

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

CENTRALSQUARE TECHNOLOGIES, LLC,
Petitioner,
v.
CARBYNE, LTD.,
Patent Owner.

Case No. IPR2025-01179

U.S. Patent No. 11,689,383

PATENT OWNER'S SUR-REPLY

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LISTING OF EXHIBITS

Exhibit	Description
2001	<i>CentralSquare Technologies LLC v. Carbyne, Inc</i> , Case No. 1:24-cv-01497, Complaint for Patent Infringement (W.D. Tex. Dec. 4, 2024)
2002	<i>CentralSquare Technologies LLC v. Carbyne, Inc</i> , Case No. 1:24-cv-01497, Answer, Affirmative Defenses and Counterclaims (W.D. Tex. May 12, 2025)
2003	<i>CentralSquare Technologies LLC v. Carbyne, Inc</i> , Case No. 1:24-cv-01497, Scheduling Order (W.D. Tex. July 8, 2025)
2004	Declaration of Gerald Christensen
2005	Transcript of the March 20, 2026 Deposition of Stuart J. Lipoff
2006	June 7, 2021 CentralSquare press release entitled “ <u>CentralSquare Technologies Now Offering Carbyne’s C-Live Universe</u> ”
2007	U.S. Pub. 2016/0028790 A1 to Eriksson et al.
2008	Exhibit L, Declaration of Stuart J. Liphoff in Support of Counterclaim Defendant CentralSquare’s Claim Construction for U.S. Patent No. 11,689,383 from <i>CentralSquare Technologies, LLC v. Carbyne, Inc. et al.</i> , Case No. 1:24-cv-01497 (WDTX)
2009	Garcia et al., <u>WebRTC Testing: Challenges and Practical Solutions</u> , IEEE (2017)
2010	Counterclaim Defendant CentralSquare’s Opening Claim Construction Brief from <i>CentralSquare Technologies, LLC v. Carbyne, Inc. et al.</i> , Case No. 1:24-cv-01497 (WDTX)
2011	Counterclaim Defendant CentralSquare’s Reply Claim Construction Brief Relating to U.S. patent No. 11,689,383 from <i>CentralSquare Technologies, LLC v. Carbyne, Inc. et al.</i> , Case No. 1:24-cv-01497 (WDTX)
2012	2025 Product Leader Report, Frost & Sullivan

2013	Dec. 21, 2020 Memo Published by the Washoe County Communications Supervisor regarding a “ <u>Regional PSAP Funding Request</u> ” (available at https://www.washoecounty.gov/technology/board_committees/911_response/2021/Files/012121/Item%2015%20-%20WC%20Carbyne%20c-Live%20Universe.pdf)
2014	April 11, 2022 Scope of Services Document Published by Miami Dade County regarding “ <u>Carbyne c-Live Universe Video-To-911</u> ” (available at https://www.miamidade.gov/Apps/ISD/StratProc/ProcurementNAS/pdf_Files/WaiveCompetitions/Notice_to_Wave_Comp_-_Scope.pdf)
2015	Transcript of the July 16, 2026 Deposition of Stuart J. Lipoff

I. INTRODUCTION

Patent Owner Carbyne, LTD respectfully submits this Sur-Reply in further opposition to Petitioner CentralSquare Technologies, LLC's Petition for *Inter Partes* Review (Paper 1, "Petition") of U.S. Patent No. 11,689,383 ("the '383 patent) and its associated Reply (Paper 27, "Reply").

Petitioner's Reply does not meaningfully address the deficiencies highlighted in Patent Owner's Response. Instead, Petitioner repeatedly attempts to oversimplify the '383 patent's claims and deflect attention from the Petition's shortcomings. The claims are not satisfied by every generic system allowing for audio and video communication. Rather, they require an emergency call method that facilitates *simultaneous* communication between a caller and an emergency dispatcher via both phone and WebRTC real-time video over two different connections. The prior art cited by the Petition fails to teach such a method.

