

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TIKTOK, INC.,
Petitioner

v.

DISTEFANO WEBSITE INNOVATIONS, LLC.,
Patent Owner

PTAB Case No. IPR2025-01224
Reissue Patent No. RE45,971

**PATENT OWNER'S PRELIMINARY RESPONSE
UNDER 35 U.S.C. § 42.107**

October 17, 2025

TABLE OF CONTENTS

TABLE OF AUTHORITIES	iv
I. INTRODUCTION	1
II. MANDATORY NOTICES (37 C.F.R. § 42.8)	1
A. Real Party in Interest	1
B. Related Matters	1
C. Counsel and Service Information	2
D. 37 C.F.R. § 42.28(b)(4): Service Information	3
III. The Petition must specify where each element of the claim is found in the prior art	3
IV. U.S. REISSUE PATENT NO. RE45,971	5
A. Background	5
B. Independent Claims 4-5, 7-8, and 14	6
C. Priority	8
V. PERSON OF ORDINARY SKILL IN THE ART	8
VI. CLAIM CONSTRUCTION	9
A. Claim Construction Standard	9
B. Petitioner’s failure to present claim constructions for nearly all of the claim elements	11
C. The terms “first functional marketing element” and “second functional marketing element”	12
D. The terms “first user,” “second user,” and “third user”	12
E. The terms “web page implementation system [that causes] (i) the first website to implement the first functional marketing element, and the second website to implement the second functional marketing element”	13

VII. OVERVIEW OF THE PRIOR ART	16
A. Block (Exh. 1007)	16
B. Arnold (Exh. 1008).....	17
C. Arora (Exh. 1009).....	20
VIII. RESPONSE TO SPECIFIC IPR GROUNDS	21
A. GROUND 1: Obviousness Based on <i>Block</i>	21
1. Claims 4-5, 7-8, and 14 -- “the first functional marketing element directs, via the internet, a second user of the first functional marketing element to the second website”	22
2. Missing teachings not obvious in view of Block.....	23
B. GROUND 2: Obviousness Based on <i>Arnold</i>	25
1. Claims 4-5, 7-8, and 14 – Arnold fails to teach the website implementation system causing “the first website to implement the first functional marketing element, and (ii) the second website to implement the second functional marketing element”	25
2. Distinctions between claimed invention and Arnold are same as those addressed during reissue proceeding against Horstmann.....	28
C. GROUND 3: Obviousness Based on <i>Arnold</i> and <i>Arora</i>	31
IX. SECONDARY CONSIDERATIONS	31
CONCLUSION	32
CERTIFICATE OF SERVICE	a
CERTIFICATE OF COMPLIANCE.....	b

TABLE OF AUTHORITIES

Cases

<i>Anderson v. Eppstein</i> , 59 USPQ2d 1280, (BPAI 2001).....	5
<i>Apple Inc. v. Qualcomm Inc.</i> , IPR2018-01276, 2020 Pat. App. LEXIS 7895, *15-16 (P.T.A.B. Feb. 3, 2020) ..	6
<i>Apple Inc. v. Samsung Elecs. Co., Ltd.</i> , 839 F.3d 1034, 1051 n.15 (Fed. Cir. 2016)	25
<i>Arctic Cat v. Bombardier Recreational Products</i> , 876 F.3d 1350, 1360 (Fed. Cir. 2017).....	26, 27
<i>Becton, Dickinson and Co. v. Tyco Healthcare Group, LP</i> , 616 F.3d 1249 (Fed. Cir. 2010).....	12
<i>CAE Screenplates, Inc. v. Heinrich Fiedler GmbH & Co.</i> , 224 F.3d 1308 (Fed. Cir. 2000).....	12
<i>CUPP Computing AS v. Trend Micro Inc.</i> , 53 F.4th 1376 (Fed. Cir. 2022)	11
<i>Hockerson-Halberstadt, Inc. v. Converse Inc.</i> , 183 F. 3d 1369 (Fed. Cir. 1999).....	13
<i>Novartis AG v. Torrent Pharms.</i> , 853 F.3d 1316 (Fed. Cir. 2017).....	4
<i>Parus Holdings, Inc. v. Google LLC</i> , 70 F4th 1365 (Fed. Cir. 2023)	5
<i>Sunovion Pharms., Inc. v. Teva Pharms. USA, Inc.</i> , 731 F.3d 1271 (Fed. Cir. 2013).....	12
<i>Trading Techs. Int'l, Inc. v. IBG LLC</i> , 921 F.3d 1378 (Fed. Cir. 2019).....	4
<i>U.S. v. Dunkel</i> , 927 F.2d 955 (7 th Cir. 1991).....	5

<i>U.S. v. Great Am. Ins. Co. of N.Y.</i> , 738 F.3d 1320 (Fed. Cir. 2013).....	6
<i>Unique Concepts, Inc. v. Brown</i> , 939 F.2d 1558 (Fed. Cir. 1991).....	12

Statutes

35 U.S.C. § 282(b)	11
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Regulations

37 C.F.R. § 42.100	10
37 C.F.R. § 42.107(b)	1
37 C.F.R. §42.107	1, 21, 25

TABLE OF EXHIBITS

Exhibit	Title
1001	Certified Copy of U.S. Reissued Patent RE45,971
1002	Certified File History of Reissue Patent RE45,971
1003	Declaration of Andy Cockburn
1004	Curriculum Vitae of Dr. Andy Cockburn
1005	Certified File History of 09/589,551
1006	Provisional U.S. Patent 60/172,983
1007	U.S. Patent Publication 2003/0050976A1
1008	U.S. Patent 6,016,504
1009	U.S. Patent 5,845,299
1010	IPR2019-00419, Paper No. 6, (POPR)
1011	<i>DiStefano Website Innovations, LLC v. Bytedance Ltd. Et al.</i> , Case no. 2:24-cv-00763, Complaint (W.D. Tex. Jul. 8, 2024)
1012	<i>DiStefano Website Innovations, LLC v. Bytedance Ltd. Et al.</i> , Case no. 2:24-cv-00874-RWS-RSP, Complaint (E.D. Tex. Oct. 29, 2024)
1013	RESERVED
1014	RESERVED
1015	U.S. Patent 5,995,099
1016	U.S. Patent 7,028,254
1017	U.S. Patent Publication 2001/0034646
1018	U.S. Patent 7,139,727
1019	U.S. Patent 6,629,135
1020	Six Degrees, https://web.archive.org/web/19980416103152/http://sixdegrees.com
1021	Guide to Web Site Promotion: How Companies Can Draw More Qualified Traffic to Their World Wide Web Sites

