

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,

Petitioner,

v.

DAMAKA, INC.,

Patent Owner.

Patent No. 9,270,744

Filing Date: April 20, 2015

Issue Date: February 23, 2016

Inventors: Sivakumar Chaturvedi, Satish Gundabathula, and Rashmi Hiremath

Title: SYSTEM AND METHOD FOR PROVIDING
ADDITIONAL FUNCTIONALITY TO EXISTING SOFTWARE IN AN
INTEGRATED MANNER

PATENT OWNER'S PRELIMINARY RESPONSE

Case No. IPR2026-00207

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2001	Docket Control Order (Dkt. 41) in <i>Damaka, Inc. v. Cisco Sys., Inc.</i> , Case No. 2:25-cv-00593-RWS-RSP, December 5, 2025
2002	Complaint for Patent Infringement (Dkt. 1) in <i>Damaka, Inc. v. Cisco Sys., Inc.</i> , Case No. 2:25-cv-00593-RWS-RSP, May 30, 2025
2003	Defendant Cisco Systems, Inc.’s Invalidity and Subject Matter Eligibility Contentions in <i>Damaka, Inc. v. Cisco Sys., Inc.</i> , Case No. 2:25-cv-00593-RWS-RSP, dated January 15, 2026
2004	Declaration of Siva Chaturvedi, dated March 19, 2026
2005	Webpage capture, Cisco Careers, <i>available at</i> https://careers.cisco.com/global/en/search-results?keywords=WebEx (captured March 19, 2026)

I. INTRODUCTION

On January 13, 2026, Cisco Systems, Inc. (“Petitioner”) submitted a Petition (Paper 2, “Petition” or “Pet.”) to institute inter partes review (“IPR”) of U.S. Patent No. 9,270,744 (Ex. 1001, the “’744 Patent”), challenging Claims 1-28 (the “Challenged Claims”). The Petition asserts that: (i) Claims 1-3, 6-12, 14-17, 19-26, and 28 are rendered obvious over United States Patent Application Publication No. US 2011/0249077 to Abuan (“Abuan” or Ex. 1005) and United States Patent Application Publication No. US 2012/0092438 to Guzman Suarez (“Guzman” or Ex. 1006); (ii) Claims 4-5 are rendered obvious over Abuan and Guzman in further view of U.S. Patent No. 5,689,641 to Ludwig (“Ludwig” or Ex. 1008); and (iii) Claims 13, 18, and 27 are rendered obvious over Abuan and Guzman in further view of United States Patent Application Publication No. US 2013/0019297 to Lawson (“Lawson” or Ex. 1007). The Board should deny the Petition for at least the reasons described briefly below.

II. CLAIM CONSTRUCTION

As noted below, the Petition fails to comply with 37 C.F.R. § 42.104(b)(3) because it does not set out “[h]ow the challenged claim[s] are to be construed.” In the District Court Litigation, Petitioner identified multiple terms as allegedly indefinite, but in this proceeding it argues that no construction is necessary without

explanation for the inconsistency. Patent Owner believes that claim construction is not required to deny the Petition. Pet. at 14-15.

III. LEVEL OF ORDINARY SKILL IN THE ART

For the purposes of this Preliminary Response only, Patent Owner utilizes Petitioner's proposed level of skill in the art: "a bachelor's degree in computer science, computer engineering, or an equivalent, and three years of professional experience relating to computer programming. Lack of professional experience can be remedied by additional education, and vice versa." Pet. at 10-11 (citations omitted).

IV. 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 the conclusory statement “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).

To demonstrate inherent obviousness, an inherent limitation must necessarily be present in the combination of references. *See Pers. Web Techs., LLC v. Apple, Inc.*, 917 F.3d 1376 (Fed. Cir. 2019); *LBT IP I LLC v. Apple Inc.*, No. 2022-1613, 2023 WL 3914920, at *3 (Fed. Cir. June 9, 2023). It is not enough to merely show that it is likely to be present. *Id.*

A. The Petition is Defective Because Petitioner Presents Inconsistent Claim Construction Positions With No Explanation

The Petition should be denied because Petitioner has advanced inconsistent claim construction positions in this proceeding and in the parallel District Court Litigation without sufficient explanation. The Petition therefore fails to comply with 37 C.F.R. § 42.104(b)(3) and is defective.

