

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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EP FAMILY CORP.,

Petitioner

v.

OFFICE KICK, INC.,

Patent Owner

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Case IPR2025-00471  
Patent No. 11,849,843

**PATENT OWNER'S PRELIMINARY RESPONSE ON THE MERITS**

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**EXHIBIT LIST (37 C.F.R. § 42.63(e))**

<b>Exhibit (Ex.)</b>	<b>Description</b>
2003	File History of U.S. Patent No. 11,849,843
2004	U.S. Patent No. 12,193,569
2005	U.S. Patent No. 317,468 (Morstat)
2006	German Patent No. DE102013008020 (Baudermann)
2007	U.S. Patent No. 6,220,558 (Broder)
2008	U.S. Patent Publication No. 2003/0213415 (Ross)
2009	WO1991017906A1 (Lindahl)
2010	U.S. Patent No. 8,950,343 (Huang)
2011	Comparison of U.S. Patent No. 8,950,343 and U.S. Patent Publication No. 2014/0041554
2012	EP531385 B1 (Lindahl)
2013	DE69111809 T2 (Lindahl)
2014	File History of U.S. Patent No. 12,193,569
2015	March 26, 2025 Interim Processes for PTAB Workload Management
2016	<i>EP Family Corp. v. Office Kick, Inc.</i> , Case No. 2:24-cv-00667 AB (PVCx), Dkt. 58 (C.D. Ca. Feb. 4, 2025)
2017	<i>EP Family Corp. v. Office Kick, Inc.</i> , Case No. 2:24-cv-00667 AB (PVCx), Dkt. 52 (C.D. Ca. Jan. 3, 2025)
2018	<i>EP Family Corp. v. Office Kick, Inc.</i> , Case No. 2:24-cv-00667 AB (PVCx), Dkt. 47 (C.D. Ca. Sep. 11, 2024)
2019	<i>EP Family Corp. v. Office Kick, Inc.</i> , Case No. 2:24-cv-00667 AB (PVCx), Dkt. 1 (C.D. Ca. Jan. 24, 2024)
2020	Declaration of Mark Benden Ph.D.

Exhibit (Ex.)	Description
2021	April 28, 2025 Docket Report for <i>EP Family Corp. v. Office Kick, Inc.</i> , Case No. 2:24-cv-00667 AB (PVCx) (C.D. Ca.)
2022	United States District Courts – Judicial Caseload Profiles for District Courts, available at <a href="https://www.uscourts.gov/sites/default/files/2025-02/fcms_na_distprofile1231.2024.pdf">https://www.uscourts.gov/sites/default/files/2025-02/fcms_na_distprofile1231.2024.pdf</a>

Pursuant to 37 C.F.R. § 42.107(a), Patent Owner Office Kick, Inc. submits the following preliminary response to the Petition for Inter Partes Review of U.S. Patent No. 11,849,843 (the “’834 patent”) (IPR-2025-00471, Paper 2, hereafter “Petition”) filed by EP Family Corp. (“Petitioner”). This paper is submitted along with a separate paper regarding discretionary considerations. *See* Memorandum, Interim Processes for PTAB Workload Management (Mar. 26, 2025), Ex. 2015.

## **I. INTRODUCTION**

The Board should deny the Petition because it fails to demonstrate that it is more likely than not that at least one of the claims challenged in the Petition is unpatentable. *Inter partes* review “shall not be instituted unless the Board decides that the information presented in the petition demonstrates that there is a reasonable likelihood that at least one of the claims challenged in the petition is unpatentable.” 37 C.F.R. § 42.108(c). Section 42.108(c) does not support institution of the *Inter Partes* Review requested by Petitioner.

Petitioner’s asserted references either fail to disclose, teach, or suggest all limitations of the claims-at-issue. In addition, Petitioner’s proposed combinations would improperly render the asserted references unsatisfactory for their intended purposes, and/or improperly change their principles of operation. Moreover, Petitioner’s, and its declarant’s, *KSR* allegations are conclusory and without factual support. That is, Petitioner and its declaration argue that a POSITA would have

combined the asserted references because such combinations are allegedly “less expensive,” “more versatile,” allow for “maximum compactness,” provide “easier access,” afford “greater optionality,” etc. *See e.g.*, Pet. at 66-67. Such arguments, however, rely solely on the testimony of Petitioner’s declarant, where neither Petitioner nor its declarant corroborates such testimony with any citations to evidentiary support, much less evidentiary support available at the time of the effective filing date of the ’843 patent. Thus, Petitioner’s (and its declarant’s) arguments with respect to alleged motivations to combine are completely conclusory with no supportive facts for Patent Owner’s or the Board’s evaluation. If Petitioner’s statements were credited, then any petitioner (for any petition) could satisfy its Section 42.104(5) burden by merely making such conclusory arguments without providing supportive facts.

## **II. CHALLENGED CLAIMS AND CLAIM CONSTRUCTION**

### **A. The Level of Ordinary Skill in the Art**

Petitioner argues that a POSITA would “have at least a bachelor’s degree in Mechanical Engineering (or another technical field) and at least 2 years of experience in consumer product design.” Pet. at 17-18. Neither Petitioner nor its declarant, however, sets forth any facts that support Petitioner’s proposed level of ordinary skill in the art. For example, the declaration acknowledges that many factors are relevant to determining what level of skill would have been ordinary

(*see id.* at 16-17), but fails to explain how any of those factors, in the context of the claimed invention, support Petitioner's proposal. Nevertheless, for the limited purposes of the Board's institution consideration of the Petition for this case, the Patent Owner does not contest the Petitioner's proposed level of ordinary skill in the art.

**B. Claim Construction**

Petitioner does not provide any proposed constructions in the Petition (*see* Pet. at 18-24), thereby conceding that the plain and ordinary meaning controls.

Accordingly, the claim terms should be construed according to their plain and ordinary meaning to a POSITA and do not require any further discussion.

Petitioner does not contend otherwise.

**III. EACH OF PETITIONER'S GROUNDS FAIL TO DEMONSTRATE THAT IT IS "MORE LIKELY THAN NOT THAT AT LEAST ONE CHALLENGED CLAIM IS UNPATENTABLE"**

**A. Ground 1: Petitioner Fails to Establish that Lindahl in View of Yamamoto and in Further View of Clark Renders Claims 1-3, 6-14, and 16-17 Obvious**

Petitioner makes redundant contentions for independent claims 1 and 16, which are the only independent claims asserted for Ground 1. For at least the following reasons, Patent Owner respectfully submits that Petitioner has failed to demonstrate that it is more likely than not that claims 1 and 16, and therefore their

