Paper No. 9

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMERICA UGREEN LIMITED,
Petitioner,

v.

SARIANA LLC,
Patent Owner.

Case No. PGR2026-00062
U.S. Patent No. 12,436,567

PATENT OWNER'S PRELIMINARY RESPONSE

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Exhibit No.	Description	Date Submitted
2001	Declaration of Alan Turksu in Support of Patent Owner's Request for Discretionary Denial	Sept. 8, 2026
2002	SBA 504 Loan Terms & Conditions / Authorization (approved Mar. 13, 2026)	Sept. 8, 2026
2003	SBA Note (CDC/504), conformed copy (June 2026) (wire transfer instructions redacted)	Sept. 8, 2026
2004	California Competes Tax Credit Allocation Agreement (executed Oct. 2022)	Sept. 8, 2026
2005	Phase I Environmental Site Assessment, 10637 Scripps Summit Ct. (Jan. 2026) (excerpts)	Sept. 8, 2026
2006	Offering Memorandum, 10637 Scripps Summit Ct.	Sept. 8, 2026
2007	Summit Electrical tenant-metering budget (July 21, 2026)	Sept. 8, 2026
2008	CBRE Sourcing Memo, 10547 Viper Way (Nov. 28, 2022)	Sept. 8, 2026
2009	Unsolicited Offer to Purchase, 10547 Viper Way (Dec. 12, 2022)	Sept. 8, 2026
2010	CBRE Brochure, 1695 Faraday Ave., Carlsbad	Sept. 8, 2026
2011	Rule 132 Declaration of Alan Turksu (July 1, 2025) (from prosecution history)	Sept. 8, 2026
2012	Ugreen Group Limited, Application Proof for listing on The Stock Exchange of Hong Kong (Aug. 25, 2026) (excerpts)	Sept. 8, 2026
2013	Email from S. Orgain, JTEKT Machinery Americas Corp., to A. Turksu (May 11, 2026), with attached stock list	Sept. 8, 2026

I. INTRODUCTION

The '567 patent claims a mini-computer stand whose back corner is cut away in the top and side portions but not through the bottom, so that a control feature on the underside of a computer seated on the stand, such as a power button, can be reached with a fingertip through the cutaway without lifting the computer. Ex. 1001, 1:58-2:4, 4:48-67, 5:6-15, FIGS. 2, 3B. The retained bottom keeps the stand's footprint intact for stability and gives the finger a floor that guides it to the button rather than under the stand. *Id.* at 5:6-13; Ex. 2011 ¶ 11. During prosecution the Examiner rejected broader claims over a docking station with a corner removed through its full height. The claims were allowed only after they were narrowed to this partial cutaway. The amendment came with a Rule 132 declaration documenting skepticism, sales, awards, and praise. The Examiner's stated reason for allowance was that the best art of record "fails to teach" a cutaway "in top and side portions of the back corner that does not extend through a bottom side." Ex. 1002 at 32.

The Petition does not show that any of its six references discloses that cutaway. Its two primary "stand" references, Ye and Liao, have no corner opening; the Petition concedes that Ye's vent slot is described "without reference to a cutaway in the back corner." Pet. 26. Its third primary reference, Satechi, is Patent Owner's 2019 stand, which likewise has no cutaway.

Pet. 40-42, 92; Ex. 1008 at 1-3, 5; Ex. 2011 ¶ 1; Ex. 1002 at 211. For the cut-away itself the Petition turns to two documents from other fields: Koshiishi, a vertical charging cradle for a folded portable game console, whose front wall has a semicircular notch in its top edge so that an indicator lamp on the inserted console's hinge remains visible, Ex. 1007, 5:57-60, 11:23-28, FIGS. 2(A), 6(A), and Shen, an adapter that sits in a mobile computer's battery well and whose containment walls have cutouts that expose card-reader slots on the sides of a payment accessory, Ex. 1012 ¶¶ [0022], [0033], [0038], FIG. 5. Neither reference's opening is in a surface on which a device rests, removes any part of a support surface, or exposes the underside of a device through the surface on which it rests. The Petition bridges the gap with its declarant Dr. Pokharna's assertion that Koshiishi's notch is "orientation-agnostic," Pet. 38, 77; Ex. 1003 ¶¶ 115, 222, and two pseudonymous forum posts, one saying that a dock cannot go below the computer and the other that "[i]t would be trivial to put a recess in that corner." Pet. 36-37; Ex. 1011 at 2, 7. That is not a showing that "the information presented in the petition" makes it "more likely than not" that any claim is unpatentable. 35 U.S.C. § 324(a).

Three further defects are independent of the first. The Petition's mapping of claim 5 labels the depth of Koshiishi's notch the "first height" and the solid wall beneath it the "second height." Pet. 32-33, 68-69; Ex. 1003 ¶ 98. The

claim assigns those labels the other way around, and once they are corrected the description of Koshiishi on which the Petition relies, a small notch above "a substantial solid base," is a description of a stand that does not meet claim 5. Pet. 32-33, 68-69; Ex. 1003 ¶¶ 98, 195; Ex. 1007, 5:57-60, FIGS. 1, 2(A). The Petition argues in Ground 9 that "horizontally curved surface" in claim 6 has no discernible meaning while asserting in Grounds 1, 4, and 8 that Koshiishi's vertical semicircle meets the term "under any such reasonable interpretation," without ever saying what that interpretation is. Pet. 33, 70, 113, 116-118. And the Petition never mentions the objective evidence of non-obviousness that was before the Examiner and that Petitioner itself filed as part of Exhibit 1002, even though its declarant recites the fourth *Graham* factor and then never returns to it. Ex. 1003 ¶ 21.

Institution of post-grant review requires the Director to determine that the information in the Petition, "if such information is not rebutted, would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable." 35 U.S.C. § 324(a). That is a higher bar than the "reasonable likelihood" standard of 35 U.S.C. § 314(a), and there is "no presumption in favor of institution." *Par Health, Inc. v. InfoRLife, S.A.*, PGR2026-00036, Paper 7 at 3 (Director Aug. 20, 2026) (quoting *Hulu, LLC v. Sound View Innovations, LLC*, IPR2018-01039, Paper 29 at

16 (PTAB Dec. 20, 2019) (precedential)). The Petition does not clear it for any claim, and the Petition should be denied.

II. BACKGROUND

A. THE '567 PATENT

The '567 patent, titled "Stand for Mini-Computer," issued October 7, 2025, from application 19/044,270, filed February 3, 2025, under Track One. Ex. 1001 at cover; Ex. 1002 at 293, 332. It addresses a problem created by the shrinking of desktop computers into "mini-computers" with footprints of roughly five to ten inches on a side: manufacturers have begun to "reposition some features, such as power buttons, reset buttons, and wireless connect buttons, underneath the mini-computer to free up space," and "doing so requires the user to lift the mini-computer to access the feature for activation," which "can require longer cables and can lead to plugs becoming inadvertently unplugged." Ex. 1001, 1:21-31, 1:58-65. The patent identifies the resulting need for a stand that "permits the mini-computer itself to use available spacing on its underside without the need for physical lifting and manipulation of the mini-computer to access its underside." *Id.* at 1:66-2:4.

The solution is a stand 10 with a top 12 on which the mini-computer 1 is seated and a perimeter 14 that "substantially follows" the computer's perimeter, so that the two are "generally square with similarly rounded corners." *Id.*

at 4:5-11, 4:26-31, FIG. 1. At one corner 16D the stand has a cutaway 18 "positioned to expose the means for activation 2 positioned on the underside of the mini-computer 1." *Id.* at 4:48-54, FIG. 2.

The cutaway is sized so that "an ordinary user can fit a finger within the cutaway 18 and reach the means for activation 2," for which "a cutaway of about 1 inch wide by about 1 inch deep by about one-half inch in height would be appropriate in most instances." *Id.* at 4:61-67. "Preferably the cutway [*sic*] 18 is arcuate in shape and in some instances can be an inverse to the arc of a rounded corner 16D," and it "can be slightly pitched to guide the finger upwards." *Id.* at 5:1-5; *see id.* at FIG. 3A (top surface 12 with the arc of cutaway 18 visible at the back corner). Most importantly for the claims as issued:

> Shown best in FIG. 3B and FIG. 5, preferably, the cutaway 18 removes an upper portion 17A of a corner 16D but does not remove material from a bottom 17B of the mini-computer stand 10. Shown best in FIG. 2, this permits access to the means for activation 2 on the one hand but maximizes the dimension of the bottom 17B for sturdiness on the other. Alternatively, as shown in FIG. 3C, the cutaway 18 can extend through the entirety of the height of the mini-computer stand 10 and thus through the bottom 17B.

Id. at 5:6-15. The claims are drawn to the first of these configurations, in which the bottom 17B remains, and not to the FIG. 3C alternative in which the cutaway passes through the bottom.

Claim 1, the only independent claim, recites:

> A mini-computer stand for use with a mini-computer that has a square perimeter with rounded corners, the mini-computer stand comprising:
>
> a top configured for placement of the mini-computer; and
>
> a perimeter that is square with a plurality of rounded corners,
>
> wherein a back corner from the plurality of rounded corners of the mini-computer stand comprises a cutaway in top and side portions of the back corner that does not extend through a bottom side of the mini-computer stand, which is adapted to expose a corresponding back bottom portion of the mini-computer through the cutaway when the mini-computer is placed on the top of the mini-computer stand.

Ex. 1001, 6:8-20. The Petition labels the elements [1.0] through [1.3]; the cut-away limitation is [1.3]. Pet. vi. Dependent claims 2-4 add data ports that make the stand a hub; claim 7 adds feet; claim 8 claims the computer system of the stand and a mini-computer with perimeters "substantially the same size." Ex. 1001, 6:21-30, 6:43-54. Two dependent claims add geometry to the cutaway. Claim 5 requires that "the back corner has a) a first height that

defines a beginning of the cutaway in the side portions and b) a second height that defines an end of the cutaway in the side portions," that "the mini-computer stand has a stand height that is a sum of the first height and the second height," and that "the second height is greater than the first height." *Id.* at 6:31-38. Claim 6 requires that "the back corner comprises a horizontally curved surface that defines the cutaway in the top and the side portions of the back corner." *Id.* at 6:39-42.

B. PROSECUTION HISTORY

The Examiner considered the theory the Petition now advances, using a reference with a full-height corner opening, and allowed the claims only after they were narrowed to the cutaway that spares the bottom.

The application was filed with fourteen claims directed to a stand with a cutaway positioned to expose a "means for activation." On May 7, 2025, the Examiner rejected every claim. Ex. 1002 at 212-227. The prior-art rejections rested on three documents: Zhang, U.S. Design Patent D1,067,231, a docking station whose corner is removed through its entire height; a Forbes article of November 21, 2024, reporting Patent Owner's announcement of its M4 stand; and the MacRumors article "M4 Mac Mini's Power Button Has New Bottom Location," which Petitioner has filed here as Exhibit 1014. *Id.*; *see* Pet. 15 n.2. The Examiner reasoned that it "would have been obvious . . . to provide the

mini-computer stand with a cutaway positioned to expose the power button at the bottom side of the mini-computer such that the user can insert finger into the cutaway to press the power button," and, as to a then-pending claim that limited the cutaway to the upper portion of the corner, that it would have been obvious "to only remove the upper portion of the corner and not a bottom of the mini-computer stand as per the designer's choice," because "providing cutaway only in the upper portion of the corner maintains better support for the mini-computer." Ex. 1002 at 224-225.

The applicant responded on July 8, 2025, by canceling all fourteen claims and presenting eight new claims, which were allowed as claims 15-22 and issued as claims 1-8. Ex. 1002 at 30-31, 109-120. The new independent claim required, for the first time, a cutaway "in top and side portions of the back corner that does not extend through a bottom side of the mini-computer stand" that is "adapted to expose a corresponding back bottom portion of the mini-computer." *Id.* at 111. The applicant argued that Zhang, whose priority date is November 21, 2024, is not prior art and, alternatively, that the new claims distinguish it. *Id.* at 115-117. With the amendment the applicant filed a declaration under 37 C.F.R. § 1.132 by Alan Turksu, Patent Owner's chief executive and a named inventor (the "Turksu declaration"), which is Exhibit 2011 here and appears in the Petition's file-history exhibit, Ex. 1002 at 129-176.

The declaration explained why the art did not lead to the claimed stand: the MacRumors article "teaches that the position of the power button in the M4 Mac Mini is not a problem in need of a solution," Ex. 2011 ¶¶ 7, 10; no prior stand, hub, or dock had "a cutaway at a back corner to enable access to a corresponding back bottom portion of a mini-computer," *id.* ¶ 8; and removing a corner from a square stand ran against accepted design practice because it "can decrease the stability of a computer placed on the stand" and defeats the way users align a computer with its stand, *id.* ¶ 9. It explained why the claimed partial cutaway differs from Zhang's full-height corner removal: with the bottom retained, "the user can still use the 'cutaway corner' as both a supporting base and a guide when mounting the computer," and the retained bottom "naturally directs the finger to the underside of the computer because there is no gap or desk/stand interface inside the cutaway akin to Zhang." *Id.* ¶ 11. And it documented objective evidence: thousands of units sold in the first month after launch, four "Best of CES" awards and a "CES Picks" award, and six publications praising the cutaway by name. *Id.* ¶¶ 12-15, Exs. A-L.

