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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.
Petitioner
v.
GOLDEN EYE TECHNOLOGIES LLC
Patent Owner

Case IPR2026-00188
U.S. Patent No. 9,271,243

PATENT OWNER PRELIMINARY RESPONSE PURSUANT TO 35 U.S.C. § 313 and 37 C.F.R. § 42.107

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I. INTRODUCTION

For the reasons stated herein, the Board should deny institution of Cisco Systems Inc.'s Petition for *Inter Partes* Review of U.S. Patent No. 9,271,243 ("the '243 patent"). As discussed in detail below, the combinations advanced by Petitioner Cisco Systems, Inc. in Grounds 1 and 2 fail to disclose a fundamental element of the invention recited in claims 1 and 11 (the independent claims) of U.S. Patent No. 9,271,243.[1] For example, the independent claims each recite "group[ing] wireless access points using a same channel." Petitioner's cited prior art references do not disclose any such channel-based grouping of wireless access points. Importantly, this channel-based grouping enables the inventions described in independent claims 1 and 11 to more efficiently minimize interference between neighboring access points. As explained by the '243 patent, "when two APs . . . use the same channel, interference can occur in a certain area." '243 patent at 1:34-35. It is specifically this co-channel interference that the '243 patent is directed to minimizing and in a more efficient manner. Because the prior art references relied on in the Petition do not disclose grouping access points by the same channel as an initial step in the optimization process, they fail to teach a key element of the invention that also cascades into subsequent claim elements and dependent claims. Although, as

[1] Because Grounds 1 and 2 of the Petition fail for independent claims 1 and 11, they also fail for all challenged dependent claims 2, 4, and 5.

explained below, there are several other reasons that the Petition should be denied institution, the Petition's deficiency regarding this critical channel-based grouping is, by itself, a sufficient reason for the Board to determine that the Petition does not present a credible challenge to the patentability of the '243 patent claims.

This Preliminary Response is timely under 35 U.S.C. § 313 and 37 C.F.R. §§ 1.7, 42.107(b), as it is filed on or before three months from the January 13, 2026 mailing date of the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response. Paper 3 at 1. For purposes of this Preliminary Response, Golden Eye identifies certain deficiencies in the Petition but does not waive any arguments or issues not raised in this Preliminary Response.

II. RELEVANT LEGAL STANDARDS

A. Standards for Instituting an IPR

"In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable." *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring *inter partes* review petitions to identify "with particularity . . . the evidence that supports the grounds for the challenge to each claim")). Importantly, the petitioner must how the prior art would have rendered the challenged claims unpatentable by specifying "where each element of the claim is

found in the prior art patents or printed publications relied upon." 35 U.S.C. § 312(a)(3); 37 C.F.R. § 42.104(b)(4). "The IPR petition, thus, must provide an understandable explanation of the element-by-element specifics of the patentability challenges, including the identification of particular portions of prior art on which the petitioner is relying." *Corephotonics, Ltd. v. Apple Inc.*, 84 F.4th 990, 1001 (Fed. Cir. 2023). Unless the Petition demonstrates a likelihood of success on its asserted invalidity grounds for at least one claim, the Board should not institute review. 35 U.S.C. § 314(a). Here, Petitioner fails to meet the requisite standard.

B. Obviousness Standard

"A patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." 35 U.S.C. § 103(a).

To be considered obvious, each and every element of the claim must be disclosed by the prior art. *In re Rijckaert*, 9 F.3d 1531, 1534 (Fed. Cir. 1993) (reversing obviousness rejection where prior art did not teach or suggest all claim limitations); *Garmin Int'l, Inc. v. Patent of Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 15 at 15 (PTAB Jan. 9, 2013) (denying institution under § 103 where the prior art did not disclose all claim limitations).

Obviousness is resolved based on factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of ordinary skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966).

It is impermissible for Petitioner to "use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) (citing *In re Gorman*, 933 F.2d 982, 987 (Fed. Cir. 1991)); *see also InTouch Techs., Inc. v. VGO Commc'n, Inc.*, 751 F.3d 1327, 1348-49 (Fed. Cir. 2014) (holding expert testimony to be impermissible hindsight for failing to explain what reason or motivation one of ordinary skill in the art at the time of the invention would have had to place the prior art together).The conclusion of obviousness based on a combination of references must be supported with an explicit analysis of a reason to combine those references. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). Such reasons must be more than "mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

Additionally, a person of ordinary skill in the art is unlikely to combine references when the proposed combination would modify the primary reference's principles of operation. *See Plas-Pak Indus., Inc. v. Sulzer Mixpac AG*, 600 F. App'x

755, 759 (Fed. Cir. 2015) (holding "the Board did not err in concluding that claims 1–15 would not have been obvious").

III. OVERVIEW OF THE '243 PATENT

The '243 patent relates to a novel method and device for controlling a set of wireless access points that are used together to increase coverage in a wireless LAN, while mitigating the interference that is introduced by the use of multiple access points. '243 patent, Abstract, 1:18-20. As the '243 patent explains: "[w]hen services are provided using a wireless LAN, a house or a specific area is serviced using a single access point ('AP')." *Id.* at 1:25-27. "However, due to the structure of a building or the geographical features, the house or specific area may not be completely covered by the service using a single AP." *Id.* at 1:29-30. "One way of solving this problem is by installing a separate AP (low-output AP) in shadow areas to widen the user's range of wireless communication." *Id.* at 1:31-33. "However, when two APs happen to use the same channel, interference can occur in a certain area." *Id.* at 1:34-35. "That is, when a separate AP is used to eliminate the shadow areas, the separate AP is designed to transmit a fixed transmission power, and the separate AP transmits an excessive transmission power in order to eliminate the shadow areas, causing interference and deteriorating the performance of the wireless network." *Id.* at 1:36-41.

