

Case IPR2025-00763  
Patent No. 11,212,838  
Patent Owner's Response

**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: IPR2025-00763**

**U.S. Patent No. 11,212,838**

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**PATENT OWNER'S RESPONSE**

Mail Stop **Patent Board**  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

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### PATENT OWNER'S EXHIBIT LIST

<b>Exhibit No.</b>	<b>Description</b>
2001	Claim Construction Order from <i>Pantech Corp. et al. v. OnePlus Tech. (Shenzhen) Co., Ltd.</i> , No. 5:24-cv-00038-RWS-JBB (E.D. Tex.)
2002	U.S. Patent Application Pub. No. 2008/0117891 ("Damnjanovic")
2003	U.S. Patent Application Pub. No. 2007/0135130 ("Lee")
2004	U.S. Patent Application Pub. No. 2006/0164993 ("Teague")
2005	Declaration of Jason Duggan in support of Patent Owner's Response to Petition for inter partes review of U.S. Patent No. 11,212,838

## 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”) confirm the patentability of claims 1-10 (the “challenged claims”) of U.S. Patent No. 11,212,838 (“the ’838 Patent”). Petitioner OnePlus Technology (Shenzhen) Co., Ltd.’s (“Petitioner” or “OnePlus”) has failed to show by a preponderance of the evidence that any of the challenged claims are unpatentable.

There are four key flaws in Petitioner’s proffered theories of invalidity. *First*, neither Zeira on its own or Zeira in view of Yi render obvious the claimed limitation of independent claims 1 and 6, whereby information in an RRC message is used to configure a MAC timer that is part of a WTRU, which will deactivate the indicated uplink resources when it expires. *Second*, neither Zeira on its own or Zeira in view of Yi render obvious the claimed limitation of independent claims 1 and 6, whereby MAC timer is sent to the WTRU by RRC message. *Third*, neither Zeira on its own or Zeira in view of Yi render obvious the claimed limitation of independent claims 1 and 6, whereby the indicated uplink resources are deactivated in response to a MAC timer expiring. *Fourth*, neither Zeira on its own or Zeira in view of Yi render

obvious the claimed limitation of dependent claims 5 and 10, whereby the MAC timer is based on a number of frames.

Moreover, the Petition is filled with conclusory statements. For example, Petitioner has not shown any motivation to combine Zeira and Yi not based on hindsight. Further, Dr. Titus Lo's own conclusory parroting of the attorney argument fails to provide sufficient basis for his opinions and is entitled to little or no weight.

For at least these reasons, Petitioner has failed to meet its burden of showing by a preponderance of evidence the invalidity of any challenged claims. The Board should uphold the patentability of claims 1-10 of the '838 Patent.

## **II. BACKGROUND**

### **A. Background of the '838 Patent**

The '838 Patent relates to the field of wireless communications. More particularly, it sets forth an invention for releasing dedicated channel resources. '838 Patent at 2:29-48. The invention of the '838 Patent is directed to solving problems arising from the increased prevalence of non-real-time data services (*e.g.*, internet browsing, email). '838 Patent at 1:37-2:25. These non-real-time services exhibit long periods of inactivity, which caused usage of previous transmission channels (whereby collisions may occur when multiple wireless transmit receive units (WTRUs) (*e.g.*, cellular phones) are accessing resources simultaneously) to suffer inefficiencies. '838 Patent at 1:37-2:25.

At a high level, the solution arrived at by the inventors of the '838 Patent includes the use of one or more radio resource control (RRC) messages that indicate medium access control (MAC) timer information, wherein that MAC timer is then used by the processor of the WTRU to deactivate indicated uplink resources. *See* '838 Patent at claims 1, 6. "The timer module may be configured to indicate the maximum allowable transmission time for a logical channel (*i.e.*, dedicated control channel (DCCH), dedicated traffic channel (DTCH), common control channel (CCCH), etc.)." '838 Patent at 4:29-37. Using the invention of the '838 Patent, a message phase can be terminated in an effective manner to increase a transmission channel's data rate.

Relevant to this Petition and its deficiencies, the '838 Patent discusses that the invention can be implemented, *inter alia*, with a "timer." '838 Patent at 6:1-29. This "timer" is triggered by an event: "The timer may start as soon as the radio resource control (RRC) provides the MAC with the timer values, and after receiving the E-DCH resource index 502. The timer may start if the WTRU 210 starts the first dedicated physical control channel (DPCCH) preamble transmission 503." '838 Patent at 5:9-13; *see also* Fig. 5.

The '838 Patent claims priority to U.S. Patent No. 10,306,677, filed on Oct. 6, 2015; U.S. Patent No. 9,313,809, filed on Jun. 30, 2014; U.S. Patent No.

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8,774,104, filed on Sept. 26, 2008; U.S. Provisional Patent Application No. 60/975,985, filed on Sept. 28, 2007; U.S. Provisional Patent Application No. 60/982,528, filed on Oct. 25, 2007; U.S. Provisional Patent Application No. 61/018,999, filed on Jan. 4, 2008; U.S. Provisional Patent Application No. 61/025,441, filed on Feb. 1, 2008; U.S. Provisional Patent Application No. 61/038,576, filed on Mar. 21, 2008; U.S. Provisional Patent Application No. 61/074,288, filed on Jun. 20, 2008; and U.S. Provisional Patent Application No. 61/083,409, filed on Jul. 24, 2008.

**B. Relevant '838 Patent Prosecution History**

The claims at issue of the '838 Patent were examined for their novelty, and an extensive search report by the examiner was undertaken. *See, e.g.*, EX1002 at 26-95 (search history). A first non-final rejection was first made under 35 U.S.C. § 103 over U.S. Patent Application Pub. No. 2008/0117891 (“Damnjanovic”) (EX2002) in view of U.S. Patent Application Pub. No. 2007/0081492 (“Petrovic”). *See* EX1002 at 596-99.