Exhibit	Title
1022	Turbo Promote, https://web.archive.org/web/19970418080213/http://www.turbopromote.com/links.html
1023	Puzzle Depot, https://web.archive.org/web/19990417052546/http://www.puzzledpot.com:80/recips.shtml
1024	https://www.w3.org/People/Berners-Lee/WorldWideWeb.html
1025	https://www.w3org/People/Berners-Lee/WorldWideWeb.html
1026	Macromedia, https://web.archive.org/web/19990223214509/http://www.macromedia.com/software/dreamweaver/
1027	U.S. Patent 5,911,145
1028	RAE Technology, WIKIPEDIA, https://en.wikipedia.org/wiki/Rae_Technology
1029	Macromedia Hums the E-Business Tune, FORBES (Oct. 7, 1999), https://www.forbes.com/199910/07/mu3html
1030	<i>Macromedia, Inc. v. Adobe Sys. Inc.</i> , Case No. 01-03940 SSI, Complaint (N.D. Cal. Oct. 19, 2021)
1031	Macromedia, WIKIPEDIA, https://en.wikipedia.org/wiki/Macromedia
1032	IPR2019-00419, Paper 2 (Linkedin Petition)
1033	U.S. Patent No. 5,854,893
1034	Certified Copy of U.S. Patent 7,996,259
1035	Andy Cockburn and Steve Jones. <i>Which way now? Analysing and easing inadequacies in WWW navigation</i> . 45 INT’L J. OF HUMAN-COMPUTER STUDIES, Volume 45, Issue 1, 1996, Pages 105, 129, ISSN 1071-5819, https://doi.org/10.1006/ijhc.1996.0044
1036	Andy Cockburn, Bruce McKenzie and Michael Jason Smith, <i>Pushing Back: Evaluating a New Behavior for the Back and</i>

Exhibit	Title
	<i>Forward Buttons in Web Browsers</i> , 57 INT’L J. OF HUMAN-COMPUTER STUDIES, Pages 397, 414, Academic Press. 2002.
1037	U.S. Patent 8,768,760
1038	Revised Opening Brief of Appellant DiStefano Patent Trust III, LLC filed in <i>DiStefano Patent Trust III v. LinkedIn Corporation</i> , Case No. 19-01210, Dkt. 25 (Fed. Cir. Mar. 27, 2019).
1039	<i>DiStefano Pat. Tr. III, LLC v. LinkedIn Corp.</i> , Civ. No. 1-17-cv-01798, Dkt. 1, Complaint (D. Del. Dec. 14, 2017)
1040	<i>DiStefano Pat. Tr. III, LLC v. LinkedIn Corp.</i> , 346 F. Supp. 3d 616, 623 (D. Del. 2018)
1041	https://www.oed.com/dictionary/site_n
1042	RESERVED
1043	RESERVED
1044	U.S. Patent 5,960,409
1045	U.S. Patent 6,058,417
1046	U.S. Patent 6,601,057
1047	U.S. Patent 6,330,575
1048	U.S. Patent 6,401,075
1049	U.S. Patent 5,937,392
1050	U.S. Patent 6,560,639
1051	Merriam-Webster’s Dictionary of Basic English (2000)
1052	The Oxford Paperback Dictionary (Elaine Pollard ed., 4 th ed., 2000)
1053	U.S. Patent 5,774,660
1054	U.S. Patent 6,009,410

Exhibit	Title
1055	Java Sun, https://web.archive.org/web/20000815063754/http://java.sun.com/docs/books/tutorial/getStarted/index.html
1056	Rick Darnell, Using Macromedia Dreamweaver 1.2 (1998)
1057	Russell M. Shumway, Common-Sense An Alternative Approach to Web Security. In Proceeding of the 21 st National Information Systems Security Conference (NISSC), held October 5-8, 1998, in Arlington, Virginia
1058	Petitioner's <i>Sotera</i> Stipulation
2001	Scheduling Conference Order of August 13, 2025
2002	Email from Sinofaith dated November 6, 2022
2003	Executive Order of June 19, 2025
2004	Interim Processes for PTAB Workload Management at 1 (Mar. 26, 2025)
2005	PTAB Dashboard
2006	Claims 1-3 disclaimer, USPTO Form PTO/SB/43 (11-23)
2007	Electronic Acknowledgement Receipt for filed Claims Disclaimer
2008	Electronic Payment Receipt for Claims Disclaimer
2009	Appeal Brief filed July 5, 2019, in U.S. Patent No. 11,763,316

I. INTRODUCTION

Patent Owner DiStefano Website Innovations, LLC, (“DiStefano” or “Patent Owner”) submits the following Patent Owner Preliminary Response (“POPR”) pursuant to 37 C.F.R. §42.107(a). *See also* 37 C.F.R. § 42.107(b). Petitioner TikTok Inc. (“TikTok” or “Petitioner”) filed a Petition for *Inter Partes* Review of U.S. Reissue Patent No. RE45,971 (the ’971 Reissue patent) on July 8, 2025. (IPR2025-01224, Paper No. 1 (“Petition”)).

Patent Owner respectfully requests that the Board deny institution of *Inter-Partes* Review because TikTok failed to meet its burden to show a reasonable likelihood that at least one of the challenged claims is unpatentable. Specifically, TikTok failed to demonstrate a reasonable likelihood that any claim of the ’971 Reissue Patent would be rendered obvious in view of any of the three (3) asserted Grounds. Thus, the Board should deny institution of an *Inter-Partes* Review of the ’971 Reissue Patent.

II. MANDATORY NOTICES (37 C.F.R. § 42.8)

A. Real Party in Interest

Patent Owner DiStefano is the real party-in-interest.

B. Related Matters

The following proceedings involving the ’971 Reissue Patent may affect or be affected by a decision in this proceeding:

PATENT OWNER’S PRELIMINARY RESPONSE

- Distefano Website Innovations, LLC v. Bytedance Ltd., Bytedance Pte. Ltd., Tik Tok Ltd., and Heliophilia Pte. Ltd., Case No. 2:24-cv-00874 (E.D. Tex.) (“Bytedance Litigation”). The complaint was filed on October 29, 2024.

C. Counsel and Service Information

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D. 37 C.F.R. § 42.28(b)(4): Service Information

DiStefano submitted its Mandatory Notices, Paper 5, and Power of Attorney, Paper 6. DiStefano also consents to electronic service directed to the following email address:

DiStefano-IPR@addyhart.com

III. The Petition must specify where each element of the claim is found in the prior art

The Petition fails to meet the requirements of 37 C.F.R. § 42.104(b)(4), because the Petition's lack of specificity as to where each element of the claims of the '971 Reissue Patent is found in the relied-upon prior art patents and printed publications. Instead, the Petition spews string cites to multiple paragraphs

throughout the petition with little or no explanation as to what those paragraphs in the references and expert declaration explanation actually mean.

The Federal Circuit has repeatedly held that conclusory assertions and string cites are insufficient. *See, e.g., Techs. Int’l, Inc. v. IBG LLC*, 921 F.3d 1378, 1385 (Fed. Cir. 2019) (holding that a conclusory assertion with no analysis was not adequately developed); *Novartis AG v. Torrent Pharms.*, 853 F.3d 1316, 1326 n.2 (Fed. Cir. 2017) (finding that an argument presented in one conclusory sentence and a string cite was “far from sufficient to raise a meaningful challenge” and “amount[ed] to little more than a request that the Board peruse the cited evidence and piece together a coherent argument on Novartis’ behalf”). For example, *see* Petition, pp. 15-21. Petitioner fails to identify where in the cited references each element is taught and/or described. The Petitioner then makes improper string cites to the expert declaration, forcing the Board to hunt for how the cites relate to any asserted elements. This approach also prevents the Patent Owner from knowing precisely what parts of the reference the Petitioner is actually asserting.