The ’243 patent recognizes that some prior art systems attempted to “eliminat[e] shadow areas and minimize[e] interference between the main AP and the sub-AP.” *Id.* at 1:47-49. But these prior approaches were beset by undesirable restrictions such as “the condition that the sub-AP itself needs to adjust the transmission power.” *Id.* at 1:50-51. Further, the ’243 patent recognized that “since each of a plurality of sub-APs using the same channel needs to adjust the transmission power individually, it is impossible and inefficient to minimize the interference within a short period of time.” *Id.* at 1:52-55.

To address these problems in prior art systems, the ’243 patent introduced a novel “method and device for controlling a wireless access point to optimize its coverage and capacity [] in an environment of interference.” *Id.* at 1:21-23. In particular, the ’243 patent discovered that “a device for controlling [a] wireless access point” could “set[] a channel for communication,” and “group[] wireless access points using a same channel.” *Id.* at cl. 11. Meanwhile, the “grouped wireless access points” could “determin[e] whether interference has occurred between the grouped wireless access points and transmit[] the determination to the device for controlling a wireless access point.” *Id*. Subsequently, the “device for controlling the wireless access point” could “comput[e] a corrected output strength value for reducing the interference and transmit[] the corrected output strength value to the wireless access point.” *Id*. This, in turn, enables “the wireless access point,” to

"adjust[] a current output strength value based on the corrected output strength value." *Id*.

Accordingly, one of the interference reduction techniques that the '243 patent discloses is "grouping wireless access points using a same channel, based on the information on the wireless access point and the neighboring wireless access points received from the wireless access point," as recited in independent claim 11. *Id.* at cl. 11. Similarly, independent claim 1 recites "A device for controlling a wireless access point comprising: / a grouping unit configured to group wireless access points using a same channel based on channel use information received from the wireless access points." *Id.* at cl. 1. All the Challenged Claims depend from either claim 1 or claim 11. Accordingly, as a key element of the invention, all the Challenged Claims require grouping the wireless access points by channel. *See id.* at cls. 1, 2, 4, 5, and 11. An example of "a device for controlling [a] wireless access point" that comprises a "Grouping Unit," is illustrated in Figure 3 below:

FIG. 3

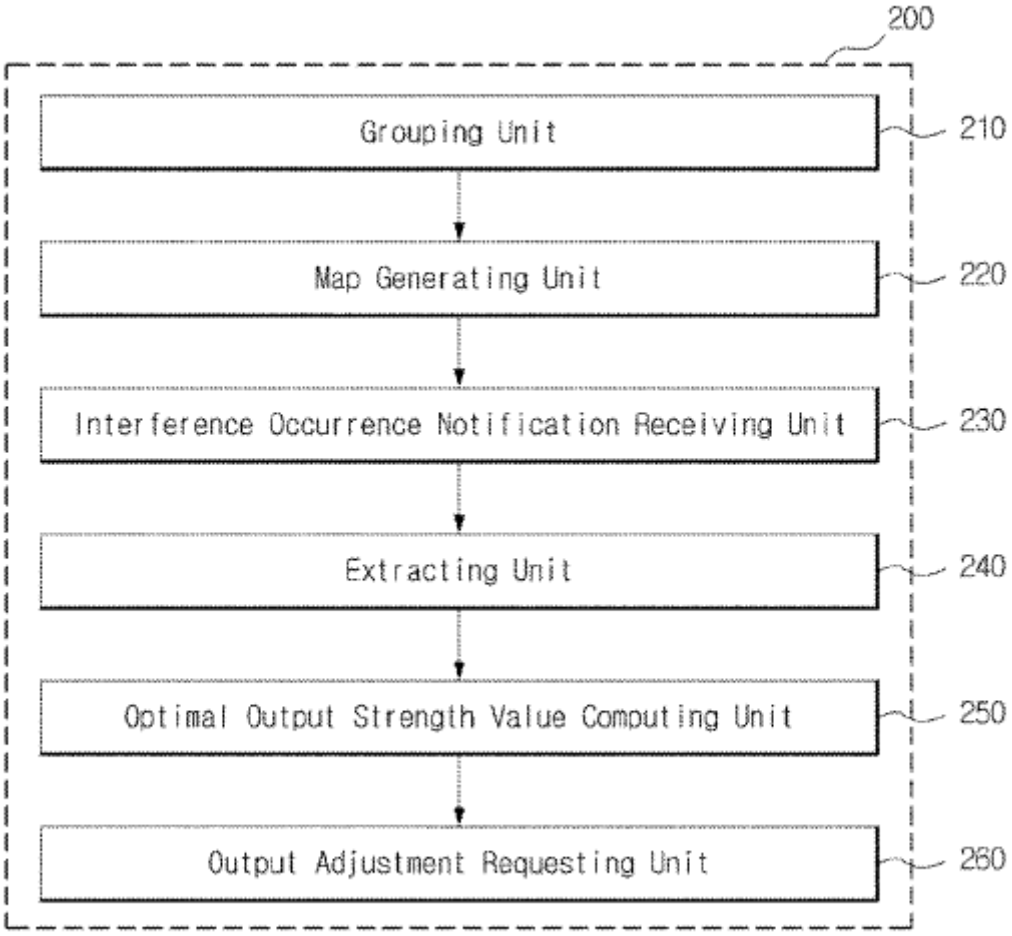


FIG. 3; 4:16-18. The additional recited elements of claims 1, 2, 4, 5 and 11 are all derived from this initial grouping by channel, as demonstrated by reference to "the grouped wireless access points" throughout the claim language. The resulting methods and systems achieve the intended limiting of interference by focusing only on the greatest source of that interference, i.e., APs on the same channel. By limiting the optimization process to only those APs, computing resources are not wasted for

performing such tasks on APs on different channels. Whereas other prior art systems, such as those cited in the Petition, inefficiently check *all* AP's for interference against every other AP, the patented process and device of the '243 patent optimizes the time needed to minimize interference by excluding AP's not operating on the shared channel. The Challenged Claims include independent claims 1 and 11 and certain dependent claims (2, 4, and 5). The table below reproduces the limitations of independent claims 1 and 11 (with the elements that were corrected via a certificate of correction identifying in bold):

