

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**SAMSUNG ELECTRONICS CO., LTD. AND
SAMSUNG ELECTRONICS AMERICA, INC.,**
Petitioner

v.

TVNGO LTD.,
Patent Owner

IPR2026-00214
U.S. Patent No. RE50,399

**PATENT OWNER TVNGO LTD.'S
PRELIMINARY RESPONSE**

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I. INTRODUCTION

Institution should be denied as petitioners Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively “Samsung” or “Petitioner”) have not shown that any of its asserted grounds teach the features claimed by the patent-at-issue, TVnGO Ltd.’s (“TVnGO” or “Patent Owner”) U.S. Patent No. RE50,399 (the “’399 Patent” or “Patent”). The Petition fails to support its conclusory assertions with evidence and often resorts to the *ipse dixit* testimony of its expert witness, Dr. V. Michael Bove, Jr., to attempt to fill gaps in the asserted art.

The Petition’s first set of grounds, based on the Marler reference, fails to show numerous limitations. For example, the Petition does not demonstrate that Marler teaches “overlay-enabling digital data” including a “Web link indicating a website where content ... is stored.” In fact, the Petition’s own citations show that Marler does not even use content stored on a website. *See* §IV.A. The Petition also does not show any teaching in Marler of a “combiner unit” retrieving content and generating a “second video display screen” including the content. *See* §IV.B. The Petition further fails to show “overlay-enabling digital data” in Marler that includes both “an image indicative of the content associated with said overlay-enabling digital data, *and* an overlay activation criterion.” *See* §IV.C. Petitioner also does not demonstrate that Marler discloses or suggests “video signals” and “overlay-enabling digital data” that “originate from unrelates sources.” *See* §IV.D

Petitioner's second set of grounds, based on the Zigmond reference, fares no better. The Petition fails to show that Zigmond teaches key components of the claims, including a "combiner unit" and "overlay-enabling digital data." *See* §§V.A-B. Petitioner also does not demonstrate that Zigmond teaches a "second video display screen" including the retrieved "content," and does not even clearly map this limitation to any teaching in Zigmond. *See* §V.C. The Petition further fails to show that Zigmond includes a "image indicative of the content" that is "provid[ed] ... over the Internet," and improperly attempts to use expert testimony to fill this gap. *See* §V.D. The Petition also fails to show that it would be obvious to combine Zigmond and Redling. *See* §V.E. Finally, Petitioner again does not show that Zigmond discloses or suggests "video signals" and "overlay-enabling digital data" that "originate from unrelates sources." *See* §V.F.

II. BACKGROUND

A. TVnGO

TVnGO was founded in 2005 in Ra'anana, Israel to develop groundbreaking technology to integrate television and internet content. The company committed significant resources to ensure its technology was protected in key markets all over the world, including the United States. This investment in intellectual property resulted in a significant patent portfolio, including the '399 Patent at issue here and U.S. Patent No. RE50,328 (the "'328 Patent") at issue in a co-pending IPR.

By the mid-to-late 2000s, TVnGO had become well-known in the industry, meeting with electronics industry leaders, attending tradeshow, developing multiple business models, and manufacturing products. Ex. 2003 ¶3; Ex. 2007 at 1. These commercialization efforts proved fruitful as TVnGO entered into agreements with numerous market participants, including Icon TV Media Ltd., which signed a license agreement for the Israeli market. Ex. 2005 at 3; Ex. 2007 at 1. TVnGO also signed a deal with Chinese cable TV company BTTV to deploy TVnGO's technology in China, and partnered with computer manufacturer Shuttle Inc. to integrate its technology into Shuttle's mobile and home PC systems. Ex. 2006 at 1; Ex. 2007 at 1.

B. The '399 Patent

The early to mid 2000s saw a proliferation of high-speed internet, which led to Internet TV as a viable alternative to regular and cable TV. Ex. 1001 at 1:20-27. While market participants had explored various ways to display internet content on a television, none had successfully developed a system for merging "broadcast TV signals with IP packet data at a customer site, specifically in such a manner that a conventional TV set is able to display Internet program selection data while viewing a TV broadcast program and to use the selected data to select an Internet channel, such as a movie, for display on the TV set instead of the TV broadcast program." *Id.* at 2:18-25.

TVnGO solved this problem with its invention of the TV-Internet Integration Box described in the '399 Patent. This TV-Internet Integration Box allowed broadcast television content to be merged with internet content at the user's home. As shown below, in one embodiment, broadcast television (e.g., from a cable TV box) and internet data are both fed into the TV-Internet Integration Box where they are merged into a combined video signal that is sent to the user's TV.

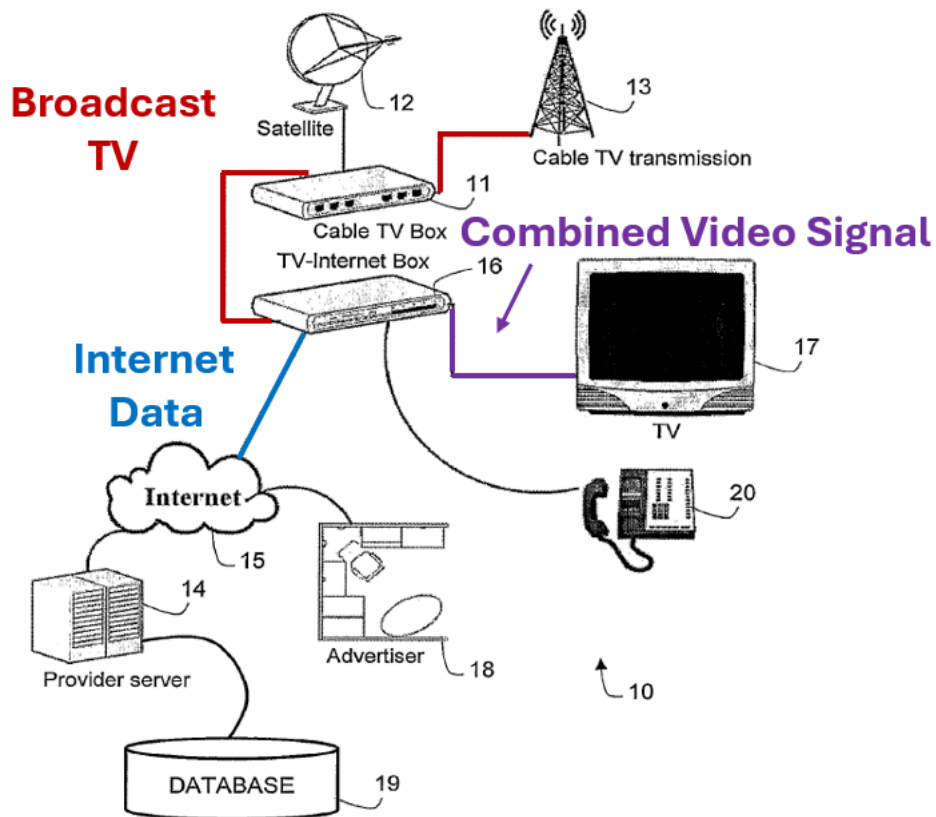


FIG. 1

Ex. 1002 at Fig. 1 (annotated); *see also id.* at Fig. 1.¹ The TV-Internet Box may alternatively be incorporated into the television itself. *See* Ex. 1001 at 3:40-65, 6:52-7:5.

The TV-Internet Integration Box contains a combiner unit for combining broadcast TV and Internet data. This combiner unit, which includes a combiner circuit, receives a TV broadcast signal (a “first data”) through a first input and Internet IP packet data (a “second data”) through a second input. The first and second data are then combined by the combiner unit to create a “combined video signal” that is sent to the user’s TV, as illustrated below.

¹ Figure 1 of the ’328 patent (Ex. 1002), shown above, is substantively identical to ’399 Patent (Ex. 1001) Figure 1, but is visually sharper and more legible.