The Examiner allowed the claims on July 29, 2025. The Statement of Reasons for Allowance found the base stand in an earlier design naming Mr. Turksu as an inventor, U.S. Design Patent D907,043, and concluded:

> The best prior art of record, taken alone or in combination thereof, fails to teach a mini-computer stand for use with a mini-computer including, along with other limitations, the mini-computer stand comprises a cutaway in top and side portions of the back corner that does not extend through a bottom side of the mini-computer stand, which is adapted to expose a corresponding back bottom portion of the mini-computer through the cutaway when the mini-computer is placed on the top of the mini-computer stand as set forth in the claim.

Ex. 1002 at 32, 35.

C. THE PETITION

The Petition, filed June 25, 2026, presents nine grounds. Pet. 3. Grounds 1-3 begin with Ye, a Chinese utility model for a fan-cooled Mac mini docking base; Grounds 4 and 5 begin with Liao, a published PCT application for a Mac mini hub; Grounds 6-8 begin with Satechi, a March 2020 Wayback Machine capture of the Amazon listing for Patent Owner's 2019 Mac mini stand and hub. *Id.* at 10-12, 49-51, 40-43. Every one of the eight obviousness grounds adds Apple, an October 29, 2024, Apple press release for the Mac mini M4, for the shape of the computer and the location of its power button. *Id.* at 12-16. And every one of them relies on one or both of two references for the cutaway itself: Koshiishi, U.S. Patent 9,698,613, in Grounds 1-5 and 8, and

Shen, U.S. Patent Application Publication 2022/0366400, in Grounds 6-8. *Id.* at 17-20, 85-87. Ground 9 asserts that claim 6 is indefinite. *Id.* at 115-118.

The Petition's theory of the cutaway is the same in each ground. A person of ordinary skill placing the Mac mini M4 on Ye's, Liao's, or Satechi's stand "would immediately recognize a functional conflict: the docking station would block access to the power button." Pet. 36, 75, 102. Two posts on a MacRumors forum on October 29 and 30, 2024, one saying that users "can't put a dock below the mini because of the power button" and the other that "[i]t would be trivial to put a recess in that corner to accommodate a finger," are said to show that "[t]his accessibility problem, and its structural solution, were instantly recognized." *Id.* at 36-37, 75, 102-103 (quoting Ex. 1011 at 2, 7). "To implement this 'trivial' recess," the skilled person "would look to" Koshiishi or Shen, whose "peripheral cutaway technique is readily transferable to any stand that needs to preserve physical or visual access to an underlying device feature." *Id.* at 37, 75-76, 103. The Petition acknowledges that Koshiishi is "an insertion-style stand holding a device vertically" and that Shen is "an adapter with a recessed accessory bay featuring containment walls," but characterizes these as "minor differences in style" and asserts that Koshiishi's "localized notching technique is orientation-agnostic," *id.* at 37-38, 76-77, and that Shen's is "a routine, universally applicable design choice,"

id. at 103-104. Dr. Pokharna supplies the same words. Ex. 1003 ¶¶ 115, 222, 293.

The Petition proposes no claim construction for claims 1-5, 7, and 8. Pet. 4. For claim 6 it argues that "horizontally curved surface" is indefinite, and in the alternative that Koshiishi meets the term "under any such reasonable interpretation" that the Board or Patent Owner might adopt. *Id.* at 4, 33, 70, 112-113, 117-118. The Petition does not mention the Turksu declaration, the CES awards, the sales, the press coverage of Patent Owner's stand, or the terms "objective indicia," "secondary considerations," "commercial success," "praise," or "skepticism."

The Petition is also inexact in ways that bear on the particularity the statute requires. It identifies no reference as prior art under 35 U.S.C. § 102(a)(1) or § 102(a)(2); five of the six references are said to qualify under "35 U.S.C. §§ 102(a)-(b)," the pre-AIA subsections, and the sixth, Apple, under "35 U.S.C. §102(a)," although the Petition certifies that the '567 patent is an AIA patent. Pet. 2, 11, 13, 19, 42, 50, 86; *see* 37 C.F.R. § 42.204(b)(2). Its Ground 9 cites its declarant's paragraphs 325 through 328 for the indefiniteness analysis, Pet. 116-117, but that analysis appears at paragraphs 323 through 326 of the declaration, and paragraph 328, cited for the proposition

that the specification gives "no guidance whatsoever," is the declarant's reservation of the right to supplement his opinions. Ex. 1003 ¶¶ 323-328. It states three times that claim 6 has been analyzed in "Grounds 1, 4, 6, and 8," Pet. 4, 115, 118, although Ground 6 does not challenge claim 6, Pet. 3, 84. It describes the Ground 7 combination as "Satechi, Apple, Koshiishi and Liao," Pet. 109, although Ground 7 is Satechi, Apple, Shen, and Liao, Pet. 3. And for claims 2 and 8 it offers showings from two references "[i]ndependent from" one another without saying which it asks the Board to adopt. Pet. 44, 78, 81. The Office's guidance to petitioners notes that "presentation of grounds in an 'and/or' form or in the alternative, and failure to delineate between asserted grounds . . . may be reasons to deny a petitioner's request to institute trial." USPTO, *AIA Trial Petition Template Guidance* 13 (Sept. 2026).

D. Effective Filing Date

The Petition states that it proceeds "[e]ven assuming, without conceding, that each Challenged Claim is entitled to the October 31, 2024 filing date" of design application 29/971,079. Pet. 13. Patent Owner proceeds on that assumption, and no argument in this Response depends on the priority date.

III. LEVEL OF ORDINARY SKILL IN THE ART

The Petition proposes that a person of ordinary skill would have had "a bachelor's degree in mechanical engineering, industrial design, or a closely

related field, along with at least two or more years of work experience designing and manufacturing support structures, housings, or peripheral accessories for consumer electronics." Pet. 8 (citing Ex. 1003 ¶ 33). Patent Owner accepts that definition for purposes of this Response. The Petition's skilled person is a designer of support structures for consumer electronics, who would understand the difference between a stand on which a computer rests and a cradle into which a portable device is inserted edge-first, and would not treat the two as interchangeable.

IV. CLAIM CONSTRUCTION

Claim terms carry "the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention," read in the context of the claim and the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312-13 (Fed. Cir. 2005) (en banc). At this stage of this proceeding, no dispute requires an express construction of the terms of claim 1 beyond reading them in the context of the claim and the specification. Patent Owner addresses three points because the Petition's mappings depend on ignoring them.

A. ELEMENT [1.3]: THE CUTAWAY MUST OPEN ONTO THE SEATED COMPUTER'S BACK BOTTOM CORNER, WHICH PLACES IT IN THE SEATING SURFACE AT A BACK CORNER WITH THE BOTTOM INTACT

Three features of element [1.3] follow from the claim's words and context, and the first controls the other two.

First, and decisively, the cutaway "is adapted to expose a corresponding back bottom portion of the mini-computer through the cutaway when the mini-computer is placed on the top of the mini-computer stand." "Adapted to" in this context means "configured to," not merely "capable of." *In re Giannelli*, 739 F.3d 1375, 1379 (Fed. Cir. 2014); *Aspex Eyewear, Inc. v. Marchon Eyewear, Inc.*, 672 F.3d 1335, 1349 (Fed. Cir. 2012). The clause is a structural requirement about where the cutaway is and what it opens onto: with a square-footprint computer seated on the top, the cutaway must lie beneath the computer's back bottom corner so that the corner of the computer's underside is reachable through it. Ex. 1001, 4:48-54, 5:42-47, FIG. 2 (cutaway 18 exposing means for activation 2 on the underside of computer 1). That requirement can be met only by an opening that interrupts the surface on which the computer rests, because the computer's underside faces that surface and nothing else. An opening that exposes a feature on the side or edge of a device,

or that exposes a device held in some other orientation, is not "adapted to expose a corresponding back bottom portion of the mini-computer."

Second, the cutaway is "in top and side portions of the back corner" and "does not extend through a bottom side." The Petition may read "top and side portions of the back corner" as the upper and lateral portions of the corner itself, and the specification does describe the cutaway as removing "an upper portion 17A of a corner 16D." Ex. 1001, 5:6-9. Whichever way the phrase is read, it must be read with the functional clause, and with the claim's use of "top" for one surface: the claim introduces "a top configured for placement of the mini-computer," then recites the cutaway, then describes the computer as "placed on the top of the mini-computer stand." *Id.* at 6:11-20; *see id.* at 4:5-11, FIGS. 3A-3B (the stand "has a top 12 . . . configured to accept the mini-computer 1," which "means that the mini-computer 1 can be seated on top of the mini-computer stand 10"). The upper portion of the corner that the cutaway removes is the portion that carries the seating surface; a notch in the rim of a wall on which nothing rests removes no such portion. The claim also separately recites the top and side portions in which material is removed and the bottom side through which the cutaway does not pass, so the three faces are distinct. *See Phillips*, 415 F.3d at 1314 (the recitation of "steel baffles" "strongly implies that the term 'baffles' does not inherently mean objects

made of steel"). The specification says the same: the cutaway removes the upper portion 17A but "does not remove material from a bottom 17B," which "maximizes the dimension of the bottom 17B for sturdiness." Ex. 1001, 5:6-13, FIGS. 2, 3B, 5.

Third, the cutaway is at "a back corner from the plurality of rounded corners" of a "perimeter that is square." The claim locates it at a corner of the stand's footprint, the corner under which the seated computer's corresponding corner sits, Ex. 1001, 4:26-31, 5:42-47, not at an arbitrary point along a wall.

B. CLAIM 5: THE FIRST HEIGHT IS THE HEIGHT BENEATH THE CUTAWAY, THE SECOND HEIGHT IS THE VERTICAL EXTENT OF THE CUTAWAY, AND THE SECOND MUST EXCEED THE FIRST

Claim 5 recites two heights that together equal the height of the stand. The "first height . . . defines a beginning of the cutaway in the side portions"; the "second height . . . defines an end of the cutaway in the side portions"; "the mini-computer stand has a stand height that is a sum of the first height and the second height"; and "the second height is greater than the first height." Ex. 1001, 6:31-38.

The claim's arithmetic fixes what the two heights are: because the stand height "is a sum of the first height and the second height," the two heights divide the height of the stand at the back corner into two parts, one above the

other, and each "defines" one boundary of the cutaway. The specification describes the corner the same way. The cutaway "removes an upper portion 17A of a corner 16D but does not remove material from a bottom 17B of the mini-computer stand 10," and only in the alternative of FIG. 3C does it "extend through the entirety of the height of the mini-computer stand 10 and thus through the bottom 17B." *Id.* at 5:6-15, FIGS. 2, 3B, 3C, 5. In the claimed stand the cutaway therefore occupies the upper part of the stand's height at the corner, and the stand's bottom remains beneath it. The first height is the height left beneath the cutaway, from the underside of the stand to the level at which the cutaway "begin[s]" in the side portions. The second height is the height of the cutaway itself, from that level to the top surface, where the cutaway "end[s]" in the side portions and opens into the top. *Id.* at 6:31-38. The two together are the stand height, as the claim says. Each height "defines" one boundary of the cutaway, as the claim also says. The claim's final requirement, that the second height exceed the first, therefore requires that the cutaway occupy more of the corner's height than the material left beneath it, consistent with the configuration FIG. 3B illustrates.

The Petition proposes no construction of claim 5. Pet. 4. Its declarant instead reads the heights from the top down, calling "the depth of the notch from the top edge" the first height and "the remaining solid material below

the notch" the second. Ex. 1003 ¶ 98. That reading cannot be right. Under it the "second height" would define nothing about the cutaway; the cutaway's only boundary in the side portions would be fixed by the first height, and the second would be the leftover. The claim ties each height to a boundary of the cutaway, "a beginning" and "an end," and the only reading under which both heights do so is the one set out above.

C. CLAIM 6: "HORIZONTALLY CURVED SURFACE" MEANS A SURFACE THAT IS CURVED IN THE HORIZONTAL PLANE

Claim 6 requires that the back corner "comprises a horizontally curved surface that defines the cutaway in the top and the side portions of the back corner." Ex. 1001, 6:39-42. The words have their ordinary meaning: the surface that bounds the cutaway is curved as one looks down on the stand, that is, curved in plan view, in the horizontal plane. The specification describes that surface: "[p]referably the cutway [*sic*] 18 is arcuate in shape and in some instances can be an inverse to the arc of a rounded corner 16D." *Id.* at 5:1-3. A rounded corner of a square perimeter is an arc in the horizontal plane; a cutaway surface that is "an inverse to the arc of a rounded corner" is likewise an arc in the horizontal plane. FIG. 3A shows it: the boundary of cutaway 18, seen from above and in front, curves across the corner between the two sides. The claim's remaining words fit: the horizontally curved surface "defines the

cutaway in the top and the side portions," meaning that the arc is the wall of the cutaway where it interrupts the top and adjacent sides of the corner.

