UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ONEPLUS TECHNOLOGY (SHENZHEN) CO., LTD.,
Petitioners,

v.

PANTECH CORPORATION,
Patent Owner

_____

Case: IPR2025-00783

U.S. Patent No. 9,288,824

_____

PATENT OWNER'S PRELIMINARY RESPONSE

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
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PATENT OWNER'S EXHIBIT LIST

Exhibit No.	Description
2001	Second Amended Docket Control Order, *Pantech Corporation and Pantech Wireless, LLC v. OnePlus Technology (Shenzhen) Co., Ltd.*, No. 5:24-CV-00038-RWS-JBB (E.D. Tex.) (Dkt. 58) (May 13, 2025)
2002	United States District Courts – National Judicial Caseload Profile
2003	Pantech Corporation's July 9, 2021 Notice Letter to OnePlus Technology Co., Ltd.
2004	Third Amended Docket Control Order, *Pantech Corporation and Pantech Wireless, LLC v. OnePlus Technology (Shenzhen) Co., Ltd.*, No. 5:24-CV-00038-RWS-JBB (E.D. Tex.) (Dkt. 86) (July 17, 2025)
2005	Order Modifying Dates in Docket Control Order, *Pantech Corporation and Pantech Wireless, LLC v. OnePlus Technology (Shenzhen) Co., Ltd.*, No. 5:24-CV-00038-RWS-JBB (E.D. Tex.) (Dkt. 85) (July 17, 2025)
2006	Jury Verdict, *Pantech Corp. v. OnePlus Technology (Shenzhen) Co., Ltd.*, No. 5:22-cv-00069-RWS (E.D. Tex.) (Dkt. 259) (April 1, 2024)
2007	Final Judgment, *Pantech Corp. v. OnePlus Technology (Shenzhen) Co., Ltd.*, No. 5:22-cv-00069-RWS (E.D. Tex.) (Dkt. 499) (Jan. 23, 2025)
2008	Kiri Gupta & Urska Petrovcic, *Evidence of Systematic "Patent Holdout"*, 38 Berkeley Tech. L. J. (2023)

2009	Richard A. Epstein & Kayvan B. Noroozi, *Why Incentives for "Patent Holdout" Threaten to Dismantle FRAND, and Why It Matters*, 32 Berkeley Tech. L.J. 1381 (2017)
2010	Kalyan Dasgupta & David J. Teece, *Protecting Innovation in the Mobile Wireless Ecosystem: Understanding & Addressing "Hold-Out"*, 38 Berkeley Tech. L.J. 313 (2023)
2011	Claim Construction Order from *Pantech Corp. et al. v. OnePlus Tech. (Shenzhen) Co., Ltd.*, No. 5:24-cv-00038-RWS-JBB (E.D. Tex.)

I. INTRODUCTION

Patent Owner Pantech Corporation ("Pantech") respectfully requests that United States Patent and Trademark Office ("USPTO" or the "Office") Patent Trial and Appeal Board ("PTAB" or the "Board") deny institution of *inter partes* review of claims 1 and 7 (the "challenged claims") of U.S. Patent No. 9,288,824 ("the '824 Patent"). Petitioner OnePlus Technology (Shenzhen) Co., Ltd.'s ("Petitioner" or "OnePlus") has failed to demonstrate a reasonable likelihood of prevailing with respect to at least one challenged claim.

More specifically, Petitioner has not shown that any of its primary references—TS36321-V830, Qualcomm, ZTE, or TS36321-V800—is likely to render the challenged claims unpatentable, and the secondary references relied upon in Grounds 7 and 8—TS36321-V800 and Nokia—fail to cure the deficiencies of either ZTE or TS36321-V800, respectively, under a theory of obviousness. None of the references relied upon teach an important limitation of each of the claims of the '824 Patent, whereby "the time period [for receiving a random access response] starts at a time point after an end time of transmitting the random access preamble, and a subframe number corresponding to the time point is obtained by adding an offset to a subframe number corresponding to the end time of transmitting, the

random access preamble, and the offset equals three." *See* '824 Patent at claims 1 and 7.