Similarly, the Board has ruled in comparable situations that “a string citation lacking any explanation whatsoever is imprecise and vague” and that judges “are not like pigs, hunting for truffles buried in briefs”; nor will [judges] hunt for truffles buried in string citations, offered in briefs.” *Anderson v. Eppstein*, 59 USPQ2d 1280,

1287 (BPAI 2001) (quoting *U.S. v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991)); *see also Parus Holdings, Inc. v. Google LLC*, 70 F.4th 1365, 1371-72 (Fed. Cir. 2023) (also citing *Dunklel*, 927 F.2d at 956); *Apple Inc. v. Qualcomm Inc.*, IPR2018-01276, 2020 Pat. App. LEXIS 7895, *15-16 (P.T.A.B. Feb. 3, 2020).

Even assuming Petitioner has a viable theory, which it does not, Petitioner should have explained that theory in its Petition or the argument is waived. *See, e.g., U.S. v. Great Am. Ins. Co. of N.Y.*, 738 F.3d 1320, 1328 (Fed. Cir. 2013).

“It is well established that arguments that are not appropriately developed in a party’s briefing may be deemed waived.”).

IV. U.S. REISSUE PATENT NO. RE45,971

A. Background

The ’971 Reissue Patent, titled “*Developing Electronic Documents Providing E-Commerce Tools*,” originally issued on August 9, 2011, as U.S. Patent No. 7,996,259, and subsequently reissued on April 12, 2016. The inventor, Thomas DiStefano III, recognized at the time of the first filing that it was difficult for a layperson to create his or her own websites and web pages. *See* Exh. 1012, ¶33. “The World Wide Web (web) has rapidly become an invaluable tool to individuals and businesses,” but “the average individual has little or no knowledge about how to create a web page [and] does not know how to create an HTML document or to

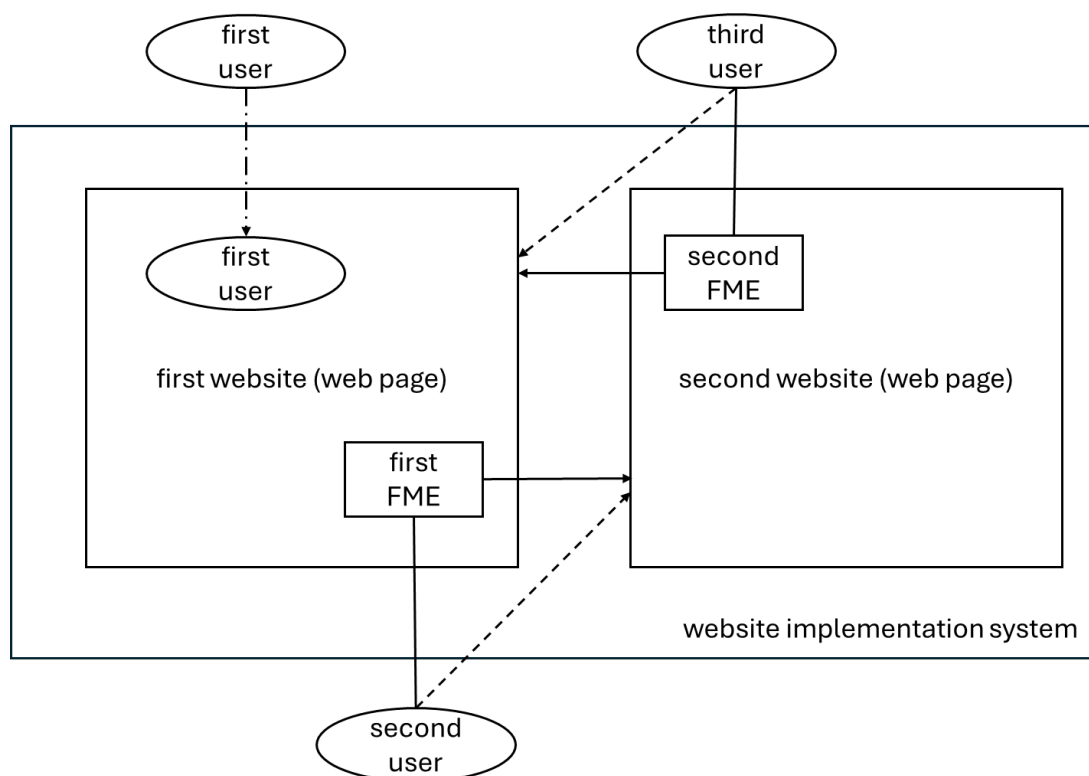
post that document to a server computer.” *See* Exh. 1012, ¶34, Exh. 1001 1:27-28, 1:65-67.

B. Independent Claims 4-5, 7-8, and 14

Independent Claims 4-5 and 7 of the ’971 Reissue Patent are directed to a method performed within and by a website implementation server system, the website implementation server system itself, and a computer program product including program code executed by the implementation system. *See* Exh. 1001, Claims 4-5 and 7. Independent Claims 8 and 14 of the ’971 Reissue Patent are directed to a method performed within and by a web page¹ implementation server system, and the website implementation server system itself. *See* Exh. 1001, Claims 8 and 14.

An illustrative and non-limiting overview of certain of the limitations recited in Independent Claims 4-5, 7-8, and 14 are discussed with reference to the following figure.

¹ Independent Claims 8 and 14 use the term “web page” instead of “website.” Although a web page and website are not necessarily identical (e.g., a website can be comprised of one or more web pages), solely for purposes of discussing TikTok’s Petition in the present Patent Owner’s Preliminary Response, DiStefano will treat the terms “web page” and “website” as being interchangeable.



The independent claims recite a website implementation system that establishes a reciprocal arrangement between a first website associated with a first user and a preexisting second website. The implementation system implements the reciprocal arrangement by causing (i) the first website to implement (i.e., include) a first functional marketing element (FME) and (ii) the second website to implement a second FME. An example of a FME is a link (hyperlink). *See* Exh. 1001, Claims 20, 22, 24, 26, and 28. The first FME directs a second user of the first FME to the second website, and the second FME directs a third user of the second FME to the first website.

The specification of the '971 Reissue Patent describes how a user with little computer background can create their own websites/web pages using the described tools without the need for separate web page development services. DiStefano identified many types of features that users may desire in creating their own websites – for example, a user may want to add content (e.g., web assets such as text/images/audio) to a website/web page and/or want to be able to edit existing text/images. *See* Exh. 1012, ¶34. Another feature a user may want is a link to the web page of another website in return for a link from that website to the user's own website (i.e., a reciprocal link). *See* Exh. 1012, ¶34. Independent claims 4-5, 7-8, and 14 describe the creation of the links.