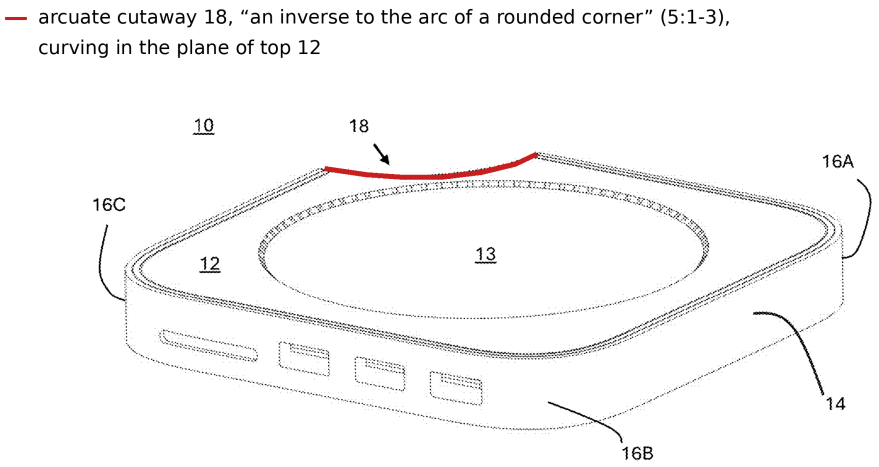


FIG. 3A

Ex. 1001, FIG. 3A (annotated).

The claim also supplies the frame of reference the Petition says is missing. Pet. 116. Claim 1 fixes the stand's orientation with a top on which the computer is placed and a bottom side beneath it; "horizontally" in claim 6 refers to directions in the plane perpendicular to that vertical axis, the plane of the top surface. The specification uses "horizontally" in the same sense. The side walls of the seated computer and the stand are "aligned one above the other so they are offset horizontally less than about 1.5 cm." Ex. 1001, 4:15-18, 4:21-24. "One above the other" runs along the vertical axis from the stand's bottom to the computer on its top; "horizontally" runs across that axis, in the

only plane in which stacked perimeters can be offset. The specification likewise gives a cutaway's width and depth separately from its "height." *Id.* at 4:65-67. A person of ordinary skill reading claim 6 in light of the specification would understand its scope with reasonable certainty. *See infra* Part V.C.1.

V vertical: side walls of computer 1 and stand 10 are "aligned one above the other" (4:15-18)
H horizontal: the plane of top 12, in which those side walls, defining perimeters 3 and 14, are "offset horizontally less than about 1.5 cm" (4:15-18)

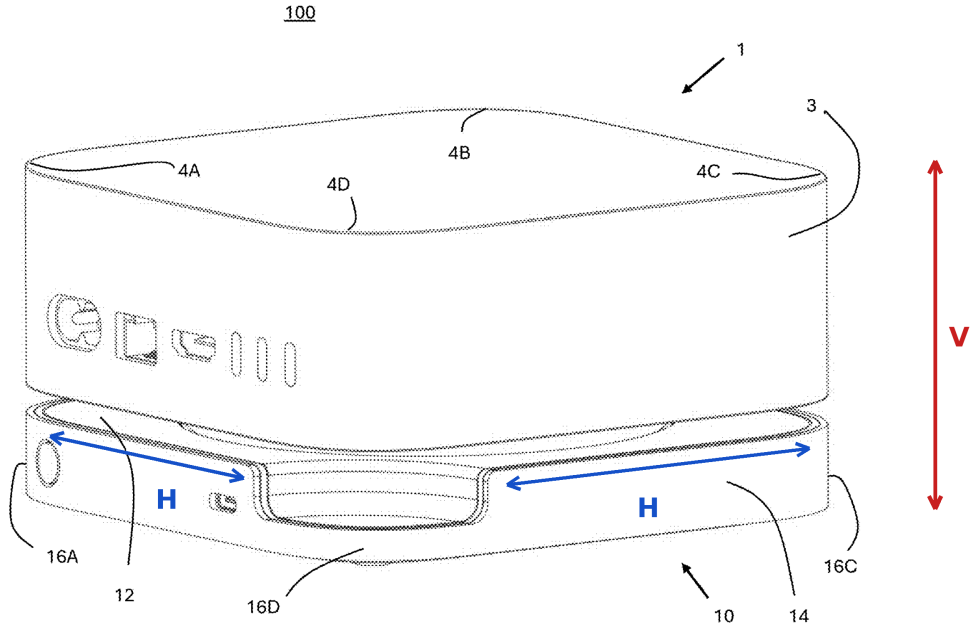


FIG. 1

Ex. 1001, FIG. 1 (annotated).

V. NONOBVIOUSNESS

A. THE PETITION DOES NOT SHOW THAT ANY REFERENCE OR COMBINATION DISCLOSES OR SUGGESTS ELEMENT [1.3] (GROUNDS 1-8)

Every one of the eight obviousness grounds depends on element [1.3], and every one relies on Koshiishi or Shen to supply it. Pet. 24-29, 60-64, 92-96, 112-114. The showing fails for a reason that can be verified from the Petition's text: no reference has a cutaway in a top on which a device is placed, at a corner, that leaves the bottom intact and exposes the seated device's bottom, and the Petition's sentences to the contrary, Pet. 27, 60, 92, describe a device that neither reference discloses. What the Petition offers instead is a characterization of Koshiishi's and Shen's wall notches as a "technique" that a skilled person would "apply" to the back corner of a flat stand. That characterization is supported by nothing but the declarant's word, and it does not satisfy the statute.

1. The Governing Standard

A petition for post-grant review must identify "in writing and with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim." 35 U.S.C. § 322(a)(3). Where the grounds rest on

prior art, "the petition must specify where each element of the claim is found in the prior art." 37 C.F.R. § 42.204(b)(4). "[T]he petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable," and "[s]imply stating" that a reference discloses a claimed feature "does not satisfy" that burden. *Harmonic, Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363-64 (Fed. Cir. 2016). The petition "must provide an understandable explanation of the element-by-element specifics of the patentability challenges, including the identification of particular portions of prior art on which the petitioner is relying." *Corephotonics, Ltd. v. Apple Inc.*, 84 F.4th 990, 1001 (Fed. Cir. 2023), *quoted in Apple Inc. v. Ginko LLC*, IPR2025-01388, Paper 14 at 3 (Director Mar. 2, 2026). "[T]he expedited nature of IPRs bring with it an obligation for petitioners to make their case in their petition to institute," *Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016), and the Board "must base its decision on arguments that were advanced by a party," not on arguments "that could have been, but were not, raised by the petitioner." *In re Magnum Oil Tools Int'l, Ltd.*, 829 F.3d 1364, 1381 (Fed. Cir. 2016).

The Director has applied these requirements to deny institution where a petition pointed to a feature of a reference without showing that it met the limitation as claimed, *Ginko*, Paper 14 at 2-3 (petition pointed to Robertson's

permission settings, but "Petitioner does not establish that any of the cited passages in Robertson disclose that the request includes a first permission setting"), and where a petition asserted that a reference disclosed a claimed structure without explaining why the structure identified in the reference was that structure, *LiftWerx USA Inc. v. Liftra IP ApS*, IPR2026-00102, Paper 18 at 2-3 (Director July 28, 2026) ("Petitioner does not explain why Signore's 'plurality of torque clamps' teach 'tap shoes'").

Nor can a declaration fill the gap. "To satisfy its burden of proving obviousness, a petitioner cannot employ mere conclusory statements. The petitioner must instead articulate specific reasoning, based on evidence of record, to support the legal conclusion of obviousness." *Magnum Oil*, 829 F.3d at 1380. Expert testimony "that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight," 37 C.F.R. § 42.65(a), and a declaration that "merely repeats, *verbatim*, the conclusory assertion for which it is offered to support" is "entitled to little weight." *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 at 15 (PTAB Aug. 24, 2022), *aff'd and designated precedential*, Paper 12 at 3, 5-6 (Director Feb. 10, 2023). *Xerox* emphasized that the problem is "particularly" acute where, as here, "expert testimony is offered not simply to provide a motivation to combine prior-art teachings, but rather to supply a limitation

missing from the prior art." *Xerox*, Paper 9 at 16; *see Arendi S.A.R.L. v. Apple Inc.*, 832 F.3d 1355, 1361-62 (Fed. Cir. 2016) (emphasis omitted) (common sense "is typically invoked to provide a known motivation to combine, not to supply a missing claim limitation," and "cannot be used as a wholesale substitute for reasoned analysis and evidentiary support, especially when dealing with a limitation missing from the prior art references specified").

2. The Petition Does Not Contend that Any Reference Discloses Element [1.3]

The Petition's mapping of element [1.3] in Ground 1 begins with Ye. It asserts that "Ye discloses a cutaway in the top and side portions that does not extend through a bottom side of the base docking station because the base docking station in Ye has an exhaust port 7 at the connection between the surface and the side," and that when a computer is placed on Ye, "an exhaust port 7 . . . exposes a corresponding back bottom portion of the mini-computer through the exhaust port 7." Pet. 24-25. On the next page the Petition concedes the location: "While Ye describes an exhaust port 7 in top and side portions of the base docking station, it does so without reference to a cutaway in the back corner." Pet. 26. The Petition's Ground 1 architecture is therefore that Ye supplies an opening at the top-side junction, Apple supplies the location of the button, and Koshiishi supplies the reason to put an opening at the obstructed

feature. Pet. 24-29. None of those pieces, alone or together, is element [1.3]. Ye's exhaust port 7 is a set of elongated vent slots along the junction of the top and the sides of a fan-cooled dock; it is part of an airflow path in which "the air outlet 4 and the air inlet 6 will form a convective air path," and its stated functions are that it "facilitates air intake and exhaust" and "helps to separate the host from the docking station body 1." Ex. 1005 ¶ [0024], FIG. 1. It is not at a corner, it is not sized or placed for a finger, nothing in Ye suggests enlarging or relocating it, and the Petition does not contend that it exposes any part of the seated computer's underside for access; the Petition's statement that the port "exposes a corresponding back bottom portion of the mini-computer," Pet. 25, rests only on the declarant's unexplained assertion, Ex. 1003 ¶ 76, with no citation to Ye's description. Apple supplies only the fact that the M4's button is on its underside at the rear left. Pet. 12-13. What no reference supplies, and what the Examiner found the best art of record "fails to teach," Ex. 1002 at 32, is the step from those facts to a cutaway in the seating surface at a rounded back corner, with the bottom retained, that opens onto the seated computer's underside. For that step the Petition relies on Koshiishi and Shen.

The Petition then turns to Koshiishi, which it describes as:

> a known structure: a notch 12c formed in the upper left of the main body of the charging stand, spanning top and side portions of the stand without extending through a bottom side of the stand, which is adapted to expose an underlying feature of the mini-computer through the notch 12c when the mini-computer is placed on the top of the stand.

Pet. 27; *see id.* at 60 (identical sentence in Ground 4). That sentence, together with the Petition's quotation of Koshiishi's description of the lamp, Pet. 28, 61, and the declarant's parallel paragraphs, Ex. 1003 ¶¶ 79-80, is the Petition's element-level showing for Grounds 1-5, and it describes a device that does not exist. Koshiishi has no mini-computer, nothing is placed on the top of its stand, and its notch does not expose anything through a top on which a device rests. *See infra* Part V.A.3. The Petition's mapping in Ground 6 is the same sentence with Shen's reference numerals:

> cutouts 540 formed in the upper left of the accessory bay of the adapter, spanning top and side portions of the accessory bay without extending through a bottom side of the accessory bay, which is adapted to expose an underlying feature of the accessory through the cutouts 540 when the accessory is placed on the top of the accessory bay.

Pet. 92. Shen's accessory "rests on the support surface 504," Ex. 1012 ¶ [0034], and that surface has no cutout; the cutouts are in the containment walls that surround the accessory's sides. *See infra* Part V.A.4.

The Petition does not show that either reference discloses a cutaway in a seating surface, at a corner, that exposes the seated device's bottom. It argues that the references teach a "technique," Pet. 37-38, 76-77, 103-104, "the structural principle of locally removing an upper/side wall portion of a support body while preserving lower support material," Pet. 20, which a skilled person "would seamlessly apply . . . to the upper back corner of Ye's flat docking station to accommodate the Mac mini M4's power button, yielding the claimed structure." Pet. 38; *see id.* at 77, 104. The element is therefore supplied not by any reference but by the modification the Petition asks the Board to imagine. Whether the Petition has shown that a skilled person would have made that modification, and would have arrived at the claimed structure in making it, is the question the rest of this Part addresses.

3. Koshiishi Discloses a Notch in the Rim of a Vertical Cradle That Exposes the Inserted Console's Lamp Through the Cradle's Front Wall

Koshiishi describes "a charging system comprising a foldable electronic device and a charging stand that receives and charges the electronic device."

Ex. 1007, 1:22-24. The electronic device is a folding portable game console 200 with two housings joined by a hinge 206. *Id.* at FIGS. 5(A)-5(B). The charging stand 10 is a low, elongated cradle with a main body 12 that encloses an "inserting portion 120," a slot into which the folded console is inserted edge-first so that it stands upright. *Id.* at 5:16-18, 5:32-36, FIGS. 1, 3(A), 6(A). Koshiishi says so directly: "the electronic device is inserted into the inserting portion in a standing state and held in that state," so that "it is possible to enjoy a design of the cover if viewing the electronic device inserted into the charging stand from the front." *Id.* at 2:8-15. Nothing rests on the top of Koshiishi's stand; the top of the main body is the rim of the slot.

