

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TANKLOGIX, LLC,

Petitioner,

v.

SITEPRO, INC.,

Patent Owner.

PTAB Case No. IPR2025-00653

Patent No. 11,726,504

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 1-20 (“Challenged Claims”) of U.S. Patent No. 11,726,504 (the “’504 patent”) based on three grounds. Petitioner’s grounds fail to demonstrate a likelihood of prevailing, as shown in the sections below. Therefore, Patent Owner requests the Board deny institution of this IPR.

The ’504 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, 2:9-11, 5:63-6:8. The systems described in the ’504 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 an interface (*e.g.*, web browser in some embodiments) over a network. *See id.*, 3:18-50, FIG. 1. 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.*, 3:40-47), which solves several deficiencies in the art at the time of the ’504 patent, including manual on-site control or specialized software required for devices on a site-by-site basis. *See id.*, 1:1-50-2:2. Furthermore, the systems of the ’540 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.*, 3:21-35.

Petitioner's challenges to Claim 1, based on the disclosures of U.S. Patent Publication No. 2015/0308244 ("Cardamone," Ex. 1005), U.S. Patent No. 7,424,399 ("Kahn," Ex. 1006), and "Supervisory Control and Data Acquisition," 4th Edition ("SCADA," Ex. 1007) fall woefully short since these references do not individually or collectively disclose, teach, or even suggest each claimed feature and the claimed system as a whole. The insufficient teaching of the '504 patent claims by these references is reflected in the Petition, which fails to identify any disclosure by Kahn, Cardamone, and SCADA for several claim elements and limitations. Moreover, Petitioner does not present a sound case—much less a compelling one—for why a person of ordinary skill in the art (POSITA) would combine Kahn or Cardamone with SCADA.

The Petition is also fatally flawed by failing to meet the legal standards of invalidity under §§ 102 and 103.

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, Cardamone, and SCADA. 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 1-3 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, ¶47. 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.*, ¶72.

II. THE CHALLENGED CLAIMS ARE PATENTABLE OVER THE TEACHINGS OF CARDAMONE, KAHN, AND SCADA

Grounds 1 and 2 of the Petition argue that their primary reference anticipates and/or renders obvious certain claims among the Challenged Claims under (pre-AIA) 35 U.S.C. § 102 or § 103. *See* Petition, 9 (Ground 1), 37 (Ground 2). Petitioner's assertions are incorrect because, as shown in this section, each of Cardamone and Kahn fails to disclose, teach, suggest, or make obvious 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 does Ground 1 fail to satisfy these legal standards (discussed later in **Section III**), the ground does not even *attempt* to identify each claim element and its limitation(s).

For both Grounds 1 and 2, the cited reference (Cardamone and Kahn, respectively) either fails to map or provides unclear and/or incorrect element mappings for at least several limitations among the eleven claim sections of Claim 1 (parsed [1.1] to [1.11]) and the ten claim sections of Claim 20 (parsed [20.1] to [20.10]).

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

1. Cardamone Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed System Feature of “obtaining” and “determining, with the server system ... credentials” in [1.6] and [1.7] of Claim 1.

Petitioner improperly maps Cardamone’s disclosure of application 131 (operating on GUI computer 130) querying user 101 for a username and password to the claimed “*obtaining, with the server system, credentials*” and “*determining, with the server system, based on the credentials*” feature of limitations [1.6] and [1.7], respectively. *See* Petition, 13-14; *see also* Ex. 1002, ¶¶54-55. This mapping fails because Cardamone’s system and the claimed system have completely different architectures. *See* Ex. 1005, FIG. 1 (reproduced below), ¶¶[0021]-[0027].

Cardamone's GUI computer 130 is configured to solely communicate, via a Local Area Network (LAN), with Cardamone's control and communication computer 126, which is located at the oil well site to directly communicate with the deep well pump system 122. *Id.* GUI computer 130 does not communicate with Cardamone's data server 134, which communicates with the control and communication computer 126 via Internet 132. *Id.*