C. Priority

The '971 Reissue Patent is a reissue of U.S. Patent No. 7,996,249, which issued from U.S. Patent Application No. 09/589,551, filed on Jun. 7, 2000. *See* Exh. 1001, cover pg. 1.

V. PERSON OF ORDINARY SKILL IN THE ART

Patent Owner asserts that a person of ordinary skill in the art would have some familiarity with underlying technologies involving website/web page development and client-server interactions. Using claim 4 as an example, the claimed invention involves a website implementation system, first website, second website, and functional marketing elements (e.g., hyperlinks). A person of ordinary skill in the

art would need to know how to utilize and code features involving websites and website implementation system (e.g., server), but would not necessarily need to be an expert on the design of a complete server. Thus, the server and websites are not just an embodiment in the specification, they are claim elements, and an expert must have in-depth knowledge of such beyond a POSITA.

A person of skill in the art would have at least a bachelor's degree in computer science or a similar degree, along with at least 5 years of experience in website development. More education may be substituted for some experience, but at least 2 years of experience in website development is needed.

While some embodiments of the disclosed invention could involve a graphical user interface, and a person of ordinary skill in the art could have some expertise with graphical user interfaces, this expertise alone would be insufficient for a person to be an expert in the claimed technology. A graphical user interface can be an interface for a car radio, programmable thermostat, coffeemaker, etc., and does not necessarily require any knowledge of a server, website, or hyperlinks, which a person of ordinary skill in the art of the claimed technology would have.

VI. CLAIM CONSTRUCTION

A. Claim Construction Standard

In an *inter partes* review proceeding, “a claim of a patent ... shall be construed using the same claim construction standard that would be used to construe the claim

in a civil action under 35 U.S.C. § 282(b) , including construing the claim in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent.” 37 C.F.R. § 42.100(b). Claims must be construed “in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art *and the prosecution history pertaining to the patent.*” 37 C.F.R. § 42.100(b) (*emphasis added*) (citing 35 U.S.C. § 282(b). “In IPR proceedings the Board now applies the Phillips claim construction standard governing federal courts.” *CUPP Computing AS v. Trend Micro Inc.*, 53 F.4th 1376, 1380 (Fed. Cir. 2022).

“When construing claim terms, we first look to, and primarily rely on, the intrinsic evidence, including the claims themselves, the specification, and the prosecution history of the patent, which is usually dispositive.” *Sunovion Pharms., Inc. v. Teva Pharms. USA, Inc.*, 731 F.3d 1271, 1276 (Fed. Cir. 2013). Additionally, a proper claim interpretation gives full effect to the recitation of distinctly claimed elements. *See Becton, Dickinson and Co. v. Tyco Healthcare Group, LP*, 616 F.3d 1249, 1254 (Fed. Cir. 2010) (“Where a claim lists elements separately, ‘the clear implication of the claim language’ is that those elements are ‘distinct component[s]’ of the patented invention.”); *CAE Screenplates, Inc. v. Heinrich Fiedler GmbH & Co.*, 224 F.3d 1308, 1317 (Fed. Cir. 2000) (“In the absence of any evidence to the

contrary, we must presume that the use of... different terms in the claims connotes different meanings.”); *Unique Concepts, Inc. v. Brown*, 939 F.2d 1558, 1561-62 (Fed. Cir. 1991). A proper claim construction requires consideration of the claims elements as a whole – not just the single elements in isolation. *Hockerson-Halberstadt, Inc. v. Converse Inc.*, 183 F. 3d 1369, 1375 (Fed. Cir. 1999).

B. Petitioner’s failure to present claim constructions for nearly all of the claim elements

The Petition presents only a claim construction for the term “reciprocal site,” as found in Claims 4-5, 7-8, and 14. Pet. 9-11. Consequently, Petitioner has waived its right to make new claim construction arguments for additional claim terms by failing to include them in its Petition. Petitioner presented no claim constructions for any other terms found in the challenged Independent Claims 4-5, 7-8, and 14, and is now prevented from doing so.

To the extent Petitioner states that no express construction is required and then later advocates for a specific interpretation during the course of any instituted IPR, such action would be contrary to federal regulation, this Board’s guidelines, and settled law. *See* 37 C.F.R. § 41.104(b)(3) (“The statement [of relief requested] must identify ... [h]ow the challenged claim is to be construed.”); *Microsoft Corp. v. Uniloc*, IPR2019-01188, Paper 27 at 19, 2020 Pat. App. LEXIS 12698 (PTAB Nov. 4, 2020) (on reply, petitioner “cannot raise new claim construction issues that were not previously raised

in its petition”) (quoting Consolidated Trial Practice Guide 44-45 (Nov. 2019) *available at* <https://www.uspto.gov/TrialPracticeGuide>).

C. The terms “first functional marketing element” and “second functional marketing element”

Independent Claims 4-5, 7-8, and 14 of the ’971 Reissue Patent each recite the terms “first functional marketing element” and “second functional marketing element.” During the reissue proceeding of the ’971 Reissue Patent, these terms were subject to a rejection under 35 U.S.C. § 112, second paragraph. DiStefano successfully overcame this rejection using the arguments found on pages 13-17 of the Amendment dated June 19, 2015. *See* Exh. 1002, pgs. 676-680. In short, the term “functional marketing element” is properly construed as describing a link/hyperlink – either by itself or in association with graphics/image (e.g., a banner ad).

D. The terms “first user,” “second user,” and “third user”

Independent Claims 4-5, 7-8, and 14 of the ’971 Reissue Patent tie different limitations to different users (i.e., *first user*, *second user*, and *third user*). Independent Claims 4-5 and 7 recite that a *first user* is associated with a first website in that the *first user* provides a request to implement the first website. Additionally, Independent Claims 4-5, 7-8, and 14 recite that a first functional marketing element directs a *second user*, via the internet, to the second website, and the second functional market element directs a *third user*, via the internet, to the first website.

Consistent with the case law discussed previously, see *supra* § VI, the *first user*, the *second user*, and the *third user* must be construed as being individual elements that are distinct from one another. As such, for example, the *second user* cannot be properly disclosed by teachings also used to disclose the claimed *first user*. Put differently, the same teaching cannot be used to teach both the *first user* and the *second user*.

E. The terms “web page implementation system [that causes] (i) the first website to implement the first functional marketing element, and the second website to implement the second functional marketing element”

Independent Claims 4-5, 7-8, and 14 the '971 Reissue Patent recite operations that are performed within a *website implementation system*, which is a hardware system configured to implement websites.

Properly construed, the claimed operations being performed by the *implementation system* involve the *implementation system* editing the first and second websites to include the first and second functional marketing elements respectively. Notably, the *implementation system* has the ability to directly modify both the first and second websites to include the functional marketing elements (e.g., links).

As described in the '971 Patent:

[T]he registered user causes its website to participate in linking and/or banner ad display functions with other websites that also were created using the system 100 by registered users.

Exh. 1001, 15:61-64.

[T]he system 100 causes the selected websites of other registered users ... to display a link and/or banner ad concerning the new website.

Exh. 1001, 16:1-4.