Applicant distinguished these references largely on the basis that “Damnjanovic fails to teach or suggest the use of an RRC message indicating allocated resources and MAC timer information, wherein the MAC timer being configured based on the MAC timer information as recited in the pending claims”

and that “Petrovic’s ‘activation time’” is not “‘MAC timer information’ found in the pending independent claims... because Petrovic’s ‘activation time’ is related to the receipt of downlink data from a base station.” EX1002 at 574-78.

The examiner then issued a final rejection under 35 U.S.C. § 103 over Damnjanovic and Petrovic, and further in view of U.S. Patent Application Pub. No. 2007/0135130 (“Lee”) (EX2003). The arguments presented largely mirrored those in the non-final rejection. *See id.* at 488-93. Applicant again distinguished these references on largely the same grounds. *Id.* at 475-79. Applicant also amended the wording in claims 1 and 6, but these amendments were not tied to any arguments for patentability. *Id.* at 471-79.

A notice of allowance was then provided, wherein the examiner found applicant’s remarks persuasive, further noted U.S. Patent Application Pub. No. 2006/0164993 (“Teague”) (EX2004) and U.S. Patent Application Pub. No. 2002/0097740 (“Choi”) as “pertinent,” and concluded that “[t]he prior art of record fails to disclose the feature the transmitter and the processor are configured to transmit uplink data based on the indicated uplink resources, the WTRU’s processor is configured to deactivate the indicated uplink resources in response to a MAC timer expiring, and the MAC timer is configured based on the MAC timer information

indicated by the received RRC message, as recited in claims 1, 6.” *See* EX1002 at 275.

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

Petitioner contends that claims 1-10 of the '838 Patent would have been obvious under pre-AIA 35 U.S.C. § 103 based on the following references:

1. U.S. Patent Application Pub. No. 2004/0114574 (“Zeira”);
2. U.S. Patent Application Pub. No. 2005/0174956 (“Yi”).

The specific grounds of alleged invalidity are summarized as follows:

Ground	Basis	Claims	References
1	§103	1-10	Zeira
2	§103	1-10	Zeira in view of Yi

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

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

*1. Overview of Zeira (Ex. 1005)*

U.S. Patent Application Pub. No. 2004/0114574 (“Zeira”) corresponds to a patent application filed on May 29, 2003. Zeira presents a “network-focused invention” (EX2005 at ¶ 57), and “relate[s] to establishing the temp-DCH [temporary dedicated channel] channel, determining the data rate and duration of the channel.” Zeira at ¶ 6 (summary). Zeira discloses that a servicing radio network

controller (S-RNC) “computes a duration (transmission time period) based on the time required to transmit available data and/or data predicted to arrive, 108. If the duration is computed, this information may be transmitted to the WTRU 500.” *Id.* at ¶ 74.

But, as Jason Duggan explains, Zeira does not disclose what the WTRU may or may not do with this “duration” information, and does not disclose that any transmission of “duration” information to the WTRU occurs via RRC messaging. *See* EX2005 at ¶¶ 49, 67.

## 2. *Overview of Yi (Ex. 1006)*

U.S. Patent Application Pub. No. 2005/0174956 (“Yi”) corresponds to a patent application filed on January 10, 2005. Yi concerns “releasing a point-to-multipoint radio bearer for a multicast or broadcast service in a mobile terminal, and in particular, to determining the releasing of the point-to-multipoint radio bearer by checking a status of the multicast or broadcast service when a data of the multicast or broadcast service is not received for a certain period of time after the mobile terminal establishes the point-to-multipoint radio bearer and receives the data of the multicast or broadcast service.” Yi at ¶ [0002]. Yi thus concerns inactivity timers tied to the download of data by a mobile terminal, and discloses that these timers

may be controlled by PDCP, RLC, or MAC entities. *Id.* at ¶ [0039]; *see also* EX2005 at ¶ 50.

### **III. CLAIM CONSTRUCTION**

Petitioner acknowledges that it requested a claim construction of the term “uplink resources” 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.)), contending that the term should be construed as “resources that include at least an indication of a spreading code.” *See* Pet. at 9. The Magistrate Judge has rejected Petitioner’s proposed construction and ruled that this term should be understood according to its plain and ordinary meaning. EX2001. Patent Owner applies the Magistrate Judge’s construction of this term.

### **IV. LEGAL STANDARD FOR 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 FAILED TO SHOW THAT ANY CHALLENGED CLAIM IS RENDERED OBVIOUS**

Petitioner has failed to show by a preponderance of the evidence that either of Grounds 1 or 2 render obvious any of claims 1-10. Therefore, Patent Owner respectfully requests that the Board confirm the patentability of all challenged claims.

**A. Ground 1: Petitioner Fails to Establish that Zeira Renders Any of Claims 1-10 Obvious**

Petitioner has failed to demonstrate that Zeira, even in view of the knowledge of a person of ordinary skill in the art, renders obvious any challenged claim. As demonstrated herein, Zeira has critical deficiencies and fails to teach or render obvious all claimed limitations

*1. Zeira lacks disclosure of a MAC timer or reception of MAC timer information*

Zeira does not teach or suggest at least the medium access control (MAC) timer information in the context of the following limitations in independent claims 1 and 6:

- *“the receiver and the processor are configured to receive at least one radio resource control (RRC) message indicating [] medium access control (MAC) timer information” (claim 1) / “receiving, by a wireless transmit/receive unit (WTRU), at least one radio resource control (RRC) message indicating [] medium access control (MAC) timer information” (claim 6)*

- “the MAC timer is configured based on the MAC timer information indicated by the received RRC message” (claims 1 & 6)<sup>1</sup>

Nowhere in Zeira is there a disclosure of a MAC timer. Petitioner cites to disclosures in Zeira of the servicing radio network controller (S-RNC) computing a duration of a temporary dedicated channel (temp-DCH) (*see generally*, Pet. at 18-29, citing, *inter alia*, Zeira at ¶¶ 6, 14, 36-38, 40-50, 52, 53, 74, 76-87, 99, 326, 329, 338, 393-403, 423, Figs 2, 8), but none of these citations teach a MAC timer used by the WTRU.

