

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SYNGENTA CROP PROTECTION
AG,
Petitioner,

v.

Inflexion Point Technologies, LLC,
Patent Owner.

Case PGR2025-00045
Patent 12,102,027

**PETITIONER'S REQUEST FOR REHEARING
OF THE BOARD'S DENIAL OF INSTITUTION**

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EXHIBIT LIST

Exhibit No.	Description
1001	U.S. Patent No. 12,102,027 to Smith et al., entitled “System and Method for Prescriptive Seed Treatment,” filed June 23, 2015
1002	Selected Excerpts of the File History of the ’027 Patent
1003	Declaration of Durham K. Giles, Ph.D.
1004	Wagers et al., “Multi-Seed Planter Control System and Method for the Same,” US2014/0277959, published on September 18, 2014 (“Wagers”)
1005	Mitchell, “Antismut Grain and Soil Treating Process and Apparatus,” U.S. Patent No. 1,409,564, issued on March 14, 1922
1006	Wilkerson et al., “Systems and Methods for Fluid Dispensing,” US2004/0231575, published on November 25, 2004 (“Wilkerson”)
1007	Batcheller et al., “Method and System for Optimizing Planting Operations,” US2014/0379228, published on December 25, 2014 (“Batcheller”)
1008	Memory et al., “Method and Apparatus for Coating Seeds,” U.S. Patent No. 6,155,185, issued on December 5, 2000 (“Memory”)
1009	Garner et al., “Seeding Machine with Seed Delivery System,” U.S. Patent No. 8,850,995, issued on October 7, 2014 (“Garner”)
1010	Bender et al., “Multiple-Type Seed Dispensing System,” U.S. Patent No. 5,915,313, issued on June 29, 1999 (“Bender”)
1011	Garner et al., “Planting Unit for a Seeding Machine Having Blocking Member to Control Hand-Off of Seed From a Seed Meter to a Seed Delivery System,” U.S. Patent No. 8,671,856, issued on March 18, 2014 (“Garner ‘856”)
1012	Thacker, “Vegetable Seed Planter,” U.S. Patent App. Pub. No. 2016/0174458, published on June 23, 2016 (“Thacker”)

1013	Wendte, “Method and Apparatus for an Agricultural Implement Seed Meter,” U.S. Patent No. 7,854,066, issued on December 21, 2010 (“Wendte ‘066”)
1014	Sauder et al., “Apparatus and Method for Controlled Delivery of Seeds to an Open Furrow,” U.S. Patent No. 6,681,706, issued on January 27, 2004 (“Sauder ‘706”)
1015	Celik, “Effects of Various Planters on Emergence and Seed Distribution Uniformity of Sunflower,” Applied Engineering in Agriculture (2007) (“Celik”)
1016	Liu et al., “Seed Sensory System and Method for Improved Seed Count and Seed Spacing,” U.S. Patent App. Pub. No. 2010/0116974, published on May 13, 2010 (“Liu”)
1017	Sauder et al., “Seed Tube Egress-Mounted Seed Sensor,” U.S. Patent No. 8,631,749, issued on January 21, 2014 (“Sauder ‘749”)
1018	Knake, “Apparatus for Spray-Treating Seeds During Planting,” U.S. Patent No. 4,356,934, issued on November 2, 1982 (“Knake”)
1019	Hancock, John H., “Design and Evaluation of a Seed-Specific Applicator for In-Furrow Chemical Application,” University of Tennessee, 2003 (“Hancock”)
1020	Grimm et al., “System and Method for Spraying Seeds Dispensed From a Planter,” U.S. Patent No. 9,226,442, issued on January 5, 2016 (“Grimm”)
1021	Downey et al., “Pulsed-Jet Microspray Applications for High Spatial Resolution of Deposition on Biological Targets,” Atomization and Sprays, Vol. 14, pp. 93-109 (2004) (“Downey”)
1022	Cloeter et al., “Planar Laser Induced Fluorescence (PLIF) Flow Visualization applied to Agricultural Spray Nozzles with Sheet Disintegration; Influence of an Oil-in-Water Emulsion,” ILASS-Americas 22nd Annual Conference on Liquid Atomization and Spray Systems, Cincinnati, OH (2010) (“Cloeter”)

