

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TANKLOGIX, LLC,

Petitioner,

v.

SITEPRO, INC.,

Patent Owner.

PTAB Case No. IPR2025-00761

Patent No. 12,019,461

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-00643-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-00643-XR-DTG, pending in the United States District Court for the Western District of Texas.
Ex. 2004	TankLogix's Preliminary Invalidity Contentions
Ex. 2005	SitePro's Response to TankLogix's Motion to Stay, <i>SitePro, Inc. v. TankLogix, LLC</i> , 6:24-cv-00643-XR-DTG, Dkt. 34
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	Select Sections of File History of '461 Patent
Ex. 2010	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 1-17 (“Challenged Claims”) of U.S. Patent No. 12,019,461 (the “’461 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 ’461 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, 2:14-17, 6:1-13. The systems described in the ’461 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.*, 3:22-54, 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.*, 3:44-51), which solves several deficiencies in the art at the time of the ’461 patent, including manual on-site control or specialized software required for devices on a site-by-site basis. *See id.*, 1:55-2:7. Furthermore, the systems and methods of the ’461 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.*, 3:23-4:2, 4:38-58.

Petitioner's challenges to independent Claims 1 and 17, based on the combined disclosures of U.S. Patent No. 7,424,399 ("Kahn," Ex. 1005), U.S. Patent No. 8,667,091 ("Almadi," Ex. 1006), U.S. Patent No. 9,709,995 ("Gutierrez," Ex. 1007), and "Supervisory Control and Data Acquisition," 4th Edition ("SCADA," Ex. 1008) 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 '461 patent claims by these references is reflected in the Petition, which fails to identify any disclosure by Kahn, Almadi, Gutierrez, and SCADA for certain claim elements and limitations, lacks consistent mappings to claim features¹ across the claim elements, and provides no rationale for why unmapped claimed features and the claims as a whole would have

¹ The Petition fails to consistently map the claimed "*first computer system*" (introduced in [1.2]) and the claimed "*server system*" (introduced in [1.4]) for subsequent claim elements, which is discussed below in **Section III.A.2**.

been obvious by the combination.

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, Almadi, Gutierrez, and SCADA. Notably, all four references used in the Petition were already considered in the prosecution history of the '461 patent, and the Petition provides no analysis or argument for how the Patent Office may have erred in allowing the claims of the '461 patent after considering the Kahn, Almadi, Gutierrez, and SCADA. *See* Patent Owner's Brief for Discretionary Denial (Paper 007), 19-26. The Petition is also fatally flawed by failing to meet the legal standards of invalidity under §103. Moreover, as demonstrated in **Section IV**, the Gutierrez reference used in the four-reference combination does not even qualify as prior art.

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 17 are shown to be patentable over the combination of Kahn, Almadi, Gutierrez, 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 its sole ground, Ground 1, demonstrates a reasonable likelihood of invalidating any of the Challenged Claims. Institution should consequently be denied under 35 U.S.C. § 314.

II. LEVEL OF ORDINARY SKILL IN THE ART AND CLAIM CONSTRUCTION

A. Level of Ordinary Skill in the Art.

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. 2010, ¶49. 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.*

B. Claim Construction.

Patent Owner believes all claim terms should be interpreted in their plain and ordinary meaning. *Id.*, ¶74.

III. THE CHALLENGED CLAIMS ARE PATENTABLE OVER THE COMBINED TEACHINGS OF KAHN, ALMADI, GUTIERREZ, AND SCADA

Petitioner asserts the combination of “Kahn and Gutierrez in further view of Almadi and SCADA” renders obvious the challenged claims under pre-AIA 35 U.S.C. § 103. *See* Petition, 7, 38 (Claim 1) and 66 (Claim 17). This is incorrect. The Petition fails to show the requisite disclosure, teaching, or suggestion in the prior art for several claimed features of independent Claims 1 and 17 and provides no explanation or reasoning for why these features or the claim as a whole would have been obvious.

A finding of obviousness under § 103 requires an objective analysis of a claim within the framework articulated in *Graham v. John Deere Co.*, 383 U.S. 1 (1966) and reiterated in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). The court has “repeatedly emphasized that an obviousness inquiry requires examination of all four *Graham* factors and that an obviousness determination can be made only after consideration of each factor.” *Nike, Inc. v. Adidas AG*, 812 F.3d 1326, 1335 (Fed. Cir. 2016). The Petition does not fulfill this obligation because it neglects the second *Graham* factor (ascertaining the differences between the claimed invention and the prior art) for each element of the challenged claims in Ground 1.

Not only does the Petition fail to satisfy the requisite legal standard, Petitioner's element-by-element mappings are faulty. The combination of Kahn, Gutierrez, Almadi, and SCADA (hereinafter, the "Combination") does not disclose, teach, suggest, or otherwise render obvious each claimed limitation in Claims 1 and 17. Petitioner either fails to map or provides unclear and/or incorrect element mappings to the Combination for at least several limitations among the nine claim sections of Claim 1 (parsed as claim elements [1.1] to [1.9]) and the ten claim sections of Claim 17 (parsed as claim elements [17.1] to [17.10]), as explained below.

