

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FORTINET, INC.,

Petitioner,

v.

NETSKOPE, INC.,

Patent Owner.

U.S. Patent No. 7,593,936

Case No.: IPR2026-00027

NETSKOPE, INC.'S PRELIMINARY RESPONSE

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EXHIBIT LIST

No.	Exhibit Description
Ex. 2001	Scheduling Order for <i>Netskope, Inc. v. Fortinet, Inc.</i> , Case No. 4:25-cv-02360-HSG, pending in the United States District Court for the Northern District of California.
Ex. 2002	Fortinet Inc.'s Preliminary Invalidity Contentions in <i>Netskope, Inc. v. Fortinet, Inc.</i> , Case No. 4:25-cv-02360-HSG, pending in the United States District Court for the Northern District of California.
Ex. 2003	Exhibit Chart F-1 of Fortinet Inc.'s Preliminary Invalidity Contentions in <i>Netskope, Inc. v. Fortinet, Inc.</i> , Case No. 4:25-cv-02360-HSG, pending in the United States District Court for the Northern District of California.
Ex. 2004	Exhibit Chart F-3 of Fortinet Inc.'s Preliminary Invalidity Contentions in <i>Netskope, Inc. v. Fortinet, Inc.</i> , Case No. 4:25-cv-02360-HSG, pending in the United States District Court for the Northern District of California.
Ex. 2005	Exhibit Appendix F of Fortinet Inc.'s Preliminary Invalidity Contentions in <i>Netskope, Inc. v. Fortinet, Inc.</i> , Case No. 4:25-cv-02360-HSG, pending in the United States District Court for the Northern District of California.
Ex. 2006	Plot from Docket Navigator – Profile of Judge Haywood S. Gilliam Motion Success To Stay Pending IPR
Ex. 2007	Plots from Docket Navigator – Profile of Judge Haywood S. Gilliam Time to Milestones (annotated)
Ex. 2008	Website blog on Fortinet.com, titled: “Fortinet is Leading Innovation in the Security Industry with More Than 1,500 Patents” https://www.fortinet.com/blog/business-and-technology/fortinet-is-the-security-innovation-leader-more-than-1500-patents-either-awarded-or-pending

Ex. 2009	Website article on Wikipedia.org, titled: "Fortinet" https://en.wikipedia.org/wiki/Fortinet
NEW EXHIBITS	
Ex. 2010	Declaration of Dr. Angelos Stavrou, Ph.D.
Ex. 2011	Fortinet Inc.'s Preliminary Claim Construction and Extrinsic Evidence in <i>Netskope, Inc. v. Fortinet, Inc.</i> , U.S.D.C. Northern District, Case No. 4:25-cv-02360-HSG, September 19, 2025.

I. INTRODUCTION

Patent Owner Netskope, Inc. (“Patent Owner”) respectfully submits this Preliminary Response to the Petition for *Inter Partes Review* (“IPR”) filed by Fortinet, Inc. (“Petitioner”) challenging claims 1–22 (“Challenged Claims”) of U.S. Patent No. 7,593,936 (“the ’936 patent”) based on five grounds. As this Preliminary Response demonstrates, Petitioner has failed to show that there is reasonable likelihood that any of the Challenged Claims is invalid.

The ’936 patent is directed to systems and methods for automated computer support that fundamentally differ from conventional intrusion detection, antivirus scanning, or metric-based monitoring systems in the prior art. *See* Ex. 1001, Title, Abstract, Claim 1. The systems and methods described in the ’936 patent periodically collect holistic snapshots of individual computers and use those snapshots across a population of computers to automatically generate an adaptive reference model indicative of normal system states. *See id.*, 3:41-61, 5:37-48, 10:29-56, Fig. 3. Furthermore, abnormal system states are identified by comparing snapshots against that adaptive model to detect unexpected absences, presences, or values of system assets—regardless of whether any malicious activity or intrusion has occurred. *See id.*, 18:3-39, Fig. 2.

Independent Claim 1, for instance, requires, *inter alia*, a method of detecting abnormal system states, the method including receiving snapshots from a plurality

of computers within a population of computers, wherein individual snapshots include data indicating a state of a respective computer. Claim 1 also requires automatically generating an adaptive reference model comprising a rule set customized to characteristics of the population of computers, the rule set being developed by identifying patterns among the snapshots from the plurality of computers such that the adaptive reference model is indicative of normal states in the computers within the population. Claim 12, the other independent claim of the '936 patent, recites similar features as Claim 1 but is directed to a computer-readable medium.

Petitioner's challenges to Claims 1 and 12 based on U.S. Patent No. 7,225,343 ("Honig," Ex. 1004) and U.S. Patent No. 6,327,550 ("Vinberg," Ex. 1006) fall woefully short since these references do not individually or collectively disclose, teach, or even suggest each of the claimed features, neither they render Claims 1 and 12 obvious as a whole. These shortcomings are clearly evident in the Petition, which fails to identify any disclosure by Honig or Vinberg for several claim limitations.

Furthermore, in challenging dependent claims 2-6, 13-16, and 20 of the '936 patent, Petitioner introduces U.S. Patent Pub. No. 2005/0005171 ("Oliphant," Ex. 1005), which is not even prior art with respect to the Challenged Claims, further undermining the Petition's credibility as a whole. Moreover, Petitioner does not present a sound case—much less a compelling one—for why a person of ordinary

skill in the art (“POSITA”) would combine Honig and Oliphant, and Vinberg and Oliphant.

The Petition is also fatally flawed because it fails to satisfy the legal standards for invalidity under 35 U.S.C. §§ 102 and 103 with respect to Grounds 1 and 2, and likewise fails to satisfy the legal standards for obviousness under 35 U.S.C. § 103 with respect to Grounds 3 and 5.

Overall, the merits of the Petition are deficient, and its arguments are confusing and inconsistent for most, if not all, claim elements. Rather than presenting a coherent, evidence-based obviousness or anticipation case, the Petition relies on strained reinterpretations of the prior art, conclusory expert assertions, and a piecemeal reconstruction of the '936 patent claims using hindsight. As explained below, none of the asserted references—Honig, Vinberg, or Oliphant—alone or in combination, disclose or suggest the core claim requirements of the '936 patent.