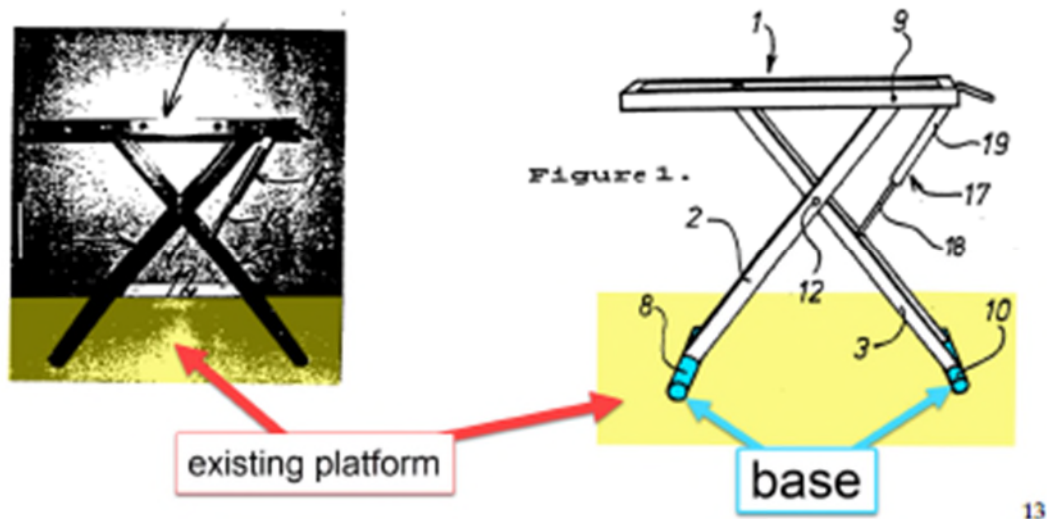
respective dependent claims, are unpatentable. Accordingly, the Board should deny review of Ground 1.

**1. “a base pivot point fixed relative to the base and connecting the base and the first set of pivot arms” (see Pet. at 42, element “1d4”)**

Each of independent claims 1 and 16 recite, in part, “*a base pivot point fixed relative to the base and connecting the base and the first set of pivot arms.*”

Petitioner proposes that the combination of Lindahl and Yamamoto teaches this element. Petitioner does not rely on any other references to meet its burden with respect to this element. The Petition itself (*see pp. 42-43 (element “1d4”)*) is unclear as to what exactly from the disclosure of either Lindahl and/or Yamamoto meets this element, much less how Lindahl and/or Yamamoto would be combined to meet this claim element.

With respect to Lindahl, Petitioner does not argue that Lindahl teaches this element. In fact, Petitioner acknowledges that Lindahl cannot have this element because, instead of using “*a base pivot point*” (as recited in the claim) Lindahl’s alleged “base” instead uses “transverse rods” that sit on an underlying support surface. *See Pet. at 38 (Lindahl discloses “transverse rods that support[] the stand against the underlying support surface”).* Petitioner acknowledges this in its annotated images:



Pet. at 37 (Petitioner’s annotated image arguing Lindahl’s transverse rods 8, 10 are the alleged “base”).

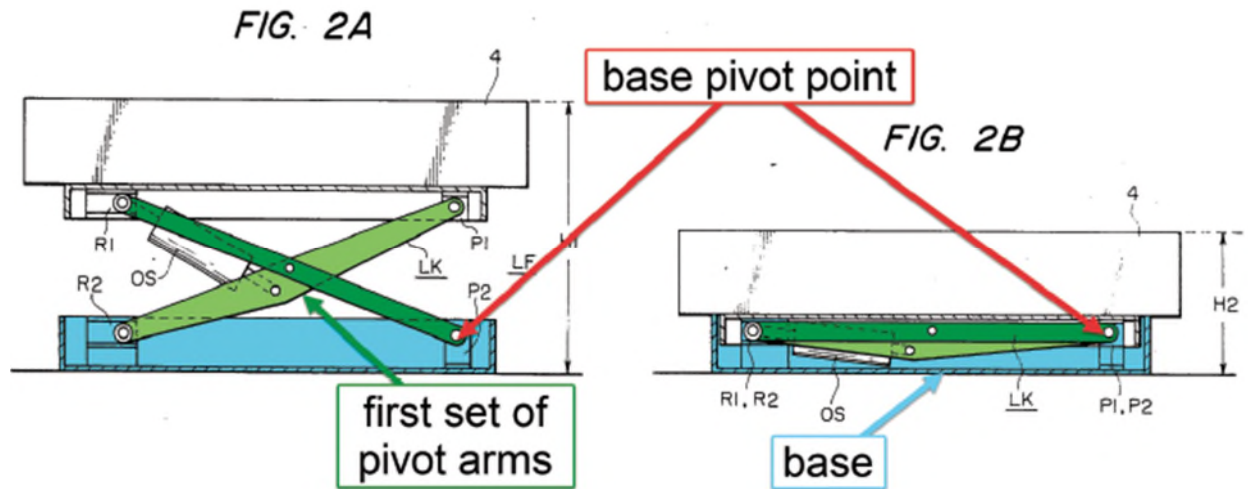
Lindahl’s disclosed invention is differently configured to use the transverse rods (items 8 and 10 in the above image) that sit on an underlying support surface, and fails to include any “*base pivot point*,” much less the entirety of this element, reciting “*a base pivot point fixed relative to the base and connecting the base and the first set of pivot arms*,” as recited by claim 1. Lindahl simply does not disclose, teach, or suggest this claim element.

Petitioner’s declarant also does not argue that Lindahl somehow includes this element. *See* Ex. 1007 at 16-17 (as cited by Petitioner for this element, but where Petitioner’s declarant fails to argue that Lindahl includes this element).

Instead, Petitioner argues that Yamamoto teaches this element. Petitioner does not explain in its Petition how or where Yamamoto teaches this element.

Petitioner includes a citation to Yamamoto at 1:63-2:3 and its declarant’s report. Pet. at 42 (citing Ex. 1007 at 16-17). Petitioner’s declarant cites the same quote (i.e. Yamamoto at 1:63-2:3) and emphasizes the disclosure regarding Yamamoto’s Figure 2: *The lifter LF includes a link mechanism LK having bearings P1 and P2 fixed to ends thereof and rollers R1 and R2 on opposite ends thereof which are movable along a guide rail.* Ex. 1007 at 17 (original emphasis). Such disclosure, however, fails to disclose at least the claim element reciting that a “base pivot point” is “*fixed*” relative to the base. Instead, Yamamoto’s disclosure states that Yamamoto’s “link mechanism LK” has bearings P1 and P2 that are themselves “fixed” (not that there are any “base pivot points” fixed relative to the base).

Petitioner’s declarant’s own images show this:



Ex. 1007 at 17. As shown, the item “LK” is a “link mechanism” that is described as fixed to bearing P1, P2. What Yamamoto does not expressly disclose, however,

is whether bearings P1, P2 are in fact “*fixed*” relative to *the base* (as required by this element). It could be, for example, that bearings P1, P2 are not fixed, and instead move as the “LK link mechanism.”

Petitioner (and its declarant) cites to no other portion of Yamamoto to support this element. Nor can they. Yamamoto is silent with respect to this element. Moreover, Petitioner’s declarant does not go so far as to argue that Yamamoto specifically teaches the claim element reciting a “base pivot point” *fixed* relative to the base. Instead, Petitioner’s declarant differently argues that the “base pivot point” more generally “connects” with Yamamoto’s base. *See* Ex. 1007 at 17 (“Yamamoto discloses a base pivot point which *connects* the base and the first set of pivot arms.”) (emphasis added). But this is not what the claim element recites. Petitioner’s argument therefore commits legal error because Petitioner does not recite the claim terms themselves and provides no construction to interpret the meaning of the claim term to support its argument.