The notch on which the Petition relies is described in one sentence: "As seen from FIG. 1, FIG. 2(A) and FIG. 3(A), a notch 12c of a semi-circle shape is formed in upper left of the main body 12 (the outer side member 12a and the inner side member 12b) in the front of the charging stand 10." *Id.* at 5:57-60. Its purpose is stated in another: "the communication lamp 224 provided on the hinge 206 is arranged at a position that the notch 12c is provided. Therefore, even if the portable game apparatus 200 is being charged, it is possible to see the lighting . . . of the communication lamp 224." *Id.* at 11:23-28; *see id.* at 2:36-40 (the stand "further compris[es] a notch at a position corresponding to a light-emitting portion of the electronic device on a part of

a side of the inserting portion"). FIG. 2(A), which Koshiishi identifies as "a front view viewing the charging stand 10 from the front," shows the notch as a semicircle dipping down from the top edge of the front wall. *Id.* at 5:4-6, FIG. 2(A). FIG. 6(A) shows the console standing in the cradle with the lamp 224 on its hinge visible through the notch. *Id.* at FIG. 6(A).

Measured against element [1.3], Koshiishi's notch has none of the claimed attributes. It is not in a "top configured for placement" of anything. The notch is cut into the top edge of the front wall of a slot. The console is not placed on that edge; it is inserted hinge-first into the slot, and the notch lies in the slot's front wall beside the inserted hinge. Ex. 1007, 2:8-15, 5:57-60, 9:46-48, FIG. 6(A). Koshiishi does say that the console "is laid on the charging stand," but the next sentence explains what that means: the console "is inserted into the inserting portion 120." *Id.* at 9:41-43. The Petition's statement that the notch exposes a feature "when the mini-computer is placed on the top of the stand," Pet. 27, 60, has no counterpart in Koshiishi.

It removes no support surface. The console stands on the bottom of the inserting portion 120, which is untouched. Ex. 1007, 9:61-10:1, FIGS. 3(C)-3(D), 6(A). The notch removes material only from a wall that surrounds the console's side.

It does not "expose a corresponding back bottom portion" of the supported device through the surface on which the device rests. Koshiishi's lamp 224 is "provided in an end portion in right of the hinge 206," *id.* at 8:14-17, and the hinge is the part of the console that goes into the slot and rests on its floor, *id.* at 9:46-48, 9:64-10:1. The notch opens the slot's front wall so that "it is possible to see" the lamp from the front, *id.* at 11:23-28, FIGS. 5(A), 6(A); the floor on which the console rests is untouched, *id.* at FIGS. 3(C)-3(D).

And it is not "adapted to" do what the claim requires. Under *Giannelli* and *Aspex*, the question is not whether Koshiishi's notch could, in some rearranged device, be made to serve the claimed purpose, but whether it is configured to expose the bottom corner of a computer resting on the stand. 739 F.3d at 1379-80; 672 F.3d at 1349. It is configured so that the lamp of a vertically inserted console can be seen while it charges. "Physical capability alone does not render obvious that which is contraindicated," and "the mere capability" of a prior-art structure "is not the inquiry that the Board should have made; it should have determined whether it would have been obvious to modify the prior art apparatus to arrive at the claimed" device. *Giannelli*, 739 F.3d at 1380.

Nor does it matter that Koshiishi's main body is "formed in a track shape or a shape that corners of a rectangle are rounded when viewing from the top," Ex. 1007, 5:19-21, so that the notch in its front wall lies near the rounded left end of the cradle. Claim 1 does not recite a notch near a corner of a wall; it recites a cutaway in the top on which the computer is placed, at a back corner of that top, that exposes the computer's bottom. A notch in the rim of a slot is no closer to that structure for being near the end of the slot.

The Petition does not dispute the insertion or the vertical orientation. It acknowledges that Koshiishi is "an insertion-style stand holding a device vertically," Pet. 37, 76, and its declarant confirms that the notch is formed "on an upper peripheral edge" of a "peripheral wall." Ex. 1003 ¶¶ 115, 222. The Petition's non-redundancy section goes further: it explains that Shen was included because relying on Shen "preempts any argument by Patent Owner that the vertical orientation of Koshiishi's device cannot be applied to flat docking stations." Pet. 119. That is an acknowledgment that orientation matters, and Shen does not cure it, because Shen likewise has no cutaway in any surface on which a device rests. *See infra* Part V.A.4. The Petition's answer is that "[t]he relevant teaching of Koshiishi is not limited to the orientation of the supported device or to the particular identity of the exposed component,"

Pet. 20, and that the "localized notching technique is orientation-agnostic," Pet. 38, 77. Part V.A.5 addresses that answer.

4. Shen Discloses Cutouts in the Containment Walls of a Card-Reader Bay, and Teaches Walls That Block the Seated Device's Power Button

Shen describes a "payment accessory integration system for mobile computing devices." Ex. 1012 at cover. A payment accessory 124, a card reader with a chip-card slot 212 and a magnetic-stripe slot 216, is "coupled to the housing 104 via an adapter 128 that is configured to engage with a battery well of the device 100," a mobile computer. *Id.* ¶¶ [0021]-[0022], [0024]. The adapter "includes an accessory bay on the outer side . . . facing away from the device 100 when the adapter 128 is installed in the battery well 300," and the bay "includes a support surface 504 and a set of containment walls 508 extending outwards from the support surface 504." *Id.* ¶ [0033]. When the accessory is inserted, "the side walls 516 of the payment accessory 124 lie within the containment walls 508, and the lower wall of the payment accessory 124 rests on the support surface 504." *Id.* ¶ [0034], FIG. 5.

The cutouts on which the Petition relies are in those containment walls:

> [T]o enable continued access to the slots 212 and 216 when the accessory 124 is installed in the accessory bay of the adapter 128,

> at least one of the containment walls 508 includes a cutout at an outer edge thereof. In particular, the walls 508-1 and 508-3 include cutouts 540 extending along a portion of the width of the adapter 128 to enable access to the slot 216. Further, the wall 508-4 includes a cutout 544 to enable access to the card slot 212.

Id. ¶ [0038]. The slots 212 and 216 are on the side walls of the accessory, and the cutouts open the containment walls beside them so that a card can be swiped or inserted. *Id.* ¶¶ [0024], [0038], FIGS. 5, 7.

Measured against element [1.3], Shen's cutouts fail for the same reasons as Koshiishi's notch and for additional ones. The support surface 504 on which the accessory rests has no cutout; the cutouts are in the walls that surround the accessory's sides. Ex. 1012 ¶¶ [0034], [0038]. They expose slots on the accessory's sides, not its bottom, which rests on the intact support surface. *Id.* The cutouts 540 on which the Petition relies are reliefs in the outer edges of walls 508-1 and 508-3 beside the magnetic-stripe slot, *id.* ¶ [0038], FIGS. 5, 7; the Petition's description of them as "formed in the upper left of the accessory bay," Pet. 92, appears nowhere in Shen and is carried over from the Petition's sentence about Koshiishi, Pet. 27. And nothing in Shen is a stand: the adapter is latched into a battery well in the back of a mobile computer "such as a smart phone." Ex. 1012 ¶¶ [0021]-[0023], [0027]-[0030].

Shen also says something the Petition does not mention. Immediately after describing the cutouts, Shen explains that its walls are configured to block the seated device's power button:

> Although the walls 508 can include cutouts to enable access to payment data sensors of the accessory 124, the walls 508 can be configured to restrict access to other features of the accessory 124. For example, the accessory 124 can include a power button 548, and/or a port 552 for cabled connections to computing devices. When the accessory 124 is installed in the accessory bay, the containment wall 508-3 extends outwards to contact the outer wall 512 adjacent to *the power button 548* and port 552, and *therefore prevents access to the button 548* and port 552 while the accessory 124 is coupled to the adapter 128.

Ex. 1012 ¶ [0039] (emphasis added); *see id.* ¶ [0042] ("the walls 508 prevent access to the power button 548 and port 552"). The Petition offers Shen as teaching a skilled person to open a stand's wall so that the seated device's power button can be reached. Pet. 95, 103-104. Shen teaches the opposite: where the seated device has a power button, the wall is built to "prevent[] access" to it. Shen's cutouts and its blocking wall serve one purpose, keeping the accessory usable as a card reader while it is locked to the computer, and Shen places the power button on the blocked side of that line. A reference that configures its walls to block a power button does not suggest cutting away a

stand to expose one; a person of ordinary skill "upon reading [Shen], would be discouraged from following the path set out in [Shen], or would be led in a direction divergent from the path that was taken by the applicant." *Polaris Indus., Inc. v. Arctic Cat, Inc.*, 882 F.3d 1056, 1068 (Fed. Cir. 2018) (quoting *In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004)); *see TriVascular, Inc. v. Samuels*, 812 F.3d 1056, 1069 (Fed. Cir. 2016). The Petition, which quotes and cites paragraph [0038] repeatedly, does not acknowledge paragraph [0039] and therefore does not explain why a skilled person would take from Shen the cutouts for the card slots and disregard its instruction about the power button.

Finally, the Petition's showing that Shen is analogous art rests on the assertion that Shen's "payment accessory . . . is a mini-computer." Pet. 86, 90; *see* Ex. 1003 ¶ 247 (payment accessory "functions as a mini-computer"). The Petition offers no explanation for that statement, and the paragraph it cites describes something else: the mobile device 100 has the "controller" that executes "applications," and the accessory, a card reader, supplies it "payment processing functionality." Ex. 1012 ¶¶ [0022], [0024]; *see* Pet. 87, 90. A reference qualifies as prior art for obviousness "only when analogous to the claimed invention," under one of two tests: the same field of endeavor, or reasonable pertinence "to the particular problem with which the inventor is

involved." *In re Bigio*, 381 F.3d 1320, 1325 (Fed. Cir. 2004). A reference outside the field is reasonably pertinent only if "a person of ordinary skill would reasonably have consulted those references and applied their teachings in seeking a solution to the problem that the inventor was attempting to solve," *Airbus S.A.S. v. Firepass Corp.*, 941 F.3d 1374, 1382 (Fed. Cir. 2019) (quoting *In re GPAC Inc.*, 57 F.3d 1573, 1578 (Fed. Cir. 1995)), and "if the problems addressed are substantially different, then the references are not analogous," *id.*; *see Donner Tech., LLC v. Pro Stage Gear, LLC*, 979 F.3d 1353, 1359 (Fed. Cir. 2020); *In re Klein*, 647 F.3d 1343, 1350 (Fed. Cir. 2011) (Board's "conclusory finding" that references were analogous "not supported by substantial evidence"). The problem the '567 patent's inventors faced was reaching a button on the underside of a desktop computer resting on a stand without lifting the computer. Ex. 1001, 1:58-2:4. Shen's problem was letting a mobile computer's user swipe a card through a reader latched into the computer's battery well. The Petition identifies no evidence that a designer of Mac mini stands would have consulted Shen, and the Petition's declarant adds only that "any POSITA working on a compatible mini-computer stand would inherently rely on these teachings." Ex. 1003 ¶ 248. That is the "conclusory finding" *Klein* held insufficient. 647 F.3d at 1350.

5. The "Orientation-Agnostic Technique" Is Assertion, Not Evidence

Because no reference discloses element [1.3], the Petition's grounds stand or fall on the proposition that a skilled person would have taken Koshiishi's or Shen's wall notch, moved it to the back corner of the seating surface of a flat Mac mini stand, stopped it short of the bottom, and thereby produced a cutaway configured to expose the computer's back bottom corner. The Petition states that proposition in three ways, and none is supported by anything in the record.

First, the Petition says that Koshiishi "teaches the structural principle of forming a partial-depth notch (12c) on an upper peripheral edge to expose an obstructed functional feature, without that notch extending through the bottom side of the stand," and that "[a] POSITA would readily recognize that this localized notching technique is orientation-agnostic." Pet. 38; *see id.* at 77 (Liao); *id.* at 104 (Shen's technique is "a routine, universally applicable design choice for electronic support structures"). The cited support is Dr. Pokharna, who says the same thing in nearly the same words: "A POSITA would readily understand that this localized access technique is orientation-agnostic and would have been motivated to apply it to the upper back corner of the flat base docking station of Ye . . . ." Ex. 1003 ¶ 115; *see id.* ¶¶ 222, 293. No document, textbook, product, or other reference is cited for the proposition that a notch

in the rim of a vertical slot is the same design as a cutaway in the seating surface of a horizontal stand. Koshiishi itself describes no "technique" or "principle," only a notch at the position of a lamp. Ex. 1007, 2:36-40, 11:23-28. The "orientation-agnostic" label is the declarant's, and a declaration that restates the Petition's conclusion "without any supporting evidence or technical reasoning" is "entitled to little weight." *Xerox*, Paper 9 at 15-16, Paper 12 at 5; 37 C.F.R. §§ 42.65(a), 42.204(b)(5).

