

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MARVELL SEMICONDUCTOR, INC.,  
Petitioner,

v.

CREDO TECHNOLOGY GROUP LTD.,  
Patent Owner.

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Case IPR2025-01220  
U.S. Patent No. 11,032,111

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**PATENT OWNER'S MOTION TO STRIKE THE SUPPLEMENTAL  
DECLARATION OF DR. MICHAEL CHEN AND CORRESPONDING  
PORTIONS OF PETITIONER'S REPLY BRIEF**

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## **I. INTRODUCTION**

Patent Owner Credo Technology Group Ltd. respectfully moves to strike paragraphs 9 and 11 of Exhibit 1051 and the corresponding arguments at pages 14-15 and 17 of Petitioner’s Reply (Paper 22, “Reply”). Exhibit 1051 is a newly submitted declaration from Petitioner’s expert, Dr. Michael Chen, which introduces previously undisclosed affirmative theories that exceed the scope of permissible reply evidence under 37 C.F.R. § 42.23(b). These theories include both new claim mappings (*see* EX-1051, ¶ 9; *infra* Section II.A) and new rationales to combine references (*see* EX-1051, ¶ 11; *infra* Section II.B)—arguments which the Board, Director, and Federal Circuit regularly exclude from consideration when introduced for the first time on reply.

## **II. ARGUMENT**

### **A. Paragraph 9 of Exhibit 1051 Should Be Excluded Because It Introduces a New Affirmative Claim Mapping of Cornelius’s “Operational Parameters” to Equalization Settings**

In paragraph 9, Dr. Chen argues that Cornelius’s “operational parameters”—which allow “cables to adapt to new hosts and devices”—encompass equalization settings. EX-1051, ¶ 9; EX-1005, 6:50–57. He reasons that “a prominent aspect of adapting to a new host is adjusting equalization settings” and that Berke’s adaptation instructions are “precisely the type of information Cornelius

contemplates transmitting through its channel.” EX-1051, ¶ 9; *see also* Reply at 14-15.

This theory was not in the Petition. The Petition relies on Berke in combination with Cornelius in Grounds 1 and 3. In this context, Petitioner relies on Cornelius for three things: (a) its purported active-cable architecture with transceivers, (b) its purported CDR circuits performing pre-equalization, and (c) its purported cable microcontroller. Pet., 34-38. The Petition argued *generally* that a POSITA would apply “Berke’s known serial techniques to improve similar devices in the same way as taught by Berke.” Pet., 34. The Petition did not cite or discuss Cornelius’s “operational parameters” for any purpose, did not argue that Cornelius’s operational parameters encompass equalization settings, and did not argue that Cornelius’s communication channel is designed to carry adaptation instructions of the type Berke teaches, all of which Petitioner now attempts to do. *See* Pet., 34-38. The Petition’s *only* potentially relevant citation is directed to Cornelius’s pre-equalization teaching—not to the “operational parameters” language or to any theory about the suitability of Cornelius’s communication channel for Berke’s adaptation data. Pet. at 34 (citing EX-1005, 6:30-57).

Paragraph 9 stretches beyond mere rebuttal. Patent Owner’s Response explains that Cornelius’s LSx sideband bus is a low-speed management channel unsuited for Berke’s iterative training. POR, 30-31. Proper rebuttal could

challenge, for example, the bus's speed characterization or argue that Berke's instructions do not require high bandwidth, although both of those arguments lack substantive merit.<sup>1</sup> But paragraph 9 goes further: it affirmatively constructs a *new* theory about what Cornelius's channels are designed to carry, equating Cornelius's "operational parameters" with equalization settings and concluding that Berke's adaptation instructions are "precisely the type of information Cornelius contemplates transmitting." EX-1051, ¶ 9. This amounts to a new independent basis for finding Berke and Cornelius compatible—not a response to Patent Owner's bandwidth critique. This untimely argument is exactly what the Board, Director, and Federal Circuit have cautioned against time and again. *See* Consolidated Trial Practice Guide at 74 (Nov. 2019) ("indications that a new issue has been raised in a reply include . . . newly raised rationale to combine the prior art references that was not expressed in the petition"); *Luminex Int'l Co. v. Signify Holdings B.V.*, IPR2024-00101, Paper 57 at 4-6 (Director Feb. 5, 2026) (modifying final written decision where petitioner "improperly advanced a new theory" in reply that "was not presented in the Petition"); *Colas Sols., Inc. v. Blacklidge Emulsions, Inc.*, 759 Fed. App'x 986, 991-92 (Fed. Cir. 2019) ("Under such