Instead, Petitioner is forced to rely (and does in fact rely) on its declarant’s testimony (without more), where Petitioner’s declarant argues that “[i]t is a required part of any scissor lift mechanism that is fixed to a base as it is one of the main supports for the entire lift mechanism.” Ex. 1007 at 17. First, however, such testimony is uncorroborated by any support from either Yamamoto or Lindahl. Second, neither Petitioner nor its declarant attempts to show how such elements are

somehow inherent, *i.e.*, necessary, for Yamamoto’s operation. Still further, such argument is disproved by Petitioner’s own cited art, *i.e.*, Lindahl itself does not “require” (as alleged by Petitioner’s declarant) a “base pivot point” fixed relative to a base. To the contrary, Lindahl does not disclose or teach use of “a bas pivot point” at all, much less a base pivot point *fixed* relative to a base. Instead, Lindahl demonstrates that use of a “base pivot point” fixed relative to a base is not somehow “required” or otherwise inherent or necessary to achieve a scissor lift mechanism. The Federal Circuit’s decision in *Personal Web Techs.* is instructive here. *See Personal Web Techs. v. Apple*, 917 F.3d 1376 (Fed. Cir. 2019). In *Personal Web Techs.*, the Federal Circuit reviewed the Patent Trial and Appeal Board’s (PTAB) finding that the ’310 Patent was obvious in view of two prior art references, to Woodhill and Stefik. *See id.* at 1377. The PTAB had based its finding on an alleged necessary, inherent characteristic of Woodhill, in particular that Woodhill’s remote backup file server “must be able to reference its local files using the information it receives – namely [by use of a] Binary Object Identification Record.” *Id.* at 1381. The Federal Circuit reversed the PTAB’s inherency finding, as derived from Woodhill, holding that such finding lacked substantial evidence. *Id.* at 1377. Importantly, the Federal Circuit stated that “[w]hile it is possible that Woodhill’s system utilizes an unstated Binary Object Identifier lookup table to locate binary objects of a previous version of a file that is

going to be restored ... **mere possibility is not enough.**” *Id.* at 1382 (emphasis added). “Inherency ... may not be established by probabilities or possibilities.” *Id.* (citing *PAR Pharm., Inc. v. TWI Pharm., Inc.*, 773 F.3d 1186, 1195 (Fed. Cir. 2014)). “The mere fact that a certain thing **may** result from a given set of circumstances is not sufficient.” *Id.* (original emphasis). Rather, a party must “show that **the natural result flowing** from the operation as taught would result in the performance of the questioned function.” *Id.* (emphasis added). *See also* M.P.E.P. § 2112 (IV) (“The fact that a certain result or characteristic **may** occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic.”) (original emphasis). Here, Lindahl (as cited by the Petitioner itself) illustrates that it is not necessary for Yamamoto to have a base pivot point “**fixed**” relative to the base. Instead, as Lindahl teaches, there can be lift mechanisms that do not use a fixed base pivot point. Thus, Petitioner has failed to show how these elements are somehow necessarily taught by Yamamoto—as the Federal Circuit found with respect to Woodhill, the mere possibility of a base pivot point fixed to the base “is not enough.” *Personal Web Techs.*, 917 F.3d at 1382.

For at least the above reasons, Petitioner has failed to meet its burden to identify how the combination of Yamamoto and Lindahl would, with particularity, disclose, teach, or suggest at least this element. *See* § 312(a)(3) (a petition for *inter partes* review “may be considered only if ... the petition identifies, 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.”) (emphasis added).

Petitioner also fails to identify how or why a POSITA would modify Lindahl to include the base of Yamamoto, as required to demonstrate obviousness. The Board rules further require that the petition “must specify where each element of the claim is found in the prior art patents or printed publications relied upon” and “how the construed claim is unpatentable under [35 U.S.C. §§ 102 or 103].” 37 C.F.R. § 42.104(b)(4). The Federal Circuit has emphasized the importance of the rules requiring that petitioners articulate their challenges with specificity. *See Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016) (“It is of the utmost importance that petitioners in the IPR proceedings adhere to the requirement that the initial petition identify ‘with particularity’ the ‘evidence that supports the grounds for the challenge to each claim.’”). Thus, Petitioner also fails to meet its burden regarding this requirement.

For at least the above reasons, Petitioner fails to meet its Section 42.104(b)(4) burden for “*a base pivot point fixed relative to the base and connecting the base and the first set of pivot arms.*”

**2. Additional Elements for which Petitioner Fails to Provide Analysis Pursuant to Section 42.104(b)(4)**

For at least the following additional elements (the “Additional Elements”), Petitioner fails to provide analysis or show how or where these Additional Elements are found in the asserted prior art references:

1. “*a second set of pivot arms*” See Pet. at 41, element “1d2”
2. “*an element that connects the first set of pivot arms to the second set of pivot arms*” See Pet. at 42, element “1d3”
3. “*a platform pivot point fixed relative to the work surface platform and connecting the work surface platform and the first set of pivot arms*” See Pet. at 43, element “1d5”

Instead, Petitioner includes citations to the references, where it is assumed that the Board (and Patent Owner) will hunt for and attempt to guess what disclosure in the citation meets a given claim element for each of these Additional Elements. But Petitioner’s tactic fails to meet its burden to “specify where each element of the claim is found in the prior art patents or printed publications relied upon.” 37 C.F.R. § 42.104(b)(4).

Petitioner also cites to its declarant’s declaration, in a presumed attempt to incorporate the declaration into the Petition. However, incorporation by reference is improper at least because it would increase the brief’s length beyond the allowable word limit. See Decision Denying Petitioner’s Request on Rehearing of Final Written Decision, *Medivis, Inc. v. Novarad Corp.*, IPR2023-00042, Paper 37 at 10 (PTAB Apr. 23, 2024) (PTAB “rules prohibit parties’ incorporation of

arguments by reference”); *see also* 37 C.F.R. § 42.6(a)(3) (“Arguments must not be incorporated by reference from one document into another document.”). In *Medivis*, the petitioner included wholesale citations to two declarations without any discussion that the Board found to constitute “improper incorporations by reference.” *See* IPR2023-00042, Paper 37 at 10. The Board in *Medivis* recognized that “incorporation ‘by reference amounts to a self-help increase in the [brief’s] length.” *Id.* (quoting *DeSilva v. DiLeonardi*, 181 F.3d 865, 866-67 (7th Cir. 1999)). As the Federal Circuit has repeatedly recognized, “incorporating argument by reference ‘cannot be used to exceed word count’” because “[i]t is ‘fundamentally unfair to allow a party to use incorporation to exceed word count.’” *Medivis*, IPR2023-00042, Paper 37 at 11 (quoting *Promptu Sys. Corp. v. Comcast Cable Comm’s, LLC*, 92 F.4th 1384, 1385 (Fed. Cir. 2024)); *Microsoft Corp. v. DataTern, Inc.*, 755 F.3d 899, 910 (Fed. Cir. 2014). On this basis, the Board in *Medivis* concluded that the petitioner improperly attempted to incorporate by reference testimonial evidence from a declaration, and therefore, the Board did not consider such evidence. *See* IPR2023-00042, Paper 37 at 11.

