

**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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ONEPLUS TECHNOLOGY (SHENZHEN) CO., LTD.,  
Petitioners,

v.

PANTECH CORPORATION,  
Patent Owner

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**Case: IPR2025-00637**

**U.S. Patent No. 9,763,283**

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**PATENT OWNER'S PRELIMINARY RESPONSE**

Mail Stop **Patent Board**  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
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**PATENT OWNER'S EXHIBIT LIST**

<b>Exhibit No.</b>	<b>Description</b>
2001	Second Amended Docket Control Order, <i>Pantech Corporation and Pantech Wireless, LLC v. OnePlus Technology (Shenzhen) Co., Ltd.</i> , No. 5:24-CV-00038-RWS-JBB (E.D. Tex.) (Dkt. 58) (May 13, 2025)
2002	United States District Courts – National Judicial Caseload Profile
2003	Pantech Corporation's July 9, 2021 Notice Letter to OnePlus Technology Co., Ltd.
2004	Preliminary Claim Constructions from <i>Pantech Corp. et al. v. OnePlus Tech. (Shenzhen) Co., Ltd.</i> , No. 5:24-cv-00038-RWS-JBB (E.D. Tex.)

## I. INTRODUCTION

Patent Owner Pantech Corporation (“Pantech”) respectfully requests that United States Patent and Trademark Office (“USPTO” or the “Office”) Patent Trial and Appeal Board (“PTAB” or the “Board”) deny institution of *inter partes* review of claims 1-13 (the “challenged claims”) of U.S. Patent No. 9,763,283 (“the ’283 Patent”). Petitioner OnePlus Technology (Shenzhen) Co., Ltd.’s (“Petitioner” or “OnePlus”) has failed to demonstrate a reasonable likelihood of prevailing with respect to at least one challenged claim.

More specifically, Petitioner has not shown that either of its primary references—Dudda and Lin—is likely to render the challenged claims unpatentable, and the secondary reference relied upon in Grounds 3 and 5—Pelletier—fails to cure the deficiencies of these primary references under a theory of obviousness. None of the references relied upon teach an important limitation of each of the claims of the ’283 Patent, whereby “based on the RLF for the secondary serving cell,” “the user equipment stops uplink transmission of physical uplink shared channel (PUSCH), physical uplink control channel (PUCCH), and sounding reference signal (SRS) to the secondary serving cell.” *See* ’283 Patent at claims 1-13.

According, Petitioner has failed to meet its burden of showing a reasonable likelihood of prevailing with respect to the invalidity of any challenged claims. The Board should deny Petitioner's request to institute *inter partes* review.

## **II. BACKGROUND**

### **A. Background of the '283 Patent**

The '283 Patent relates to the field of wireless communications. More particularly, it sets forth an invention for controlling a radio link in a wireless communication system supporting dual connectivity. *See* '283 Patent at 1:20-21. The '283 Patent is entitled "Method and apparatus for transmitting uplink data on uplink resources," issued on September 12, 2017, and claims priority to Korean Patent Application No. 10-2013-0037776, filed on April 5, 2013, and PCT/KR2014/002939, filed on April 4, 2014.

As the background section of the '283 patent explains, because of problems such as hotspots of high cellular services demand in certain areas of cellular coverage, a dual connectivity scheme had begun to be envisioned and developed by the time of the invention of the '283 Patent. *See* '283 Patent at 1:38-65. Dual connectivity is a concept of wireless communication whereby user equipment may transmit/receive services from two or more serving cells, which may belong to different base stations. *Id.* at 1:65-2:11. By using multiple serving cells to provide

wireless communications in a given area, the disposition of serving cells can more closely match cellular services demand, thereby alleviating the problems of hotspots of high cellular services demand. *Id.* at 1:41-48.

