whole. Not only are the independent claims patentably distinct from Petitioner's cited references, the Petition lacks a full, genuine showing that each reference actually discloses or teaches each feature of the claim. For numerous claim elements and limitations of Claim 1, the Petition fails to show what disclosure in Almadi, Cardamone, Gutierrez, or SCADA corresponds to, or would be understood as, the claimed feature in the '680 patent. In many cases, Petitioner does not even address the recited element in the arguments.

The Petition is also fatally flawed by failing to meet the legal standards of invalidity under §§ 102 and 103, including reliance on a reference (Gutierrez) that is not prior art to the '680 patent.

Overall, the merits of the Petition are deficient, and its arguments are confusing and inconsistent for most, if not all, claim elements. As demonstrated below, Claims 1 and 20 are shown to be patentable over Kahn, Almadi, Gutierrez and SCADA. With these independent claims being patentable, it is self-evident that the dependent claims are also patentable over Petitioner's asserted references for at least the same reasons. Petitioner has failed to show that any of Grounds 1-4 demonstrate a reasonable likelihood of invalidating any of the Challenged Claims.

Institution should consequently be denied under 35 U.S.C. § 314.

A. Level of ordinary skill in the art and claim construction

The Petition does not describe a person of ordinary skill in the art (POSITA), but relegates this task to its Petitioner's expert declaration ("the Wooley declaration"), which describes a POSITA as a person having "at least a bachelor's degree in mechanical, chemical, or electrical engineering, computer science, or a related field and significant experience with remotely controlling fluid-handling devices, like SCADA systems." Ex. 1002, ¶25.

Patent Owner believes a POSITA would have had at least a bachelor's degree in engineering (electrical, chemical, petroleum or mechanical), computer science, or a related field and at least two years of experience designing control systems for remotely controlling fluid-handling devices, like SCADA systems. Ex. 2009, ¶50. Alternatively, a POSITA would have had at least six years of experience in designing control systems for remotely controlling fluid-handling devices, such as SCADA systems. *Id.*

Patent Owner believes all claim terms should be interpreted in their plain and ordinary meaning. *Id.*, ¶75.

II. THE CHALLENGED CLAIMS ARE PATENTABLE OVER ALMADI, CARDAMONE, GUTIERREZ, AND SCADA

Each Ground of the Petition argues that the respective reference alone anticipates and/or renders obvious the certain claims among the Challenged Claims under 35 U.S.C. §§ 102 or 103. Petition, 12 (Ground 1), 32 (Ground 2), 51 (Ground 3), 59 (Ground 4). Petitioner's assertions are incorrect because, as shown in the following sections, each of the cited references fails to disclose, teach, or suggest several claimed features and therefore do not anticipate or render obvious the whole of independent Claims 1 and 20.

A claim is only unpatentable under § 102 if “each and every element as set forth in the claim is found . . . in a single prior art reference.” MPEP 2131; *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, (Fed. Cir. 1987). And, in *KSR International Co. v. Teleflex Inc.* (“KSR”), the Court reaffirmed the principles of obviousness based on the precedent that “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” MPEP 2141; *KSR.*, 550 U.S. 398, 416 (2007).

Not only do Grounds 1-4 fail to satisfy these legal standards (discussed later in **Section III**), each ground does not even *attempt* to identify each claim element and its limitation(s), as shown below.

**A. Multiple Claimed Elements and Limitations of Claims 1 and 20
Lack any Mapping or Clear Mapping to Almadi in Ground 1.**

In *Ground 1*, based on Almadi, either fails to map or provides unclear and/or incorrect element mappings for at least multiple limitations among the eight claim sections of Claim 1 (parsed [1.1] to [1.8]) and Claim 20.

1. Almadi Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed Feature of “target value” in [1.2] and [1.4] of Claim 1.

As a first of multiple examples, Petitioner provides no mapping at all from Almadi's disclosure to the claimed “*target value*” limitation of [1.2]. *See* Petition, 13-14. Instead, the Petition points to disclosure in Almadi¹ that pertains to a remote user computer communicating with Almadi's integrated node 100 and general discussion about PLC and RTU controllers and data validation and reconciliation of data collected. *Id.* Yet, none of these sections in Almadi describe anything related to a target value of a fluid-handling device, much less commands that include such target value.² *Id.* *See* Ex. 2009, ¶82.

¹ Petition cites Ex. 1005 (Almadi) at 12:10-15, 11:51-63, and 22:32-36.

² The Petition states that Almadi discloses “receiving, with a server, a command comprising a target value of a fluid-handling device from a computing device via a

Unlike the Petition, Petitioner's expert, Dr. Wooley, briefly opines on a the term "target value" in general (Ex. 1002, ¶44), but provides no analysis on the claimed "*target value*" of [1.2] beyond a mere conclusory statement that "[a] POSITA would understand that Almadi discloses" without anything more than paraphrasing claim language and citing the same irrelevant sections of Almadi as the Petition³. *See* Ex. 2009, ¶83. As an initial matter, Petitioner's sole reliance on its expert declaration amounts to improper incorporation by reference. Furthermore, Dr. Wooley is incorrect. Notably, Dr. Wooley's explanation on a "target value" in general defined the term as a "particular operating condition" where determining a "target state of the fluid-handling device is necessary," akin to a sensed parameter. Ex. 1002, ¶44. A "target value" is not simply a sensed parameter or the particular

control interface, wherein the command is received in association with a record stored on a datastore" because Almadi has an "integrated node 100 supports a local programming interface over a computer, such as through computer terminal having one or more input devices and one or more display devices that are accessible to a human user by using the remote host computer 110." *See, e.g.*, Petition, 13-14 (citing Ex. 1005, 12:10-15). This does not address the claimed "*target value*." *Id.*

³ Ex. 1002, ¶45.

operating conditions that a device is in at a particular time, but rather a state that the fluid-handling device is desired to be in. *See* Ex. 2009, ¶85.