In the Petition, Petitioner states that “no terms require express construction” and that the Challenged Claims should be given their plain and ordinary meaning. Pet. at 14-15. In the District Court Litigation, Petitioner contends the opposite: Petitioner’s Invalidity Contentions assert that numerous claim terms of the ’744 Patent — including “function block,” “superblock,” “wherein the superblock application is configured to access the function block for functionality that is lacking in the superblock application,” “wherein the establishing is not supported by the superblock application,” “external device,” “establishing . . . a connection with the external device,” “providing . . . the communication service to the superblock application,” “operating . . . as a bridge,” “application programming interface (API) call,” “capability to provide the communication service,” “capability to perform any rendering needed by the communication service,” “initializing the function block . .

. when the superblock application is loaded . . . and executed,” and “authorized to access functionality provided by the function block” — are “indefinite under 35 U.S.C. § 112(b) for failure to inform, with reasonable certainty, those skilled in the art about the scope of the invention.” Ex. 2003 at 62-64. Petitioner further asserts in the District Court Litigation that many of these same terms are “§ 112(f) nonce term[s] lacking corresponding structure.” *Id.* Petitioner offers no explanation in the Petition for how these inconsistent positions can be reconciled.

The Director has repeatedly held that such inconsistency, left unexplained, is an independent ground for denying institution. In *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 20 (P.T.A.B. Nov. 3, 2025) (precedential), the Director held that “when a petitioner takes alternative positions before the Board and a district court, that petitioner should, at a minimum, explain why alternative positions are warranted.” *Id.* at 3-4. In *Tesla, Inc. v. Intell. Ventures II LLC*, IPR2025-00340, Paper 18 (P.T.A.B. Nov. 5, 2025) (informative), the Director applied *Revvo* to deny institution where petitioner argued in District Court that a claim limitation was indefinite while simultaneously telling the Board that “no claim term requires express construction.” *Id.* at 3.

Most recently, in *Carbyne, Inc. v. Tritech Software Sys.*, IPR2025-00959, Paper 20 (Director Feb. 19, 2026), the Director applied *Revvo* and *Tesla* to a fact pattern that is materially identical to this one. In *Carbyne*, the petitioner argued in district court that claim terms reciting certain “modules” were indefinite because they should be construed as means-plus-function terms lacking corresponding structure, while arguing before the Board that the same terms required only plain and ordinary meaning. *Id.* at 2-3. The petitioner there—like Petitioner here—attempted to explain away the inconsistency by reframing its District Court position as merely challenging improper functional claiming rather than proposing specific means-plus-function constructions. *Id.* at 4. The Director rejected that explanation: “Petitioner has engaged in the same inconsistency Tesla discourages; namely, arguing indefiniteness in district court and plain and ordinary meaning in this proceeding. . . . [T]his approach ‘detracts from[] the Office’s goal of ‘providing greater predictability and certainty in the patent system.’” *Id.* (quoting *Tesla*, IPR2025-00340, Paper 18 at 4). The Director accordingly granted Director Review, vacated the institution decision, and denied the petition. *Id.* at 4-5.