Accordingly, the Petition fails to demonstrate a reasonable likelihood that Petitioner would prevail in showing that any of the Challenged Claims is unpatentable, and institution should be denied under 35 U.S.C. § 314.

II. LEVEL OF ORDINARY SKILL IN THE ART AND CLAIM CONSTRUCTION

The Petition asserts that a POSITA is “an individual with either (1) at least a

bachelor's degree in computer science or computer engineering or an equivalent field plus at least one year of experience working on computer security, or (2) at least 3 years of experience working on computer security, even without a formal degree.” Petition, 10; Ex. 1003, ¶¶66-67.

For the purposes of this Preliminary Response, Patent Owner relies on the definition proposed by Petitioner because Petitioner has not shown that any of the challenged claims is unpatentable even under this level of skill. Ex. 2010, ¶39.

Patent Owner believes all claim terms should be interpreted in their plain and ordinary meaning, and no claim term needs a specific construction. *Id.*, ¶40.

III. PETITIONER'S CLAIM CONSTRUCTION CONTRADICTS DISTRICT COURT POSITIONS

The Petition contends that all claims should be interpreted under their plain an ordinary meaning, and no claim term needs a specific construction. Petition, 11. Yet, this is an inconsistent position with Petitioner's claim constructions in the Parallel District Court Litigation. Ex. 2011, 5-7. Notably, while the Petition provides a construction for “*snapshots*” as “[t]his snapshot includes a detailed examination of all system files, designated application files, the registry, performance counters, processes, services, communication ports, hardware configuration, and log files,” the construction offered by Fortinet in the District

Court Litigation is “**the state of a machine** based on an examination of all system files, designated application files, the registry, performance counters, processes, services, communication ports, hardware configuration, and log files **at a given point in time.**” *Compare* Petition, 11 to Ex. 2011, 5 (emphasis added).

Furthermore, Petitioner's preliminary invalidity contentions filed in the Parallel District Court Litigation list 14 claim terms (reproduced below) that are allegedly indefinite—6 indefinite term allegations in Claim 1 alone. Ex. 2002, 63-64. Petitioner's district court position states:

[v]arious Asserted Claims identified below do not comply with the requirements pre-AIA 35 U.S.C. § 112, ¶ 2, for failing to particularly point out and distinctly claim "the subject matter which the applicant regards as his invention" for the following reasons.... The following chart identifies the claims in which the identified terms and phrases explicitly appear, although those identified terms and phrases are also incorporated into additional dependent Asserted Claims.

Id., 60.

Patent	Claim(s)	Indefinite Term and/or Phrase
'936	1	"abnormal system states in computers"
'936	1, 12	"snapshots"
'936	1, 12	"data indicating a state of a respective computer"
'936	1, 12	"adaptive reference model comprising a rule set customized to characteristics of the population of computers"
'936	1, 12	"the rule set being developed by identifying patterns among the snapshots from the plurality of computers such that the adaptive reference model is indicative of normal states in the computers within the population"
'936	1, 12	"anomaly"
'936	2, 13	"recognition filter"
'936	2, 13	"trouble condition"
'936	3, 14	"generic response not specific to a particular asset of the at least one computer"
'936	3, 14	"send[ing] the generic response and a set of anomalies found in the snapshot to the at least one computer, the set of anomalies indicating assets of the at least one computer whose states are anomalous"
'936	5, 16	"wherein the recognition filter comprises a particular pattern of anomalies that indicates the presence of a particular root cause condition or a generic class of conditions"
'936	6, 20	"comparing a plurality of anomalies associated with a particular snapshot with a recognition filter to diagnose a trouble condition"
'936	9, 17	"wherein the adaptive reference model is generated to include a value layer that determines whether an asset value contained in a snapshot is anomalous"
'936	10, 18	"wherein the adaptive reference model is generated to include a cluster layer that tracks relationships between assets and identifies an anomaly in response to an asset being unexpectedly absent from or present in a set of assets in a snapshot"

The Petitioner, however, fails to mention any such assertions of indefiniteness in its IPR filing and instead explains how the cited references in the grounds disclose

or render obvious all limitations of the claims including all of the terms that Petitioner deemed indefinite in district court. *See* Petition *passim*, e.g., 23, 34, 40, 49, 60.

Petitioner's inconsistent claim constructions provide yet another reason for denying the Petition in addition to those discussed below. The Office has made its position regarding this issue clear in both *Revvo Technologies, Inc. v. Cerebrum Sensor Technologies, Inc.*, IPR2025-00632, Paper 20 (Precedential) and *Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00340, Paper 18 (Informative). Similar to *Revvo* and *Tesla*, Petitioner has decided to pursue differing claim construction positions without any explanations whatsoever in the Petition about the reasons for such divergent constructions.

IV. THE CHALLENGED CLAIMS ARE PATENTABLE OVER THE TEACHINGS OF HONIG OR VINBERG

A. Multiple claimed elements and limitations of Claims 1 and 12 lack any mapping or clear mapping to Honig in Grounds 1 and 2

Petitioner asserts that Challenged Claims 1 and 12 are anticipated and/or rendered obvious by Honig alone under (pre-AIA) 35 U.S.C. § 102 or § 103. *See* Petition, 23 (anticipation Ground 1), and 24 (obviousness Ground 2). Petitioner's assertions are incorrect because Honig fails to teach or suggest several claimed features and does not anticipate or render obvious Claims 1 and 12 as a whole.

A claim is only unpatentable under 35 U.S.C. § 102 if “each and every element as set forth in the claim is found . . . in a single prior art reference.” MPEP 2131; *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, (Fed. Cir. 1987). And, in *KSR International Co. v. Teleflex Inc.* (“KSR”), the Court reaffirmed the principles of obviousness based on the precedent that “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” MPEP 2141; *KSR.*, 550 U.S. 398, 416 (2007). Not only do Grounds 1 and 2 fail to satisfy these legal standards (discussed later in Section VII), these grounds do not even *attempt* to identify each claim element and its limitation(s).

For brevity, just a handful of these deficiencies are demonstrated below.