There is no teaching or disclosure in Zeira that the “duration” is something that is maintained by, implemented by, or even tracked by the WTRU for purposes of terminating the temp-DCH, let alone something that is done in the MAC layer in the processor of the WTRU. EX2005 at ¶ 65 (“Zeira does not describe a timer

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<sup>1</sup> In footnote 10, Petitioner argues that this term “lacks proper antecedent basis.” *See* Pet. at 35 n. 10. This is incorrect. The clear (and only possible) antecedent basis is a received RRC message that indicates MAC timer information, and the Petition even follows this understanding. In any event, an indefiniteness argument under 35 U.S.C. § 112 is outside the scope of an *inter partes* review. *See Cuozzo Speed Techs., LLC v. Lee*, 579 U.S. 261, 275 (2016).

operating in the WTRU at all, and indeed does not specify what the WTRU is to do with the time duration value that is sent to it”). Rather, Zeira merely states that “[i]f the duration is computed, this information may be transmitted to the WTRU 500.” Zeira at ¶ [0074]. This does not disclose any implementation of any timer, and more importantly it does not disclose a timer at the MAC layer in the WTRU—Zeira is silent as to what the WTRU is to do with this duration.

It would not be obvious that the WTRU is to use the duration to set up a MAC timer. First, Zeira teaches network control of the release of the temp-DCH through a termination message, meaning that a timer would be entirely superfluous, as the WTRU is not the entity releasing the temp-DCH. *See* EX2005 at ¶¶ 66, 70 (“It is the network which determines the transmission duration, establishes the channel resource allocation, determines when to release the channel, and whether to perform a back-to-back allocation”) (citing Zeira at ¶ 75). Indeed, while Zeira is silent in regard to how the “duration” is to be used, “a POSITA would understand that there would be other purposes for such a duration.” EX2005 at ¶ 67. As Mr. Duggan explains,

For instance, by assessing how much data it has to send relative to the duration available, the WTRU would be able to more accurately allocate buffer resources or prepare future resource requests if it computed that it would not complete the transmissions in time. Further, the duration may guide how aggressively the WTRU acts to

transmit the data it has to send or affect what data gets priority for transmission. The point is this: a duration is not a timer, nor is a duration timer information or timer configuration, and just because a duration is transmitted to a WTRU does not mean that it is operating a timer, as the WTRU would have other purposes for such a duration.

*Id.*

Importantly, as Mr. Duggan also explains, “a duration is not a timer (it is a length of time).” EX2005 at ¶ 69 (“If a weatherman at 12pm says that the duration of a snowstorm will be 5 hours, this information does not start a timer on the part of viewers; rather, they have information that allows them to take appropriate action and also understand that the snow will cease by 5pm.”). Indeed, Zeira is at best a generalized disclosure of a process that lacks the inventive contribution of the '838 Patent; the invocation of a MAC timer is hindsight. *See* EX2005 at ¶¶ 70-72. Zeira “relate[s] to establishing the temp-DCH channel, determining the data rate and duration of the channel.” Zeira at ¶ 6 (summary).

The disclosures to which Petitioner cites concern the same: “After resources are granted, the S-RNC 508 computes a duration (transmission time period) based on the time required to transmit available data and/or data predicted to arrive, 108. If the duration is computed, this information may be transmitted to the WTRU 500.” *Id.* at ¶ 74. The remaining disclosures of Zeira cited by Petitioner concern the calculation and transmission of this duration, *not* what the WTRU may or may not

do with this information. *See* Pet. at 18-29; *see also* EX2005 at ¶ 67 (a POSITA would understand uses of the duration unrelated to implementing a timer). Zeira does not say that the WTRU does *anything* with this information. EX2005 at ¶¶ 49, 65, 73 (“Given these multiple alternative available mechanisms which both fit with Zeira’s network-driven approach to control and release channel resources, a POSITA would not have, without the benefit of hindsight, naturally assumed that a timer would be required at the WTRU.”).

In other words, Zeira provides no instructions about how a WTRU is to use the duration that is transmitted to it, as Zeira’s alleged invention is focused elsewhere. This is where the invention of the ’838 Patent comes in. As the ’838 Patent explains, “it was proposed to use the enhanced dedicated channel (E-DCH) in the CELL\_FACH state to increase the data rate of the shared channel... However, in the current standard, there are no methods to terminate the E-RACH message phase.” ’838 Patent at 2:4-22. Accordingly, a “method and apparatus is provided for terminating an E-RACH message in an E-RACH transmission.” *Id.* at 2:29-30. More specifically:

In one embodiment, the WTRU 210 may be configured to include a timer module. The timer module may include multiple timers, wherein a timer may be associated to each logical channel or each MAC-d flow. The timer module may be configured to indicate the maximum

allowable transmission time for a logical channel (i.e., dedicated control channel (DCCH), dedicated traffic channel (DTCH), common control channel (CCCH), etc.). The values for the timer module may be preconfigured or signaled to the WTRU 210. The timers may be activated upon the WTRU's 210 first transmission, once an E-DCH resource index is received. The WTRU may be configured to release an E-DCH resource upon expiry of its associated timer.

*Id.* at 4:29-41.

