

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FORTE BIOSCIENCES, INC.,
PETITIONER,

V.

UNIVERSITY OF MASSACHUSETTS,
PATENT OWNER.

PGR2023-00014
PATENT NO. 11,278,505

**PATENT OWNER'S REQUEST FOR REHEARING UNDER
37 C.F.R. § 42.71**

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TABLE OF ABBREVIATIONS

Abbreviation	Term
The '505 Patent	U.S. Patent No. 11,278,505
Pet.	Petition for Post-Grant Review (Paper 2)
POR	Patent Owner Response (Paper 19)
SR	Sur-Reply (Paper 32)
TR	Oral Hearing Transcript (Paper 44)
FWD	Final Written Decision (Paper 45)
IL-15(R)	Interleukin 15 (Receptor)
<i>Italics</i>	Emphasis in original
<i>Bold Italics</i>	Emphasis added

Patent Owner University of Massachusetts (“Patent Owner”) respectfully requests reconsideration of the Final Written Decision (Paper 45, “FWD”) and finding, instead, that claims 1-5 of U.S. Patent No. 11,278,505 (“the ’505 patent”) were not shown to be unpatentable.

I. The FWD Overlooks Undisputed Evidence That Petitioner’s Declarants Were Not Competent to Address § 112 Compliance

The FWD is premised on crediting the opinions of Petitioner’s declarants, Drs. Abbas and Plott. *E.g.*, FWD, 17 (“we credit”), 32 (“we credit”), 34 (“We credit”). This overlooks Patent Owner’s *undisputed* evidence and arguments that their testimony was incompetent for failing to (1) consider the state of the art of IL-15/IL-15R inhibitors or the full specification comprising 300+ incorporated references, including U.S. Patents, patent applications, and state of the art scientific publications, and (2) provide opinions from the perspective of a POSA who “would have been familiar with well-known inhibitors of IL-15 and IL-15R as described in the ’505 patent and recognized in the art as of April 2017.” Paper 32 (“SR”), 7-10; Paper 19 (“POR”), 26-27, 30-32; FWD, 7. The FWD thus overlooks and misapprehends that Petitioner could not have met its burden to establish §112 unpatentability by reliance on incompetent declarants. *E.g. Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (written description is considered in view of “the existing knowledge in the particular field, the extent and content of the prior art, the maturity of the science or technology”) (citation omitted);

Alcon Res. Ltd. v. Barr Labs, Inc., 745 F.3d 1180, 1189 (Fed. Cir. 2014) (expert’s “unsubstantiated conclusory statement is not sufficient” to show nonenablement); *Kyocera Senco Indus. Tools v. Int’l Trade Comm’n*, 22 F.4th 1369, 1376-1378 (Fed. Cir. 2022) (excluding testimony when proffered expert did not qualify as a POSA).

First, the FWD overlooks undisputed evidence that neither Dr. Abbas nor Dr. Plott considered more than a handful of the 300+ incorporated references or otherwise investigated the full state of the art with respect to the 350+ known IL-15/IL-15R inhibitors or their expected class effects. POR, 30-32; SR, 7-10, 16-18; TR, 59:1-60:7. Dr. Abbas, for example, was not aware of and did not investigate the number and types of known IL-15 signaling antagonists. POR, 31 (citing EX2007). Similarly, Dr. Plott had little to no experience with IL-15 signaling inhibitors, was not familiar with nucleic acids used for cytokine inhibition, had limited and outdated knowledge of vitiligo treatment and therapeutic use of IL-15 inhibitors, and would have had to—but did not—consult specialized cytokine pathway experts. POR, 32; SR, 7-10, 16 (citing EX2008; EX2118).

Having failed to consider “existing knowledge in the particular field, the extent and content of the prior art” reflected in the art generally and the incorporated references specifically, the opinions of Drs. Abbas and Plott are not factually supported and not competent to address §112 compliance. *Ariad*, 598 F.3d at 1351; *Alcon*, 745 F.3d at 1189; *Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.*,