Rather than pointing to disclosure of this specific method in the prior art, Petitioner focuses almost exclusively on broad, generic listings of communication methods found in Ramanujaiaha and Krishnan. It then posits that a POSITA could theoretically pick-and-choose from these many identified communication method options to arrive at the claims. The mere fact that Ramanujaiaha generically mentions WebRTC video as a possible method of communication is not sufficient: Ramanujaiaha's system is not arranged in the manner the claims require as would be

necessary for it to anticipate. It does not teach simultaneous audio and WebRTC video communication. Instead, in all cases where “multimodal” communication occurs, only web pages and interactive menus are transmitted during an audio call.

Similarly, Petitioner has not established that Ramanujaiaha renders the claims obvious. Simply pointing to disparate teachings in Ramanujaiaha—as the Petition did—does not show that a POSITA would have considered it obvious to stitch all this together to arrive at the claims. Krishnan does nothing to resolve Ramanujaiaha’s disclosure deficiency: it only employs WebRTC before a caller is connected to an emergency dispatcher. Like Ramanujaiaha, it never says that audio and WebRTC real-time video communication should occur simultaneously during an emergency call via two different connections.

Petitioner’s other arguments are similarly deficient. While it employs broad claim constructions here, it continues to interpret the claims narrowly in district court in an effort to manufacture non-infringement arguments. The fact that it purports to apply “plain and ordinary” meaning constructions does not change this. And it misanalyzes secondary considerations. Patent Owner presented evidence that its Universe product practices claim 1 of the ’383 patent and received industry praise. This shifted the burden back to Petitioner. It is Petitioner—not Patent Owner—that now must prove either that the product is not claimed or that its success is attributable to something other than the claimed subject matter. Petitioner completely failed to

do so, instead spending its reply improperly seeking to shift the burden of persuasion back to Patent Owner.

II. ARGUMENT

A. Claim Construction

Petitioner begins its reply by arguing that its claim “constructions are consistent between the related district court litigation and this proceeding.” Reply, 2. But merely stating that it “agrees” to plain and ordinary meaning constructions in district court while continuing to interpret the claims narrowly in that forum to facilitate non-infringement arguments does not eliminate the inconsistency. Until Petitioner concedes—on the record—that directing a text message with a URL to an emergency caller satisfies the limitation in claim 1 requiring that “the URL link is associated with the phone number of the mobile device” it has not eliminated the inconsistency. To the contrary, it persists in affording a special, narrow meaning to the phrase “associated with the telephone number” that is discussed nowhere in the Petition. Tellingly, Petitioner spent significant time questioning Patent Owner’s expert during deposition regarding the meaning of this very claim language in an apparent effort to support its narrow interpretation. *See, e.g.*, Ex. 1012, 70:22-82:3 (discussing Mr. Christensen’s district court claim construction declaration at length). Petitioner failed to properly address claim construction as required. *See generally* Response, 9-13.

B. GROUND 1: Petitioner Failed to Carry Its Burden

Petitioner’s reply is no different than the Petition itself: both fail to account for what Ramanujaiaha actually discloses. And both ignore that required claim elements are absent. Ramanujaiaha does not anticipate. And Petitioner did not meet its burden to show obviousness.

1. *Ramanujaiaha Is Not Anticipatory*

To begin, Ramanujaiaha is plainly not anticipatory. To anticipate, a single prior art reference must itself expressly or inherently “set forth ... each and every element” the claims require. *Arbutus Biopharma Corp. v. ModernaTX, Inc.*, 65 F.4th 656, 662 (Fed. Cir. 2023). Moreover, these disclosed elements must be “arranged as in the claim....” *Microsoft Corp. v. Biscotti, Inc.*, 878 F.3d 1052, 1069 (Fed. Cir. 2017). “[A]nticipation is not proven by multiple, distinct teachings that the artisan might somehow combine to achieve the claimed invention.” *Id.* This is all Petitioner does here: it points to separate, uncombined portions of Ramanujaiaha.