As the Examiner recognized, this was inventive: the “prior art of record fails to disclose... the processor is configured to deactivate the indicated uplink resources in response to a MAC timer expiring, and the MAC timer is configured based on the MAC timer information indicated by the received RRC message.” *See* EX1002 at 275. This prior art of record considered “pertinent” by the Examiner (*see id.*) included U.S. Patent Application Pub. No. 2006/0164993 (“Teague”) (EX2004), which similar to Zeira discloses “termination of assignment [] at the scheduled time” but does not provide implementation details that include a timer. *See* EX2004 at ¶ [0026] (“An explicit termination of an assignment occurs when either the AP [Access Point, *i.e.*, base station] or AT [Access Terminal, *i.e.*, mobile phone] schedules a termination of assignment and terminates the assignment at the scheduled time.”). U.S. Patent Application Pub. No. 2007/0135130 (“Lee”) (EX2003), also considered by the Examiner and overcome by the applicant,

concerned a “second stop timer 209” that “corresponds to a deactivation time, [wherein] when the deactivation time arrives, the second stop timer 209 stops, and the mobile station 101 stops transmitting packets” (EX2003 at ¶ [0046]), but this, like Zeira, falls short of disclosing the claimed invention.

Petitioner ultimately turns to its expert, Dr. Lo, to fill the gaps of Zeira: “A POSITA would have further understood and found it obvious that the duration sent by the S-RNC to the WTRU indicates MAC timer information because the WTRU MAC layer is configured with this information.” See EX1003 at ¶¶ 110-13. But the reasoning employed by Dr. Lo fails.

*First*, Dr. Lo argues that “Zeira describes ‘...the C-RNC 506 or S-RNC 508 can calculate the time that MAC-d will need to transmit the current buffered data and set the duration accordingly.’” EX1003 at ¶ 110 (citing Zeira at ¶ 76). But this is simply a statement that the C-RNC or S-RNC—which are network-side devices (EX2005 at ¶ 45)—are themselves calculating the duration of the temp-DCH channel based on the MAC-d’s inherent involvement in transmitting buffered data. In other words, the passage that Petitioner relies heavily upon merely mentions that a duration of channel availability can be calculated based on the time needed to transmit data over the channel. Zeira at ¶ 74. Zeira does not state or otherwise teach that the WTRU itself is to use a MAC timer to track that duration. Even assuming,

*arguendo*, that Zeira suggested to a POSITA to use the duration for a timer to implement a WTRU-side release of the temp-DCH, why would the WTRU not control the transmission with a physical layer channel timer, which would have been more direct since the physical layer controls the transmission, or a radio link control layer timer? As Mr. Duggan explains, these would be more logical options based upon the disclosures of Zeira, “as the physical layer is responsible for the transmission of data.” *See* EX2005 at ¶¶ 63-64. Furthermore, why would any timer at all be used by a WTRU, rather than, say, using an established end time?<sup>2</sup> Again, this would be the more straightforward usage by a WTRU for a “duration” it receives. *See* EX2005 at ¶ 68. Arriving at a MAC timer is impermissible hindsight bias and is outside the teachings of Zeira.

**Second**, Dr. Lo argues that “it was well known to a POSITA, and described in various 3GPP standard documents, that MAC layer handles the timing aspect related to subframes or TTIs... Therefore, Zeira’s explanation about how temp-DCH

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<sup>2</sup> The '838 Patent itself notes the possible alternative of using a windowing that counts frame numbers. *See* '838 Patent at 5:42-49 (“[a]lternatively, the WTRU 210 may count the number of transmissions and retransmissions and use the count as a trigger to stop the transmission of the E-RACH message phase”).

duration is calculated as a multiple of TTIs, would have further confirmed and made it obvious that the duration communicated to and tracked by the WTRU would be implemented as a MAC timer.” EX1003 at ¶ 111 (citing Zeira at ¶¶ 77-79, 397). But Transmission Time Intervals (TTIs) are the basic time unit for scheduling data in cellular networks generally, and are also used by other layers such as the physical layer. *See, e.g.*, EX2005 at ¶ 64 (“TTIs are not a MAC-specific quantity. In fact, this is further evidence that the duration Zeira is referring to is a physical layer quantity as a TTI is the fundamental unit of time for the physical layer coding and transmission of the signal over the air.”) (citing EX1007 (3GPP TS 36.300) at Section 5.1.7 (Physical layer procedure) (“The same coding and modulation is applied to all groups of resource blocks belonging to the same L2 PDU scheduled to one user within one TTI and within a single stream.”)). Therefore, Zeira’s disclosure that the duration may be calculated as a “multiple of the longest TTI length in the TFCS of the CCTrCH” (as pointed to by Dr. Lo) does not indicate or suggest the usage of a timer, let alone a MAC timer. *See* EX2005 at ¶ 64 (“In other words, I agree with Dr. Lo that Zeira’s temp-DCH duration is calculated as a number of Transmission Time Intervals (TTIs), but disagree with his assessment that this characterizes it as a MAC-specific quantity or suggests a timer in any way.”).

*Third*, Dr. Lo proposes a conclusory catchall: “a POSITA would have found this obvious to begin with, because a POSITA would have known that the MAC fundamentally controls access to the transmission medium.” EX1003 at ¶ 112.

But even here, Petitioner and Dr. Lo build their case upon a weak foundation. The 3GPP references Dr. Lo relies upon (EX1007-1009, 1011-1012, 1015-1016, 1018-1019, and 1021) post-date Zeira, as even Dr. Lo admits. *See generally*, EX1003 at iv (exhibit list setting forth publication dates). Thus, they do not serve to explain the disclosures of Zeira. And while there would have theoretically been no legal prohibition against using these later-arising 3GPP references with Zeira in an obviousness combination, Dr. Lo and Petitioner did not do this. Grounds 1 and 2 do not rely on these 3GPP references for any obviousness ground, and there is no analysis of any motivation to combine these references, among other shortcomings. An ill-explained disclosure to a number of 3GPP references that arise just before the '838 Patent's priority date is not a way to avoid the requirements of an obviousness argument.

Furthermore, whether or not Dr. Lo's generalized opinion (which ignores other potential controls, as already addressed) that “the MAC fundamentally controls access to the transmission medium” is true, Zeira does not suggest a MAC timer in

particular. Asserting that a MAC timer is the tool that would be used by the WTRU is impermissible hindsight bias.

