

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON.COM SERVICES LLC,

Petitioner,

v.

SMART SPEAKER LLC,

Patent Owner.

Patent No. 11,128,710

Filing Date: July 23, 2017

Issue Date: September 21, 2021

Inventors: Yehuda Binder and Benjamin Maytal

Title: SYSTEM AND METHOD FOR SERVER-BASED CONTROL

PATENT OWNER'S PRELIMINARY RESPONSE

Case No. IPR2026-00145

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2001	Plaintiff's Disclosure of Asserted Claims and Infringement Contentions in <i>Smart Speaker LLC v. Amazon.com Servs. LLC</i> , Case No. 2:25-cv-00707-JRG (E.D. Tex.), dated September 16, 2025
2002	Defendant's Invalidity and Subject Matter Eligibility Contentions in <i>Smart Speaker LLC v. Amazon.com Servs. LLC</i> , Case No. 2:25-cv-00707-JRG (E.D. Tex.), dated December 9, 2025
2003	Federal Register, Vol. 90, No. 199, dated Friday, October 17, 2025
2004	Second Amended Docket Control Order (Dkt. 33) in <i>Smart Speaker LLC v. Amazon.com Servs. LLC</i> , Case No. 2:25-cv-00707-JRG (E.D. Tex.), dated October 29, 2025
2005	Letter to Amazon.com, Inc. re May Patents Ltd. Patent Portfolio, dated July 23, 2024
2006	Appeal Statistics, Patent Trial and Appeal Board, dated October 31, 2025
2007	Patent Trial and Appeals Board (PTAB) data at a glance December 2025

I. INTRODUCTION

On November 21, 2025, Amazon.com Services LLC (“Petitioner”) submitted a petition (Paper 2, “Petition” or “Pet.”) to institute *inter partes* review (“IPR”) of U.S. Patent No. 11,128,710 (EX1001, the “’710 Patent”), challenging Claims 1-29 (the “Challenged Claims”) as obvious over two sets of prior art combinations across sixteen grounds. The Petition should be denied in its entirety because neither set of prior art discloses core limitations of Claim 1, the only independent claim.

The ’710 Patent claims a system and method for server-based voice control in which a cloud server external to a building receives voice commands from a client device over the Internet, processes them, and sends distinct “*messages*” back over the Internet—in particular, a “*second message*” to a controlled device—causing the operation of an actuator. Pet. at 16, 22, 29. Two independent deficiencies run through every ground and are dispositive.

First, Grounds 1–8 rely on Williams (EX1004) as the primary reference. Williams does not disclose at least the claimed “*second message*.” Williams’ “services 218” are not the claimed “*second message*” sent to a specific device in response to a voice command to operate an actuator and which causes “*operating a second actuator in the controlled device in response to the received second message*”. Rather, services 218 are merely the provision of informational content related to various services—*e.g.*, ordering groceries, identifying songs, or answering

questions. Williams’ sole mention of device control, in a single sentence of paragraph [0051], describes only a general concept without disclosing any actual server-to-device messaging path or functions. The Petition concedes this gap by citing three references outside of Ground 1 to purportedly supply the concept of a “*second message*” to “*operate an actuator*”—turning what is presented as a single-reference ground into a four-reference obviousness combination, which remains nonetheless deficient. None of the secondary references in Grounds 2–8 remedies these deficiencies.

Second, Grounds 9–16 rely on the combination of Howard and Doherty as the primary references. Howard’s server 200 is expressly described as “forming part of the home gateway” (EX1005, 3:41–48), and every figure and workflow in Howard places the server inside the home. Because the server is local, communications between the server and Howard’s devices travel over the local “home network 304”—not “*over the Internet*” to a server “*external to the building*” as Claim 1 requires. Doherty (EX1006) adds a wireless router but provides no basis for relocating Howard’s in-home server to a remote cloud environment. The Petition’s stated motivation for this relocation relies on Wittenberg (EX1007)—a reference that is not part of Ground 9 and does not provide a motivation to move Howard’s server outside the home. Accordingly, as with the Williams-based grounds, the Petition has not shown where each element of the Challenged Claims is found in the

prior art relied upon. None of the secondary references in Grounds 10–16 remedies these deficiencies.

Because Grounds 1–8 and Grounds 9–16 each fail to account for multiple limitations of independent Claim 1, the Board should deny institution of the Petition in its entirety.