1. Honig does not disclose, teach, suggest, or render obvious the claimed “abnormal system states” in [1PRE] of Claim 1.

In Grounds 1 and 2, Petitioner contends that Honig’s disclosure of “intrusions” satisfies the ’936 patent’s requirement of detecting “*abnormal system states*.”¹ Petition, 26. Whether or not the preamble of Claim 1 is considered to be limiting, Petitioner’s contention regarding Honig is incorrect.

¹ Petitioner maps Honig’s “intrusions” to the claimed “*abnormal system states*.” See Petition, 23, stating at 6: “Honig discloses a system and method “for

Honig is directed to intrusion detection, not to determining a computer's operational or configuration "state." Ex. 1004, Title, Abstract, 4:61-62. Honig's system relies on sensors that collect audit data streams (e.g., system calls, registry accesses, network activity) and applies data-mining techniques to classify observed behavior as "normal" or "attack." *See id.*, 7:53-8:3, 9:25-48, 24:50-64; Ex. 2010, ¶45. Honig's Abstract and Background make clear that Honig's goal is to detect intrusive or malicious behavior, not to determine whether the computer itself is in an abnormal configuration state. An "intrusion" in Honig is a classification of observed activity, not a determination that the computer's system state is abnormal. *Id.*, ¶45.

Honig does not disclose, teach or even suggest "*abnormal system states*" as claimed, because Honig's intrusion cannot be equated to an abnormal system state. A POSITA would not understand an "intrusion," as used in Honig, to constitute or imply an "*abnormal system state*" as claimed in the '936 patent. *See id.*, ¶46. As Dr. Stavrou explains, many intrusions—such as reconnaissance, failed attacks, or short-lived exploits—leave the system configuration unchanged. *Id.*, ¶47. Honig

detecting intrusions in the operation of a computer system.””

evaluates behavioral data to determine whether observed activity matches patterns associated with attacks. *See* Ex. 1004, 21:6-11.

Therefore, Petitioner's attempt to equate Honig's intrusion with claimed "*abnormal system states*" improperly collapses two distinct concepts. Ex. 2010, ¶48. Notably, the '936 patent's "*abnormal system states*", as claimed, is state-based: "individual snapshots include data indicating **a state of a respective computer**,"—for example, a deviation in the computer's configuration or contents as revealed by a snapshot—whereas Honig's anomaly is behavior-based, i.e., a deviation in observed activity patterns indicative of an attack. *Id.*

Because Honig does not teach identifying abnormalities in the computer system state itself, it fails to disclose the claimed limitation of detecting "*abnormal system states*" in [1PRE] of Claim 1.

2. Honig does not disclose, teach, suggest, or render obvious the claimed "snapshot" and "snapshots" in [1A]-[1C] of Claim 1 and [12A]-[12C] of Claim 12.

In the Petition, Petitioner expressly provides a construction for the claim terms "*snapshot*" and "*snapshots*" of claims 1 and 12. *See* Petition, 11, 27; Ex. 1003, ¶¶68, 82. Specifically, Petitioner and Dr. Almeroth propose the following construction: "[t]his snapshot includes a detailed examination of **all system files**, designated application files, the registry, performance counters, processes, services,

communication ports, hardware configuration, and log files.” Petition, 11 (emphasis added).

Petitioner has the burden of proving that the challenged claims are not patentable. *See e.g.*, 37 C.F.R. § 42.221 (Petitioner bears the burden of demonstrating unpatentability based on a proper claim construction). For the purposes of this Preliminary Response, Patent Owner does not offer an independent construction of the claim terms “*snapshot*” or “*snapshots*.” Instead, Patent Owner’s analysis focuses on Petitioner’s own proposed construction, and shows that even if Petitioner’s construction for “*snapshot*” is assumed to be correct, Petitioner’s anticipation and obvious invalidity positions fail. The Petition’s failures are illustrated by analyzing elements [1A]–[1C] of Claim 1, and likewise limitations [12A]–[12C] of claim 12, as further detailed below.

In Grounds 1 and 2, Dr. Almeroth equates Honig’s “sensor data” to the claimed “*snapshot*” and “*snapshots*.”² However, under Petitioner’s own asserted

² Petition’s alleged support for Honig’s disclosure of this claim element states “[t]he sensor data in Honig comprises a snapshot under both constructions set forth above, or any other reasonable construction, of a snapshot, where the snapshot includes data indicating a state of a computer.” Petition, 27; Ex. 1003, ¶¶80-81.

construction, Honig's "sensor data" cannot satisfy the claimed "*snapshot*" and "*snapshots*" because such snapshots would require a detailed examination of "all system files, designated application files, the registry, performance counters, processes, services, communication ports, hardware configuration, and log files," whereas Honig merely provides discrete, sensor-generated sensor data streams which fall very short of the Petitioner's "*snapshot*" requirements. Ex. 2010, ¶52.

Honig describes an intrusion detection architecture in which sensors collect audit data from multiple, heterogeneous sources, such as network activity, system calls, and file system access. Ex. 1004, 9:49–54; Ex. 2010, ¶53. In Honig, each sensor independently gathers and transmits individual data records reflecting a particular monitored aspect of the system. *Id.* This notion of sensor-based data collection in Honig is fundamentally different from the construction of "snapshot" that Petitioner and Dr. Almeroth advance. *Id.* In fact, Honig nowhere teaches capturing "all system files," let alone aggregating "designated application files, the registry, performance counters, processes, services, communication ports, hardware configuration, and log files" into a unified snapshot. *Id.*

Petitioner also points to passages listing various types of data that Honig's sensors may collect, but this selective citation does not establish that Honig collects, transmits, or processes all such data together as a single or multiple snapshots. Petition, 27–29. Petitioner's "**snapshot [that] includes a detailed examination of**

all system files, designated application files, the registry, performance counters, processes, services, communication ports, hardware configuration, and log files” is not the same data collected by Honig’s architecture which emphasizes continuous or near-real-time sensor reporting, with individual data records stored in a data warehouse and analyzed as needed. *See* Ex. 1004, 9:17-22, 49–54, Fig. 1; Ex. 2010, ¶54. As Patent Owner’s expert Dr. Stavrou explains, nothing in Honig discloses bundling all files—across system, applications, registry, performance counters, processes, services, communication, hardware and logging—into a data structure analogous to the Petitioner-proposed construction of a “*snapshot*” or “*snapshots*.” *Id.*

Therefore, Petitioner’s anticipation or obviousness assertions for “*snapshot*” and “*snapshots*” recited in [1A]-[1C] and [12A]-[12C] are incoherent and completely lack any underlying support in Honig. Therefore, Grounds 1 and 2 fail for at least the above reasons.