Second, the Petition, through its declarant, says that "it was common knowledge to POSITAs that they would specifically ensure this cutaway does not extend through the bottom side, as maintaining a solid base is necessary to preserve the stand's structural integrity and weight-bearing function." Ex. 1003 ¶¶ 83, 175, 265; *see* Pet. 29, 63-64, 95. Apart from the observation that Koshiishi's notch does not pass through the bottom of Koshiishi's wall "as clearly shown in Koshiishi Fig. 2(A)," Pet. 38, 77, which says nothing about a corner cutaway in the seating surface of a flat stand, and its readings of Ye's exhaust port and Shen's cutouts, Pet. 24, 92, 103, addressed in Parts V.A.2 and V.A.4 above, this is the only support the Petition offers for the "does not extend through a bottom side" limitation, and it is unsupported "common knowledge." The Federal Circuit has "repeatedly warn[ed] that references to 'common sense'—whether to supply a motivation to combine or a missing

limitation—cannot be used as a wholesale substitute for reasoned analysis and evidentiary support, especially when dealing with a limitation missing from the prior art references specified." *Arendi*, 832 F.3d at 1362. General knowledge may supply a missing limitation only where it is backed by evidence; the Board in *Koninklijke Philips N.V. v. Google LLC* could rely on the skilled person's knowledge of pipelining because the expert's testimony "was corroborated by" a documentary reference, and the patent owner "offered no evidence to rebut" it. 948 F.3d 1330, 1338 (Fed. Cir. 2020). Here there is no corroboration. The Examiner's initial view was that it would have been obvious "to only remove the upper portion of the corner and not a bottom of the mini-computer stand as per the designer's choice." Ex. 1002 at 224-225. But that finding was made against Zhang, a docking station that already had a corner opening through its full height, *id.* at 220-221, 224, so the only question before the Examiner was how deep to cut an opening the art already placed at the corner; no reference in this Petition has a corner opening of any kind, and the Petition does not use Zhang. And the finding did not survive. Once the claims were amended to require a cutaway in the top and side portions of the back corner that spares the bottom and exposes the computer's back bottom portion, and once the applicant explained why the retained bottom matters, Ex. 2011 ¶¶ 9, 11, the Examiner allowed the claims because the best art of

record "fails to teach" that cutaway. Ex. 1002 at 32. The Petition's declarant mentions none of this history.

Third, the Petition, through its declarant, says that "there were a limited number of predictable options for achieving the function of preserving user access to features located on the bottom of that device," so that "[t]he stand necessarily must include an access feature at a fixed location, i.e., the back corner," and "[w]hether that feature is described as a gap, cutaway, recess, or notch does not change its underlying engineering purpose." Ex. 1003 ¶¶ 116, 294; *see* Pet. 38-39, 77, 104-105 (invoking *KSR*'s "finite number of identified, predictable solutions"). This reasoning proves too much. It says that any opening anywhere near the button would do, which is an argument that the claimed geometry does not matter, not an argument that the art discloses or suggests it. *KSR* permits an obvious-to-try rationale only where there is "a finite number of identified, predictable solutions," *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 421 (2007), and the Petition identifies none of them: it does not say what the options were, which of them a skilled person would have selected, or why the selection would have been a cutaway in the top and side of the corner that stops short of the bottom rather than a hole through the base, a full-height corner removal like Zhang's, or any of the different devices the Petition's forum exhibit records, from a lever or a secondary button to a desk

mount. "[W]here the prior art, at best gives only general guidance as to the particular form of the claimed invention or how to achieve it, relying on an obvious-to-try theory to support an obviousness finding is impermissible." *Leo Pharm. Prods., Ltd. v. Rea*, 726 F.3d 1346, 1356 (Fed. Cir. 2013) (quoting *In re Cyclobenzaprine Hydrochloride Extended-Release Capsule Pat. Litig.*, 676 F.3d 1063, 1073 (Fed. Cir. 2012)). Nor is "design choice" available where, as here, "there is no teaching or suggestion in the prior art that would lead one of ordinary skill in the art to modify" the reference in the claimed way and the record contains evidence of why the claimed placement matters; the Board "was not free to disregard" such evidence. *In re Chu*, 66 F.3d 292, 298-99 (Fed. Cir. 1995). *Shockwave Medical, Inc. v. Cardiovascular Systems, Inc.*, on which the Petition relies, Pet. 38-39, is not to the contrary. There, the expert testified that the prior art "taught that the electrodes did not need to be centered within the balloon," and the patent owner "did not present contrary evidence" that the claimed placement was "a routine design choice." 142 F.4th 1371, 1384 (Fed. Cir. 2025). The rule the court applied governs "when there are a limited number of well-known design choices in the prior art," *id.*; the Petition identifies no such choices, and no reference shows a cutaway at the corner of a stand.

What is missing from all three formulations is any account of the modified device that arrives at the claim. The Petition contains no figure of the stand it says a skilled person would have built, and the only description is the declarant's: the change would be "a localized, shallow, and non-disruptive change rather than a substantial redesign," "confined to a corner region," and "would not require elimination of the placement surface, the central support area, or the basic internal arrangement disclosed in Ye." Ex. 1003 ¶ 117; *see id.* ¶¶ 224, 295. The declarant never explains how a relief "confined to a corner region" that would "not require elimination of the placement surface" becomes an opening onto the computer's underside. A notch in a vertical wall is what Koshiishi discloses, and it is not what claim 1 recites. The Petition never says how deep the relief would be, where it would sit relative to Ye's exhaust port 7, placement groove 21, and internal fan, Ex. 1005 ¶ [0024], or how a notch modeled on Koshiishi's, which lies in a vertical wall beside a device, becomes an opening beneath a device. And the parallel paragraph for Ground 6 shows how the declaration was assembled: it begins, "It would have been routine for a POSITA to modify the base docking station of Ye to include this cutaway," in a ground that does not involve Ye, and attributes to Satechi "a placement groove," Ye's feature, which Satechi never describes. *Compare*

Ex. 1003 ¶ 295, *with id.* ¶ 117. A declaration produced by substituting reference names into a template is the "verbatim" restatement *Xerox* gives little weight. Paper 9 at 15; Paper 12 at 5. "[A] clear, evidence-supported account of the contemplated workings of the combination is a prerequisite to adequately explaining and supporting a conclusion that a relevant skilled artisan would have been motivated to make the combination and reasonably expect success . . . ." *PersonalWeb Techs., LLC v. Apple, Inc.*, 848 F.3d 987, 994 (Fed. Cir. 2017). A declarant's testimony that fails "to explain how specific references could be combined, which combination(s) of elements in specific references would yield a predictable result, or how any specific combination would operate or read on the asserted claims" is "not sufficient and is fraught with hindsight bias." *ActiveVideo Networks, Inc. v. Verizon Commc'ns, Inc.*, 694 F.3d 1312, 1327 (Fed. Cir. 2012). The Petition's repeated statement that its modification ends by "yielding the claimed structure," Pet. 38, 77, 104-105, is a conclusion in place of the account.

The Petition's invocation of *In re Mouttet*, 686 F.3d 1322, 1332 (Fed. Cir. 2012), and *Intel Corp. v. PACT XPP Schweiz AG*, 61 F.4th 1373 (Fed. Cir. 2023), Pet. 37-38, 76-77, 104, does not change the analysis. Patent Owner does not contend that Koshiishi's cradle must be bodily incorporated into Ye's dock. The point is that the Petition must identify what Koshiishi teaches and

show that applying that teaching to Ye yields the claimed structure. *Mouttet* does not dispense with that showing. In *Samsung Electronics Co. v. Elm 3DS Innovations, LLC*, the Federal Circuit rejected a *Mouttet* argument against a Board that had "looked for specific evidence" that a skilled artisan would have reasonably expected success in combining the references: "We will not fault the Board for analyzing Petitioners' obviousness grounds in the way presented in the Petition." 925 F.3d 1373, 1382-83 (Fed. Cir. 2019). Koshiishi teaches a notch in a wall beside a standing device so that a lamp can be seen. Applying that teaching to Ye's dock would yield a notch in a vertical wall of Ye's dock beside whatever is next to it, not a cutaway in the top on which the computer sits that exposes the computer's underside. Even taking the Petition's account of the modified device at face value, a "localized" relief in "the upper back corner of the flat base docking station of Ye," Ex. 1003 ¶¶ 115, 117, is a notch in a vertical wall and not a cutaway in the "top configured for placement of the mini-computer" that is "adapted to expose a corresponding back bottom portion" of the computer, as element [1.3] requires under the reading set out in Part IV.A. The Petition never explains the further step, and "conclusory statements" that a skilled person would have arrived at the claimed arrangement are "insufficient." *In re NuVasive, Inc.*, 842 F.3d 1376, 1383 (Fed. Cir. 2016).

6. The Forum Thread Does Not Supply the Missing Showing

The Petition's only contemporaneous evidence of a solution is two posts from a MacRumors forum thread dated October 29 and 30, 2024. The Petition quotes one poster's statement that users "can't put a dock below the mini because of the power button" and another's that "[i]t would be trivial to put a recess in that corner to accommodate a finger," and concludes that "[t]his accessibility problem, and its structural solution, were instantly recognized by the public and POSITAs." Pet. 36-37, 75, 102-103 (quoting Ex. 1011 at 2, 7). Exhibit 1011 is not a reference in any ground; the Petition offers it to show motivation. It does not show that.

The posts in Exhibit 1011 that predate October 31, 2024, show a problem recognized and no solution identified. The first quoted post says a dock cannot go below the computer. Ex. 1011 at 2. Other posters, writing before October 31, 2024, propose putting the hub "on top" of the computer (and are told "[t]hat would look ridiculous on top"), a hub with "a front facing secondary power button," "some kind of physical lever that will activate the power switch," lifting or tilting the computer ("Why couldn't you just lift/tilt the mini slightly if placed above a dock?"), standing the computer on its edge ("Just sit it on its side. No cooling problems, access to power button"), and VESA and

under-desk mounts. *Id.* at 3, 4, 7, 8. One poster denied that there was a problem at all: "The power button placement has literally nothing to do with whether you can place it on a dock or not." *Id.* at 9. A crowd proposing levers, secondary buttons, tilting, edge-standing, and desk mounts is not evidence of "a finite number of identified, predictable solutions," *KSR*, 550 U.S. at 421; it is evidence that "the breadth of these choices and the numerous combinations indicate that these disclosures would not have rendered the claimed invention obvious to try." *Leo*, 726 F.3d at 1356. The posters proposed different devices, from desk mounts to add-on buttons, none of them a variant of one known design or the claimed stand. *KSR*'s obvious-to-try rationale presupposes "known options" that lead to "the anticipated success," 550 U.S. at 421, and the Petition identifies no option in the art that leads to a cutaway in the seating surface of a stand.

The single post on which the Petition rests, the "recess in that corner" comment, does not describe the claimed structure. A "recess in that corner to accommodate a finger" says nothing about whether the recess is in the top surface, the side, or both; whether it stops short of the bottom or passes through it; or whether it exposes the computer's underside. The same poster immediately offered another design: "More elaborate designs would incorporate a trigger to hit the power button from one on the back of the dock."

Ex. 1011 at 7. And "knowledge of a problem and motivation to solve it are entirely different from motivation to combine particular references to reach the particular claimed method." *Innogenetics, N.V. v. Abbott Labs.*, 512 F.3d 1363, 1373 (Fed. Cir. 2008). The Petition uses the forum post to establish the problem and then treats the problem as if it were the solution. That is the error *Innogenetics* identifies, and it is the reason the Petition must reach for Koshiishi and Shen in the first place.

The Petition also offers no evidence for what it asks the Board to take from the thread. It asserts that the problem and its solution "were instantly recognized by the public and POSITAs," Pet. 36, 75, 102, but it identifies no poster, offers no evidence that any poster meets its own definition of a person of ordinary skill, Pet. 8, and provides no authentication of the thread's dates or public accessibility beyond the dates printed on a page that was itself printed in 2026. Ex. 1011 at 1. The Internet Archive affidavit on which the Petition relies for its other web exhibits is expressly limited to Exhibits 1008 and 1013. Pet. v; Ex. 1020. Evidence whose relevance is not explained may be given no weight. 37 C.F.R. § 42.204(b)(5).

7. The Petition's Motivation Reasoning Begins from the Claim

The structure of each motivation section confirms that the Petition works backward from the '567 patent. Each begins by placing the M4 on the primary

reference, observing that the button is blocked, and framing the problem as the need for "a dedicated power-button access feature." Pet. 26, 63, 95. The Petition then describes that feature in the words of the claim: the skilled person "would be motivated to resolve this known accessibility issue by redesigning the docking station with a dedicated power-button access feature, that is, a cutaway to expose the back bottom portion of the mini-computer corresponding to the power button on the rear left of the Mac Mini M4." *Id.* at 63, 95; *see id.* at 29. The phrase "a cutaway to expose the back bottom portion of the mini-computer" is the claim language. The Petition states the claimed solution as the goal and turns to Koshiishi and Shen only for a "technique" for reaching it. *Id.* at 37-38, 76-77, 103-104. The only document in the record that describes a cutaway in the top and side of a back corner, stopping short of the bottom, that exposes a seated computer's bottom corner is the '567 patent. "[H]indsight provides the only discernable reason to combine the prior art references" where "the technology at issue here is not the type of technology where common sense would provide the motivation to combine these references" and no party has "offered evidence articulating why a person having ordinary skill in the art would combine the primary references to obtain the disclosed inventions." *Kinetic Concepts, Inc. v. Smith & Nephew, Inc.*, 688 F.3d 1342, 1368-69 (Fed. Cir. 2012); *see KSR*, 550 U.S.

at 421 ("A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning."). "[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art," *KSR*, 550 U.S. at 418, and the Petition offers no more than that: a stand, a button, and a notch, each known, assembled by using the claim as the template.

The Examiner applied that theory and later abandoned it. The Examiner had the bottom-mounted button (Ex. 1014, the same MacRumors article the Petition files), a dock with a corner opening (Zhang), and the "designer's choice" rationale for sparing the bottom, and allowed the claims after they were narrowed to the partial cutaway and the Rule 132 evidence was filed. Ex. 1002 at 32, 220-225. The Petition's references are further from the claims than Zhang, because none of them has a corner opening of any kind, and the Petition's rationale for the retained bottom is the one the Examiner abandoned.