But the inventors of the '283 Patent recognized that in a dual connectivity system, existing protocols for declaring a radio link failure (RLF) were inefficient. When user equipment is connected to two serving cells, “even though a problem occurs in one radio link of the user equipment, the other radio link can still be available, [and thus] it is not preferable in terms of network performance to unconditionally declare the radio link failure and perform a radio resource control (RRC) reestablishment procedure.” *Id.* at 21-34.

At a high level, the solution arrived at by the inventors of the '283 Patent includes the transmission of a particularly-configured RLF indicator pertaining to RLF detected with regard to a secondary base station from the user equipment to a still-connected master base station, whereby the RLF indicator includes a cell identifier, and the cessation of uplink transmission of physical uplink shared channel (PUSCH), physical uplink control channel (PUCCH), and sounding reference signal (SRS) to the secondary serving cell. *Id.* at 2:58-3:28.

By implementing the claimed invention, a user equipment that suffers RLF

with a secondary base station can perform data transmission/reception through the other available radio link without performing an RRC reestablishment procedure. *Id.* at 3:29-34.

**B. Relevant '283 Patent Prosecution History**

During the prosecution of the application that led to the '283 Patent, the claims at issue were examined at length for their novelty, including in view of U.S. Patent Application Publication No. 2012/0281548 to Lin et. al. (EX1013) (“Lin-548”). In response to a rejection of the initial claims set forth, independent claims 1, 6, and 9 were amended to include the limitation of “wherein the RLF indicator comprises an identifier and the user equipment stops uplink transmission of physical uplink shared channel (PUSCH), physical uplink control channel (PUCCH), and sounding reference signal (SRS) to the secondary serving cell, based on the RLF for the secondary serving cell.” EX1002, 82-87.

Following this amendment, the Patent Office issued a notice of allowance on May 10, 2017, accompanied with clarifications to the amendment for the sake of avoiding indefiniteness, wherein the identifier was clarified to be a “cell identifier (cell ID)” and the user equipment stopping certain uplink transmissions is “based on the RLF for the secondary serving cell.” *Id.* at 67-71.

**C. Summary of Petitioner’s Proposed Grounds for Unpatentability**

Petitioner contends that claims 1-13 (all claims of the '283 Patent) would have been anticipated under pre-AIA 35 U.S.C. § 102, and would have been obvious under pre-AIA 35 U.S.C. § 103. The Petition raises five grounds of alleged unpatentability based on the following references:

1. U.S. Patent No. 10,631,222 (“Dudda”);
2. International Patent Publication No. WO2014/110813 (“Lin”);
3. U.S. Patent Application Publication No. 2011/0134774 (“Pelletier”).

The specific grounds of alleged invalidity and are summarized as follows:

<b>Ground</b>	<b>Basis</b>	<b>Claims</b>	<b>References</b>
1	§102	1-13	Dudda
2	§103	1-13	Dudda
3	§103	1-13	Dudda in view of Pelletier
4	§103	1-13	Lin
5	§103	1-13	Lin in view of Pelletier

**D. Petitioner’s Relied-Upon References**

The three references relied upon by Petitioner are summarized as follows:

**1. *Overview of Dudda (Ex. 1004) and Dudda Provisional (Ex. 1005)***

U.S. Patent No. 10,631,222 (“Dudda”) was issued on April 21, 2020, and thus does not qualify as prior art under 35 U.S.C. § 102(a)(2) to the ’283 Patent absent a properly-supported priority claim to U.S. Provisional Application No. 61/754,322 (“Dudda Provisional”), filed on January 18, 2013. Dudda is entitled “Adapting a Mobile Network”. EX1004 at 1.

Dudda is generally directed to providing “measures with which a network adaption of a mobile network in a case a degradation of a quality of a connection of at two connections between an access node of the mobile network and the terminal may be enabled in an improved way.” *Id.* at 17. However, as explained below, while Dudda may disclose stopping transmission to a secondary cell (which it calls an “assisting cell”), it does not teach or suggest that the connection with the assisting cell will include signaling data that includes a physical uplink control channel (PUCCH), among other distinctions from the claims of the ’283 Patent.