Patent Owner’s response explained that Ramanujaiaha fails to disclose a required claim element: provision of a WebRTC “real-time video stream” to an emergency dispatcher “while audio content of the emergency call is received” by the same dispatcher over a different connection. *See* Response, 14-25. Ramanujaiaha does make generic reference to the use of WebRTC to communicate. *See* Ramanujaiaha, 8:14-27, 9:46-52, 10:34-42. But it never teaches that this form of

communication is meant to transmit real-time video to the same recipient at the same time audio communication is ongoing via a different connection. Ramanujaiaha also uses the word “simultaneously.” *See id.*, 5:16-22. But this is merely a reference to the “capabl[ities]” of “customer ... devices....” *Id.* Ramanujaiaha does not state that audio and real-time video communications with the same recipient occur simultaneously over different connections in its system. And while Ramanujaiaha does state that its system is able to engage “multimodal communication” where “two or more communication modalities ... are invoked concurrently” (*e.g.*, 5:43-50), it includes no examples where audio and real-time video communication occur at the same time, let alone occur at the same time over different connections. Instead, in all cases, the second “communication” that occurs is either an interactive menu or web page. *See id.*, 10:32-45, 11:3-11, 12:22-37.

Petitioner does not appear to dispute any of this. It does not dispute that the only references to WebRTC in Ramanujaiaha are found in a generic, laundry list of potential communication methods. It does not dispute that there are no examples in Ramanujaiaha where audio and real-time video communication occur simultaneously over different connections. Petitioner also failed to meaningfully respond to the points Patent Owner raised in its response. Just like the Petition, the Reply never explains why Ramanujaiaha would have been understood by a POSITA to not only (1) expressly teach all required claim elements but also (2) arranges these

elements in the way the claims require. This explanation is missing because Ramanujaiaha includes no such disclosure. Arriving at the claims requires picking-and-choosing certain different parts of Ramanujaiaha and then stitching those parts together. There is no anticipation in such circumstances. *See Microsoft*, 878 F.3d at 1069 (explaining that if prior art teachings must be combined, the prior art is not anticipatory).

2. *Ramanujaiaha Also Does Not Render the Claimed Subject Matter Obvious*

Petitioner's obviousness arguments are also deficient. To meet its burden, Petitioner was required to demonstrate how each and every claim feature was either shown or suggested by the prior art. *See CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (“[O]bviousness requires a suggestion of all limitations in a claim.”); *see also Par Pharm., Inc. v. TWI Pharm., Inc.*, 773 F.3d 1186, 1194 (Fed. Cir. 2014). It did not do so.

A method that engages in “audio” and “real-time video” communication at unspecified times over unspecified communication channels does not satisfy the ’383 patent’s claims. Instead, the claims require that these two types of communication occur at the same time, over different connections, and with the same emergency dispatcher. *See generally* ’383 patent, claim 1 (requiring that the “real-time video stream is received through the WebRTC session while audio content

of the emergency call is received through the first connection”). There is no such disclosure in Ramanujaiaha.

As explained in Patent Owner’s response, Ramanujaiaha at best references the use of video to initiate communication with a call center. *See* Response, 18-19 (citing Ramanujaiaha, 9:14-27, 9:46-52, 10:34-42). And while Ramanujaiaha does state that its system allows a “visual channel” to be “concurrently invoked” along with a “voice channel,” in all cases this “visual channel” is an interactive menu or web site. *See* Response, 17-18 (citing Ramanujaiaha, 10:32-45, 11:3-11, 12:22-37). There is no disclosure of simultaneous audio and real-time video communication in the way the ’383 patent’s claims require. Moreover, the Response also explained why it would make no sense for Ramanujaiaha to employ both audio and real-time video communication at the same time: it would contradict Ramanujaiaha’s expressed goal of avoiding repetitive and duplicative communications. *See* Response, 20-21, 27; *see also* Ramanujaiaha, 10:11-14 (system intended to facilitate “different” types of communication that do not “repeat” each other).

Petitioner does not meaningfully respond to any of this. It does not contend that Ramanujaiaha includes an example of simultaneous audio and real-time video communication over different connections. It does not contest that in all of Ramanujaiaha’s examples, the second “visual” channel in a “multimodal” communication is either an interactive menu or a web page. And it does not even

meaningfully address the fact that employing audio and real-time video at the same time would be contrary to Ramanujaiaha's express goals (avoiding repeat or duplicative communications). Instead, Petitioner argues that Patent Owner seeks to "limit Ramanujaiaha's disclosure." Reply, 1. According to Petitioner, Ramanujaiaha imposes "no ... limitation" on the use of "WebRTC" and allows for this communication method at any time and for any purpose. *Id.*, 5-8. Petitioner then concludes that this renders simultaneous audio and real-time video communications obvious.