Cardamone FIG. 1

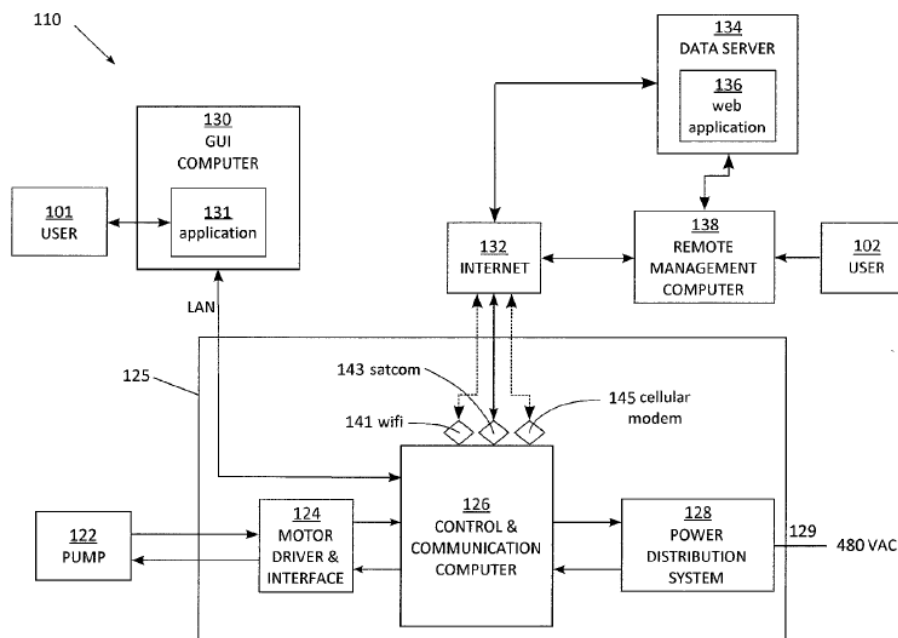


FIG. 1

Petitioner's mapping of receiving credentials from user 101 using application 131 fails because the claimed "*credentials*" are obtained "*with the server system.*", which the Petitioner has clearly mapped to Cardamone's data server 134—not to

Cardamone's control and communication computer 126 that GUI computer 131 solely communicates with.

Furthermore, limitation [1.7] recites “*determining, with the server system, based on the credentials, that a user of the first client computing device is authorized to interact with the first fluid handling site, wherein the server system hosts data about other fluid handling sites the user is not authorized to interact.*” Cardamone does not disclose or teach “data about other fluid handling sites” existing on the control and communication computer 126 (which Petitioner maps to the claimed “server system”) because the control and communication computer 126 is located at a single site. Ex. 2009, ¶93. Moreover, Petitioner does not even attempt to map anything from Cardamone's disclosure to the claimed limitation of “*other fluid handling sites the user is not authorized to interact.*” See Petition, 14; see also Ex. 1002, ¶55. While improper, this missed mapping is logical because Cardamone would not teach or suggest “other fluid handling sites” since Cardamone's system is directed to a single deep oil well pump site. See Ex. 1005, ¶[0005] (“provided is a system (110) for operating a down-hole pump”).

As such, Cardamone does not disclose, teach, suggest, or render obvious limitations [1.6] and [1.7] of Claim 1.

2. Cardamone Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed System Feature of “from one or more sensors disposed at a first fluid tank itself disposed at the first fluid-handling site” in [1.2] of Claim 1.

Petitioner's mapping to limitation [1.2] fails for multiple reasons. First, Cardamone does not disclose or discuss sensors disposed at a tank. Actually, Cardamone does not disclose or discuss a tank at all. *See* Ex. 2009, ¶80. Yet, the Petition posits an incorrect conclusory statement that “Cardamone discloses that the fluid handling site has a ... tank that handles a fluid in its disclosure of down-hole pump 228” by noting valves, a piston or plunger, and an inlet and outlet—but no tank. *See* Petition, 11 (citing Ex. 1005, ¶[0029]). And, Petitioner's expert, Dr. Wooley, posits nothing in his declaration about a tank in Cardamone. *See* Ex. 1002, ¶47.

Moreover, neither the Petition nor the Wooley declaration provide any rationale or analysis as to how Cardamone's control and computer system 126, mapped to the claimed “*first computer system disposed at a first fluid handling site*,” performs all of the features recited in limitation [1.2], such as receiving the property(ies) of a fluid from a sensor disposed *in a fluid tank* at the fluid-handling site. *See* Petition, 10-11; *see also* Ex. 1002, ¶47. Although Cardamone discloses raw sensor signals that are collected by control and communication computer 126,

it fails to disclose or discuss sensors that are *disposed at a tank*, as required by the claim.

As such, Cardamone does not disclose, teach, suggest, or render obvious limitation [1.2] of Claim 1.

3. Cardamone Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed System Feature of “a first command to change a state of the first fluid-handling device” in [1.9] of Claim 1.

