

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,

Petitioner,

v.

DAMAKA, INC.,

Patent Owner.

Patent No. 11,930,362
Filing Date: January 19, 2023
Issue Date: March 12, 2024

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. IPR2026-00210

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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. 11,930,362 (Ex. 1001, the “’362 Patent”), challenging Claims 1-28 and 75 (the “Challenged Claims”). The Petition asserts that: (i) Claims 1-14, 16-20, 22-28, and 75 are rendered obvious over United States Patent Application Publication No. US 2011/0249077 to Abuan (“Abuan” or Ex. 1005), United States Patent No. US 8,396,490 to Platt (“Platt” or Ex. 1006), and United States Patent Application Publication No. US 2014/0184723 to Morrison (“Morrison” or Ex. 1007); (ii) Claim 15 is rendered obvious over Abuan, Platt, Morrison and United States Patent Application Publication No. US 2010/0066807 to Eisenberg (“Eisenberg” or Ex. 1019); and (iii) Claim 21 is rendered obvious over Abuan, Platt, Morrison, and United States Patent Application Publication No. US 2013/0290982 to Beilis (“Beilis” or Ex. 1041). 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 11.

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.” *Id.* 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 11. In the District Court Litigation, Petitioner contends the opposite: Petitioner's Invalidity Contentions assert that numerous claim terms of the '362 Patent — including the very “rendering, by the superblock application on the computing device of the second user, the real-time communication session with the first user using the rendering information” limitation that Petitioner contends Abuan,

Platt, and Morrison disclose or render obvious, as well as “function block,” “superblock,” “superblock application,” “function block compiled therein,” “function block compiled into the superblock application,” “communicating, by the superblock application...the request to a remote resource,” “providing, by the superblock application...a notification,” “identifying, by the superblock application...rendering information,” “rendering information,” “the real-time communication session within the superblock application,” “application programming interface (API) calls,” “function block [that] is adapted to be compiled with the superblock application,” and “function block...adapted to interact with the one or more servers” — 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 65-67. 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 (Director 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 (P.T.A.B. 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 11) 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 65-67. The two limitations on which the Petitioner's entire Ground 1 merits showing turns — the "rendering by the superblock application" limitation of Claim 1 and the "function block compiled into the superblock application" limitation of Claim 75 — are themselves among the terms Petitioner has told the District Court are indefinite for failure to inform skilled artisans of the scope of the invention. Petitioner cannot plausibly contend both (i) that these limitations are so clear on their face that no construction is required and (ii) that the very same limitations are so unclear they cannot be understood at all. 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, Platt, and Morrison Do Not Render
Claims 1-14, 16-20, 22-28, and 75 Obvious**

- 1. Abuan, Platt, and Morrison Do Not Disclose or Render
Obvious Rendering by the Superblock Application (Claim 1
and Its Dependents)**
 - i. Independent Claim 1—“rendering, by the superblock
application on the computing device of the second user, the
real-time communication session with the first user using
the rendering information”**

Independent Claim 1 of the '362 Patent requires, at limitation [1.7], “rendering, by the superblock application on the computing device of the second user, the real-time communication session with the first user using the rendering information.” '362 Patent, Cl. 1. The claim thus requires that the superblock

application—not some other component—perform the rendering of the real-time communication session on the second user's device.

The Petitioner maps the claimed “superblock application” to Abuan's client application 1365 (together with the video conferencing and processing module 1300) and maps the claimed “function block” to a subset of Abuan's video conferencing and processing module 1300 “but excluding client application 1365.” Pet. at 27-28. Under this mapping, the Petitioner must show that the client application 1365 — not Abuan's video conference module 1302 or its submodules — performs the rendering of the communication session. The Petitioner fails to do so.

First, Abuan itself nowhere attributes rendering of the communication session to the client application 1365. The Petitioner identifies three paragraphs of Abuan as the basis for its [1.7] showing — [0112], [0124], and [0148] — each of which describes only what the user interface “shows” or “displays” after the call is accepted. *See Id.* at 40-41. For example, Abuan states that “the UI 805 can display a display area 870 (e.g., a display window 870) that contains the video from a camera of the remote device.” Ex. 1005, [0124]. But a description of what the UI “shows” or “displays” is not a disclosure of which component performs the *rendering*. Abuan's text does not say that the client application 1365—as opposed to the video

conference module 1302 or the video conference manager 1304 within it—is the entity that renders the PIP.

Second, Abuan's specification elsewhere affirmatively places the rendering function in the function block, not the superblock. Abuan expressly states that “the video conference manager 1304 . . . generates the PIP or other composite views to display on the mobile device.” Ex. 1005, [0176]. The video conference manager 1304 is, under Petitioner's own mapping, part of the function block — not the superblock. Pet. at 27-28. Abuan thus attributes the actual generation of the displayed PIP to a function-block component, directly contrary to what Claim 1 requires.