Combiner Circuit

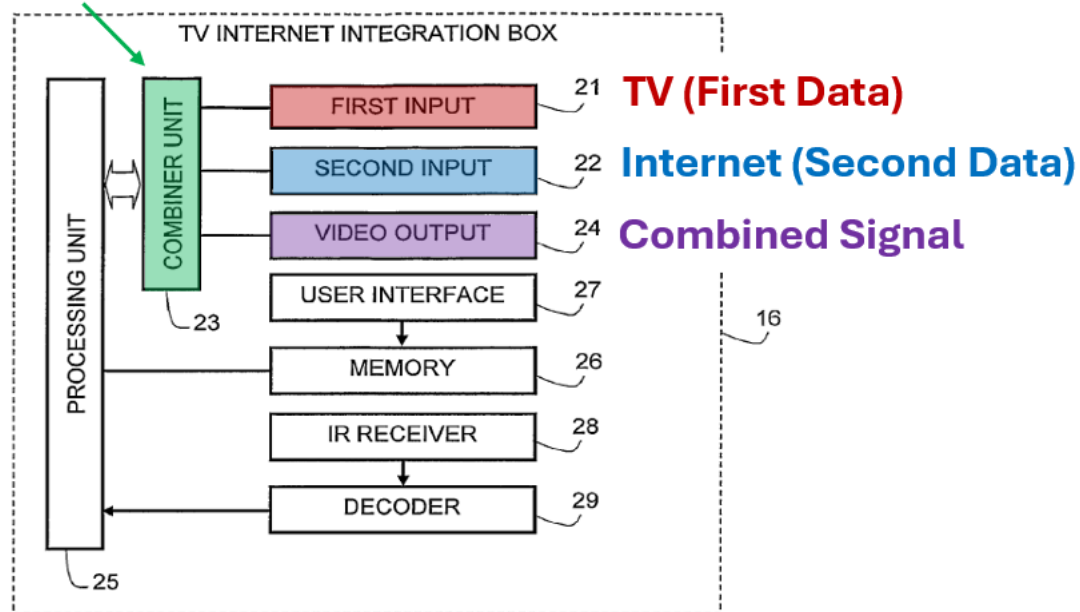


FIG. 5

Ex. 1001 at Fig. 5 (annotated); *id.* at 6:52-7:5.

This Internet “second data,” or “overlay-enabling digital data,” includes icons for indicating the availability of associated internet (IP) content, informs the TV-Internet Integration Box “which channel or channels the associated IP content is to be streamed and at what times,” and specifies “the web site where the IP content is located.” *Id.* at 7:63-8:2, 9:2-28; *see also id.* at 8:3-10 (Table I).

In operation, the system can overlay a small icon on the TV content. If the user selects the icon, the system will then retrieve the associated internet content and display it on either a portion of the TV screen or “substantially the whole area of the screen.” The user may also cause the system to “revert” to the default setting where

“the TV broadcast occupies the whole area of the TV screen.” *See* Ex. 1001 at 7:21-7:63, Figs. 7a-c, 8.

The '399 Patent thus provides a convenient and innovative way to integrate television and internet content at the user's home.

C. Marler

Petitioner's Grounds 1-5 are based on U.S. Patent Publication No. 2001/0003212 to Jerilyn L. Marler et al. (“Marler”). Marler describes a system for providing “ancillary information” such as “enhancement data” alongside television broadcast signals. This “enhancement data” sent with the TV signals can include “graphics (e.g., web pages, multimedia information, or other digital data files), presentation layout, and synchronization information.” A content creator creates both the television content and ancillary information (*e.g.*, enhancement data) to be sent to users by a “transport operator system.” Ex. 1007 ¶¶2, 13.

Marler explains that its “transport operator system” can be a cable or satellite transmission facility which sends both TV signals and enhancement data to “receivers,” such as televisions or set-top boxes. This enhancement data, which can include “announcements, resources, and triggers,” is sent to the receiver at the same time as the TV signals, either using the same “transport medium” as the TV signal, or via a “secondary link.” The enhancement data can optionally be stored on a server that is also connected to the “secondary link.”

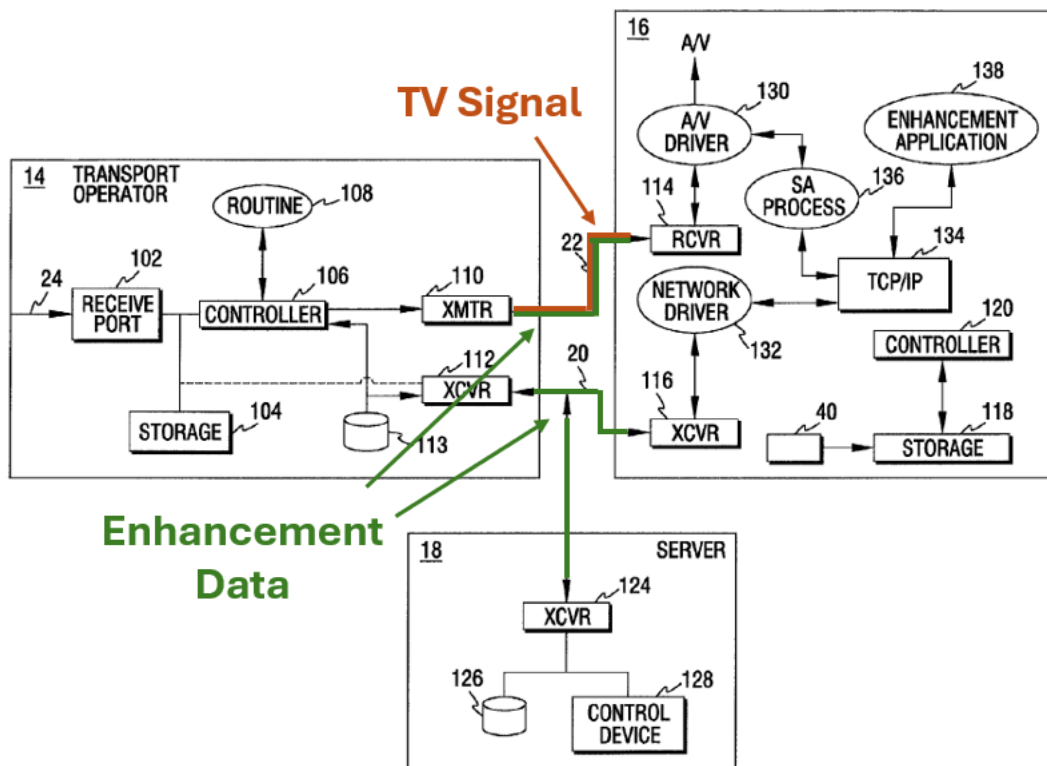


FIG. 2

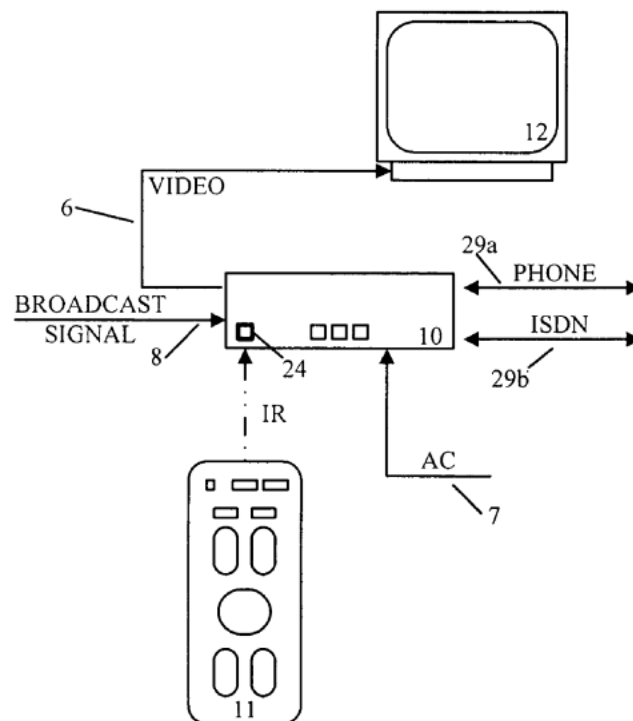
Ex. 1007 at Fig. 2 (annotated), ¶¶14, 16, 18-23.

Marler also describes the use of an icon which “may be a graphical symbol that indicates the nature of all or part of the content in the ancillary information.” This icon can be either stored locally on the receiver or retrieved from the Internet using an “icon locator” provided with the enhancement data. Ex. 1007 ¶¶32-33, 37, 39.

D. Zigmond

The Petition's Grounds 6-10 rely on U.S. Patent No. 7,849,226 to Daniel J. Zigmond et al. ("Zigmond"), which describes a "WebTV internet terminal." Ex. 1008 at 4:46-50.