Accordingly, Petitioner has failed to meet its burden of showing a reasonable likelihood of prevailing with respect to the invalidity of any challenged claims. The Board should deny Petitioner's request to institute *inter partes* review.

II. BACKGROUND

A. Background of the '824 Patent

The '824 Patent relates to the field of wireless communications. More particularly, it sets forth an invention for transmitting and receiving a random access request and response in a wideband radio access system. '824 Patent at 1:21-25. By implementing the invention of the '824 Patent, "it is possible to solve a problem that a user equipment recognizes a random access response for a random access request transmitted by another user equipment as a response for its random access request." '824 Patent at 3:42-45. The '824 Patent is entitled "Method for transmitting and receiving random access request and transmitting and receiving random access response," issued on Mach 15, 2016, and claims priority to Korean patent application number 10-2008-0047656, filed on May 22, 2008 and U.S. Provisional Application No. 61/018,492, filed on Jan. 1, 2008.

At a high level, the solution arrived at by the inventors of the '824 Patent includes the inclusion of an offset between the end of the transmission of a random

access preamble and the beginning of a response window for receiving a random access response. *See generally, id.* at 3:24-40.

By implementing the claimed invention, a user equipment waiting for a random access response to a random access preamble will neither waste resources by waiting for a random access response for an unreasonably long period of time nor waste resources by attempting to detect a random access response prior to it being sent.

B. Relevant '824 Patent Prosecution History

The claims at issue of the '824 Patent were examined for their novelty, and an extensive search report by the examiner was undertaken. *See* EX1002 at 93-101. The claims at issued were allowed after the applicant filed a terminal disclaimer. *Id.* at 57. In the Notice of Allowance, the examiner explained that "the closest prior art, Fischer et al. (U.S. PG-Pub. No. 20100323736), and Jen (U.S. PG-Pub. No. 20080232317), either singularly or in combination, fail to anticipate or render obvious a method comprising: 'wherein the time period starts at a time point after an end time of transmitting the random access preamble, and a subframe number corresponding to the time point is obtained by adding an offset to a subframe number corresponding to the end time of transmitting the random access preamble, and the offset equals three,' in combination with all other limitations in the claim as claimed

and defined by applicants." *Id.* at 57.

C. Summary of Petitioner's Proposed Grounds for Unpatentability

Petitioner contends that claims 1 and 7 of the '824 Patent would have been anticipated under pre-AIA 35 U.S.C. § 102, and would have been obvious under pre-AIA 35 U.S.C. § 103. The Petition raises eight grounds of alleged unpatentability based on the following references:

1. 3GPP TS 36.321 V8.3.0 ("TS36321-V830");
2. 3GPP Technical Document R2-081559 ("Qualcomm");
3. 3GPP Technical Document R2-073933 ("ZTE");
4. 3GPP TS 36.321 V8.0.0 ("TS36321-V800");
5. 3GPP Technical Document R1-074344 ("Nokia").

The specific grounds of alleged invalidity and are summarized as follows:

Ground	Basis	Claims	References
1	§102	1, 7	TS36321-V830
2	§103	1, 7	TS36321-V830
3	§102	1, 7	Qualcomm
4	§103	1, 7	Qualcomm
5	§102	1, 7	ZTE
6	§103	1, 7	ZTE

7	§103	1, 7	ZTE in view of TS36321-V800
8	§103	1, 7	TS36321-V800 in view of Nokia

D. Petitioner's Relied-Upon References

The five references relied upon by Petitioner are summarized as follows:

1. *Overview of TS36321.V830 (Ex. 1004)*

3GPP TS 36.321 V8.3.0 ("TS36321-V830") is a technical specification from the 3rd Generation Partnership Project published in September, 2008. TS36321-V830 specifies the E-UTRA MAC protocol, and specifically its "objective is to describe the MAC architecture and the MAC entity from a functional point of view." *See* EX1004 at 6-7.