Petitioner again fails to map the claimed “*target value*” in [1.4], where Petitioner alleges the claimed “*sending ... the target value*” is disclosed by Almadi through Almadi’s disclosure of the integrated node 100 employing an Ethernet switch and a POSITA’s understanding of Almadi’s disclosure of transmitting “process data.” Petitioner is incorrect that Almadi’s “process data” is the same or similar as the claimed “*target value*.” Almadi’s “process data”⁴ is sensor data, which is consistent with Dr. Wooley’s mistaken characterization of a sensed parameter, but is not the claimed “*target value*.” *See id.*, ¶92.

Thus, Almadi does not disclose, teach, suggest, or render obvious the claimed features of [1.2] and [1.4].

2. Almadi Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed Feature of “a set point based on the command” in [1.7] of Claim 1.

Petitioner fails to provide a clear mapping for the claimed “*obtaining ... a set point based on the command*” recited in [1.7]. Like for limitations [1.2] and [1.4] discussed above, in **Section II.A.1**, Petitioner continues its reliance on the “[a]

⁴ *See* Almadi’s disclosure of “process data” at Ex. 1005, abstract, 2:24-33, 3:13-20.

POSITA would recognize” statements without substantiating these conclusions on evidence from the disclosure of Almadi. Here, for [1.7], Petitioner attempts to equate Almadi’s “commands used by the local controller to drive the fluid handling device to a particular target states” with the claimed “*set point based on the command.*” See Petition, 17-18. Petitioner’s unsupported conclusion is based on a supposition that “[a] POSITA would recognize that limits or bounds apply a set point, which would be set by a user in a command . . . [and] that to verify measurements and determine whether a measurement was out-of-bounds, a set point would have to be obtained by the data verifier located on the controller and compared by the data reconciler also located on the controller.” *Id.* (citing Ex. 1002, ¶61).

Petitioner’s conclusions are incorrect. First, Almadi lacks any reference to “obtaining, with the controller, a *set point based on the command,*” as recited [1.7]. Ex. 2009, ¶96. Second, a POSITA would understand the ‘bounds or limits’ that Petitioner describes would have been pre-programmed in, for example, based on safety considerations or to prevent equipment damage, not obtained based on the command. *Id.* Therefore, Petitioner’s contentions that Almadi discloses or teaches limitation [1.7] are unfounded. Limitation [1.7] cannot be anticipated as it is not disclosed in Almadi and would not have been obvious based on Almadi’s disclosure, which is different than what is claimed.

3. Additional Claim Elements and Limitations of Claim 1 Are Not Disclosed or Taught by Almadi.

The Petition fails to properly map several other Claim 1 elements and limitations in addition to those discussed above in connection with [1.2], [1.4] and [1.7]. One other example is [1.3]. Petitioner provides an incorrect (and incoherent) mapping of the claimed “*determining ... a network address of a network based on the record*” of [1.3] because the cited sections of Almadi do not disclose or even pertain to a server, a network address, or a datastore record, much less all of the limitations of [1.3] in the full context of Claim 1. *See* Petition, 14-15, and Ex. 1002, ¶51 (collectively citing Ex. 1005 Almadi at 1:53-57, 12:40-43, 12:60-65, and 15:62-67). Instead, Petitioner’s support in Almadi is about “intelligent field devices” and the acquisition of data—at most touching on a mere portion of the latter wherein clause of [1.3] (“wherein the controller accesses a sensor to measure a fluid being handled by the fluid-handling device and an actuator of the fluid-handling device”). Ex. 2009, ¶87. Limitation [1.3] is therefore not anticipated or rendered obvious by Almadi.

Claim 1 cannot be anticipated or rendered obvious by Almadi when there are numerous claim elements and limitations absent in the cited reference. The fact that the Petition does not identify multiple claim features in the references is indicative of the reference’s lack of disclosure and overall teaching. Claim 1 is clearly

patentable over Almadi, and therefore its dependent claims are too. Thus, inter partes review of the '680 patent is unwarranted.

4. Almadi Does Not Disclose, Teach, Suggest, or Render Obvious Claim 20.

Like for Claim 1, the Petition also fails to make a sufficient anticipation or obviousness showing for the other independent claim of the '680 patent. Claim 20 is directed to a method claim with similar limitations as [1.1]-[1.8] of Claim 1.

As discussed above in **Sections II.A.1-II.A.3**, the limitations of [1.2], [1.4], [1.7], and [1.3] are not disclosed, taught, suggested, or rendered obvious by Almadi, and the Petition and the Wooley declaration each do not make a showing to the contrary. Therefore, Claim 20, which recites similar features including “*a target value*,” “*a set point based on the command*,” and “*determining a network address of a network based on the record*” as Claim 1 fails for the same or similar reasons discussed above.

As a result of the above, Ground 1's assertions against Claim 20 necessarily fails.