Petitioner’s posture here is indistinguishable from *Carbyne*. Petitioner tells the Board that claim construction is not required (Pet. at 14-15) while simultaneously

arguing to the District Court that numerous of the very same claim terms are indefinite and that many of them, including “function block” and “superblock” themselves, are “§ 112(f) nonce term[s] lacking corresponding structure.” Ex. 2003 at 62-64. Petitioner has provided no explanation for this divergence — not in the Petition, not in the supporting Declaration of Bruce McNair, and nowhere else in the record. Under *Revvo*, *Tesla*, and *Carbyne*, Petitioner’s failure to explain this inconsistency alone justifies denial of institution. *See also Sun Pharms. Indus. Inc. v. Nivagen Pharms., Inc.*, IPR2025-00893, Paper 18 at 3-4 (P.T.A.B. Sept. 19, 2025) (granting discretionary denial where, among other factors, “Petitioner has taken different claim construction positions in this proceeding and the” parallel district court case).

B. Ground 1: Abuan and Guzman Do Not Render Claims 1-3, 6-12, 14-17, 19-26, and 28 Obvious

1. Abuan and Guzman Do Not Disclose or Render Obvious That the Superblock and Function Block Are Stored in the Same Memory

i. Independent Claims 1, 15, and 20 – “stored in the memory”

The Petitioner argues that Abuan alone discloses “receiving, by a function block stored in the memory of the mobile device, a request for a communication service from a superblock application stored in the memory of the mobile device,”

as required by Claim 1 of the '744 Patent. Pet. at 27-28. The Petitioner does not argue that this limitation is inherent or disclosed in view of any reference other than Abuan. *Id.* The Petitioner relies on this same showing for limitation [15.4] of Claim 15 (“*See* [1.4]”) and, as to method Claim 20, asserts that Claim 20 “recites the same functionality as claim 1 in the form of a method claim” and incorporates its Claim 1 analysis by reference. Pet. at 52-53, 60. While the Petitioner raises certain arguments regarding “additional functions described by Guzman to also be incorporated into Abuan’s modules and components” in view of Guzman, these arguments do not bear on the requirement that the superblock and function block be “stored in the memory of the mobile device.” *Id.* at 28.

This limitation requires that the superblock and function block be stored in the same given memory as each other. Indeed, the storage of the superblock and function block in the same memory is relevant to the advantages of certain patented inventions. *See* '744 Patent at 2:24-65 (teaching that running the superblock and function block in a given memory simultaneously provides counterintuitive advantages to performance and battery life by avoiding “switch[ing] between applications (e.g., switch[ing] contexts), [in which] the device 100 may have to swap instructions into and out of physical memory, which impacts performance and

battery life.” and explaining that these issues are a particular concern in mobile devices due to limited memory footprint).

But the Petitioner fails to address this requirement, let alone show that it is disclosed.

With respect to the superblock, the Petitioner asserts only that “Abuan’s ‘applications are implemented as software processes that are specified as a set of instructions recorded on a computer readable storage medium,’ such as the memory of Abuan’s mobile device. The modules are comprised of software instructions, such as video conferencing instructions 1986, that are stored in memory.” Pet. at 27 (internal citations omitted). With respect to the function block, the Petitioner asserts only that “Abuan’s various modules and components implementing functions provided to the client application 1365 (e.g., the video conference module 1302) correspond to the claimed ‘function block.’ In other words, the software components of the video conferencing and processing module 1300, but excluding client application 1365, corresponds to the claimed ‘function block.’” *Id.* at 28 (internal citations omitted). These statements amount to an assertion that Abuan’s client application, mapped to the superblock application, and Abuan’s video conference

module, mapped to the function block, are stored in a memory of a mobile device, but not that they are stored in the same memory as required by this limitation.

This deficiency is compounded by the fact that Abuan discloses numerous different memories in which portions of its client application and video conference module could be stored. For example, Abuan's Figures 13 and 14—on which the Petition itself relies for identification of the superblock and function block—identify numerous different buffers within the video conference module. Pet. at 29. Abuan states that data of its video conference module may be stored on multiple different buffers without any disclosure that such buffers (or the client application) are part of the same memory. *See* Ex. 1005 at [0170] (“In some embodiments, the buffer 1325 is a frame buffer that stores images of a video for display . . .”); *id.* at [0174] (“As shown in FIG. 13, the video conference module 1302 includes . . . buffers 1306, 1310, 1312, 1316, and 1318.”). Abuan discloses these buffers separately from “memory 1970,” and the Petitioner fails to advance any evidence that these buffers are part of memory 1970. Given the Petitioner's reliance on multiple different memories within the video conference module, its failure to even assert that the client and video conference are stored in the same given memory is fatal.