Claim 1	**Claim 11**
[1.0] A device for controlling a wireless access point comprising:	[11.0] A method for controlling an output strength value of a wireless access point by a device for controlling the wireless access point, the method comprising:
[1.1.1] a grouping unit configured to group wireless access points using a same channel [1.1.2]based on channel use information received from the wireless access points;	[11.1.1] (a) setting a channel for communication, searching for neighboring wireless access points, and [11.1.2.] transmitting information on the wireless access point and the searched neighboring wireless access points to the device for controlling the wireless access point, [11.1.3] wherein the setting, searching and transmitting is performed by the wireless access point;

[1.2.1] a map generator configured to compute a received signal strength indicator (RSSI) between the grouped wireless access points and [1.2.2] an output strength value for each of the grouped wireless access points;	[11.2.1] (b) grouping wireless access points using a same channel, [11.2.2] based on the information on the wireless access point and the neighboring wireless access points received from the wireless access point, [11.2.3] the grouping being performed by the device for controlling the wireless access point;
[1.3.1] an extractor configured to extract a wireless access point having a highest RSSI value among the grouped wireless access points, [1.3.2] if interference occurs between the grouped wireless access points; and	[11.3.1] (c) determining whether interference has occurred between the grouped wireless access points and transmitting the determination to the device for controlling a wireless access point, [11.3.2] the determining and the transmitting the determination being performed by the grouped wireless access points;
[1.4.1] an optimal output strength value calculator configured to compute a corrected output strength value [1.4.2] based on the highest RSSI value of the extracted wireless access point, a predetermined threshold value of the RSSI between the grouped wireless access points, and a currently used output strength	[11.4.1](d) computing a corrected output strength value for reducing the interference and [11.4.2]* transmitting the corrected output strength value to **the wireless access point**, [11.4.3] the computing and the transmitting the corrected output strength being performed by the device for controlling the wireless access point; and

value.	
	[11.5.1] (e) adjusting a current output strength value based on the corrected output strength value, [11.5.2]* the adjusting being performed by **the wireless access point**.

* Element corrected in Ex. 1001 at 14 (Certificate of Correction).

IV. LEVEL OF ORDINARY SKILL IN THE ART

Patent Owner proposes that a person of ordinary skill in the art would have the following qualifications:

> A person of ordinary skill in the art at the time of the invention of the '243 patent would have completed an undergraduate degree in electrical engineering, computer science, or equivalent experience and would have at least 3 years of professional experience in the field of wireless network communications. Alternatively, that person would have completed a graduate degree in electrical engineering, computer science, or a similar field and would have at least 2 years of professional experience in the field of wireless network communications.

V. CLAIM CONSTRUCTION

The Board uses "the same claim construction standard that would be used to construe a claim in a civil action under 35 U.S.C. § 282(b), including construing the

claim in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent." 37 C.F.R. § 42.100(b). Accordingly, the claim construction standard set forth in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc) applies.

Petitioner proposes the construction of four claim terms appearing in claim 1 (i.e., "grouping unit," "map generator," "extractor," and "optimal output strength value calculator") and one claim term appearing in claim 2 (i.e., "output adjustment requester"). Notably, none of these claim terms appear in claim 11. Although Petitioner argues that "no claim term requires express construction," Petitioner contends that the claim terms invoke means-plus-function claiming under 35 U.S.C. § 112(6).

Patent Owner disagrees that any of the proposed terms in claims 1 and 2 should be governed under 35 U.S.C. § 112(6). Nor do those terms require construction for purposes of this proceeding. Further, at this stage, the relevant question is whether the Petition satisfies Petitioner's burden of showing "that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." *See* 35 U.S.C. § 314(a). In view of this ultimate issue, it is not evident to Patent Owner that the claim constructions proposed by Petitioner are likely to have any substantive impact on the Board's decision on institution.

In the event the Board institutes *inter partes* review on the Petition, Patent Owner reserves the right to advance and substantiate constructions for any terms in the ’243 patent.

VI. GROUNDS IN THE PETITION

The Petition challenges the validity of claims 1, 2, 4, 5, and 11 (the “Challenged Claims”) of the ’243 patent (Ex. 1001) on two grounds. Ground 1 is directed to independent claim 1 and dependent claims 4, and 5. Ground 1 alleges that those claims are obvious in view of two references: U.S. Patent No. 7,313,113 to Hills et al. (“Hills,” Ex. 1005) and Chinese publication CN 101626615A to Wang Lu (“Wang,” Ex. 1006). Thus, if the Board finds that the proposed combination of Hills and Wang does not disclose or render obvious all limitations of independent claim 1, then Ground 1 must fail as to all claims, including dependent claims 4 and 5.

Ground 2 alleges that dependent claim 2 and independent claim 11 are obvious in view of a combination of three references: Hills (Ex. 1005), Wang (Ex. 1006), and U.S. Patent No. 8,040,861 to Calhoun et al. (“Calhoun,” Ex. 1011). Similarly, if the Board finds that the proposed combination of Hills and Wang does not disclose or render obvious all limitations of independent claim 1, then Ground 2 must fail as to claim 2, because Calhoun is only cited for specific features of dependent claim 2, rather than to remedy all the deficiencies of Hills and Wang with respect to

independent claim 1. Moreover, Ground 2 must also fail as to claim 11 because Hills and Wang fail to teach several features of claim 11, but Calhoun is only cited for claim features [11.4.2], [11.4.3], and [11.5.1] of the Petition. Petitioner's Grounds are summarized as follows:

Ground	References	Basis	Independent Claim(s)	Dependent Claim(s)
1	Hills & Wang	§ 103(a)	1	4, 5
2	Hills, Wang & Calhoun	§ 103(a)	11	2

VII. SUMMARY OF THE PETITION'S PRIOR ART REFERENCES

A. Hills

Hills discloses several disparate embodiments and sub-embodiments for "[m]ethods, apparatuses, and systems facilitating configuration of transmit power and coverage areas corresponding to access points in a wireless network environment." *See* Ex. 1005, Abstract, 2:45-50. Yet rather than grouping APs based on the same channel, Hills teaches creating a "group" of "all access elements associated with a given central control element **24** or all access elements in a given physical location, such as a floor of a building." Ex. 1005 at 12:29-32. Furthermore, when analyzing signal strength of APs in such a group, Hills uses brute force. In particular, Figure 4 teaches that "for each access element (AP_i) (**102**)" in a group, a "coverage analyzer **21**" looks at "the signal strength detected by the access element

from all other access elements (AP_j) in the matrix (**104**)" and "compares" each such signal strength against a coverage threshold." Ex. 1005 at 12:34-37.