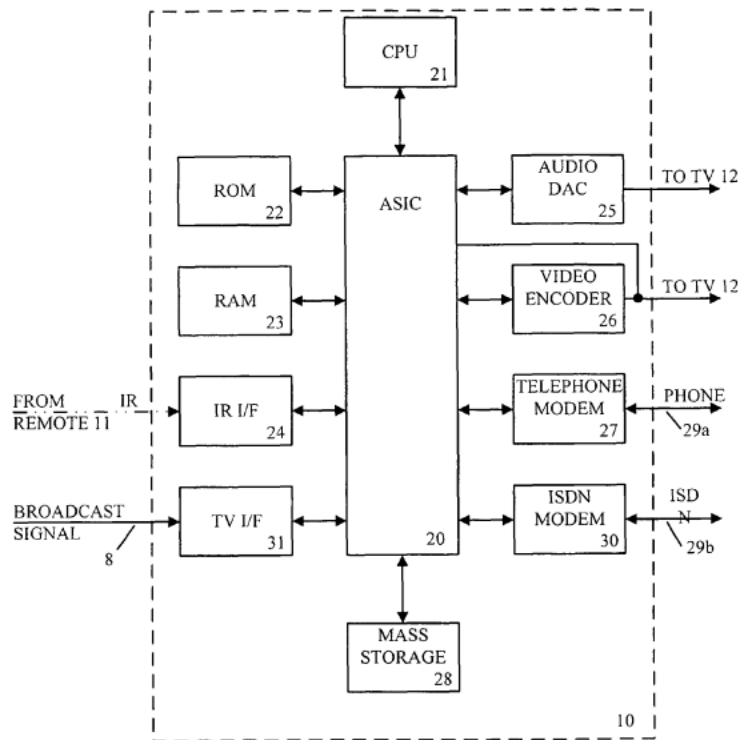
Zigmond's system uses a set-top box which may be connected to a television as well as a broadcast television signal and further includes telephone and ISDN (Integrated Services Digital Network) connections as shown below.



Ex. 1008 at Fig. 2, 5:60-6:23.

As shown in Figure 3 below, this set-top box includes various components including "a CPU 21, ROM memory 22, RAM memory 23, an infrared interface 24,

a television interface 31, an audio DAC 25, a video encoder 26, a telephone modem 27, an ISDN modem 30, mass storage 28, and an ASIC 20.”



Ex. 1008 at Fig. 3, 6:24-29.

Zigmond explains that the ASIC component “serves as a bus coupling the other illustrated components, under the control of CPU 21.” Zigmond also notes that in “some embodiments, ASIC 20 also includes dedicated video processing circuitry that shrinks the size of the displayed television broadcast so as [to] permit display of user interface elements.” Ex. 1008 at 6:24-37.

During a television program in Zigmond, “an icon” can appear during a television program indicating that “a logical address link is available to related

content.” Zigmond explains that its system generally uses “the same icon 700 for all alerts,” but it is also possible to use two different icons in order “to distinguish between advertising-related and programming-related content.” Ex. 1008 at 3:13-19, 12:41-48.

III. CLAIM CONSTRUCTION

Patent Owner submits that no claim construction is necessary in order for the Director to deny institution on the merits. *Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019) (“The Board is required to construe ‘only those terms... that are in controversy, and only to the extent necessary to resolve the controversy.’” (quoting *Vivid Techs. v. Am. Sci. & Eng’g*, 200 F.3d 795, 803 (Fed. Cir. 1999))). Patent Owner reserves the right to present claim constructions if trial is instituted.

IV. THE PETITION’S GROUNDS BASED ON MARLER DO NOT DEMONSTRATE A REASONABLE LIKELIHOOD OF SUCCESS [GROUNDS 1-5].

A. The Petition Does Not Show That Marler Teaches “A Web Link Indicating A Website Where Content ... Is Stored.”

The claims of the ’399 Patent require “overlay-enabling digital data” that includes, among other things, “a Web link indicating a website where content that is associated with said overlay-enabling digital data is stored.” Ex. 1001 at 9:22-25 (claim 1), 10:52-56 (claim 13).

The Petition contends that Marler meets this limitation by disclosing an “icon locator” being used to retrieve an “icon image via the Internet, and that the icon image can be/include a hyperlink that includes a URL (a Web link), that identifies a website where the associated enhancement content is stored.” Pet. at 23. But the Petition does not point to any teaching in Marler of URLs for a website where content is stored.

Petitioner’s primary cited support is Marler’s ¶35, but this paragraph talks about a “URL” that points to a “web address containing information about a suitable *icon*,” not a web address for a website storing *content*. Ex. 1007 ¶35; Pet. at 23. In fact, this paragraph of Marler contradicts Petitioner and explains that the “content” in Marler is actually “contained within the ancillary information” that was “transmitted” to the receiver along with the icon locator. *See id.* ¶35; *see also id.* ¶33 (“the content, the ancillary information, and the icon locator are transmitted through the transport operator 14 to the receivers 16”).

Petitioner also cites ¶32’s disclosure of icons allowing the user to “jump immediately to the ancillary information.” Pet. at 23 (citing Ex. 1007 ¶32). But this says nothing about content being stored on a website, much less a “Web link indicating a website” being part of any “overlay-enabling digital data” as claimed. Ex. 1007 ¶32.

Dr. Bove’s testimony does not fill this gap as it does not add any additional evidence or explanation, and merely repeats the Petition’s attorney argument nearly verbatim. *Compare* Pet. at 23 with Ex. 1003 ¶107. The Board often rejects such conclusory testimony. *See, e.g., Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 at 15 (PTAB Aug. 24, 2022) (precedential) (denying institution when expert’s “cited declaration testimony is conclusory and unsupported, adds little to the conclusory assertion for which it is offered to support, and is entitled to little weight.”); 37 C.F.R. § 42.65.

While the Petition also raises obviousness in connection with this limitation, it does not contend that it would have been obvious to add a “Web link indicating a website where content ... is stored” to Marler. Pet. at 24-25. Instead, the Petition simply argues that “it would have been obvious to a POSITA that *the Weblink* is included in the announcement stream along with the icon locator.” *Id.*² But Marler does not disclose the claimed “Web link.” *See* Pet. at 23; Ex. 1007 ¶¶32, 35. Nevertheless, the Petition fails to even allege, much less demonstrate, that one of skill would have been motivated to make the asserted modification or have a reasonable expectation of success in doing so. *See* Pet. at 24-25; *In re Stepan Co.*, 868 F.3d 1342, 1346 n.1 (Fed. Cir. 2017) (obviousness requires “a motivation to

² All emphasis herein is added unless otherwise noted.

make the combination and a reasonable expectation that such a combination would be successful”).

Accordingly, Petitioner fails to demonstrate that its Marler grounds meet the claimed “overlay-enabling digital data” including “a Web link indicating a website where content that is associated with said overlay-enabling digital data is stored.”

B. The Petition Fails To Demonstrate That Marler Teaches “Caus[ing] The Combiner Unit To Retrieve Said Content, [And] Generate A Second Video Display Screen Including At Least A Portion Which Corresponds To Said Content”

The claims of the ’399 Patent require:

associating the Web link with said second portion of the first display screen thereby allowing a user to *cause the combiner unit to retrieve said content, [and] generate a second video display screen including at least a portion which corresponds to said content...*

Ex. 1001 at 9:39-44 (Claim 1), 11:1-5 (Claim 13).

Petitioner argues that “Marler discloses these limitations” ([1k] and [13j]) because Marler “retrieves the Web-addressed content and presents it.” Pet. at 31-32. But Petitioner provides no evidence whatsoever to support its assertions. Moreover, the Petition fails to even contend, much less prove, that Marler teaches a “combiner unit” that “retrieve[s] said content, [and] generate[s] a second video display screen”

1. The Petition Provides No Evidence To Support Its Argument That Marler Causes A “Combiner Unit To Retrieve Said Content” And “Generate A Second Video Display Screen ...”

For the first part of these limitations (“associating the Web link with said second portion of the first display screen”), Petitioner cites Marler’s paragraphs 32 and 35 to support its argument that Marler’s “icon” can be a “hyperlink” that “allows the user to mouse click on the icon ... to jump immediately to the ancillary information.” Pet. at 31.

But for the second part of these limitations (“cause the combiner unit to retrieve said content, [and] generate a second video display screen ...”), Petitioner provides no evidence to support its argument. The Petition simply contends that:

Once activated, the system retrieves the Web-addressed content and presents it. Marler explains that the enhancement data including web pages and digital files is accessed and displayed after the icon is selected as discussed above. This leads to a presentation of enhancement information, which corresponds to the recited “second video display screen” that includes at least a portion which corresponds to the content at the hyperlink/Weblink.

Pet. at 32. Petitioner fails to support its argument with any citations or quotes from Marler—or any other reference for that matter.

Petitioner cannot meet its burden to prove unpatentability without evidence supporting its arguments. Indeed, it is well established that “[m]ere attorney

arguments and conclusory statements that are unsupported by factual evidence are entitled to little probative value.” *Procon Analytics, LLC v. Spireon, Inc.*, PGR2019-00051, Paper 12 at 23 (PTAB Nov. 22, 2019) (rejecting petitioner’s merits argument “because it is conclusory and unsupported with any citation to [the asserted reference] itself”) (citing *In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997)); *see also Robert Bosch LLC et al. v. Westport Fuel Systems Canada Inc.*, IPR2023-00292, Paper 37 at 17 (PTAB Feb. 3, 2025) (rejecting petitioner’s “conclusory attorney argument” that “lack[ed] any citation to the record or meaningful explanation.”); *Enzo Biochem v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (“Attorney argument is no substitute for evidence.”). Moreover, the rules are clear that 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); *see also Advanced Lighting Concepts, LLC d/b/a Environmental Lights v. mate LLC*, IPR2023-01266, Paper 9 at 23-24 (PTAB Feb. 13, 2024) (denying institution where petitioner’s “failure to articulate” which prior art disclosures corresponded to the claimed elements “violates our rules requiring that the ‘petition *must specify where each element of the claim is found in the prior art* patents or printed publications relied upon’” (emphasis in original)).