There are at least two issues with this argument. First, the mere fact that Ramanujaiaha includes a long laundry list of potential communication methods (only one of which is video transmitted via WebRTC) does not mean that the claimed subject matter is obvious. Ramanujaiaha identifies and references virtually every known method of communication, from standard PSTN telephone calls, text chats, social media messages, screen sharing, virtual assistants, VoIP calls, web sites, video conferencing, vmail, letters, and even in-personal training seminars. *See* Ramanujaiaha, 4:63-5:3, 5:10-21, 5:35-36, 8:7-10, 8:31-35, 9:46-52; *see also* Ex. 2015, 47:1-48:16, 56:9-57:3 (Petitioner's expert agreeing that Ramanujaiaha teaches many different communication methods). This produces *hundreds* of possible combinations of "multimodal" communication. For instance, given the breadth of communication methods referenced, Ramanujaiaha allows for a "multimodal"

session that begins with a text chat and proceeds to a mailed letter. It also allows for a social media message that results in an in-person training seminar. The examples in Ramanujaiaha’s specification all entail first contacting center via audio or video call, and then proceeding to interactive web-fillable form or menu. What Ramanujaiaha does not disclose is a “multimodal” session that entails both audio and WebRTC real-time video communication. Arriving at that—which is what is claimed by the ’383 patent—requires picking-and-choosing from the many different methods of communication Ramanujaiaha generically references and then adapting and modifying Ramanujaiaha’s examples to employ these chosen methods.

But that does not show obviousness. It is not enough to show that a POSITA could—if he or she picks the right communication methods and arranges them in the right way—arrive at the claimed subject matter. Petitioner was required to show that POSITA would do so. Merely pointing out that WebRTC video is identified in a laundry list of communication options is insufficient for this purpose. *Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1073 (Fed. Cir. 2015) (“[O]bviousness concerns whether a skilled artisan not only could have made but would have been motivated to make the combinations or modifications of prior art to arrive at the claimed invention.”).

Second, and more problematically, Petitioner has completely failed to provide any explanation of why a POSITA would have stitched together the various different

parts of Ramanujaiaha cited in the Petition. No explanation is provided regarding why a POSITA would have configured Ramanujaiaha to employ audio and WebRTC real-time video at the same time. Petitioner appears to recognize that it provided no such evidence. Instead, it contends that it was not required to explain the “why” of its obviousness argument because it relies on only a single reference. *See, e.g.,* Reply, 8-9 (arguing that there is “no requirement for motivation-to-combine analysis for teachings within a single reference”).

This is wrong. “[I]n appropriate circumstances, a patent can be obvious in light of a single prior art reference[,]” but only “if it would have been obvious to modify that reference to arrive at the patented invention.” *Arendi SARL v. Apple Inc.*, 832 F.3d 1355, 1361 (Fed. Cir. 2016). Thus, “[e]ven when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference.” *In re Kotzab*, 217 F.3d 1365, 1370 (Fed. Cir. 2000); *B.F. Goodrich Co. v. Aircraft Braking Sys. Corp.*, 72 F.3d 1577, 1582 (Fed. Cir. 1996) (“When obviousness is based on a particular prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference.”)

The sole case cited here by Petitioner does not hold otherwise. *See, e.g., Gen. Elec. Co. v. Raytheon Tech.*, 983 F.3d 1334, 1352 (Fed. Cir. 2020). There, a prior art reference included an embodiment that already included virtually every limitation

of the claim at issue, “expressly considered” swapping out an element of the embodiment with an alternative that satisfies the claim, and listed “tradeoffs” associated with doing so. *Id.*, 1340. Because of this, the Federal Circuit determined that the prior art itself had “already done” the “work” of providing the required motivation to combine obviating the need to “re-do” this in an IPR petition. *Id.*, 1352.

Ramanujaiaha does not do the same. It does not include an embodiment that satisfies the claims. It also does not “expressly consider” replacing the interactive menus and websites in its embodiments with WebRTC real-time video. And it identifies no benefits or advantages deriving from the simultaneous use of audio and WebRTC real-time video. Petitioner was required to provide this in its Petition. The mere fact that it chose to make a single-reference obviousness case does not eliminate the need to provide an “articulated reasoning with some rational underpinning” in evidence showing why a POSITA would arrive at the claimed subject matter. *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007). This is a fundamental requirement of every obviousness analysis. The reason for assembling different prior art teachings together can be present in the prior art itself or it can be separately provided by an IPR petitioner (as it should have been here). However, it can never be completely absent. The Petition lacks the required explanation.