1023	Nielsen, “Don’t Let the Planter Hold Back Your Corn Yields,” Purdue University, published January 4, 1996 (“Nielsen”)
1024	Kocher et al., “Corn Seed Spacing Uniformity as Affected by Seed Tube Condition,” Biological Systems Engineering: Papers and Publications (2011) (“Kocher”)
1025	Selected Excerpts of the File History of Eur. Patent App. No. 3967120, filed on June 23, 2015
1026	“John Deere Debuts New Planting Technology & Electric Excavator During CES 2023 Keynote,” John Deere, published on January 5, 2023
1027	Garner et al., “Seeding Machine for Planting Multiple Seed Varieties and Prescription for Multiple Varieties Seeding Machine,” U.S. Patent No. 8,942,894, issued on January 27, 2015 (“Garner ‘894”)
1028	Wendte et al., “Multiple Seed-Type Planter with On-Row Selector Assembly,” U.S. Patent No. 9,648,802, issued on May 16, 2017 (“Wendte ‘802”)
1029	Giles, D. Ken et al., “Liquid Property and Nozzle Effects on Flight Time of Pulsed Jet Spray.” <i>Atomization and Sprays</i> , vol. 14, no. 2 (2004) (“Giles”)
1030	Declaration of Sylvia D. Hall-Ellis, PhD

I. INTRODUCTION

Petitioner requests rehearing of the Board’s decision denying institution. The decision misapprehends and fails to recognize the breadth of the claims in the ’027 patent as addressed in the Petition and accompanying expert declaration, and hinges its decision on the unexamined and misleading testimony and assertions of the Patentee. The identified errors necessitate reconsideration.

First, the decision misconstrues Wagers by overlooking its disclosure that agricultural products may be applied “contemporaneously with dispensing,” not solely at the moment of planting. Second, the decision improperly reads into the claims that no agrochemical reach the soil during application—an unwarranted limitation that finds no support in the claim language or specification. Third, the Board improperly imported a timing limitation—requiring application “prior” to planting—despite the fact that this limitation is not in the claims and, in fact, was expressly removed during prosecution. Fourth, the decision misapprehends and overlooks key aspects of Petitioner’s arguments regarding the type of precision afforded by the prior art, resulting in internally inconsistent findings including a finding of no motivation to combine that ignores the evidence presented.

For these reasons, Petitioner respectfully requests rehearing and institution of post grant review on the challenged claims.

II. LEGAL STANDARD

Requests for rehearing must identify what the decision “misapprehended or overlooked” and “where each matter was previously addressed.” 37 C.F.R. § 42.71(d). The Board reviews its decisions for an abuse of discretion. 37 C.F.R. § 42.71(c). An abuse of discretion exists when a decision (1) is unreasonable or arbitrary; (2) is based on an erroneous interpretation of law; (3) includes factual assertions not supported by substantial evidence; or (4) represents an unreasonable judgment in weighing relevant factors. *Star Fruits S.N.C. v. United States*, 393 F.3d 1277, 1281 (Fed. Cir 2005); *Arnold P’ship v. Dudas*, 362 F.3d 1338, 1340 (Fed. Cir. 2004); *AdjustaCam, LLC v. NewEgg, Inc.*, 861 F.3d 1353, 1358 (Fed. Cir. 2017); *Ultratec, Inc. v. CaptionCall, LLC*, 872 F.3d 1267, 1271-72 (Fed. Cir. 2017).

III. ARGUMENT

A. Rehearing Is Appropriate As The Board Overlooks And Misapprehends Wagers’ Disclosure Of Applying “Contemporaneously With Dispensing.”