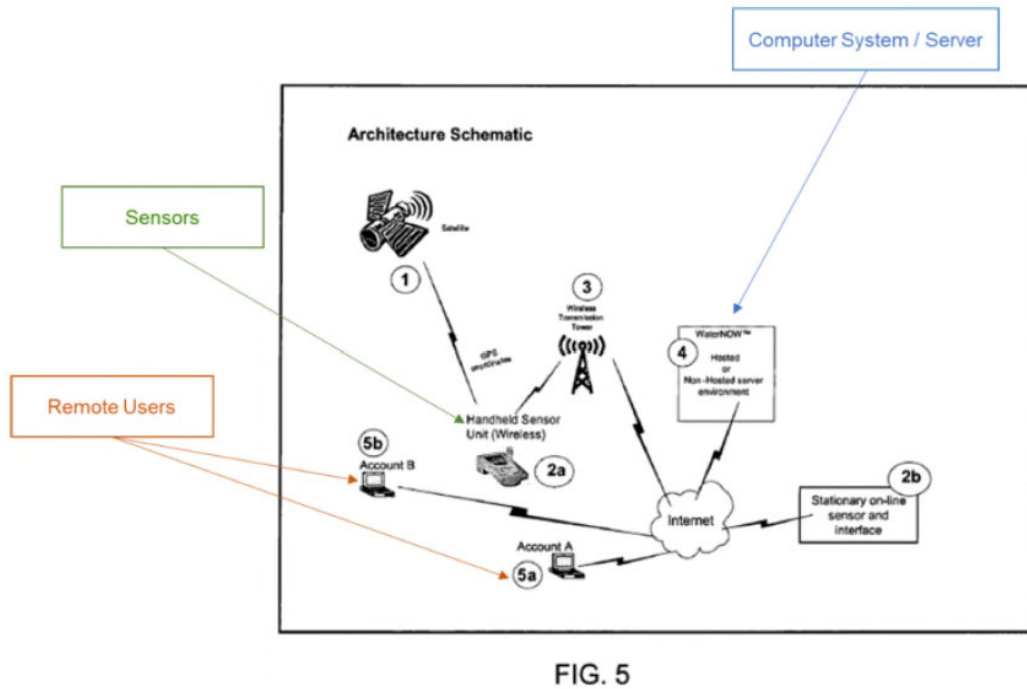
A. Multiple Claimed Limitations of Claim 1 Lack any Mapping or Clear Mapping to the Cited References in the Combination.

1. The Combination Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed Feature of "determining, with the server system, ... that a user of the first client computing device is authorized to interact with the first fluid handling site" in [1.6] of Claim 1.

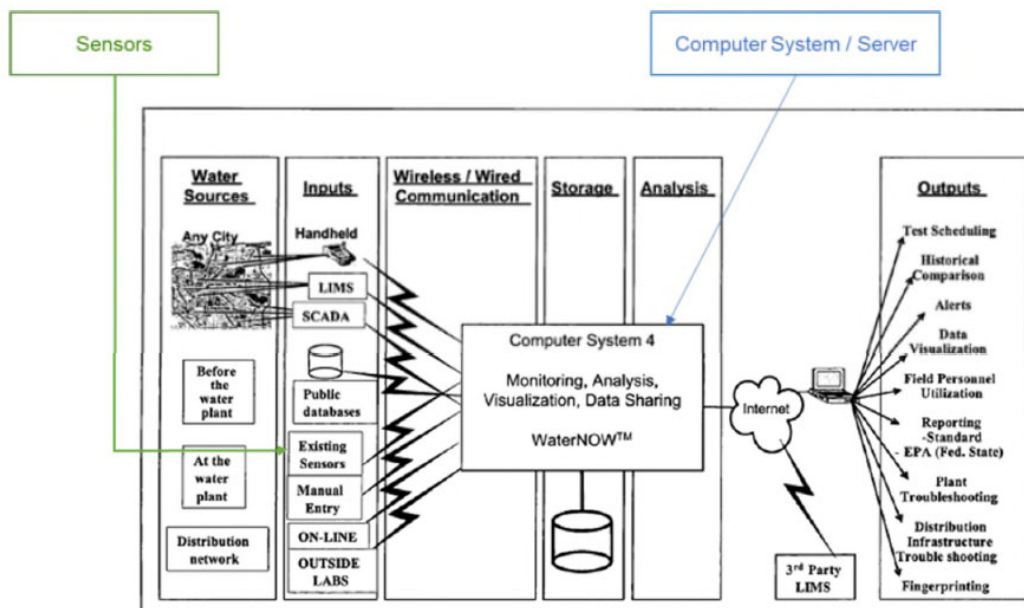
Petitioner incorrectly contends Kahn discloses a server system determining (based on credentials) that a user of the first computing device is *authorized to interact with the first fluid handling site* through Kahn's disclosure that an authorized Account A can be authorized by a first entity. *See* Petition, 25-26, citing Kahn at 25:48-26:67. This is incorrect because Kahn does not teach or suggest any interaction between a user of a client computing device and a fluid handling site that

comprises one or more fluid-handling devices. *See* Ex. 2010, ¶¶92-93, ¶98. Instead, Kahn teaches users on client computing devices, such as the users of Account A and Account B, *interact with a server (centralized computer system)* (e.g., Kahn's "computer system 4"), which is not interactions with a fluid handling site. *See* Ex. 1005, 25:3-29:4. *See also* Ex. 2010, ¶93, ¶98. In particular, Kahn's disclosure is clear that users of various entities, such as a municipal water authority, industrial plant, or power utility, can be authorized to interact with computer system 4 to "visualize" fluid test data and "grant authorization" to others, e.g., sharing, providing service fees or contracts, etc. Ex. 1005, 26:3-61. Importantly, these interactions are between the user client computers (e.g., Kahn's user 5a on Account A and user 5b on Account B) and the central computer system 4—not with any devices at a fluid-handling site (e.g., Kahn's handheld sensor units 2). Ex. 2010, ¶¶94-98.