Petitioner also wrongly argues that the Petition did not engage in hindsight. *See, e.g.,* Reply, 9-10. According to Petitioner, all it did was “standard claim-mapping.” *Id.* While the Petition did point to separate portions of Ramanujaiaha and attempt to correlate these separate portions to the ’383 patent’s claims, it provided *no* explanation of why a POSITA would have assembled Ramanujaiaha this way. This is why the Petition engaged in hindsight. To avoid hindsight, the law requires “a showing that an artisan of ordinary skill in the art at the time of the invention, confronted by the same problem as the inventor and with no knowledge of the claimed invention, would select the various elements from the prior art and combine them in the claimed manner.” *Ruiz v. AB Chance Co.*, 357 F.3d 1270, 1275 (Fed. Cir. 2004). Merely pointing to different parts of the prior art—but failing to explain why a POSITA would have done the same—is prototypical hindsight reconstruction.

If this were not enough, Petitioner and its expert repeatedly identify benefits and advantages listed only in the ’383 patent—and not in the prior art—as purportedly leading to the claimed subject matter. For example, Petitioner speculates that “in emergencies, video and audio must be synchronized so the call center can correlate what is spoken with what is seen.” Reply, 7. But it cites no prior art that states that. Only the ’383 patent includes such a teaching. Likewise, Petitioner argues that it is “critical” to use “WebRTC” “in emergencies” because it

does not “requir[e] dedicated application installation.” Reply, 10. But once again, Petitioner cites to no prior art stating this: only the ’383 patent does. “[I]t is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious.” *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992).

3. *The Prior Art Fails to Teach What Dependent Claims 4, 11, and 18 Require*

Dependent claims 4, 11, and 18 all narrow the corresponding independent claim by requiring a specific “unique identifier” to correlate a real-time video with an ongoing emergency call: “the phone number of the mobile device.” ’383 patent, claims 4, 11, 18. Ramanujaiaha does not disclose use of a phone number as an identifier. Instead, it repeatedly states that its system employs a non-phone number “Session ID.” Ramanujaiaha, 12:16-26; 12:47-54; 13:10-15.

Petitioner’s reply does not grapple with this disclosure failure. Instead, it entirely missed the point. According to Petitioner, because Ramanujaiaha determines a user’s phone number and then “associate[s]” received video “with the caller’s telephone number,” it must necessarily be using the phone number itself as an “unique identifier.” Reply, 12-13. This does not follow. Claim 1 already requires that the “real-time video stream is associated with a unique identifier for the mobile device.” Thus, merely doing this—which is all Petitioner contends Ramanujaiaha does—cannot be enough to satisfy dependent claims 4, 11, and 18. Those claims

add a specific, further requirement: that the phone number itself be used as “the unique identifier.” Simply collecting a phone number but then using another, different identifier to keep track of real-time video does not satisfy the claims. Petitioner points to nothing in Ramanujaiaha disclosing what the claims require.

C. **GROUND 2: Krishnan Does Not Resolve Petitioner’s Problems**

1. ***The Combination of Ramanujaiaha and Krishnan Do Not Render the Claims Obvious***

Ground 2 in the Petition argued that the combination of Ramanujaiaha and Krishnan renders the claims obvious. Patent Owner’s response pointed out that Krishnan does not resolve Ramanujaiaha’s deficiencies: Krishnan also does not disclose a system that engages in simultaneous audio and real-time video communication. Instead, in Krishnan, WebRTC is only employed ***before*** a caller is connected to an emergency dispatcher. *See* Response, 34-39. Moreover, Petitioner once again failed to articulate a motivation to combine.

Petitioner replies to this by arguing that “Krishnan[.]” purportedly already includes “express disclosure of simultaneous voice-only and video data communications.” Reply, 15. Petitioner posits that because an “emergency caller” in Krishnan is “asked to establish a trusted ... data channel,” Krishnan must necessarily be disclosing simultaneous audio and real-time video communication as the ’383 patent’s claims require. *Id.* According to Petitioner, “it would make no sense to terminate the voice-only channel, as maintaining audio contact with the

caller is critical, even while receiving video and other content over the data channel.”