B. Multiple Claimed Elements and Limitations of Claims 1 and 20 Lack any Mapping or Clear Mapping to Cardamone in Ground 2.

Ground 2, based on Cardamone, includes a number of instances of missed element mappings or unclear or incorrect element mappings for Claims 1 and 20.

1. Cardamone Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed Feature of “target value” in [1.2] and [1.4] of Claim 1.

Petitioner provides no mapping of “*target value*” claimed in [1.2] and [1.4] to Cardamone’s disclosure. For instance, both the Petition and Wooley declaration make no showing in Cardamone that a server receives a command that comprises a “*target value*.” See Petition, 33-34; see also Ex. 1002, 91. Moreover, Petitioner incorrectly equivocates a the claimed “target value” as “sensory data” and possibly conflates it with another concept by Petitioner’s reference of “target status.”⁵ *Id.* In any event, Petitioner failed to show limitation [1.2] in Cardamone.

Moreover, limitation [1.4] requires “*sending, with the server, the target value to the network address via the network,*” where the network address identifies a controller of fluid-handling devices (as specified in limitation [1.3]). Petitioner fails to show this aspect of the claimed “*target value*” feature also. See Petition, 36; see also Ex. 1002, ¶93. Instead, Petitioner points to two paragraphs of Cardamone (i.e.,

⁵ The Petition, at p. 34, states “[a] POSITA would understand that Cardamone discloses the *receiving target status* of a fluid-handling device ... through its disclosure of a data server that can *receive sensory data* from fluid-handling devices,” citing nothing in Cardamone and citing only to the Wooley declaration.

¶[0044], ¶[0045] of Ex. 1006) that have no mention of a server or a network address. *See* Ex. 1006, ¶¶0044-0045. Not only is Cardamone's disclosure lacking, the Petition and Dr. Wooley do not provide any explanation why these elements would have been obvious in view of Cardamone's disclosure. *See id.* *See also*, Ex. 2009, ¶¶109-111, ¶¶115-117.

Thus, Cardamone does not disclose, teach, suggest, or render obvious the claimed features of [1.2] and [1.4].

2. Cardamone Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed Feature of “wherein the command is received in association with a record stored on a datastore” in [1.2] of Claim 1

Also, for limitation [1.2], Petitioner improperly maps Cardamone to “*wherein the command is received in association with a record stored on a datastore.*” Cardamone discloses a data server 134 that provides the functionality of a GUI computer 130 (Ex. 1006, ¶0046), which Petitioner points out. Petition, 33. Yet, Petitioner dwells on how Cardamone discloses that users connect to GUI computer 130 to interface with control and communication computer 126, through application 131, and how in Cardamone the application 131 provides access to control for the communication computer 126 to request data. *Id.* None of this disclosure cited in Cardamone and discussed by Petitioner demonstrates Cardamone disclosed or taught *receiving a command* that is “*in association with a record stored on a datastore,*” as

claimed, because Cardamone does not do such. Petitioner aims to equate the “*command ... received in association with a record stored on a datastore*” with Cardamone’s dataserver 134 that receives data, including the current sensory data of pump control system 110. *Id.*, citing ¶¶0027, 0041, 0042, and claim 30 of Cardamone. But this is not accurate or similar. The sensory data in Cardamone is “*just that: data from sensors.*” Ex.2009, ¶109. No where in Cardamone is it referenced that “sensory data” is equivalent to a “command.” *Id.* And the Petition makes no explanation of the differences and why any differences could be obvious.

Petitioner fails to make a showing of limitation [1.2] in Cardamone; therefore Ground 2 fails.

3. Cardamone Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed Feature of “obtaining, with the controller, a set point based on the command” in [1.7] of Claim 1.

Petitioner’s failures to properly map Cardamone to Claim 1 continue for limitation [1.7]. Here, Petitioner contends that the “movement profile” disclosed by Cardamone “controls the pump system by adjusting parameters when a measurement indicates that a value has moved out of a set range, to maintain a distance vs. time curve, or a force vs. time curve for an operation cycle of the pump.” Petition, 38 (citing Ex. 1006, ¶0044). However, Petitioner does not make any connection between Cardamone’s disclosure on a “movement profile” to the claimed

“*command*” because there is no connection to make.

First, commands are not discussed in the cited disclosure by Petitioner. For instance, Petitioner relies on Claim 4—a dependent claim arising from claims 3 and 1—of Cardamone explaining that the claim discloses a control computer that is programmed to provide an output command as a function of one or more of said operating parameters from said sensor system. *See* Ex. 1006, Claim 4. Second, neither Cardamone’s claim 4, nor any of the parent claims it depends on, makes any reference to the elements of limitation [1.7]. There is no description of a *target value* or obtaining a *set point based on the command* which was received by the server. Although the output command in Cardamone’s claim 4 is provided between the local computer and the motor driver, there is no evidence of a server being included. *See* Ex. 2009, ¶119. Therefore, Petitioner’s mapping of Cardamone does not properly map to limitation [1.7].⁶

⁶ It is also noted that “*the command*” recited in limitation [1.7] is antecedent of “*a command*” introduced in limitation [1.2]. As discussed above in **Section II.B.1**, Cardamone does not contain any discussion of commands comprising target values. Therefore, Petitioner’s mapping of “*command*” in [1.7] also fails based on its initial improper mapping in [1.2].

Petitioner makes no showing of limitation [1.7] in Cardamone, and therefore Ground 2 fails.