2. *Overview of TS36321.V830 (Ex. 1006)*

3GPP Technical Document R2-081559 ("Qualcomm") is a submission to 3GPP's servers on March 25, 2008 from Qualcomm Europe. EX1006. Qualcomm is associated with 3GPP TSG-RAN WG2 #61bis. *Id.* at 1. Its title is "RA_WINDOW and RA-NTI allocation" and "proposes to progress the definition of begin and end of the window as well as discuss a method to assign RA-RNTI." *Id.*

3. *Overview of ZTE (Ex. 1007)*

3GPP Technical Document R2-073933 ("ZTE") is a submission to 3GPP's servers on September 30, 2007 from ZTE. EX1006. ZTE is associated with TSG-

RAN Working Group 2 meeting #59 bis. *Id.* at 1. Its title is "Coding of RA-RNTI for message 2" and proposes to "propose the detail coding scheme of RA-RNTI." *Id.*

4. *Overview of TS36321.V800 (Ex. 1008)*

3GPP TS 36.321 V8.0.0 ("TS36321-V800") is a technical specification from the 3rd Generation Partnership Project published in December, 2007. TS36321-V830 specifies the E-UTRA MAC protocol, and specifically its "objective is to describe the MAC architecture and the MAC entity from a functional point of view." *See* EX1008 at 6-7.

5. *Overview of Nokia (Ex. 1009)*

3GPP Technical Document R1-074344 ("Nokia") is a submission to 3GPP's servers on October 2, 2007 from Nokia and Nokia Siemens Networks. EX1009. Nokia is associated with 3GPP TSG-RAN WG1 Meeting #50bis. *Id.* at 1. Its title is "Number of HARQ processes for FDD" and discusses "the processing times for eNB." *Id.*

III. CLAIM CONSTRUCTION

Petitioner acknowledges that it requested a claim construction of the term "time period" in the parallel District Court Action as "an amount of time," *Pantech Corp. et al. v. OnePlus Tech. (Shenzhen) Co., Ltd.*, No. 5:24-cv-00038-RWS-JBB (E.D. Tex.). *See* Pet. at 19-20. The Magistrate Judge has adopted Petitioner's

proposed construction. EX2011. For purposes of this Preliminary Response, Patent Owner also applies the construction of this term whereby "time period" is construed as "an amount of time."

The Magistrate Judge also rejected Petitioner's argument that the language "a subframe number corresponding to the time point is obtained" was indefinite, and construed this language as requiring that "the processor obtains a subframe corresponding to the time point." *Id.* For purposes of this Preliminary Response, Patent Owner applies the Magistrate Judge's construction of this term.

IV. LEGAL STANDARDS FOR INVALIDITY

A. Anticipation under 35 U.S.C. § 102

Anticipation under 35 U.S.C. § 102 requires that a single prior art reference disclose each and every limitation of the claimed invention. *Schering Corp. v. Geneva Pharms.*, 339 F.3d 1373, 1379-80 (Fed. Cir. 2003).

B. Obviousness under 35 U.S.C. § 103

A claim is not patentable if the differences between it and the prior art are such that the subject matter as a whole would have been obvious to a person of ordinary skill in the art at the time of the invention. 35 U.S.C. § 103(a). Obviousness requires assessing (1) the "level of ordinary skill in the pertinent art," (2) the "scope and content of the prior art," (3) the "differences between the prior art and the claims at issue," and (4) "secondary considerations" of non-obviousness such as

"commercial success, long felt but unsolved needs, failure of others, etc." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007) (quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17-18 (1966)).

