

Case No. IPR2020-00031
Patent 10,043,188

Attorney Docket No. 2993.003

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GUARDIAN ALLIANCE TECHNOLOGIES, INC.
Petitioner

v.

TYLER MILLER,
Patent Owner

Case No. IPR2020-00031
Patent No. 10,043,188
Issued: August 7, 2018
Application No.: 14/721,707
Filed: May 26, 2015
Title: BACKGROUND INVESTIGATION MANAGEMENT SERVICE

**PETITIONER'S REQUEST FOR REHEARING
PURSUANT TO 37 C.F.R. § 42.71(D)**

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I. INTRODUCTION

The Board denied institution after concluding that Petitioner Guardian had not shown that either of the electronic publications—that serve as the primary references for the Petition’s two respective grounds for obviousness—were publicly accessible before the critical date of the ‘188 patent under consideration (*i.e.*, April 6, 2011). Paper No. 23, at 17 and 19–20.

In particular, the Board found Petitioner’s evidence with respect to the 2009 Background Solutions video (“2009 Video”) (Ex. 1027) deficient because of a perceived lack of specificity provided by third-party witness Thomas Ward. *Id.* at 17. The Board’s perspective on Mr. Ward’s Declaration was, unfortunately, formed without the benefit of resolving the level of skill in the art. *Id.* at 13 n. 4. As for the POBITS online user’s manual (“POBITS Manual”) (Ex. 1004), the Board found that, while Petitioner’s evidence supported a finding that POBITS was “posted on a **public** website” before the critical date, the evidence failed to prove the website was indexed or otherwise notorious to the undefined skilled artisans before that date. *Id.* at 18–19 (emphasis added). Guardian now seeks rehearing under 37 C.F.R. § 42.71(d) of the Board’s denial of institution. Guardian also submits its request for a Precedential Opinion Panel in accordance with Standard Operating Procedure 2.

In denying institution, the Board **first** overlooked and/or misapprehended the standard for institution of an *inter partes* review where the petitioner relies on non-

traditional, electronic publications. **Second**, with respect to its analysis of public accessibility of the 2009 Video (Ground I) and POBITS Manual (Ground II), the Board further overlooked the difficulties involved in voluntarily obtaining evidence *at the institution stage* from third parties. **Third**, the Board's decision to forego consideration of the level of skill in the art for the patent under petition caused it to misapprehend or overlook the significance of certain aspects of Mr. Ward and Mr. Klosson's testimony. **Fourth**, with respect to its requirement for separate proof that the "*public* website" hosting an electronic publication was indexed or otherwise known to skilled artisans before the critical date, the Board further misapplied the burden of proof *at the institution stage*.

Of these four issues, the Board should quickly recognize that its failure to consider the practical difficulties often encountered by petitioners (such as Guardian) who seek to rely, pre-institution, on non-traditional, electronic publications (particularly those controlled by third parties) risks undermining the very availability of a significant reservoir of prior art that Congress intended would be available for *inter partes* review. *See* 35 U.S.C. §311(b). As for the issues specific to the evidence presented in this case, the Board failed to determine the level of skill in the art, and then proceeded to misapprehend the actual testimony of Messrs. Ward and Klosson, overlooked the witnesses' status as third parties, and ignored their potential to produce additional evidence pursuant to subpoena. The Board also

ignored prior decisions and MPEP guidance that posting of a printed publication on a webpage—along with corroborating evidence—constitutes public accessibility.

II. BASIS FOR REHEARING

A. Legal Standards

Pursuant to 37 C.F.R. § 42.71(d), a party may request rehearing of a decision by the Board whether to institute a trial. “The request must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed in a motion, an opposition, or a reply.” 37 C.F.R. § 42.71(d). The Board will review the decision not to institute a trial for an abuse of discretion. *Id.* at § 42.71(c). “An abuse of discretion may be indicated if a decision is based on an erroneous interpretation of law, if a factual finding is not supported by substantial evidence, or if the decision represents an unreasonable judgment in weighing factors.” *Palo Alto Networks, Inc. v. Juniper Networks, Inc.*, IPR2013-00369, Paper No. 39, at 2–3 (PTAB Feb. 14, 2014) (citing *Star Fruits S.N.C. v. United States*, 393 F.3d 1277, 1281 (Fed. Cir. 2005)).