Ultimately, there is no teaching, suggestion, or motivation in Zeira itself to use information in an RRC message to configure a MAC timer that will deactivate the indicated uplink resources when it expires, as required by claims 1 and 6 of the '838 Patent. Petitioner turns to the say-so of its expert, but this analysis relies on impermissible hindsight and fails to cite any clear basis for the obviousness opinion. Zeira is no closer than the already-considered references Teague and Lee to disclosing the claimed invention. Accordingly, Petitioner has failed to demonstrate by a preponderance of the evidence that claims 1-10 of the '838 Patent are invalid in view of Zeira.

2. *Zeira does not disclose that a radio resource control (RRC) message indicates any MAC timer information*

Zeira also does not disclose the requirement of claims 1 and 6 that the relevant message is sent by radio resource control (RRC) message. *See* '838 Patent at claims 1 and 6 (“at least one radio resource control (RRC) message indicating... medium access control (MAC) timer information”). The contents of the RRC messaging in

Zeira pointed to by Petitioner (generally, paragraphs [0404]-[0420], *see* Pet. at 22<sup>3</sup>) do not set forth any MAC timer information (or even the “duration” information relied upon by Petitioner). *See* EX1005 at ¶¶ [0404]-[0420]. And even though Zeira later states that the WTRU “[c]onfigures the MAC layer with the new transport channel information (in case of changes in transport channel information) and the new radio bearer mapping information received in the message,” this has no apparent connection to any duration information.

Further, paragraph [0401] of Zeira, which qualifies the RRC procedure, states that this RRC procedure is used “[f]or low-rate temp-DCH, [and] the duration is preferably fixed....” EX1005 at ¶ [0401]. Petitioner argues that a POSITA would understand that this RRC procedure “applied to both low- and normal-date rate temp-DCH scenarios” (Petition at 24 n. 8) but the fact remains: this is not what Zeira discloses, and it would not be obvious. *See* EX2005 at ¶ 78 (“Zeira is describing the use of RRC messages for physical layer configuration and this is confirmed by the message content described in paragraphs [0404]-[0420]. There is nothing here to

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<sup>3</sup> There is also a discussion of “spreading codes” in the Petition. *See* Pet. at 20-23.

The relevance to transmission of the duration at issue is unclear.

suggest that any time durations are part of this configuration, let alone RRC messaging to configure a MAC-layer timer.”).

Therefore, for this reason too, Zeira fails to render obvious the invention of claims 1-10 of the '838 Patent.

3. *Zeira does not disclose deactivating the indicated uplink resources in response to a MAC timer expiring*

For similar reasons as Zeira does not disclose or render obvious any MAC timer, Zeira also fails to disclose or render obvious any processor with the configurations specified by claim element [1.f] (“the processor is configured to deactivate the indicated uplink resources in response to a MAC timer expiring”). Zeira also fails to disclose a WTRU “deactivating, by the WTRU, the indicated uplink resources in response to a MAC timer expiring, wherein the MAC timer is configured based on the MAC timer information indicated by the received RRC message.” *See* '838 Patent at claim 6.

Even if a POSITA would have understood that it would be obvious that “the WTRU [of Zeira] required some form of controller or processor to perform the signal processing operations as described,” as Petitioner contends (*see* Pet. at 15), this does not mean that such a processor would be configured according to the invention of the '838 Patent. Indeed, because Zeira does not disclose any processor (indeed, Petitioner concedes as much, *see* Pet. at 15-17), it certainly does not disclose or

render obvious functions of a processor outside its disclosures of WTRU functionality. And as described above, a disclosure of a MAC timer is entirely absent from the teaching of Zeira; a duration for a temp-DCH channel is not the same thing as a MAC timer. *See* EX2005 at ¶¶ 62, 66-72.

Petitioner's citations are inapplicable. Paragraph 6 of Zeira simply states "[a]fter the duration expires, the channel is automatically released by both the user and the network" (no mention of how this is done or the use of a MAC timer expiring); paragraph 34 simply states "[a]fter that duration, the DCH is automatically released and the connection is returned to common channels" (no mention of how this is done or the use of a MAC timer expiring); paragraph 428 simply states "the duration of the previously allocated temp-DCH will expire" (no mention of how this is done or the use of a MAC timer expiring); and paragraph 440 simply states that "[a]t the end of the duration, the WTRU 500 releases the temporary dedicated physical channels" (no mention of how this is done or the use of a MAC timer expiring). And at Figure 8B, Zeira simply states that "duration ends." Again, this does not render obvious a processor configured to use a MAC timer and especially not one "to deactivate the indicated uplink resources in response to a MAC timer expiring" as required by claim 1 or "deactivating, by the WTRU, the indicated uplink

resources in response to a MAC timer expiring” as required by claim 6. *See* EX2005 at ¶¶ 71-73.

Therefore, for this reason too, Zeira fails to render obvious the invention of claims 1-10 of the '838 Patent.

4. *Zeira does not disclose not deactivating the indicated uplink resources based on the receipt of the uplink grant*

Petitioner points to two disclosures in Zeira to supposedly teach the operative limitations of dependent claims 3 and 8: first, Petitioner points to “an uplink grant for making [] uplink transmissions,” and second, Petitioner points to “back-to-back allocations.” *See* Pet. at 36-39, 45. Both arguments fail.

Regarding Petitioner's first argument, Zeira's teachings of an uplink grant associated with indicated uplink resources—*see generally*, EX1005 at ¶¶ 424-425, as cited by Petitioner—simply *establishes* a temp-DCH. It does not “not deactivate the indicated uplink resources,” as deactivation requires something to be active. *See* EX2005 at ¶¶ 89-93 (“the ‘Complete’ message sent by the WTRU is simply an acceptance, by the WTRU, of the configuration provided within the RRC message and that it can establish a DPCH... [furthermore,] the reception of the RRC message for the temp-DCH and subsequent establishment of the dedicated channel is an ‘establishment’ of the temp-DCH channel meaning an allocation of resources to enable transmission over a channel. It does not refer to a ‘not deactivating’ of uplink

resources. With establishment there are no uplink resources to deactivate in the first place”).