To the extent Petitioner was relying on its vague “as discussed above,” Pet. at 32, it fails to explain *where* in the Petition it provides support for the assertion that

Marler retrieves “Web-addressed content” including “web pages and digital files,” and then uses that “content” to generate and present the claimed “second video display screen,” *id.* The Board has time and again refused to “play archaeologist with the record.” *See e.g., U.S. Well Services, LLC v. Halliburton Energy Services, Inc.*, IPR2022-01163, Paper 9 at 16-17 (PTAB Dec. 20, 2022); *Palo Alto Networks, Inc. v. Centripetal Networks, Inc.*, IPR2021-01154, Paper 11 at 18 (PTAB Jan. 24, 2022); *see also United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991) (“Judges are not like pigs, hunting for truffles buried in briefs.”).

Dr. Bove’s declaration is no help either, as he simply repeats Petitioner’s conclusory attorney argument verbatim. *Compare* Pet. at 32 *with* Ex. 1003 ¶120. The Board routinely rejects expert testimony that “merely repeats, *verbatim*, the conclusory assertion for which it is offered to support.” *See Xerox*, IPR2022-00624, Paper 9 at 15 (precedential) (denying institution when expert’s “cited declaration testimony is conclusory and unsupported, adds little to the conclusory assertion for which it is offered to support, and is entitled to little weight.”); *see also Google LLC f/k/a Google Inc. v. Valtrus Innovations LTD*, IPR2022-01197, Paper 9 at 19 n.12 (PTAB Jan. 3, 2023) (finding expert’s “testimony here is entitled to little to no weight as it merely parrots the Petition”); 37 C.F.R. § 42.65.

Thus, the Petition fails to prove that Marler discloses the claimed limitation.

2. *The Petition Fails To Show That Marler Teaches A “Combiner Unit” That “Retrieve[s] Said Content” And “Generate[s] A Second Video Display Screen”*

Petitioner contends that Marler’s “system retrieves the Web-addressed content and presents it” and that the “presentation of enhancement information ... corresponds to the recited ‘second video display screen.’” Pet. at 32. But even if these assertions were supported—and they are not—this still would not meet the entire limitation.

The claims require that the user “cause *the combiner unit to retrieve* said content, [and] *generate* a second video display screen including at least a portion which corresponds to said content” Ex. 1001 at 9:39-44 (Claim 1), 11:1-5 (Claim 13). But the Petition’s brief argument says nothing about what in Marler’s system would allegedly retrieve and present “the Web-addressed content,” and does not even mention any alleged “combiner unit.” Pet. at 32. In fact, the Petition does not even contend that Marler discloses a “combiner unit” that is “cause[d] ... to retrieve said content, [and] generate a second video display screen,” aside from its generic assertion that “Marler discloses these limitations.” *See id.* at 31-32.

For this additional reason, the Petition fails to demonstrate that Marler teaches the claimed limitation.

C. The Petition’s Marler Grounds Do Not Show “Overlay-Enabling Digital Data” That “Includes ... An Image Indicative of the Content ... And An Overlay Activation Criterion”

In addition to the “Web link” discussed above, the claims require that the “overlay-enabling digital data” include both “an image indicative of the content associated with said overlay-enabling digital data, and an overlay activation criterion.” Ex. 1001 at 9:22-28 (Claim 1), 10:52-59 (Claim 13).

The Petition contends that Marler teaches both the claimed “image indicative of the content” and an “overlay activation criterion,” but fails to show that these alleged teachings are part of the same alleged “overlay-enabling digital data.”

Petitioner argues that the claimed “overlay activation criterion” is disclosed or rendered obvious by Marler’s “trigger” that can be a part of Marler’s “enhancement data” (alleged “overlay-enabling digital data”) “that is delivered in some embodiments to the receiver over the Internet path (secondary link 20).” Pet. at 27; *see also id.* at 14 (citing “‘ancillary information’ and ‘enhancement data’ transmitted with (or alongside) the video” as the claimed “overlay-enabling digital data constituting a second data”).

For the claimed “image indicative of the content,” however, the Petition relies on an embodiment in Marler of a “suitable icon” that is “retrieved from [an] Internet web address.” Pet. at 26. But as the Petition acknowledges, this “suitable icon” is not part of Marler’s “enhancement data” (alleged “overlay-enabling digital data”) in

this embodiment and is instead retrieved from some other source using an “icon locator.” *Id.* at 25-26 (arguing that Marler’s “enhancement data” includes an “icon locator” that “may point to an Internet web address containing information about a suitable icon that may be displayed.”).

To attempt to cover this gap in the argument, Petitioner contends that:

[Marler’s] enhancement data including the announcement, the resource and the trigger together with information about an icon retrieved using the icon locator all constitute IP data that is “overlay-enabling digital data” downloaded via the Internet.

Pet. at 23-24. But the Petition provides no evidence or explanation for why a skilled artisan would have understood Marler’s “information about an icon retrieved using the icon locator” to be “overlay-enabling digital data.” Nor does Dr. Bove, who once again repeats Petitioner’s attorney argument verbatim. *Compare* Pet. at 23-24 with Ex. 1003 ¶107. Nevertheless, even if Marler’s “information about an icon” could also be considered “overlay-enabling digital data,” the Petition fails to show that it is part of the same “overlay-enabling digital data” that contains “an overlay activation criterion,” as required by the claims.

Thus, the Petition fails to show that Marler meets the claimed “overlay-enabling digital data” including both “an image indicative of the content associated with said overlay-enabling digital data, and an overlay activation criterion.”

D. The Petition Fails To Show That Marler Discloses Or Suggests “Video Signals” And “Overlay-Enabling Digital Data” That “Originate From Unrelated Sources” Under Petitioner’s Own Construction

The claims require that the “video signals” and “overlay-enabling digital data ... *originate from unrelated sources.*” Ex. 1001 at 9:17-21 (Claim 1); 10:43-47 (Claim 13).

Petitioner contends that this “unrelated sources” limitation should be construed “to mean that the [overlay-enabling digital] data and [video] signals come from different facilities.” Pet. at 8; *see also id.* at 21 (“unrelated sources” requires only that the video signals and overlay-enabling digital data originate from different facilities”). But Petitioner fails to show that Marler discloses or suggests video signals and overlay-enabling digital data that come from different facilities.

Petitioner first contends that Marler discloses this limitation, but points to no teaching of “different facilities” in Marler. Instead, Petitioner simply argues that Marler meets the limitation as construed because:

the broadcast A/V content originates from the transport operator system and is delivered over transport medium 22, while the enhancement data originates from Internet-based servers (i.e., “more than one server 18” (EX1007, ¶[0023])) and is delivered over secondary link 20.

Pet. at 21. The Petition, however, provides no explanation of how this would meet the limitation, and ignores the possibility that Marler’s transport operator system and

server 18 are operated at the *same* facility (*i.e.*, not “unrelated sources” under Petitioner’s construction).

As a backup, the Petition argues that it would be obvious to modify Marler to meet the limitation. But Petitioner does not show that one of skill would be motivated to make the proposed modification or have a reasonable expectation of success in doing so. Furthermore, Petitioner abandons its own construction of the term “unrelated sources.”

As an initial matter, Petitioner’s obviousness argument seems to forget that it construed the “unrelated sources” claim term “to mean that the data and signals come from different facilities.” Pet. at 8. The Petition says nothing about modifying Marler to use different facilities. *Id.* at 22. Instead, it argues that “it would have been obvious to a POSITA that the ‘more than one server 18’ generating the overlay-enabling digital data would be unrelated to the broadcast transport system” and that it was “well-known for the entity that generates the overlay-enabling digital data ... to be separate and independent from the broadcast system.” But this does not explain “[h]ow the *construed* claim is unpatentable.” See 37 C.F.R. §42.104(b)(4).