4. Additional Claim Elements and Limitations of Claim 1 Are Not Disclosed or Taught by Cardamone.

The Petition fails to properly map several other claim elements and limitations in addition to those discussed above. One other example is [1.3]. Petitioner provides an incorrect (and incoherent) mapping of the claimed “*determining ... a network address of a network based on the record*” of [1.3] because the cited sections of Cardamone are just generic disclosure of Cardamone’s system architecture, including a server, communication means on a network, and computers. See Petition, 34-35, and Ex. 1002, ¶92 (collectively citing Ex. 1006 Cardamone at ¶0006, ¶0011, ¶0021, ¶0026, ¶0031, ¶¶0041-0042, ¶¶0044-0045, and claim 1). Particularly, Petitioner points to Cardamone’s disclosure that describes data server 134 as being “connected to network 132 which is linked to control and communication computer 126 through one of a variety of communication link types, including hardwire connection, or internet connection via wire, wifi, satellite modem, and/or cellular data connections.” Petition, 34. However, Petitioner fails to show how any of these features map to “*determining with the server, a network address [that identifies a controller of the fluid handling device] of a network based on the record*” of limitation [1.3]. Cardamone’s disclosure that sensory data from

lines 23 and 239 is relayed to control/command computer 126 over bus 326, which allows computer 126 to relay drive commands to motor drive unit 318, is completely unrelated to the claimed feature. Petition, 35 (citing to Ex. 1006, ¶¶0031). Ex. 2009, ¶¶112-113. Limitation [1.3] is therefore not anticipated or rendered obvious by Cardamone.

Claim 1 cannot be anticipated or rendered obvious by Cardamone when there are numerous claim elements and limitations absent in the cited reference. The fact that the Petition does not identify multiple claim features in the references is indicative of the reference's lack of disclosure and overall teaching. Claim 1 is clearly patentable over Cardamone, and therefore its dependent claims are too. Thus, inter partes review of the '680 patent is unwarranted.

5. Cardamone Does Not Disclose, Teach, Suggest, or Render Obvious Claim 20.

Like for Claim 1, the Petition's Ground 2 also fails to make a sufficient anticipation or obviousness showing for the other independent claim of the '680 patent: Claim 20.

As discussed above in **Sections II.B.1-II.B.4**, the limitations of [1.2], [1.4], [1.7], and [1.3] are not disclosed, taught, suggested, or rendered obvious by Cardamone, and the Petition and the Wooley declaration each do not make a showing to the contrary. Therefore, Claim 20, which recites similar features

including “a target value,” “a set point based on the command,” and “determining a network address of a network based on the record” as Claim 1 fails for the same or similar reasons discussed above.

As a result of the above, Ground 2's assertions against Claim 20 necessarily fail.

C. Multiple Claimed Elements and Limitations of Claims 1 and 20 Lack any Mapping or Clear Mapping to Gutierrez in Ground 3.

Ground 3, based on Gutierrez, also includes multiple instances of missed element mappings or unclear or incorrect element mappings for Claims 1 and 20.

1. Gutierrez Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed Feature of “receiving, with a server, a command comprising a target value” in [1.2] of Claim 1.

Petitioner incorrectly maps Gutierrez to “*receiving, with a server, a command*” elements of limitation [1.2]. Petitioner contends that Gutierrez discloses a server receiving “a command comprising a target value of a fluid-handling device from a computing device via a control interface through its disclosure that a graphical user interface receives the commands, and sends them to the fluid-handling system.” Petition, 51-52 (citing 11:16-33 and eleven other sections of Gutierrez: Ex. 1007, 3:40-45, 5:58-67, 6:1-10, 6:13-23, 6:24-44, 9:21-25, 9:55-64, 10:27-30, 10:39-43, 11:18-26, 13:9-26). This characterization is flawed at least because Gutierrez does not disclose, teach or suggest the receiving of a command *with a*

server. Overall, Gutierrez teaches a totally different system architecture that operates on a private network using a VPN. Ex. 2009, ¶47.

Petitioner's conclusory POSITA statement⁷ fails to include an important element required in the claim, i.e., "*receiving [a command] with a server*" when addressing whether the claim limitation is disclosed or rendered obviousness by Gutierrez. Even Petitioner's expert, Dr. Wooley did not attempt to show that Gutierrez disclosed a server that receives a command comprising a target value of a fluid-handling device because "he cannot." *Id.*, ¶129.

Petitioner's analysis of Gutierrez and the '680 patent's claim limitation [1.2] is improper and unreliable and cannot support its invalidity contentions in Ground 3.

2. Gutierrez Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed Feature of "determining, with the server, a network address of a network based on the record, wherein the network address identifies a controller of the fluid-handling device" in [1.3] of Claim 1.

Petitioner improperly attests that Gutierrez discloses records that include network communication addresses for controllers of fluid-handling devices simply

⁷ Petition states without support that "[a] POSITA would recognize that Gutierrez discloses receiving a command including a target value of a fluid-handling device as recited in the '680 patent." Petition, 52.

because Gutierrez's specification explains that the production sites in Gutierrez's system are uniquely addressable by the network connection through individualized control systems for "each." *See* Petition, 53 (citing Gutierrez Ex. 1007, 6:28-35; 10:22-24, 10:34-38, 10:43-59, 11:55-61, 11:62-12:3, 13:10-26; claim 1). Gutierrez teaches remote communications with a controller through a private network. Ex. 1007, 9:4-13, 9:21-25, 10:7-16, 10:40-46, 13:12-17. However, these features do not equate to the claimed "*network address*." Ex. 2009, ¶133.

