

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,

Petitioner,

v.

DAMAKA, INC.,

Patent Owner.

Patent No. 12,279,116

Filing Date: February 5, 2024

Issue Date: April 15, 2025

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. IPR2026-00211

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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. 12,279,116 (Ex. 1001, the “’116 Patent”), challenging Claims 1-55 (the “Challenged Claims”). The Petition asserts that: (i) Claims 1-8, 11-20, 22-27, and 55 are rendered obvious over United States Patent Application Publication No. US 2011/0249077 to Abuan (“Abuan” or Ex. 1005); (ii) Claim 15 is rendered obvious over Abuan and United States Patent Application Publication No. US 2010/0066807 to Eisenberg (“Eisenberg” or Ex. 1019); (iii) Claim 21 is rendered obvious over Abuan and United States Patent Application No. US 2013/0290982 to Beilis (“Beilis” or Ex. 1046); (iv) Claims 9-10, 28-41, 43-47, and 49-54 are rendered obvious over Abuan and United States Patent Application Publication No. US 2012/0092438 to Guzman Suarez (“Guzman” or Ex. 1007); (v) Claim 42 is rendered obvious over Abuan, Guzman and Eisenberg; and (vi) Claim 48 is rendered obvious over Abuan, Guzman and Beilis. 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 12.

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 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 12. In the District Court Litigation, Petitioner contends the opposite: Petitioner’s Invalidity Contentions assert that numerous claim terms of the ’116 Patent — including the very “third party superblock application that has its own functionality and display window” limitation on which the Petitioner’s entire Ground 1 merits showing turns, as well as “function block,” “superblock,” “superblock application,” “third party superblock application,” “function block for use in adding additional functionality,” “function block . . . configured to be

compiled into the superblock application,” “function block . . . configured to interact with the superblock application through one or more application programming interface (API) calls,” “enabling establishment of the real-time communication session between the one or more servers and the function block compiled into the superblock application,” “the function block can provide the real-time communication session to the superblock application,” “providing an authorization key for use by the superblock application,” “providing authentication credentials for use by the superblock application,” “update a presence indicator within the superblock application,” and “configured to be compiled with the superblock application”—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 67-68. 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 (Director. 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. Intellectual 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 (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 12) 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 67-68. The critical limitation on which the Petitioner’s entire Ground 1 merits showing turns—the “third party superblock application that has its own functionality and display window” limitation that recurs in each of Claims 1, 28, and 55—is itself among the terms Petitioner has told the District Court is indefinite for failure to inform skilled artisans of the scope of the invention. Petitioner cannot plausibly contend both (i) that this limitation is so clear on its face that no construction is required and (ii) that the very same limitation is so unclear it 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 Does Not Render Claims 1-8, 11-20, 22-27, and 55 Obvious

1. Background on the ’116 Patent and the “Its Own Functionality and Display Window” Limitation

The ’116 Patent is directed to a software architecture in which a pre-existing third-party application—the “superblock application”—is enhanced with supplemental capabilities by way of a “function block” that is compiled into the superblock application and operates within its execution context. Independent claims 1, 28, and 55 each require “providing a function block for use in adding additional functionality to a third party superblock application that has its own functionality and display window.” ’116 Patent, Cls. 1, 28, 55.

The specification describes the superblock application, in a non-limiting example, as a pre-existing, user-facing third-party application that already has its

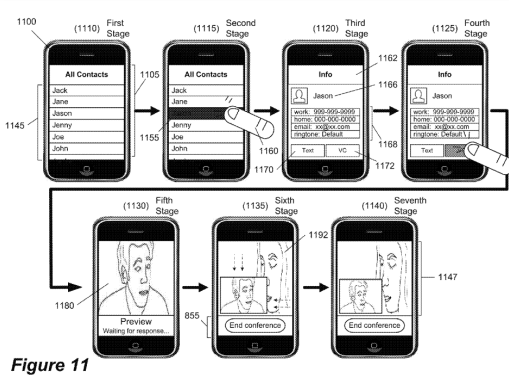
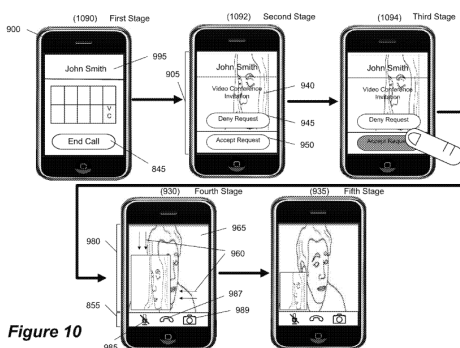
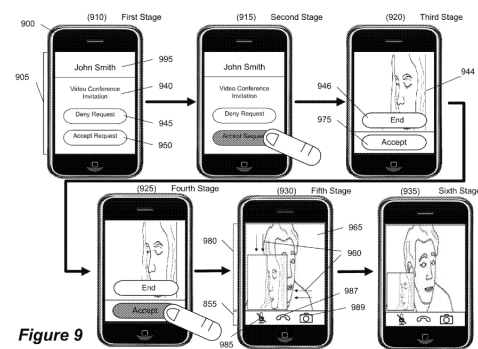
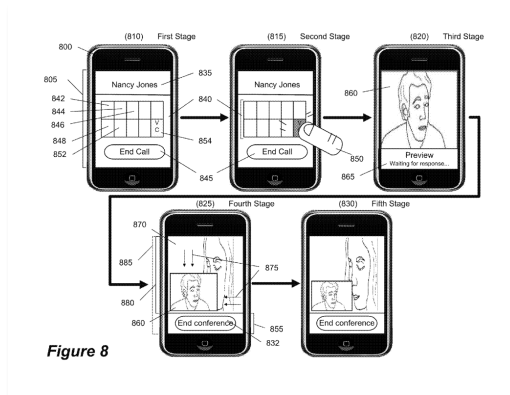
own display window and its own operational functionality—into which the separately authored function block introduces a new capability without requiring the user to leave the superblock’s display environment. The specification’s paradigmatic example is a phone-call video window: “the function block 200 may provide a video window for the phone call within the display of the superblock application, enabling a user to simultaneously see the video window and the superblock application.” ’116 Patent at 4:44-47; *see also id.* at 4:48-53 (explaining that the function block enables “visual functions [to be] presented without leaving the superblock application display” and that “there is no need to switch context . . . to any other application in order to access the additional functionality provided by the function block 200”); *id.* at 7:31-38 (describing that the “superblock 104 is ... needed to provide a video window to render the video (*e.g.*, the function block 200 may provide the video data to be rendered and the superblock 104 may place that video data in a video window)”).