Nevertheless, the Petition does not explain why one of skill in the art would have been motivated to make this modification to Marler. *Belden v. Berk-Tek*, 805 F.3d 1064, 1073 (Fed. Cir. 2015) (“obviousness concerns whether a skilled artisan

not only could have made but *would have been motivated to make* the combinations or modifications of prior art to arrive at the claimed invention.” (emphasis in original)). The Petition simply asserts that a “POSITA would have been motivated to make this modification to enable independently sourced enhancement content to be delivered without requiring cooperation or participation by the broadcast provider.” Pet. at 22. But Petitioner does not explain why this “independently sourced enhancement content” delivered without “cooperation or participation by the broadcast provider” would improve Marler’s system. Pet. at 22. The Office and the Courts have cautioned against this exact type of generic and conclusory rationale in an obviousness analysis. *See, e.g., In re NuVasive, Inc.*, 842 F.3d 1376, 1384 (Fed. Cir. 2016) (rejecting “conclusory statements that a PHOSITA would have been motivated to combine the prior art references to obtain additional information” because “the PTAB never articulated *why* the additional information would benefit a PHOSITA when implanting a posterior lumbar interbody fusion implant.”); *Daimler AG et al. v. Blitzsafe Texas, LLC*, IPR2018-01209, Paper 10 at 20 (PTAB Dec. 6, 2018) (rejecting asserted rationale of “providing a single, cohesive system” as “too generic and insufficient.”); MPEP §2144 (R-01.2024) (obviousness rationales like “making separable, reversing or duplicating parts, or purifying an old product ... should not be treated as *per se* rules, but rather must be explained and shown to apply to the facts at hand”).

Petitioner further fails to demonstrate that a skilled artisan would have had a reasonable expectation of success in making the asserted modification to Marler. *Stepan*, 868 F.3d at 1346 n.1 (obviousness requires “a reasonable expectation that such a combination would be successful”). The Petition generically argues that a “POSITA would have had a reasonable expectation of success because this modification involves using known techniques in a known manner to achieve a known result and requires only routine skill in the art.” Pet. at 22. But Petitioner provides no support or explanation describing what these “known techniques” are or how they could modify Marler with only “routine skill” to use an “unrelated” server and broadcast transport system such that enhancement content could be “delivered without requiring cooperation or participation by the broadcast provider.” *Id.*

Dr. Bove’s testimony is no help, as he simply repeats Petitioner’s conclusory statements regarding motivation to combine and reasonable expectation of success without further elaboration. *Compare* Pet. at 22 *with* Ex. 1003 ¶104.

Accordingly, the Petition has not shown that Marler discloses or suggests “video signals” and “overlay-enabling digital data” that “originate from unrelated sources.”

V. THE PETITION’S GROUNDS BASED ON ZIGMOND DO NOT DEMONSTRATE A REASONABLE LIKELIHOOD OF SUCCESS [GROUNDS 6-10].

A. The Petition Does Not Demonstrate That Zigmond Teaches A “Combiner Unit.”

The claims require a “combiner unit” that is “connected through distinct networks to each of a video signal source providing video signals ... and an Internet data source providing overlay-enabling digital data,” and used to “retrieve” Internet “content, [and] generate a second video display screen including at least a portion which corresponds to said content” Ex. 1001 at 9:6-44 (claim 1), 10:41-11:9 (claim 13).

Petitioner argues that Zigmond’s set top box “includes a combiner unit, namely the combination of the ASIC (application specific integrated circuit) 20 and CPU 21.” Pet. at 57. But Petitioner provides no explanation of why one of skill would allegedly consider Zigmond’s ASIC 20 and CPU 21 to be a “combiner unit” as claimed.

Despite bearing the burden to identify “[h]ow the challenged claim is to be construed,” *see* 37 C.F.R. § 42.104(b)(3), the Petition simply asserts that the claimed “combiner unit,” and almost every other term in the claims, should be given its “plain and ordinary meaning to a POSITA at the time of the alleged invention of the ’399 patent.” Pet. at 6. Yet, the Petition provides no explanation of why “a POSITA at

the time of the alleged invention” would understand Zigmond’s ASIC 20 and CPU 21 to be a “combiner unit” under the plain and ordinary meaning of that term. *See* Pet. at 57-59. Instead, the Petition simply states that “ASIC 20 is under the control of the CPU 21 and serves as a bus that couples the other illustrated components of Fig. 3.” *Id.* at 57.

The claimed “combiner unit,” however, is not simply a bus coupling various other components. Indeed, the ’399 Patent teaches that the combiner unit is used “for *combining* the first data and the second data to form a *combined video signal*.” *See* Ex. 1001 at 6:61-63.

Petitioner does not point to any disclosure of Zigmond’s ASIC 20 and CPU 21 being used to, or even capable of, combining different data inputs to form a combined video signal. *See* Pet. at 57-59. Nor does the Petition provide any other reason why one of skill would consider Zigmond’s ASIC 20 and CPU 21 to satisfy the claimed “combiner unit.” *Id.*

Thus, the Petition fails to show that Zigmond teaches a “combiner unit.”

B. Petitioner Fails To Specifically Point To Any Alleged “Overlay-Enabling Digital Data” In Zigmond.

“Overlay-enabling digital data” is a core aspect of the ’399’s invention, appearing in numerous claim limitations. For example, independent claim 1 requires “overlay-enabling digital data” that:

- [1c] is “provid[ed] ... over the Internet” by an “Internet data input,”
- [1d] “transmitted” to the “user’s premises by” a “different resource[]” than the “video signals,”
- [1e]-1[h] “includes at least” a “Web link indicating a website where content ... is stored,” an “image indicative of the content,” and “an overlay activation criterion,” and
- [1i] is “process[ed] at the user’s premises.”

See Ex. 1001 at 9:2-44; *see also id.* at 10:37-11:9 (independent claim 13, similar).

But while Petitioner relies on Zigmond for all of these “overlay-enabling digital data” limitations, the Petition never actually identifies any alleged “overlay-enabling digital data” in Zigmond. *See* Pet. at 55-72. In fact, whenever “overlay-enabling digital data” comes up, the Petition simply points to another section of its argument, rather than even attempting to identify any alleged “overlay-enabling digital data” in Zigmond.

For example, in limitations [1c]/[13b] (“overlay-enabling digital data” that is “provid[ed] ... over the Internet” by an “Internet data input”), the Petition fails to identify anything in Zigmond that corresponds to the claimed “overlay-enabling digital data.” Pet. at 61-63. Instead, the Petition simply refers to its later arguments for an explanation, contending that Zigmond’s “server 5 provides overlay-enabling

digital data over the Internet *as discussed in detail below for limitations [1d]-[1h].*”

Pet. at 63.

But in the very next section, on limitations [1d]/[13c] (“overlay-enabling digital data” “transmitted” to the “user’s premises by” a “different resource[]”), the Petition just refers right back to its previous section, arguing that “[a]s discussed above for limitation [1c] ... the overlay-enabling digital data is received from a server 5 via the Internet and phone or ISDN networks 29a, 29b.” Pet. at 63-64.

The Petition’s argument is no better in limitations [1e]/[13d] (“wherein said overlay-enabling digital data includes at least”) where it again points elsewhere for an explanation, arguing that “Zigmond discloses overlay-enabling digital data *as discussed above* that includes the components discussed below for limitations [1f]-[1h].” Pet. at 65. The Petition’s discussion of the remaining limitations does not mention the term “overlay-enabling digital data” whatsoever. *See* Pet. at 65-73.

Petitioner cannot reasonably expect to meet its burden to show “with particularity” how its asserted art teaches or suggests the claimed limitations by hiding the claimed “overlay-enabling digital data” in an apparent shell game. *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (“In an IPR, the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.”) (citing 35 U.S.C. § 312(a)(3)). The Board’s rules clearly state that a petition for IPR “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). In fact, the Board often rejects petitions that fail to sufficiently identify what in the asserted art allegedly teaches the claimed limitations. *See, e.g., LG Elecs., Inc. v. Constellation Designs, LLC*, IPR2022-01482, Paper 8 at 14 (PTAB Apr. 20, 2023) (denying institution because “the Petition does not sufficiently identify how [the reference] teaches the ‘optimized’ limitation in the independent claims”); *Advanced Lighting*, IPR2023-01266, Paper 9 at 40 (denying institution where “Petitioner fails to sufficiently map Shteynberg’s disclosure to the claimed break-out module”).

In Ground 7, Petitioner appears to allege that Redling’s “icon images” combined with Zigmond’s “Web links” and “start and stop times” constitute “overlay-enabling digital data.” Pet. at 76. But the Petition fails to show how this amalgamation of different parts from two different references meets all the requirements of the claimed “overlay-enabling digital data.” Petitioner only relies on Redling’s addition for claim limitations [1g]/[13f] (“an image indicative of the content ...”) and points back to its nebulous Zigmond analysis for the limitations in the independent claims. *Id.* Moreover, as explained below, the Petition fails to demonstrate that it would have been obvious to combine Zigmond and Redling as asserted. *See* §V.E.

