

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

3D SYSTEMS CORPORATION AND 3D SYSTEMS, INC.,

Petitioner

v.

INTREPID AUTOMATION, INC.,

Patent Owner

IPR2025-01242

U.S. Patent No. 11,338,511

**PATENT OWNER'S REPLY IN SUPPORT OF
ITS MOTION TO EXCLUDE**

I. Table of Contents

I. Introduction	1
II. Argument.....	1
a. POSITA knowledge is irrelevant to anticipation	1
b. There is no inconsistency	2
c. This is an admissibility question, not a weight question	2
d. Petitioner Misquotes Patent Owner to Manufacture Relevance	3
e. Petitioner’s Impermissible Obviousness Pivot	4
f. Even Under Unification Technologies, EX1035 Fails	5
III. Conclusion	5

Table of Authorities

Cases

<i>Cont'l Can Co. USA v. Monsanto Co.</i> , 948 F.2d 1264 (Fed. Cir. 1991)	2
<i>In re Baxter Travenol Labs.</i> , 952 F.2d 388 (Fed.Cir.1991).....	2
<i>In re Robertson</i> , 169 F.3d 743 (Fed. Cir. 1999)	2
<i>Net MoneyIN, Inc. v. VeriSign, Inc.</i> , 545 F.3d 1359 (Fed. Cir. 2008).....	1
<i>Samsung Electronics Co. v. Huawei Technologies Co.</i> , IPR2017-01487 (PTAB Dec. 10, 2018)	5
<i>Unification Techs. LLC v. Micron Tech., Inc.</i> , No. 2023-1348, 2024 WL 3738401 (Fed. Cir. Aug. 9, 2024)	5, 6

Rules

Fed. R. Evid. 401	2, 5
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Regulations

37 C.F.R. § 42.23(b)	4
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I. Introduction

Petitioner's Opposition confirms that EX1035 should be excluded. Petitioner expressly states that EX1035 is offered to: (1) "rebut Patent Owner's contention" regarding the knowledge of a POSITA, and (2) "demonstrate the inconsistency between Patent Owner's positions." Opp'n. at 3–4, 7–8. Neither rationale supports admission under the applicable legal standard. There is no inconsistency in the record, and the knowledge of a POSITA is not a consideration in anticipation. EX1035 fails to make any fact of consequence more or less probable, and the Board should grant Patent Owner's Motion to Exclude.

II. Argument

a. *POSITA knowledge is irrelevant to anticipation*

Petitioner's Ground 1 asserts that some claims of the '511 Patent are anticipated by Shkolnik, and Petitioner cited EX1035 only to support its anticipation arguments. Reply at 8-12. However, "[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1371 (Fed. Cir. 2008). Anything missing from the reference cannot be filled in by the knowledge of a POSITA. *In re Robertson*, 169 F.3d 743, 745-46 (Fed. Cir. 1999). Extrinsic evidence has a limited scope in determining anticipation; it may be used to explain *but not expand* the meaning of a

reference. *In re Baxter Travenol Labs.*, 952 F.2d 388, 390 (Fed.Cir.1991). Thus, the POSITA's general knowledge does not factor into the anticipation inquiry and is irrelevant.¹ Petitioner's very argument *for relevancy* is an acknowledgment that EX1035 is irrelevant to anticipation.

b. *There is no inconsistency*

Patent Owner argued before this Board that Shkolnik fails to teach an irradiance mask. Meanwhile, Patent Owner never argued in any forum, and Dr. Allen in EX1035 never stated, that Shkolnik *does* teach an irradiance mask. Both positions are consistent, and nothing about these positions is a “mischaracterization.” Opp'n at 5. Thus, Petitioner's second rationale fails.

c. *This is an admissibility question, not a weight question*

Petitioner repeatedly characterizes Patent Owner's exclusion arguments as going to evidentiary weight rather than admissibility. This is incorrect. Relevance under FRE 401 requires that the evidence make a fact “of consequence in determining the action” more or less probable. Because POSITA knowledge is not