The Board erred in concluding Wagers does not anticipate the challenged claims because it does not teach “individually applying the desired application amount of the selected type of the seed-applied substance to each seed as it is being delivered to the soil.” Paper 9, 10-11. Specifically, the Board relied on testimony from Patentee’s expert, Mr. Prairie, who alleged Wagers “discloses agricultural product dispersed simultaneously with planting—not to the seed itself, but with the seed in its planted location.” *Id.* at 15 (quoting Ex. 2001, ¶ 106) (emphasis added).

However, Wagers' disclosure is broader, providing that "[t]he agricultural product reservoirs 118 are configured to provide the agricultural product contemporaneously **with dispensing** and planting of seeds." Ex. 1004 ¶ [0028] (emphasis added). Thus, the Petition relies on Wagers' disclosure of applying "...the agricultural product contemporaneously with **dispensing**" in addition to planting. Pet. (Paper 2), 31 (emphasis added); *see also id.*, 27 (citing to Wagers ¶ [0028] discussion for claim 1's generating step); *id.*, 31 (explaining how "Wagers discloses ... applying an agricultural product or substance contemporaneously with the **dispensing of the seed**") (emphasis added)); *id.*, 48 (same). Because Mr. Prairie ignored Wagers' disclosure of "dispensing," not only is his analysis in error, but the Board's reliance on that flawed analysis is as well. "Dispensing" and "planting" are separate operations and conflating these steps introduces legal error and technical inaccuracy.

As reflected in Dr. Giles' analysis and cited in the Petition, Wagers' use of both dispensing and planting in the cited disclosure indicates an intent to treat them as separate processes. Dr. Giles testified that "[a] POSA would understand [dispensing] to necessarily disclose the application of substance to the individual seed just prior to placement in the ground"—*i.e.*, before planting. Pet. (Paper 2), 31; Ex. 1003, ¶ 92. His testimony regarding the understanding of a person of ordinary skill is un rebutted, as the Patentee's expert, Mr. Prairie, failed to address Wagers'

disclosure of applying substance contemporaneously with **dispensing** seed.

This is also consistent with the understanding of a person of ordinary skill in the art, highlighted by both the '027 patent and the secondary references cited. For example, Patentee does not dispute the testimony of Dr. Giles that it was:

well understood at the time that there were numerous well-known means for applying substance to individual seeds during planting, all of which are readily incorporated in the multirow planter disclosed in Wagers, and all of which are consistent with and would further the express objective of Wagers to improve planting precision.

Ex. 1003, ¶ 145; *see also* Pet. (Paper 2), 48-49 (discussing same). The '027 patent explains that planting is generally when the seed reaches the soil. Ex. 1001, 17:47-48 (“...planted (e.g., when the seed comes in contact with the soil in a field).”).

Moreover, Mitchell demonstrates—since at least 1922—it was well within the ordinary skill in the art to apply substances to seeds while the seed is being dispensed or delivered to the soil. *See* Ex. 1005. As cited in the Petition and relied upon by Dr. Giles, Mitchell provides: (1) The process involves “dropping seed and spraying the seed **as it drops to the ground**, with an anti-smut liquid.” *Id.* at claim 3 (emphasis added); *see also* Pet. (Paper 2), 47; Ex. 1003 at 49; (2) The apparatus includes spray nozzles located just above the point where the seed enters the soil, so “the liquid as it issues from the nozzle is **deposited upon the grain** and the soil or

earth in which it is planted, simultaneously.”¹ *Id.* at p. 2; col. 1; lns 44-47 (emphasis added); *see also* Pet. (Paper 2), 46-47; Ex. 1003 at 49; and (3) The seed is treated “**while in transit** from a source of supply to the ground.” *Id.* at claim 7 (emphasis added); *see also* Pet. (Paper 2), 47; Ex. 1003 at 49-51.