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<sup>1</sup> Indeed, Dr. Chen does both. *See* EX-1051, ¶¶ 7-8. Patent Owner does not object to these paragraphs under Rule 42.23(b).

circumstances, the Board does not abuse its discretion in declining to consider such untimely theories.”).

**B. Paragraph 11 of Exhibit 1051 Should Be Excluded Because It Introduces a New Rationale for the Berke-Ran Combination Based on Berke’s “Third Party Device” Language**

In paragraph 11, Dr. Chen identifies Berke’s statement that its back-channel communication “can include a third party device or mechanism that provides system management . . . or another embedded controller.” EX-1051, ¶ 11 (citing EX-1004, ¶ 19). Dr. Chen then identifies Ran’s management entity as “precisely such a mechanism” and concludes that “Berke therefore *expressly contemplates* an architecture that uses a mechanism like Ran’s management entity to mediate back channel communication.” EX-1051, ¶ 11 (emphasis added).

This theory was not in the Petition. The Petition relies on Berke in combination with Ran in Grounds 2 and 4, citing Berke ¶ 19 only for the general proposition that channel management module 116 communicate “adaptation instructions.” *See, e.g.*, Pet., 37-38. The Petition does not quote or rely on the specific “third party device or mechanism” language in Berke. *See generally* Pet., 37-38, 42-48. The Petition’s motivation to combine rests entirely on generic rationales for using the Berke teachings to modify Ran’s relay architecture: alleging the same field, same types of traces and cables, similar devices, common standards, and solving of a recognized problem, purportedly with no change to

either reference's principle of operation. Pet., 45-47. None of these rationales argued—or even suggested—that Berke *itself* contemplates a relay architecture like Ran's management entity.

The difference is not one of degree. Paragraph 11 argues a brand new theory, that Berke itself *expressly* teaches the relay architecture Ran employs. That is a fundamentally different rationale, one that was fully available upon filing the Petition, and one that cannot be introduced for the first time on reply. *See Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369-70 (Fed. Cir. 2016) (affirming exclusion of reply where petitioner “relied on an entirely new rationale” for the combination). The choice not to include this argument in the petition cannot be cured by belatedly raising it in reply. *See id.* (“[u]nlike district court litigation—where parties have greater freedom to revise and develop their arguments over time . . . the expedited nature of IPRs bring with it an obligation for petitioners to make their case in their petition to institute”); *Ariosa Diagnostics v. Verinata Health, Inc.*, 805 F.3d 1359, 1368 (Fed. Cir. 2015) (explaining that the reply-only rule reflects “the combination of efficiency and fairness interests”).

### III. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that the Board strike paragraphs 9 and 11 of Exhibit 1051 and the corresponding arguments at pages 14-15 and 17 of Petitioner's Reply.

IPR2025-01220  
U.S. Patent No. 11,032,111

Date: September 9, 2026

Respectfully submitted,

/Charles M. McMahon/

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**CERTIFICATE OF COMPLIANCE WITH  
TYPE-VOLUME LIMITATIONS**

I, the undersigned, do hereby certify that the foregoing Motion to Strike, is within the 5-page limit as specified by the Board's September 2, 2026 email.

*/Charles M. McMahon/*

Charles M. McMahon

## **CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6(e)(4), I hereby certify that on September 9, 2026, a true and correct copy of the foregoing was served by electronic mail upon the following counsel of record for Petitioner:

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