¹ The only time extrinsic evidence can be used to fill in a “gap” in a reference is if such a gap is inherent. *Cont'l Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1268 (Fed. Cir. 1991). However, Petitioner cannot and has not ever argued that an irradiance mask is inherent to Shkolnik.

a factor in anticipation, as explained above, EX1035 has no tendency to make any fact *of consequence* more or less probable. Indeed, EX1035 does not make it more or less likely that Shkolnik teaches an irradiance mask. Petitioner itself acknowledged that “Shkolnik speaks for itself.” Opposition at 3. If Shkolnik speaks for itself, then EX1035 adds nothing to the anticipation analysis.

d. *Petitioner Misquotes Patent Owner to Manufacture Relevance*

Petitioner misquotes Patent Owner twice in its Opposition, and this misattribution is revealing. First, on page 4, Petitioner states that EX1035 is offered to “rebut Patent Owner’s contention that ‘Shkolnik does not teach how irradiance normalization can be carried out, such that a POSITA reading Shkolnik would not arrive at the claimed irradiance normalization.’ Reply at 11.” Unbelievably, the citation to “Reply at 11”—*Petitioner’s own Reply*—reveals that this language is Petitioner’s (incorrect) characterization of Patent Owner’s position, not Patent Owner’s actual words. Petitioner repeats this same fabricated quotation on pages 5–6.

What Patent Owner actually argued—as Petitioner’s own footnote 2 concedes—was: “The reference to ‘may also provide for intensity compensation’ is an add-on; Shkolnik does not disclose what type of intensity adjustments can be performed or how one can use a pattern correction map to make those adjustments.” Response at 9. Patent Owner never argued anything about a POSITA

“arriving at” irradiance normalization, as such arguments would only be applicable for rebutting obviousness. Patent Owner’s actual argument is about what Shkolnik *itself* discloses and fails to disclose—exactly the right framework for anticipation.

Petitioner’s reformulation of Patent Owner’s argument to include POSITA considerations is Petitioner’s own framing, and it is telling that Petitioner needed to reframe Patent Owner’s argument in order to justify EX1035’s relevance.

e. Petitioner’s Impermissible Obviousness Pivot

As explained above, Petitioner’s stated reason for relying on EX1035—rebutting POSITA knowledge—is a classic obviousness consideration, not an anticipation consideration. This supports Patent Owner’s position that Petitioner is attempting to morph its anticipation ground into an obviousness ground, in violation of 37 C.F.R. § 42.23(b).

Additionally, Petitioner’s attempts to distinguish *Samsung Electronics Co. v. Huawei Technologies Co.*, IPR2017-01487, Paper 45, at 25 (PTAB Dec. 10, 2018), are unavailing and do not undercut its holding. The core principle from *Samsung*—that district court documents associated with issues unrelated to the IPR are excludable—applies squarely here. EX1035 is a declaration from a trade secret case that does not address Shkolnik and should be excluded.

f. Even Under Unification Technologies, EX1035 Fails

Patent Owner concedes that evidence outside the asserted prior art may inform how a POSITA would understand a reference. *See Unification Techs. LLC v. Micron Tech., Inc.*, No. 2023-1348, 2024 WL 3738401, at *6–7 (Fed. Cir. Aug. 9, 2024). But EX1035 does not help inform whether a POSITA would have understood Skholnik as disclosing an irradiance mask because EX1035 does not discuss Skholnik in reference to an irradiance mask. Dr. Allen’s statements about irradiance concepts are specific to different references in a different field (display devices, not stereolithography). This is an entirely different technological context. EX1035 therefore has no bearing on how a POSITA would understand Skholnik’s disclosure, and even under *Unification Technologies*, it fails to satisfy FRE 401.

III. Conclusion

For the foregoing reasons, Patent Owner respectfully requests that the Board grant Patent Owner’s Motion to Exclude EX1035.

Dated: September 10, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, pursuant to 37 C.F.R. § 42.6(e), a true and correct copy of PATENT OWNER'S REPLY IN SUPPORT OF ITS MOTION TO EXCLUDE is being served electronically on September 10, 2026, to the e-mail addresses shown below:

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