3. Honig does not disclose, teach, suggest, or render obvious the claimed feature of “an adaptive reference model comprising a rule set customized to characteristics of the population of computers” in [1B] of Claim 1 and [12B] of Claim 12.

Petitioner asserts that Honig’s “detection models” disclose or render obvious the claimed “*an adaptive reference model*” in [1B] of Claim 1 and [12B] of Claim

12.³ Nothing in Honig discloses the above claim limitations and Petitioner has failed to map the claimed “*rule set customized to characteristics of the population of computers*” to any disclosure in Honig.

The '936 patent, as well as limitations [1B] of Claim 1 and [12B] of Claim 12, make clear that the claimed “*adaptive reference model*” is constructed from a plurality of snapshots collected from “[a] *population of computers*,” and is configured to “analyze[] snapshots from many computers,” not merely normal behavior of an individual system. Ex. 2010, ¶57; Ex. 1001, 7:23-28. The '936 patent specification explains that the “*adaptive reference model*” is developed by identifying patterns among snapshots from multiple computers such that the model reflects **population-level** norms, rather than device-specific baselines. *See e.g.*, Ex. 2010, ¶57; Ex. 1001, 7:14-34.

³ Petition's alleged support for Honig's disclosure of this claim element states “Honig discloses a detection model generator 16 that generates “detection models” (i.e., the claimed “adaptive reference model”) based upon all of the data generated from the sensors across different devices (the population of computers).” Petition, 30.

Further, the '936 patent further discloses that the adaptive reference model includes a profile layer, which operates in conjunction with a cluster layer to detect anomalies based on clustering **across the population**. Ex. 1001, 12:7-28; Ex. 2010, ¶58. The profile layer evaluates whether observed system states conform to clustered **population characteristics**, enabling identification of deviations that would not be apparent from isolated, per-host analysis. *Id.*; Ex. 1001, 12:7–17, Fig. 4. The population-level characteristic is specifically recited in claim elements [1B] and [12B], in which the claimed “*adaptive reference model*” also “*comprises a rule set customized to characteristics of the **population of computers**.*” Ex. 1001, Claim 1.

In contrast, Honig is directed to intrusion detection using sensor data collected from individual computer systems. Ex. 2010, ¶59. Honig repeatedly describes sensors installed on hosts that gather audit data (e.g., system calls, registry access, network activity), which is then formatted and processed to generate detection models. *See e.g.*, Ex. 1004, Abstract, 9:49–54, Fig. 1. Nothing in Honig discloses building an adaptive reference model that reflects “*characteristics of a population of computers*,” as required by claims 1 and 12 of the '936 patent. Further, as noted earlier, Honig's models evaluate whether incoming sensor data corresponds to normal or intrusive behavior, not whether a computer's configuration or state deviates from clustered population of computers. Ex. 2010, ¶59.

Petitioner's analysis is further flawed because it fails to map the claimed "***rule set customized to characteristics of the population of computers***" to any disclosure in Honig.⁴ Dr. Almeroth's declaration is also completely silent regarding the limitation of "*rule set customized to characteristics of the population of computers,*" nor does Dr. Almeroth point out any disclosure of Honig that discloses, teaches, or even suggests the claimed "*rule set.*" Such intrusion detection rules are fundamentally different from the claimed "*rule set,*" which is customized to population characteristics. Ex. 2010, ¶60. The absence of any population-level rule derivation in Honig is fatal to Petitioner's theory, and is yet another reason why Petitioner has failed to show a reasonable likelihood of prevailing. See 35 U.S.C. § 314.

Accordingly, Petitioner's anticipation or obviousness assertions for "*an adaptive reference model comprising a rule set customized to characteristics of the population of computers*" in [1B] and [12B] fail.

⁴ Petitioner is completely silent regarding the limitation of "*rule set*" in [1B] of Claim 1 and [12B] of Claim 12. Petitioner does not identify nor map any system component in Honig with the claimed "*rule set*" limitation. See Petition, 30-33.

Claims 1 and 12 cannot be anticipated by or rendered obvious by Honig when numerous claim limitations are absent in the cited reference. Claims 1 and 12 are clearly patentable over Honig, and therefore their dependent claims are too. Thus, *inter partes* review of the '936 patent is unwarranted.

B. Multiple claimed elements and limitations of Claims 1 and 12 lack any mapping or clear mapping to Vinberg in Ground 4

Petitioner also asserts Claims 1 and 12 are rendered obvious by Vinberg alone under (pre-AIA) 35 U.S.C. § 103. *See* Petition, 24, 49 (obviousness Ground 4). Petitioner's assertions are incorrect because, as shown in this section, Vinberg fails to teach or suggest several claimed features and does not render obvious Claims 1 or 12 as a whole.

A claim is unpatentable under 35 U.S.C. § 103 only if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious to a POSITA at the time of the invention. MPEP § 2141; *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966). Obviousness cannot be established by mere conclusory statements, but instead requires an articulated reasoning with a rational underpinning to support a legal conclusion of obviousness. MPEP § 2143; *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Ground 4 fails to satisfy these legal standards and does not even *attempt* to identify each claim element and its limitation(s).

Specifically, Ground 4 based on Vinberg either fails to map or provides unclear and/or incorrect element mappings for several limitations of Claim 1 and Claim 12. For brevity, just a handful of these deficiencies are demonstrated below.

1. Vinberg does not render obvious the claimed “snapshot” and “snapshots” in [1A]-[1C] of Claim 1 and [12A]-[12C] of Claim 12.

As explained earlier in this Preliminary Response, Petitioner provided a specific construction for the claim terms “*snapshot*” and “*snapshots*.” See Petition, 11, 27; Ex. 1003, ¶¶68, 82. Specifically, Petitioner and Dr. Almeroth state that “[t]his snapshot includes a detailed examination of **all system files**, designated application files, the registry, performance counters, processes, services, communication ports, hardware configuration, and log files.” Petition, 11 (emphasis added).