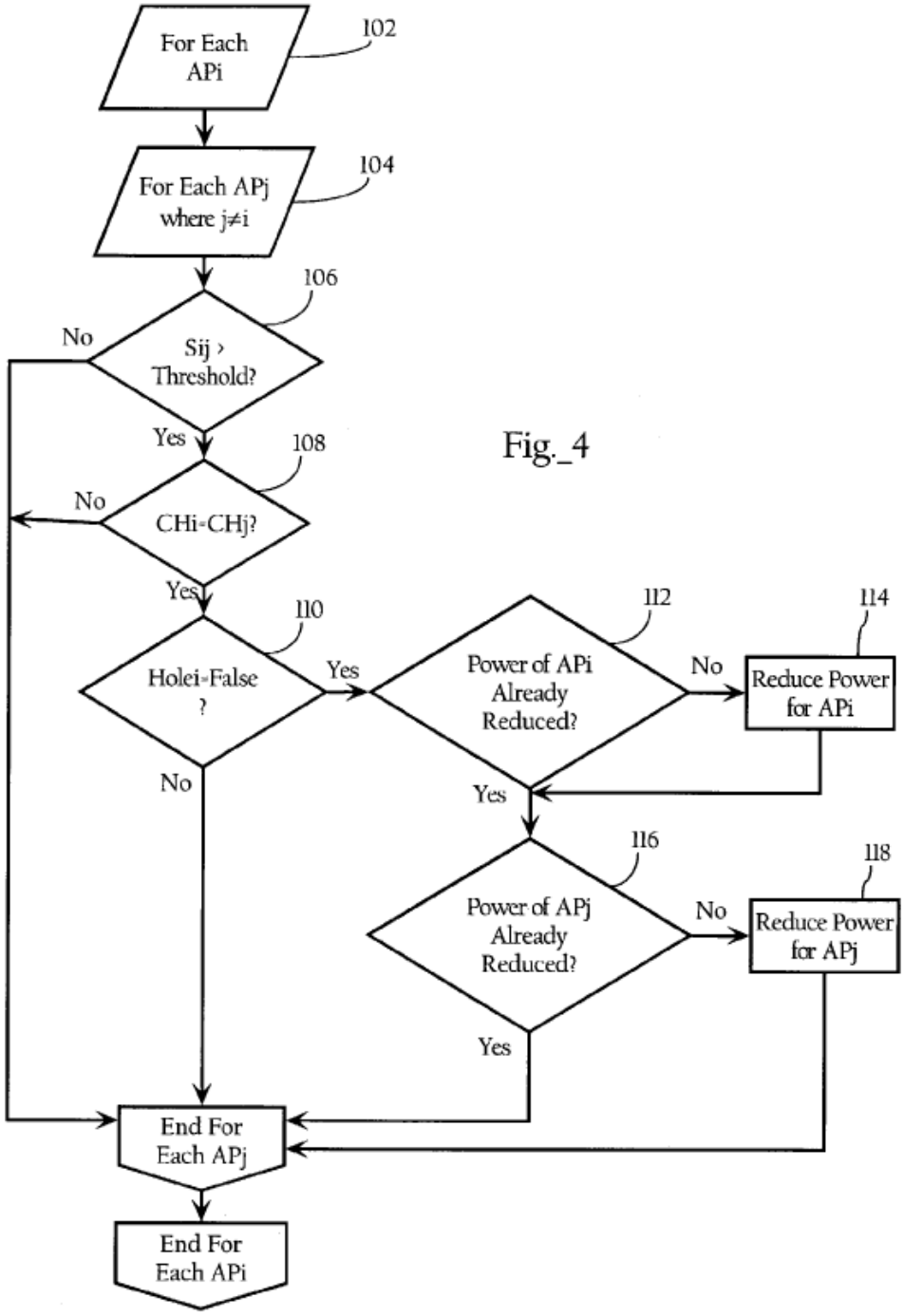


Fig._4

Ex. 1005, FIG. 4.