II. CLAIM CONSTRUCTION

For the purposes of this Preliminary Response only, Patent Owner agrees with Petitioner that the Board need not construe any claims. Pet. at 5.

III. LEVEL OF ORDINARY SKILL IN THE ART

For the purposes of this Preliminary Response only, Patent Owner applies Petitioner’s definition of a POSITA. Pet. at 4.

IV. PETITIONER HAS NOT DEMONSTRATED A REASONABLE LIKELIHOOD OF SUCCESS FOR THE GROUNDS ADVANCED IN THE PETITION, AND THE PETITION SHOULD BE DENIED

The question of obviousness is resolved on the basis of underlying factual determinations, including: (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) so-called secondary considerations where in evidence. *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17-18 (1966); *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole

would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1537 (Fed. Cir. 1983).

The Board has held that a failure to identify the differences between the claimed subject matter and the prior art is fatal to an obviousness challenge. *See, Apple, Inc. v. Contentguard Holdings, Inc.*, IPR2015-00355, Decision Denying Institution of *Inter Partes* Review, Paper 9 at 9-10 (P.T.A.B. June 26, 2015) (denying institution for failure to identify the differences between the claimed subject matter and the prior art).

In arriving at an obviousness determination, the Board must sufficiently explain and support the conclusions that the prior-art references disclose all the elements recited in the Challenged Claims and a relevant, skilled artisan not only could have made, but would have been motivated to combine all the prior art references in the way the patent claims and reasonably expected success. *Pers. Web Techs., LLC v. Apple, Inc.*, 848 F.3d 987, 994 (Fed. Cir. 2017). That is, even if all the claim elements are found across a number of references, an obviousness determination must consider whether a person of ordinary skill in the art would have the motivation to combine those references. *Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1368 (Fed. Cir. 2016); *Los Angeles Biomedical Rsch. Inst. at Harbor-UCLA Med. Ctr. v. Eli Lilly & Co.*, 849 F.3d 1049, 1067 (Fed. Cir. 2017) (vacating and remanding an obviousness determination, in part, because

the Board did not make factual finding as to whether there was an apparent reason to combine all three prior art references to achieve the claimed invention and whether a person of skill in the art would have had a reasonable expectation of success from such a combination). This combinability determination, as supported by an articulated motivation to combine, requires a plausible rationale as to why those prior art references would have worked together. *Broadcom Corp. v. Emulex Corp.*, 732 F.3d 1325, 1335 (Fed. Cir. 2013). Absent some articulated rationale, a “common sense” finding is no different than a mere conclusory statement that a combination “would have been obvious.” *In re Van Os*, 844 F.3d 1359, 1361 (Fed. Cir. 2017). Of additional importance, “knowledge of a problem and motivation to solve it are entirely different from motivation to combine particular references” *Innogenetics, N.V. v. Abbott Lab’ys*, 512 F.3d 1363, 1373 (Fed. Cir. 2008).

35 U.S.C. § 312(a)(3) requires that an IPR petition must identify, “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.” 35 U.S.C. § 312(a)(4) requires that a “petition filed under section 311 may be considered only if . . . the petition provides such other information as the Director may require by regulation.” 37 C.F.R. § 42.104(b)(4) requires that a petition for *inter partes* review “must specify where each element of the claim is found in the prior art patents or printed publications relied upon.” General knowledge, such

as applicant-admitted prior art, expert testimony, common sense, and other evidence, that is not prior art consisting of patents or printed publications may not be used to supply a missing claim limitation. *See* July 31, 2025 Memorandum from Then-Acting Director Stewart Regarding Enforcement and Non-Waiver of 37 C.F.R. § 42.104(b)(4). The Board may deny an IPR petition that fails to comply with Rule 104(b)(4). *Id.*

A. The Petition Does Not Show that Williams Discloses “*sending a second message, by the server to the controlled device over the Internet; receiving, by the controlled device via the wireless network, the second message,*” as Required by Claim Elements 1[L] and 1[M] And “*operating a second actuator in the controlled device in response to the received second message,*” as Required by Claim Elements 1[N]

Claim 1 requires “*sending a second message, by the server to the controlled device over the Internet,*” “*receiving, by the controlled device via the wireless network, the second message*” and “operating a second actuator in the controlled device in response to the received second message.” *Id.* at 29. These limitations require the server to send a distinct “*message*” in response to processing captured human voice data—a “*second message*” directed to the controlled device—sent over the Internet and received via the wireless network. The method further requires “*operating a second actuator in the controlled device in response to the received second message.*” Williams does not disclose this message.