Regarding Petitioner's second argument, Zeira actually teaches that the WTRU *does* deactivate the indicated uplink resources. In paragraph 428, Zeira teaches that “[t]he extension of the duration is a new allocation at the UE side: the duration of the previously allocated temp-DCH will expire, and a new temp-DCH will be configured. This procedure is called a ‘back-to-back allocation.’” Zeira at ¶ 428; *see also id.* at ¶ 100 (“the back-to-back allocation is a new temp-DCH allocation with an activation time equal to the end of the duration of the previous temp-DCH”). According to this teaching, the “previously allocated temp-DCH will expire,” meaning that the indicated uplink resources are deactivated. *See* EX2005 at ¶ 95 (“according to Zeira a back-to-back allocation is considered a ‘new temp-DCH allocation’ even if the WTRU remains in a cell dedicated channel state []. As such, the temp-DCH resource are freshly configured... the channel resources are deactivated and new channel resources are activated”). That “a new temp-DCH will be configured” (Zeira at ¶ 428) does not negate this deactivation. *Id.*

Therefore, for this reason too Zeira fails to render obvious the invention of claims 3 and 8 of the '838 Patent.

5. *Zeira does not disclose that the MAC timer is based on a number of frames.*

For similar reasons as Zeira does not disclose or render obvious any MAC timer, Zeira also fails to disclose or render obvious that any MAC timer is based on a number of frames, as required by claims 5 and 10 of the '838 Patent.

The Petition attempts to combine unrelated teachings from Zeira in this regard. Petitioner cites variously to Zeira at ¶¶ 6, 14, 36-38, 40-50, 52, 53, 74, 76-87, 99, 326, 329, 338, 393-403, 423, and Figs. 2 and 8 to show, at most, “the S-RNC 508 computes a duration (transmission time period) based on the time required to transmit available data and/or data predicted to arrive” and that if this duration is computed, “this information may be transmitted to the WTRU 500.” Pet. at 42; Zeira at ¶ [0074]. But then Petitioner pivots to an observation that “[t]he RRC message also comprises a continuous frame allocation” and that Zeira’s “consideration for determining back-to-back allocation takes into account the frame numbers or CFNs (connection frame numbers) for its determination of the activation duration.” Pet. at 42-43. But whether or not different aspects of the teachings of Zeira (such as back-to-back allocations) are based on frame numbering, that does not mean that Zeira teaches the use of a MAC timer based on a number of frames. *See* EX2005 at ¶¶ 82-86.

In fact, Zeira discloses that the “duration” that it proposes to calculate should be calculated by “TTI length”:

$$T_{duration} \begin{matrix} \blackspadesuit \\ \leftrightarrow \\ \Leftrightarrow \end{matrix} \frac{T_{tx}}{TTI_{longest}} \begin{matrix} \equiv \\ \approx \\ \approx \end{matrix} TTI_{longest}$$

Zeira at ¶ [0079]. It makes little sense, and it would not be obvious, in applying the teachings of Zeira, to convert a duration calculated in TTIs (1 TTI = 1ms in LTE) to a MAC timer based on a number of frames. EX2005 at ¶ 85 (“There is absolutely no suggestion by Zeira to express the duration in terms of frames, and indeed, given a calculation in TTIs, this would be a needlessly complicated step to convert from TTIs to frames”).

Rather, applying the teachings of Zeira, a POSITA would at most think to calculate a “duration (transmission time period) based on the time required to transmit available data and/or data predicted to arrive” (Zeira at ¶ 74) and make this calculation as a TTI-based calculation (Zeira at ¶ 79). EX2005 at ¶ 84. This duration may be sent to the WTRU. Zeira at ¶ 74; EX2005 at ¶ 84. But at no point does this teaching suggest or render obvious a MAC timer based on a number of frames.

Therefore, Zeira fails to render obvious the invention of claims 5 or 10 of the '838 Patent.

**B. Ground 2: Petitioner Fails to Establish that Yi Cures the Deficiencies of Zeira.**

The basis of Ground 2 is weak. Similar to Zeira, Yi does not disclose a MAC timer that “is configured based on the MAC timer information indicated by the received RRC message,” as required by claims 1 and 6 of the '838 Patent. Yi discloses an entirely different type of timer, an inactivity timer, and not one that tracks a duration for a channel to be maintained. *See* EX2005 at ¶ 99 (“Yi is disclosing an inactivity timer used for a downlink, and more specifically, the use of a predetermined timer continually reset by incoming data that tracks the last reception of data, and releases the MBMS when the timer expires, which is of course not a timer set through RRC messaging to control the usage of an uplink communication channel”). As such, Yi does not cure the deficiencies of Zeira, and there would not even be any motivation to combine Yi's inapplicable teachings with Zeira. Indeed, Petitioner points to the disclosures of Yi only with regard to claim 1, not claim 6 (or any other challenged claim). *See* Pet. at 52.

At most, Petitioner points to disclosures in Yi about a different type of timer (an inactivity timer), but there is no suggestion in Yi (or Zeira) to look to Yi's disclosures to establish a MAC timer using information in an RRC message in the context of deactivating indicated uplink resources. *See* EX2005 at ¶ 101 (“Yi does not, for example, disclose using a timer to mark or implement a duration transmitted

to the WTRU from the network in order to maintain a temp-DCH. The teachings are simply non-analogous and would not be obvious to combine.”). More specifically, Yi concerns a multimedia broadcast/multicast service (MBMS). *See* EX1006 at ¶ [0015]; EX2005 at ¶ 98. Petitioner points to Yi at Paragraph 39, which discloses that “[p]referably, a particular entity provided in the mobile terminal can operate a timer for the data unit of a particular MBMS service. This entity can be located in the second layer (L2) of the radio protocol, and may be a MAC entity, a RLC entity, or a PDCP entity.” *See* Pet. at 51. But Paragraph 39 then goes on and provides context to this statement: “If this entity in the mobile terminal operates a timer for a single data unit of the broadcast or multicast service, and then does not receive another data of the broadcast or multicast service before the timer expires, the entity in the mobile terminal reports the timer expiration to the RRC in the mobile terminal.” EX1006 at ¶ [0039]. This context is confirmed by preceding paragraphs 37 and 38:

[T]he mobile terminal triggers a timer when a data unit of the particular MBMS service is received, and the mobile terminal releases the established point-to-multipoint RB if another data unit of the particular MBMS service is not received by the time the timer has expired.