B. ***Hulu* does not negate the Board’s well-developed recognition of evidence sufficient to make a threshold showing of public accessibility of non-traditional, electronic publications such as the 2009 Video and POBITS Manual**

In previous institution decisions where non-traditional, electronic publications were at issue, the Board appears to have recognized the inherent difficulties in

gathering proof. *See, e.g., Voxx International Corp. v. Johnson Safety, Inc.*, IPR2017-00554, Paper No. 9, slip. op. at 8–12 (PTAB June 14, 2017) (institution where the only evidence of the prior art’s “publication date” was a copyright date in the document, a handwritten notation in the document, and an attorney declaration attaching a screenshot obtained from the Internet Archive); *Rubicon Communications, LP v. Lego A/S*, IPR2016–01187, Paper No. 38, slip op. at 12–15 (PTAB Dec. 16, 2016) (Internet Archive evidence provided a sufficient threshold showing for institution of public accessibility as of the archived date); *Crestron Electronics, Inc. v. Intuitive Building Controls, Inc.*, IPR2015–01460, Paper No. 14, slip op. at 12–15 (PTAB Jan. 14, 2016) (institution despite Patent Owner’s argument that individual webpages designed with frames may not all be archived on the same date); and *Silver Peak Sys., Inc. v. Riverbed Technology, Inc.*, IPR2014–00149, Paper No. 7, slip op. at 28 (PTAB May 2, 2014) (institution based on printout of website from which reference could be downloaded, along with listings of publication and revision dates for the website from before the critical date).

There is nothing about the recent Precedential Opinion Panel (“POP”) decision in *Hulu, LLC v. Sound View Innovations, LLC*, IPR2018-01039, Paper No. 29 (PTAB Dec. 20, 2019) that nullified the Board’s well-developed and consistent recognition that non-traditional, electronic publications present more difficult issues of proof at the institution stage. *Hulu* did not even address any of the long line of

cases granting institution finding strong indicia that the non-traditional, electronic publications under consideration were likely publicly accessible based on more modest evidence. *Id.* at 18 (“Board has often found a reasonable likelihood that a reference is a printed publication for institution of an *inter partes* review when the evidence relied on in a petition provides strong indicia that an asserted reference was publicly accessible.”) In fact, the *Hulu* POP did not have to address the added difficulties involved with non-traditional, electronic publications because the printed publication at issue was the photocopied excerpt of a hard-bound book housed in at least two physical locations, including the Cornell University Library. *Hulu*, at 2–4.

The relative simplicity of proving a likelihood that a hard copy book taken from a library bookshelf was publicly accessible cannot be overstated. Oftentimes photocopying the book’s title page (with its tell-tale copyright notice, revision history, publisher name, and ISBN number) may alone be sufficient for institution. *See, e.g., Hulu*, at 19-20 (finding the hard-bound book excerpt to be a printed publication based on the face of the reference, rejecting any need for supporting evidence). When an affidavit from the local librarian is needed (as to the library’s records and standard operating procedures with respect to the acquisition, cataloging, and shelving of hard copy books), there may be handfuls, if not dozens or hundreds of local libraries and librarians from which to obtain an affidavit.

Petitioners (like Guardian) who rely on non-traditional, electronic

publications as printed publications have to cope with, among other disadvantages, the absence of hard copies (on library shelves or elsewhere) and the resulting lack of librarians ready-to-testify as to critical timing and foundation for public accessibility of those non-traditional, electronic publications. These petitioners are almost always at the mercy of a third party (e.g., the office manager of the Internet Archive) to voluntarily cooperate in providing evidence and testimony on topics such as the timing, indexing and scope of a website's visitor logs.

If the bar for institution is set too high, the use of non-traditional, electronic publications in any post-grant review are effectively excluded. Such an outcome was not the expectation of *Hulu*. As such, the Board abused its discretion by holding the printed publications supporting the present Petition to too high a standard.