Additionally, during the reissue proceeding of the '971 Reissue Patent, DiStefano disclaimed that separately-controlled entities could disclose the claimed implementation system. Specifically, DiStefano presented the following arguments, while referring to Independent Claim 8, to distinguish over the cited reference of Horstmann:

As previously discussed with regard to the Examiner's rejection of claim 1 for obviousness based upon Horstmann, while the software of the links server modifies page A to include link 6, this software only *issues a reminder* to the bike shop (i.e., a separate entity) to create a link. No single entity performs the above-identified steps recited in claim 8. Thus, Horstmann fails to identically disclosed the claim invention.

Exh. 1002, pg. 686.

Thus, properly construed, the *implementation system* is a single system controlled by a single entity – not multiple systems that are separately controlled by different entities. This claim construction is also consistent with the prosecution history of related U.S. Patent No. 11,763,316 (hereinafter the ‘316 Patent).² In particular, on page 17 of the Appeal Brief filed July 5, 2019, DiStefano argued:

Appellant’s invention, however, does more than just improve upon conventional systems by taking old processes performed by different entities and performing these combined processes in a single system. In addition, the claims describe[] a different manner by which reciprocal links between webpage are generated, which results in additional benefits, as discussed in more detail *infra*. (underline added)

Exh. 2009, p.17. Consequently, a teaching in the prior art that shows separate ones of the claimed operations being performed by differently-controlled systems cannot properly disclose the claimed operations, which are being performed by the *implementation system* alone.

² The ‘316 Patent is the subject of IPR2025-01224, which was filed on May 30, 2025, and involves the same parties as well as the same cited prior art references.

Therefore, when read together, the claim limitations require that a single entity modify both the first website and the second website to include links (i.e., the claimed functional marketing elements).

VII. OVERVIEW OF THE PRIOR ART

A. Block (Exh. 1007)³

Block teaches a methodology for facilitating the development and population of a community-oriented website. Exh. 1007, ¶¶12, 89. In the context of a sports-related community, the community can include, for example, a personalized web page for an individual/player (FIG. 3), team (FIG. 6), and league (FIG. 9). Exh. 1007, ¶¶16, 18, 121, 123, 125.

Block describes the difficulty in expanding the registration database (i.e., adding new users). Exh. 1007, ¶9. *Block* also describes a need for more efficient access to one or more communities hosted on the website. Exh. 1007, ¶10. The approach described by *Block* for addressing the need to expand the registration base is a methodology in which people already within the community are permitted to

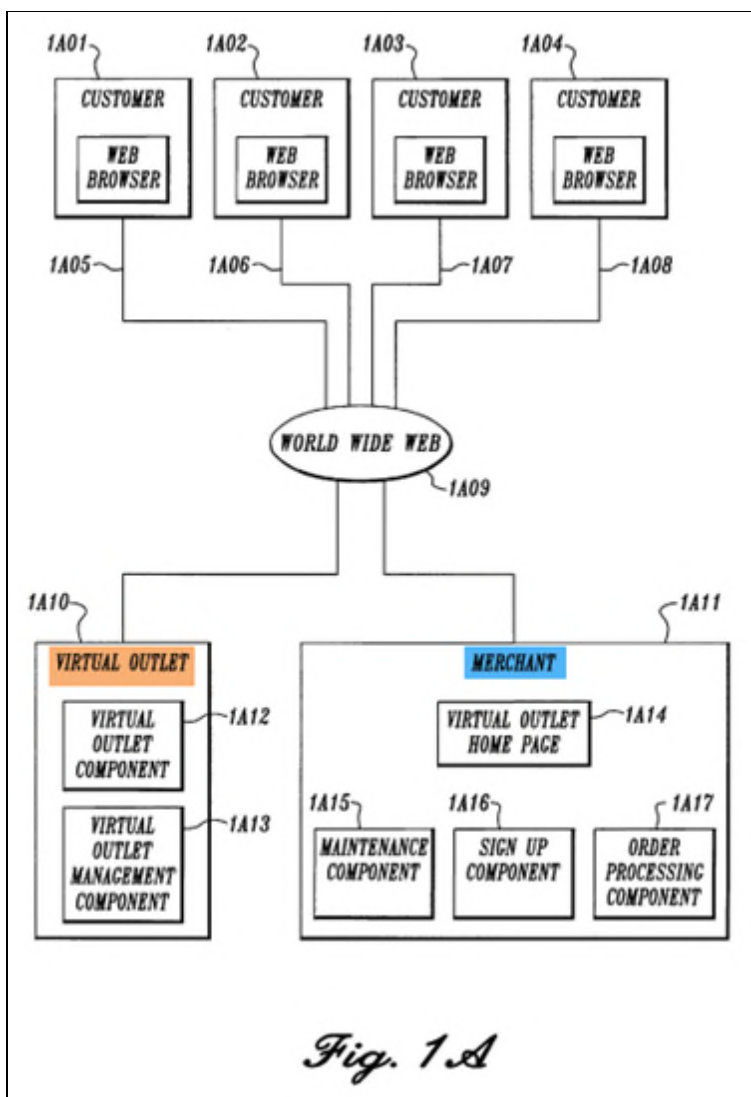
³ DiStefano's ultimate position is that *Block* is not prior art. *Block* claims priority back to a Provisional Patent Application filed on December 10, 1999. Exh. 1007, cover page. Although not argued herein, DiStefano intends to establish that the '316 Patent can claim priority prior to December 10, 1999.

generate invitations to friends/trusted people. Exh. 1007, ¶¶12, 17. The person generating the invitation can also define an access level that a particular invitee has to a community. Exh. 1007, ¶¶12, 17. The access level of a user can also be defined by the role a particular user has within the community. Exh. 1007, ¶19. The invitee can be either an existing member of the website (but not necessarily a member of the community) or not yet a member of the website. Exh. 1007, ¶12.