As admitted by Petitioner, its brief is already at 13,280 words. *See* Pet. at 76. Incorporating by reference one or more of Petitioner’s declarant’s arguments from the cited declaration would violate the 14,000 word limit allowable per 37 C.F.R. § 42.24.

Thus, for at least these reasons, Petitioner also has failed to meet its burden for at least these additional elements. The Board should deny institution of the Petition on this additional basis.<sup>1</sup>

### **3. No Motivation to Combine**

Petitioner relies on its proposed combination of Lindahl and Yamamoto for the entirety of its Ground 1 argument. As discussed above, at least because the proposed combination of Lindahl and Yamamoto does not disclose, teach, or suggest all elements of the Asserted Claims (as discussed above), there can be no combination of Lindahl and Yamamoto that would cure this deficiency.

In any event, Petitioner also fails to demonstrate that a POSITA would have been motivated to combine references for this Ground for at least the following reasons:

#### **a. The Proposed Modification of Lindahl and Yamamoto Improperly Renders the Prior Art Unsatisfactory for its Intended Purpose, and further improperly Changes the Principle of Operation of these References**

Petitioner's proposed modifications would improperly render the Lindahl and/or Yamamoto combined device unsatisfactory for its intended purpose and/or improperly change its principle of operation. If a proposed modification would

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<sup>1</sup> This also applies to the element "*a base pivot point fixed relative to the base and connecting the base and the first set of pivot arms*" as discussed above. *See also* Pet. at 42, element "1d4."

render the prior art invention being modified unsatisfactory for its intended purpose, then there can be no suggestion or motivation to make the proposed modification. M.P.E.P. § 2143.01 (V) (The Proposed Modification Cannot Render the Prior Art Unsatisfactory for its Intended Purpose); *In re Gordon*, 733 F.2d 900, 902 (Fed. Cir. 1984) (finding no suggestion to modify a prior art device where the modification would render the device inoperable for its intended purpose).

In addition, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the prior art references are not sufficient to render the claims prima facie obvious. M.P.E.P. § 2143.01 (VI) (The Proposed Modification Cannot Change the Principle of Operation of a Reference); *see In re Ratti*, 270 F.2d 810, 813 (CCPA 1959) (holding that a proposed combination of references is not proper where it would change the basic principles of operation of one of the references); *Plas-Pak Indus., Inc. v. Sulzer Mixpac AG*, 600 F. App'x. 755, 759 (Fed. Cir. 2015) (“a change in a reference’s ‘principle of operation’ is unlikely to motivate a person of ordinary skill to pursue a combination with that reference”). *See Ex. 2020 at ¶¶21-63.*

**First**, as discussed above, neither Petitioner nor its declarant argue that Lindahl discloses, teaches, or suggests the claim element: “*a base pivot point fixed relative to the base and connecting the base and the first set of pivot arms.*”

Lindahl teaches its alleged “base” comprises “transverse rods” that sit on an underlying support surface. *See* Pet. at 38 (Lindahl discloses “transverse rods that support[] the stand against the underlying support surface”).

By contrast, as discussed above, Yamamoto teaches a “link mechanism LK” that is not configured to use transverse rods to stand against the underlying support surface, as differently taught by Lindahl. Instead, Yamamoto’s “link mechanism LK” includes a different structure, i.e., a set of “bearings P1 and P2 fixed to ends thereof and rollers R1 and R2 on opposite ends thereof which are movable along a guide rail.” As discussed above, Yamamoto does not expressly or inherently disclose or teach “a base pivot point” fixed relative to the base and connecting the base and the first set of pivot arms.

Even assuming *arguendo* that such element was met (it is not), unlike Lindahl’s transverse rods that stand against the floor (as admitted by Petitioner), Yamamoto’s link mechanism LK moves along a guide rail and is not designed or otherwise configured to stand against the underlying support surface. Modifying the link mechanism LK of Yamamoto to use the transverse rods of Lindahl (to stand against the underlying support surface) would change a principal operation of Lindahl and/or Yamamoto because such modification would require at least the removal of Yamamoto’s disclosed guide rail, which Yamamoto expressly discloses that its link mechanism LK requires to operate. This is at least because Yamamoto

relies on the link mechanism LK as configured for operating its disclosed bed with a hydraulic cylinder. Ex. 1012 at 2:3-9 (“A hydraulic cylinder OS serves as a vertical drive unit for extending and retracting the link mechanism LK. Vertical movement of such a vertically movable fluidized bed with a patient thereon while the beads 5 are in a flowing condition, however, results in the danger of causing the patient to move unnecessarily on the bed”).

For the same reasons, removal of Yamamoto’s disclosed guide rail would improperly render Yamamoto device unsatisfactory for its intended purpose because removal of the guide rails would cause the link mechanism LK disclosed by Yamamoto to fail at least because the rollers R1 and R2 would no longer have guides within which to move.

Further, modification of Lindahl to use link mechanism LK would require removal of Lindahl’s lower transverse rods, which would change the principal operation of Lindahl because Lindahl teaches that the transverse rods that sit on the underlying surface work together (“coact”) with upper rods in order to raise and lower Lindahl’s frame-like portion in relation to the underlying support surface. *See* Ex. 1011 at 2:1-10. Removing Lindahl’s lower transverse rods would therefore impact its upper rods, and the ability of the upper rods to “coact” with the frame-like portion, thereby changing Lindahl’s principal operation.

For the same reasons, removal of Lindahl’s lower transverse rods that sit on an underlying support surface would improperly render Lindahl unsatisfactory for its intended purpose because removal would cause the operation of the frame-like mechanism to fail, at least because Lindahl teaches that its frame-like mechanism “coacts” based on the movement of the upper rods of Lindahl, which are themselves dependent on the movement of the lower transverse rods. Removal of one of these components would cause the other to fail, and Petitioner does not demonstrate or argue otherwise.

Thus, at least for these reasons, because the proposed modification of Lindahl and Yamamoto would change the principal operation of Lindahl (or vice versa for Yamamoto), and/or render the prior art invention being modified (Lindahl or Yamamoto) unsatisfactory for its intended purpose, there can be no suggestion or motivation to make the proposed modification. Petitioner does not meet their burden of specifying how a person of ordinary skill in the art would be motivated to alter, or otherwise combine, the different structures of Yamato and Lindahl. *See, e.g., In re Urbanski*, 809 F.3d 1237, 1243 (Fed. Cir. 2016) (“If references taken in combination would produce a seemingly inoperative device, ... such references teach away from the combination and thus cannot serve as predicates for a prima facie case of obviousness.”) (quoting *McGinley v. Franklin Sports, Inc.*, 262 F.3d 1339 (Fed. Cir. 2001)).