The Petition's own cited demonstratives of Kahn's FIGS. 5 and 6 (Petition, p. 29, reproduced below) illustrate the interactive relationship of Kahn's user devices 5a, 5b with computer system 4 and Kahn's computer system 4 with "inputs" (handheld sensor units 2a) at "water sources" (fluid-handling sites). These figures, along with Kahn's detailed discussion at 25:3-29:4 clearly demonstrate that Kahn does not authorize interaction between user client devices and fluid-handling sites. Thus, Kahn does not disclose, teach, suggest, or otherwise render obvious [1.6].



Kahn's FIG. 5, Petition, 29, (with Petitioner's annotations).



Kahn's FIG. 6, Petition, 29 (with Petitioner's annotations).

Petitioner also incorrectly contends that Almadi discloses a server system determining (based on credentials) that a user of the first computing device is *authorized to interact with the first fluid handling site*. In making this assertion, the Petition points to Almadi's disclosure that the integrated node 100 simply allows the remote host computer 110 to interface with the remote subsystems 120. *See* Petition, 26-27, citing Almadi at 11:18-21, which states "integrated node 100 ... allow[s] a remote host 110 to interface with a plurality of remote subsystems." This general teaching in Almadi does not teach, suggest, or render obvious the claimed features and limitations in claim element [1.6]. There's no discussion in Almadi of a credentialing scheme to 'authorize' users (*see* Ex. 2010, ¶103, "*Almadi* makes no reference to or suggestion of credentials, authorizations, or any similar subject throughout its teachings"). Almadi is silent on any authorization process, let alone one that uses user credentials. *See* Ex. 1006 (entirety), lacking any mention of "authoriz[e]" or "credential[s]."

Petitioner makes no credible showing that Almadi uses "*credentials*" by the server (i.e., Almadi's integrated node 100) to authorize a user of client computer (i.e., Almadi's remote host computer 110).² Instead, the Petition points to a single

² Notably, with respect to the claimed "*credentials*," the Petition cites to Petitioner's

statement in Almadi that pertains to preventing file access violations between Almadi's integrated node 300 and remote host computer 310, which Petitioner contends "[a] POSITA would understand that Almadi discloses obtaining credentials." *See* Petition, 27, quoting Almadi at 16:65-67 ("those having skill in the art will appreciate various techniques to ensure no file access violations during the process of accessing the file, for example, by the remote host 300"). This statement in Almadi, which is at the foundation of Petitioner's reliance on Almadi for [1.6], is unrelated to user authorization and is taken out of context from Almadi's disclosure. *See* Ex. 2010, ¶¶100-102.³ If anything, the cited portion of Almadi teaches interacting with archived data, not a fluid-handling site like in Claim 1 of

expert's declaration ("Wooley Declaration") at ¶69 and ¶72, which does nothing more than repeat the Petition's statements and citations about Almadi, providing no additional analysis regarding the "credentials" feature in claim elements [1.5] and [1.6].

³ As explained by Patent Owner's expert, Dr. Durham, Almadi, at 16:65-67, is discussing internal checks to ensure that the various modules or services of an archiving system (archive, FTP, copy access, etc.) do not damage the file as they are simultaneously accessing the archived data.

the '461 patent. *See* Ex. 2010, ¶103. Almadi does not disclose, teach, suggest, or otherwise render obvious [1.6].

Petitioner, rightfully, makes no argument that Gutierrez or SCADA disclose, teach, suggest, or render obvious claim element [1.6]. Petition, 25-27; Ex. 1002, ¶¶71-72. Petitioner thereby has failed to show claim element [1.6] is obvious in view of the Combination, and thus Petitioner's sole obviousness ground against Claim 1 has failed.

2. The Combination Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed “system server” of Claim 1.

Petitioner fails to cogently and consistently map any computerized system of Kahn, Gutierrez, Almadi, or SCADA that meets the limitations of the claimed “*system server*” in Claim 1. The claimed “*server system*” is introduced in claim element [1.4]. In the Petition for [1.4], Petitioner maps the claimed “*server system*” to Kahn's “centralized data collection system 418 (e.g., an internet server)” (Petition, 18) and Kahn's “centralized data collection points” (*id.*, 19); to Gutierrez's “computer 305”⁴ (*id.*, 20-21); to Almadi's “integrated node 100” (*id.*, 21); and to

⁴ Petitioner *presumably* maps Gutierrez's computer 305 to the claimed “*server system*” as it is the only feature from Gutierrez's disclosure discussed in the Petition that seems to fit the context of claim element [1.4].

SCADA's "master terminal unit (MTU aka server system)." *Id.*, 23. As an initial matter, it is unclear whether the Petitioner intends to use one of the above components, all of the above components, or a combination of some of the above components for mapping the claimed "*server system*."