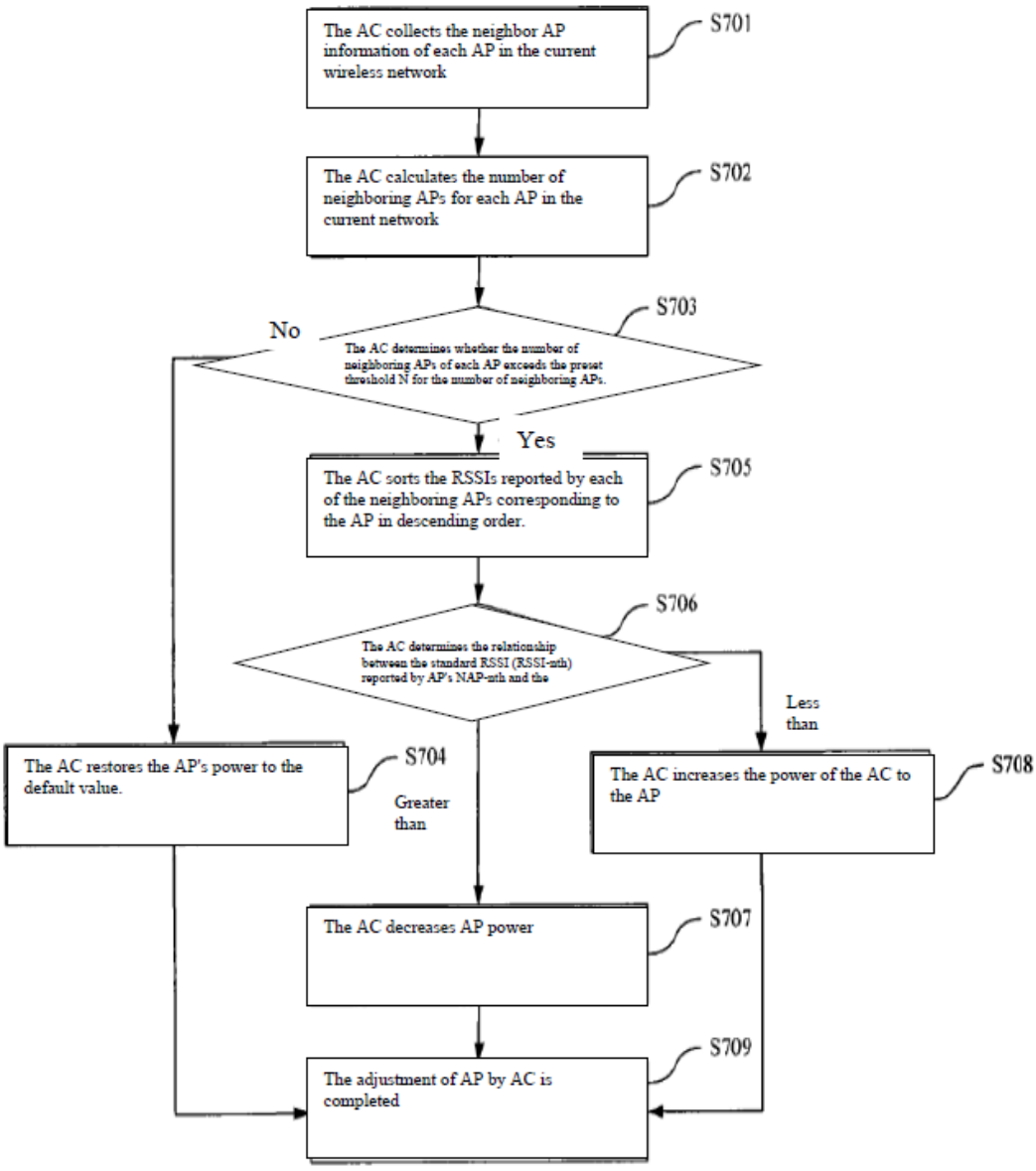
In other words, Hills is not at all concerned with grouping APs by the same channel so that interference on a particular channel can be efficiently addressed. As Figure 4 illustrates, Hills starts its signal strength analysis by comparing a coverage threshold to ***every*** signal strength S_{ij} detected by ***every*** access element from ***every other*** access element. Ex. 1005 at Fig. 4, 12:33-47. This is not an efficient process. Only after this brute force comparison process does Hills' "coverage analyzer **21** also determine whether AP_i and AP_j operate on the same channel (**108**) and whether a coverage hole has been detected as to Api (**110**)." Ex. 1005 at 12:40-42.

As can be seen, Hills clearly does not group by the same channel because there would be no need to check whether two APs operate on the same channel if Hills had already grouped APs by channel. As a practical matter, this means that Hills' approach spends computational resources analyzing information for every AP, not just those APs using a specific channel.

B. Wang

Wang provides "a power adjustment method and device for an access point (AP)." *See* Ex. 1006 at 2. Wang teaches a process that begins by reviewing the number of APs in a network, as illustrated in Figure 7 below. According to Wang, an "AC calculates the number of neighboring APs for ***each*** AP in the current network." *Id.* (emphasis added). "The AC determines whether the number of neighboring APs of ***each*** AP exceeds the present threshold N for the number of

neighboring APs." *Id.* (emphasis added). Then, "[i]f the number of neighboring APs of an AP exceeds the preset threshold N for the number of neighboring APs," "[t]he AC sorts the RSSIs reported by ***each*** of the neighboring APs corresponding to the AP in descending order." *Id.* at 10-11 (emphasis). After this, the AC "finds the Nth largest RSSI value, marks the neighboring AP that reported this RSSI as NAP-nth, and records the RSSI of the AP it senses as RSSI-nth." *Id.* at 11. According to Wang, "[t]his is determined as the standard RSSI and used as the basis for subsequent adjustments." *Id.* In particular, "[i]f RSSI-nth is greater than RSSI-threshold, the current AP power is considered to be high" and the "algorithm for reducing AP power by AC is as follows: P-after = P-before- (RSSI-nth-RSSI-threshold)." *Id.* at 11. Wang does not teach grouping APs based on the same channel, nor does the Petition cite to Wang as disclosing this element.



Ex. 1006, FIG. 7

C. Calhoun

Calhoun teaches several discrete embodiments of a "hierarchical architecture" "[i]n a wireless Local Area Network (WLAN) system." Ex. 1011 at Abstract, 1:66-67. This architecture "employs a protocol which divides protocol processing functions between a plurality of substantially identical access elements … and a

centralized control element." *Id.* at Abstract. According to Calhoun, this "hierarchical protocol processing architecture allows the data flow to be centralized for better performance." *Id.* at Abstract. Because Calhoun does not teach grouping APs by the same channel, it cannot remedy the deficiencies of Hills and Wang regarding this feature.