8. The Consequence for Grounds 1-8

Grounds 1-5 depend on Koshiishi for element [1.3], and Grounds 6-8 depend on Shen. Pet. 24-29, 60-64, 92-96, 113. In Grounds 4 through 8 the primary reference supplies no opening of any kind: for element [1.3] the Petition cites Liao and Satechi only as stands compatible with the Mac mini.

Pet. 60, 92. Every challenged claim includes element [1.3], because claims 2-7 depend from claim 1 and claim 8 incorporates "the mini-computer stand of claim 1." Ex. 1001, 6:21-54. No ground identifies where element [1.3] is found in the prior art, and no ground supplies the missing element with anything more than the declarant's assertion that a wall notch is an orientation-agnostic technique. The Petition therefore does not demonstrate that it is more likely than not that any of claims 1-8 is unpatentable on Grounds 1-8. The additional grounds and references that the Petition layers on for the dependent claims (Satechi's ports and footprint in Grounds 2 and 5, Liao's ports and feet in Grounds 3 and 7) do not address element [1.3] and cannot cure the deficiency. Pet. 40-55, 78-84, 106-112.

B. THE PETITION'S SHOWING FOR CLAIM 5 FAILS UNDER ANY READING OF THE CLAIMED HEIGHTS (GROUNDS 1, 4, AND 6)

Claim 5 adds four requirements: a first height that defines where the cut-away begins in the side portions, a second height that defines where it ends, a stand height equal to their sum, and a second height greater than the first. Ex. 1001, 6:31-38. The Petition maps these requirements to Koshiishi's FIG. 1 in Grounds 1 and 4 and to Shen's FIG. 7 in Ground 6. Pet. 32-33, 68-69, 98-99. In each instance the Petition restates the claim, annotates the figure in three colors, and asserts that "the second height is greater than the first height." *Id.*

It offers no construction of the terms and no explanation of why the labels attach where they do. The declarant explains the labels: "this notch structure establishes a first height (the depth of the notch from the top edge) and a second height (the remaining solid material below the notch)," and "[b]ecause the notch is formed in the upper portion of the wall . . . while leaving a substantial solid base below . . . the second height is naturally greater than the first height." Ex. 1003 ¶ 98; *see id.* ¶¶ 195-197, 279-281. That showing fails whichever way the heights are labeled.

1. The Petition Never Identifies the Claimed Heights

First, under either labeling the Petition never identifies what the claim requires it to identify. It does not say where in Koshiishi's or Shen's side portions the cutaway "begin[s]" or "end[s]," and it does not say what the "stand height" is or why the sum of its pink and purple annotations equals it. Koshiishi's own text forecloses the last point: "a height of the main body 12 is made higher as goes to the rear from the front," Ex. 1007, 6:2-6, FIGS. 2(C)-2(D), so Koshiishi's cradle has no single stand height, and the Petition's blue annotation measures one wall at one station along it. Shen's text assigns no heights to its cutouts or walls and says nothing about the depth of cutout 540 relative to wall 508-1. Ex. 1012 ¶ [0038], FIGS. 5, 7. And because the modification the Petition proposes for element [1.3] is never described,

there is no way to know what heights the modified stand would have; the Petition measures an unmodified notch in a reference it says would be transferred, reshaped, and relocated.

2. The Petition's Only Evidence Is Unscaled Drawings

Second, the Petition's only evidence that any height exceeds any other is the appearance of Koshiishi's FIG. 1 and Shen's FIG. 7, neither of which is stated to be to scale and neither of which is accompanied by any dimension. Pet. 33, 69, 99. "[I]t is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue." *Hockerson-Halberstadt, Inc. v. Avia Grp. Int'l, Inc.*, 222 F.3d 951, 956 (Fed. Cir. 2000). Koshiishi's and Shen's specifications are silent on the proportions the Petition's annotations assert.

3. The Petition's Labels Are Reversed

Third, the Petition's labels are reversed. As shown in Part IV.B, the claim's requirement of "a stand height that is a sum of the first height and the second height" makes the two heights complementary parts of the stand's height at the back corner, one above the other: the first height is the height left beneath the cutaway, ending where the cutaway begins, and the second height is the vertical extent of the cutaway, ending at the top. That reading follows

from the claim's words alone, and it is the only reading under which each height "defines" a boundary of the cutaway, as the claim says both do. The declarant's reading, which makes the first height "the depth of the notch from the top edge" and the second "the remaining solid material below," Ex. 1003 ¶ 98, gives the second height nothing to define. Under the claim's reading the requirement that the second height exceed the first means the cut-away must be taller than the material left beneath it, and the Petition's premise for satisfying claim 5, a notch "leaving a substantial solid base below," *id.*, is the opposite of what the claim requires. Even crediting the drawing proportions the Petition relies on, the Petition has not shown that the notch in Koshiishi's FIG. 1 or the cutout in Shen's FIG. 7 is taller than the wall beneath it, and it has not tried, because it labeled the heights the other way. A petition that reads a claim term without construing it, in a way the specification does not support, does not show how the construed claim is unpatentable. 37 C.F.R. § 42.204(b)(4); *Meta Platforms, Inc. v. SitNet LLC*, IPR2026-00112, Paper 14 at 3-4 (Director July 2, 2026) (denying institution where petitioner proposed no construction of the disputed term).

The Petition's showing for claim 5 is therefore insufficient on every ground that reaches it, independently of element [1.3].

C. CLAIM 6 IS NOT INDEFINITE, AND THE PETITION'S ALTERNATIVE MAPPING OF IT FAILS (GROUNDS 1, 4, 8, AND 9)

The Petition takes two inconsistent positions on claim 6. Ground 9 argues that "horizontally curved surface" is "not a term of art," that the claim "does not identify the relevant frame of reference for 'horizontally,'" and that the specification "provide[s] no guidance whatsoever," so the term "fails to provide reasonable certainty as to claim scope." Pet. 116-117. Grounds 1, 4, and 8 argue that Koshiishi's notch 12c discloses the term "under any such reasonable interpretation" that the Board or Patent Owner might adopt. Pet. 33-35, 70-71, 112-114. A petitioner may plead in the alternative, but it must carry at least one alternative, and the Petition carries neither.

1. "Horizontally Curved Surface" Informs a Skilled Person of the Scope of Claim 6 with Reasonable Certainty

A claim is indefinite only if, "read in light of the specification delineating the patent, and the prosecution history, [it] fail[s] to inform, with reasonable certainty, those skilled in the art about the scope of the invention." *Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898, 901 (2014). The standard "mandates clarity, while recognizing that absolute precision is unattainable." *Id.* at 910. Terms of degree and descriptive terms are routinely held definite where the intrinsic record supplies "objective boundaries." *Niazi Licensing*

Corp. v. St. Jude Med. S.C., Inc., 30 F.4th 1339, 1347, 1349-50 (Fed. Cir. 2022) ("resilient" and "pliable" definite; "a claim is not indefinite just because it is broad"); *Guangdong Alison Hi-Tech Co. v. Int'l Trade Comm'n*, 936 F.3d 1353, 1360 (Fed. Cir. 2019) ("lofty . . . batting" definite where the written description "provides objective boundaries"); *see also Sonix Tech. Co. v. Publ'ns Int'l, Ltd.*, 844 F.3d 1370, 1377-78 (Fed. Cir. 2017) ("visually negligible" definite). On remand from the Supreme Court in *Nautilus* itself, the Federal Circuit held the purely spatial term "spaced relationship" definite although the specification "does not specifically define 'spaced relationship' with actual parameters," because "the '753 patent's claim language, specification, and the figures illustrating the 'spaced relationship' . . . are telling and provide sufficient clarity to skilled artisans as to the bounds of this disputed term." *Biosig Instruments, Inc. v. Nautilus, Inc.*, 783 F.3d 1374, 1382-83 (Fed. Cir. 2015) (quoting *Biosig Instruments, Inc. v. Nautilus, Inc.*, 715 F.3d 891, 899 (Fed. Cir. 2013), *vacated*, 572 U.S. 898 (2014)). Where a claim itself gives "no clues" to a geometric term's frame of reference, the specification "saves the term . . . from indefiniteness" by supplying it. *Liberty Ammunition, Inc. v. United States*, 835 F.3d 1388, 1396 (Fed. Cir. 2016) (internal quotation marks omitted). And an argument that a term *could* reach many shapes is an argument about breadth, and "the inference of indefiniteness simply from the

scope finding is legally incorrect: 'breadth is not indefiniteness.'" *BASF Corp. v. Johnson Matthey Inc.*, 875 F.3d 1360, 1367 (Fed. Cir. 2017) (quoting *SmithKline Beecham Corp. v. Apotex Corp.*, 403 F.3d 1331, 1341 (Fed. Cir. 2005)). The Petition's authority, *Interval Licensing LLC v. AOL, Inc.*, involved a "highly subjective" phrase, "in an unobtrusive manner that does not distract a user," whose scope depended on "the unpredictable vagaries of any one person's opinion." 766 F.3d 1364, 1371 (Fed. Cir. 2014) (quoting *Datamize, LLC v. Plumtree Software, Inc.*, 417 F.3d 1342, 1350 (Fed. Cir. 2005)). Whether a surface is curved, and in which plane, is an objective question.

The Petition's three objections are answered by the claim and the specification. Pet. 116.

The frame of reference. The Petition asks whether "horizontally" is "measured relative to the stand, the top surface, the ground, or some other plane." Pet. 116. Claim 1 answers: the stand has "a top configured for placement of the mini-computer" and "a bottom side," and the stand rests on the bottom side so that the computer can be placed on the top. Ex. 1001, 6:11-20. Those references fix a vertical axis, and "horizontally" is the plane perpendicular to it, the plane of the top. The specification uses the word in that sense when it describes aligned perimeters as "offset horizontally less than about 1.5 cm." *Id.* at 4:15-18. For a stand sitting on a desk, the stand, its top

surface, and the ground define the same horizontal plane, which is why the Petition's list of alternatives identifies no ambiguity.

Which surface, and how it "defines the cutaway." The claim says: "the back corner comprises a horizontally curved surface that defines the cutaway in the top and the side portions of the back corner." Ex. 1001, 6:39-42. The surface is the wall of the cutaway, the material surface left where the top and side portions of the corner were removed, and it "defines the cutaway" because it bounds it. The specification describes that surface in two sentences that distinguish the two planes in which a cutaway surface could curve. In the horizontal plane, the cutaway "is arcuate in shape and in some instances can be an inverse to the arc of a rounded corner 16D." *Id.* at 5:1-3. In the vertical plane, separately, it "can be slightly pitched to guide the finger upwards." *Id.* at 5:3-4. An arc that is the inverse of a rounded corner of a square perimeter is, necessarily, an arc in the horizontal plane, because the rounded corner it inverts is one; a pitch is a slope in the vertical plane, and the specification names it separately. FIG. 3A shows the arc of cutaway 18 as seen from above the top surface 12. Claim 6 claims the first of these features and not the second, and a person of ordinary skill reading the claim against that description would know which.

Which shapes qualify. The Petition says "the word 'curved' could plausibly refer to any non-flat or rounded portion of the back corner." Pet. 116. Read with the claim's remaining words, it cannot: the curved surface must define the cutaway, and it must be curved horizontally. A cutaway bounded by flat, vertical planar walls meeting at an angle would fall outside claim 6; a cutaway bounded by a wall that arcs across the corner in plan view would fall within it. That the specification does not use the exact phrase "horizontally curved surface," Pet. 117, is not indefiniteness. "Claim language, standing alone" is not the test; claims "are viewed and understood in light of the specification," and "[s]pecifications teach. Claims claim." *Nature Simulation Sys. Inc. v. Autodesk, Inc.*, 50 F.4th 1358, 1364, 1366 (Fed. Cir. 2022) (quoting *SRI Int'l v. Matsushita Elec. Corp. of Am.*, 775 F.2d 1107, 1121 n.14 (Fed. Cir. 1985) (en banc)). In *Aspex*, the court construed the word "free," which "the specification does not use," from the figures and "[t]he claim language, taken in context." 672 F.3d at 1348. The specification's description of the arcuate cutaway and FIG. 3A do the same work here. The Petition's two remaining authorities are nonprecedential and inapposite. *Mantissa Corp. v. First Fin. Corp.*, No. 2022-1963, 2024 WL 607717, at *3-4 (Fed. Cir. Feb. 14, 2024), held "transaction partner" indefinite because "the specification and claims fail[ed] to provide adequate guidance as to the identity of the 'transaction

partner'": the term "does not appear in the specification," was added by amendment years later, and had "no commonly accepted definition." Pet. 117. Here the specification describes the surface claim 6 recites, in words ("arcuate," "an inverse to the arc of a rounded corner") and in a figure, and "horizontally" and "curved" have ordinary meanings that the claim's own frame of reference fixes. *Pac. Coast Bldg. Prods., Inc. v. CertainTeed Gypsum, Inc.*, 816 F. App'x 454, 455 (Fed. Cir. 2020), held a numerical property, "scored flexural strength," indefinite because "there are multiple ways to measure" it and the specification gave no "guidance for choosing which measurement to use." Pet. 117. Claim 6 recites no measured value or test, only a visible shape. The same opinion notes that "'[r]easonable certainty' does not require 'absolute or mathematical precision'" and that the court has "refused to require that a patent disclose details as to every possible variable." *Pac. Coast*, 816 F. App'x at 458-59 (quoting *Biosig*, 783 F.3d at 1381).