Gutierrez does disclose or teach a "network address" that identifies a controller, much less determining a "network address" with the server based on a stored record associated with a received command. And Petitioner does not even address this; Petitioner instead focuses on Gutierrez's controller⁸ in its analysis and ignores the network address. *See* Petition, 53. There is only one obscure mention of a network address in the Petition. *Id.* Moreover, the Wooley declaration does not provide a rationale or analysis as to how and why Gutierrez discloses a "network

⁸ In its analysis for limitation [1.3] under Ground 3, Petitioner focuses on Gutierrez disclosing "monitoring and control equipment" and ignores to show Gutierrez having a network address that identifies as a controller. Petitioner does this since "network address" does not exist in Gutierrez. Petition (Paper 1), p. 53.

address” or that the network address identifies as a controller, or that the network address as a controller would have been obviousness based on Gutierrez. Ex. 2009, ¶131. One simply does not exist.

3. Gutierrez Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed Feature of “sending, with the server, the target value to the network address via the network” in [1.4] of Claim 1.

Petitioner erroneously relies on Gutierrez disclosing “*sending, with the server, the target value address via the network.*” Petitioner reasons that Gutierrez discloses transmitting commands based on at least one operational parameter in order to adjust control parameters in the system. Petition, 54. Further, Petitioner relies on Gutierrez disclosing “that the user computing device interfaces with the fluid handling system *to send* instructions to control the actuators of the fluid handling system.” *Id.* (citing Ex. 1007, 11:16-33, 13:9-12, 315, 13:21-26) (emphasis added). It is this portion of Gutierrez that the Petitioner attempts to equate to “*sending, with the server, the target value address via the network*” recited in limitation [1.4]. Petitioner’s mapping is incorrect for two reasons.

First, limitation [1.4] requires a *server* to send the target value. Gutierrez does not disclose or teach a server conducting this operation. *See* Ex. 2009, ¶133. Second, the claim limitation also requires a *network address*, which receives the target value sent by the server. As discussed above in **Section II.C.2**, Gutierrez

lacks any discussion directed to a network address. *Id.*, ¶134. Not only does Petitioner fail to map Gutierrez to limitation [1.4] it also fails to show how Gutierrez would make this claim limitation obvious.

4. Additional Claim Elements and Limitations of Claim 1 Are Not Disclosed or Taught by Gutierrez.

The Petition fails to properly map several other claim elements and limitations in addition to those discussed above in connection with [1.2], [1.3] and [1.4] of Claim 1. Another example is [1.7]. Petitioner incorrectly concludes that “*a set point based on a command*” as recited in limitation [1.7] is disclosed or taught by Gutierrez. Petitioner makes only brief mention of this claimed feature as being disclosed “through [Gutierrez’s] disclosure monitoring and control equipment including sensors configured to measure fluid at ... fluid-handling facilities.” *See* Petition, 56; *see also* Ex. 1002, ¶121. Gutierrez’s fluid measurements are not set points, and Petitioner provides no explanation that they otherwise could be equivalent to or suggest the claimed “*set point*.” Moreover, Petitioner’s insufficient explanation is void of addressing a set point “*based on the command*.” Notably, Petitioner fails to recognize that “*the command*” recited in [1.7] is the antecedent of “*a command*” in limitation [1.2], where this “*command*” was received by the server, which is not taught or suggested by Gutierrez. *See Section II.C.1* above.

5. Gutierrez Does Not Disclose, Teach, Suggest, or Render Obvious Claim 20.

Like for Claim 1, the Petition's Ground 3 also fails to make a sufficient anticipation or obviousness showing for Claim 20.

As discussed above in **Sections II.C.1-II.C.4**, the limitations of [1.2], [1.3], [1.4], and [1.7] are not disclosed, taught, suggested, or rendered obvious by Gutierrez, and the Petition and the Wooley declaration each do not make a showing to the contrary. Therefore, Claim 20, which recites similar features including “*a target value*,” “*a set point based on the command*,” and “*determining a network address of a network based on the record*” as Claim 1 fails for the same or similar reasons discussed above.

As a result of the above, Ground 3's assertions against Claim 20 necessarily fail.

D. Multiple Claimed Elements and Limitations of Claim 1 Lack any Mapping or Clear Mapping to SCADA in Ground 4

Finally **Ground 4**, based on SCADA, also includes at least several instances of missed element mappings or unclear and/or incorrect element mappings for Claim 1.

1. SCADA Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed Feature of “wherein the command is received in association with a record stored on a datastore” in [1.2] of Claim 1

Petitioner maps limitation [1.2] to SCADA's Figure 2-1 and p. 12, 73, and 92-93 but fails to show how SCADA discloses “*wherein the command is received in association with a record stored on a datastore.*” *See* Petition, 60; *see also* Ex. 1002, 129-132. SCADA does not disclose this claim feature. The specific portion of SCADA the Petitioner relies on instead discusses a communications link and “special equipment [] to interface with the sensors, actuators, and calculators in the process.” *See* Ex. 1008, 92-93. Here, SCADA also discusses modems and a protocol driver program; however, there is no mention or even a suggestion of *associating* the command with a record stored on a datastore as characterized by Petitioner. Ex. 2009, 146.