Yet, after this, Petitioner's mapping changes because none of these features initially mapped in Kahn, Gutierrez, Almadi, and SCADA possess the features of the claimed "*server system*" in the full context of the claimed fluid processing method of Claim 1.⁵

Specifically, for Kahn, Petitioner changes the mapping of the claimed "*server system*" from Kahn's centralized data collection system 418 or centralized data collection points in [1.4] to Kahn's computer system 4 in [1.5], which, importantly, Petitioner had already mapped to the claimed "*first computer system disposed at a first fluid-handling site*." See Petition, 23-24 and Ex. 1002, ¶¶66-67, discussing Kahn's disclosure at 25:48-58 that refers to user Accounts A and B authorized to access data on computer system 4 via the Internet. See also Petition, 18-20 (initially mapping the "*server system*" to Kahn's centralized data collection system 418 or

⁵ Note that the claimed "*server system*" is invoked in claim elements [1.4], [1.5], [1.6], [1.7], [1.8], [1.9].

centralized data collection points), and *id.*, 10-11 (initially mapping the “first computer system” to Kahn’s computer system 4.

Kahn provides no disclosure, teaching or suggestion that Kahn’s centralized data collection system 418 or centralized data collection point 333—which Petitioner mapped to in [1.4]—obtains credentials and determines user authorization based on credentials as claimed in claim elements [1.5] and [1.6], respectively. Petitioner’s shifted mapping of the claimed “*server system*” from Kahn’s centralized data collection system 418 or centralized data collection point 333 to Kahn’s computer system 4 (previously mapped to the claimed “*first computer system*”) completely undercuts Petitioner’s reliance on Kahn for any claim element requiring the claimed “*server system*.”

For Gutierrez, Petitioner again changes positions from the initial mapping of Gutierrez’s computer 305 as the claimed “*server system*” in [1.4] to Gutierrez’s “central controller” in [1.8]. *Compare* Petition, 20 (stating “computer 305 may monitor, receive data from, and/or generate commands transmitted to a single chemical injection system 310 or multiple chemical injection systems 310”) to *id.*,

33 (stating “[t]he ‘central controller’ disclosed in Gutierrez is a server”).^{6,7} Notably, Petitioner also changes the mapping of the claimed “*first computer system*”⁸ from Gutierrez’s controller 130 to Gutierrez’s computer 305 in element [1.8], making it completely unclear what, if anything, in Gutierrez corresponds to the claimed “*server system*.” See Petition, 33-34. Moreover, there’s nothing in Gutierrez to support Petitioner’s notion that “central controller”—mentioned only in the Abstract and Brief Description sections of Gutierrez—is or is capable of operating like a server. Ex. 2010, ¶113. Simply put, Gutierrez’s “central controller” is not a server.

⁶ There is no mention in the Petition or Wooley Declaration of Gutierrez’s “central controller” in claim element [1.4] where the claimed “*system server*” is introduced. See Petition 20-21 and Ex. 1002, ¶61.

⁷ The only example of a “server” in Gutierrez is a mere mention that “[c]omputer 305 may be a standalone computing device, such as a laptop computer, ... desktop computer, server, or other computing device.” Ex. 1007, 11:34-37.

⁸ The claimed “*first computer system*” was introduced in [1.2], where Petitioner initially provided no mapping in Gutierrez but later mapped the claimed “*first computer system*” to Gutierrez’s controller 130 in [1.3] when presenting mapping to the claimed “*first fluid-handling device*.” Compare Petition, 12-13 to *id.*, 15-16.

Petitioner's inconsistent, incomplete, and incorrect analysis of a server in Gutierrez undermines Petitioner's reliance on Gutierrez for any claim element requiring the claimed "*server system*."⁹

For Almadi and SCADA, Petitioner at least does not shift the mapping of the claimed "*server system*" from Almadi's integrated node 100 and SCADA's MTU to other features, like was done for Kahn and Gutierrez. However, Petitioner does not address all of the limitations of the claimed "*server system*" by Almadi's integrated node 100 and SCADA's MTU. For example, Petitioner lacks a showing that Almadi's integrated node obtains credentials (in [1.5]) and determines authorization based on credentials (in [1.6]), as discussed above in **Section III.A.1**. For SCADA, Petitioner provides no discussion of SCADA's MTU for claim elements [1.5] and [1.6], thereby cementing Petitioner's reliance on a supposed server from one of Kahn or Almadi (as Gutierrez is also not discussed for claim element [1.6]).

⁹ Note that Petitioner presents no mapping or analysis from Gutierrez of any claimed features and limitations in elements [1.6] and [1.7] that require the claimed "*system server*." See Petition 25-33 and Ex. 1002, ¶¶71-82.

Thus, Petitioner fails to show that any of the references in the Combination disclose, teach, suggest, or otherwise render obvious the claimed “*server system*” feature in the method of Claim 1.

3. The Combination Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed Feature of “a sequence of different target states that change over time” in [1.9] of Claim 1.

Petitioner fails to map any disclosure from each of Kahn, Gutierrez, Almadi, and SCADA to the claimed feature in [1.9] of “*changing the state of the first fluid-handling device to a sequence of different target states that change over time.*”¹⁰ The Petition makes no showing of “*target states*” that are (1) in “*a sequence*” and (2) “*change in time*” in the four references. *See* Petition, 35-38. First, the Petition does not even mention the term “*sequence*” in its perfunctory analysis of the Kahn, Gutierrez, Almadi, and SCADA for [1.9]. *Id.* And, for what analysis is provided, Petitioner argues Gutierrez “discloses reducing the speed of the motor, i.e., to a

¹⁰ As Petitioner acknowledges, element [1.9] was listed in the Examiner’s reasons for allowance as not being described by the prior art (*see* Petition, 4; *see also* Ex. 1004, 7), which included each reference in the combination: Kahn, Gutierrez, Almadi, and SCADA. *See* Ex. 1001, Page 2 under U.S. PATENT DOCUMENTS and OTHER PUBLICATIONS.