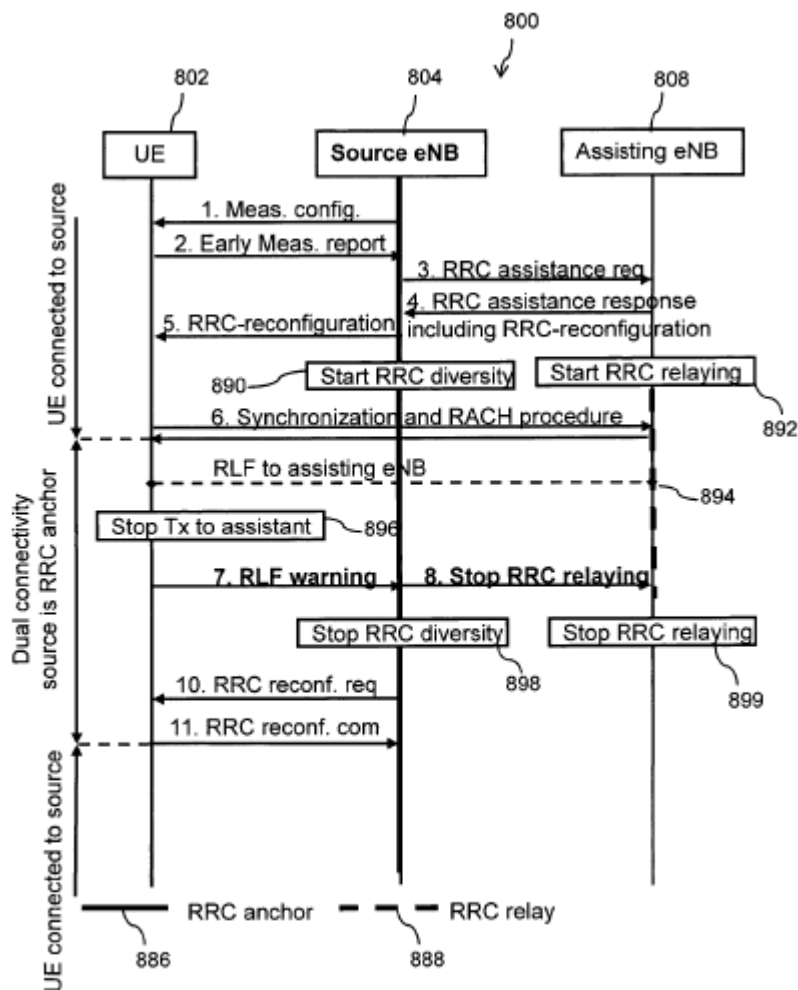


Figure 8

EX1004 at Fig. 8.

## 2. Overview of Lin (Ex. 1007)

International Patent Publication No. WO2014/110813 (“Lin”) was published on July 24, 2014 and filed on January 18, 2013. Lin pertains generally to “a mechanism of Radio Link failure (RLF) handling in small cell networks.” EX1006

at 3.

Perhaps coincidentally—given that there are no shared inventors—Lin was filed on the same day as the Dudda Provisional and suffers the same deficiencies. For example, as explained below, Lin also fails to disclose that the connection with the secondary serving cell will include signaling data that includes a physical uplink control channel (PUCCH), among other distinctions from the claims of the '283 Patent.



Activation/Deactivation in Multi-Carrier Systems.” EX1007 at 1.

Pelletier is generally directed to “addressing wireless transmit/receive unit (WTRU) behavior in response to configuration, configuration parameters and access issues related to the activation/deactivation process when the WTRU may be configured with multiple serving cells or carrier aggregation.” *Id.* at 5.