It is a petitioner's burden "to demonstrate both 'that a skilled artisan would have been motivated to combine the teachings of the prior art references to achieve the claimed invention, and that the skilled artisan would have had a reasonable expectation of success in doing so.'" *Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1367-68 (Fed. Cir. 2016) (quotations and citations omitted). However, a petitioner must first show that all of the claimed elements are disclosed in the prior art. *See Medichem, S.A. v. Rolabo, S.L.*, 437 F.3d 1157, 1164 (Fed. Cir. 2006) (considering motivation to combine and reasonable expectation of success only "if all the elements of an invention are found in a combination of prior art references").

V. THE PETITION DOES NOT SHOW A REASONABLE LIKELIHOOD OF PREVAILING WITH RESPECT TO ANY CHALLENGED CLAIM

In addition to the grounds already presented in Patent Owner's Request for Discretionary Denial, institution should be denied because Petitioner does not establish a reasonable likelihood of prevailing against either challenged claim.

A. Grounds 1-4: Petitioner Fails To Establish That TS36321-V830 And Qualcomm Qualify as Prior Art to Claims 1 and 7

Petitioner has not shown a likelihood of prevailing on Grounds 1-4 because

neither TS36321-V830 nor Qualcomm are prior art to claims 1 and 7 of the '824 Patent.

As Petitioner acknowledges (*see* Pet. at 4) both TS36321-V830 and Qualcomm were published after the applications to which the '824 Patent claims priority. TS36321-V830 was published no earlier than September 18, 2008, and for purposes of this preliminary response, Patent Owner assumes without agreeing that Qualcomm was published by March 25, 2008.

But U.S. Provisional Application No. 61/018,492 (the "'492 Application") to which the '824 Patent claims priority was filed on January 1, 2008, and Korean Patent Application No. 10-2008-0047656 (the "'656 Application") was filed on May 22, 2008. The priority claims to both the '492 Application and the '656 Application defeat Petitioner's use of TS36321-V830, and the priority claims to the '492 Application defeat Petitioner's use of Qualcomm.

Petitioner challenges only one aspect of the priority claims to either the '492 Application or the '656 Application: according to Petitioner, "neither application provides a written description of the limitations of 'determining/determine a time period for receiving a random access response responsive to the random access preamble … wherein the time period starts at a time point after an end time of transmitting the random access preamble, and a subframe number corresponding to

the time point is obtained by adding an offset to a subframe number corresponding to the end time of transmitting the random access preamble, and **the offset equals three**.'" *See* Pet. at 12-13 (emphasis in the original). Petitioner then makes clear that the crux of the dispute is the "offset equals three" language. *Id.* at 14-17 (the applications do "not specify or even suggest that the value of such a predetermined number is 'three'").

To begin with, Petitioner reads its own cited authority incorrectly and is wrong that it "is Patent Owner's burden to establish that the claims are entitled to the priority dates of the earlier-filed applications." *See* Pet. at 12 n. 5. It is Petitioner that bears the ultimate burden of proving invalidity, and this burden includes showing that the challenged claims are **not** entitled to a priority date antecedent to its proposed prior art: once a Patent Owner provides evidence and argument supporting a claim of priority, "the burden [] shifts to the proponent of the invalidity defense [] to convince the court that [the patent claim] is not entitled to the benefit of the earlier filing date." *See Dynamic Drinkware, LLC v. Nat'l Graphics, Inc.*, 800 F.3d 1375, 1379–80 (Fed. Cir. 2015) (citing *Tech. Licensing Corp. v. Videotek, Inc.*, 545 F.3d 1316, 1326–27 (Fed. Cir. 2008)).

In any event, the evidence is clear that claims 1 and 7 of the '824 Patent are entitled to the filing dates of both applications to which they claim priority. "[T]he

test for sufficiency is whether the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date." *Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc); *see also Lockwood v. Am. Airlines, Inc.*, 107 F.3d 1565, 1572 (Fed. Cir. 1997) (When determining whether the specification of an application provides adequate written description for the claimed subject matter, the exact terms appearing in the claim "need not be used in *haec verba*."). This means, for the "offset equals three" limitation (including the surrounding language), the earlier applications must reasonably convey that the inventors recognized that the offset described in claims 1 and 7 of the '824 Patent could equal three.