different target state,” based on Gutierrez’s disclosure at 10:8-16. *Id.*, 36. Petitioner’s characterization of Gutierrez’s teaching is unlike the claimed “*different target states*” because Gutierrez’s state changes are singular, i.e., from a present state to another state, and are not based on time but on thresholds.¹¹ Moreover, the Petition points to Kahn—not Gutierrez—in its failed mapping of a target state changing over time. Petition, 36-37 (“Kahn discloses sensors having actuators controlling valves and pumps to change the target states (sensing, recalibrating) over time”). Not only does Kahn not disclose or teach changing different target states over time, Petitioner does not explain how this combines with Gutierrez’s disclosure (i.e., stopping or reducing motor speed) to render obvious the claimed feature in full: ***different target states that change over time***. Nevertheless, Petitioner’s assertion about Kahn is incorrect because Kahn does not teach remote control of actuators,

¹¹ Element [1.9] recites “*different target states*” (plural). Petitioner’s only example attempting to map “different target states” to the Combination is from Gutierrez, which refers to a processor commanding a motor controller to undergo a single state change, i.e., from a current state to “stop” or to a “reduce[d] speed,” in response to a sensed measurement indicative of a minimum threshold or pipeline break. Ex. 1007, 10:8-16.

and any local actuator control is limited to emergency shut-off¹²—not multiple different target states over different times. Ex. 2010, ¶¶108-110.

The Petition's remaining discussion of Almadi and SCADA about changing a device state does not cite any examples or even mention changing a state to multiple *target states*, let alone *different states over different times*. See Petition, 37-38.

Thus, Petitioner's mapping for element [1.9] fails on many levels because (i) the Petition does not address each feature in the limitation; (ii) for what is addressed, Petitioner relies on multiple references' disclosures to allege the feature but provides no explanation of why the feature is obvious in view of the combined teachings; and, most importantly, (iii) the references actually do not disclose, teach, suggest, or render obvious each feature in the claimed limitation.

¹² Kahn discloses “[f]inally, or in addition to, the communication unit 112B can include 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 for simply shutting off the supply of fluid upon the detection of emergency events, for instance.” Ex. 1005, 10:62-67, which is the only relevant citation in the Petition pertaining to actuation by Kahn. See Petition, 36.

4. The Combination Does Not Disclose, Teach, Suggest, or Render Obvious the Claimed Feature of “causing, with the server system, the first computer system ... to effectuate the command” in [1.9] of Claim 1.

In yet another failed mapping, Petitioner incorrectly maps the claimed “*causing, with the server system, the first computer system ... to effectuate the command*” recited in [1.9] to the Combination. First off, Kahn does not teach remote control, so Petitioner’s reliance on Kahn’s disclosure to demonstrate this claimed feature fails from the start.¹³ *See id.*, 36-37. That is, Kahn’s system does not cause the fluid-handling site computer to effectuate a command to a fluid handling device. Petitioner also points to Gutierrez as supposedly disclosing this feature. *See id.*, 35-36. However, Gutierrez does not teach a “*server system*” that is in communication with both a remote user computer and a fluid-handling site computer to control fluid-handling devices. The only mention of “server” in Gutierrez is for computer 305

¹³ It is noted that the Petition left Kahn out in its discussion of [1.3], which is the claim element directly reciting ***remote control*** of the fluid-handling device: “*providing, with the first computer system disposed at a first fluid handling site, remote control of a first fluid-handling device of the one or more fluid-handling devices.*” Nonetheless, the Petition appears to now inject Kahn into its mapping for element [1.9], requiring the first computer system to effectuate the command.

(Ex. 1007, 11:34-37), which Petitioner mapped in [1.8] to the claimed “*first client computing device*” (see Petition, 33-34) that is required to provide the claimed “*server system*” with the “*command*” later recited in [1.9]. Importantly, in [1.8] and [1.9], Petitioner directly maps Gutierrez’s “central controller” to the server, which (1) it is not¹⁴ and (2) does not fit with the previous mapping from Gutierrez.¹⁵ See *id.*, 33 stating “[t]he “central controller” disclosed in Gutierrez is a server.”

Petitioner is silent about Almadi disclosing a server causing a computer system at the fluid-handling site to effectuate the command, as there is no discussion about Almadi’s integrated node 100 (previously mapped to the claimed “*system server*”) and remote subsystems 120 (previously mapped to the claimed “*first computer system*”). See *id.*, 37. And Petitioner’s reference to SCADA’s disclosure of a MTU as the claimed “*server system*” receiving the command from an

¹⁴ Gutierrez’s “central controller” is not described as a server but rather an intelligent controller that interfaces between a remote computer and a local controller, like a motor drive. See Ex. 1007, abstract, 2:9-25.

¹⁵ Petitioner’s mappings from Gutierrez to the claimed “*server system*” and “*first client computing device*” are inconsistent, discussed in detail in the previous subsection (**Section III.A.2**).

input/output device falls short as it neither discloses the limitations of the claimed “*command*” in [1.9] (*id.*, 37-38) nor meets other limitations of the claimed “*server system*” to compensate for the deficiencies of Kahn, Gutierrez, and Almadi with respect to the claimed “*server system*.”

Thus, Petitioner also failed to properly map the initial feature of claim element [1.9].