Third, Petitioner's own declarant confirms this in his analysis of the parallel Claim 2 limitation [2.3], which requires “rendering, by the function block on the computing device of the second user, the real-time communication session.” Dr. McNair writes that “components of the video conference module 1302 (function block) further process the video call information received using the hardware components, including 'encoding audio data captured by the microphone 1425 and decoding audio data stored in the buffer 1410 . . . in order to output to the speaker 1430.’” Ex. 1003, ¶ 127. Dr. McNair then expressly states: “Thus, Abuan teaches

outputting the audio and video elements of the video call (rendering ... the real-time communication session) using the information about the hardware device providing the audio and video data (using the rendering information).” *Id.* Dr. McNair thus attributes the “rendering ... [of] the real-time communication session” to the function block — in his own words — which is exactly the opposite of what Claim 1 [1.7] requires. Under the Petitioner's own mapping and its expert's own characterization, it is Abuan's function block, not the superblock, that performs the very operation that Claim 1 assigns exclusively to the superblock.

Fourth, Abuan's specification does not use the terms “render” or “rendering” to describe any operation performed by the client application 1365. Petitioner's citations—[0112], [0124], and [0148]—confirm this. They describe the UI “display[ing]” or “show[ing]” content; none of them uses “render,” “rendering,” or any cognate of that term to describe an action performed by the client application 1365. Abuan's specification does not bridge Petitioner's gap.

Fifth, Morrison does not save Petitioner's [1.7] showing. Petitioner relies on Morrison for the proposition that “a display management module 510 determines what portion of the window of the platform and application(s) 508 can be allocated to display video call from the video call client 506.” Pet. at 41 (citing Ex. 1007,

[0049]). But Morrison's architecture actually contradicts Petitioner's position. Morrison describes three separate components: (i) the “video call client 506” (the component that provides the video call service), (ii) the “platform and application(s) 508” (the component that provides other, non-video-call applications), and (iii) the “display management module 510” (a third, separate component). Ex. 1007, [0044]-[0049]. Morrison teaches that it is the display management module 510 — not the video call client 506 and not the platform and application(s) 508 — that “receive[s] user interface data from the video call client 506 and/or from the platform and application(s) 508” and that “determine[s] what portion of the display to allocate to each.” Ex. 1007, [0049]; *see also* Pet. at 18 (Petitioner's own summary, concedes that “the display management module renders user interface data, and controls sizing of the video call UI and activity UI”). Morrison thus teaches an architecture in which rendering is done by neither the video call client (a candidate function block) nor the platform/applications (a candidate superblock), but by a third separate module. That does not disclose rendering by the superblock application; it affirmatively describes rendering by a different component altogether.

Indeed, Dr. McNair confirms the incompatibility of Morrison with limitation [1.7] elsewhere in his own declaration. When addressing Claim 2 limitation [2.3] —

which requires that the rendering be performed “by the function block” — Dr. McNair expressly maps Morrison's display management module 510 to the function block: “Morrison teaches that its display management module 510 (function block) render[s] one as an overlay in front of a portion of the other.” Ex. 1003, ¶ 128. Petitioner cannot have it both ways: Dr. McNair cannot simultaneously rely on Morrison's display management module 510 to show rendering by the superblock for [1.7] and, in the very same declaration, map that same module to the function block for [2.3]. Either way, Morrison does not disclose rendering by the superblock application. Petitioner cannot rely on Morrison for a claim element that Morrison does not disclose.

Sixth, Platt is not cited for [1.7] at all. Petitioner's showing concludes that “Abuan alone or in view of Morrison renders obvious this limitation.” Pet. at 42. Platt provides no rescue for the missing “rendering by the superblock application” limitation.

Because the Petitioner fails to show that Abuan, Platt, and Morrison disclose or render obvious the “rendering, by the superblock application” requirement of independent Claim 1, Ground 1 fails as to Claim 1 for this reason.

ii. Independent Claim 75 — “the function block compiled into the superblock application”

Independent Claim 75 is an independent non-transitory computer readable medium Claim that requires, at limitation [75.2], “the function block compiled into the superblock application, wherein the function block is adapted to be compiled with the superblock application and is adapted to interact with the one or more servers connected over the internet to provide the real-time communication session within the superblock application.” ’362 Patent, Cl. 75. This limitation requires, at minimum, that the function block and the superblock application be compiled together, such that the function block is part of — not simply accessible from — the superblock application.

Petitioner's analysis of limitation [75.2] is a cross-reference to its analysis of Claim 1 limitation [1.2]: “As discussed above in [1.2], Abuan discloses or renders obvious that the function block [is] compiled into the superblock application.” *Id.* at 82; Ex. 1003, ¶ 235. Petitioner's [1.2] analysis, in turn, does not identify any disclosure in Abuan that the client application 1365 and the video conference module 1302 are compiled together into a single, unitary application. Instead, Petitioner argues that Abuan's description of its client application as “a stand-alone application,” Ex. 1005, [0105], would have been understood by a POSITA “to mean

that all the functionality of the application, including its module subcomponents (e.g., the function block functionality) is compiled into a single, unitary application.” Pet. at 29-30; Ex. 1003, ¶ 80. For support, Petitioner cites only (i) a conclusory opinion from Dr. McNair (Ex. 1003, ¶ 80) and (ii) an extrinsic reference, Ex. 1012, at 1:26-29, which describes — as general background — that “[t]raditionally, an application's source files are compiled in object modules and then linked together with other object modules, generically called libraries, to form a complete stand-alone application.” Pet. at 30; Ex. 1003, ¶ 80.