Addressing the '492 Application first, it is clear that the inventors recognized this full limitation, including that the offset could be a number including three, thereby satisfying the possession element of the written description requirement. The '492 Application discloses that:

> Alternatively, a method of applying an offset in consideration of a difference between a data processing time and a random access processing time may be used. For example, a method of receiving a downlink signal by the use equipment at a location offset from a time determined by the number of HARQ processes by one subframe is possible. This offset may be represented by adding or subtracting of a

> predetermined number and may be represented by a multiple of the number of HARQ processes.

EX1012 at 7. Given that this application notes that the offset can be a "predetermined number" as low as "one" and as high as "a multiple of the number of HARQ processes" (in the example in the preceding paragraph, "the number of HARQ processes is 8," *see id.* at 6), it is clear that "three" is within the range of offsets possessed by the inventors that can be a "predetermined number."

Moreover, in the '656 Application, the inventors provide similar disclosures but moreover propose embodiments wherein "three" may specifically be the offset. The '656 Application discloses that:

> The user equipment which attempts a random access [] may wait for a response within a predetermined time period from a time point when the half of the HARQ round trip time or the half of the total number of HARQ processes has elapsed. Alternatively, a method of applying an offset (delay offset) in consideration of a difference between a data processing time and a random access processing time may be used. For example, a method of receiving a downlink signal by the user equipment with an offset of one subframe from a time determined by the HARQ round trip time or the total number of HARQ processes may be used. The offset may be represented by adding or subtracting a predetermined number, and may be represented by a multiple of the number of HARQ processes.

EX1014 at 34-35. Thus, the inventors provide the same clear indication that they possessed a range of potential offsets, from one to a "multiple of the number of HARQ processes," which would include three. *Id.*

But moreover, the inventors clarify that the time point to begin waiting for a response (*i.e.*, the end of the offset) occurs at a predetermined time point, "wherein the predetermined time point is a time point when time obtained by adding a predetermined offset time to time corresponding to half of the number of hybrid automatic repeat request (HARQ) processes elapses after the point in time when the random access preamble is transmitted." *Id.* at 13. The inventors then clarified that "a method of receiving a downlink signal by the user equipment with an offset of one subframe from a time determined by the HARQ round trip time or the total number of HARQ processes may be used." *Id.* at 35. Together, these disclosures clearly show an offset of three: three is "half of the number of hybrid automatic repeat request (HARQ) processes" (*i.e.*, 4, which is half of 8), with an offset of "one." After all, four minus one is three. This is what claims 1 and 7 of the '824 Patent claim.

That Petitioner argues that the use of HARQ for this process was against then-established procedures (*see* Pet. at 16 ("the LTE standard explicitly requires that 'No HARQ' is used for transmitting random access response in the random access

procedure")), even if true, simply shows the non-obviousness of this invention—it does not show that the inventors did not possess what they clearly disclosed or otherwise undermine their actual disclosures.

Ultimately, it is clear that the inventors were in possession of the offset being a range of predetermined numbers, beginning with one and going as high as multiples of 8, but certainly including three. "The specification need not expressly recite the claimed range to provide written description support." *RAI Strategic Holdings, Inc. v. Philip Morris Prods. S.A.*, 92 F.4th 1085, 1090 (Fed. Cir. 2024) ("we consider whether 'the broad described range pertains to a different invention than the narrower (and subsumed) claimed range,' in which case the specification does not provide written description support for the narrower claimed range"). While the inventors disclosed an offset of three, there is also no reason to conclude that an offset of three is a different invention than an offset of say, one, as explicitly proposed in both applications (along with a statement that the offset could be other "predetermined numbers"). As noted in the similar dispute in *RAI Strategic Holdings*, "nothing in the specification indicates that changing the length of the heating member changes the invention, whether as to operability, effectiveness, or any other parameter." 92 F.4th at 1090.