In *Incept LLC v. Palette Life Sciences, Inc.*, 77 F.4th 1366, 1371–72 (Fed. Cir. 2023), the court emphasized that a patentee cannot avoid an anticipatory reference simply because it describes multiple embodiments as long as it provides as much detail as the patent claim itself. *See also Richardson v. Suzuki Motor Co., Ltd.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989) (providing that, to anticipate, “[t]he identical invention must be shown in as complete detail as is contained in the patent claim”).

Here, the Board erred in finding Wagers did not anticipate the ’027 patent by relying on Mr. Prairie’s testimony based on Wagers’ disclosure of its granular application embodiment. *See* Paper 9, 14-15. Claim 1 requires only that the seed-applied substance form a ‘combination’ with the seed. Ex. 1001, claim 1. Thus, as a threshold matter, there is no evident basis for concluding that the disclosed granular application of Wagers falls outside the claim. Indeed, the ’027 patent states “[t]he seed-applied substances can take any form, including wet and **dry substances**.” Ex.

¹ As will be discussed below, there is no recitation or interpretation of claim 1 of the ’027 patent which requires the seed applied substance not touch the soil.

1001 8:15-18 (emphasis added). This highlights the sheer breadth of claim 1.

Furthermore, Mr. Prairie's reliance on paragraph [0050] of Wagers fails to support his analysis. Paragraph [0050] states that the discussed embodiment is "one example" and discloses both a "granular" and a "liquid" application with no limitation on when or where the substance is applied. Ex. 1004, ¶ [0050]. To the extent Wagers illustrates in-furrow application and recites use of "granules," this does not mean that a person of ordinary skill in the art would not understand Wagers also discloses applying various substances (granular or liquid) contemporaneously with dispensing—*i.e.* prior to the seed reaching the soil. Ex. 1003, ¶¶ 91-92.

Moreover, Mr. Prairie's statement that the application disclosed in Wagers is at "a continuous rate throughout a prescription zone" lacks support. Paper 9, 14 (citing Ex. 2001, ¶ 104 (citing Ex. 1004, ¶ 50)). Paragraph [0050] of Wagers expressly discloses a "control valve" that is "opened or closed to adjust a rate of dispensation of the respective agricultural product whether liquid, granular or the like." Ex. 1004, ¶ [0050]. Paragraph [0051] further emphasizes controlled interruption—the exact opposite of Mr. Prairie's statement—via shut-off valve:

Accordingly in one example the control valve 544 is used to apply a particular rate of an agricultural product with the respective row unit 114 **while the shutoff valve 548 is used to toggle between application or an interruption of application of the agricultural product at the rate**

provided by the control valve 544.

Id. at [0051] (emphasis added). Thus, this text illustrates the application is not limited to “a continuous rate” as Mr. Prairie incorrectly asserts. Ex. 2001, ¶ 104.

More fundamentally, Mr. Prairie’s analysis of Wagers seems to rely on his status as an inventor on the application, rather than how one of ordinary skill would read and understand the reference. *See* Ex. 2001, ¶ 106 (“I disagree. I am a named inventor of Wagers. This is not what Wagers discloses.”). However, the Federal Circuit has well established that a prior art reference is available for all that it would reasonably teach or suggest to a person of ordinary skill in the art. *Dayco Prods., Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 1368-69 (Fed.Cir.2003) (quoting *In re Baxter Trovenol Labs.*, 952 F.2d 388, 390 (Fed.Cir.1991)). And the inventor’s own interpretation of their reference is not controlling. *Standard Oil Co. v. American Cyanamid Co.*, 774 F.2d 448, 454 (1985); *see also Exergen Corp. v. Brooklands, Inc.*, 125 F. Supp. 3d 307, 325 n. 6 (D. Mass. 2015). While Mr. Prairie may have understood his invention as limited to in-furrow agrochemical application, that is not all Wagers discloses to a person of ordinary skill in the art. Ex. 1004, ¶ [0028]; Ex. 1003 ¶ 91-92. Indeed, nowhere does Mr. Prairie expressly opine on how one of ordinary skill in the art would understand the disclosure of Wagers.