Id., 17

This assertion, however, finds no basis in the prior art. Krishnan *does not* state in any of the passages Petitioner cites that its system “maintain[s] audio contact” with an audio caller after a data channel is opened. *See, e.g.*, Krishnan, 1:41-44 (simply noting that a “data channel” is “established” at some point after an emergency call is made), 7:27-35 (similar). According to Krishnan, “[w]hile audio communications may be provided via the data channel and/or a voice-only channel, other content is exchanged via the data channel.” *Id.*, 10:53-66. This, however, is just referring to the *types* of channels that may be used for communication, not when these communications occur. Nor is it necessary for audio and real-time video communication to occur simultaneously in Krishnan. Information can plainly be collected from an emergency caller via a data channel even if the audio call is terminated, on hold, or otherwise no longer ongoing. Indeed, doing so would be entirely consistent with Krishnan’s goal: determining who should be connected with an emergency dispatcher first. *See, e.g.*, Krishnan, 1:28-32 (noting that data is used for “call prioritization”).

Likewise, no other prior art reference of record states that it is “critical” not to “terminate the voice-only channel” as Petitioner alleges. And this missing disclosure cannot be supplied by “common sense.” *See Arendi*, 832 F.3d at 1361

(“common sense” cannot be employed “to supply a missing claim limitation”). Nor can “common sense” “be used as a wholesale substitute for reasoned analysis and evidentiary support, especially when dealing with a limitation missing from the prior art references specified.” *Id.*, 1362. Thus, Petitioner’s and its expert’s unsupported allegation that it “make[s] no sense” to terminate an audio call in Krishnan is irrelevant: Krishnan must say this for the claims to be obvious. It does not.

Relatedly, this entire argument was not one that was present in the Petition. Petitioner did not argue that it “makes no sense” to terminate an audio call while opening Krishnan’s data channel. Nor did it argue that Krishnan must necessarily keep the audio channel open when collecting information over the data channel. These arguments only appeared for the first time in reply. This was improper. *See VLSI Tech LLC v. Intel Corp.*, 53 F.4th 636, 653-654 (Fed. Cir. 2022) (“the petition defines the scope of an IPR proceeding”); *see also Wasica Fin. GmbH v. Cont’l Auto. Sys., Inc.*, 853 F.3d 1272, 1286 (Fed. Cir. 2017) (a reply is not permitted to include an “entirely new theory of prima facie obviousness absent from the petition”). These arguments should all be ignored.

Petitioner also complains that “Carbyne points to no teaching that the voice connection must close before the WebRTC data channel is established.” *Id.* This gets the burden of proof backwards. It was (and continues to be) **Petitioner’s burden** to present evidence showing that a POSITA would have understood Krishnan to

contemplate simultaneous audio and real-time video communication. *See Dynamic Drinkware, LLC v. Nat'l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015). Petitioner was required to show that the combination of Ramanujaiaha and Krishnan teaches simultaneous audio and real-time video communication. Petitioner was also required to present evidence explaining why a POSITA would have been motivated to apply Krishnan's call triage system (where WebRTC communication occurs before a caller is connected to a dispatcher) to Ramanujaiaha's completely different customer call center system. It did none of this. And simply having one's expert declare for the first time in reply that "common sense" would have led a POSITA to the claims does not carry Petitioner's burden. It is the prior art that must teach what the claims require and supply a motivation to combine. Missing disclosure cannot be replaced by conclusory expert testimony. *See Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 at 15 (PTAB Aug. 24, 2022) (precedential) ("conclusory assertions without underlying factual support" are insufficient).