B. There is No Motivation to Combine Kahn, Gutierrez, Almadi, and SCADA.

There is no motivation to combine Kahn, Gutierrez, Almadi, and SCADA because the systems of these references are fundamentally different. *See* Ex. 2010, ¶76.

Kahn is directed to *displaying*, in a web application, sensor data collected at water handling sites belonging to different entities, without any capability for remote control of the equipment at the handling sites. It lacks *remote control* features, thus, the Petitioner's assertions that the proposed combined system using Kahn would have “remote monitoring and control” is simply wrong. *Id.*

Gutierrez is a completely different type of system that has both monitoring and control capabilities of fluid handling devices. It operates through a private network that is not web-based at all. *See id.*, ¶77. While Gutierrez discloses a control and monitoring system on an “enterprise or secured network” and suggests

that the system may utilize portions of the Internet (Ex. 1007, 12:55-57), Gutierrez makes it clear that this is through the use of a virtual private network (VPN) (*id.*, 12:48-64), rather than a web browser-based system as disclosed by Kahn (Ex. 1005, 26:3-19). *See* Ex. 2010, ¶78. While the Internet facilitates both VPN and the World Wide Web (known as the “web”), they are completely different networks. *Id.*, ¶79.

VPN is a technology that, in addition to keeping a user's identity private and anonymous, allows a user to “tunnel” through the Internet and log in to a private network (such as an enterprise or secure network) as if the user was physically present and connected to the network. *Id.*, ¶¶78, 81. The key to a VPN is that it is “private.” *Id.* In other words, “[t]he traffic originating and terminating within a private network traverses only those nodes that belong to the private network. Further, there is traffic isolation. That is, the traffic corresponding to this private network does not affect nor is it affected by other traffic extraneous to the private network.” *Id.* On the contrary, the World Wide Web is a service that displays information on ‘pages’ in a web browser using, for example, the hypertext transfer protocol (HTTP), allowing anyone with Internet access to vast amounts of information stored on public web servers or other web data storage structures. *Id.*, ¶¶80, 82.

A VPN utilizes the physical infrastructure of the Internet to establish a private network, but unlike the web, information is not stored on public web servers or similar structures and instead on private servers that are not accessible to anyone outside of authorized users. *Id.*, ¶¶81-84. Thus, there are significant technical and practical “distinction[s] between a private network, such as a VPN, and a web-based system [that are] important in understanding the technology behind references such as Kahn and Gutierrez, as well as the '461 Patent.” *Id.*, ¶81.

Further, there is no discussion in Almadi of using the World Wide Web, or even internet infrastructure, for communications. Although Almadi references using an “Internet Protocol” (IP)¹⁶ (*see* Ex. 1006, 3:13-20), it does not disclose using the Internet. *See* Ex. 2010, ¶83. IP is a protocol for communications between networked devices and is equally applicable to “the internet” and to a corporate intranet, including private Local Area Networks. *Id.* There is no requirement for IP communications to use the public internet infrastructure, and there is no description of using the public internet infrastructure in Almadi's system. *Id.* Importantly, there is no reference to the World Wide Web, the web, or any suggestion that Almadi's

¹⁶ “Internet Protocol,” or IP is referred to as the “internet protocol suite” when combined with the Transmission Control Protocol (TCP). Ex. 2010, ¶83.

system would have been implemented using the web. *Id.* Almadi simply discloses a system for using corporate networks (*e.g.*, an intranet) for communications between its various components. *Id.*

Yet further, a POSITA would not only lack motivation but be discouraged from combining SCADA with the combined teaching of Kahn, Gutierrez, and Almadi. *Id.*, ¶88. SCADA teaches away from web-based approaches to fluid-handling device control due to significant security concerns of SCADA control systems being accessed by unauthorized actors. *See*, Ex. 1008, 179-185 (Chapter 12 “Security”). Specifically, SCADA teaches that “[k]eeping the SCADA system as isolated as possible from other networks is important[, and] **[k]eeping it isolated from the Internet is the most important.**” *Id.*, 181 (emphasis added). As discussed above, Kahn’s system is reliant on world wide web based communications over the Internet between remote user computers and a server, but Kahn lacked remote control, thereby mitigating security risks. Ex. 2010, ¶110, ¶84. Even Gutierrez, while advocating the use of a VPN, still relied on the infrastructure of the Internet, thus presenting vulnerabilities that SCADA warned about. SCADA, on the other hand, disclosed a closed network. A POSITA would recognize that the components, systems, processes, and protocols described in SCADA—some of which relied on by Petitioner—would not be suited for use or integration with other

systems that operated over a public network, like Kahn, or even private networks that utilized the infrastructure of the Internet, like Gutierrez. Therefore, a POSITA would not have been motivated to combine SCADA with any of the other references in the Combination.

Notably, it is unclear if the Petitioner is advocating to abandon the goals of SCADA (use of a closed network) by using the web-based structure of Kahn, and, if so, how or why a POSITA would make such a significant modification. Alternatively, it is also unclear if the Petitioner is proposing to abandon the web-based structure of Kahn, and, instead, use the closed system of SCADA. In either case, or in some unknown scenario in between, the Petitioner has failed to clearly articulate the proposed system or modification of the Combination. In any such modification, the POSITA would need to make significant changes to one, some, or all four systems to even attempt to harmonize their differences. For instance, a POSITA would have had to modify the core communication architecture of Gutierrez's system with Kahn's web approach, which would constitute a change in its principle of operation. This is contrary to obviousness. As MPEP § 2143.01.VI states, "[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie*

obvious.” *See Adidas AG. v. Nike, Inc.*, IPR2016-00922, Paper 31 at 46 (PTAB Feb. 19, 2019), citing the Federal Circuit stating “combinations that change the “basic principles under which the [prior art] was designed to operate,” or that render the prior art “inoperable for its intended purpose,” may fail to support a conclusion of obviousness” (*Plas-Pak Industries, Inc. v. Sulzer Mixpac AG*, 600 F. App’x 755, 757–758 (Fed. Cir. 2015) (non-precedential) (citations omitted)).