**i. The Petition Fails to Show That the Prior Art Discloses
“Providing a Function Block for Use in Adding Additional
Functionality to a Third Party Superblock Application
That has its own Functionality and Display Window”**

Independent Claims 1 and 55 each require that the third party superblock application “has its own functionality and display window.” ’116 Patent, Cls. 1, 55.

Petitioner contends that Abuan’s “video conferencing and processing module 1300 (including the client application 1365 and various modules)” corresponds to the claimed “third party superblock application.” Pet. at 23. There is no disclosure in Abuan of the video conferencing and processing module 1300, or the client application 1365, having its “own functionality and display window” as required by the claims.

Petitioner also cites Figures 8-11 of Abuan as allegedly “illustrating example user interfaces for videoconference functionality with display windows.” *Id.* at 26. But pointing to those figures does not carry Petitioner's burden. Petitioner does not identify anything in Figures 8-11, or in the accompanying text, that it attributes *to the client application 1365* as having “its own” functionality or “its own” display window—as opposed to the videoconferencing functionality and composite videoconference display that Petitioner has mapped to the function block (video conference module 1302 and related modules). *See id.*; Ex. 1003 ¶¶ 0117-0149. Petitioner's own mapping places the videoconferencing functionality and the rendering of the videoconference display with the function block, not with the client application 1365 that Petitioner identifies as the third-party superblock application.



Finally, Petitioner claims that Abuan “describes how an application accesses the functionality of other software modules via defined application programming interfaces (APIs).” Pet. at 26-27. But the use of APIs to call functionality of a software module does not disclose or render obvious the claimed requirement that the superblock application, which under Petitioner’s interpretation is the video conferencing and processing module 1300, has its own functionality and display

window. Therefore, the Petitioner has not shown that Abuan renders independent Claims 1 and 55 obvious.

ii. Additional Deficiencies in the Petitioner's Showing

The Petitioner's attempted showing for limitation [1.1] suffers from additional defects that reinforce the deficiency identified above.

First, the prosecution history underscores why Petitioner's "stand-alone application" inference cannot carry its obviousness burden. Petitioner itself acknowledges in the Petition that "[t]he examiner then allow[ed] the claims, stating that the elements corresponding to limitations [1.1]-[1.3] of Claim 1 ... (and the other independent claims) were not clearly taught or fairly suggested by the prior art of record." *Id.* at 11. Petitioner's instant showing — that a single piece of attorney-advanced inferential reasoning transforms Abuan's "stand-alone application" language into a disclosure of "its own functionality and display window" — asks the Board to reach the opposite conclusion the examiner reached, on substantively the same sort of prior-art teaching, without any meaningful new evidence.

Second, the "such that" leap on which the Petitioner relies is not an actual disclosure in Abuan; it is Petitioner's expert's conclusory characterization. In ¶ 61 of his declaration, Dr. McNair asserts that "Abuan describes the application

employing the videoconferencing module and other modular components as ‘a stand-alone application,’ such that it has its own stand-alone functionality and display window.” Ex. 1003, ¶ 61. Dr. McNair offers no bridging analysis between Abuan’s “stand-alone application” language and the conclusion that Abuan discloses a superblock application with “its own functionality and display window”; he simply makes the leap. Conclusory expert testimony of that form cannot supply a missing disclosure. *See TQ Delta, LLC v. Cisco Sys., Inc.*, 942 F.3d 1352, 1358-59 (Fed. Cir. 2019) (reversing Board’s reliance on “conclusory expert testimony”).