Finally, what little Petitioner did say in the Petition failed to supply a meaningful motivation to combine. Patent Owner's response noted that the Petition did not even address motivation to combine in connection with the claim limitation requiring simultaneous audio and real-time video communication. *See Response*, 40-41. Petitioner disputes this characterization, arguing that the Petition did somehow "explain[] the motivation to combine." Reply, 19. But Petitioner points

only to portions of the Petition discussing why it purportedly would have been obvious to use WebRTC when engaging in video communication. *See id.* Once again, Petitioner points to nothing—and provided nothing in the Petition—explaining why a POSITA would have been motivated to configure to combination of Ramanujaiaha and Krishnan such that they simultaneously engage in audio and real-time video communication with the same emergency dispatcher over different communication channels. That Ramanujaiaha and Krishnan are capable of engaging in both voice and video communications provides no meaningful insight into this issue. The mere fact that user devices allow for voice and video communications says nothing at all about when these communications occur. It neither discloses nor motivates their simultaneous use. Nor did Patent Owner “conced[e] the required motivation” as Petitioner inexplicably alleges. Reply, 19. There was nothing to concede as Petitioner pointed to nothing.

2. *Ramanujaiaha and Krishnan Also Fail to Render Claims 7 and 14 Obvious*

Claims 7 and 14 both require that “the WebRTC session further transmits at least one of (i) GPS location data of the mobile device for display on the screen of the recipient or (ii) one or more photographs taken on the mobile device for display on the screen of the recipient.” ’383 patent, Claims 7, 14. The Response explained that Ramanujaiaha and Krishnan do not disclose (or render obvious) transmission of this information as part of the same WebRTC session over which “real-time video”

communication is occurring. *See* Response, 42-46. Nor did the Petition properly address motivation to combine. *See id.*

Petitioner first incorrectly argues that the claims do not require the simultaneous receipt of audio, real-time video, and photograph/GPS information. *See* Reply, 20. According to Petitioner, there is “[n]othing” in the ’383 patent that supports Patent Owner’s purportedly “deliberately narrowed interpretation.” This is wrong: the claim language itself plainly requires the simultaneous transmission of multiple, different types of information. Per claim 1, an audio call must be ongoing “while” an emergency dispatcher receives real-time video via a “WebRTC session.” ’383 patent, claim 1. And claims 7 and 14 then further require that photographs/GPS information be transmitted during this same “WebRTC session” that is transmitting real-time video while an audio call is ongoing. Transmitting photographs/GPS after the audio/video communication ceases would not qualify: this transmission would occur during a different session, not the same WebRTC session as required. Petitioner speculates that “[a] WebRTC session can remain open to transmit additional data after an initial video stream ends.” *Id.* But it cites nothing showing this. Nor is this relevant: none of the prior art teaches the transmission of photographs/GPS information after a call concludes. Krishnan—the only reference cited in connection with this claim element—transmits data before a caller is connected with an emergency dispatcher.

Petitioner next argues that the claims would be obvious “[e]ven under Carbyne’s new claim construction.” Reply, 21. But here it repeatedly presents new arguments and evidence—including brand new motivation to combine argument—that should have been part of the Petition. For instance, it now argues for the first time that “[a] POSITA would know that a 911 operator working to understand an emergency would want to simultaneously receive pictures and videos....” *Id.*, 21-22. Not only does it cite nothing in the prior art stating this, but Petitioner made no such argument in the Petition. Similarly, it argues that transmitting video and photographs/GPS information at the same time would reduce “the risk of a technical obstacle interfering” with communication. *Id.*, 22. But it also failed to make such an argument in its Petition. None of this was timely introduced. All of it should be ignored by the Board. *See Wasica Fin.*, 853 F.3d at 1286.

D. Petitioner Improperly Seeks to Shift the Burden of Persuasion Regarding Secondary Considerations of Non-Obviousness to Patent Owner

As explained in the Response, Patent Owner Carbyne sells a product—known as “Universe”—that allows an emergency caller to simultaneously talk with an emergency dispatcher via telephone while transmitting real-time video via a WebRTC connection. *See Response*, 46-52. This product received praise both from Petitioner itself (*see Ex. 2006*) and a recognized market research firm (*see Ex. 2012*). Moreover, because the Universe product embodies and is coextensive with claim 1

of the '383 patent, there is presumptively a nexus with the claimed subject matter. *See* Response, 46 (*citing Fox Factory, Inc. v. SRAM, LLC*, 944 F.3d 1366, 1373 (Fed. Cir. 2019).) This further establishes that the claimed subject matter is non-obvious.