According to *Hulu*, Guardian was required at the institution stage only to establish *a reasonable likelihood* that the non-traditional, electronic publications underlying Grounds I and II are printed publications. The Board appears to have improperly required more here. In particular, the Board stated with respect to the 2009 Video and POBITS Manual:

even if we credit Mr. Ward's testimony, it is *not sufficient to show* that Mr. Ward presented the 2009 Video to skilled artisans at a seminar prior to April 6, 2012 . . . posted [the video] to Background Solutions, LLC's website prior to April 6, 2012, or even if it was, that a skill artisan exercising reasonable diligence would have been able to locate it.

* * *

Mr. Klosson concludes that "Ex. 1004 is a true and correct copy of the

POBITS online user’s manual that was available to the public through the Essential Software Development website no later than February 1, 2011.” *Id.* ¶ 12 ... Even if we credit Mr. Klosson’s testimony, it is insufficient to show a reasonable likelihood that POBITS was publicly accessible.

Paper No. 23, at 17-19. Even though the Board’s decision indicates it applied the appropriate standard for institution (at least for its POBITS Manual analysis), it is hard to read the Board’s conclusions as requiring anything less than the ultimate “preponderance of the evidence” standard required to prevail in a final written decision. Yet, the POP tells us that the “reasonable likelihood” required for an institution is intended to be “qualitatively different.” *Hulu*, at 13–14 (citing *Trivascular, Inc. v. Samuels*, 812 F.3d 1056, 1068 (Fed. Cir. 2016)). The POP similarly expressed the “reasonable likelihood” requirement in terms of “strong indicia” (rather than absolute proof) of public accessibility. *Id.* at 17–18.

Once the Board “credited” the testimony of third parties Ward and Klosson that: (i) Mr. Ward “presented the 2009 Video at ‘law enforcement and background investigation seminars’” and “distributed at seminars product brochures . . . which provides the URL [where] the 2009 Video ‘was made available to the public’” and (ii) ‘POBITS online user’s manual [] was available to the public through the’ public website (Paper No. 23 at 12, 13, and 18), the “totality of the evidence” provided the “strong indicia” of public availability required by *Hulu*. The Board’s failure to recognize this strong indicia of public availability constitutes an abuse of discretion.

C. The Non-Institution Decision overlooks difficulties in voluntarily obtaining evidence from third parties prior to institution

The Board’s criticisms of the content of the third-party evidence submitted by Guardian clearly played a significant—if not the central—role in the Board’s rebuke of the totality of Guardian’s evidence. *See* Paper No. 23 at 12 and 18. While the Board’s criticisms were spot-on recapitulations of the evidentiary showings in *Blue Calypso*, *In re Klopfenstein*, and *Voter Verified*, they fail to recognize the serious differences between the ability to develop the evidentiary record before final PTAB decisions (*Blue Calypso* and *Klopfenstein*) or summary judgment (*Voter Verified*) **on the one hand** and in a petition for *inter partes* review **on the other** (the present Petition). The Federal Circuit has repeatedly recognized the importance a post-institution trial has on a petitioner’s ability to develop their case and meet the ultimate burden of proof. *Genzyme Therapeutic Products Limited Partnership v. Biomarin Pharmaceutical Inc.*, 825 F.3d 1360, 1367 (Fed. Cir. 2016) (“the purpose of the trial in an *inter partes* review proceeding is to give the parties an opportunity to build a record by introducing evidence—not simply to weigh evidence of which the Board is already aware.”); *see also* the PTAB Trial Practice Guide, 77 Fed. Reg. 48,756, 48,757 (Aug. 14, 2012).¹ Further, the Board has recognized in prior