**Second**, the invention of Yamamoto describes a fluidized bed. Ex. 1012 at 2:12-23 (“Summary of the Invention”). Yamamoto teaches a POSITA that “[t]he present invention [of Yamamoto] relates to a device for controlling the operations of a medical fluidized bed for floating and supporting a human body, for purposes of medical treatment, on a bed of fine particles [*see e.g., id.* (“sand” or “beads”)] subjected to a flowing movement induced by a stream of compressed air diffused upwardly through a diffuser board.” Ex. 1012 at 1:6-11.

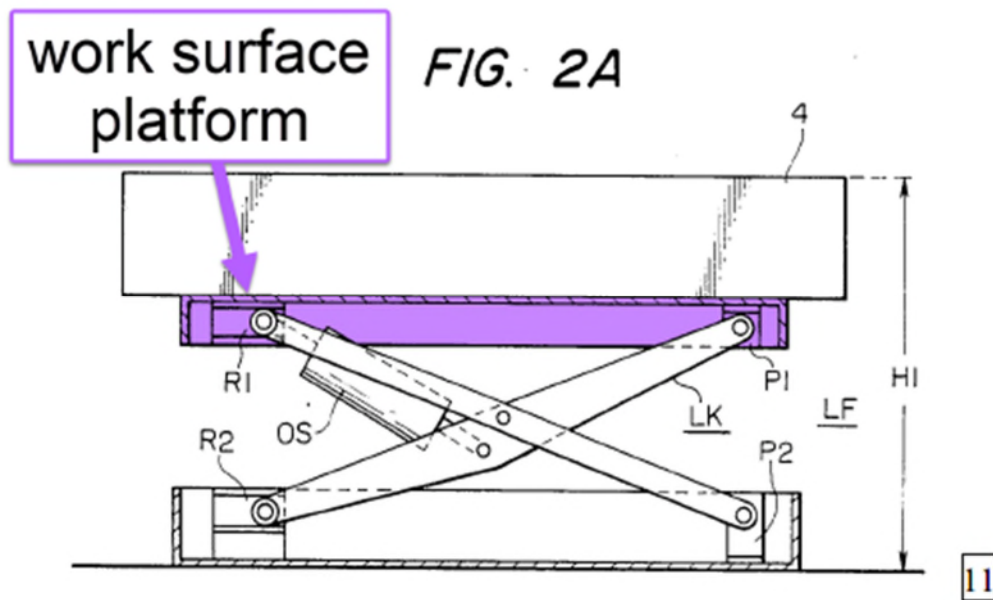
In particular, Yamamoto’s bed is specialized bed configured to prevent the danger of causing a patient to move unnecessarily in the bed, *e.g.*: “Vertical movement of such a vertically movable fluidized bed with a patient thereon while the beads 5 are in a flowing condition, however, ***results in the danger of causing the patient to move unnecessarily on the bed.***” *Id.* at 2:5-9 (emphasis added).

Yamamoto attempts to solve the identified danger by disclosing a control device specific to the fluidized bed having the beads, *i.e.*, “a device for controlling the raising and lowering movement of a fluidized bed and which is capable of interlocking or preventing flowing movement of the beads while the bed is being vertically moved to thereby ***eliminating the danger mentioned above.***” *Id.* at 2:14-17 (emphasis added).

By contrast, Lindahl discloses or teaches no such specialized medical fluidized bed, and much less a specialized medical fluidized bed configured for attachment to a top surface of Lindahl.

Modifying Yamamoto to remove its specialized medical fluidized bed (and replacing it with a tabletop for use in caravans and motorhome as taught by Lindahl) would change a principal operation of Yamamoto because such modification would eliminate a component of Yamamoto described as part of the “present invention” (as described above), and also, *e.g.*, “[i]n accordance with the present invention, when the bed is being moved upwardly or downwardly, the flowing movement of beads is temporarily stopped to put the patient's body at rest in a manner as if confined in a sand mold. After the movement of the head has been completed, the beads are allowed to flow again.” Ex. 1012 at 2:18-23.

Further, Petitioner mistakenly argues (and commits error in fact) that Yamamoto includes a top surface (shown in purple, as reproduced from the Petition):



Pet. at 35.

However, it is easily seen (even in Petitioner’s above image) that such purple highlighted portion is not a top surface, or “work surface platform,” at least because the specialized medical fluidized bed (referred to as “tank 4” by Yamamoto<sup>2</sup>) covers the purple highlighted portion. Thus, given that the purple highlighted portion is covered, it cannot be a “work surface platform.”

For the same reasons, removal of Yamamoto’s specialized medical fluidized bed (*e.g.*, by replacement of a conventional tabletop) would improperly render Yamamoto’s device unsatisfactory for its intended purpose at least because such removal would no longer serve to allow Yamamoto to be “capable of interlocking

<sup>2</sup> Ex. 1012 at 1:29-31 (“A tank 4 integral with the closed chamber 2 contains the bead bed S and the diffuser board 3.”).

or preventing flowing movement of the beads while the bed is being vertically moved to thereby eliminating the danger mentioned above.” Ex. 1012 at 2:14-17.

Further, with respect to Lindahl, modifying Lindahl with Yamamoto’s link mechanism LK, related hydraulic cylinder, bearings P1 and P2, rollers R1 and R2, and guide rail of Yamamoto changes the principal operation of Lindahl and/or makes Lindahl unsatisfactory for its intended purpose at least because all of these components (as taught by Yamamoto) defeat the purposes of Lindahl, where “[t]he object of the present invention is to eliminate this problem [the complicated and time-consuming process of lowering and raising a motorhome tabletop] and to provide a tabletop stand which can be readily handled and manoeuvred [*sic*].” Ex. 1011 at 1:23-25. Adding these various components of Yamamoto would frustrate this purpose, where such components of Yamamoto are designed to raise and lower a heavy fluidized bed, filled with sand and/or beads and carrying a human patient, but where adding these components to Lindahl would cause the invention of Lindahl to become heavy, unwieldy, and not “readily handled and manoeuvred [*sic*],” especially within the confines of a motorhome or caravan, which Lindahl expressly teaches as the location for operation of its invention.

Thus, for at least these reasons, because the proposed modification of Lindahl and Yamamoto would change the principal operation of Lindahl (or vice versa for Yamamoto), and/or render the prior art invention being modified

(Lindahl or Yamamoto) unsatisfactory for its intended purpose, there can be no suggestion or motivation to make the proposed modification. Petitioner does not meet its burden of specifying how a person of ordinary skill in the art would be motivated to alter, or otherwise combine, the different structures of Yamato and Lindahl. *See, e.g., In re Urbanski*, 809 F.3d at 1243.

**b. Failure to Provide a Sufficient Reason to Combine/KSR**

To support a conclusion of obviousness it is not enough to show merely that the prior art includes separate references covering each separate limitation in a challenged claim. *Unigene Labs., Inc. v. Apotex, Inc.*, 655 F.3d 1352, 1360 (Fed. Cir. 2011). Obviousness additionally requires that a person of ordinary skill at the time of the invention “*would have* selected and combined those prior art elements in the normal course of research and development to yield the claimed invention,” not merely whether separate references taught the components of a given claim. *Id.*; *see also Orexo AB v. Actavis Elizabeth LLC*, 903 F.3d 1265, 1273 (Fed. Cir. 2018) (“The question is not whether the various references separately taught components of the ’330 Patent formulation, but whether the prior art suggested the selection and combination achieved by the ’330 inventors.”).