But under Petitioner’s construction, the Petition’s invalidity ground based on Vinberg fails to render obvious the challenged claims’ limitations.

Specifically, in Ground 4, Petitioner contends that Vinberg’s agents collect “state information in the form of “state vector,” and equates Vinberg’s “state vector” to the claimed “*snapshot*” and “*snapshots*.”⁵ In particular, Dr. Almeroth states that

⁵ Petitioner discloses that “[i]t further would have been obvious to a POSITA

“it would have been obvious to a POSITA that the state vectors represent a snapshot indicating the “state” of the computer from which they were collected.” Ex. 1003, ¶164. However, Vinberg’s state vectors fail to satisfy the requirement of a “snapshot” under Petitioner’s construction.

Notably, Vinberg never discloses a “*snapshot*” that “includes a detailed examination of **all system files**, designated application files, the registry, performance counters, processes, services, communication ports, hardware configuration, and log files.” Petition, 11, 27; Ex. 1003, ¶¶68, 82. Instead, Vinberg consistently describes agents that collect “metrics” and report those metrics upstream to managers. Ex. 2010, ¶71; Ex. 1006, 9:22–34. Vinberg’s “system state” is represented exclusively as a state vector in an n-dimensional metric space, where each dimension corresponds to a monitored metric. Ex. 2010, ¶71; Ex. 1006, 2:23–33. Moreover, Figures in Vinberg explicitly label the collected data as a “SET / STREAM OF STATE VECTORS”, reinforcing that Vinberg’s unit of analysis is a metric vector rather than a snapshot including, *inter alia*, “a detailed examination of **all system files**.” Ex. 2010, ¶71; Ex. 1006, Figs. 5–9. Nothing in Vinberg discloses

that the state vectors are a snapshot that indicates a “state” of the computer from which it was collected.” Petition, 52.

“all system files, designated application files, the registry, performance counters, processes, services, communication ports, hardware configuration, and log files”—let alone capturing all such files together in “a detailed examination. Ex. 2010, ¶71.

As confirmed by Patent Owner's expert, Dr. Stavrou, Vinberg teaches intentionally limiting and reducing data, which is inconsistent with the construction of a “*snapshot*” preferred by Petitioner. Ex. 2010, ¶72. For example, Vinberg explains that “a complete dump of the monitored metrics is not useful” due to data volume. Ex. 1006, 4:7–8. During learning, Vinberg identifies significant metrics and excludes insignificant or correlated metrics to reduce processing and reporting burden. See Ex. 2010, ¶72; Ex. 1006, 4:9–24. This deliberate reduction and abstraction stand in direct contrast to Petitioner's construction of “*snapshot*” and “*snapshots*”, which requires “a detailed examination of **all system files, designated application files, the registry, performance counters, processes, services, communication ports, hardware configuration, and log files.**” Ex. 2010, ¶72.

Accordingly, Vinberg does not teach or suggest the “*snapshot*” and “*snapshots*” in [1A]-[1C] of Claim 1 and [12A]-[12C] of Claim 12, and Petitioner's Ground 4 based on Vinberg necessarily fails.

2. Vinberg does not render obvious the claimed feature of “an adaptive reference model comprising a rule set customized to characteristics of the population of computers” in [1B] of Claim 1 and [12B] of Claim 12.

Petitioner contends that Vinberg's “common mode” renders obvious the claimed “*adaptive reference model*” or “*rule set*” in [1B] of Claim 1 and [12B] of Claim 12. Petition, 53, 59. This contention is incorrect.

Vinberg's “common mode” does not teach or render obvious the claimed “adaptive reference model” and is described purely as a statistical cluster of state vectors, not as a reference model among population of computers. Ex. 1006, 2:23-27; Ex. 2010, ¶74. Notably, Vinberg expressly discloses a “common mode” as “a region in the n-dimensional space in which the state vectors appear that represents a cluster of commonly occurring state vectors.” Ex. 1006, 8:6-15; Ex. 2010, ¶74. This definition makes clear that Vinberg's clustering operates exclusively in a mathematical feature space defined by metrics (dimensions), not in a semantic or relational space defined by population of computers. Ex. 2010, ¶74.

Petitioner fails to point out any disclosure in Vinberg that a “common mode” represents relationships between “*the population of computers*.” Instead, the Petition only relies on Dr. Almeroth's conclusory statements. Petition, 53. Specifically, Dr. Almeroth opines that “[i]t is therefore my opinion that a POSITA would have recognized that the ‘common modes’ function as an adaptive reference

model or a rule set customized to the different computers from which data was collected during the learning phase.” Ex. 1003, ¶166. This assertion, however, is unsupported by any citation to Vinberg and does not identify where or how Vinberg discloses the claimed limitation. Ex. 2010, ¶75.

Petitioner's failure to properly map this limitation in view of Vinberg's explanations that its state vectors describe metric values of system operation. For example, Vinberg explains that agents collect large numbers of metrics reflecting operational characteristics of a system. Ex. 1006, 8:6-21. The “n-dimensional space” is defined by these metrics, such as performance counters, workloads, and time-based values, not by identifiers of a population of computers. *Id.*, 8:10-15. Based on these statements, each state vector represents a set of metric values, and not a representation of how one computer system relates to another computer system within a population of computers. Ex. 2010, ¶76.

Accordingly, Petitioner's obviousness assertion for “*an adaptive reference model comprising a rule set customized to characteristics of the population of computers*” of [1B] of Claim 1 and [12B] of Claim 12 are incoherent and completely lack any underlying support in Vinberg.

In sum, Claims 1 and 12 are not rendered obvious by Vinberg because the Petition fails to identify disclosures in Vinberg corresponding to multiple required claim elements and limitations. Accordingly, Ground 4 necessarily fails.

Because independent Claims 1 and 12 are patentable over Vinberg, its dependent claims likewise remain patentable.