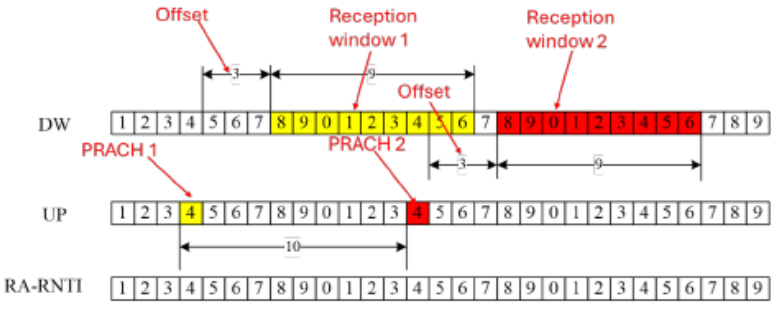
Accordingly, Petitioner will not be able to carry its burden to prove that the

inventors of the ’824 Patent did not have possession of an offset equaling three prior to either TS36321-V830 or Qualcomm. These references are not prior art to the ’824 Patent, and Petitioner thus does not have a reasonable likelihood of prevailing on any of Grounds 1-4.

B. Grounds 5-6: Petitioner Fails to Establish that ZTE Anticipates or Renders Obvious Claims 1 or 7.

Petitioner has not shown a reasonable likelihood of prevailing on Grounds 5 or 6 because ZTE does not teach or render obvious any offset to a reception window whatsoever, including that the “offset equals three,” as required by claims 1 and 7 of the ’824 Patent.

Petitioner adds the annotation “offset” to Figure 2 of ZTE, but there is no support for this:



EX1003 — FIG. F

Pet. at 44 (annotating in red Fig 2 of ZTE). Figure 2 of ZTE simply is a version of Figure 1, which uses a similar scheme, but uses “Wb” instead of “3” for the set of subframes at issue:

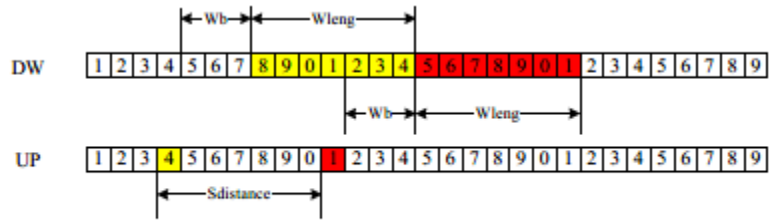


Figure 1 reception window

EX1007 at Fig. 1. But ZTE—a fairly cursory reference—is silent as to what "Wb" connotes, whether it is an offset, a duration of transmission, or otherwise. There is nothing even approaching a disclosure of "offset" in ZTE's written disclosures. At most, Petitioner argues that (and labels) the "4" in Figure 2 is the "PRACH 1" (*see* Pet. at 43-44) but this too is without support in ZTE. ZTE does not use or suggest such a use, and let alone that the "4" represents the "end time of transmitting the random access preamble" as required by claims 1 and 7 of the '824 Patent. In short, ZTE does not provide the disclosures that Petitioners annotations say that it does.

Moreover, **even if** the "4" subframe was the "end time of transmitting the random access preamble," claims 1 and 7 require that the reception window "starts at a time point after an end time of transmitting the random access preamble, and a subframe number corresponding to the time point is obtained by adding an offset to a subframe number corresponding to the end time of transmitting the random access preamble, and the offset equals three." *See* '824 at cls 1, 7. Thus, the offset in the claims at issue means that the window begins at the last subframe of transmission

plus three. Accordingly, **even if** subframe "4" in ZTE somehow corresponds to the entirety (or the end) of the random access preamble transmission, claims 1 and 7 of the '824 Patent require that the response window begin at frame 7, not 8 (as ZTE discloses).