In determining whether there would have been a motivation to combine prior art references to arrive at the claimed invention, it is insufficient to simply

conclude the combination would have been obvious without identifying any reason why a person of skill in the art would have made the combination. *Metalcraft of Mayville, Inc. v. Toro Co.*, 848 F.3d 1358, 1366 (Fed. Cir. 2017).

Here, contrary to the Federal Circuit’s case law on obviousness, Petitioner commits legal error by repeatedly stating that the combination of alleged references would have been “mundane” and “easy” because (allegedly) the components as claimed by the ’843 patent were “commonplace.” *See, e.g.*, Pet. at 13 (“the ’843 Patent should never have been issued because it attempts to claim mundane components that are (and have) been easily incorporated into numerous mechanical designs as a matter of ordinary practice in the field of engineering.”); *id.* at 15 (“Gas springs are commonplace components which are easily incorporated into various mechanical designs as a matter of ordinary engineering practice.”). At the same time, however, Petitioner provides no factual support for its arguments, including whether such arguments apply for the effective filing date of the ’843 patent, including how such components would have been somehow “commonplace” or “easy” to incorporate at the effective filing date. This is contrary to Federal Circuit law, *i.e.*, “whether a skilled artisan would be motivated to make the proposed combination to arrive at the claimed invention—is a factual one that we review for substantial-evidence support.” *St. Jude Medical, LLC v. Snyders Heart Valve LLC*, 977 F.3d 1232, 1242–43 (Fed. Cir. 2020).

For example, Petitioner merely alleges that one skilled in the art *could* have replaced the “feet” (*i.e.* transverse rods 8, 10) of Lindahl with the base of Yamamoto to avoid “damage to the supporting floor,” (*see* Pet. at 66) but do not provide any reasonable explanation *why* one skilled in the art would be motivated to do so at the effective filing date of the ’843 patent. Similarly, Petitioner merely alleges that one skilled in the art *could* “foreseeably” have placed the “printer stand” of Clark on top of Lindahl or Yamamoto, and that this is well-known and customary, without providing any reasonable explanation *why* one skilled in the art would be motivated to do so at the effective filing date of the ’843 patent. *See* Pet. at 67, 69. Thus, Petitioner fails to provide substantial evidence support for its proposed combination for Ground 1.

Patent Owner provides the below additional reasons demonstrating the insufficiency of Petitioner’s arguments with respect to Ground 1.

**“Highly compatible” or analogous art is not enough.** Petitioner contends that Lindahl and Yamamoto “both describe vertically adjustable platforms that use a scissor linkage and cylindrical actuator ... [and therefore] are highly compatible with each other.” Pet. at 65. However, demonstrating a reference is analogous art or relevant to the field of endeavor of the challenged patent is not alone sufficient to establish that one of ordinary skill would have had reason to combine its teachings with other prior art in the manner set forth in the claim. *See Securus*

*Techs., Inc. v. Global Tel\*Link Corp.*, 701 F. App'x 971, 977 (Fed. Cir. 2017) (“a broad characterization of [prior art references] as both falling within the same alleged field . . . without more, is not enough for [Petitioner] to meet its burden of presenting a sufficient rationale to support an obviousness conclusion”). Mere compatibility of the references is likewise not sufficient. *Personal Web Techs., LLC v. Apple, Inc.*, 848 F.3d 987, 993 (Fed. Cir. 2017) (it is not enough to show that “a skilled artisan, once presented with the two references, would have understood that they could be combined”). Here, Petitioner’s arguments that Lindahl and Yamamoto are highly compatible do not show how a POSITA would in fact physically achieve the alleged combination, which is especially fatal given that the lifting mechanisms of Lindahl and Yamamoto differ substantially, and that Petitioner fails to explain how a POSITA could have modified one or the other reference to achieve the same height adjustment mechanism recited by the elements of the claims of Ground 1.

**A POSITA would not be motivated to use a base in all instances.**

Petitioner’s Ground 1 (obviousness) theory depends on whether a POSITA would have been motivated to use a base **in all instances**. In particular, Petitioner contends: a “POSITA would have been motivated to combine the base of Yamamoto with the Lindahl mechanism to gain additional advantages,” because, according to Petitioner, legs (like those of Lindahl), cause concentrated pressure at

certain points, which damages carpet, and which would have allegedly motivated a POSITA incorporate the “broad base surface” “taught by Yamamoto.” Pet. at 66.

But other than a conclusory declaration (with no factual support), Petitioner has not supported its theory that a broad base surface is somehow always superior or more useful than legs. Such failure is fatal to Petitioner’s challenge of obviousness. *See* 37 C.F.R. 42.204(5). *See Johns Manville Corp. v. Knauf Insulation*, IPR2018-00827, Paper 9 at 11-12 (2018) (informative decision) (denying institution and finding that “Petitioner’s argument assumes that all thermoset binders are useful in a fiberglass insulation product of the type disclosed in Srinivasan—an assumption that Petitioners fail to support.”). A broad base surface would not somehow be superior in **all instances** compared to legs. *See* Ex. 2020 at ¶59. For example, Petitioner concedes that Lindahl’s disclosure “is configured to be used in caravans and motorhomes”—exactly the type of situation where a broad base surface might be inferior to legs or even inoperable, at least because of the confined space (*e.g.*, a caravan or motorhome) within which the invention of Lindahl is taught to be deployed. Pet. at 37; *see* Ex. 2020 at ¶59. Similarly, a POSITA would not look to the medical bed of Yamamoto for a “carpet” application, as Yamamoto’s medical application calls for hard surfaces like tile for easy clean up and decontamination, not inferior surfaces such as carpet. Ex. 2020 at ¶59.

**Petitioner’s statements regarding alleged KSR motivations are unsupported by facts.** Moreover, Petitioner’s *KSR* motivations to combine likewise depend on conclusory statement with no factual support. *See* 37 C.F.R. § 42.65(a) (“Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.”); *Rohm & Haas Co. v. Brotech Corp.*, 127 F.3d 1089, 1092 (Fed. Cir. 1997) (nothing in the Federal Rules of Evidence or Federal Circuit jurisprudence requires the fact finder to credit unsupported assertions of an expert witness). For example, Petitioner makes the following conclusions (with no evidence other than declarant’s testimony) regarding motivations to combine Lindahl and Yamamoto:

- Substituting Yamamoto’s broad base surface for Lindahl’s legs would “*gain additional advantages*” because it would “mitigate indentation in surfaces such as carpets.” Pet. at 66.
- “Combining Yamamoto with Lindahl is an obvious next step because it would allow for greater height adjustability as well as allowing the Lindahl table to store more compactly.” Pet. at 66.
- “When combined, the gas spring of Lindahl will also be aligned with the links as in Yamamoto leading to maximum compactness for storage.” Pet. at 66.
- “It is common knowledge that a printed stand [not claimed] is not commonly placed alone on the floor and instead [is] [*sic*] placed on an elevated flat surface such as a table or cabinet.” Pet. at 67.
- A “POSITA will be familiar with the purpose of using a small printer stand to elevate the printer and provide easier access to the printed papers it dispenses.” Pet. at 67.