B. Arnold (Exh. 1008)

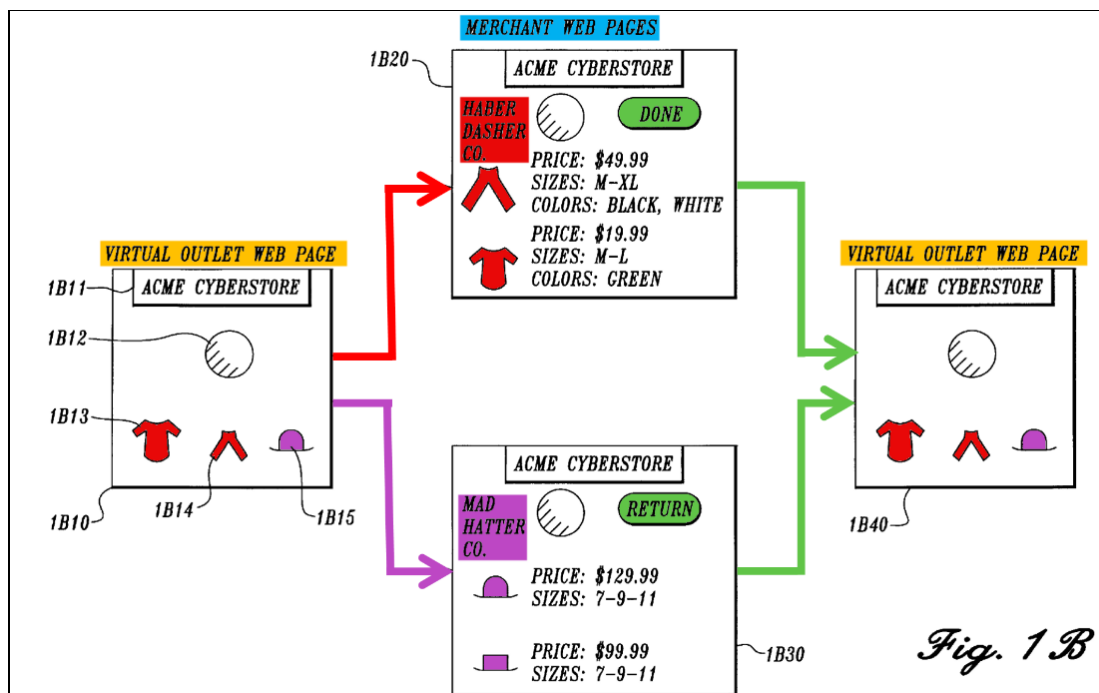
Referring to FIG. 1A,⁴ which is reproduced below, *Arnold* teaches customer computers 1A01-1A04 that can access a virtual outlet (VO) computer 1A10 and merchant computer 1A11 via the World Wide Web (internet) 1A09. Exh. 1008, 7:1-2. The overarching problem addressed by *Arnold* is to improve the mechanism by which advertisers (e.g., the virtual outlet) and sellers (e.g., the merchant) interact. Exh. 1008, 2:23-3:67. *Arnold* describes a mechanism for (i) tracking purchases (on a merchant website) from users originating from a virtual outlet, Exh. 1008, 4:2-4, and (ii) returning those users to the virtual outlet. Exh. 1008, 4:20-24.

⁴ The reproduced FIGS. 1A and 1B of *Arnold* are taken from TikTok's Petition and include the color coding added by TikTok.



Reference is made to FIG. 1B of *Arnold*, which is reproduced below. In operation, a customer 1A01 is served a web page 1B10 from the virtual outlet 1A10 (e.g., Acme Cyberstore) that displays a number of products (e.g., shirts 1B13, pants 1B14, and hats 1B15). Exh. 1008, 7:36-41. Upon selecting one of the products (e.g., shirts 1B13), the user is directed via a link to a merchant computer 1A11 that sells shirts, and the merchant computer 1A11 serves to the customer 1A10 a web page 1B20 that illustrates shirts for sale. Exh. 1008, 7:41-48. Upon completing a

purchase on the merchant computer 1A11 for the shirts, the customer 1A10 can be directed back to a webpage 1B40 of the virtual outlet 1A10. Exh. 1008, 8:4-6.



The virtual outlet initiates the creation of the relationship between the virtual outlet and the merchant using a sign-up procedure, Exh. 1008, Figs. 4 and 5, and the merchant decides whether to establish the relationship with the virtual outlet. Exh. 1008, 11:41-43. Assuming that a relationship has been created, the virtual outlet can browse a catalog of products provided by the merchant. *Arnold* further describes:

The VO may incorporate items into the VO Web pages by including the URLs obtained from the merchant's catalog as hot links in the VO Web pages.

Exh. 1008, 10:47-50 (*emphasis added*). Thus, the virtual outlet is inserting the links (URLs) to the merchant into the web pages (e.g., 1B10) being served by the virtual outlet.

Whereas the virtual outlet creates the link or links to the merchant(s), the merchant creates the link back to the virtual outlet. As described in *Arnold*:

The merchant computer modifies the merchant Web page to contain a return link so that upon completion of the purchase, the customer computer displays the return Web page of the virtual outlet identified by the link and sends to the customer computer the modified merchant Web page.

Exh. 1008, 4:21-24 (*emphasis added*).

C. Arora (Exh. 1009)

Arora is not cited against any of Independent Claims 4-5, 8-9, and 14. *Arora* discloses a web-page editor that uses a drag and drop interface for allowing a user to design a Web page. Exh. 1009, 2:21-22. The drag and drop interface is used to define the page layout and allows for new text and images. Exh. 1009, 5:37-43. The Web page can then be published using a “publish” button, which results in the automatic generation of HTML for the Web page. Exh. 1009, 5:43-46. The Web page is then translated into a form displayable by a browser. Exh. 1009, 5:46-48.

VIII. RESPONSE TO SPECIFIC IPR GROUNDS

In addition to the reasons highlighting the shortcomings of the Petition, *see supra* § III, the Board should deny the Petition because it fails to show a reasonable likelihood that the challenged claims are unpatentable. In both the first ground (*Block*) and the second ground (*Arnold*), the Petitioner's alleged findings as to what is taught by the prior art are flawed by being based upon unstated and incorrect assumptions as to how the claims should be properly construed. When properly construed, the applied prior art fails to teach or render obvious certain of the claimed limitations recited within Independent Claims 4-5, 7-8, and 14 of the '971 Reissue Patent.

A. GROUND 1: Obviousness Based on *Block*

For the following reasons, the Petitioner fails to meet its burden of proof regarding the *Block* reference. *Block* (Exh. 1007) does not render obvious claims 4-29 because *Block* fails to teach every element of Independent Claims 4-5, 7-8, and 14.

Further, claims 1-3 have been disclaimed by the Patent Owner on October 16, 2025. *See* Exhs. 2006-2008. Consequently, these claims are no longer an issue in any of the Grounds of the IPR. *See* 37 C.F.R. § 42.107 ("No *inter partes* review will be instituted based on disclaimed claims").

1. Claims 4-5, 7-8, and 14 -- “the first functional marketing element directs, via the internet, a second user of the first functional marketing element to the second website”

These limitations are found in Independent Claims 4-5, 8, and 14 of the '971 Reissue Patent, and are respectively labeled 4[f]/5[g]/7[f]/8[d]/14[f] by TikTok. Pet. xi-xiii, xv. TikTok purportedly addressed these limitations on pages 30-31 of the Petition. In particular regarding these limitations, TikTok asserted:

Block explains that “an Invited Guest (or Fan/Friend)” and “a Participant who is a verified family member, such as a parent or guardian” have access to a member’s My-Home. EX1007, [0020], [0091], [0107]-[0108], [0118], Fig. 2. This access would include access to the My-Friends-page. EX1003, ¶¶201-03. Thus, a user other than the owner (“*second user*”) of “*the first web[site/page]*” can access the My-Friends page (“*first web[site/page]*”).

Pet. 30 (emphasis in original).

The assertion that “a user other than the owner ... can access the My-Friends page” is directly contradicted by the teachings of *Block*. In particular, *Block* teaches:

Referring now to FIG. 8, a first version of a My Friends web page listing 800 is shown. This page is the initial page that comes up when a user clicks on “My Communities” in the navigation column (i.e. the

left-most column) on the My Home page. This page is viewable only
by the owner of the page.