509 U.S. 209, 242 (1993) (expert opinion “not supported by sufficient facts to validate it in the eyes of the law” cannot support verdict); *Inline Connection Corp. v. AOL Time Warner Inc.*, No. CIVA 02-272MPT, 2007 WL 275928, at *5 (D. Del. Jan. 29, 2007) (“Because Waring did not conduct a proper enablement analysis, his opinion is not reliable and is not admissible on enablement.”); POR, 30-32; SR, 7-10, 16-18; TR, 27:4-28:11. Indeed, failing to consider the full scope of the art or specification precludes even a reasonable likelihood of unpatentability. *Gilead Scis., Inc. v. Regents of Univ. of Minn.*, IPR2017-01753, Paper 46 at 6 (PTAB Dec. 21, 2020) (denying rehearing of non-institution) (rejecting expert testimony that “fails to consider... prior art as a whole”); *CSL Behring LLC v. Bioverativ Therapeutics Inc.*, IPR2018-01313, Paper 10 at 16 (PTAB Jan. 9, 2019) (denying institution) (“Petitioners and Dr. Negrier have failed to consider the full scope of the disclosure for purposes of written description and enablement.”).

The FWD further overlooks that the head-in-the-sand opinions of Drs. Abbas and Plott relied upon to find that a “therapeutically effective amount of an inhibitor of IL-15 or the IL-15R receptor” (FWD, 17) lacked support and “must [be] disregard[ed]” as “plainly inconsistent with the record” of 350+ known inhibitors and known efficacy in treating other IL-15 mediated diseases. *Homeland Housewares, LLC v. Whirlpool Corp.*, 865 F.3d 1372, 1378 (Fed. Cir. 2017); *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 at 15 (PTAB Aug. 24, 2022)

(precedential) (disregarding testimony lacking supporting evidence); *Prime Time Toys LLC v. Spin Master, Inc.*, IPR2023-01339, Paper 12, 10 (PTAB July 9, 2024) (Director review, reversing Board) (conclusory expert testimony “is inadequate for the Board to rely on”); POR, 30-32; SR, 7-10; TR. 27:20-28:11; Section II, *below*. For example, in “credit[ing] the testimony of Dr. Abbas... that vitiligo treatment using cytokine inhibitors was nascent, complex, and unpredictable,” the FWD relies on *ipse dixit* contradicted by un rebutted evidence. FWD, 34 (citing EX1002 ¶¶83-85 (unsupported testimony); POR, 7-13, 27, 47 (citing, e.g., EX2005, ¶¶66-79, 121-122, App’x A); SR, 3-5, 11, 15-18 (citing EX1046, 161:14-162:4); Paper 44 (“TR”), 59:18-61:4. Thus, contrary to the FWD, the issue here “is not a matter of credibility,” as the opinions of Drs. Abbas and Plott were not based on a proper §112 analysis and therefore do not constitute substantial evidence. *Ericsson Inc. v. Intellectual Ventures I LLC*, 890 F.3d 1336, 1346 (Fed. Cir. 2018).

Second, the FWD overlooks that Drs. Abbas and Plott failed to provide testimony from the perspective of a POSA who “would have been familiar with well-known inhibitors of IL-15 and IL-15R as described in the ’505 patent and as recognized in the art as of April 2017.” FWD, 7 (citing POR, 26-27); SR, 7-10, 15-16. Neither declarant addressed nor met the standard as they were not aware of and did not investigate the 350+ IL-15/IL-15R inhibitors described, collectively, in the ’505 patent and in the art. *E.g.*, POR, 30-32; SR, 7-11; TR, 27:4-28:11. In

crediting Drs. Abbas and Plott, the FWD thus overlooks that “[t]o offer expert testimony from the perspective of a skilled artisan in a patent case... a witness must at least have ordinary skill in the art. Without that skill, the witness’ opinions are neither relevant nor reliable.” *Kyocera*, 22 F.4th at 1376-77; *Prime Time Toys*, IPR2023-01339, Paper 12, 11 (citing *Kyocera* to reject expert “opinions [that] do not inform our understanding of a person of ordinary skill in the art”); *Nespresso USA, Inc. v. K-Fee System Gmhb*, IPR2022-01574, Paper 29, 22-23 (PTAB Apr. 10, 2024) (“We find that Patent Owner has not established that Dr. Howle possesses at least the level of ordinary skill in the art... Accordingly, consistent with the requirement in *Kyocera*, we do not credit any of Dr. Howle’s testimony *offered from the perspective of a person having ordinary skill in the art....*”).