Petitioner fails to properly map the claimed limitation of “*a first command to change a state of the first fluid-handling device*” in [1.9] to anything in Cardamone’s disclosure. Specifically, Petitioner incorrectly maps Cardamone’s disclosure of control and communication computer 126 requesting data that includes “sensory data of pump control system 110” and application 131 on GUI computer 130 allowing the “adjust[ment] of operating parameters” with control computer 126 through an interface, citing ¶¶[0042], [0044]-[0045] of Cardamone. Petitioner then notes data server 134 is linked to the control and communication computer 126 via network 132. *See* Petition, 16-17.

Petitioner’s analysis in [1.9] neglected the limitation that the claimed “*server system*” (mapped to Cardamone’s data server 134) receives the command to change a state of the device—not the “*first computer system*” that Petitioner mapped to Cardamone’s control and communication computer 126. Petitioner’s mapping

exists solely between GUI computer 130 and the control and communication computer 126 that is at the fluid handle site (Cardamone's down-hole oil well). While Petitioner throws out a statement that "Cardamone also discloses that data server 134 is connected to network 132 which is linked to control and communication computer 126 through a variety of network communication types," that is clearly different than what is claimed and ultimately meaningless without careful explanation why a POSITA would equivocate Cardamone's communication stream for changing a "state" with the claimed system's configuration. A POSITA wouldn't equivocate or find obvious because Cardamone's system would require extra steps, resources, and risks—let alone would be nonsensical to send a command for a state change to the computer that the state change is intended for to only then send the command to a server through a network, so that it can be sent back. As such, Petitioner fails to map limitation [1.9].

All in all, 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 is unable to identify where and how multiple claim features are allegedly described in the reference 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 '504 patent based on Cardamone is unwarranted.

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

Like for Claim 1 in Ground 1, Petitioner also fails to make a sufficient obviousness showing for the other independent claim of the '504 patent. Claim 20 is directed to a system claim with similar limitations as [1.1]-[1.10] of Claim 1.

As discussed above in **Sections II.A.1-II.A.3**, the limitations of [1.6], [1.7], [1.2], and [1.9] 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. *See* Petition, 36; *see also* Ex. 1002, ¶87. Therefore, Claim 20, which recites a computer program product to effectuate operations that recite similar features as recited in Claim 1 fails for the same or similar reasons discussed above.

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

B. Multiple Claimed Elements and Limitations of Claim 1 Lack any Mapping or Clear Mapping to Kahn in Ground 2.

1. Kahn Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed System Feature of "provide remote control" in [1.3] of Claim 1.

Petitioner's mapping of Kahn's disclosure to [1.3] fails since Kahn does not

disclose, teach, suggest, or render obvious the claimed feature of “*provide remote control*.” Kahn’s system does not provide remote control of any of Kahn’s fluid-handling devices. *See* Ex. 2009, ¶105 (“*Kahn* does not disclose, or even suggest, remote control at all”).

The Petition and Wooley declaration do not show disclosure or teaching in Kahn of remote control. *See* Petition, 39; *see also* Ex. 1002, ¶92. Petitioner merely cites instance of Kahn’s sensor units with actuators or valves that open or close off fluid flow to a sensor, citing four disparate sections of Kahn.¹ *Id.* First, this is an incorrect characterization because these actuators and valves are not controlled remotely by a user command, but instead are controlled locally (e.g., by a processor in a local sensor or other device). Also, the concept of control (i.e., local control) is disclosed by Kahn in one of the cited sections (Ex. 1006, 10:62-67), which discusses “on-site alerts such as optical (indicator lights), audible alerts (e.g. alarm sounds), tactile (e.g., vibration of the unit) or can be interfaced to an appropriate control valve

¹ Petitioner states: “sensor unit 110 includes communication equipment with actuators configured to manipulate fluid flow at respective fluid-handling facilities. *See, e.g.,* Ex. 1006, 8:19-21, 10:62-67; *see also id.,* 14:35-15:2, 15:62-16:32.” Petition, 39.

for simply shutting off the supply of fluid upon the detection of emergency events, for instance.” *Id.* However, this disclosure in Kahn does not teach or even suggest “remote control of a first fluid handling device” as the claim requires. *See* Ex. 2009, ¶106. This quote merely points to local indicators (i.e., “on-site alerts) and, at most, “interfacing” these alerts with a local control valve. There is no disclosure, mention or suggestion of “remote control” and, at most, “interfacing” these alerts with a local control valve. *Id.* Petitioner’s conclusion that a POSITA would recognize Kahn disclosing “‘provide remote control’ of a first fluid-handling device of the one or more fluid-handling devices” is therefore unsupported. The Wooley declaration, which the Petition cites to after this “[a] POSITA would understand” conclusory statement, provides no further analysis about Kahn and cites to nothing more than the Petition. Ex. 1002, ¶92.

Therefore, Kahn does not disclose, teach, suggest, or render obvious limitation [1.3] of Claim 1.