VIII. PETITIONER FAILS TO SHOW A REASONABLE LIKELIHOOD OF SUCCESS ON THE PETITIONED GROUNDS.

Petitioner has the burden to establish that it is entitled to the requested relief. 37 C.F.R. § 42.20(c). Petitioner's burden is to prove 'unpatentability by a preponderance of the evidence,' 35 U.S.C. § 316(e), and that burden never shifts to the patentee." *Dynamic Drinkware, LLC v. Nat'l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015). Accordingly, "[t]he Board may exclude or give no weight to the evidence where a party has failed to state its relevance or to identify specific portions of the evidence that support the challenge." § 42.104(b)(5). *See also Netflix, Inc. v. DivX, LLC*, 84 F.4th 1371, 1377 (Fed. Cir. 2023) ("[T]he Board should also not have to decode a petition to locate additional arguments beyond the ones clearly made. A petitioner may not rely on a vague, generic, and/or meandering petition and later fault the Board for failing to understand what the petition really meant.") In order to establish obviousness under 35 U.S.C. § 103, "the petition must specify where each element of the claim is found in the prior art patents or printed

publications relied upon." 37 C.F.R. § 42.104(b)(4). However, Petitioner may not simply argue that individual differences between the claims and prior art would have been obvious. *See Litton Indus. Products, Inc. v. Solid State Systems Corp.*, 755 F.2d 158 (Fed. Cir. 1985) ("It is elementary that the claimed invention must be considered as a whole in deciding the question of obviousness."). Rather, Petitioner must demonstrate why the claimed invention as a whole would have been obvious. *See id.* Further, "the petition must specify where each element of the claim is found in the prior art patents or printed publications relied upon." 37 C.F.R. § 42.104(b)(4).

A. Ground I: Hills in View of Wang Does Not Render the Challenged Claims Obvious Because a Fundamental Element of the Claimed Inventions is Missing from the Cited Prior Art References.

Petitioner does not establish that Hills, either alone or in combination with Wang, discloses "*group[ing] wireless access points using a same channel.*" Grouping wireless access points by the same channel is a critical feature that facilitates more focused actions targeting these grouped access points.

Moreover, as recited in claim 1, the grouping is "based on channel use information received from the wireless access points." Cl. 1. Likewise, claim 11 recites grouping "based on the information on the wireless access point and the neighboring wireless access points received from the wireless access point." Cl. 11. Petitioner fails to identify disclosure in Hills of any of these fundamental elements of the challenged claims.

Additionally, the channel-based grouping feature recited in both claim 1 and claim 11 cascades throughout numerous elements of the independent claims as well as their dependent claims. Starting with claim 1, an initial clause in the claim recites: "a grouping unit configured to group wireless access points using a same channel." Then, these "grouped wireless access points," rather than ***all*** wireless access points, are referenced by and recited in every subsequent clause of device claim 1. Similarly, the recited process of claim 11 is performed using "the grouped wireless access points," not ***all*** access points.

This channel-based grouping of both claim 1 and claim 11 enables faster, more optimized processing for subsequently recited elements or steps. For example, in claim 1, " a map generator" is "configured to compute a received signal strength indicator (RSSI) between ***the grouped wireless access points*** and an output strength value for each of ***the grouped wireless access points***." Additionally, in claim 1 "an extractor" is "configured to extract a wireless access point having a highest RSSI value among ***the grouped wireless access points***, if interference occurs between ***the grouped wireless access points***." For its part, claim 11, recites the step of "determining whether interference has occurred ***between the grouped wireless access points*** and transmitting the determination to the device for controlling a wireless access point, the determining and the transmitting the determination being performed by ***the grouped wireless access points***." As can be seen, the processing

capacity required by these and other claim elements can be reduced substantially when the processing involves a fewer number of access points, namely, only the access points using the same channel, rather than ***all*** wireless access points.

1. Hills does not disclose grouping access points by the same channel.

Petitioner wrongly contends that "Hills discloses 'a grouping unit configured to group wireless access points using a same channel.'" Pet. at 30. In particular, Petitioner argues that this feature of claim 1 is disclosed by Hills' "central management device" that is purportedly "configured to group" access elements "together in a two-dimensional matrix (i×j matrix)." Pet. at 30-31 (citing Ex.1005 at 12:15-32; Ex.1003 ¶¶ 77-78). Yet rather than grouping APs based on the same channel, and as acknowledged at page 31 of the Petition, Hills teaches a "group" of "all access elements associated with a given central control element **24** or all access elements in a given physical location, such as a floor of a building." Ex. 1005 at 12:29-32. Hills does not group by the same channel and, instead, focuses its groups on the position or location of the access elements. Because Hills does not use the channel as a criterion for its grouping, the groups that Petitioner identifies include access elements that may be operating on different channels. Petitioner acknowledges that Hills grouping of access elements is focused on "physical location, such as a floor of a building," not based on a shared channel. Pet. at 31.

Instead of recognizing that Hills does not use channel use information as a basis for grouping access elements, Petitioner asserts that the location-based groups of Hills "***may*** operate on the same channel." *Id*. But the possibility that the access elements (or *some* of the access elements) in a group *may* operate on the same channel is very different from "*group[ing] wireless access points using a same channel*," as recited in the challenged claims. Indeed, without grouping based on the same channel, Hills fails to achieve the efficiencies in process that the '243 patent is directed to for minimizing interference amongst the most significant source—co-channel interferers—without wasting time on less significant interference sources.

Even though Hills acknowledges that APs can use different channels (*see, e.g.,* Ex. 1005 at 12:40-42), Hills does not teach grouping the APs by channel. Instead, Hills uses a brute force method to analyze the signal strength of each and every access element in a location-based group, including access points operating on different channels. In particular, the embodiment of Hills that Petitioner cites teaches that "for each access element (AP_i) (**102**)" in a group, a "coverage analyzer **21**" looks at "the signal strength detected by the access element from all other access elements (AP_j) in the matrix (**104**)" and "compares" each such signal strength against a coverage threshold." Ex. 1005 at 12:34-37. Figure 4 of Hills shows the process described by this embodiment:

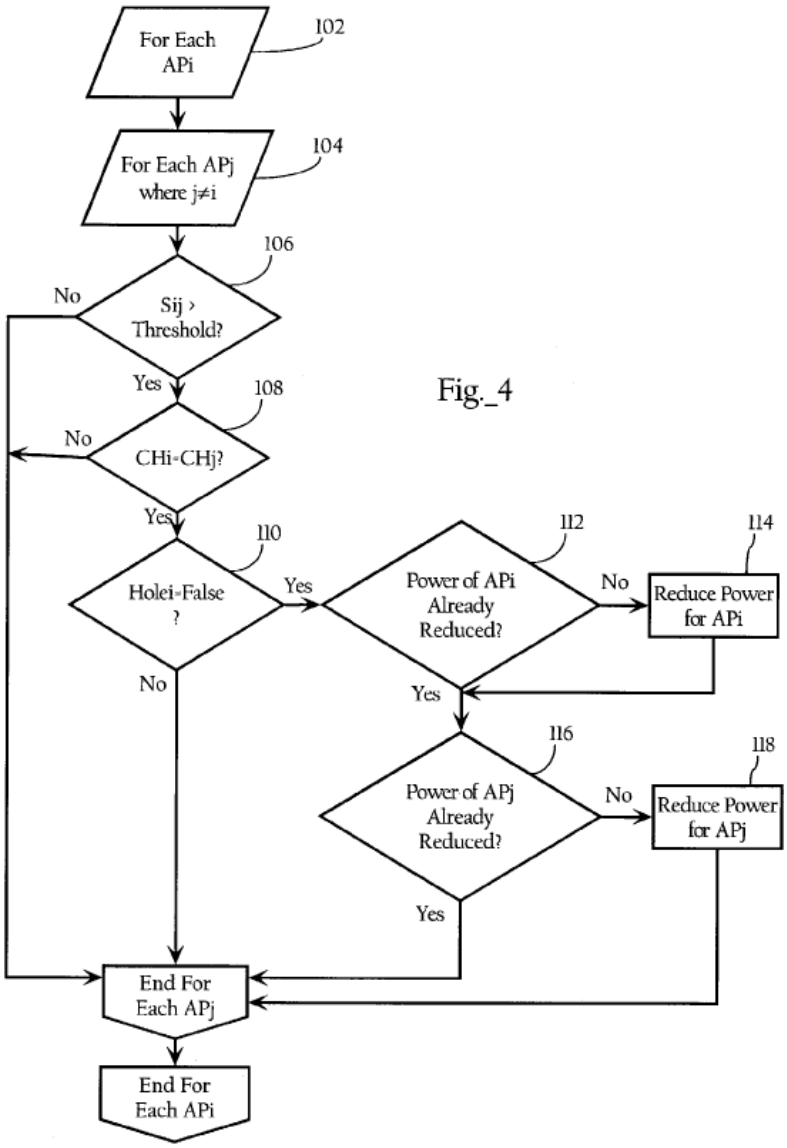


Fig._4

Ex. 1005, FIG. 4. As Figure 4 illustrates, it is only after conducting this threshold comparison for ***every*** access element in the matrix and comparing ***every*** signal strength reaching ***each*** access element from ***every other*** access element that Hills' "coverage analyzer **21** also determines whether AP_i and AP_j operate on the same channel (**108**) and whether a coverage hole has been detected as to AP_i (**110**)." Ex. 1005 at 12:40-42. This process acts on every access element regardless of whether

they operate on the same channel. It is this type of inefficiency that the invention of the ’243 patent was designed to solve.

Hills clearly does not group by channel because there would be no need to check whether two APs operate on the same channel if Hills had already grouped APs by channel. As a practical matter, this means that Hills’ approach spends computational resources analyzing information for every AP, not just those APs using a specific channel. This method teaches away from the optimized methodology disclosed in the ’243 patent, where the APs are grouped by channel *first*, then signal strength is optimized only based on the APs that operate on the shared channel and therefore pose the greatest threat of interference.

2. Hills does not disclose grouping based on channel use information received from the wireless access points.

Given that Hills fails to teach grouping APs by channel, it is unsurprising that Hills further fails to teach grouping APs “based on channel use information received from the wireless access points” (claim 1) or “based on the information on the wireless access point and the neighboring wireless access points received from the wireless access point (claim 11). Although Cisco tries to obfuscate such issues by sub-dividing the claim language and addressing fragments of the claims individually, it is evident that Hills fails to teach the use of channel information received from the wireless access points for as a basis for grouping access points.

For example, the Petition fails to explain how Hills teaches "***a device for controlling a wireless access point*** comprising:" / ***a grouping unit*** configured to group wireless access point using a same channel ***based on channel use information***." Cl. 1; Pet. at 34-37. In other words, the Petition completely fails to explain how Hills teaches (1) an AP ***controller*** that (2) ***groups*** wireless access points ***by channel*** (3) "***based on channel use information***." Similarly, with respect to claim 11, the Petition fails to explain how Hills teaches a "method comprising: / … "***grouping wireless access points*** using a same channel, ***based on the information on the wireless access point and the neighboring wireless access points***, the grouping being ***performed by the device for controlling the wireless access point***." Cl. 11; Pet. at 70-71 ("Consistent with the analysis at [1.1.2], Hills' grouping is based on coverage scan and positional data received from the wireless access elements, which renders obvious that the grouping is '*based on the information on the wireless access point and the neighboring wireless access points received from the wireless access point*.' Ex.1003, ¶190.").

Despite these explicit deficiencies in the teachings of Hills, the Petition offers no evidence to fill this hole in the prior art. Notably, the Petition does not cite to Wang or Calhoun for any teachings that a controller groups APs by channel. Pet. at 30-34, 70-71. For example, Calhoun is cited for purportedly "disclos[ing] that a central management device **transmits** information to an access element to control

transmit power." Pet. at 60, 73 (emphasis added). Meanwhile, Wang is cited merely "to the extent argued that Hills' disclosure is not sufficient to disclose the corresponding **structure**" of the "*grouping unit*." Pet. at 33 (emphasis added). The Petition simply overlooks this critical deficiency in Hills and therefore fails to demonstrate that this key element of the '243 patent existed in the prior art.

Because the Petition fails to identify any reference or combination of references as disclosing channel-based grouping of APs by a controller, the merit of Petitioner's challenge to the claims is highly deficient and unlikely to result in a showing that any of the challenged claims are unpatentable, whether independent claims 1 or 11, or their dependent claims.