Two further features of the record confirm the point. The first is the Petition's declarant, who had no difficulty applying the term. Addressing claim 6, he testified that "Koshiishi discloses that the charging stand has a horizontally curved surface that defines the notch 12c in the top and the side portions," identified the figures on which he relied, and labeled the surface on the Petition's annotated drawings. Ex. 1003 ¶ 317; Pet. 34-35, 71, 113-114.

He was wrong about which plane the surface curves in, *see infra* Part V.C.2, but application of a term by the challenger's own expert, while not dispositive, "provide[s] evidence that a skilled artisan did understand the scope of this invention with reasonable certainty." *Sonix*, 844 F.3d at 1380-81 (application of the term by the examiner and by both parties' experts "force[d]" the conclusion that it was not indefinite). His indefiniteness opinion, by contrast, restates the Petition's three objections without explaining why a designer of computer stands could not tell whether a surface curves in the plane of the stand's top. Ex. 1003 ¶¶ 324-326; *see Sonix*, 844 F.3d at 1380 (challenger's expert's unexplained assertion that a term was "subjective" was "not persuasive" against the intrinsic evidence). The second is the prosecution history. Claim 6 was added in the July 8, 2025, amendment, with support identified in the figures of the design application to which the '567 patent claims priority, Ex. 1002 at 111-113; the Examiner, who rejected the prior claims on four grounds, *id.* at 216-225, raised no indefiniteness or written-description objection to it and allowed it. *Id.* at 30-33.

2. The Petition Does Not Show that Koshiishi Discloses a Horizontally Curved Surface Under Any Construction

In Grounds 1, 4, and 8 the Petition asserts that "Koshiishi discloses that the charging stand has a horizontally curved surface that defines the notch 12c

in the top and the side portions," citing Koshiishi's FIGS. 2(A) and 3(A). Pet. 34-35, 70-71, 113-114. Koshiishi's notch 12c is "of a semi-circle shape," Ex. 1007, 5:57-60, and the semicircle lies in the vertical plane of the front wall: it is visible as a semicircle in FIG. 2(A), which is "a front view viewing the charging stand 10 from the front." *Id.* at 5:4-6, FIG. 2(A). In FIG. 3(A), which is "a top plan view viewing down the charging stand 10," *id.* at 5:10-11, the notch appears as a gap through the thickness of the wall; the semicircle is not visible from above, because a semicircle cut downward into a vertical wall has no curvature in the horizontal plane. The Petition's annotations mark something else: on the top plan view, boxes around the two ends of the notch; on the front view, the rounded upper corners where the semicircle meets the rim. Pet. 34, 71, 113-114. Koshiishi's text says nothing about those corners, and they are not the claimed surface. Claim 6 requires a horizontally curved surface "that defines the cutaway in the top and the side portions," Ex. 1001, 6:39-42, and in the specification that surface is the cutaway itself, "arcuate in shape" and "an inverse to the arc of a rounded corner." *Id.* at 5:1-3. A radius at the lip of an opening does not define the opening; without it, notch 12c is the same "semi-circle." Ex. 1007, 5:57-60. The declarant's rationale confirms that the rounding is edge finishing, "used to address sharp edges." Ex. 1003 ¶ 321. Nor does the curvature of Koshiishi's wall, whose ends are

rounded "when viewing from the top," Ex. 1007, 5:19-21, help: it exists with or without the notch. A notch cut through a curved wall does not thereby acquire a horizontally curved surface of its own any more than a slot cut in a round pipe does. The Petition's later description of notch 12c as "a curved notch," Pet. 119, describes its semicircular profile, which is the vertical curve. Under the plain meaning of "horizontally curved surface" set out above, the Petition has not shown that Koshiishi discloses one.

The Petition does not argue otherwise, because it never says what it thinks "horizontally curved surface" means. It says only that Koshiishi meets the term "under any such reasonable interpretation" that the Board might adopt. Pet. 33, 70, 112-113. Rule 42.204(b)(3) requires the petition to state "[h]ow the challenged claim is to be construed," and Rule 42.204(b)(4) requires it to show "[h]ow the construed claim is unpatentable." A petition that declines to construe a term, and then asserts that the art meets the term under whatever construction is later supplied, has not shown how the construed claim is unpatentable; it has reserved the right to argue the point after institution, which "the expedited nature" of these proceedings does not permit. *Intelligent Bio-Sys.*, 821 F.3d at 1369. The Director denied institution in *Meta v. SitNet* where the petitioner "d[id] not explain what the ordinary and customary meaning of 'data feed' was at the time of the claimed invention or

otherwise propose an express construction of 'data feed,'" and "[n]either Kraft nor Wong uses the term 'data feed.'" Paper 14 at 3-4. Here the Petition proposes no construction, Koshiishi does not use the term, and the only construction consistent with the specification excludes Koshiishi's notch.

Ground 8 fails for the additional reason that it proposes to "implement the horizontally curved surface of Koshiishi's notch 12c in Shen's cutouts when that surface has substantial width." Pet. 114-115. The Petition does not identify what surface of Koshiishi's notch has "substantial width," what it would mean to implement a vertical semicircle in Shen's straight wall cutouts, or how the result would be horizontally curved. Its stated motivation, that "rounding or curving an exposed edge or surface is a routine industrial-design and mechanical-design modification" that improves appearance and reduces the chance of scratching, Pet. 115; Ex. 1003 ¶ 321, is the generic "you wanted to build something better" rationale that the Federal Circuit has held "generic and bears no relation to any specific combination of prior art elements." *ActiveVideo*, 694 F.3d at 1328.

D. THE PETITION DOES NOT SHOW THAT THE PERIMETERS OF CLAIM 8 ARE SUBSTANTIALLY THE SAME SIZE

Claim 8 requires that the perimeters of the mini-computer and the stand be "substantially the same size." Ex. 1001, 6:46-54. Every ground builds the

claimed system around the Mac mini M4, *e.g.*, Pet. 26, 63, 95, which Apple describes as "just 5 by 5 inches," "less than half the size of the previous design." Ex. 1006 at 1-2. The only stand whose size the record states is Patent Owner's 2019 stand, which measures "7.75 x 7.75 x 0.69 in" and is "Compatible with Mac Mini (2018 & Later)." Ex. 1008 at 1, 4. In Grounds 2, 5, and 6 the Petition's evidence is that stand's marketing copy, "[d]esigned to feel like a natural extension of your Mac Mini with an elegant brushed finish and matching space gray aluminum alloy," from which it concludes, "[t]hat is, the perimeters of the mini-computer and the mini-computer stand are substantially the same size," Pet. 47, 82 (quoting Ex. 1008 at 3); *see* Pet. 100, together with photographs of the stand beneath the earlier, larger Mac mini, Pet. 47-48, 82-83, 100-101. That evidence describes a stand matched to a computer more than twice the M4's footprint. Ground 6 places the M4 on that stand, Pet. 95, 100, where the perimeters measure five inches and seven and three-quarter inches. Grounds 2 and 5 assert that a skilled person would resize the stand to the M4, citing only the declarant, Pet. 46-47, 82; Ex. 1003 ¶¶ 132, 234, and Grounds 4 and 5 rely on Liao's statement that its adapter suits "the size of Mac Mini," written years before the M4 existed, Pet. 74, 81; Ex. 1010 ¶ [0051].

E. THE PETITION IGNORES THE OBJECTIVE EVIDENCE, WHICH MAKES UNPATENTABILITY LESS LIKELY THAN NOT

1. The Petition's Silence Is a Failure of the Petition's Showing

Obviousness "requires consideration of all four *Graham* factors, and it is error to reach a conclusion of obviousness until all those factors are considered." *Apple Inc. v. Samsung Elecs. Co.*, 839 F.3d 1034, 1048 (Fed. Cir. 2016) (en banc). "Objective indicia of nonobviousness must be considered in every case where present," *id.*, and "must always when present be considered en route to a determination of obviousness," as "part of all the evidence, not just when the decisionmaker remains in doubt after reviewing the art." *Cyclobenzaprine*, 676 F.3d at 1075-76 (quoting *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1538-39 (Fed. Cir. 1983)). Such evidence "may often be the most probative and cogent evidence in the record." *Id.* (quoting *Stratoflex*, 713 F.2d at 1538).

The objective evidence was in the file history. It was placed before the Examiner in a sworn declaration and in remarks headed "Objective evidence of nonobviousness," it was of record when the claims were allowed, and Petitioner filed it as pages 129 through 176 of its own Exhibit 1002. Ex. 2011; Ex. 1002 at 30-32, 117, 129-176. The Office's guidance to petitioners states that "[i]f a petitioner has knowledge of objective indicia evidence relating to

the challenged patent or expects such arguments by the patent owner, that petitioner should consider preemptively addressing objective indicia in the petition," and that "[t]his is especially true if the patent owner provided objective evidence of non-obviousness during prosecution of the application that issued as the challenged patent." *AIA Trial Petition Template Guidance*, *supra*, at 14. The Petition never mentions the Turksu declaration, the sales, the awards, or the press praise. Its declarant lists "any objective indicia of non-obviousness cited by the patent owner, such as commercial success, long-felt but unresolved need, failure of others, industry recognition, copying, and unexpected results" as the fourth factor that "an obviousness inquiry requires," Ex. 1003 ¶ 21, and that is the last time the subject appears in his 329 paragraphs.

The Board has faulted a petition that did not adequately address objective evidence of record. In *Coalition for Affordable Drugs V LLC v. Hoffman-LaRoche Inc.*, the panel found that "Petitioner also does not address adequately the objective indicia of nonobviousness presented to the Office during the prosecution," and that "[t]he Petition, moreover, should have addressed the evidence of unexpected results as part of Petitioner's showing of a reasonable likelihood of success on the merits." IPR2015-01792, Paper 14 at 17-18 (PTAB Mar. 11, 2016). That petitioner had at least argued

the evidence was not commensurate with the claims; this Petition says nothing. Section 324(a) asks whether "the information presented in the petition" would demonstrate unpatentability. 35 U.S.C. § 324(a). A petition that presents no information on a *Graham* factor the file history raises has left the obviousness inquiry incomplete. *See Intelligent Bio-Sys.*, 821 F.3d at 1369.

2. The Evidence and Its Nexus to the Claimed Cutaway

The evidence bears directly on the claimed combination, and specifically on the cutaway that distinguishes the claims from the prior art of record. Objective evidence must be tied to "the merits of the claimed invention." *WBIP, LLC v. Kohler Co.*, 829 F.3d 1317, 1331 (Fed. Cir. 2016) (quoting *GPAC*, 57 F.3d at 1580). Where the product embodies the claims and the praise is directed to the claimed feature, nexus is shown directly. *Fox Factory, Inc. v. SRAM, LLC*, 944 F.3d 1366, 1373-74 (Fed. Cir. 2019) (patent owner may "prove nexus by showing that the evidence of secondary considerations is the 'direct result of the unique characteristics of the claimed invention'" (quoting *In re Huang*, 100 F.3d 135, 140 (Fed. Cir. 1996))). Praise that "specifically related to features of the claimed invention" is thereby linked "with the patented invention." *Apple v. Samsung*, 839 F.3d at 1054. The Turksu declaration ties Patent Owner's Mac mini M4 stand and hub to the claim language, Ex. 2011 ¶¶ 12, 16, Ex. A, the applicant's remarks state that the product

"features the cutaway configuration as claimed," Ex. 1002 at 117, and no stand, hub, or dock of record has a back-corner cutaway that spares the bottom. Ex. 2011 ¶¶ 8, 11; Ex. 1002 at 32; *see supra* Part V.A.

Skepticism. On the day Apple announced the M4 Mac mini, Ex. 1006 at 1, MacRumors wrote that "accessing the power button is probably not something most people do often with a desktop machine. Macs don't often need to be turned off, and most people put them into a sleep mode rather than shutting them down on a regular basis." Ex. 1014 at 1. The Petition's forum exhibit records a user insisting that "[t]he power button placement has literally nothing to do with whether you can place it on a dock or not." Ex. 1011 at 9. The Turksu declaration explains that this coverage, from a source "deeply entrenched with Mac users," taught those of ordinary skill that the button "is not a problem in need of a solution." Ex. 2011 ¶¶ 7, 10. Contemporaneous doubt that the problem was worth solving undercuts any motivation to solve it, and answers the Petition's premise that the problem "and its structural solution, were instantly recognized." Pet. 36. Tom's Guide's reviewer, who had tried leaving his Mac mini on after Apple defended the design "by claiming that most Mac mini users never turn off their computers," reported that after adding the stand, "I've gone right back to turning it off at the end of the night." Ex. 2011 at 28.

Commercial success. The stand launched "in limited quantities on February 17th, 2025, with full availability planned for March," Ex. 2011 at 42, and sold "[t]housands of units . . . in its first month of launch," a result the Turksu declaration describes as "especially unexpected and surprising given the skepticism of MacRumors." *Id.* ¶ 12; *see Chemours Co. FC, LLC v. Daikin Indus., Ltd.*, 4 F.4th 1370, 1378 (Fed. Cir. 2021) ("market share data, though potentially useful, is not required to show commercial success"). Those first-month sales were of a product whose press coverage singled out the cutaway for the access it gives to a button MacRumors had said most people would seldom need to reach.