Preferably, when another data unit is received before the timer has expired, the mobile terminal initializes and re-triggers the timer.

*Id.* at ¶¶ [0037]-[0038].

In other words, Yi discloses an inactivity timer (and moreover one for a downlink), not a timer used to set the period of an uplink communication channel. EX2005 at ¶ 99. As confirmed by preceding paragraphs 37 and 38, Yi concerns the use of a predetermined timer that tracks the last reception of data, and releases the MBMS when the timer expires. *See* EX1006 at ¶¶ [0037]-[0039]; EX2005 at ¶ 99. Even if this timer may exist in the MAC layer, in no way is this a teaching of a MAC timer established using information in an RRC message that controls the duration of uplink resources for transmitting uplink data. Yi instead concerns a preexisting inactivity timer—not a duration, as disclosed by Zeira—that is continually reset by incoming data. EX1006 at ¶¶ [0037]-[0039]; EX2005 at ¶ 99.

Furthermore, because Yi concerns a predetermined inactivity timer, there would be no reason to implement its teachings in combination with Zeira in the manner suggested by the Petition. Zeira, at most, discloses the S-RNC computing a duration of a temp-DCH but lacks any disclosure of the specific way that a WTRU might use this information. EX2005 at ¶ 101. The inactivity timer of Yi would be of little help, because inactivity has nothing to do with the pre-calculated duration that Zeira discloses as being transmitted. *Id.* Petitioner suggests no reason why this incompatibility would lead to an obvious combination. Simply recognizing that this different form of timer in Zeira that measures the WTRU's own actions is instituted

in the MAC layer is not enough. Thus, there would be no motivation to combine Yi with Zeira in the manner described by the Petition.

This is especially true because “Yi is disclosing an inactivity timer used for a downlink, and more specifically, the use of a predetermined timer continually reset by incoming data that tracks the last reception of data” (EX2005 at ¶ 99), which is not at all the uplink-based problem that the '838 Patent seeks to address (*id.* at ¶ 38). This difference makes Yi non-analogous to the claimed solution and non-obvious to consider with Zeira in the manner described.

Ultimately, the inactivity timer of Yi is very similar to the inactivity timer of U.S. Patent Application Pub. No. 2008/0117891 (“Damnjanovic”) (EX2002) already considered by the examiner. *See* EX2005 at ¶ 102. According to Damnjanovic, a WTRU (or UE) may send data based on a resource assignment, set a timer to a predetermined time period after sending the data, send more data if available and if the timer has not expired, reset the timer after sending more data, and relinquish the resource assignment when the timer expires. *See* EX2002 at ¶ [0064]. The examiner recognized as persuasive the argument that “Damnjanovic is silent regarding any teaching or suggestion regarding receiving a RRC message indicating timer information as recited in the pending independent claims.” *See* EX1002 at 275, 476. So too with Yi. *See* EX2005 at ¶ 102.

Thus, a POSITA would not have found the invention of the '838 Patent obvious in view of Zeira and Yi. The deficiencies of Zeira detailed for Ground 1—namely, no disclosure or suggestion of using information in an RRC message to configure a MAC timer that will deactivate the indicated uplink resources when it expires—would not have been cured by Yi, because Yi offers various timers (using “a MAC entity, a RLC entity, or a PDCP entity”) that are “initialize[d] and re-trigger[ed]” “when another data unit is received before the timer has expired.” EX1006 at ¶¶ [0037]-[0039]. None of the timers taught by Yi track a particular duration of a temp-DCH channel as taught by Zeira and thus would not be obvious to combine with Zeira and would not lead to the claimed invention of the '838 Patent.

Accordingly, Petitioner has not shown a reasonable likelihood that claims 1-10 of the '838 Patent are invalid in view of Zeira and Yi. Teague (EX2004), Lee (EX2003), and Damnjanovic (EX2002), already considered by the examiner, disclose all aspects of the prior art now pointed to by Petitioner, and these disclosures fall short of disclosing or rendering obvious the claimed invention.

**C. Petitioner's Reliance on Dr. Lo Should be Afforded Little Weight**

Especially with regard to the deficiencies concerning a MAC timer discussed above, Dr. Lo provides largely conclusory opinions that mirror the Petition's language, restating arguments and assertions made by Petitioner's counsel often

nearly verbatim, without offering sufficient independent analysis, supporting data, or reasoning grounded in specific evidence beyond the Petition's own assertions, and any additional background provided does not go to a presently-contested element.