B. The Board Improperly Read In The Requirement That “No Agrochemical” Reach The Soil.

With respect to obviousness over Wagers in view of Mitchell, the Board

overlooked the express disclosure in Mitchell (as excerpted above) of applying substance to the seed itself, focusing instead on the additional disclosure in Mitchell of substance application to the ground:

Mitchell appears to suffer from the same problem that Wagers does insofar as it teaches the application of chemicals to the soil itself rather than a “seed-applied substance.”

Paper 19, citing Ex. 2001, ¶¶ 34–35. Yet, nowhere do the claims of the ’027 patent recite that agrochemical substances cannot reach the soil during the application to the seed. *See* Ex. 1001. Absent a clear disclaimer or limitation in the claim language, courts will not read limitations from the specification into the claims. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1319-20 (Fed. Cir. 2005) (en banc).

Thus, accepting the unexamined testimony of Mr. Prairie, the Board erred by incorporating elements that do not appear in the claim and that, in fact, are contrary to the Specification of the ’027 patent. *Id.*

C. The Board Erred by Including a Timing Limitation into the Claims

The Board erred by interpreting the term “seed-applied substance” according to a definition provided in the ’027 Patent’s specification, namely, “any composition applied to seeds *prior to the seeds being planted* (e.g., when the seed comes in contact with the soil in a field).” Paper 9 at 8 (emphasis added). The Board overlooked, however, that the challenged claims expressly recite a different timing

relationship—the seed-applied substance is applied to a seed “*as it is being delivered* to the soil”—and that the patentee consciously moved away from the term “prior” throughout prosecution. *See* Pet. (Paper 2), 7-14 (reviewing prosecution history). Because prosecution amendments discontinued use of “prior” in the claimed application of substances to seeds, the Board should have given the claims’ temporal recitations—application occurs “as [a seed] is being delivered to the soil”—its plain and ordinary meaning. *Id.* at 17 (claim construction).

Importing a limitation that was removed during prosecution is contrary and inconsistent with established Federal Circuit precedent. Federal Circuit case law makes clear that limitations deleted during prosecution may not be reintroduced through claim construction. *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 906-911 (Fed. Cir. 2004); *Thorner v. Sony Comput. Ent. Am. LLC*, 669 F.3d 1362, 1365-1368 (Fed. Cir. 2012). Here, the Board applied a second temporal limitation to the claims—a seed applying substance must be applied “*prior*” to the seeds being planted—when the claims recite a single, different temporal limitation (“as”).

And this difference reflects a deliberate redrafting effort by the Patentee. The original claims, as filed, included the limitation “...seed-applied substance prior to the combination being planted at the location ...” Ex. 1002 at 55-60. The amended claims as of February 2024 included the “prior” limitation in the claim twice. *Id.* at 386-95. Specifically, “generating the combination of the seed and seed-applied

substance **prior** to the combination being delivered to the soil...” and then later in the claim “between a discharge of the seed drop tube and **prior** to delivery of the combination ...” *Id.* at 386-87 (emphasis added).

However, in the final effort to gain allowance, Inflexion amended the claims to delete the “prior” language, thereby broadening the timing element to “as it is being delivered to the soil.” *Id.* at 455, 460-61; *see also* Pet. (Paper 2), 12-13. The removal of the “prior” timing limitation means disclosure, such as Mitchell, as will be discussed below, read on the claims.

The Board’s requirement of the narrowing “prior” timing element rewrote the claim to add a limitation that Patentee deliberately abandoned when they removed it from the claims. That deliberate deletion bars reintroduction of the limitation through claim construction. *See Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 906-911 (Fed. Cir. 2004); *Thorner v. Sony Computer Ent.Am. LLC*, 669 F.3d 1362, 1365-1368 (Fed. Cir. 2012). Wagers’ granular application falls within the scope of claim 1 because the ’027 patent allows seed-applied substances in wet or dry form. Ex. 1001, 8:15-18.