II. The FWD Overlooks and Misapprehends Petitioner’s Failure to Establish a Lack of Written Description and Enablement

Led to error by Petitioner, the FWD overlooks and misapprehends unrebutted evidence that cytokine pathway inhibition was well-developed, hundreds of IL-15 and IL-15R inhibitors were known, and there was an expected class-wide efficacy for these inhibitors to treat IL-15 mediated autoimmune diseases. POR, 27, 43-44; SR, 1, 3, 14, 19. The FWD then misapprehends that §112 compliance does not turn on the number of compounds disclosed within the specification where, as here, “the invention was to use a group of compounds well known in the art... in a novel method of treating” and the genus of compounds “is well understood in the art and

not itself the invention but is instead a component of the claim....”

Erfindergemeinschaft UroPep GbR v. Eli Lilly & Co., 276 F. Supp. 3d 629, 648 (E.D. Tex. 2017) (“*UroPep*”), *aff’d*, 739 F. App’x 643 (Fed. Cir. 2018); *Amgen Inc. v. Sanofi*, 598 U.S. 594, 611-612 (2023) (“*it may suffice to give an example*”); POR, 1-2, 52-54, 62-63; SR, 1-2. Specific issues overlooked and misapprehended are addressed below for each ground, with the understanding that the factual and burden issues are common and overlapping.

A. Lack of Written Description Not Shown

The FWD misapprehends the legal test by focusing on whether the specification discloses “a representative number of species” or “a sufficient correlation between structure and function.” FWD, 21-22; *see* POR, 38-42; SR, 11-15. Rather than any such rigid rule, the level of detail required depends on “the existing knowledge in the particular field, the extent and content of the prior art, the maturity of the science or technology, [and] the predictability of the aspect at issue.” *Ariad*, 598 F.3d at 1351 (citing *Capon v. Eshhar*, 418 F.3d 1349, 1357 (Fed. Cir. 2005)) (“The ‘written description’ requirement... does not state that every invention must be described in the same way.”); POR, 38-42; SR, 7, 11-15. Here, given the un rebutted “substantial knowledge in the field regarding the genus” of inhibitors—reinforced by the absence of competent contrary evidence (Section I, *supra*)—the written description inquiry turns on support for the claimed new use not the inhibitor

genus. *UroPep*, 276 F. Supp. 3d at 649 (“The broad genus of ‘solubilizing agents’ would not require representative species if persons of skill knew of many solvents that could dissolve the salt, and thereby serve as a ‘solubilizing agent’ in that invention.”); POR, 52-56; SR, 13; *see also In re Herschler*, 591 F.2d 693 (C.C.P.A. 1979) (single steroidal example sufficient to support administering broad class).

First, the FWD overlooks the operative differences from *Rochester*, where “[n]o compounds that will perform the claimed method are disclosed, nor has any evidence been shown that such a compound was known” such that “*it is impossible to practice* the claimed method of treatment.” *U. of Rochester v. G.D. Searle & Co., Inc.*, 358 F.3d 916, 926-927 (Fed. Cir. 2004); FWD, 16-18; POR, 35-38, 41-42; SR, 12. Unlike *Rochester*, Dr. Plott admits the specification provides a working example demonstrating “a therapeutically effective amount of an inhibitor of IL-15 or the IL-15 receptor” for the treatment of vitiligo and 20 exemplary inhibitors across 9 classes. POR, 9-11; SR, 5. By instead crediting “Petitioner’s evidence and Dr. Abbas’s related testimony showing that the ’505 patent lacks descriptive support for ‘a therapeutically effective amount of an inhibitor of IL-15 or the IL-15 receptor’” (FWD, 17-18), the FWD overlooks unrebutted evidence reflecting the recognized class effect of cytokine pathway inhibition that was well-developed for treating other autoimmune diseases. POR, 12-13; SR, 3-5; EX2007, 74:19-75:10.