A comparison of the Petition and Dr. Lo's declaration in relevant part is instructive:

<p style="text-align: center;"><b>Petition at 27-29</b></p>	<p style="text-align: center;"><b>Dr. Lo's Declaration (EX1003) at ¶¶ 110-13</b></p>
<p><b>MAC Timer:</b> A POSITA would have further understood and found it obvious that the duration sent by the S-RNC to the WTRU indicates <i>MAC timer</i> information because the WTRU MAC layer is configured with this information. Zeira, ¶423; Lo, ¶¶110-113. For example, Zeira describes "...the C-RNC 506 or S-RNC 508 can <b>calculate the time that MAC-d will need to transmit the current buffered data</b> and set the duration accordingly." Zeira, ¶76.</p> <p>Further, Zeira discloses that the duration of the temp-DCH is calculated as a "multiple of the longest TTI length in the TFCS of the CCTrCH." Zeira, ¶79, <i>see also</i>, ¶¶77-78, 397. A POSITA would have understood that TTIs (transmission time intervals) are how the MAC in 3GPP controls access the physical transmission medium. Lo, ¶111, <i>see also, id.</i>, ¶¶81-87. Because temp-DCH duration is calculated as a multiple of TTIs, it would have been obvious that the duration communicated to and tracked by the WTRU is implemented as a <i>MAC timer</i>. <i>Id.</i>, ¶111.</p> <p>Finally, regardless of the above disclosure in Zeira, it would have been obvious to implement the temp-DCH duration as a <i>MAC timer</i> at the WTRU because the MAC fundamentally controls access to the transmission medium. <i>Id.</i>, ¶112. The MAC layer would thus be the most obvious place for controlling the duration of the temp-DCH – i.e., the channel through which the WTRU accesses the transmission medium. <i>Id.</i>, ¶112.</p>	<p>110. <b>MAC Timer:</b> A POSITA would have further understood and found it obvious that the duration sent by the S-RNC to the WTRU indicates <i>MAC timer</i> information because the WTRU MAC layer is configured with this information. Zeira, ¶423. For example, Zeira describes "...the C-RNC 506 or S-RNC 508 can <b>calculate the time that MAC-d will need to transmit the current buffered data</b> and set the duration accordingly." Zeira, ¶76. A POSITA would have been guided by the teachings of Zeira and found it obvious that the duration information pertained to or indicated MAC timer information.</p> <p>111. Further, as I explained in Section VI.I (specifically, ¶¶ 74-78), a POSITA would have found it obvious to implement a timer controlling a temporary channel duration in the MAC layer. As I explained earlier, it was well known to a POSITA, and described in various 3GPP standard documents, that MAC layer handles the timing aspect related to subframes or TTIs. Indeed, Zeira discloses that the duration of the temp-DCH is calculated as a "multiple of the longest TTI length in the TFCS of the CCTrCH." Zeira, ¶79, <i>see also</i>, ¶¶ 77-78, 397. And a POSITA would have understood that TTIs (transmission time intervals) are how the MAC in 3GPP controls access the physical transmission medium. Therefore, Zeira's explanation about how temp-DCH duration is calculated as a multiple of TTIs, would have further confirmed and made it obvious that the duration communicated to and tracked by the WTRU would be implemented as a MAC timer.</p> <p>112. While the above explanations in Zeira would have been a clear indication that the timer can be implemented at the MAC layer, a POSITA would have found this obvious to begin with, because a POSITA would have known that the MAC fundamentally controls access to the transmission medium. To re-iterate, I have provided these explanations in Section VI.I of this Declaration. The MAC layer would thus be the most obvious place for controlling the duration of the temp-DCH – i.e., the channel through which the WTRU accesses the transmission medium.</p>

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<p>A POSITA would have been guided by the teachings of Zeira and found it obvious that the duration information pertained to or indicated MAC timer information. <i>Id.</i></p> <p>Accordingly, Zeira discloses or suggests that the WTRU receiver and processor, e.g., medium access controller (<i>wherein the receiver and the processor</i>) receive an RRC message from the S-RNC (<i>are configured to receive at least one radio resource control (RRC) message</i>) that comprises channel information for the temp-DCH, including at least an indication of the spreading factors (<i>indicating uplink resources for WTRU</i>) and the duration for the temp-DCH, which is configured within the MAC layer (<i>and medium access control (MAC) timer information</i>). <i>Id.</i>, ¶113.</p>	<p>113. Accordingly, Zeira discloses or suggests that the WTRU receiver and processor, e.g., medium access controller (<i>wherein the receiver and the processor</i>) receive an RRC message from the S-RNC (<i>are configured to receive at least one radio resource control (RRC) message</i>) that comprises channel information for the temp-DCH, including at least an indication of the spreading factors (<i>indicating uplink resources for WTRU</i>) and the duration for the temp-DCH, which is configured within the MAC layer (<i>and medium access control (MAC) timer information</i>).</p>
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The above examples are exemplary, but pervade Dr. Lo's declaration generally. Stripped of introductory language, Dr. Lo's declaration is often verbatim the same as the Petition and lacks underlying facts or data on which the opinion is based.

Such parroting of attorney argument diminishes the weight, if any, that should be accorded to the testimony. *See Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 12 (PTAB Feb. 10, 2023) (precedential) (accorded "little weight" to declaration testimony that contains a verbatim restatement of a petitioner's conclusory assertions); *Facebook, Inc. v. Windy City Innovations, LLC*, 973 F.3d 1321, 1340–41 (Fed. Cir. 2020) (affirming Board decision giving no weight to expert testimony that "merely repeated Petitioner's argument, nearly verbatim, without citation to the basis for his testimony"); *see also Wowza Media Sys., LLC v. Adobe Sys. Inc.*, IPR2013-00054, Paper 12 at 12 (PTAB Apr. 8, 2013) ("The Declaration . . . appears, for the most part, simply to track and repeat the arguments for unpatentability presented in the Petition [and] . . . is therefore no more helpful tha[n] the Petition in

determining where the challenged recitation is found in the references.”). This practice raises concerns under 37 C.F.R. § 42.65(a). 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.”).

Accordingly, Dr. Lo's declaration should be afforded little weight and does not cure the deficiencies of Zeira or of Zeira in view of Yi.

## **VI. CONCLUSION**

For at least the foregoing reasons, the Board should confirm the patentability of all challenged claims.

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Dated: March 6, 2026

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of March, 2026, a copy of the attached **PATENT OWNER'S 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 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 Response indicates that the Response contains 7,569 words, excluding the parts of the brief exempted by 37 C.F.R. § 42.24(a).

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