Not only is the claimed feature not disclosed by SCADA, it is not obvious. Neither the Petition nor the Petitioner's expert, Dr. Wooley, provides any explanation of how limitation [1.2] would be obvious in view of SCADA. *See* Petition, 60; *see also* Ex. 1002, 129-132. For at least these reasons, Ground 4 fails to establish Claim 1 anticipated or rendered obvious by SCADA.

2. SCADA Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed Feature of “sending, with the server, the target value to the network address via the network” in [1.4] of Claim 1

Petitioner mis-maps limitation [1.4] to unrelated disclosure in SCADA. Specifically, Petitioner attempts to map the claimed “*sending, with the server, the target value to the network address via the network*” to SCADA’s disclosure of sending data *the other direction*—from field devices to the master terminal unit. See Petition, 62, discussing the remote terminal unit (RTU) “must put together a message that includes all of the information requested by the [master terminal unit (MTU)]” to send to the MTU. Petitioner provides no other analysis other than this incorrect mapping and ends with a conclusory statement that also is unsupported by SCADA’s disclosure.⁹

Moreover, Petitioner recycles its previous incorrect arguments (pertaining to Almadi’s “process data” as the claimed “*target value*”) to assert SCADA discloses this feature. Particularly Petitioner attempts to equate “process data” with “target

⁹ Petitioner concludes that “[a] POSITA would understand that transmitting process data via an Ethernet switch is the sending, with the server, the target value to the network address via the network as claimed in the ’680 Patent.” Petition, 62 (quoting Ex. 1002, ¶138).

value,”¹⁰ which is incorrect as discussed above in **Section II.A.1**. A target value is not sensor data or sensed parameter, as contended by Petitioner. Ex. 2009, ¶150. Therefore, the limitation [1.4] was not disclosed and would not have been obvious based on SCADA.

Claim 1 cannot be anticipated or rendered obvious by SCADA when there are numerous claim elements and limitations absent in the cited reference. Thus, inter partes review of the '680 patent is unwarranted.

III. PETITION FAILS TO MEET MULTIPLE LEGAL REQUIREMENTS OF UNPATENTABILITY

A. The Grounds Fail to Delineate Between § 102 and § 103 Arguments or Properly Assert Either Category.

Each Ground of the Petition appears to assert unpatentability under both the anticipation standard of § 102 and the obviousness standard of § 103, but fails to fully or clearly articulate either theory. *See* Petition (Paper 1) at 12 (Ground 1), 32 (Ground 2), 51 (Ground 3), and 59 (Ground 4). Due to this lack of clarity, the grounds of the Petition are substantively deficient and noncompliant with 35 U.S.C.

¹⁰ Petition, 62; Ex. 1002, ¶138.

§ 312(a)(3),¹¹ and therefore, institution of *Inter Partes* Review should be denied.

For anticipation under § 102, Petitioner fails to map each element of the claim to the disclosures in the cited prior art reference, as described above, so any § 102 arguments fail from the start.

For obviousness under § 103, Petitioner adds nothing but bare “a POSITA would understand” arguments to support its obviousness claims. It does not analyze the *Graham* factors—for example, the differences between the prior art and the claims at issue. And it lacks any explanation as to *why* the disclosure would render a limitation obvious to a POSITA. These boilerplate assertions of anticipation and obviousness do not fully articulate either invalidity theory.

Second, the improper Grounds require Patent Owner to respond to multiple incomplete arguments, and the Board to analyze multiple unlisted invalidity

¹¹ 35 U.S. Code § 312 – Petitions

(a) Requirements of Petition.—A petition filed under section 311 *may be considered only if*— . . . (3) the petition identifies, in writing *and with particularity*, each claim challenged, *the grounds on which the challenge to each claim is based*, and the evidence that supports the grounds for the challenge to each claim, . . . (emphasis added).

grounds. In particular, the gaps in Petitioner's claim mapping raises doubts that any § 102 claim was made in good faith, yet Patent Owner is forced to respond to both anticipation and obviousness arguments, even as neither theory is sufficiently explained for Patent Owner to appropriately rebut. The Board is also burdened with shifting through Petitioner's positions to look for hidden obviousness assertions. While the Petition includes no credible obviousness explanations, Petitioner has improperly shifted the burden to the Board and to Patent Owner.

Accordingly, the Petition has failed to conduct the proper anticipation and obviousness analyses, which warrants denial of institution of this IPR.

B. Ground 3 Fails Because Gutierrez Is Not Prior Art.

Ground 2 relies completely on Gutierrez as prior art for its dual anticipation-obviousness ground. However, Gutierrez is not prior art under any subsection of 35 U.S.C. § 102, leaving Ground 2 is effectively nullified.