Moreover, the implications of a combination of Kahn, Gutierrez, Almadi, and SCADA would dissuade a POSITA from making such modifications. Notably, there would have been serious security risks to Petitioner’s hindsight-created Kahn-Gutierrez-Almadi-SCADA combination. *See* Ex. 2010, ¶88, ¶84. The Gutierrez and Almadi systems describe a private network-based system for an individual entity to monitor and control equipment owned by that entity, which is entirely different from the system in Kahn, where the public nodes of the web are used. For instance, if an unauthorized user accessed Kahn’s system, that intruder would become aware of water quality information at various locations, which constitutes a security breach, but likely poses no physical danger to the system as Kahn lacks any remote control. In contrast, unauthorized access to Gutierrez’s system poses extreme risk due to its control capability, which could result in production loss from the various facilities to far worse, such as terrorism. *Id.* And SCADA expressly warned of this, noting

“[r]isk to the system is a function of how accessible it is to interference from potential attackers, and the Internet includes an almost limitless number of potential attackers.” Ex. 1008, 181. Ex. 2010, ¶88. This is why, prior to the '461 patent, no such method as in Claims 1 and 17 was shown in prior art, and why Kahn, Gutierrez, Almadi, and SCADA are starkly different in their architectures and functionalities.

Petitioner neither posits any meaningful reasons why a POSITA would combine the teachings of the prior art references, nor explains how a POSITA would make such a combination. Petitioner's arguments can be distilled to three conclusory statements in the Petition and the Wooley declaration. Petitioner argues (1) it “would have been obvious to try” (alleging both Kahn, Almadi, and Gutierrez (and presumably SCADA) describe similar systems for remote monitoring and control of fluid handling). *See* Petition, 7-8; *see also* Ex.1002, ¶¶40-44. Petitioner also argues (2) a POSITA's motivation to combine would be drawn from presumed desire to “achieve the efficiency and safety benefits automating fluid handling systems provided across the system” that Petitioner argues would be gained from Almadi's or Gutierrez's disclosure of oil and gas systems and SCADA's disclosure of fluid processing and remote control when implementing remote systems disclosed by Kahn. *See* Petition, 8-9; *see also* Ex.1002, ¶45. Finally, Petitioner argues (3) the Combination “would lead to predictable results” with no difficulty because “these

references do not describe alternative systems or methods, but rather the disclosures of Almadi and Gutierrez provide additional details rather than a different approach to solving problems in the underlying technology addressed by Kahn.” *See* Petition, 9; *see also* Ex.1002, ¶46.

Petitioner's arguments for alleging motivation to combine fall flat because they merely repeat boilerplate case law principles and generalities, without any of meaningful analysis of how those boilerplate “reasons” such as achieving safety or efficiency would be effectuated based on the purported combination. As explained earlier, the Petition does not provide a consistent mapping of the prior art components to the claim limitations; it additionally fails to explain whether the mapping entails using one component from one prior art reference, or a combination of components from multiple prior art references.

Moreover, Petitioner's conclusory motivations to combine are not based on the actual knowledge and skill level of a POSITA at the time of the '461 patent and do not address, let alone overcome, the incompatibilities between Kahn's, Gutierrez's, Almadi's, and SCADA's respective approaches.

All in all, a POSITA would have multiple reasons not to combine Kahn, Gutierrez, Almadi, and SCADA if attempting to create a method like in the '461 patent. Because there is no motivation to combine, Petitioner's sole obviousness

ground based on the Combination necessarily fails.

C. Multiple Claimed Limitations of Claim 17 Lack any Mapping or Clear Mapping to the Cited References in the Combination.

Like for Claim 1, Petitioner also fails to make a sufficient obviousness showing for the other independent claim of the '461 patent. Claim 17 is directed to a method claim with similar limitations as elements [1.1]-[1.9] of Claim 1. For instance, for element [17.7] of Claim 17, Petitioner refers to the Petition's flawed analysis of element [1.6] to assert the ground's obviousness contention. Petition, 65. Thus, for at least the same reasons discussed in the paragraphs above for [1.6], the Petition fails to demonstrate the element [17.7] is disclosed, taught, suggested, or rendered obvious by the Combination.

Similarly, for element [17.10], Petitioner relied solely on the Petition's flawed prior arguments for [1.9]. *Id.*, 66. Thus, for at least the same reasons as discussed above for [1.9], the Petition fails to demonstrate the element [17.10] is disclosed, taught, suggested, or rendered obvious by the Combination.

As a result of the above, Petitioner's invalidity assertions against Claim 17 necessarily fails.

Thus, Ground 1 fails. *Inter partes* review of the '461 patent is unwarranted.