Industry recognition. At CES 2025, MakeUseOf, Pocket-lint, and TechRadar Pro gave the stand awards, and Macworld and Mark Ellis Reviews named it among the best CES 2025 accessories. Ex. 2011 ¶ 13, Exs. B-F; *id.* at 9-19. Macworld's write-up reports that "the M4 hub features a cutout that enables easy access to the mini's power switch," *id.* at 12, and MakeUseOf's that the stand "provides dedicated access to the power button," *id.* at 15. *See WBIP*, 829 F.3d at 1335 (magazine award and article evidenced "industry recognition of the significance and value of the claimed invention").

Praise directed to the claimed feature. Six publications singled out the cutaway. MacRumors: "Notably, the hub has a cutout in the back-left corner

that makes it easy to press the computer's raised power button." Ex. 2011 ¶ 14.d. PetaPixel: the hub "solves the new Mac mini's most glaring and probably only notable design fault: its atrocious power button location. Thanks to the hub's notch, users no longer need to lift the Mac mini off their desk to access the power button . . . ." *Id.* ¶ 14.a. Engadget: "Probably the most compelling feature is the notch that makes accessing the petite PC's power button easier." *Id.* ¶ 14.c. Mashable: "the coolest feature of Satechi's new hub is the recess on the back left side, allowing you to easily reach the Mac mini's power button without lifting it." *Id.* ¶ 14.e. XDA: "The Stand & Hub has a large cutout on the back that gives your finger enough space to press the power button without having to move the Mac Mini . . . ." *Id.* ¶ 14.f. Tom's Guide: "The back left corner of the hub has a cutout which allows you to easily reach your Mac mini M4's power button without having to lift the computer off your desk." *Id.* at 28; *see id.* ¶ 14.b. All six name the cutout, notch, or recess, four place it at the back of the stand, and two call it the hub's "most compelling" or "coolest" feature. This is praise for the claimed cutaway, from publications crediting it with fixing the power-button flaw. *See Institut Pasteur v. Focarino*, 738 F.3d 1337, 1344, 1347 (Fed. Cir. 2013) (industry praise "provides probative and cogent evidence" of nonobviousness, and the Board's failure to give it "proper consideration" was "prejudicial").

Praise whose sources "specifically identify" the claimed limitation "as a basis for the praise" is tied to the claimed invention; praise of features the claims do not recite "weighs neither for nor against nonobviousness." *Lectrosonics, Inc. v. Zaxcom, Inc.*, IPR2018-01129, Paper 33 at 64, 69-70 (PTAB Jan. 24, 2020) (precedential), *aff'd*, No. 2020-1921, 2022 WL 499848 (Fed. Cir. Feb. 18, 2022).

The quoted praise is not attributable to a feature known in the prior art. The Petition concedes that Ye's opening is described "without reference to a cutaway in the back corner," Pet. 26, and relies on Koshiishi and Shen to supply one. *Yita LLC v. MacNeil IP LLC*, 69 F.4th 1356, 1364 (Fed. Cir. 2023), denies nexus where the evidence relates exclusively to a feature known in the prior art, and the praised feature here, a back-corner cutaway in the surface on which the computer sits, is in no reference. *See supra* Part V.A; *ClassCo, Inc. v. Apple, Inc.*, 838 F.3d 1214, 1220 (Fed. Cir. 2016) (Board "improperly dismissed some evidence of praise related to features that were not available in the prior art"); *Institut Pasteur*, 738 F.3d at 1347 (holding that dismissing praise because the praised step "was possessed by the prior art" "simply repeats the Board's misreading" of the art).

3. Weighed Against the Petition's Showing, the Evidence Makes Unpatentability Less Likely than Not

The Petition's evidence of motivation is two pseudonymous forum comments and one declarant's characterization. Against it stand contemporaneous skepticism that the problem was worth solving, first-month sales in the thousands, five CES honors, and six publications praising the claimed feature by name, all filed with the Office before allowance and none addressed by the Petition. Objective evidence of this kind "may often establish that an invention appearing to have been obvious in light of the prior art was not," *Cyclobenzaprine*, 676 F.3d at 1075-76 (quoting *Stratoflex*, 713 F.2d at 1538), and in *Apple v. Samsung* such indicia "tip[ped] the scales of patentability" for a simple slide-to-unlock feature, 839 F.3d at 1058 (quoting *Graham v. John Deere Co.*, 383 U.S. 1, 36 (1966)). The Petition has not shown element [1.3]. On any view of its "orientation-agnostic" theory, the objective evidence, unrebutted in the Petition, would leave the Director unable to find that unpatentability is more likely than not on any obviousness ground. The institution decision "will take into account a patent owner preliminary response where such a response is filed, including any testimonial evidence." 37 C.F.R. § 42.208(c). That evidence is in Petitioner's own exhibit.

VI. NOTHING WOULD REMAIN FOR TRIAL

The Director has declined to institute where only a fraction of the challenged claims met the institution standard, because "institution of trial would not be an efficient use of Board resources," and factors such as "the efficient administration of the Office, coupled with the ability of the Office to timely complete its work," inform the exercise of discretion under the institution statutes. *CyberSecure IPS, LLC v. Network Integrity Sys., Inc.*, IPR2025-01441, Paper 18 at 2-3 (Director May 26, 2026) (citing *Chevron Oronite Co. v. Infineum USA L.P.*, IPR2018-00923, Paper 9 at 10-11 (PTAB Nov. 7, 2018) (informative)). Here no ground survives.

Grounds 1-8 fail for every claim because no ground shows that element [1.3] is more likely than not disclosed or suggested by the art (Part V.A). Claim 5 fails on Grounds 1, 4, and 6 for the independent reason that the Petition never identifies the claimed heights, rests on unscaled drawings, and labels the heights the wrong way (Part V.B). Claim 6 fails on Grounds 1, 4, and 8 because the Petition proposes no construction and Koshiishi's notch is curved in the vertical plane, and Ground 9 fails because the term is definite (Part V.C). Claim 8 fails on the grounds that reach it because the Petition does not show that the perimeters are substantially the same size (Part V.D). The objective

evidence of record, unaddressed by the Petition, independently makes unpatentability less likely than not on every obviousness ground (Part V.E). No ground clears the threshold for any claim, and there is no partial showing on which a trial could efficiently proceed. Nor is the Petition's breadth a reason to try any of it: Ground 4 challenges all eight claims, and Grounds 1-5 all rest element [1.3] on the same Koshiishi notch. Pet. 3, 27-29, 55, 60-64. The Petition's non-redundancy section separates Grounds 1-5 only by starting point (Ye or Liao); it does not say what Grounds 1-3 or 5 add on element [1.3]. *Id.* at 118-119. Instituting on this record would require the Board to try a nine-ground challenge to a patent whose central element the Petition never locates in the prior art.

VII. REAL PARTIES IN INTEREST

A. THE PETITION OMITS THE UGREEN GROUP'S 10% SHAREHOLDERS

Patent Owner raised in its discretionary-denial brief, Paper 6 at 11-16, and restates here as a statutory condition of institution, that the Petition does not identify all real parties in interest. A petition for post-grant review "may be considered only if . . . the petition identifies all real parties in interest." 35 U.S.C. § 322(a)(2). The Petition names two: America Ugreen Limited and Shenzhen Ugreen Technology Co., Ltd. Pet. 1. Petitioner is "a direct wholly-owned subsidiary" of Ugreen Group Limited, whose Articles of Association

are Exhibit 1031 and whose registered Shenzhen domicile matches the address the Petition gives for Shenzhen Ugreen Technology Co., Ltd. Ex. 2012 at 4, 6-8; Ex. 1031 at 4 (Arts. 4-5); Pet. 1.[1] Ugreen Group Limited's own Application Proof identifies three holders of more than ten percent of its shares: Zhang Qingsen, its chairman, who "directly held approximately 45.27% of the total issued share capital of our Company and hence was our Controlling Shareholder"; Chen Junling, its vice chairman, at 17.36%; and Ugreen Consulting at 11.67%. Ex. 2012 at 1, 3, 7-8, 11-12. The Petition names none of them.

The Office "expects each petitioner and patent owner to identify as part of their mandatory notices any parent corporation, entity, or person that owns 10% or more of that petitioner's or patent owner's stock, shares, or membership interests." *Tianma Microelectronics Co. v. LG Display Co.*, IPR2025-01579, Paper 12 at 8 n.6 (Director Mar. 18, 2026) (precedential). The appellate rule that footnote cites "requires disclosure of all of a party's parent corporations meaning grandparent and great grandparent corporations as well." Fed. R. App. P. 26.1 advisory committee's note to 1998 amendment. Real parties in interest "are not limited to entities that are actually funding and

[1] The two names "refer to the same legal entity." Ex. 1021 ¶ 6.

controlling the proceeding, but include entities that have the *ability* to control the proceeding," *Sun Pharm. Indus., Inc. v. Biofrontera Inc.*, PGR2026-00021, Paper 12 at 2 (Director May 26, 2026) (citing *Tianma*, Paper 12 at 9-10), and "unilateral control is not the standard." *Viance, LLC v. Koppers Performance Chems., Inc.*, PGR2026-00023, Paper 32 at 3 (Director Aug. 19, 2026). The petitioner bears "the burden of persuasion" to show that it has named all real parties in interest. *Worlds Inc. v. Bungie, Inc.*, 903 F.3d 1237, 1242 (Fed. Cir. 2018); *Tianma*, Paper 12 at 9-10.

Tianma involved indirect ownership. The petitioner's disclosed 10% holder was AVIC Innovation, and the patent owner's evidence was that AVIC owned AVIC Innovation and that a foreign government owned AVIC. *Tianma*, Paper 12 at 2, 8-9. The Director found that evidence "particularly persuasive," *id.* at 9, and held that the petitioner, which offered no "documents describing the rights attendant to AVIC's shares," failed to carry its burden "to establish that a foreign government is not an RPI." *Id.* at 10. In *Sun Pharm.* the Director denied post-grant review where the unnamed 100% parent held the petitioner, by the petitioner's own declaration, as "an indirect wholly-owned subsidiary." *Sun Pharm.*, Paper 12 at 3-4. *Tianma* fits these facts. The three holders stand one company above Petitioner, and the Articles describe the rights attendant to their shares.

Under the Articles, the shareholders' meeting "is the authority of the Company," and its first listed power is "to elect and replace directors." Ex. 1031 at 14 (Art. 46). The Board decides "the appointment or dismissal of the Company's General Manager . . . and other senior executives," *id.* at 38 (Art. 111(9)), and the General Manager "shall be accountable to the Board of Directors." *Id.* at 49 (Art. 147). A ten percent holder, acting alone, has the right to request an extraordinary shareholders' meeting, *id.* at 21 (Art. 55), and may propose a Board meeting that the chairman "shall convene" within ten days. *Id.* at 40 (Art. 118). Each of the three omitted holders owns more than ten percent of the shares, each of which carries one vote. Ex. 2012 at 8; Ex. 1031 at 28 (Art. 84).

The Articles define a controlling shareholder to include one whose holding, "although less than fifty percent (50%), is sufficient to exert significant impact on resolutions of the shareholders' meeting," and provide for the case in which such a shareholder "instructs a director or senior executive" to act against the company's interests. Ex. 1031 at 14, 64 (Arts. 43, 205(1)). Mr. Zhang holds 45.27% of the shares, more than twice any other holding, chairs the Board, and is designated "Controlling Shareholder" in the company's own Application Proof. Ex. 2012 at 3-4, 8, 12. He has the ability to control Peti-

tioner's sole owner, and through it Petitioner; Mr. Chen and Ugreen Consulting each hold the rights the Articles attach to ten percent. All three are real parties in interest, and none is named in the Petition.

B. THE OMISSION CANNOT BE CURED WITHIN THE POST-GRANT WINDOW

Adding a real party in interest requires a new filing date, *Sun Pharm.*, Paper 12 at 3, and the '567 patent issued October 7, 2025, so the nine-month window of 35 U.S.C. § 321(c) closed on July 7, 2026, twelve days after the Petition was filed. A new filing date would fall outside that window, and "[t]here is no statutory provision or rule for converting a PGR into an IPR." *Sun Pharm.*, Paper 12 at 3-4; *see Viance*, Paper 32 at 4 ("Patent Owner is correct" that adding a real party in interest "places the Petition outside the 9-month window for filing a PGR"). The requirement of § 322(a)(2) is not satisfied, and the Petition may not be considered.

VIII. CONCLUSION

The Petition does not show that it is more likely than not that any claim of the '567 patent is unpatentable, and it does not identify all real parties in interest as 35 U.S.C. § 322(a)(2) requires. Patent Owner respectfully requests that the Director deny institution of post-grant review.

Dated: October 6, 2026

/Neil A. Rubin/

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CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(d), the undersigned certifies that the foregoing Patent Owner's Preliminary Response complies with the type-volume limitation of 37 C.F.R. § 42.24(b)(1), permitting a preliminary response of up to 18,700 words in a post-grant review, because, exclusive of the exempted portions, it contains 18,669 words as counted by the word-processing program used to prepare the paper.

Dated: October 6, 2026 */Neil A. Rubin/*

CERTIFICATE OF SERVICE

In accordance with 37 C.F.R. § 42.6(e), I hereby certify that a true and correct copy of Patent Owner's Preliminary Response was served on October 6, 2026, by email sent to:

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