2. Kahn Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed System Feature of “receiving, with the server system, from the first client computing device, a first command to change a state of the first fluid-handling device” in [1.9] of Claim 1.

Petitioner’s mapping of Kahn’s disclosure to [1.9] fails at least because, as discussed above in connection with [1.3], Kahn’s system does not provide remote

control. *See* Ex. 2009, ¶108.

Moreover, Petitioner's mapping to Kahn's system does not allow for "receiving, with the server system, from the first client computing device, a first command to change a state of the first fluid-handling device" because Petitioner's mapping of the claimed "server system" and "first client computer device" do not support such functionality. Petitioner maps the claimed "server system" to Kahn's data collection network with centralized data collection points. Petition, 39 in connection with limitation [1.4]; *see also* Ex. 1006, FIG. 3 showing "centralized data collection point 333." Petitioner later maps the claimed "first client computing device" to no device in Kahn and instead refers to Kahn's disclosure of user accounts from an authorized user device. *See* Petition, 41-42 in connection with limitation [1.6], citing Kahn (Ex. 1006) at 25:1-2; 28:35-37, 5:48-51, and 25:55-58. Yet, there is nothing in Kahn's disclosure that (1) clearly connects Kahn's centralized data collection point 333 to Khan's authorized user devices, as these are discussed in completely different embodiments, and (2) teaches or implies a capability of an authorized user device to command a fluid handling device, let alone change a state of the device.

In fact, the only mention by Petitioner of the claimed "change a state" feature of limitation [1.9] is through a hollow "[a] POSITA would understand" conclusory

statement that provides no rationale why a POSITA would understand and cites nothing in Kahn to support it. Petition, 46. The assertion is incorrect. A POSITA would not recognize Kahn as disclosing the claimed “command to change a state” because Kahn does not control fluid-handling devices. *See* Ex. 2009, ¶¶108-109.

Therefore, Kahn does not disclose, teach, suggest, or render obvious limitation [1.9] of Claim 1.

3. Kahn Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed System Feature of “changing the state” in [1.10] of Claim 1

Petitioner's improper mapping of the claimed “change a state” feature continues in [1.10] for the claimed limitation of “effectuat[ing] the command by changing the state.” Like in [1.9], Petitioner's mapping to Kahn fails. Not only there is no remote control in Kahn, Kahn does not disclose, teach, suggest, or render obvious “changing the state” of any fluid handling device by a server system, much less doing so “*to a sequence of different target states that change over time,*” as recited in [1.10]. *See* Ex. 2009, ¶¶110-111. Petitioner, of course, makes no showing to the contrary and basically recycles the same statements and citations for [1.10] as were made for [1.9]. Compare Petition, 45-46 to 46-47.

Therefore, Kahn does not disclose, teach, suggest, or render obvious limitation [1.10] of Claim 1.

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

Like for Claim 1 in Ground 2, Petitioner also fails to make a sufficient obviousness showing for the other independent claim of the '504 patent: Claim 20.

As discussed above in **Sections II.B.1-II.B.4**, the limitations of [1.3], [1.9], and [1.10] are not disclosed, taught, suggested, or rendered obvious by Kahn, and the Petition and the Wooley declaration each do not make a showing to the contrary. *See* Petition, 54; *see also* Ex. 1002, ¶112. Therefore, Claim 20, which recites a computer program product to effectuate operations that recite similar features as recited in Claim 1 fails for the same or similar reasons discussed above.

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

C. Multiple Claimed Elements and Limitations of Claim 1 Lack any Mapping or Clear Mapping to Cardamone, Kahn, and/or SCADA in Ground 3

As for Ground 3, Petitioner relies upon obviousness combinations of either Cardamone and SCADA, or Kahn and SCADA, that purportedly render obvious Claims 2, 8, and 13 of the '504 patent. Petition, 54.

Claim 2 depends from Claim 1, but Petitioner does not explain how the limitations of the independent claim are obvious based on either combination. *See, e.g., id.*, 54-59. For instance, Claim 2 recites "*the sequence of different target states*

that change over time,” which is not disclosed, taught, suggested, or rendered obvious by Cardamone or Kahn. *See Section II.B.4.* There's no discussion by Petitioner how SCADA cures this deficiency in either combination. Moreover, there is no discussion of either Cardamone's or Kahn's mapping on this base feature in Claim 2 that is further limited by the recitation that it is “*configured to ramp up or down a speed of the first fluid-handling device.*” Other than Petitioner's conclusory statements for why SCADA can be combined with Cardamone and Kahn, Petitioner is silent on how SCADA's disclosure on the “remote set point of a PID [] controller ... and the output from the controller” would integrate with or modify the teachings of Cardamone and Kahn to render Claim 2 obvious.