Second, even if a “representative number of species” or “correlation between

structure and function” were required, the FWD overlooks Petitioner’s failure to establish the absence thereof in view of contrary evidence not considered by its declarants. FWD, 14-22 (failing to address declarants’ incompetence), 21-22; POR, 9-14, 46; SR, 15-19; Section I, *supra*. For example, Petitioner’s declarants overlooked evidence, including from incorporated references, that “*a POSA* would know the chemical structures and nucleotide sequences for the hundreds of known inhibitors... and *would appreciate the common chemical elements and their structural and functional relationship*” such that they could be identified and rationally designed. EX2005, ¶121 (citing, e.g., EX2015, [0027] (“small chemical molecules fitting in the IL-15 specific receptor domain was carried out on the basis of the model of the [IL-15Ra-IL-15] complex structure, elaborated on the basis of the crystal structure of the complex fragment”), ¶163 (citing EX2015, EX2079), ¶180 (citing EX2015); POR, 9-12, 20-21, 45-47, 47 n20; SR, 2, 4-5, 10; *see also* EX1001, 7:36-44 (citing EX2013; EX2014; EX2015).

Third, the FWD misapprehends the written description standard by relying on a few compounds—DISCO280 (EX1054), “soluble” IL-15 α (EX2079), and HuMax-IL (EX2013, EX2014, EX2015, EX2025)—as “evidence of inconsistent and ineffective IL-15/IL-15R inhibitors.” *E.g.*, FWD, 18-19; SR, 17-18; TR, 27:4-28:11, 39:5-40:7. Where the unrebutted evidence reflects 350+ known inhibitors, a few outliers are immaterial. *Capon*, 418 F.3d at 1359; *Atlas Powder Co. v. E.I. du*

Pont De Nemours & Co., 750 F.2d 1569, 1576-77 (Fed. Cir. 1984); SR, 17-18.

Moreover, their alleged “unexpected” non-inhibitory properties reinforce that, by contrast, *inhibition was the expected class effect* that, as Dr. Plott admitted, all exhibited. SR, 17-18 (citing EX1047, ¶25 (HuMax-IL-15 “*blocked some forms of IL-15... but unexpectedly enhanced others*”), ¶29 (“DISC0280 *inhibited IL-15 signaling* [in vitro] ... injecting DISC0280 into mice *unexpectedly* potentiated IL-15 because, though the *DISC0280 bound the IL-15 and prevented it from binding IL-15Ra....*”); ¶30 (“...DISC0280 and soluble IL-15R α are two examples of compounds (in addition to HuMax-IL-15) that *are both inhibitors of IL-15 or the IL-15 receptor, inhibit some IL-15-signaling*”)); EX1046, 270:2-19; SR, 20-21; TR, 38:9-40:7.

Fourth, the FWD rests on new arguments that misapprehend the Petition and the art, including relying on EX1008, EX1013, and EX1014 as disclosing “ineffective and/or unpredictable IL-15/IL-15R inhibitors.” FWD, 18-21; *cf.* Pet., 27-39 (not alleging EX1008, EX1013, and EX1014 to disclose ineffective or unpredictable inhibitors). For example, the FWD overlooks that EX1013 confirms effective and predictable IL-15 blockade, reporting that “*IL-15 inhibition results in long-lasting depletion* of [tissue] memory T cells.” EX2005, ¶133 (citing EX1013); FWD, 19; SR, 15-18; *see also* EX1008 (addressing *Harris* mouse model, not IL-15/IL-15R); EX1014 (addressing IL2 α (CD25), not IL-15).

Fifth, relevant to both grounds, the FWD overlook and misapprehend Petitioner’s burden to establish unpatentability. POR, 67-68; SR, 22; TR, 60:12-61:10; Section I, *supra*. For example, making an analogy with *Juno*, the FWD found:

it has not been shown that (1) the Fc- diminished ChMBC7 antibody ***would have been understood*** by an ordinarily skilled artisan at the critical time to be representative... and (2) that those categories ***would have been understood*** to be representative....

FWD, 20. Similarly, the FWD distinguishes *Merck PGR* and *UroPepI* as involving “persuasive evidence that the claims recited well-known classes of compounds....”

FWD, 20-21. Of course, however, Patent Owner was not required to show anything in this regard as it was solely Petitioner’s burden to establish the absence of said understandings—a burden it could not have met by reliance on incompetent declarants. POR, 39-42, 52-57, 67-68; SR, 12-18; TR, 60:12-61:10; Section I, *supra*.

Sixth, the FWD overlooks that, in finding that the “therapeutically effective” limitation lacks support, it makes a new argument contradicted by the Petition. FWD, 17-18. For example, contrary to the FWD’s finding, Petitioner represented that the claimed therapeutically effective amount could be determined through “routine dose ranging studies.” *See* Pet., 68-71; EX1002, ¶103; POR, 69, n28; SR, 16; EX2005, ¶162; TR, 29:10-20, 41:21-42:2; *Cephalon, Inc. v. Watson Pharms., Inc.*, 707 F.3d 1330, 1338 (Fed. Cir. 2013) (“that a clinician’s involvement may be

necessary to determine effective amounts... does not itself constitute undue experimentation”).