V. THERE IS NO MOTIVATION TO COMBINE HONIG AND OLIPHANT IN GROUND 3⁶

There is no motivation to combine Honig and Oliphant because the technical problems that Honig and Oliphant address are fundamentally different. Honig is expressly concerned with automating detection model generation for intrusion detection, including anomaly detection and misuse detection, using machine-learning models trained on audit data collected from sensors such as system calls, logs, and network activity and stored in a centralized data warehouse. Ex. 1004, 5:13–6:23. Honig's core technical problem is how to efficiently build, retrain, and deploy detection models across heterogeneous and continuously evolving audit streams. *Id.* at 6:7–11.

⁶ Petitioner relies on Oliphant only in the Petition's invalidity Grounds 3 and 5 against the challenged dependent claims. These Grounds necessarily fail because Honig and/or Vinberg fail to render independent claims 1 and 12 unpatentable, and Petitioner has made no showings of whether or how Oliphant may cure the deficiencies of Honig and Vinberg.

Oliphant, by contrast, addresses a fundamentally different problem: maintaining a real-time inventory of installed software, patches, configurations, and policies, and comparing that configuration state against a known vulnerability database to determine whether network traffic or system actions should be allowed or blocked. Ex. 1005, ¶¶[0005], [0012]. Oliphant's focus is on configuration state and vulnerability matching, not on detecting anomalous or malicious behavior from observed system activity. *See id.*, ¶[0021].

A POSITA would therefore recognize Honig and Oliphant as operating in distinct and unrelated security paradigms—behavior-based intrusion detection versus configuration-based vulnerability management. Petitioner identifies no deficiency in Honig that would prompt a POSITA to look to Oliphant, and no deficiency in Oliphant that would be addressed by Honig. Absent such an articulated rationale, the proposed combination lacks the required rational underpinning and weighs strongly against institution.

In addition to fundamentally different technical problems, the fundamentally incompatible data models in Honig and Oliphant would dissuade a POSITA from making such combination. Notably, Honig relies on behavioral audit data, ingesting event-level information such as system calls, registry accesses, and network packets, which are transformed into feature vectors for statistical or machine-learning-based detection models. Ex. 1004, 7:53–8:3. The effectiveness of Honig's approach

depends on statistical distributions, correlations, and temporal patterns learned from observed system behavior, rather than on static system attributes. *See e.g.*, Ex. 1004, 17:45–50.

Oliphant adopts a different data model which relies on static configuration state, tracking installed software versions, applied patches, configuration files, registry settings, and policy information, and comparing that data against known vulnerabilities. Ex. 1005, ¶[0022]. This data is deterministic and declarative, not probabilistic or behavioral. *See id.*

Thus, to be motivated to combine the data models of Honig and Oliphant, a POSITA would need to make significant changes to one or both systems to even attempt to harmonize their differences. However, Petitioner does not explain how Oliphant's static configuration metadata could be meaningfully incorporated into Honig's behavior-based anomaly detection models without fundamentally altering Honig's model-generation framework. To the contrary, a POSITA would understand, feeding Oliphant's static configuration checklists into Honig's models would undermine their intended purpose and constitute a change in its principle of operation, as those models are designed to learn patterns of system behavior over time—not to evaluate the presence or absence of known software vulnerabilities. This is contrary to obviousness. As MPEP 2143.01.VI states, “[i]f the proposed modification or combination of the prior art would change the principle of operation

of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious,” citing *In re Ratti*, 270 F.2d 810, 813 (CCPA 1959). Neither Honig nor Oliphant provides any teaching or suggestion for reconciling these incompatible data models.

Petitioner provides no meaningful reasons why a POSITA would combine the teachings of Honig and Oliphant. Petitioner's principal justification for combining Honig and Oliphant is that both references purportedly fall within the “same general field of real-time malware or vulnerability detection.” Petition, 41. This assertion is purely thematic and untethered to any specific technical problem or design constraint faced by Honig. Further, the Petition never identifies a deficiency, limitation, or unmet need in Honig's adaptive intrusion-detection framework that would have prompted a POSITA to seek out Oliphant's vulnerability-and-remediation database architecture. PTAB precedent makes clear that “[s]hared field of endeavor” alone is insufficient; the Petition must articulate a reasoned explanation—grounded in the references themselves—why a POSITA would have modified Honig in the particular manner proposed. *See e.g., William Wesley Carnes, Sr., Inc. v. Seaboard Int'l Inc.*, No. IPR2019-00133. The Petition does not do so.

Petitioner's arguments for alleging motivation to combine fall flat because the Petition's motivation merely restates the desired end result. Rather than explaining why a POSITA would have combined the references, the Petition repeatedly states

that a POSITA “would have been motivated” to take remediation actions once an alert is generated, because otherwise “there would be no point to the alert.” Petition, 42, 44. This is not a motivation for combining Honig and Oliphant; it is a hindsight-driven assertion that any alert should lead to some response. The Petition never explains why a POSITA would have selected Oliphant’s centralized vulnerability-remediation database—rather than any number of conventional, local, or manual response mechanisms—as the solution. *See id.*, 43-44. Petitioner’s statements that a combination would be “beneficial” and “obvious to implement” are conclusory and do not satisfy the requirement for an articulated reasoning with rational underpinning. *Id.*, 43.

All in all, a POSITA would have multiple reasons not to combine Honig and Oliphant if attempting to detect abnormal system states like Claims 2-6, 13-16, and 20 of the '936 patent. Because there is no motivation to combine Honig and Oliphant, Ground 3 necessarily fails.

VI. THERE IS NO MOTIVATION TO COMBINE VINBERG AND OLIPHANT IN GROUND 5

There is no motivation to combine Vinberg and Oliphant because the alleged motivation to combine Vinberg and Oliphant is a recycled copy of the Honig-Oliphant theory and reflects a lack of diligent analysis.

As shown in the Petition, Petitioner's asserted motivation to combine Vinberg and Oliphant is not the product of any independent analysis of Vinberg's teachings, but instead is substantially copied from—indeed, mirrors nearly verbatim—the earlier motivation to combine Honig and Oliphant, with little more than a mechanical substitution of reference names. For example, the Petition repeats the same generalized narrative: (i) an “alert” or “alarm” is generated; (ii) a POSITA would expect some responsive action; and (iii) Oliphant allegedly supplies remediation techniques that could be applied following that alert. *Compare*, for example, Petitioner's discussion that an alert in Honig would motivate a POSITA to take remediation steps using Oliphant's techniques, with the parallel assertion—using materially identical phrasing—that an alarm in Vinberg would motivate the same remediation steps via Oliphant. *See* Petition, 42-43, 60-61. This reuse of language is not coincidental: the structure, examples, and conclusory POSITA statements are functionally interchangeable, differing only in the substituted reference name.