Neither source bridges the gap. Abuan's use of the term “stand-alone application” does not, on its face, disclose or require that the client application 1365 and the video conference module 1302 be compiled together. The term “stand-alone” describes the fact that an application can operate as an independent program; it says nothing about how, or whether, the application's internal modules are compiled. Abuan never says that the client application 1365 and the video conference module 1302 must be, or even are, compiled into a single unit.

To the contrary, Abuan's own teachings on APIs describe an architecture inconsistent with compulsory compilation of the function block into the superblock application. Abuan explains that “[a]n API is an interface implemented by a program

code component or hardware component (hereinafter 'API-implementing component') that allows a different program code component or hardware component (hereinafter 'API-calling component') to access and use one or more functions.” Ex. 1005, [0238]. Abuan further describes “embodiments of the media exchange module 310 (or 910) [that] provide a set of APIs to other software components.” *Id.*, [0237]. Abuan's API architecture thus contemplates separate components—the API-implementing component and the API-calling component—that interact through defined interfaces, not a single unitary compiled block. Petitioner cannot use Abuan's API disclosures to establish that Abuan discloses compiling the function block into the superblock application when those same disclosures describe the function block and the superblock application operating as distinct components linked through API calls.

Petitioner's reliance on Ex. 1012 fares no better. Ex. 1012 is not Abuan. Petitioner does not identify Ex. 1012 as a § 103 reference for any ground, does not include it in the statutory-grounds table (Pet. at 12), and makes no motivation-to-combine showing for incorporating Ex. 1012's background definition of “stand-alone application” into Abuan's disclosure. Extrinsic evidence cannot supply an element missing from the asserted prior art combination. *See Pers. Web Techs., LLC*

v. Apple, Inc., 917 F.3d 1376, 1381 (Fed. Cir. 2019) (inherency requires that the limitation be “necessarily present,” not merely possible). And the substantive content of Ex. 1012 at 1:26-29 does not help Petitioner in any event: it merely describes the general process of compiling object modules and linking them with “libraries” to form “a complete stand-alone application.” That does not compel the conclusion that every component of every stand-alone application is compiled in. It confirms, at most, that libraries may be linked — which is just as consistent with the function block being provided as a separately-linked library as with its being “compiled into” the superblock application.

Because the Petitioner fails to show that Abuan, Platt, and Morrison disclose or render obvious the “function block compiled into the superblock application” requirement of independent Claim 75, Ground 1 fails as to Claim 75 as well.

2. The Dependent Claims Fall with the Independent Claims

Ground 1 challenges dependent Claims 2-14, 16-20, and 22-28 based solely on their dependence from independent Claim 1. Pet. at 42-76. Because the Petition fails to show that independent Claim 1 is rendered obvious for the reasons set forth above, each of these dependent claims necessarily stands with Claim 1. *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, Platt, or Morrison that Petitioner advances for any dependent claim addresses the deficiencies identified above with respect to the “rendering by the superblock application” limitation of Claim 1 or the “function block compiled into the superblock application” limitation of Claim 75. Ground 1 therefore fails in its entirety.

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

Ground 2 challenges dependent Claim 15, which depends from independent Claim 1. Pet. at 84-87. Ground 2 adds Eisenberg to the Abuan-Platt-Morrison combination of Ground 1, but only for the additional subject matter recited in Claim 15 (the superblock application being adapted to update a presence indicator). *Id.* at 86-87.

Ground 3 challenges dependent Claim 21, which depends from independent Claim 1. *Id.* at 88-91. Ground 3 adds Beilis to the Abuan-Platt-Morrison combination of Ground 1, but only for the additional subject matter recited in Claim 21 (the superblock application being adapted to operate with iOS or Android). *Id.* at 90.

Because the claims challenged in Grounds 2 and 3 both depend from independent Claim 1, Grounds 2 and 3 fail for the same reasons Ground 1 fails with respect to Claim 1. The addition of Eisenberg does not cure the Petitioner's failure to show that Abuan, Platt, and Morrison disclose or render obvious “rendering, by the superblock application.” Nor does the addition of Beilis. The Petitioner does not argue otherwise: Eisenberg is offered only for presence-indicator features (*id.* at 86-87), and Beilis is offered only for operating-system-compatibility features (*id.* at 90). Neither reference addresses—let alone cures—the rendering-by-the-superblock 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 4,005 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.

Respectfully submitted,

April 20, 2026

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CERTIFICATE OF SERVICE

A copy of the foregoing Patent Owner's Preliminary Response has been served on Petitioners' counsel of record as follows:

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