Claims 15 and 20 suffer from the same deficiency. Petitioner’s analysis of limitation [15.4] expressly cross-references, and relies entirely upon, its analysis of limitation [1.4]. Pet. at 52-53 (“*See* [1.4]”). And the Petitioner’s treatment of independent method Claim 20 is similarly derivative: Petitioner asserts that “[c]laim 20 recites the same functionality as claim 1 in the form of a method claim” and treats the Ground 1 Abuan-Guzman analysis for Claim 1 as dispositive of Claim 20. Pet. at 60. Because the memory limitation of Claims 1, 15, and 20 is addressed only through Petitioner’s Claim 1 analysis, and because that analysis fails to show — or even to assert — same-memory storage of the superblock and function block, the Petitioner fails as to each of the three independent claims.

Because the Petitioner fails to show any disclosure of a superblock application and function block that are both “stored in the memory” as recited in independent Claims 1, 15, and 20, the Petition should be denied.

ii. The Dependent Claims Fall with the Independent Claims

Ground 1 challenges dependent Claims 2-3, 6-12, 14, 16-17, 19, 21-26, and 28 based solely on their dependence from independent Claims 1, 15, and 20. Pet. at 48-60. Because the Petition fails to show that the independent claims are rendered obvious for the reasons set forth above, the dependent claims necessarily stand with

their respective independents. *See In re Fine*, 837 F.2d 1071, 1076 (Fed. Cir. 1988) (“Dependent claims are nonobvious under section 103 if the independent claims from which they depend are nonobvious.”). No additional disclosure from Abuan or Guzman that Petitioner advances for any dependent claim addresses the deficiencies identified above with respect to the “stored in the memory” limitations. Ground 1 therefore fails in its entirety.

C. Grounds 2 and 3: The Addition of Ludwig (Ground 2) or Lawson (Ground 3) Does Not Cure the Deficiencies of Ground 1

Ground 2 challenges dependent Claims 4 and 5, which depend from independent Claim 1. Pet. at 61-68. Ground 2 adds Ludwig to the Abuan-Guzman combination of Ground 1, but only for the additional subject matter recited in Claims 4 and 5 (collaboration sessions and whiteboard sessions, respectively). Pet. at 66-68.

Ground 3 challenges dependent Claims 13, 18, and 27, which depend from independent Claims 1, 15, and 20, respectively. Pet. at 68-74. Ground 3 adds Lawson to the Abuan-Guzman combination of Ground 1, but only for the additional subject matter recited in Claims 13, 18, and 27 (authorization to access function block functionality). Pet. at 71-74.

Because the claims challenged in Grounds 2 and 3 depend from independent Claims 1, 15, and 20, Grounds 2 and 3 fail for the same reasons Ground 1 fails with respect to those independent claims. The addition of Ludwig does not cure the Petitioner's failure to show that Abuan (alone or in combination with Guzman) discloses a superblock application and function block "stored in the memory" of the same mobile device. Nor does the addition of Lawson. The Petitioner does not argue otherwise: Ludwig is offered only for collaboration features (Pet. at 66-68), and Lawson is offered only for authorization and authentication features (Pet. at 68-74). Neither reference addresses—let alone cures—the same-memory storage deficiency. *See In re Fine*, 837 F.2d at 1076. Grounds 2 and 3 therefore fail.

V. CONCLUSION

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

Respectfully submitted,

Dated: April 20, 2026

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CERTIFICATE OF WORD COUNT

The undersigned hereby certifies that the portions of the above-captioned PATENT OWNER'S PRELIMINARY RESPONSE specified in 37 C.F.R. § 42.24 has 2,881 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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