Such boilerplate duplication underscores that Petitioner did not meaningfully analyze whether Vinberg—whose core disclosure centers on statistical analysis of state vectors and identification of anomalous regions in an abstract n-dimensional space—would actually motivate a POSITA to incorporate Oliphant's vulnerability-specific remediation database. Instead, Petitioner simply assumes that any system

generating an “alarm” necessarily invites Oliphant’s remediation framework, without grappling with whether Vinberg’s alarms convey the type of vulnerability-specific, actionable information that Oliphant requires. *See* Petition, 60-61. The Petition thus relies on a generic “alerts lead to remediation” trope, rather than a reasoned explanation grounded in the technical disclosures of Vinberg itself. *Id.* PTAB precedent is clear that such conclusory assertions, untethered from the actual teachings of the references, are insufficient to establish a motivation to combine. *See e.g., In re NuVasive, Inc.*, 842 F.3d 1376, 1382 (Fed. Cir. 2016).

The Petition’s copy-and-paste approach further demonstrates a lack of diligence in preparing the obviousness Grounds 3 and 5. Rather than articulating a Vinberg-specific rationale—addressing, for example, how Vinberg’s abstract state-vector anomalies would interface with Oliphant’s concrete remediation mappings—Petitioner simply repurposes the Honig-based theory wholesale. *Compare* Petition 41-44 with 60-63. This approach impermissibly treats disparate systems as interchangeable and collapses the motivation-to-combine inquiry into a generic hindsight narrative, precisely what the PTAB has cautioned against. *See e.g., VICOR CORPORATION, v. DELTA ELECTRONICS, INC.*, IPR2024-00715, Institution Decision, page 20; and *InTouch Technologies, Inc. v. VGO Communications, Inc.*, 751 F.3d 1327, 1348-49 (Fed. Cir. 2014). Because the alleged motivation to combine Vinberg and Oliphant is merely derivative of the

Honig–Oliphant argument, and not supported by a reference-specific analysis, Petitioner has failed to demonstrate a reasonable likelihood of prevailing on the motivation to combine Vinberg and Oliphant. Ground 5 necessarily fails.

VII. PETITION FAILS TO MEET MULTIPLE LEGAL REQUIREMENTS OF UNPATENTABILITY

A. Grounds 1 and 2 fail to delineate between § 102 and § 103 arguments and fail to properly assert either category

For Grounds 1 and 2, the Petition asserts unpatentability respectively under the anticipation standard of § 102 and the obviousness standard of § 103 but fails to fully or clearly articulate either theory. *See* Petition, 24. Due to this lack of clarity, the grounds of the Petition are substantively deficient and noncompliant with 35 U.S.C. § 312(a)(3),⁷ and therefore institution of *Inter Partes* Review should be denied.

⁷ 35 U.S. Code § 312(a) Requirements of Petition.—A petition filed under section 311 *may be considered only if*— . . . (3) the petition identifies, in writing *and with particularity*, each claim challenged, *the grounds on which the challenge to each claim is based*, and the evidence that supports the grounds for the challenge to each claim, . . . (emphasis added)

For anticipation under § 102, Petitioner fails to map each element of the claim to Honig's disclosure, as described above, so any § 102 argument fails from the start.

For obviousness under § 103, not only does Petitioner fail to show the requisite teaching or suggestion in the prior art of each claimed feature, Petitioner fails to explain any reasoning for why any claim would be obvious within the framework for objective analysis articulated in *Graham v. John Deere Co.*, 383 U.S. 1 (1966) and reiterated in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). The court has "repeatedly emphasized that an obviousness inquiry requires examination of all four *Graham* factors and that an obviousness determination can be made only after consideration of each factor." *Nike, Inc. v. Adidas AG*, 812 F.3d 1326, 1335 (Fed. Cir. 2016).

Here, for every claim element of the challenged claims in Ground 2 using Honig, the Petition lacks any articulation of the second *Graham* factor (ascertaining the differences between the claimed invention and the prior art). While arguing such differences risks undercutting Petitioner's anticipation arguments, Petitioner in this case chose to avoid taking the risk at the expense of ignoring the legal standard of obviousness. The Petition uses boilerplate language to assert the dual anticipation-obviousness theory and follows a robotic pattern. Specifically, the Petition recites the limitation, lists paraphrased disclosure from the reference, then presents a conclusory statement for each element and claim that "[i]t would further have been

obvious to a POSITA.” *See, e.g.*, Petition, 26. The Petition lacks any explanation as to why the prior art disclosure would render a limitation obvious to a POSITA. These boilerplate assertions of anticipation and obviousness do not fully articulate either invalidity theory.

These improper grounds not only require Patent Owner to respond to multiple incomplete arguments but also impel the Board to analyze multiple unarticulated invalidity grounds under multiple legal standards. The gaps in Petitioner’s claim mapping (discussed above) raise doubts that any § 102 argument was made in good faith. Yet Patent Owner is forced to respond to both anticipation and obviousness arguments, despite neither theory being sufficiently explained for Patent Owner to appropriately rebut. The Board is also burdened with sifting through Petitioner’s positions to look for hidden obviousness assertions. While the Petition includes no credible obviousness explanations, Petitioner has improperly shifted the burden to the Board and to Patent Owner.

Accordingly, the Petition has failed to conduct the proper anticipation and obviousness analyses, which warrants denial of institution of this IPR.