Moreover, the Board’s reliance on the definition of “seed-applied substance” as “any composition applied to the seed prior to the seeds being planted (*e.g.* when the seeds come in contact with the soil in a field)” does not justify importing a negative limitation that also excludes application to the soil, particularly when the

claim does not contain such language and the file history does not support it.

D. The Board Misapprehends Petitioner's Arguments As Evidenced By Inconsistent Statements In The Decision.

The Board rejected Ground 2 on the basis that the proffered prior art combination is tainted by impermissible hindsight. Paper 9, 19. Specifically, the Board stated that “Petitioner does not identify what type of ‘precision’ is afforded by Mitchell” when suggested in obviousness combination with Wagers. *Id.* In reaching this conclusion, the Board overlooked and, thus, did not evaluate the Petitioner’s motivation arguments but, instead, adopted the Patent Owner’s mischaracterization of those arguments. Respectfully, the Board erred.

The Board discounts Petitioner’s argument regarding motivation to combine, stating “Petitioner does not identify what type of ‘precision’ is afforded by Mitchell.” *Id.* This is not true. As stated by the Board one page earlier:

Petitioner contends that, accordingly, Mitchell disclosed planters including seed drop tubes that provide for the release of seed at or near the ground, and allow *precision in seed placement* and may be used in conjunction with a spraying system in order to provide treated seeds as the seed drops into the ground.

Id. at 18 (emphasis added); *see also* Pet. (Paper 2), 43 (“Mitchell disclosed planters including seed drop tubes that provide for the release of seed at or near the ground, and allow precision in seed placement and may be used in conjunction with a

spraying system in order to provide treated seeds as the seed drops into the ground.”). Thus, a person of ordinary skill in the art could incorporate the apparatus of Mitchell into Wagers as a way to control placement of seeds with a drop tube. Pet. (Paper 2), 43 (citing Ex. 1003, ¶ 73); Pet. (Paper 2), 48 (citing Ex. 1003, ¶ 144). There is no requirement that the motivation to combine be that of the Patentee. *Outdry Techs. Corp. v. Geox S.p.A.*, 859 F.3d 1364, 1370-71 (Fed. Cir. 2017).

Rather, the conflicting positions in the Decision appear based on the Board’s acceptance of Patentee’s apparent mischaracterization of Petitioner’s arguments:

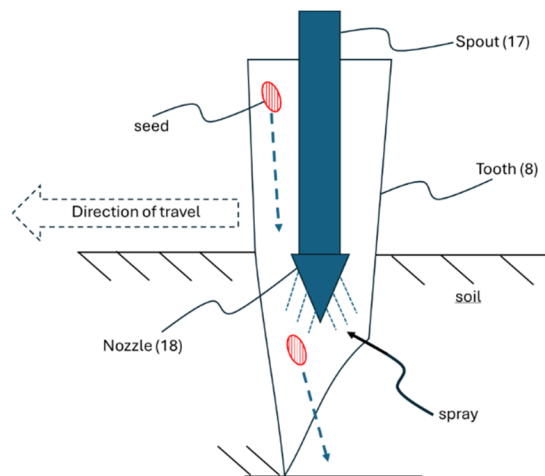
Patent Owner challenges, *inter alia*, Petitioner’s motivation to combine Wagers and Mitchell, noting that Petitioner merely contends that Mitchell’s spray nozzle affords precision, and incorporating Mitchell would have been straightforward.

Paper 9, 18 (citing Paper 7, 47–48). This is incorrect. As the Board correctly noted one page earlier, the “precision” is in regards to planting location—not the “spray nozzle.” Paper 9, 18; Pet. (Paper 2), 43 and 48.

To the extent the Board refers to paragraph 146 of the declaration of Dr. Giles regarding the term “precision,” the operative word is “configuration” in “spray nozzle configuration.” Ex. 1003, ¶ 146. The “configuration” includes the tooth/drop tube which allows the “precise” placement of the seed. Ex. 1003, ¶ 144. It is not “precision” of the nozzle as stated by the Board. Paper 7, 47–48.