The Petition cites U.S. Patent No. 9,709,995 B2 (referred to as "Gutierrez") as prior art under § 102(a)¹². Petition (Paper 2) at 9. Gutierrez cannot be § 102(a) prior art because this document's publication date is July 18, 2017 (issue date),

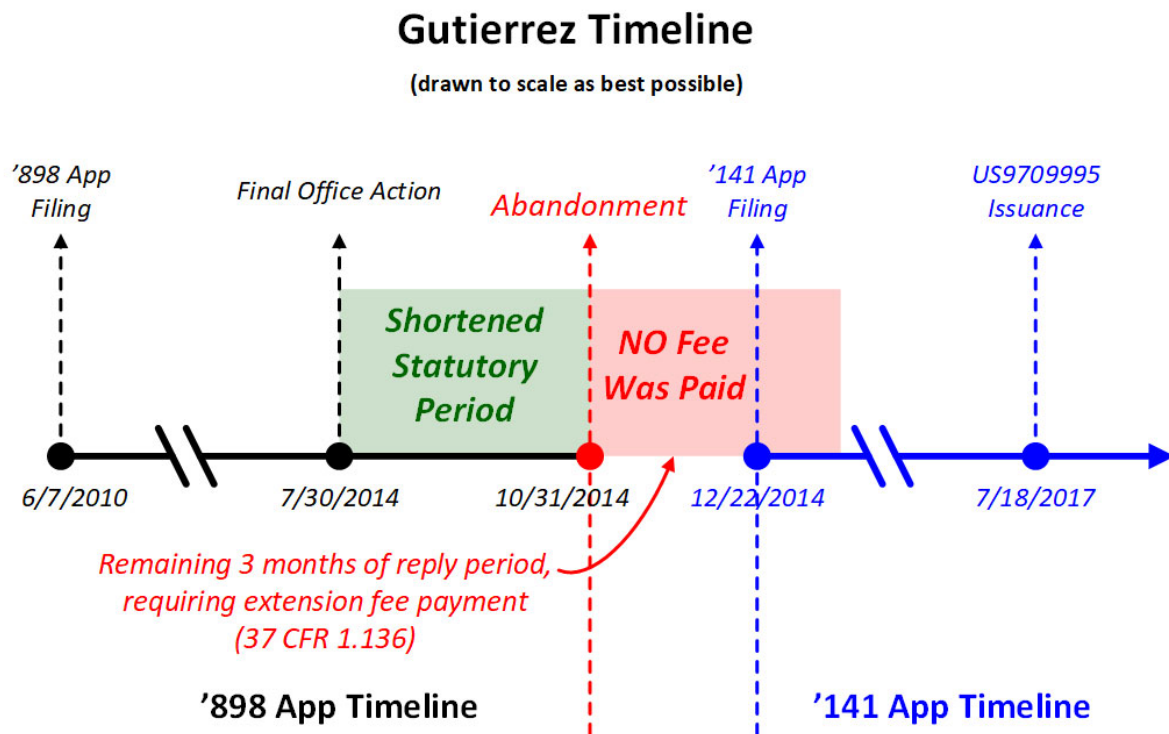
¹² Petitioner purports this was a "typographical" error and seeks permission from the Board to correct (discussed in next section).

nearly four and a half years after the '680 Patent's priority date of December 7, 2012. And, Gutierrez cannot be prior art under § 102(e) either because ***Gutierrez's priority chain was broken*** at the time of Gutierrez's filing due to Gutierrez's parent application having gone abandoned.

Gutierrez is the U.S. patent issued from U.S. Application No. 14/579,141 ("the '141 Application"), which was filed December 22, 2014 as a continuation of U.S. Application No. 12/794,898 ("the '898 Application"), which was filed June 7, 2010. The '898 Application went abandoned on October 31, 2014 after the applicant failed to reply to an Office Action¹³ within the fixed statutory period. *See* MPEP 711.04(a) ("the date of the abandonment is after midnight of the date on which the set shortened statutory period, including any extensions under 37 CFR 1.136, expired. This is normally the end of the 3-month shortened statutory period."). *See also* MPEP 711.02 (citing 37 CFR 1.135(a): "[i]f an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise").

¹³ The '898 Application received a Final Office Action dated July 30, 2014, to which no response was filed and no extension fees were paid after the three-month shortened statutory period expired. *See* Ex. 2006 at 199.

The applicant of the '898 Application did not pay an extension fee in accordance with § 1.136 between expiration of the shortened statutory period (October 31, 2014) and the filing of the '141 Application (December 22, 2014); and there was no further "Office action" indicating otherwise.¹⁴ Ex. 2006; Ex. 2007. The diagram below illustrates these events chronologically.



As the above diagram illustrates, the '141 Application (which issued as

¹⁴ The only action by the U.S. Patent and Trademark Office after the July 30, 2014 Final Office Action was the Notice of Abandonment of the '898 App, which was mailed on February 4, 2015.

Gutierrez) was filed after the parent '898 Application was abandoned. Therefore, the '141 Application (and the patent that issued as Gutierrez) is only entitled to a priority date of December 22, 2014, which is after the December 7, 2012 priority date of '680 patent.

Notably, the consequence of the applicant's non-responsiveness to the Office Action within the shortened statutory period for reply rendered the '898 Application abandoned, and any continuation application filed after abandonment, i.e., the '141 Application that resulted in the Gutierrez patent, is not entitled to an earlier priority date for failing the copendency requirement of 35 U.S.C. § 120. *See Urologix, Inc. v. Prosalund AB*, 227 F. Supp. 2d 1033, 1035-1040 (E.D. Wis. 2002). The *Urologix* court also made clear that the burden is on the applicant to have "evidence" of the extension of time. *Id.*, 1038. Here, like in *Urologix*, the record shows no payment or petition for an extension of time after expiration of the shortened statutory period for the '898 Application (*see* Ex. 2006), thus cementing its abandonment immediately after the period's three-month duration elapsed.¹⁵

¹⁵ Patent Center website for the '898 Application shows no evidence of payment or petition for an extension of time after the July 30, 2014 Final Office Action: <https://patentcenter.uspto.gov/applications/12794898/ifw/docs?application=>

Thus, Gutierrez's actual priority date is December 22, 2014, more than two years after the '680 Patent. Ground 2 fails because Gutierrez is not prior art. Notably, Patent Owner, in the Discretionary Denial Brief (Paper 7), provided similar analyses regarding Gutierrez's lack of eligibility as prior art. *See* Paper 7, 15-19. Petitioner's complete silence in addressing Gutierrez's status as prior art in its Discretionary Denial Opposition Brief (Paper 8) strengthens Patent Owner's position, which is based on straightforward assessment of the facts, and remains un rebutted.