### III. CLAIM CONSTRUCTION

For purposes of this proceeding, Petitioner has not identified any claim terms for construction as necessary to resolve the controversy. But this is not what Petitioner has argued in the parallel District Court Action, *Pantech Corp. et al. v. OnePlus Tech. (Shenzhen) Co., Ltd.*, No. 5:24-cv-00038-RWS-JBB (E.D. Tex.).

In claim construction and at a *Markman* hearing that was conducted on July 9, 2025, Petitioner argued for the following constructions:

<b>Term</b>	<b>Construction</b>
“master base station (master eNB, MeNB” (Claims 1-3)	Master eNB
“secondary base station (secondary eNB, SeNB)” (Claims 2, 3)	Secondary eNB

In a preliminary claim construction ruling issued at the *Markman* hearing, the Court indicated that it was inclined to accept Petitioner's proposed constructions. *See* EX2004 (EDTX Preliminary Claim Constructions) at 3. Patent Owner believes that the terms should be afforded a plain and ordinary meaning, and for purposes of this Preliminary Response will apply a plain and ordinary meaning.

#### **IV. LEGAL STANDARDS FOR INVALIDITY**

##### **A. Anticipation under 35 U.S.C. § 102**

Anticipation under 35 U.S.C. § 102 requires that a single prior art reference disclose each and every limitation of the claimed invention. *Schering Corp. v. Geneva Pharms.*, 339 F.3d 1373, 1379-80 (Fed. Cir. 2003).

##### **B. Obviousness under 35 U.S.C. § 103**

A claim is not patentable if the differences between it and the prior art are such that the subject matter as a whole would have been obvious to a person of ordinary skill in the art at the time of the invention. 35 U.S.C. § 103(a). Obviousness requires assessing (1) the "level of ordinary skill in the pertinent art," (2) the "scope and content of the prior art," (3) the "differences between the prior art and the claims at issue," and (4) "secondary considerations" of non-obviousness such as "commercial success, long felt but unsolved needs, failure of others, etc." *KSR Int'l*

*Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007) (quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17-18 (1966)).

It is a petitioner’s burden “to demonstrate both ‘that a skilled artisan would have been motivated to combine the teachings of the prior art references to achieve the claimed invention, and that the skilled artisan would have had a reasonable expectation of success in doing so.’” *Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1367-68 (Fed. Cir. 2016) (quotations and citations omitted). However, a petitioner must first show that all of the claimed elements are disclosed in the prior art. *See Medichem, S.A. v. Rolabo, S.L.*, 437 F.3d 1157, 1164 (Fed. Cir. 2006) (considering motivation to combine and reasonable expectation of success only “if all the elements of an invention are found in a combination of prior art references”).

**V. THE PETITION DOES NOT SHOW A REASONABLE LIKELIHOOD OF PREVAILING WITH RESPECT TO ANY CHALLENGED CLAIM**

In addition to the grounds already presented in Patent Owner’s Request for Discretionary Denial, institution should be denied because Petitioner does not establish a reasonable likelihood of prevailing against either challenged claim.

**A. Grounds 1-2: Petitioner Fails To Establish That Dudda Anticipates And/Or Renders Obvious Claims 1-13**

Petitioner has not shown a likelihood of prevailing on Ground 1 because

Dudda (and Dudda Provisional) does not teach each and every element of claims 1-13.

Even at the preliminary stage, the following deficiency of Dudda is readily apparent: Dudda does not teach that “based on the RLF for the secondary serving cell,” “the user equipment stops uplink transmission of physical uplink shared channel (PUSCH), physical uplink control channel (PUCCH), and sounding reference signal (SRS) to the secondary serving cell,” as required by each independent claim of the ’283 Patent.