Exh. 1007, [0132] (emphasis added).

The owner of the first webpage (i.e., My Friends web page) in *Block* corresponds to the claimed first user. However, properly construed, the claims require that some entity other than the first user (e.g., the second user) be able to access (and use) the first functional marketing element. Since the page that includes the functional marketing elements (i.e., links) is “viewable only by the owner of the page,” *Block* cannot teach the limitations at issue.

2. Missing teachings not obvious in view of Block

As noted above, *Block* teaches that only the owner of the My Friends web page (i.e., the alleged first webpage) can view the My Friends web page. Although the term “only” is not an explicit teaching away from the claimed invention, the use of the term “only,” as interpreted by one skilled in the art, supports an inference that *Block* teaches that no other user (aside from the owner) should have access to the My Friends web page. “[E]ven if [the reference] does not teach away, its statements ... are relevant to a finding regarding whether a skilled artisan would be motivated to combine....” *Apple Inc. v. Samsung Elecs. Co., Ltd.*, 839 F.3d 1034, 1051 n.15 (Fed. Cir. 2016) (en banc); *accord Arctic Cat v. Bombardier Recreational Products*, 876 F.3d 1350, 1360 (Fed. Cir. 2017) (citing authorities) (“As our precedent reflects,

prior art need not explicitly ‘teach away’ to be relevant to the obviousness determination”).

Although *Block* does not explicitly explain why the My Friends web page (i.e., the alleged first webpage) would be viewable only by the owner of the My Friends web page, the reasoning behind this restriction is self-evident. In particular, the My Friends web page (illustrated in both FIGS. 8 and 9 of *Block*) provides functionality that is specific to the owner of the web page. For example, the My Friends web page 800 illustrated in FIG. 8 of *Block* includes column 812, which if checked/selected and the “delete selected” tab 814 is activated, the selected names are deleted from the My Friends list. Exh. 1007, [0133], FIG. 8. A button 818 also facilitates the sending of invitations to friends not on the list. Exh. 1007, [0133]. Neither of these functionalities are something that the owner of the web page would want another user to have.

Similarly, the alternative My Friends web page 900 illustrated in FIG. 9 of *Block* also provides functionality that is specific to the owner of the web page. For example, the web page 900 includes an “invite” hyperlink 910 that links to an invitation page and a “delete selected” button 914 that removes people that were selected in the table. Exh. 1007, [0133], FIG. 9. Like with the web page 800 illustrated in FIG. 8, these are functionalities that the owner of the web page would not want another user to have. Consequently, it would not have been obvious to

modify the teachings of Block to arrive at the claimed invention. *See Arctic Cat Inc.*, at 1363 (even absent an explicit “teaching away,” a reference can suggest reasons why it would not be obvious to modify its teachings).

B. GROUND 2: Obviousness Based on *Arnold*

For the following reasons, Petitioner failed to meet its burden of proof in regard to any motivation to combine, and such a combination, if even possible, fails to disclose every element of claims 4-5, 7-8, and 14.

Further, claims 1-3 have been disclaimed by the Patent Owner. *See* Exhs. 2006-2008. Consequently, these claims are no longer an issue in any of the Grounds of the IPR. *See* 37 C.F.R. § 42.107 (“No *inter partes* review will be instituted based on disclaimed claims”).

1. Claims 4-5, 7-8, and 14 – Arnold fails to teach the website implementation system causing “the first website to implement the first functional marketing element, and (ii) the second website to implement the second functional marketing element”

These limitations are found in Independent Claims 4-5, 7-8, and 14 of the '971 Reissue Patent, and are respectively labeled 4[e]/5[f]/7[e]/8[c]/14[e] by TikTok. Pet. xi-xiv. TikTok purportedly addressed these limitations on pages 71-73 of the Petition. Regarding the claimed *implementation system*, TikTok alleges the following:

Arnold discloses (Fig. 1A) a system “of networked computers” including “customer computers 1A01-1A04, a VO computer 1A10, and a merchant computer 1A11, which are interconnected on the WWW 109,” together these computers are “*computer hardware*” that form a “*web[site/page] implementation system*.”

Pet. 62 (emphasis in original). Consequently, TikTok is relying upon the combination of the VO computer 1A10 and merchant computer 1A11 to teach the claimed *implementation system*.

As discussed *supra* in claim construction Section V(C), a proper claim construction requires that the *implementation system* be a singularly-controlled entity – not multiple systems that are separately controlled by different entities. However, the VO computer and merchant computer of *Block* are distinct entities that are separately controlled. Consequently, the implementation system, properly construed, is not disclosed by the combination of the VO computer and merchant computer of *Block*, as relied upon by TikTok.

TikTok asserts that “[t]he merchant website/page is a ‘*first web[site/page]*’ and the virtual outlet website/page is a ‘*second web[site/page]*’.” Pet. 63. However, no single entity in *Block* is capable of modifying both the first website and the second website to include the functional marketing elements (i.e., links).

As claimed, the first website (allegedly disclosed by the merchant website) implements the first functional marketing element by modifying the first website to include the first functional marketing element to the second website (allegedly disclosed by the VO web page). However, the VO of *Arnold* does not implement this feature. Rather, the VO invokes a sign up feature on the merchant computer, and the merchant computer alone subsequently modifies the merchant website.

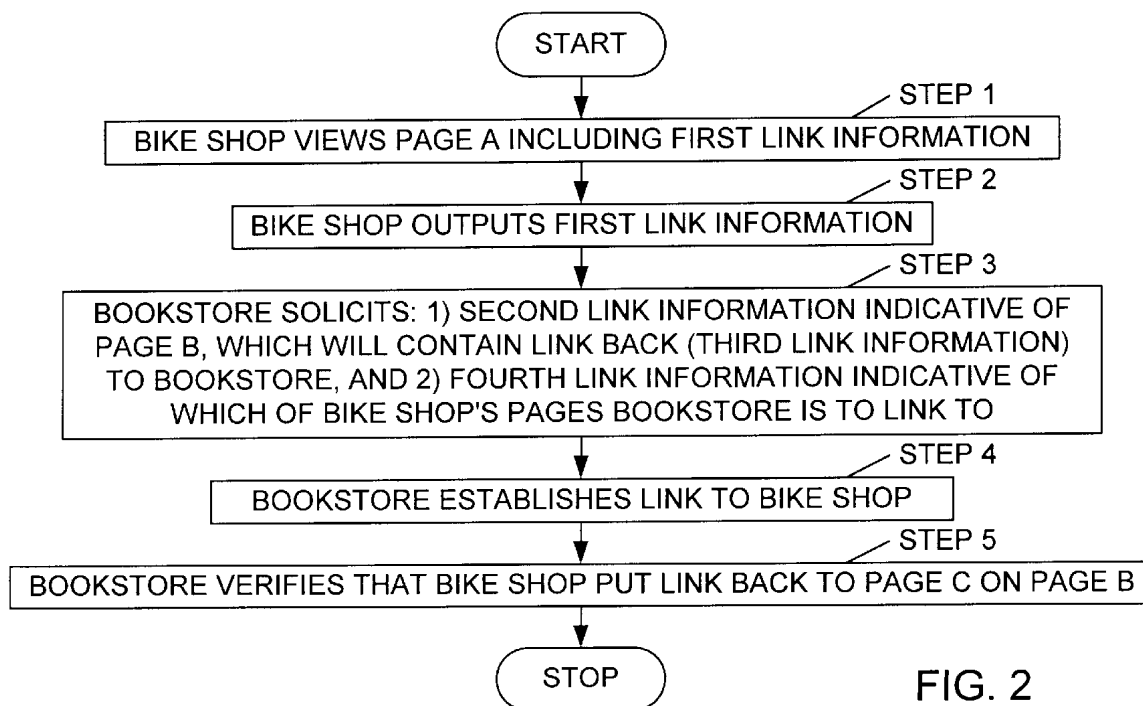
As also claimed, the second website (allegedly disclosed by the VO website) implements (includes) the second functional marketing element to the first website (allegedly disclosed by the merchant website). However, *Arnold* teaches that the VO provides the functionality of adding “URLs obtained from the merchant’s catalog as hot links in the VO Web page.” Exh. 1008, 10:47-50. Thus, it is the VO alone that implements this claimed feature. Therefore, no single entity in *Arnold* modifies both the alleged first website (merchant website) and the alleged second website (VO website).