IV. PETITION FAILS BECAUSE GUTIERREZ IS NOT PRIOR ART.

Petitioner's sole invalidity ground relies on Gutierrez as prior art for its

obviousness assertion based on the four-reference combination of Kahn, Almadi, Gutierrez, and SCADA. Notably, the Petition's invalidity ground heavily relies on the Gutierrez reference and includes at least fifteen citations¹⁷ to Gutierrez in the obviousness assertions of Claim 1 alone. However, Gutierrez is not prior art under any subsection of 35 U.S.C. § 102, leaving the invalidity ground, and thus the IPR effectively nullified.

The Petition cites U.S. Patent No. 9,709,995 B2 (referred to as "Gutierrez") as prior art under § 102(e). Petition, 5-6. However, Gutierrez cannot be prior art under § 102(e) 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

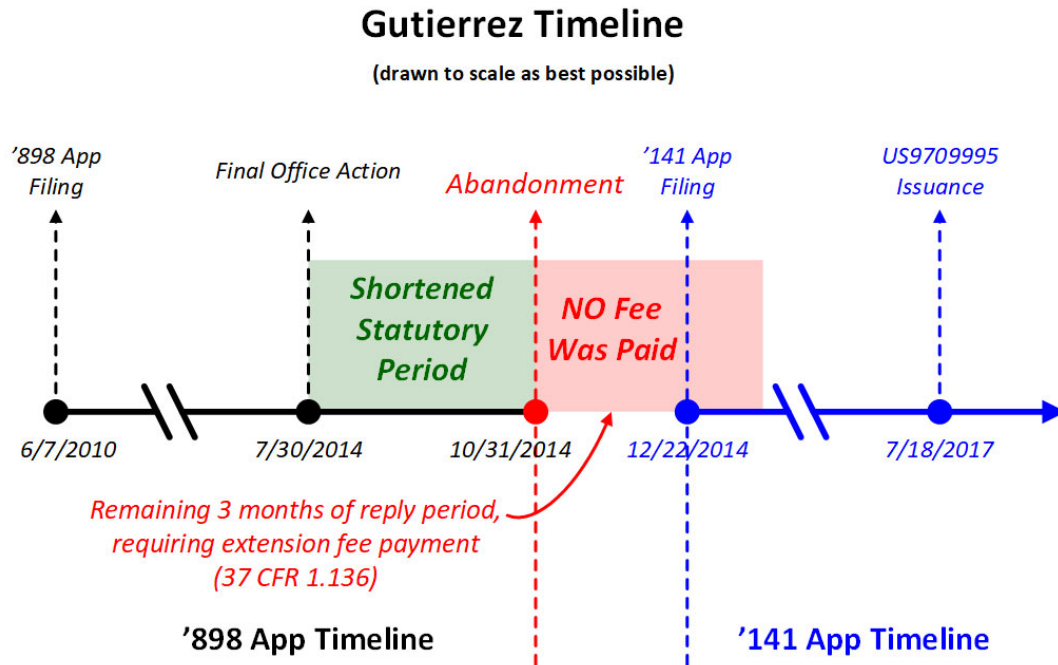
¹⁷ The Petition cites various, specific portions of Gutierrez, i.e., "EX1007," fifteen times for nearly every element of Claim 1 in Petition's sole obviousness ground. *See* Petition, 9-38.

failed to reply to an Office Action¹⁸ 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.”). *Also see* 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”).

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.¹⁹ Ex. 2006; Ex. 2007. The diagram below illustrates these events chronologically.

¹⁸ 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, 199.

¹⁹ 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.



As the above diagram illustrates, the '141 Application (which issued as 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 '461 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. Prostalund 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.²⁰

Furthermore, the prosecution file history of the parent '898 Application includes no statements or authorizations for payment of the missed extensions of time. *See* Ex. 2006.

Thus, Gutierrez's actual priority date is December 22, 2014, more than two years after the '461 patent. Ground 1 fails because Gutierrez is not prior art.

V. CONCLUSION

For the reasons discussed above, Patent Owner respectfully requests that the

²⁰ 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=>. *See also*, Ex. 2008, which shows screen captures of the Documents and Transactions listing for the '898 Application.

Board deny Petitioner's Petition for *Inter Partes* Review of the '461 patent.

Dated: August 19, 2025

Respectfully submitted,

/Babak Tehranchi/

Lead Counsel

Babak Tehranchi, Reg. No. 55,937

PERKINS COIE LLP
11452 El Camino Real, Ste. 300
San Diego, CA 92130

Back-Up Counsel

M. Craig Tyler, Reg. No. 41,519

Fareid Asphahani, Reg. No. 72,217

Matthew Lutz, Reg. No. 82,142

Attorneys for SitePro, Inc.

CERTIFICATE OF WORD COUNT UNDER 37 C.F.R. § 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 6,774 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: August 19, 2025

Respectfully submitted,

/Babak Tehranchi/

Lead Counsel

Babak Tehranchi, Reg. No. 55,937

PERKINS COIE LLP
11452 El Camino Real, Ste. 300
San Diego, CA 92130

Back-Up Counsel

M. Craig Tyler, Reg. No. 41,519

Fareid Asphahani, Reg. No. 72,217

Matthew Lutz, Reg. No. 82,142

Attorneys for SitePro, Inc.

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:

Robert D. Katz (Reg. No. 60,704)
rkatz@katzfirm.com
Dr. Gregory J. Gonsalves (Reg. No. 43,639)
gregoryjosephgonsalves@gmail.com

Dated: August 19, 2025

Respectfully submitted,

PERKINS COIE LLP
1201 Third Avenue Suite 4900
Seattle, WA 98101-3099

/Meghan Bright/
Meghan Bright
Patent Paralegal