C. Ground 2 lacks *Dynamic Drinkware* analysis.

In Ground 2, the Petition asserts that Cardamone is prior art under pre-AIA § 102(a) (Petition, 10); Petitioner's subsequently-filed notice of errata characterizes Cardamone as prior art under pre-AIA § 102(e). Ex. 1011. The Petition, however, fails to conduct a *Dynamic Drinkware* analysis to establish that Cardamone is entitled to an early priority date.

Cardamone is U.S. Patent Publication No. 2015/0308244A1 ("the '244 Publication") that published on October 29, 2015—close to three years after the

See also, Ex. 2008, which shows screen captures of the Documents and Transactions listing for the '898 Application.

December 7, 2012 priority date of the '680 patent—and ultimately claims priority to U.S. provisional application 61/729,815 (“the '815 Provisional”), filed November 26, 2012. Ex. 1006, front page. The Petition fails to satisfy its burden of showing that at least one claim of the Cardamone publication is supported by the earlier provisional, and that the portions of the Cardamone publication relied upon were in the provisional application. *See Dynamic Drinkware, LLC v. Nat'l Graphics, Inc.*, 800 F.3d 1375, 1378-79, 1381-82 (Fed. Cir. 2015); *Ex parte Mann*, Appeal No. 2015-3571, 2016 WL 7487271, at *5-6 (PTAB Dec. 21, 2016); *Huawei Device Co. v. Optis Cellular Tech., LLC*, Case No. IPR2018-00658, Paper 14 at 26-27 (PTAB Oct. 9, 2018).

Ground 2 should fail as a matter of law since Petitioner did not satisfy the legal requirement to present this analysis that Cardamone is actually prior art to the '680 patent.

D. Petitioner Relies on Incorrect Section of pre-AIA § 102 for Grounds 1 and 3.

In Ground 1, the Petition cites Almadi as prior art under § 102(a). Petition, 9. Pre-AIA 35 U.S.C. § 102(a), applicable here, renders a patent invalid when “the invention was . . . patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent.” However, the '680 patent has a priority date of December 7, 2012, and the Almadi patent did not issue

until March 4, 2014. Therefore, the Almadi patent does not qualify as prior art under § 102(a).¹⁶

Similarly, in Ground 2, the Petition cites Cardamone, which the Petition identifies as prior art under § 102(a). Petition 10. However, the '680 patent has a priority date of December 7, 2012, and Cardamone was not published until October 29, 2015. Therefore, Cardamone does not qualify as prior art under § 102(a).

¹⁶ Petitioner purports this was a “clerical or typographical” error and is attempting to correct this and numerous other purportedly “typographical” errors in its filings. *See* Notice of Errata (Paper 8) filed July 8, 2025 (referring to “error” #1 for Almadi, #2 for Gutierrez, and #4 for Cardamone). Out of courtesy, Patent Owner did not oppose Petitioner’s proposed correction. However, Patent Owner notes that Petitioner had ample time to review and correct any “typographical” errors, from the time Petitioner was served with the complaint on January 7, 2025 (in *SitePro, Inc. v. TankLogix, LLC*, 6:24-cv-00642-XR-DTG litigation), until Petitioner filed this Petition on February 28, 2025. Petitioner’s actions are even more egregious considering that the current Petition is a virtual copy-cat of a petition filed by another petitioner in April 2024 (*see* IPR 2024-00724, Paper 2), and therefore Petitioner did not spend anytime developing technical or legal arguments of the Petition.

In Ground 3, Petitioner also mischaracterizes Gutierrez as § 102(a) prior art. Petition, 11. Gutierrez is not prior art under any subsection of § 102 (see discussion above in **Section III.B**).

These mischaracterizations of Almadi, Cardamone and Gutierrez are reflective of the multitude of problems and overall inadequacy of the Petition, which impels denial of institution of this IPR.

IV. CONCLUSION

For the reasons discussed above, Patent Owner respectfully requests that the Board deny Petitioner's Petition for *Inter Partes* Review of the '680 patent.

Dated: July 16, 2025

Respectfully submitted,

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CERTIFICATE OF WORD COUNT UNDER 37 CFR § 42.24(d)

Under 37 C.F.R. § 42.24(d), the undersigned certifies that the word count for this Patent Owner's Preliminary Response to the Petition for *inter partes* review totals 7,302 words, excluding the parts exempted by 37 C.F.R. § 42.24(a). The word count was made using the built-in word count function in the Microsoft® Word software used to prepare this document.

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that I caused to be served a true and correct copy of the foregoing PATENT OWNER'S PRELIMINARY RESPONSE and accompanying exhibits by email to the electronic service addresses for Petitioner on the date indicated below:

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