1. Williams Does Not Disclose Sending a “*second message*” to a “*controlled device*” to “*operat[e] a second actuator in the controlled device in response to the received second message*”

The Petition’s mapping of the “*second message*” limitations rests on Williams’ disclosure that the server may “initiate or customize services 218” and that “[s]uch services may be provided through any of the media devices 106 located in the home, as well as through other application devices 220.” Pet. at 29-30 citing EX1004, [0036]. According to the Petition, “[a] POSITA would have understood and found it obvious that, to operate a controlled device, information related to the services 218 (e.g., a control message) is sent to the controlled device, consistent with common implementations.” *Id.* at 31-32. This mapping fails for at least three independent reasons.

First, Williams’ “services 218” are not “*messages*” sent to a “*controlled device*” which operate an actuator in the controlled device as required by the claim. In context, Williams explains that the server’s applications 120 “may use the information from the event notifications 216 to initiate or customize services 218 on behalf of users associated with the home 102.” EX1004, [0036]. Williams then provides eight examples of these “services 218”: ordering groceries ([0044]), purchasing movie tickets ([0045]), identifying songs ([0046]–[0047]), answering questions ([0048]), providing driving directions ([0049]), and looking up flight

information ([0050]). In each example, the “service” is the delivery of information content to the user—*e.g.*, displaying search results, playing audio answers, or presenting recipes. *See id.*, [0044]–[0050]. Thus, Williams’s services 218 do not “operat[e] a second actuator in the controlled device in response to the received second message” as required by the claims because services 218 are merely the provision of information content.

Second, the Petition is incorrect in asserting that “Williams discloses human voice commands that can effectuate remote device control.” Pet. at 26. The Petition relied on paragraph [0051] as the only purported support disclosure of using human voice data to cause the generation of a “second message” to control an actuator in a controlled device. *Id.* at 26, 28, and 33. Paragraph [0051] states that an application may “allow a user to control various on-premises devices and equipment” and “may accept spoken commands from a user regarding on-premises devices.” (EX1004, [0051].) This passage tells the reader *what* the system can hypothetically do—accept voice commands and interact with devices—but says nothing about *how*. Critically, [0051] is silent on whether the server generates any control “message,” what form it would take, how it would reach a specific device, or what actuation would result. Yet these are precisely the elements that Claim 1 requires: a “second message” that is generated by the server “responsive to the processing” of “captured second human voice data” and that is “sent” by the server “to the controlled device over the

Internet.” Pet. at 29. Williams’ disclosure that the system “may respond by interacting with such devices through available network connections” does not identify any such message, nor does that disclosure provide the specific server-to-controlled-device communication that the claim requires. Moreover, the only device interaction Williams contemplates is the provision of “services 218,” which are not “*messages*” as claimed.

Third, the arguments as framed in the Petition confirm that Williams alone does not disclose the claimed “*second message*.” To bridge the gap between Williams’ “services 218” and the claimed control “*message*,” the Petition inserts the parenthetical “(e.g., a control message)” after “services 218” and then cites three references *outside* of Ground 1 for “common implementations.” Pet. at 31-32 citing EX1018, 3:19–22; EX1007, Claim 1; and EX1011, [0012]. Hence, Ground 1 is actually a four-reference obviousness combination disguised as a single reference 103 ground. Regarding the claimed “*second message*,” the Petition has not shown “where [this] element of the claim is found in the prior art patents or printed publications relied upon” for Ground 1. *See* 37 C.F.R. § 42.104(b)(4); *see* July 31, 2025 Memorandum from Then-Acting Director Stewart Regarding Enforcement and Non-Waiver of 37 C.F.R. § 42.104(b)(4) (general knowledge, expert testimony, and common sense “may not be used to supply a missing claim limitation”).

Fourth, FIG. 2 of Williams further confirms this deficiency. FIG. 2 shows

“services 218” flowing from applications 120 to media devices 106 and application devices 220, but these arrows represent the general availability of services through home devices—*i.e.*, the user experiences the service via a particular device. EX1004, [0036], FIG. 2. For instance, Williams explains that a music identification application “may identify the song the user is currently listening to, and in response may provide information about related articles, offer samples, suggest related music and playlists, or present information allowing the user to purchase individual music tracks.” EX1004, [0047]. Claim 1 requires a “*second message*” that is sent by the server to the controlled device “*responsive to the processing*” of “*captured second human voice data*,” causing operation of a “*second actuator*” in the controlled device. Williams simply does not disclose any data object, communication, or signal that satisfies this requirement such that it may be considered a “*second message*.”