Put another way, even if ZTE's unlabeled windows and highlighting mean exactly what Petitioner says they mean (and this is doubtful), the offset in ZTE is 4, not 3, because the offset in the '824 Patent's claims is measured by the difference in subframe numbers between the end of the random access preamble and the response window. *See* EX1007 at Fig. 2; '824 Patent at cls. 1, 7.

Petitioner offers nothing to cure this failure of ZTE to disclose or render obvious claims 1 and 7 of the '824 Patent. Accordingly, Grounds 5 and 6 have no likelihood of success.

C. Ground 7: Petitioner Fails To Establish That ZTE in View of TS36321-V800 Renders Obvious Claims 1 and 7

As established for Grounds 5 and 6, ZTE fails to teach or render obvious any offset to a reception window whatsoever, including that the "offset equals three," as required by claims 1 and 7 of the '824 Patent.

Petitioner uses TS36321-V800 to supply supposedly obvious details about a different aspect of the invention, namely the response window for the random access response (the yellow highlighting that Petitioner has annotated "Reception Window

1" in Figure 2 of ZTE). *See* Pet. at 53-54. But Petitioner does not allege that TS36321-V800 supplies any missing details about the meaning of "Wb," what is transmitted at the highlighted "4" subframe, or indeed any disclosure at all of an offset (let alone an offset of 3). *Id.* Indeed, TS36321-V800 does not provide any such disclosures. *See generally,* EX1008. Thus, TS36321-V800 does not cure the deficiencies of ZTE.

Because TS36321-V800 does not cure the deficiencies of ZTE identified for Grounds 5 and 6 (and indeed, Petitioner does not even purport that it does), Ground 7 also has no likelihood of success for the same reasons as Grounds 5 and 6.

D. Ground 8: Petitioner Fails to Establish that TS36321-V800 in View of Nokia Renders Obvious Claims 1 and 7

Finally, Petitioner has not shown a likelihood of prevailing on Ground 8 because TS36321-V800 in view of Nokia does not render obvious claims 1 and 7 of the '824 Patent.

Petitioner does not argue that TS36321-V800 discloses any offset, much less that the offset equals three, and only conditionally argues that Nokia provides such a teaching. *See* Pet. at 59-60. Specifically, Petitioner argues that Nokia teaches an offset that equals three **only if** "the written description for the remaining limitations of [1.d] is found in FIG. 2 of the '492 application and/or FIG. 13 of the '656 application." *Id.* Petitioner does not argue that the written description is found in

these figures—in fact, Petitioner argues the opposite, *see* Pet. at 16-17—rather, Petitioner's entire argument is "FIG. 1 of Nokia is identical to FIG. 2 of the '492 application and substantially the same as FIG. 13 of the '656 application." *See* Pet. at 60. But even if true, this is not enough to disclose that Nokia somehow teaches the missing limitation, especially as FIG. 2 of the '492 application and FIG. 13 of the '656 application do not alone provide written description support for this limitation.

Accordingly, TS36321-V800 in view of Nokia does not render obvious claims 1 and 7 of the '824 Patent, and Ground 8 has no likelihood of success.

VI. CONCLUSION

For at least the foregoing reasons, the Board should deny institution.

Dated: August 19, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of August, 2025, a copy of the attached **PATENT OWNER'S PRELIMINARY RESPONSE** was served by electronic mail to the attorneys of record, at the following addresses:

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Respectfully submitted,

Date: August 19, 2025 By: /James A. Fussell Reg No 54885/
James A. Fussell (Reg. No. 54,885)

CERTIFICATION PURSUANT TO 37 C.F.R. § 42.24(d)

Pursuant 37 CFR 42.24(d), the undersigned certifies that this Preliminary Response complies with the type-volume limitation of 37 CFR §42.24(a). The word count application of the word processing program used to prepare this Preliminary Response indicates that the Preliminary Response contains 4,043 words, excluding the parts of the brief exempted by 37 C.F.R. § 42.24(a).

Respectfully submitted,

Date: August 19, 2025 By: /James A. Fussell Reg No 54885/
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