Third, Petitioner’s own declarant’s treatment of Abuan’s API architecture affirmatively confirms the deficiency. Dr. McNair expressly opines: “Abuan describes how an application accesses the functionality of the other software modules via defined application programming interfaces (APIs). ... This structure puts functionality in the API-implementing component (e.g., the function block) and not in the API-calling component (e.g., the superblock application).” Ex. 1003, ¶ 62; Pet. at 26-27 (repeating same assertion). Petitioner’s own expert thus concedes that Abuan’s architecture places functionality in the function block and not in the alleged superblock. That concession is dispositive: the claim requires the third party

superblock application to have “its own functionality,” but Petitioner’s expert admits that Abuan puts functionality on the opposite side of the API boundary.

Fourth, Petitioner’s reliance on extrinsic reference Ex. 1012 — a 1997 patent describing compile-time library linking — cannot bridge the gap. Pet. at 26 (citing Ex. 1012, 1:26-29); Ex. 1003, ¶ 61. Petitioner does not assert Ex. 1012 as a § 103 reference for any ground (Pet. at 13), does not identify it in the grounds table, and offers no motivation-to-combine showing. The substantive content Petitioner quotes—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”—addresses only how applications are linked at compile time. It says nothing about which component within a compiled application has its “own” functionality and its own display window.

Fifth, the Petitioner’s deficiency as to limitation [1.1] reaches independent Claims 28 and 55 with equal force because, under Petitioner’s own framing, those claims are dispositively derivative. Petitioner treats Claim 55 [55.1] as a pure cross-reference to its [1.1] analysis: “See [1.1].” Pet. at 66; Ex. 1003, ¶ 168 (“See [1.1] above.”). And Petitioner expressly states that, as to Claim 28, “limitations [28.0]

through [28.3] being word-for-word identical to limitations [1.0] through [1.3], respectively. ... Accordingly, Claims 28-41, 43-47, and 49-54 [are] obvious for the same reasons as discussed above.” Pet. at 83-84; see also Ex. 1003, ¶ 211 (“See [1.1] above.”). Dr. McNair’s entire analyses for limitations [28.1] and [55.1] are — literally, word for word—one-line cross-references to his ¶¶ 57-64 analysis of [1.1]. Because Petitioner’s showings for [28.1] and [55.1] are wholly derivative of its failed [1.1] showing, they fail for the same reasons.

iii. The Dependent Claims Fall with the Independent Claims

Ground 1 challenges dependent Claims 2-8, 11-20, 22-27 based solely on their dependence from independent Claim 1, plus independent Claim 55. Pet. at 27-66. Because the Petitioner fails to show that independent Claims 1 and 55 are rendered obvious for the reasons set forth above, the dependent claims necessarily stand 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 that Petitioner advances for any dependent claim addresses the deficiencies identified above with respect to the “its own functionality and display window” limitation. Ground 1 therefore fails in its entirety.

C. Grounds 2-6: The Addition of Eisenberg, Beilis, or Guzman Does Not Cure the Deficiencies of Ground 1

Ground 2 challenges dependent Claim 15, which depends from independent Claim 1. Pet. at 66-69. Ground 2 adds Eisenberg to Abuan, but only for the additional subject matter recited in Claim 15 (presence indicator). *Id.* at 68-69. Ground 3 challenges dependent Claim 21, which depends from independent Claim 1. Pet. at 70-73. Ground 3 adds Beilis to Abuan, but only for the additional subject matter recited in Claim 21 (Android operating system). *Id.* at 72-73.

Ground 4 challenges dependent Claims 9-10 (depending from Claim 1), independent Claim 28, and dependent Claims 29-41, 43-47, and 49-54 (depending from Claim 28). *Id.* at 74-86. Ground 4 adds Guzman to Abuan, but only for the additional subject matter of authorization credentials. *Id.* at 78-86. Ground 5 challenges dependent Claim 42 (adding Eisenberg to Abuan-Guzman for presence features), and Ground 6 challenges dependent Claim 48 (adding Beilis to Abuan-Guzman for Android features). *Id.* at 86.

Each of Grounds 2, 3, 4, 5, and 6 is built on top of Ground 1's deficient showing on the "its own functionality and display window" limitation. As to independent Claim 28 challenged in Ground 4, Petitioner expressly states that limitations [28.0] through [28.3] are "word-for-word identical" to limitations [1.0]

through [1.3] and are “obvious for the same reasons as discussed above” in the Claim 1 analysis. *Id.* at 83-84. Ground 4 therefore fails as to independent Claim 28 (and its dependents) for the same reasons Ground 1 fails as to independent Claim 1. As to the dependent claims in each of the six grounds, none of Eisenberg, Beilis, or Guzman is offered to cure the “its own functionality and display window” deficiency. Eisenberg is offered only for presence features (*id.* at 68-69, 86); Beilis is offered only for Android operating system features (*id.* at 72-73, 86); and Guzman is offered only for authorization credentials (*id.* at 78-86). None of these references addresses — let alone cures — the “its own functionality and display window” deficiency. *See In re Fine*, 837 F.2d at 1076. Grounds 2 through 6 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 3,525 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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A copy of the foregoing Patent Owner's Preliminary Response has been served on Petitioners' counsel of record as follows:

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