¹ Ironically, in *Blue Calypso*, the Board instituted based on a printed publication the public availability of which was supported by a single sentence in an expert declaration that the reference was “publicly available around November 2003” from a website and a copy of the webpage (CBM2013-00033, Paper No. 10, slip op. at

institution decisions that it should be considering not only the evidence presented in a petition, but also “all evidence that may come out at trial.” *Merck Sharp & Dohme Corp. v. Pfizer Inc.*, IPR2017-02138, Paper No. 16, slip op. at pp. 6–7 (PTAB May 4, 2018) (citations omitted). *See also, Instradent USA, Inc. v. Nobel Biocare Services AG*, IPR2015-01786, Paper No. 14, at 16–17 (PTAB Feb. 19, 2016) (instituting on “threshold showing” of public accessibility even though “the evidence relied upon by Petitioner has some inconsistencies that require addressing during trial”).²

The Board regularly grants petitioners’ motions to submit supplemental information (under 37 C.F.R. § 42.123) to further support the public availability of references upon which institution had been granted. *See, e.g., Biomarin Pharm. Inc. v. Genzyme Therapeutic Prods. Ltd. P’shp*, IPR2013-00534, Paper No. 78, slip op. at 5–6 (PTAB Jan. 7, 2015); *Valeo North America, Inc. v. Magna Elecs., Inc.*, IPR2014-01204, Paper No. 26, slip op. at 2–3, 5 (PTAB Apr. 10, 2015); *Ford Motor Co. v. Paice LLC*, IPR2014-01415, Paper No. 15, slip op. at 2 (PTAB Apr. 27, 2015) (Paper 15). The remaining vitality of this body of precedent was specifically recognized in *Hulu*’s discussion of the opportunity, ***after institution***, for a petitioner

23–24 (PTAB Dec. 19, 2013)), but the petitioner failed to carry its ultimate burden of proof on public accessibility at trial. 815 F.3d 1331 (Fed. Cir. 2016).

² Following institution in *Instradent*, the petitioner obtained third-party declarations and related exhibits, including corroborating evidence from the Internet Archive, to show that the purported printed publication was distributed at a trade show to those interested in the subject matter. *Id.* at Paper No. 106, at 16–17 (PTAB Feb. 15, 2017).

to move to submit supplemental information. *Hulu*, at 8.

Even setting aside the Board's failure to consider the evidence that Guardian would likely be able to develop during trial, its criticisms also failed to recognize that IPR petitioners, like Guardian, often face real, practical difficulties in trying to obtain *third party evidence* pre-institution. *Cf. GoPro, Inc. v. Contour IP Holding LLC*, 908 F.3d 690 (2018) (rather than a third-party, declaration submitted with petition to support finding of printed publication for institution sworn to *by an employee of the Petitioner*). The Ward Declaration (Ex. 1009), for instance, was voluntarily provided by a managing partner of third-party Background Solutions, LLC. Mr. Ward, alone, decided the ultimate scope and content of his declaration. To be sure, his decisions on what to include were informed by Guardian's counsel's summary of the types of evidence that had previously been found important in determining public accessibility. However, in preparing his declaration for execution, Mr. Ward did not feel compelled to find, provide, or otherwise refresh his recollection about specific information requested by Guardian's counsel. And frankly, he was not compelled to do anything because Guardian could not issue a subpoena to him or his company before institution. *Symantec Corp. v. Finjan, Inc.*, IPR2015-01545, Paper No. 9, slip op. at 5 (PTAB Dec. 11, 2015) (discovery in an

inter partes review does not begin until trial is instituted). So, Guardian accepted the information Mr. Ward voluntarily provided in his sworn declaration.³

Despite this obvious limitation, the Ward Declaration still provided “strong indicia” that Guardian is “reasonably likely” to prove that the 2009 Video was publicly accessible before the critical date. Moreover, Guardian believes that once Mr. Ward and his company, Background Solutions, are compelled to gather and produce evidence, Mr. Ward will be able to specifically testify as to “when or where the seminars occurred or who attended them” and the specific date by which the 2009 Video was posted on Background Solutions’ website. Paper No. 23 at 15.

The same argument applies to the Board’s criticisms of Mr. Klosson’s Declaration. He is a third party with no duty or obligation to incur the time or expense of voluntarily cooperating with Guardian. And yet, the Declaration Mr. Klosson provided still provides “strong indicia” that Guardian is “reasonably likely” to prove that the POBITS Manual was publicly accessible before the critical date.