2. All Other Grounds Relying on Williams Fail for the Same Reason

Claims 5–6, 16, 23, and 29 are challenged in Ground 1 alongside Claim 1. Because the Petition’s Ground 1 mapping fails to establish that Williams discloses the “*second message*” limitations of Claim 1, the Petition necessarily fails to show that Williams renders obvious any of these dependent claims, each of which incorporates all the limitations of Claim 1.

Additionally, Grounds 2–8 each rely on Williams in combination with one or

more secondary references (Wittenberg, Gruber, Benesty, Goldsmith, Chatterjee, Rosenberger, and Rossing, respectively) to challenge dependent claims. Pet. at 37–60. None of these secondary references is cited for, or remedies, Williams’ failure to disclose the “*second message*” limitation of independent Claim 1. Because each of Grounds 2–8 depends on Williams to supply these limitations and Williams does not disclose them, institution should be denied as to Grounds 1–8 in their entirety.

In sum, Williams’ “services 218” are not “*messages*” as claimed. Williams’ sole reference to device control in paragraph [0051] is aspirational and provides no technical disclosure of a “*message*” sent by the server to cause a controlled device to operate an actuator in response to a voice command. And the Petition’s reliance on three references outside Ground 1, together with extensive expert testimony, to purportedly supply the claimed “*message*” functionality confirms that Williams alone does not disclose these limitations. Because the Petition has not shown “where each element of the claim is found in the prior art patents or printed publications relied upon” as required by 37 C.F.R. § 42.104(b)(4), institution on Grounds 1–8 should be denied.

B. The Petition Does Not Show That Any Combination of Howard and Doherty Discloses “an Internet-connected server device external to the building,” as Required by Claim Element [1][PR][4], and “sending a first message, by the server to the client device over the Internet; receiving, by the client device via the wireless network, the first message,” as Required by Claim Elements 1[E] and 1[F], and “sending a second message, by the server to the controlled device over the Internet; receiving, by the controlled device via the wireless network, the second message,” as Required by Claim Elements 1[L] and 1[M]

Claim 1 requires “an Internet-connected server device external to the building.” Pet. at 16. Claim 1 also requires “responsive to the processing, sending a first message, by the server to the client device over the Internet” and “receiving, by the client device via the wireless network, the first message.” *Id.* at 22. Claim 1 additionally requires “sending a second message, by the server to the controlled device over the Internet” and “receiving, by the controlled device via the wireless network, the second message.” *Id.* at 29. These limitations depend on one another: the claimed *first message* and *second message* must each be sent by the server “over the Internet,” which in turn requires a server that is “external to the building”—for if the server is inside the home, communications between the server and home devices do not traverse the Internet. The Howard-Doherty combination fails to disclose any of these limitations because Howard’s server 200 is a local, in-home server, and neither Howard nor Doherty provides any basis for relocating Howard’s server to the cloud external to the home.

1. Howard's Server 200 Is a Local, In-Home Server, Not a Server "*external to the building*"

Howard describes its server 200 as "forming part of the home gateway." EX1005, 3:41–48. Howard's specification repeatedly and consistently identifies the server as an in-home device. Howard describes its invention as relating to "a portable device for communicating with a computer server, especially a *home* server, which provides for and/or controls various activities in a home." *Id.*, 1:7–14 (emphasis added). Howard further describes the system as one in which "the operator [can] program and control the home gateway from essentially any area of the home." *Id.*, 1:55–58.

FIG. 6 of Howard confirms this architecture. The server 200 sits between two distinct communication pathways: (1) "home network 304," through which the server controls household appliances (TVs, VCRs, light systems, heating and cooling systems, etc.), and (2) "Internet 305," through which the server accesses external websites for shopping and search engines. *Id.*, 8:40–55, 9:13–56, FIG. 6. Critically, device-control signals in Howard travel exclusively through the local home network 304, not through the Internet. Every one of Howard's device-control examples—programming a VCR (FIG. 8), tuning a TV channel, and adjusting TV volume (FIG. 9)—transmits control signals "to the [device] via the home network 304." *Id.*, 11:1–5, 11:58–65, 12:11–14. Howard's Internet connection is reserved for

an entirely different category of activity, such as “ordering goods via an Internet shopping website, running a search engine, etc.” *Id.*, 9:23–30. In Howard, the Internet is the path to the outside world; the home network is the path to the controlled devices inside the home.