B. Lack of Enablement Not Shown

The FWD overlooks material factual distinctions (addressed above and below) to conclude that “[t]he facts of the present case are similar to the *Amgen* case.” FWD, 30. The FWD specifically overlooks that, unlike the new class of compounds claimed in *Amgen* (and in *Rochester*), the claims here are directed to the use of a known class where hundreds were known, methods for making and identifying were known, and class-wide IL-15 efficacy was expected. In this regard, the FWD is irreconcilable with *Amgen*’s direction that

it may suffice to give an example (or a few examples) if the specification also discloses some general quality running through the class that gives it a peculiar fitness for the particular purpose. In some cases, disclosing that general quality may reliably enable a person skilled in the art to make and use all of what is claimed, not merely a subset

and that a specification is ***not*** inadequate where

it leaves the skilled artist to engage in some measure of adaptation or testing.... [A] specification may call for a reasonable amount of experimentation to make and use a patented invention.

Amgen, 598 U.S. at 611-612 (internal citations and quotations omitted); SR, 13-14.

First, despite it being sufficient to “leave[] the skilled artist to engage in some measure of adaptation or testing,” *id.*, the FWD overlooks Petitioner’s failure to

rebut (1) Patent Owner's evidence of 350+ known inhibitors and their expected class effect (POR, 12-13; SR, 16; TR, 57:13-58:26), (2) Patent Owner's *Wands* analysis that undue experimentation would not have been required (SR, 12), and (3) the '505 patent's teachings of how to make, test, and screen compounds of the invention. POR, 9-11; SR, 5, 16; EX1001, 7:34-44 (citing EX2013, EX2014, EX2015), 9:3-5; EX2013, 6 (identify IL-15R inhibitors from structure), 16-17 & 25-26 (IL-15 assay); EX2014, 5-6, 12 & 20-21 (same); EX2015, 8, 3-5 & 10 (same). The FWD then overlooks that enablement is objectively demonstrated by Petitioner's reliance on the patent data to develop its own IL-15R inhibitor for vitiligo based on expected class-wide efficacy and without a need to brute force "synthesize and screen" compounds. POR, 33-35 (citing EX2003; EX2004); SR, 10; FWD, 35-36 (citing *Wyeth & Cordis Corp. v. Abbot Labs.*, 720 F.3d 1380 (Fed. Cir. 2013)).

Second, improperly crediting incompetent testimony of Dr. Abbas that "[t]here was no consensus among practitioners that there was a class wide property of treating vitiligo," the FWD misapprehends the evidence to find that IL-15/IL-15R inhibitors "are not part of a known or readily identifiable class." FWD, 34-35; POR, 9-14; SR, 15-17 (citing EX2007, 74:19-75:10); *supra*, § I. The FWD then relies on this finding to erroneously conclude that "*UroPep* I is inapplicable because in that case there was evidence of a well-known class of compounds, that were known to perform the function recited in the claimed methods, to target a specific biological

pathway.” FWD, 35.

The FWD, however, overlooks that its finding is contradicted by Petitioner’s declarants, including Dr. Abbas’s admission that it was “common as of April 2017 to expect that species that would antagonize IL-15 signaling would be useful in diseases – autoimmune diseases that had been identified as having an IL-15 mechanism.” EX2007, 74:19-75:10; POR, 31-32; SR, 16-17; *see also* SR, 9 (citing EX2118, 130:15-24 (Dr. Plott testifying that IL-15 antibodies had known human efficacy)). And by misapprehending the question as whether there was “**consensus among practitioners**” regarding “**treating vitiligo**,” the FWD effectively requires the prior art to have taught the discovery demonstrated **in the patent**. FWD, 34; POR, 62, 70-72; SR, 1, 3, 13-15; *see Allergan, Inc. v. Sandoz Inc.*, 796 F.3d 1293, 1310 (Fed. Cir. 2015) (rejecting argument that, if non-obvious, the claims were not enabled because “the enablement inquiry turns on whether the skilled artisan, after reading the *specification*”).