B. Grounds 3 and 5 fail to properly assert § 103 arguments

Like Ground 2, the Petition also lacks any articulation of the second *Graham* factor in Ground 3 for the combination of Honig and Oliphant as well as in Ground 5 for the combination of Vinberg and Oliphant. First, the Petition’s element-by-

element analysis does not even mention Honig or Vinberg in any way respectively for Grounds 3 and 5 for Claim 4. *See* Petition, 47, 65. Instead, Petitioner presents only a perfunctory and error-plagued mapping of Oliphant's disclosure to these claimed features. Moreover, Petitioner makes a vague and inoperable claim of "the Honig-Oliphant combination" and "the Vinberg-Oliphant combination" could disclose certain features related to the challenged claim in Ground 3 and Ground 5, respectively. Petition, 45, 63. Yet, clearly missing in Petitioner's obviousness assertions is what is different between the claimed elements/limitations and Honig, Vinberg, and/or Oliphant. Conversely, Section IV of this paper, above, identifies several differences between the claimed invention and the cited references, which Patent Owner contends are both profound and too numerous for a POSITA to determine the claims as obvious to a combination of Honig's and Oliphant's teachings and to a combination of Vinberg's and Oliphant's teachings.

Petitioner's neglect of the obligation to present a proper case for obviousness in accordance with the law should not be disregarded.

C. Grounds 3 and 5 fail because Oliphant is not prior art

Grounds 3 and 5 respectively rely on Oliphant as prior art in the combinations with Honig and Vinberg for the obviousness grounds. However, Oliphant is not prior art under any subsection of 35 U.S.C. § 102, leaving Grounds 3 and 5 effectively nullified.

The Petition cites U.S. Patent Publication No. 2005/0005171 (referred to as “Oliphant”) as prior art under “[pre-AIA] §102(e).” *See* Petition, 23. Oliphant claims priority to U.S. Provisional Patent Application No. 60/484,085 (referred to as “Oliphant Provisional”) filed on July 1, 2003, and was filed as a Non-Provisional U.S. Patent Application on July 1, 2004, which is after the priority date of the ’936 patent (August 11, 2003). Accordingly, Oliphant is a prior art with respect to the ’936 patent only if it is entitled to the filing date of Oliphant Provisional filed on July 1, 2003.

Petitioner asserts, in conclusory fashion, that Oliphant is entitled to its provisional filing date because “the provisional application provides support to the claims in the non-provisional application.” Petition, 13. To that end, Petitioner provides a § 112 provisional support chart for claim 1 of Oliphant. *See id.*, 14-23. That showing is in fact unnecessary⁸ and is legally insufficient.

When a patent or published application is asserted as prior art, it is entitled to the filing date of a provisional application only for subject matter that is fully

⁸ This type of analysis is only relevant to AIA patents and not to pre-AIA patents like the ’936 patent. *See Penumbra, Inc. v. RapidPulse, Inc.*, IPR2021-01466, Paper 34, 32-33 (Mar. 10, 2023).

supported by the provisional application under 35 U.S.C. § 112. *See, e.g., Dynamic Drinkware, LLC v. Nat'l Graphics, Inc.*, 800 F.3d 1375, 1381–82 (Fed. Cir. 2015). The burden is on Petitioner to affirmatively demonstrate such entitlement. Here, Petitioner's § 112 provisional support chart addresses only claim 1 of Oliphant. Petition, 13. But Petitioner relies on other parts of Oliphant for allegedly disclosing limitations corresponding to claims 2–6, 13–16, and 20 of the '936 patent, not merely subject matter coextensive with Oliphant's claim 1.

Specifically, Petitioner does not demonstrate that those relied-upon disclosures of Oliphant are fully supported by Oliphant Provisional, or provide any § 112 analysis mapping the disclosure of Oliphant Provisional to the full scope of Oliphant's teachings allegedly used in the obviousness Grounds 3 and 5. As a result, Petitioner fails to meet its burden of establishing that Oliphant's provisional document described the relied-upon disclosures.

Furthermore, the Oliphant Provisional in fact fails to provide written-description support for the teachings of Oliphant that Petitioner relies upon in Grounds 3 and 5. For example, Petition recites Oliphant's disclosure of "closing of open ports on the device; installation of a patch that is known to correct the vulnerability; changing the device's configuration; stopping, disabling, or removing services; setting or modifying policies; and the like" in supporting that the combination of Honig and Oliphant renders obvious the claim 2 of '936 patent.

Petition, 45. To support this assertion, Petitioner only cites “EX1010, 9-10” of Oliphant Provisional. *Id.* But pages 9 and 10 of Ex. 1010 merely include executive summary of the Oliphant Provisional and do not describe, disclose, or provide written-description support for the specific remedial disclosures cited by Petitioner in Grounds 3 and 5. For example, those pages of Oliphant Provisional contain no disclosure of closing ports, installing patches, modifying device configurations, disabling or removing services, or setting or modifying policies, as required to support the teachings to claim 2 of the '936 patent.

This deficiency is not isolated. Petitioner repeatedly relies on the same citation—“EX1010, 9-10”—to allege disclosure of limitations corresponding to claims 2–6, 13–16, and 20 of the '936 patent, without clearly identifying any portion of the Oliphant Provisional that actually provides written-description support for those limitations. *See* Petition, 45–48, 64–66. Such conclusory citations are legally insufficient to establish entitlement to the Oliphant Provisional filing date for the relied-upon disclosures.

Accordingly, Petitioner has failed to demonstrate that the Oliphant Provisional supports the teachings attributed to Oliphant in Grounds 3 and 5, and Oliphant therefore cannot be accorded the asserted priority date for purposes of those obviousness challenges. Grounds 3 and 5 necessarily fail.

VIII. CONCLUSION

For the reasons discussed above, Patent Owner respectfully requests that the Board deny Petitioner's Petition for *Inter Partes* Review of the '936 patent.

Dated: January 9, 2026

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CERTIFICATE OF WORD COUNT UNDER 37 CFR § 42.24(d)

Under 37 C.F.R. § 42.24(d), the undersigned certifies that the word count for this Patent Owner's Preliminary Response to the Petition for *inter partes* review totals 7,378 words, excluding the parts exempted by 37 C.F.R. § 42.24(a). The word count was made using the built-in word count function in the Microsoft® Word software used to prepare this document.

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that I caused to be served a true and correct copy of the foregoing PATENT OWNER'S PRELIMINARY RESPONSE and accompanying exhibits by email to the electronic service addresses for Petitioner on the date indicated below:

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