The Petition concedes that “Howard mentions ‘home server’ in some instances,” and argues that “Howard does not limit its system to a server at the user’s home.” Pet. at 79 citing EX1002, ¶ 359. But the relevant question is not whether Howard *limits* its server to the home—it is whether Howard *discloses or suggests* a server external to the building. It does not. Howard’s entire specification, every figure, and every workflow example assume that server 200 is inside the home, connected to local appliances through a local network. The absence of an express limitation to a home-based server does not constitute a disclosure of, or motivation to use, a server external to the building.

2. Combining Howard with Doherty Does Not Remedy the Deficiencies of Howard, and the Petition’s Purported Motivation to Relocate Howard’s Server to the Cloud Relies on a Reference Outside Ground 9

The Petition argues that “[a] POSITA would have been motivated to combine Howard with Doherty such that (1) its portable device and home appliances and other devices can communicate with a wireless network via a wireless router, and (2) its server 200 is a cloud server accessible via the Internet outside the user’s

home.” Pet. at 75–76 citing EX1002, ¶ 351. Part (1) is uncontroversial—Doherty teaches that home devices can communicate wirelessly through a router connected to the Internet. EX1006, 11. But part (2)—the critical step of relocating Howard’s in-home server to the cloud—finds no support in either Howard or Doherty.

Doherty is a Cisco textbook titled “Wireless Home Networking Simplified” that teaches consumers how to set up wireless networks at home using commercially available routers. EX1006, Title, Introduction. Doherty discloses that a “wireless router acts as the central communication routing point” between home devices and the Internet. *Id.*, 11. Adding a wireless router to Howard’s system would indeed allow Howard’s devices to communicate wirelessly. But it would not, and does not, relocate Howard’s server from inside the home to a remote cloud environment external to the home. A router is not a cloud server—it is an intermediary device that directs network traffic. Doherty nowhere suggests that a home gateway server should be moved off-premises, nor does it disclose any remote server architecture at all.

The Petition’s rationale for moving Howard’s server to the cloud comes not from Howard or Doherty, but from Wittenberg (EX1007)—a reference that is not part of Ground 9. As such, Ground 9 is actually a three-reference obviousness combination, which is nonetheless deficient. Specifically, the Petition states that “the benefits for having a server in the cloud perform resource-intensive tasks such as speech processing were well-known” and then quotes Wittenberg for the proposition

that remote speech processing allows local devices to “have fewer components, be smaller, use less power, and cost less.” Pet. at 77 citing EX1007, 8:26–32; EX1002, ¶ 354. But Wittenberg is cited only in Ground 10 (Howard, Doherty, and Wittenberg), not in Ground 9 (Howard and Doherty alone). Pet. at 102. The Petition therefore relies on a reference outside the scope of Ground 9 to supply the motivation for the very architectural change—moving the server to the cloud—that Ground 9 requires. This is precisely the type of gap that 37 C.F.R. § 42.104(b)(4) and the Stewart Memorandum prohibit: using outside evidence to fill in a missing limitation. *See* July 31, 2025 Memorandum from Then-Acting Director Stewart Regarding Enforcement and Non-Waiver of 37 C.F.R. § 42.104(b)(4). Moreover, even if Wittenberg were considered, it merely discloses the benefits of remote *speech processing*—not the relocation of a device-control server to a remote environment for use to send control messages to home appliances.

In short, Howard’s system already has Internet connectivity alongside its local server. Howard uses “Internet 305” for purchasing activities while keeping the control server local. EX1005, FIG. 6, 8:47–55, 9:50–56. Doherty’s teaching that a wireless router can also provide Internet access adds nothing that Howard does not already contemplate. The combination does not create the claimed *external* server; it simply provides a wireless link to an architecture that already has Internet access through a server that remains in the home.