Arguments against Claim 8 are similarly flawed. Here, Petitioner cites “Kahn in view of SCADA” to render Claim 8 obvious (Petition, 57.), but that assertion is dead from the start because Claim 8 depends from Claim 7, which Petitioner makes no showing is disclosed, taught, suggested, or rendered obvious by Kahn (in Ground 2) or the combination of Kahn and SCADA (in Ground 3). Also, Petitioner makes the same non-showing of how SCADA's teaching of “several languages ... used between field instruments and RTUs” would integrate with or modify the teachings of Cardamone to render Claim 8 obvious. *See* Petition, 57-58. Moreover, Petitioner does not map anything in SCADA to Claim 8's “*steps for translating commands*”

limitation. *Id.* The Petition simply does not map the claimed features to any disclosure in Cardamone or SCADA, or Kahn for that matter.

The same problems in Ground 3 for Claim 8 are repeated for Claim 13. Like Claim 8, Claim 13 depends on intervening dependent Claim 7. Thus, the combination of Kahn and SCADA fails because Petitioner has failed to show is rendered obvious by the combination. And, like above for Claim 8, Petitioner makes no showing of how SCADA's teaching of various "formats and protocols" would integrate with or modify the teachings of Cardamone to render Claim 13 obvious. *See* Petition, 58-59.

Thus, Ground 3 fails. *Inter partes* review of the '504 patent is unwarranted.

III. PETITION FAILS TO MEET MULTIPLE LEGAL REQUIREMENTS OF PATENTABILITY

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, 9 (Ground 1), 37 (Ground 2). Due to this lack of clarity, the grounds of the Petition are substantively deficient and

noncompliant with 35 U.S.C. § 312(a)(3),² thereby favoring denial of *Inter Partes* Review.

First, it is unclear whether the Petition intends to raise both § 102 and § 103 arguments. Grounds 1 and 2 are titled “[Reference] Anticipates Claims [list of claim numbers],” indicating only § 102 arguments. However, within each of these Grounds, the Petition also uses boilerplate language to also assert an obviousness theory. *See, e.g.*, Petition, 9 (The challenged claims “are anticipated by [reference] under 35 U.S.C. § 102, or would be obvious to a POSITA in view of [reference] under 35 U.S.C. § 103.”). The Petition then follows a robotic pattern. For almost all claim limitation, the Petition recites the limitation, lists paraphrased disclosure from the reference, then presents a conclusory statement that “a POSITA would

² 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).

understand” the claim limitation being disclosed by the [reference]. *See, e.g.*, Petition, 13.

As for § 102, the Petition 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. As for § 103, the Petition fails to map the prior art to particular features or terms within the claim limitation. 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 grounds. In particular, the gaps in Petitioner's claim mapping raise 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 sifting 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. Grounds 1 and 3 lack *Dynamic Drinkware* analysis.

The Petition asserts that Cardamone is prior art under pre-AIA § 102(e) (Petition, 8; *see also* Petitioner's Notice of Errata (Ex. 1010) filed July 8, 2025, correcting the statutory basis to pre-AIA § 102(e)), but 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 December 7, 2012 priority date of the '909 patent—and ultimately claims priority to U.S. provisional application 61/729,815 ("the '815 Provisional"), filed November 26, 2012. Ex. 1005, 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).

Grounds 1 and 3 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 '504 patent.

C. Reliance on Incorrect Section of pre-AIA § 102.

Grounds 1 and 3 of the Petition rely on Cardamone as prior art, which the Petition asserts is prior art under § 102(a). Petition, 8. 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 '504 patent has a priority date of December 7, 2012, and Cardamone is a U.S. Patent Publication published on October 29, 2015. Therefore, the Cardamone patent publication does not qualify as prior art under § 102(a).³

³ Petitioner purports this was a “typographical” error, and is attempting to correct this and numerous other purportedly “typographical” errors in its filings. *See* Petitioner's Notice of Errata (Ex. 1010) filed July 8, 2025 (referring to “error” #2). 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 it was served with the Complaint on

IV. CONCLUSION

For the reasons discussed above, Patent Owner respectfully requests that the Board deny Petitioner's Petition for *Inter Partes* Review of the '504 patent.

Dated: July 16, 2025

Respectfully submitted,

/Babak Tehranchi/

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January 7, 2025, 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 2024-00740, Paper 2), and therefore Petitioner did not spend anytime developing technical or legal arguments of the Petition.

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 4,761 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.

Dated: July 16, 2025

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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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