Thus, TikTok’s analysis errs by making findings of fact regarding *Arnold* that are not based upon a proper claim construction. Consequently, TikTok has not established a *prima facie* case of obviousness for failure to establish that the applied prior art of *Arnold* teaches all of the claimed limitations for which *Arnold* alone is being relied upon to teach.

2. Distinctions between claimed invention and Arnold are same as those addressed during reissue proceeding against Horstmann

TikTok makes the same error that was made in rejecting the claims at issue based upon *Horstmann*, which was used as a reference in rejecting the claims during the reissue proceeding of the '971 Patent. Exh. 1002, pgs. 622-625. *Horstmann* disclosed “[a] method of establish[ing] reciprocal page links between pages on the Internet.” Exh. 1015, 1:60-61. *Horstmann* described the invention in the context of a bike-shop and bookstore as two separate entities interacting with one another. Exh. 1015, 2:31-34.

The *Horstmann* process is illustrated in FIG. 2, which is reproduced below:



In short, *Horstmann* discloses: bike-shop owner visits the bookstore webpage (Step 1); the bike-shop owner indicates a desire to add a link to the bookstore webpage (Step 2); a system in concert with the bookstore webpage collects information needed to add the link (Step 3); a link to the bike-shop webpage from the bookstore webpage is added to the bookstore webpage (Step 4), and the system implements a verification process to ensure that the bike-shop webpage eventually contains a link back to the bookstore webpage (Step 5). Exh. 1015, 2:55-3:42.

With the exception of the verification process (Step 5) of *Horstmann*, the process of *Arnold* is very similar. Similar to Step 1, the VO representative visits the home page of the merchant, Exh. 1008, 11:41. Similar to Step 2, the VO decides to create a retail relationship between the VO and the merchant, which involves creating a link in the VO website to the merchant. Exh. 1008, 5:40-46, 11:41-46. Similar to Steps 3 and 4, the merchant computer gathers information that the merchant then uses to generate in the merchant website a return URL to the VO website. Exh. 1008, 6:1-6.

In *Horstmann*, the initiating website (e.g., the bike-shop) is alone responsible for (and capable of) creating the link from the bike-shop website to the bookstore website. Exh. 1015, 4:14-15. Similarly, *Arnold* teaches that the VO alone provides the functionality of adding “URLs obtained from the merchant’s catalog as hot links in the VO Web page.” Exh. 1008, 10:47-50. Thus, like *Horstmann*, the VO of

Arnold is alone responsible for modifying the VO website to include a link to the merchant website.

Similarly, *Horstmann* teaches that the process of modifying the bookstore website is performed by the bookstore alone. Specifically, *Horstmann* teaches that links server, which hosts the bookstore's website, automatically modifies the bookstore's website to include a link to the bike-shop's website. Exh. 1015, 3:17-23. Therefore, like *Arnold*, each party (i.e., the bike-shop and bookstore) in *Horstmann* is alone responsible for modifying its own website and is incapable of modifying the other website. This is why, for example, *Horstmann* teaches a verification process that "verifies (step 5) that the bike-shop owner reciprocated by providing a link back 5 to page C as requested." Exh. 1015, 3:28-30.

As discussed *supra* in claim construction Section V(C), DiStefano presented the following arguments to distinguish the current claim limitations over the cited reference of *Horstmann*:

As previously discussed with regard to the Examiner's rejection of claim 1 for obviousness based upon *Horstmann*, while the software of the links server modifies page A to include link 6, this software only *issues a reminder* to the bike shop (i.e., a separate entity) to create a link. No single entity performs the above-identified steps recited in

claim 8. Thus, Horstmann fails to identically disclosed the claim invention.

Exh. 1002, pg. 686 (*italics in original, underline added*).

In short, both *Horstmann* and *Arnold* describe two separate entities that separately modify their own websites to include links to the other website.

C. GROUND 3: Obviousness Based on *Arnold* and *Arora*

Claims 11 and 17 respectively depend from Independent Claims 8 and 14, and DiStefano incorporates herein the arguments previously advanced in traversing the proposed rejection of claims 8 and 14 under 35 U.S.C. § 103 for obviousness based upon *Arnold*. The additional reference to *Arora* does not cure the argued deficiencies of *Arnold*. Accordingly, even if one having ordinary skill in the art did modify *Arnold* in view of *Arora*, the proposed combination of references would not yield the claimed invention, as recited in Dependent Claims 11 and 17. Consequently, TikTok has not established a *prima facie* case of obviousness for failure to establish that the applied prior art of *Arnold* and *Arora* teaches all of the claimed limitations recited in Dependent Claims 11 and 17.

IX. SECONDARY CONSIDERATIONS

As the Petitioner failed to meet its burden of establishing a *prima facie* case for any of the claims of the '971 Reissue Patent, much less to identify a proper

motivation to modify either *Block* or *Arnold*, Patent Owner reserves the right to address secondary considerations, if needed, later in these proceedings.

CONCLUSION

Petitioner TikTok failed to establish that claims 4-29 are rendered obvious by the asserted prior art references. Therefore, institution by the Board of *inter partes* review is not appropriate, and the Board should deny the Petition.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies the service of Patent Owner DISTEFANO WEBSITE INNOVATIONS, LLC, served this Patent Owner's Preliminary Response on the counsel of record for Petitioner TIKTOK INC., by filing this document through the P-TACTS, as well as delivering a copy via electronic mail to the following:

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CERTIFICATE OF COMPLIANCE

This Petition complies with the type-volume limitations as mandated in 37 C.F.R. § 42.24, totaling 5,821 words. Counsel has relied upon the word count feature provided in Microsoft® Word for Windows, version 2509.

Dated: October 17, 2025

By: /s/ *Robert Hart*
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