- “Such a design is less expensive and more versatile because it affords the user greater optionality as to where to place it.” Pet. at 67.

Other than its declarant’s testimony, Petitioner fails to cite any supporting facts or corroborating evidence, rendering its allegations merely conclusory.

Petitioner could have supported its Petition with facts to substantiate its position, but did not. Similarly, the testimony of Petitioner’s declarant regarding the alleged motivation to combine for Ground 1 fails to disclose underlying facts or data upon which his opinion is based, and therefore should be given little to no weight.

**Modifications that a POSITA could have made do not give rise to a Motivation to Combine.** As discussed above, none of Petitioner’s KSR motivations are supported by any facts. “Obviousness concerns whether a skilled artisan *not only could have made but would have been motivated* to make the combinations or modifications of prior art to arrive at the claimed invention.” *Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1073 (Fed. Cir. 2015) (emphasis added). Petitioner’s reliance on a generic desire for, *e.g.*, “less expensive and more versatile” design, “greater optionality” and “maximum compactness” (*see* Pet. at 66-67), are conclusory statements about what merely *could have* allegedly been achieved at the time of the invention. An argument assuming the combination *could have* been successful does not mean that an ordinarily skilled artisan *would have* been motivated to make the combination. *See Belden*, 805 F.3d at 1073.

Indeed, if Petitioner's statements were credited, then any petitioner (for any petition) could satisfy its Section 42.104(5) burden by merely arguing that a given proposed combination is, *e.g.*, "less expensive and more versatile," without providing any facts in support.

Here, as previously noted, Lindahl and Yamamoto teach different support structures and lifting mechanisms, with different objectives. Petitioner concedes that Lindahl discloses transverse rods that support it against the floor of a caravan or motorhome for use as a bed or dining table. Pet. at 37-38. Conversely, Petitioner concedes that Yamamoto discloses an apparatus for a fluidized medical bed, the "crux of [which] lies in its controls system and on the fluidized bed itself." Pet. at 26. Petitioner further concedes that "[t]he scissor lift mechanism described by Yamamoto ... is not a major point of focus of Yamamoto." *Id.*

In particular, Petitioner's theory ignores that the legs of Lindahl fulfil Lindahl's intended purpose of being "configured to be used in caravans and motorhomes" and supporting it against the underlying support surface, which "object has been achieved with a stand ... [that] includes at least two leg members which are hinged or pivotally connected together such as to *enable* the parts of said *leg members* located on mutually opposite sides of the hinge or pivot to be *moved towards and away* from one another in a scissor-like fashion." *See* Pet. at 37; Ex. 1011 at 1:26-35; *id.* at 2:5-8; *id.* at 3:11-20 ("This enables the two ends of

respective pairs of bars 4, 5; 6, 7 to be *moved towards and away from* each other in a scissor-like fashion”). The gas spring of Lindahl further fulfils Lindahl’s intended purpose of eliminating the time-consuming and complicated process of raising and lowering the stand.

Yamamoto’s broad “stationary base” with rollers and guide rail, and Yamamoto’s complicated “external hydraulics system,” however, would prevent such functionality because it would be unsuitable for use in caravans or motorhomes. Moreover, incorporating the Yamamoto design for use in a motorhome would add significant weight, reducing fuel economy and raising the center of gravity, and thereby the tip instability for cornering while in motion. Ex. 2020 at ¶61. A vehicle designer would not be willing to compromise the safety of the motorhome while in motion merely to make raising and lowering the stand easier. *Id.*

Thus, at least for these reasons, a POSITA would not have been motivated to replace Lindahl’s legs with Yamamoto’s broad “stationary base.”

Petitioner similarly provides no factual support for its alleged motivation to combine Lindahl and Yamamoto with Clark—that “[d]espite the fact that Clark only covers the ornamental appearance ... a POSITA would easily recognize the utilitarian features of the printer stand as being an elevated platform on which objects including electronics can be supported at a height that enhances their ease

of use.” Pet. at 36. Moreover, Petitioner merely argues what *could* have been achieved—“[a] POSITA would easily recognize that such a platform *could* be placed on a desk or table of any type”, not what a POSITA would have been motivated to do. *See* Pet. at 37 (emphasis added); *Belden*, 805 F.3d at 1073. Petitioner’s unsupported, conclusory statements do not meet its burden to demonstrate obviousness.

Thus, at least for these reasons, a POSITA would not have been motivated to combine the “printer stand” of Clark with the “motorhome stand” of Lindahl or the “fluidized medical bed” of Yamamoto. *See* Ex. 2020.

#### **4. Additional reasons for Ground 1, Claim 16**

- a. Failure to meet burden for “wherein the gas spring, the first set of pivot arms, the base pivot point, and the platform pivot point align side-by-side when the desktop workspace is in a fully lowered position such that the desktop workspace adjusts vertically”**

For Ground 1, Claim 16, Petitioner contends that Lindahl in view of Yamamoto discloses that “the gas spring, the first set of pivot arms, the base pivot point, and the platform pivot point align side-by-side when the desktop workspace is in a fully lowered position such that the desktop workspace adjusts vertically.” *See* Pet. at 60.

Petitioner does not contend that Lindahl discloses any alignment when “in a fully lowered position,” nor that any claim elements “align side-by-side” when

“fully lowered.” Thus, Petitioner concedes that Lindahl is silent with respect to any alignment when “in a fully lowered position,” and does not disclose that the claim elements “align side-by-side” when “fully lowered. *See* Pet. at 60 (“Lindahl is mounted such that *when permitted to fully collapse* as the linkage in Yamamoto does, the gas spring pivots points will be in perfect horizontal alignment with the other pivot points”) (emphasis added); *id.* at 61 (“a POSITA would be motivated to combine the linkage of Yamamoto with the linkage of Lindahl in a way that the scissor arms will line up flat when the platform is fully lowered.”).

As discussed above, Petitioner relies solely on its declarant’s arguments and provides no factual support that a POSITA would be so motivated. Moreover, Petitioner’s motivation to combine is premised on unsupported assumptions that Petitioner fails to show are necessarily inherent in all cases—namely, (1) that a scissor lift that can fully collapse is *always* better than one that cannot; (2) that “the lifting assistance provided by a nearly horizontal gas spring would be outweighed by the loss of compactness offered by keeping the gas spring in a non-horizontal orientation”; (3) that “it is the very nature of scissor lift mechanisms generally to adjust vertically”; and (4) that a POSITA would see a gas spring and a hydraulic cylinder as “interchangeable,” despite also arguing that a “POSITA would understand that gas springs are essentially constant force devices, *unlike* the hydraulic cylinders such as used in Yamamoto.” *See* Pet. at 62 (emphasis added);

*see also id.* at 39 (“height adjustment mechanism of Yamamoto and Lindahl mechanism are interchangeable”); *id.* at 44-45 (“interchangeability of a gas-spring and a hydraulic cylinder”).