Accordingly, the Petition fails to demonstrate that the Zigmond grounds meet the claimed “overlay-enabling digital data” limitations.

C. The Petition Fails To Identify “A Second Video Display Screen” That Includes Retrieved “Content” In Zigmond, Or Show That Any Such “Second Video Display Screen” Is “Generate[d]” By A “Combiner Unit.”

The claims require the “combiner unit” to “retrieve ... content” and then “generate *a second video display screen* including at least a portion which corresponds to said content.” Ex. 1001 at 9:39-44 (Claim 1), 11:1-5 (Claim 13). The Petition relies solely on Zigmond for this limitation, but fails to show that Zigmond teaches generating the claimed “second video display screen,” much less that a “combiner unit” in Zigmond performs the required generation. Pet. at 70-72 (Ground 6); *id.* at 75-88 (relying on Ground 6 arguments for Grounds 7-10).

First and foremost, the Petition does not even identify an alleged “second video display screen” that includes the retrieved content. Pet. at 70-72. In fact, the term “second video display screen” does not appear anywhere in Petitioner’s Grounds 6-10. *See* Pet. at 54-88. Once again, Petitioner cannot meet its burden to show “with particularity” how its asserted art teaches or suggests the claimed limitations without clearly identifying what in the asserted art allegedly teaches the claimed limitations. *Harmonic*, 815 F.3d at 1363 (“In an IPR, the petitioner has the burden from the onset to show with particularity why the patent it challenges is

unpatentable.”) (citing 35 U.S.C. § 312(a)(3)); 37 C.F.R. § 42.104(b)(4) (Petition for IPR “must specify where each element of the claim is found in the prior art patents or printed publications relied upon.”); *LG Elecs.*, IPR2022-01482, Paper 8 at 14 (denying institution because “the Petition does not sufficiently identify how [the reference] teaches the ‘optimized’ limitation in the independent claims”); *Advanced Lighting*, IPR2023-01266, Paper 9 at 40 (denying institution where “Petitioner fails to sufficiently map Shteynberg’s disclosure to the claimed break-out module”).

The Petition argues that Zigmond teaches displaying a “translucent panel 900” in step 820, as shown in Zigmond’s Figures 8-9 below, but does not contend that this “translucent panel 900” meets the claimed “second video display screen” that includes the retrieved “content.”

**Translucent
Panel 900
Displayed**

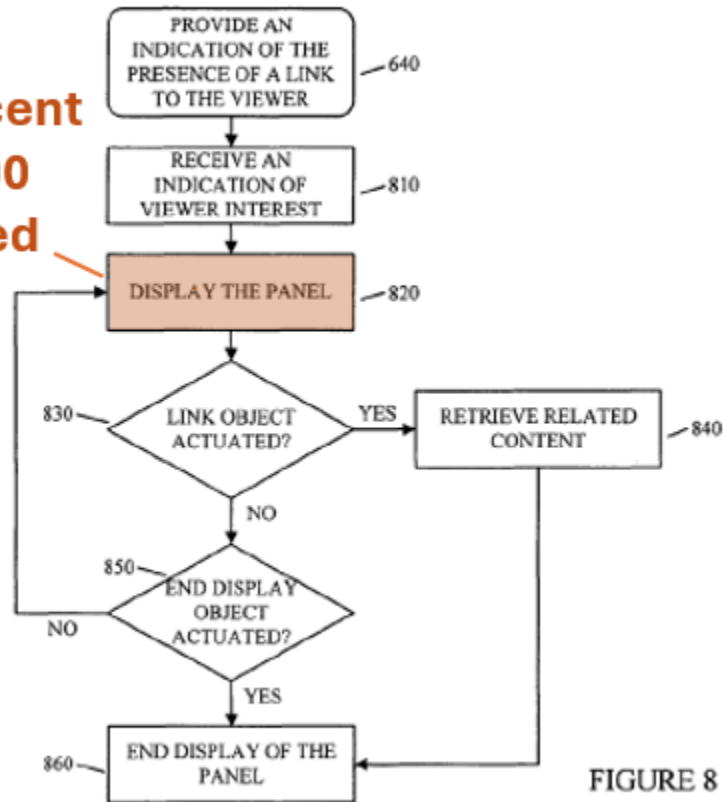


FIGURE 8

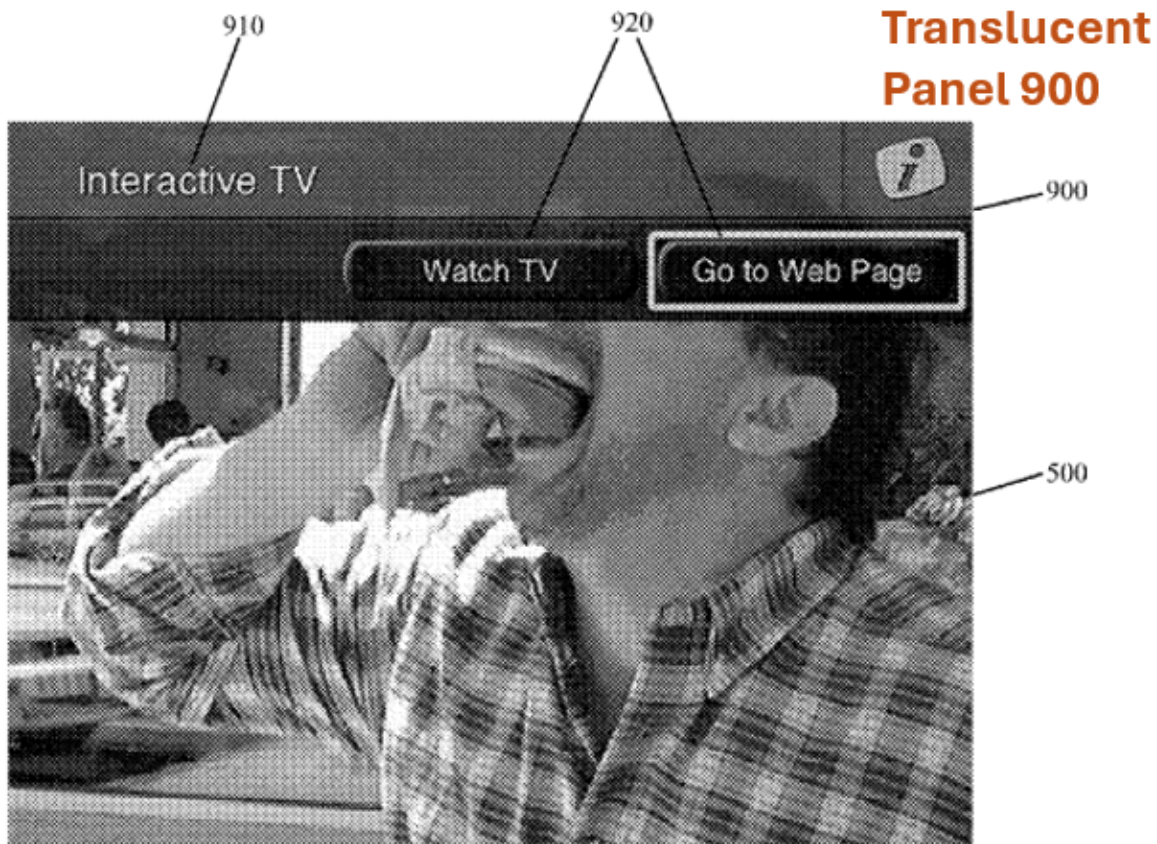
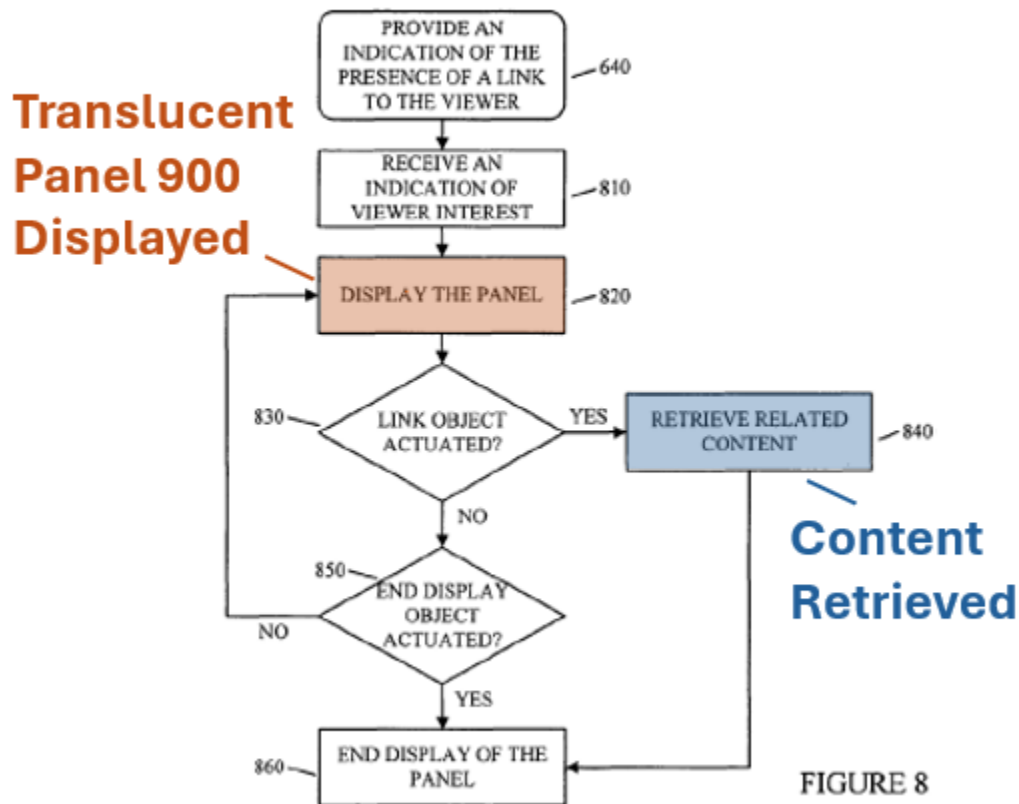