Third, while Petitioner generically argued that the specification does not teach how to make the full scope claimed (Pet. 54), the FWD on its own more specifically finds that “the ’505 patent does **not provide a single disclosure** on how to make the claimed inhibitor” and the exemplary inhibitors are “insufficient because these references do not explain fully how to make **every inhibitor** of IL-15 or the IL-15 receptor or whether **every version of a compound** falls within the scope of the

limitless claims.” FWD, 33. The FWD finding, however, overlooks Petitioner’s failure to establish that the specification does not teach how to make the IL-15/IL-15R inhibitors in view of, *inter alia*, its disclosures that “[r]outine methods can be used to design an inhibitory nucleic acid that binds to the target sequence” and methods of screening for IL-15 inhibitors based on the known IL-15R structure. EX1001, 7:34-44 (citing EX2013, EX2014, EX2015), 9:3-5, 19:37-44; EX2013, 6 (identify IL-15R inhibitors from structure), 16-17 & 25-26 (IL-15 assay); EX2014, 5-6, 12 & 20-21 (same); EX2015, 8, 3-5 & 10 (same); *see also* POR, 9-11 (citing, *inter alia* EX2013-EX2020; EX2022; EX1011); SR, 5. The FWD also misapprehends that enablement does not require how to make “every inhibitor” or “every version of a compound.” POR, 59; SR, 12, 18; TR, 42:17-46:4; *Pfizer Inc. v. Teva Pharms USA, Inc.*, 555 F. App’x 961, 967 (Fed. Cir. 2001) (rejecting “impossible burden” of providing “recipe for preparing every conceivable permutation”).

Fourth, the FWD overlooks evidence to find that “the record shows that different IL-15-specific inhibitors may operate in different ways that may result in ***differential effects, some of which*** may not include inhibition at all.” Compare FWD, 32 (citing EX1018, Abstr., pg. 1576, 1579; EX2013, pg. 4:1-8; EX2014, pg. 4:9-15; EX2015, ¶22; EX2025, pg. 4:34-5:2; EX1011, pg. 1:67-2:4), with SR, 20-21, *supra* §II.A, and *Atlas*, 750 F.2d at 1576-77. Contrary to this finding, Dr. Plott

admitted that the references each teach IL-15 inhibition. *See* EX1047, ¶23 (citing EX1018 and finding “each anti-IL-15 antibody was an inhibitor of IL-15 or [IL-15R]”), ¶40 (citing EX2013, EX2014, EX2015, EX2025 as seeking “new generations of inhibitors” where “earlier generations... *effectively inhibit[ed] [IL-15 or IL-15R]*”), ¶71 (citing EX1011)). The FWD further overlooks (1) that alleged “differential effects” are not inconsistent with the known pathway-inhibiting class effect and (2) confirmation from Petitioner’s declarants that IL-15/IL-15R inhibitors would be expected to block the IL-15 pathway and treat IL-15 mediated diseases. POR, 9-13; SR, 3-5, 11, 15-18; EX2007, 74:19-75:10. The FWD’s *sua sponte* reliance on *AstraZeneca v. Mylan* similarly overlooks this evidence. FWD, 36.

III. The Board Lacked Authority to Allow and Rely Upon Reply Evidence

For PGRs, “affidavits or declarations” are authorized for petitions and patent owner responses. 35 U.S.C. §§ 322 (a)(3)(B), 326(a)(8). By contrast, only “*written comments*” are authorized for petitioner’s reply. 35 U.S.C. § 326(a)(12). It was thus impermissible to allow and credit Petitioner’s reply evidence (EX1037-EX1059), including Dr. Plott’s declaration (EX1047). *E.g.*, FWD, 18-21, 32-33, 35. *Loper Bright Ent. v. Raimondo*, 144 S. Ct. 2244, 2273 (2024).

IV. Conclusion

For the foregoing reasons, Patent Owner respectfully requests that the Board reconsider the FWD and find the claims not unpatentable.

Date: July 24, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **Patent Owner's Request for Rehearing Under 37 C.F.R. § 42.71** was served electronically via email on July 24, 2024, in its entirety on the following:

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Petitioner has consented to electronic service.

Dated: July 24, 2024

/William Esper/
William Esper
Legal Assistant and PTAB Coordinator
Finnegan, Henderson, Farabow,
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