Petitioner acknowledges this deficiency. *See* Pet. at 42 (“While Dudda does not explicitly specify PUSCH, PUCCH, and SRS...”). This alone defeats Ground 1, because the use of PUSCH, PUCCH, and SRS is neither express nor inherent in Dudda, given that PUSCH, PUCCH, and SRS are not necessary requirements for a wireless communication channel to exist, nor does Petitioner argue as much (Dudda states that its embodiments are applicable to the “radio access networks of GSM and UMTS” (EX1004 at 28:1-2)). *See Eli Lilly & Co. v. L.A. Biomedical Research Inst. at Harbor-UCLA Med. Ctr.*, 849 F.3d 1073, 1074 (Fed. Cir. 2017) (“To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either expressly or inherently.”) (citing *Rapoport v. Dement*, 254 F.3d 1053, 1057

(Fed. Cir. 2001)); *Trintec Indus., Inc. v. Top-USA Corp.*, 295 F.3d 1292, 1295 (Fed. Cir. 2002) (“Inherent anticipation requires that the missing descriptive material is necessarily present, not merely probably or possibly present, in the prior art.”).

As for Ground 2 (obviousness based on Dudda), instead of relying on disclosures of Dudda, Petitioner references the alleged “common knowledge in the art,” but its citations to the declaration of Dr. Akl (EX1003) (*see* Pet. at 20) show merely a verbatim mirror conclusory statement by Dr. Akl. Petitioner then goes on to cite various individual disclosures of EX1007 (Pelletier), EX1009 (ETSI TS 136 300 V11.3.0 (2012-11)), EX1011 (ETSI TS 136 300 V11.3.0), EX1012 (textbook by E. Dahlman *et al.*), and EX1013 (U.S. Patent Application Publication No. 2012/0281548) (*see* Pet. at 20-21), but provides no motivation to combine these particular references, thereby bypassing the requirements of obviousness.

Rather than teaching any PUCCH to the SCELL, Dudda teaches that “the embodiments are applicable to LTE and radio access networks of GSM and UMTS” (EX1004 at 28:1-2), and in LTE, the “PCell is used for transmission of PUCCH.” *See* EX1009 at § 7.8, p. 58. None of the embodiments disclosed by Dudda teach that “based on the RLF for the secondary serving cell,” “the user equipment stops uplink transmission of physical uplink shared channel (PUSCH), physical uplink control

channel (PUCCH), and sounding reference signal (SRS) to the secondary serving cell,” as required by each independent claim of the ’283 Patent. In short, the requirements of anticipation and obviousness have not been met.

**B. Ground 3: Petitioner Fails to Establish that Pelletier Cures the Deficiencies of Dudda**

Petitioner has not shown a reasonable likelihood of prevailing on Ground 3 (obviousness by Dudda in view of Pelletier) because Pelletier too fails to teach any PUCCH to the SCELL, and thus cannot cure the deficiency of Dudda.

Petitioner only cites Pelletier at [0047] and [0104] for its argument that “Pelletier is clear that the deactivation of SCell upon RLF affects uplink resources of the WTRU, including ‘a PUSCH transmission, [] a PUCCH transmission, [] the transmission of CQI/PMI/RI or SRS transmission.’” *See* Pet. at 41.

But in its disclosures, Pelletier is merely discussing the communications “affected by activation and deactivation of SCells” (EX1007 at [0104]), which are ultimately PUCCH transmissions about the SCELL but sent to the PCELL. Indeed, in Pelletier, PUCCH communications are taught only with regard to the PCELL. Compare EX1007 at [0042] (discussing PCELL configuration and noting that “[t]he UL CC of the PCell may correspond to the CC whose PUCCH resources are configured to carry all HARQ ACK/NACK feedback for a given WTRU”) with

EX1007 at [0043] (discussing SCELL configuration with no disclosure of PUCCH). Nowhere in Pelletier is PUCCH discussed with regard to communications with the SCELL.

In this way, the teachings of Pelletier mirror the LTE Standard. Even in ETSI TS 136 300 V11.3.0 (2012-11) (EX1009), cited by Petitioners (see Pet. at 7, n. 2), which sets forth Rel-11 LTE (far more advanced than Rel-8 LTE cited by Pelletier, see EX1007 at [0003], [0098], [0149]), it is clear that the “PCell is used for transmission of PUCCH.” See EX1009 at § 7.8, p. 58.