B. Ground II: Hills in View of Wang and Further in View of Calhoun Does Not Render the Challenged Claims Obvious.

As with Ground 1, Ground 2 of the Petition also fails to demonstrate a reasonable likelihood that the independent claims 1 and 11 would have been obvious based on Hills in view of Wang and Calhoun. Although Ground 2 only explicitly refers to one independent claim, namely independent claim 11, Ground 2 is also explicitly directed to claim 2, which in turn depends from independent claim 1. Accordingly, the Petition's deficiencies related to claim 1 also doom the Petition's attempt to demonstrate the obviousness of claim 2. Furthermore, Calhoun is not even cited to remedy these deficiencies. Although Calhoun is cited as purportedly

teaching a portion of claim 11, as with claim 1, the Petition primarily relies upon Hills and Wang for teaching the features of claim 11. However, as with claim 1, these references fail to teach the combination of features recited in claim 11.

1. Petitioner fails to address the correct language for claim 11.

The Petition fails to present a meritorious case at least with respect to claim 11 because the Petition fails to address the correct claim language as provided in a Certificate of Correction. Petitioner admitted it addressed the wrong claim language when it "s[ought] permission to file a Corrected Petition and an updated Expert Declaration (Ex.1003) to address the updated claim language in the Certificate of Correction" of claim 11. *See* Board's Ex. 3001 (Feb. 18, 2026 letter from PTAB to Petitioner in IPR2026-00188 denying request to correct Petition). The Board denied this request. *See id.* Thus, this glaring deficiency in the Petition remains unremedied.

2. Calhoun does not remedy the deficiencies of Hills and Wang.

For at least the reasons explained above, Hills and Wang fail to teach either (a) "a grouping unit configured to group wireless access points using a same channel based on channel use information received from the wireless access points" or "(b) grouping wireless access points using a same channel based on the information on the wireless access point and the neighboring wireless access points received from the wireless access point, the grouping being performed by the device for controlling the wireless access point." Cls. 1, 11 (emphasis added). Furthermore, claim 2

depends from and includes all the limitations of claim 1. The Petition does not cite Calhoun to remedy these deficiencies with respect to the features of claim 1 (incorporated in claim 2) or claim 11. Accordingly, Petitioner has not demonstrated a reasonable likelihood that it would have been obvious for Hill's device to be modified to include the recited grouping unit or grouping step.

Thus, Petitioner cannot establish a likelihood of success on any of the claims challenged in Ground 2.

C. The Petition Lacks a Meaningful Obviousness Analysis Grounded in the Asserted Prior Art.

Petitioner fails to offer the requisite obviousness analysis with respect to the references relied on in Grounds 1 and 2. A 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)(3). It must also "specify where each element of the claim is found in the prior art patents or printed publications relied upon." 37 C.F.R. § 42.104(b)(4).

Petitioner has failed to satisfy these obligations. Instead, Petitioner's approach amounts to stringing together conclusory contentions that fail to clearly identify where each element of each challenged claim is allegedly found in the prior art

references and fail to provide a detailed explanation of the significance of such evidence.

The Petition repeatedly makes assertions about the alleged obviousness that rely entirely on the Hansen Declaration for support. For example, Dr. Hansen has provided a declaration spanning 98 pages. Ex. 1003. In large part, it appears that the declaration is used to support its contentions when those contentions are not supported by the cited references themselves. For example, the Petition references the Hansen Declaration (*i.e.*, Ex. 1003) at least 152 times. Of these references, the Hansen Declaration is listed at least 87 times as the sole supporting reference. This excessive citation is a clear indicator of over-reliance. Worse still, a significant portion of this over-reliance is focused on a critical element that the cited references fail to teach, namely, grouping access points using a same channel. For this single feature, the Petition relies on the Hansen Declaration alone at least 19 times (although the Hansen Declaration is cited even more times in combination with other citations). Pet. at 19-28 (including 12 sole citations to Hansen's Declaration regarding Hills, Wang, and their combination, which the Petition relies upon for the grouping-by-channel feature); Pet. at 31-37 (including 7 sole citations to Hansen's Declaration regarding channel-based grouping). Because so many portions of the Hansen Declaration are merely a cut-and-paste copy of the Petition, and devoid of analysis, the Hansen Declaration is entitled to "little or no weight." 37 C.F.R. §

42.65(a); *InfoBionic, Inc. v. Braemar Manufacturing, LLC*, IPR2015-01704, Paper 11 (PTAB Feb. 16, 2016) at 1, 6 (denying institution).

D. Because Petitioner Has Not Shown the Independent Claims to be Obvious, the Remaining Grounds Fail.

As demonstrated above, Petitioner has not made a *prima facie* case for obviousness of independent claims 1 or 11. The remaining Challenged Claims all depend from independent claim 1. Accordingly, Petitioner failed to demonstrate a reasonable likelihood that any of the Challenged Claims of the ’243 Patent will be found invalid. The Board should deny institution on all Grounds.

IX. CONCLUSION

This Preliminary Response demonstrates that Petitioner has not met its burden with respect to any of the claims of the ’243 Patent. Although many more deficiencies exist in the Petition beyond what has been presented here, the failure to identify foundational elements of the ’243 Patent as discussed herein is too substantial a hurdle to warrant institution. Thus, Patent Owner requests that the Board find that the Petitioner has not shown a reasonable likelihood that any of the Challenged Claims of the ’243 Patent will be found invalid under the grounds presented. Accordingly, Patent Owner also requests that the Board deny institution.

Dated: April 13, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served via electronic mail on April 13, 2026, to Petitioner at the email addresses Theodore M. Foster at ipr.theo.foster@haynesboone.com; David L. McCombs at david.mccombs.ipr@haynesboone.com, Gregory P. Huh at gregory.huh.ipr@haynesboone.com and Calmann J. Clements at calmann.clements.ipr@haynesboone.com, pursuant to Petitioner's consent in its Pet. at p. 77.

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CERTIFICATE OF COMPLIANCE

As required by 37 C.F.R. § 42.24, the undersigned hereby certifies that the foregoing Preliminary Response contains 6,488 words, excluding those portions identified in 37 C.F.R. § 42.24(a)(1), as measured by the word-processing system used to prepare this paper.

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