For the avoidance of doubt, Dr. Giles testified that the “tooth” in Mitchell is a “drop tube:” “[i]ncorporating a seed drop tube like that of Mitchell in the multi-row planter disclosed in Wagers would have been straightforward.” Ex. 1003, ¶144. Dr. Giles also testified that “the ’027 patent characterizes ‘planter’ as including ‘past planters, currently existing planters, future planters and other current and future equipment used in the planting process.’” Ex. 1003, ¶ 47.

Further, Petitioner provides the following simplified diagram, consistent with Fig. 4 of Mitchell as cited in the Petition, that illustrates the same seed flow and substance application that was fully described in the Petition and declaration:



See Ex. 1005, Fig. 4, 2:54-64, 2:101-105; Pet. (Paper 2), 43 (“as the seed is about to enter the earth at the lower extremities 10 of the hollow teeth, the liquid is applied to the grain’ and ‘spraying the seed as it falls.’”) (*quoting* Ex. 1005, 2:54-64, 2:101-105); Ex. 1003, ¶¶ 72, 142-143 (same); *id.*, ¶ 154 (“Given the angled shape of the end of the hollow teeth 8 (seed drop tube) where only the tip of the angled end is in

contact with the ground, ... one of ordinary skill in the art would understand that the anti-smut substance of Mitchell is necessarily applied to the seed both within hollow teeth 8 and just beyond (proximate to) the hollow teeth 8.”).

Thus, “simultaneously” in Mitchell does not mean that the seed is already on the soil when the substance is applied as suggested by the Board. *See id.*; Paper 19, citing Ex. 2001, ¶¶ 34–35. Clearly, the spray in Mitchell reaches the seed prior to the seed reaching the soil. *See id.* Stated simply, Mitchell puts the agrochemical dispenser in the direction of travel of the seed in the seed drop tube. *See id.* This disclosure is made explicit in Mitchell when it describes, for example, that “the seed is treated while in transit” to the soil. Ex. 1005, claim 7; *see also* other excerpts from Mitchell provided above in Section II.A. The Board errs in overlooking this disclosure from Mitchell. Thus, assuming *arguendo* “dispensing and planting” of Wagers is read as only “planting,” as done in the Decision, the implementation of Mitchell into Wagers would provide all of the limitations of claim 1.

Again, Wagers unambiguously discloses “vary[ing] one or more planter characteristics...according to the selected seed type, the corresponding location of the planter ... on [the] field corresponding to a prescription map” and “planter characteristics that are dynamically changed during operation of the planter include, but are not limited to, ... **agricultural product selection and application rate or the like.**” Ex. 1004, ¶¶ [0008] and [0028].

Petitioner reiterates that it would be obvious to incorporate the apparatus of Mitchell into the system of Wagers. Combining familiar elements according to known methods is obvious when it yields predictable results, and applying a known technique to a known device to achieve a predictable result is also obvious. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416-17 (2007).

A person of ordinary skill in the art would incorporate the apparatus of Mitchell into Wagers because it “...allow[s] precision in seed placement....” EX1003, ¶ 73 (discussing Mitchell). Indeed, Dr. Giles’ testimony on this point is un rebutted. Mr. Prairie, the Patentee’s expert, provides no testimony whatsoever addressing motivation to combine, much less testimony counter to that of Mr. Giles. Ex. 2001, 38. In sum, Mitchell is one configuration that would allow treatment of the seed with the dispensing and is within the plain meaning of Wagers. There is no hindsight as the motivation comes from the references themselves. There is nothing unpredictable about the combination of Wagers and Mitchell.

IV. CONCLUSION

Petitioner respectfully requests that the Board institute a Post-Grant Review of claims 1-19 on the grounds set forth above.

Respectfully submitted,

Dated: December 31, 2025

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on December 31, 2025,
a copy of the foregoing PETITIONER'S REQUEST FOR REHEARING was
provided via email to the following:

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