Accordingly, Dudda in view of Pelletier fails to show the obviousness of all limitations of claims 1-13 of the '283 Patent, and Ground 3 has no likelihood of success.

**C. Ground 4: Petitioner Fails To Establish That Lin Renders Obvious Claims 1-13**

Similar to Dudda, Lin does not teach that “based on the RLF for the secondary serving cell,” “the user equipment stops uplink transmission of physical uplink shared channel (PUSCH), physical uplink control channel (PUCCH), and sounding reference signal (SRS) to the secondary serving cell,” as required by each independent claim of the '283 Patent.

Petitioner cites Lin at [0063]-[0071] as supposedly teaching PUCCH

communications with an SCELL. *See* Pet. at 49. But PUCCH is not even mentioned in these paragraphs. Rather, where PUCCH is specified in Lin, it is with regards to the PCELL:

“At RRC connection reestablishment or handover, one serving cell provides the security input. This cell is referred to as the primary serving cell (PCELL), and other cells are referred to as the secondary serving cells (SCELLs).” EX1007 at [0004].

“The serving cell is in the status of activation and is one of the following: [] a specific cell with configured PUCCH resource.” *Id.* at [0010].

“The RLM/RLF configured serving cell can be the first activated serving cell in a cell group, and the the [*sic*] serving cell could be one of the following cases; a serving cell configured with PUCCH resource in a cell group.” *Id.* at [0034].

Petitioner also cites to Lin at Claim 9 (*see* Pet. at 49), but Claim 9 merely requires “using a still usable Cell or Radio Link, preventing spontaneous UL transmissions (PUCCH, SRS, SPS)” and these UL transmissions are not specified with respect to the SCELL, and thus do not differ with respect to the teachings of Lin already addressed.

Where Lin makes any disclosures of upload to the secondary cell, it is without any necessary detail: for example, the Petition at 57 cites to Lin at [0081], but this disclosure of Lin merely states that:

The drift eNB should forward the data waiting for transmission/retransmission in the DL buffer to the anchor eNB. Meanwhile, the anchor eNB also requests UL data which is received from the UE and buffered in the drift eNB to be delivered to the anchor eNB through the X3 interface.

EX1006 at [0081]. This is not a disclosure of the missing limitations of claims 1-13 of the '283 Patent.

Thus, Petitioner is wrong that Lin renders obvious each limitation of claims 1-13 of the '283 Patent, and Ground 4 does not have a reasonable likelihood of success.

**D. Ground 5: Petitioner Fails to Establish that Pelletier Cures the Deficiencies of Lin**

As explained with regard to Ground 3, Pelletier (like Dudda and Lin) fails to teach any PUCCH to the SCELL, and thus also cannot cure the deficiency of Lin. Accordingly, Lin in view of Pelletier would fail to show the obviousness of all limitations of claims 1-13 of the '283 Patent, and thus Ground 5 has no likelihood of success.

**VI. CONCLUSION**

For at least the foregoing reasons, the Board should deny institution.

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Dated: July 17, 2025

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 17th day of July, 2025, a copy of the attached **PATENT OWNER'S PRELIMINARY RESPONSE** was served by electronic mail to the attorneys of record, at the following addresses:

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**CERTIFICATION PURSUANT TO 37 C.F.R. § 42.24(d)**

Pursuant 37 CFR 42.24(d), the undersigned certifies that this Preliminary Response complies with the type-volume limitation of 37 CFR §42.24(a). The word count application of the word processing program used to prepare this Preliminary Response indicates that the Preliminary Response contains 3,089 words, excluding the parts of the brief exempted by 37 C.F.R. § 42.24(a).

Respectfully submitted,

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