Therefore, Petitioner has not met its burden under 37 C.F.R. § 42.104(b)(4) of specifically identifying where all elements can be found in the prior art nor provide the require *prima facie* showing required for Section 103 to demonstrate how a POSITA would have been motivated to combine Lindahl and Yamamoto to arrive at the claimed elements of claim 16, and much less how such combination would have been achieved before the effective filing date of the ’843 patent.

## **5. Additional reasons for Ground 1, Claim 11**

### **a. Failure to meet burden for “wherein the sliding mechanism includes a wheel”**

For Ground 1, Claim 11, Petitioner contends that Lindahl in view of Yamamoto discloses the claim element of “a wheel mounted on the end of the arm of the first set of pivot arms”. *See Pet.* at 56.

However, as Petitioner concedes, Lindahl is silent with respect to any “wheel,” since Lindahl instead uses legs which slide against the underlying support surface. *See Pet.* at 38; *id.* at 56 (“A POSITA would be motivated to use the wheel as disclosed in Yamamoto on the end of the arm of the first set of pivot arms [of Lindahl] *because* a rolling contact has less friction than sliding contact.”) (emphasis added). As discussed above, Petitioner relies solely on its declarant’s

arguments and provides no factual support that a POSITA would be so motivated. Moreover, Petitioner’s motivation to combine is premised on unsupported assumptions that Petitioner fails to show are necessarily inherent in all cases—namely, that (1) a rolling contact *always* has less friction than a sliding contact, and (2) less friction is *always* better. *See* Pet. at 56.

Therefore, Petitioner has not met its burden under 37 C.F.R. § 42.104(b)(4) of specifically identifying where all elements can be found in the prior art nor provide the require *prima facie* showing required for Section 103 to demonstrate how a POSITA would have been motivated to combine Lindahl and Yamamoto to arrive at the claimed elements of claim 11, and much less how such combination would have been achieved before the effective filing date of the ’843 patent.

**6. Additional reasons for Ground 1, Claims 9 and 12**

**a. Failure to meet burden that Lindahl would incorporate the base of Yamamoto**

For Ground 1, Claims 9 and 12, to meet the additional elements in these dependent claims, Petitioner further relies on its conclusory statements, without factual support, that “Lindahl in view of Yamamoto would incorporate the base of Yamamoto.” *See* Pet. at 54 (Claim 9, “second sliding mechanism is attached to or slides along the base”); *id.* at 58 (Claim 12, “base includes one or multiple stationary pieces of material connecting the first and second base pivot points to one another”).

However, as Petitioner concedes, Lindahl does not disclose a base meeting the dependent limitations of claims 9 and 12. *See* Pet. at 54 (relying solely on “Lindahl in view of Yamamoto”); *id.* at 57 (relying solely on “Lindahl in view of Yamamoto”). Nor has Petitioner provided a motivation to combine Lindahl with Yamamoto nor any factual support, as discussed above.

Therefore, Petitioner has not met its burden under 37 C.F.R. § 42.104(b)(4) of specifically identifying where all elements can be found in the prior art nor provided the requisite *prima facie* showing required for Section 103 to demonstrate how a POSITA would have been motivated to combine Lindahl and Yamamoto to arrive at the elements for claims 9 and 12, and much less how such combination would have been achieved before the effective filing date of the '843 patent.

**7. Additional reasons for Ground 1, Claim 17**

**a. Failure to meet burden for “a pair of springs”**

For Ground 1, Claim 17, Petitioner contends that Lindahl in view of Yamamoto and in further view of Clark and “other references” discloses the claim element of “a pair of springs”. *See* Pet. at 63.

Petitioner does not expressly contend, however, that any of these references disclose a “pair of springs” and thus concedes that none of Lindahl, Yamamoto, or Clark discloses “a pair of springs” nor a “second spring.” Instead, Petitioner contends that a “POSITA would recognize the addition of a second gas spring as

an ordinary design choice with certain advantages” including to “increase[] the amount of lifting assistance ... without detracting from the overall compactness.” *See* Pet. at 63. As discussed above, Petitioner relies solely on its declarant’s arguments and provides no factual support that a POSITA would be so motivated. Moreover, Petitioner’s motivation to combine is premised on unsupported assumptions that Petitioner fails to show are necessarily inherent in all cases—namely, that output force of a gas spring (*i.e.* “lifting assistance”) is solely dependent on the physical dimensions of the gas spring (it is not), and therefore, that the only way to increase force is to either increase size (*i.e.* decrease “compactness”) or add a second gas spring. *See* Pet. at 63.

Therefore, Petitioner has not met its burden under 37 C.F.R. § 42.104(b)(4) of specifically identifying where all elements can be found in the prior art nor provided the requisite *prima facie* showing required for Section 103 to demonstrate how a POSITA would have been motivated to combine Lindahl, Yamamoto and/or Clark to arrive at the elements for claim 17, and much less how such combination would have been achieved before the effective filing date of the ’843 patent.

**B. Grounds 2-4: Petitioner Fails to Allege Any Other Grounds**

The Petition does not provide an element-by-element analysis of Grounds 2-4, expressly ignoring the PTAB’s rules, where the Board is left to guess how all claim elements of each of Grounds 2-4 are met by the asserted references, not to

mention how or why a POSITA would have the requisite motivation to combine such references for each of Grounds 2-4. Neither the Board, nor Patent Owner, should be required to guess at Petitioner's arguments for Grounds 2-4 because Petitioner failed to properly assert these grounds in accordance with PTAB rules. *See, e.g., Google Inc. v. EveryMD.com LLC*, IPR2014-00347, Paper 9, slip. Op. at 23-25 (May 22, 2014) (Board denied institution where petitioner failed to sufficiently specify where each element of the claim is found and explain the significance of citations—Board refusing to accept the burden to “sift through the information” provided in claim charts to make such a determination).

In addition, Petitioner's attempt to incorporate its Grounds 2-4 arguments by reference to its declarant also expressly violates 37 C.F.R. § 42.24, where incorporation of its declarant's lengthy arguments (as Petitioner seeks to incorporate from each of Exhibits 1007, 1008, 1009, and 1010) would put Petitioner well beyond the 14,000-word limit.

Accordingly, for at least these reasons, the Board also should deny the Petition on Grounds 2-4.

#### **IV. CONCLUSION**

For at least the reasons discussed herein, the Petition does not establish that it is more likely than not that at least one of the claims challenged in the petition is unpatentable. The Board should therefore deny institution.

Respectfully submitted,

April 28, 2025

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## **CERTIFICATE OF COMPLIANCE**

The undersigned certifies that, pursuant to 37 C.F.R. § 42.24(d), the foregoing patent owner preliminary response complies with 37 C.F.R. § 42.24(b)(1) permitting up to 14,000 words because, excluding the exempted portions of the response, the response contains 8,439 words as counted by the word-processing system used to prepare the Patent Owner Preliminary Response.

## **CERTIFICATE OF FILING AND SERVICE**

The undersigned hereby certifies that, pursuant to 37 C.F.R. § 42.6(e), a copy of the foregoing “PATENT OWNER’S PRELIMINARY RESPONSE” and Exhibits 2003 – 2022 are being filed via the Patent Trial and Appeal Case Tracking System (P-TACTS) and are being served today, April 28, 2025, by electronic mail on counsel for the Petitioner:

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