Petitioner's reply gets both the facts and law wrong. It begins by arguing that the Universe product is purportedly not covered by claim 1 of the '383 patent because "there is no evidence Universe" "encapsulates a unique identifier that could be a telephone number." Reply, 25. But there is no such claim requirement. Claim 1 requires only that the "URL link" that is sent to a user be "associated with the telephone number of the" user's "mobile device." '383 patent, claim 1 (emphasis added). There is no requirement that the telephone number itself appear in the URL. The Universe product satisfies this claim limitation. Universe directs a "text message (SMS) notification" to an emergency caller to allow for the transmission of video. Ex. 2013, p. 18. And it employs a "unique URL Link" for each caller to ensure that transmitted video can be appropriately correlated with an ongoing emergency call. *Id.*, p. 39. Patent Owner's expert repeatedly explained to Petitioner during deposition that given this functionality (the system directs a text message to an appropriate user device, and then correlates received video with that user), Universe "associates" a texted URL with a telephone number as required. *See, e.g.*, Ex. 1012, 77:10-80:10 (noting that transmitting a unique URL to a particular user "associates" the URL with the user's telephone number), 81:5-18 (noting that the

Universe product “map[s]” a URL and a “unique identifier” to allow communications to be associated), 81:19-3 (noting that the URL must include “some form of identity information”), 83:12-84:3 (noting that the URL “would have to have some basis in the telephone number” for the system to operate as intended), 84:19-86:7 (noting that a URL can be “associated” with a telephone number even if it does not include the number in the URL itself); *see also* Ex. 2015, 31:8-19 (Petitioner’s expert admitting that sent URL does not need to include the phone number).

Next, Petitioner repeatedly and improperly attempts to shift the burden of persuasion to Patent Owner. According to Petitioner, Petitioner’s secondary considerations arguments are somehow deficient because its expert did not “research, test, or use” the Universe product. Reply, 25. Similarly, Petitioner repeatedly takes issue with Patent Owner’s (and its expert’s) identification of “which features drive ... success” of Universe. *Id.*, 27. “In an *inter partes* review, the burden of persuasion is on the petitioner ... and that burden never shifts to the patentee.” *See Dynamic Drinkware*, 800 F.3d at 1378. Here, Patent Owner presented evidence showing (1) that the Universe product is covered by the ’383 patent’s claims, (2) that the claimed features are important to the product’s success, and (3) that the product has received industry accolades. This shifted the burden back to Petitioner. Thus, it was Petitioner’s burden to show that the product falls outside the claim scope. It did not do so. It was also Petitioner’s burden to show

that features other than those required by the claims are what drive success. It did not do this either. *See, e.g.*, Ex. 2015, 8:4-10, 10:6-21, 11:1-19, 19:1-19 (Petitioner’s expert did not “endeavor to understand ... the specific features of the Universe product”); 12:20-13:1 (no missing claim elements “enumerate[d]”); 35:8-15 (expert “did not ... perform” any “analysis” of feature importance).

Finally, Petitioner’s repeated disparagement of an award won by the Universe product is unfounded and completely devoid of evidentiary support. Petitioner points only to an unauthenticated Wikipedia post, LinkedIn article, and random website. *See generally* Reply, 29 (citing Exs. 1015, 1016, 1017). None of this is admissible. None of this satisfies Petitioner’s burden of persuasion. The only admissible evidence regarding the award is the testimony of Patent Owner’s expert, who repeatedly characterized it as a well-recognized “tier one research firm” that “hold[s] a lot of water” in the industry. *E.g.*, Ex. 1012, 177:9-178:1; *see also id.*, 181:6-17 (similar), 184:5-12 (noting that Frost & Sullivan is “well-established, well-known” and is taken “seriously”).

III. CONCLUSION

For the reasons outlined above and in Patent Owner’s response, Patent Owner submits that the patentability of the ’383 patent’s claims must be confirmed: Petitioner has failed to show that any of the claims are anticipated or obvious.

Respectfully submitted,

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Dated: July 21, 2026

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CERTIFICATE OF WORD COUNT

The undersigned certifies that the foregoing sur-reply complies with the type-volume limitation in 37 C.F.R. § 42.24. According to the utilized word-processing system's word count, the reply contains 5,378 words.

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CERTIFICATE OF SERVICE

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