FIGURE 9

Pet. at 71-72; Ex. 1008 at Figs. 8-9 (annotated). Nor could it, as this “translucent panel 900” is displayed *before* Zigmond allegedly retrieves the content in step 840, and therefore could not include “a portion which corresponds to said content” as required by the claimed “second video display screen.”



Ex. 1008 at Fig. 8 (annotated); *see also* Pet. at 71 (arguing “content” is retrieved “via the Internet” at “step 840”).

Thus, the Petition has failed to even identify an alleged “second video display screen” in Zigmond.

Additionally, even if the Petition had identified some “second video display screen” in Zigmond—and it has not—the Petition would still fail to show that this “second video display screen” was generated by a “combiner unit.” Indeed, the Petition’s only mention of Zigmond’s alleged “combiner unit” (the combination of

“ASIC 20 and CPU 21”) is in a throwaway line at the end of the section contending that:

If not explicitly disclosed in Zigmond, configuring ASIC 20 and CPU 21 to perform the processing associated with Figs. 8-10 would have been obvious to a POSITA.

Pet. at 71. Petitioner, however, does not explain why one of skill would have been motivated to “configure ASIC 20 and CPU 21 to perform the processing” or show a reasonable expectation of success in doing so. *See Stepan*, 868 F.3d at 1346 n.1 (obviousness requires “a motivation to make the combination and a reasonable expectation that such a combination would be successful”). Nor does the Petition explain how ASIC 20 and CPU 21 “perform[ing] the processing associated with Figs. 8-10” would even include generating a “second video display screen” as claimed. Pet. at 71.

Dr. Bove’s testimony is again no help, as he, per usual, just repeats Petitioner’s attorney argument almost verbatim. *Compare* Pet. at 71 *with* Ex. 1003 ¶203; *Xerox*, IPR2022-00624, Paper 9 at 15 (precedential) (“conclusory and unsupported” expert testimony “is entitled to little weight.”); 37 C.F.R. § 42.65.

Therefore, the Petition fails to show that its Zigmond grounds show a “combiner unit” that “retrieve[s] ... content” and then “***generate[s] a second video display screen*** including at least a portion which corresponds to said content.”

D. The Petition Does Not Show That Zigmond Discloses Or Suggests Providing “An Image Indicative Of The Content ... Over The Internet.”

The claims require “*providing* overlay-enabling digital data *over the Internet* ... wherein said overlay-enabling digital data includes ... *an image indicative of the content* associated with said overlay-enabling digital data.” Ex. 1001 at 9:11-28 (Claim 1), 10:43-58 (Claim 13).

Petitioner relies on Zigmond’s “icon 700” for the claimed “image indicative of the content...” but fails to show that this icon is “provid[ed] ... over the Internet” as part of any alleged “overlay-enabling digital data.” *See* Pet. at 66-68.

While Petitioner nominally argues that “Zigmond *discloses* and/or renders obvious these limitations,” it immediately admits that “Zigmond *does not explicitly disclose how the icon is delivered* to STB 10 and the CPU 21/ASIC 20 in this embodiment.” Pet. at 66.

Petitioner contends that “a POSITA would have found it obvious to include the icon 700 with the program code” that “may be downloaded to the STB via the Internet,” but the Petition does not demonstrate that it would be obvious to add this missing limitation to Zigmond. Pet. at 66-67; *see also id.* at 67 (arguing that in Zigmond’s two-icon embodiment, it would have been “obvious to a POSITA to include these icons with the program code.”).

Petitioner's obviousness argument fails *ab initio* as it cites no evidence comprising patents or printed publications for this missing limitation. *Id.* Instead, it appears to rely solely on the testimony of Dr. Bove who simply parrots Petitioner's attorney argument that including Zigmond's icon(s) with the program code would have been obvious. *Compare* Pet. at 66-67 with Ex. 1003 ¶¶194-195; *see also* Patent Owner's Request for Discretionary Denial, Paper 8 at 15-16 (chart comparing Petitioner's argument and Dr. Bove's matching testimony). As explained in Patent Owner's Request for Discretionary Denial, however, Petitioner cannot rely on Dr. Bove's testimony to fill gaps in the asserted art. *See* Paper 8 at 12-16; Ex. 2003 at 1 (Office memo stating that "expert testimony" and other "general knowledge ... may not be used to supply a missing claim limitation.").

The Petition further fails to even argue, much less demonstrate, that one of skill in the art would be motivated to modify Zigmond to include icon 700 in the program code or have a reasonable expectation of success in doing so. Pet. at 66-67; *Stepan*, 868 F.3d at 1346 n.1 (obviousness requires "a motivation to make the combination and a reasonable expectation that such a combination would be successful"). The Board has time and again rejected obviousness arguments that ignore these threshold requirements. *See, e.g., SweeGen, Inc. v. PureCircle Sdn Bhd.*, IPR2019-01017, Paper 10 at 18 (PTAB Oct. 24, 2019) (denying institution where "Petitioner fails to explicitly mention any particular motivation to combine

these two references”); *Solus Advanced Materials Co., Ltd. v. SK nexilis Co., Ltd.*, IPR2025-00005, Paper 14 at 56 (PTAB May 19, 2025) (rejecting obviousness argument that had “fundamental flaw” where “Petitioner fail[ed] to articulate a reason why a person of ordinary skill in the art would have had a reasonable expectation of success in combining the references to arrive at the claimed invention”); *Vista Outdoor Operations LLC v. Liberty Ammunition, LLC*, IPR2016-00539, Paper 9 at 23 (PTAB Aug. 3, 2016) (denying institution where “Petitioner does not provide adequate reasoning that would have prompted a person of ordinary skill in the art to combine the” references)).

Thus the Petition has not shown that Zigmond meets the claimed “image indicative of the content” that is “provid[ed] ... over the Internet.”

As explained below, Petitioner attempts to add Redling to Zigmond for this limitation in Ground 7, but fails to show that this combination would have been obvious to one of ordinary skill in the art.

E. The Petition Does Not Demonstrate That It Would Have Been Obvious To Combine Zigmond And Redling.

In Ground 7, Petitioner attempts to modify Zigmond with Redling. In particular, Petitioner makes an alternative argument for limitation [1g]/[13f] (“image indicative of the content”), contending that the limitation would be met by “modify[ing] Zigmond to include Redling’s periodically changing product- or

brand-based icons” Pet. at 76-77; *see also id.* at 76 (relying on Ground 6 arguments for “all limitations of claims 1 and 13 other than limitations [1g]/[13f]”). But the Petition fails to demonstrate why one of skill would have been motivated to add this feature in Redling to Zigmond.

It is well established that “obviousness concerns whether a skilled artisan not only could have made but *would have been motivated to make* the combinations or modifications of prior art to arrive at the claimed invention.” *Belden*, 805 F.3d at 1073 (emphasis in original); *see also Metalcraft of Mayville v. Toro Co.*, 848 F.3d 1358, 1367 (Fed. Cir. 2017) (“Without any explanation as to how or why the references would be combined to arrive at the claimed invention, we are left with only hindsight bias that *KSR* warns against.”). In an IPR, petitioner bears the burden to demonstrate “that a skilled artisan would have been motivated to combine the teachings of the prior art references to achieve the claimed invention.” *Intelligent Bio-Systems, Inc. v. Illumina Cambridge, Ltd.*, 821 F.3d 1359, 1367-68 (Fed. Cir. 2016). As the Board has recognized, petitioners cannot satisfy this burden with “mere conclusory statements” and “must instead articulate specific reasoning, based on evidence of record, to support the legal conclusion of obviousness.” *Cisco Sys., Inc. v. Finjan, Inc.*, IPR2017-02155, Paper 11 at 10 (PTAB Apr. 3, 2018) (quoting *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016)).