3. Because Howard’s Server Is Local, all of the “*over the Internet*” Limitations Also Fail

Given that the Howard-Doherty combination does not disclose a server “*external to the building*,” the combination necessarily fails to satisfy the multiple limitations of Claim 1 that data travel “*over the Internet*” between the server and the client and controlled devices. In Howard’s system, the portable device communicates directly and wirelessly with the in-home server 200, and the server sends control signals to controlled devices through the “home network 304.” EX1005, 3:41–48, 5:22–26, 11:58–65, 12:11–14. None of these communications traverses the Internet.

Specifically, Claim 1 requires: (1) “*sending to the server, by the client device via the wireless network, the captured first human voice data*” and “*receiving, by the server over the Internet, the captured first human voice data*” (limitations 1[B] and 1[C]); (2) “*sending a first message, by the server to the client device over the Internet*” and “*receiving, by the client device via the wireless network, the first message*” (limitations 1[E] and 1[F]); and (3) “*sending a second message, by the server to the controlled device over the Internet*” and “*receiving, by the controlled device via the wireless network, the second message*” (limitations 1[L] and 1[M]). Each of these limitations requires that the server communicate with the home devices *over the Internet*—a requirement that is met only if the server is outside the home,

such that data must travel from the home network, through the Internet, to reach the server (and vice versa). Howard's server 200 does not communicate with the portable device or the controlled appliances "*over the Internet*"—it communicates with them over the local home network using local network protocols. Accordingly, the Petition has not shown where these elements are found in the prior art relied upon for Ground 9.

The Petition's attempt to satisfy these limitations by asserting that Howard "discloses or at least suggests an implementation in which the server sends a second message to the controlled device over the Internet" (Pet. at 96 citing EX1002, ¶¶ 415–417) is based on the premise that Howard's server has been moved to the cloud—the very premise that, as discussed above, is unsupported by Howard or Doherty, alone or in combination. The same is true of the Petition's mapping of the "*first message*" limitations, which likewise depends on the assertion that "in the Howard-Doherty system, Howard's server, which is a remote server in the cloud, sends data over the Internet to the wireless router." EX1002, ¶ 392. Because the predicate for these mappings—a cloud-based server—is not disclosed in the references of Ground 9, the mappings fail.

4. All Other Grounds Relying on the Howard-Doherty Combination Fail for the Same Reasons

Ground 9 challenges Claims 1, 5–6, 10–11, 13, 16–21, 23, and 29. Because the Petition’s Ground 9 mapping fails to establish that the Howard-Doherty combination discloses a server “*external to the building*” or that any data travels “*over the Internet*” between the server and the home devices, the Petition fails with respect to all of these claims.

Additionally, Grounds 10–16 each rely on the Howard-Doherty combination as their foundation and add one secondary reference (Wittenberg, Gruber, Benesty, Goldsmith, Chatterjee, Rosenberger, and Rossing, respectively) to address dependent claim limitations. Pet. at 102–108. None of these secondary references is cited for, or remedies, the Howard-Doherty combination’s failure to disclose a server external to the building or the “*over the Internet*” communication path. Because each of Grounds 10–16 depends on the same defective Howard-Doherty foundation, institution should be denied as to Grounds 9–16 in their entirety.

In sum, Howard’s server 200 is a local, in-home device that “form[s] part of the home gateway.” EX1005, 3:41–48. Every figure, every workflow, and every example in Howard places the server inside the home, with device-control signals traveling over the local “home network 304” and Internet access used solely for external purchasing and search activities. Doherty adds a wireless router but

provides no basis for relocating Howard’s server to a remote cloud environment. The Petition’s motivation for this relocation rests on Wittenberg—a reference outside Ground 9 and also deficient, nonetheless. Because the Howard-Doherty combination does not disclose a server “*external to the building*,” the combination necessarily also fails to disclose the “*first message*” and “*second message*” limitations, each of which requires communication between the server and the home devices “*over the Internet*.” Because the Petition has not shown “where each element of the claim is found in the prior art patents or printed publications relied upon” as required by 37 C.F.R. § 42.104(b)(4), institution of Grounds 9–16 should be denied.

V. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that the Board deny institution of the Petition in its entirety.

Respectfully submitted,

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CERTIFICATE OF WORD COUNT

The undersigned hereby certifies that the portions of the above-captioned PATENT OWNER'S PRELIMINARY RESPONSE has 4,601 words in compliance with the 14,000 word limit set forth in 37 C.F.R. § 42.24. This word count was prepared using Microsoft Word for Office 365.

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