The only alleged justification that Petitioner offers for adding Redling's "periodically changing product- or brand-based icons" is that doing so would "give users a clearer indication of the content associated with each icon." Pet. at 77. But the Petition fails to demonstrate that one of skill would have understood this to be a problem with Zigmond. Moreover, Zigmond already describes using two different icons to allow the user "to distinguish between advertising-related and programming-related content." Ex. 1008 at 12:41-48; *see also* Pet. at 63-64 (discussing Zigmond's use of "two icons" that "indicates the type/subject matter of the related content."). Petitioner thus fails to explain why one of skill would add Redling's icons to Zigmond, when Zigmond already achieves the alleged benefits on its own. *Henny Penny Corp. v. Frymaster LLC*, 938 F.3d 1324, 1332 (Fed. Cir. 2019) (affirming no motivation to add sensor to primary reference "especially because [the primary reference] already teaches a sensor that measures other indicia of oil quality."); *Western Digit. Techs., Inc. v. Longitude Licensing Limited*, IPR2023-01230, Paper 31 at 41 (PTAB Jan. 21, 2025) (finding no motivation to combine where "the purported benefits described by Petitioner for modifying Zhang with Javanifard's teaching ... can be achieved by Zhang, alone").

Additionally, the Petition does not show that a POSITA would have a reasonable expectation of success incorporating Redling's periodically changing product- or brand-based icons into Zigmond's system. In order to demonstrate

obviousness, Petitioner must also show that a skilled artisan would have had “a reasonable expectation that such a combination would be successful.” *Stepan*, 868 F.3d at 1346 n.1; *Eli Lilly & Co. v. Teva Pharms. Int’l GmbH*, 8 F.4th 1331, 1348–49 (Fed. Cir. 2021) (“[I]t was, at all times, [petitioner’s] burden to show that the claims would have been obvious, including that a skilled artisan would have had a reasonable expectation of success in achieving the claimed invention.”); *American Honda Motor Co., Inc. v. Neo Wireless, LLC*, IPR2023-00797, Paper 29 at 35 (PTAB Sept. 3, 2024) (denying institution where “Petitioner has not sufficiently evidenced that the skilled artisan at the relevant time would have had a reasonable expectation of success in combining [the references] to achieve the recited invention of claim 23.”). This burden cannot be satisfied with “mere conclusory statements.” *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016).

The Petition’s only argument here is that a “POSITA would have had a reasonable expectation of success because downloading images and links required only routine skill and was well-known in the art.” Pet. at 77. But Petitioner’s asserted modification of Zigmond is not simply “downloading images and links.” Instead, Petitioner is attempting to change Zigmond by replacing the one or two icons Zigmond uses with an assortment of “periodically changing product- or brand-based icons.” *Id.* at 76-77. The Petition does not even argue, much less demonstrate, that a skilled artisan would have had a reasonable expectation of

success in modifying Zigmond’s system—designed to use one or two icons—to use a multitude of changing product- or brand-specific icons. *Id.* at 77.

Dr. Bove’s testimony is again no help, as he simply repeats Petitioner’s conclusory statements regarding motivation to combine and reasonable expectation of success without further elaboration. *Compare* Pet. at 77 *with* Ex. 1003 ¶214.

Accordingly, Petitioner does not demonstrate that it would have been obvious to combine Zigmond and Redling as asserted.

F. The Petition Fails To Show That Zigmond Discloses Or Suggests “Video Signals” And “Overlay-Enabling Digital Data” That “Originate From Unrelated Sources” Under Petitioner’s Own Construction

As discussed above, the claims require that the “video signals” and “overlay-enabling digital data” sent to the “combiner unit” “*originate from unrelated sources.*” Ex. 1001 at 9:17-21 (Claim 1); 10:43-47 (Claim 13); *see also* Section IV.D *supra*.

Petitioner contends that this “unrelated sources” limitation should be construed “to mean that the [overlay-enabling digital] data and [video] signals come from different facilities.” Pet. at 8; *see also id.* at 21 (“unrelated sources” requires only that the video signals and overlay-enabling digital data originate from different facilities”). But as with the Marler grounds discussed above, Petitioner fails to show

that Zigmond discloses or suggests video signals and overlay-enabling digital data that come from different facilities.

Petitioner first argues that Zigmond discloses this limitation, but points to no teaching of “different facilities.” Instead, Petitioner simply argues that Zigmond meets the limitation as construed because Zigmond’s “broadcast TV signals 8 (the video signals) are received ... via a terrestrial broadcast, cable or satellite network, whereas the overlay-enabling digital data is received from a server 5 via the Internet and phone or ISDN networks 29a, 29b” and “[t]hese are unrelated sources ... because they are separate facilities.” Pet. at 64. The Petition, however, provides no explanation or evidence to support its conclusory assertion that Zigmond’s signals and data are sent from “separate facilities.” *Id.*

As a backup, the Petition argues that it would be obvious to modify Zigmond to meet the limitation. But Petitioner does not show that one of skill would be motivated to make the proposed modification or have a reasonable expectation of success in doing so. Furthermore, Petitioner abandons its own construction of the term “unrelated sources.”

As an initial matter, Petitioner’s obviousness argument seems to forget that it construed the “unrelated sources” claim term “to mean that the data and signals come from different facilities.” Pet. at 8. The Petition says nothing about modifying Zigmond to use different facilities. *Id.* at 64. Instead, it argues that “it would have

been obvious to a POSITA for the server 5 that generates the overlay-enabling digital data to be unrelated to the broadcaster of the broadcast TV signal 8” and that it was “well-known for the entity that generates the overlay-enabling digital data ... to be separate and independent from the broadcast system.” *Id.* But this does not explain “[h]ow the **construed** claim is unpatentable.” *See* 37 C.F.R. §42.104(b)(4).

Nevertheless, the Petition does not explain why one of skill in the art would have been motivated to make this modification to Zigmond. *Belden*, 805 F.3d at 1073 (“obviousness concerns whether a skilled artisan not only could have made but *would have been motivated to make* the combinations or modifications of prior art to arrive at the claimed invention.” (emphasis in original)). As with the Marler grounds, the Petition generically asserts that a “POSITA would have been motivated to make this modification to enable independently sourced enhancement content to be delivered without requiring cooperation or participation by the broadcast provider.” Pet. at 64. But Petitioner again does not explain how “independently sourced enhancement content” delivered without “cooperation or participation by the broadcast provider” would improve Zigmond’s system. Pet. at 64; *NuVasive*, 842 F.3d at 1384 (rejecting conclusory motivation to combine that “never articulated **why** the additional information would benefit a PHOSITA”); *Daimler AG*, IPR2018-01209, Paper 10 at 20 (rejecting rationale that was “too generic and insufficient.”); MPEP §2144 (R-01.2024).

Petitioner further fails to demonstrate that a skilled artisan would have had a reasonable expectation of success in making the asserted modification to Zigmond. *Stepan*, 868 F.3d at 1346 n.1 (obviousness requires “a reasonable expectation that such a combination would be successful”). The Petition repeats its generic argument that a “POSITA would have had a reasonable expectation of success because this modification involves using known techniques in a known manner to achieve a known result and requires only routine skill in the art.” Pet. at 64. But Petitioner again provides no support or explanation describing what these “known techniques” are or how they could modify Zigmond with only “routine skill” to use an “unrelated” server and broadcast system such that enhancement content could be “delivered without requiring cooperation or participation by the broadcast provider.” *Id.*

Dr. Bove’s testimony is again no help, as he simply repeats Petitioner’s conclusory statements regarding motivation to combine and reasonable expectation of success without further elaboration. *Compare* Pet. at 64 *with* Ex. 1003 ¶189.

Accordingly, the Petition has not shown that Zigmond discloses or suggests “video signals” and “overlay-enabling digital data” that “originate from unrelated sources.”

VI. CONCLUSION

For the foregoing reasons, Patent Owner requests that the Director deny institution of the Petition.

Date: May 26, 2026

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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITS

This Patent Owner Preliminary Response (the “POPR”) consists of 8,721 words, excluding table of contents, table of authorities, certificate of service, this certificate, or table of exhibits. The POPR complies with the type-volume limitation of 14,000 words as mandated in 37 C.F.R. § 42.24. In preparing this certificate, counsel has relied on the word count of the word-processing system used to prepare the paper (Microsoft Word).

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

The undersigned hereby certifies that the following documents were served
by electronic service on the date signed below:

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