The additional evidence desired by the Board can be obtained during trial, but only if the Board institutes. The Board’s failure to recognize the difficulties in

³ In *Valeo North America, Inc. v. Magna Elecs., Inc.*, IPR2014-01204, Paper Nos. 19 and 26 (PTAB March 10 and April 10, 2015), the petitioner successfully moved (post-institution) for the ability to file supplemental information pursuant to 37 C.F.R. § 42.123 arguing that: “[w]ithout the aid of subpoena power, ***Petitioner must rely on the patience, understanding, willingness, and cooperation of various third parties who have no duty or obligation to incur the expense and time required to provide the types of evidence required by the Board.***” *Id.* at 2 (emphasis added).

obtaining third-party evidence for a petition and to consider the “evidence that may come out at trial” constitutes an abuse of discretion. The Board’s opinion overlooks the weight of authority that the level of evidence needed to support that a reference was publicly available at the institution stage is different than what is required to be proven to support a final decision of invalidity after trial. *See Merck Sharp & Dohme Corp. v. Pfizer Inc.*, IPR2017-02138, Paper No. 16, slip op. at pp. 6–8 (PTAB May 4, 2018) (citations omitted); *Instradent USA, Inc. v. Nobel Biocare Services AG*, IPR2015-01786, Paper No. 14, at 16–17 (PTAB Feb. 19, 2016).

D. The Board overlooks Guardian’s evidence and misapprehends Patent Owner’s “evidence” as to the level of skill of a skilled artisan

The Board’s findings that Mr. Ward “does not testify as to the backgrounds of any seminar attendees,” (Non-Institution Decision, at 13 fn. 4) and that his testimony “is not sufficient to show that Mr. Ward presented the 2009 Video to skilled artisans at a seminar prior to April 6, 2012,” *id.* at 17, overlook statements in Mr. Ward’s Declaration and misapprehend their significance. Mr. Ward’s Declaration refers to “law enforcement and background investigation seminars,” not general law enforcement seminars. (Ex. 1009, at ¶ 9). Based on Mr. Ward and Mr. Klosson’s backgrounds in law enforcement and/or background investigation (*id.* at ¶¶ 2–3 and Ex. 1014, at ¶¶ 1–5), Guardian understood Mr. Ward to be testifying that those attending the seminars where he presented the 2009 Video had backgrounds

in law enforcement and/or background investigation. (*See* Paper No. 1, at 5-6).

Based on the non-institution decision, it is clear that the Board did not understand Mr. Klosson's testimony in the same way. The Board's misunderstanding may be largely due to the statement in Patent Owner's Preliminary Response (presented with *no evidentiary support*) that "[t]hese conferences may be nothing more than trade shows attended by police officers principally showing/selling weapons, body armor, etc." (Paper No. 7, at 7). Patent Owner's response is unsupported by any evidence and directly contradicts Mr. Ward's affidavit stating that he had presented the information to "law enforcement and background investigation seminars." Even if the conferences were "nothing more than trade shows," Guardian still believes that the evidence shows that police officers are skilled artisans in the context of the '188 patent. *Ryko Mfg. Co. v. Nu-Star, Inc.*, 950 F.2d 714, 718 (Fed. Cir. 1991) (educational background of inventor and others working in the field considered in determining the level of skill of skilled artisans). Mr. Ward testified that he developed background investigation software and comes from a law enforcement background. And, based on publicly available information (<https://www.linkedin.com/in/tylerjmiller1/>), Mr. Tyler Miller, the sole inventor of the '188 patent, also comes from a law enforcement background.⁴

⁴ Tribunals have taken judicial notice of the existence of LinkedIn profiles. *See, e.g. AGIS Software Development LLC v. Apple, Inc.*, No. 2:17-cv-00516-JRG, 2018 WL 2721826, at fn. 4 (E.D. Tex. Jun 6, 2018). Moreover, assuming Mr. Miller authored

If the Board had at least considered Guardian’s position that skilled artisans for the ‘188 patent include law enforcement officers (like Messrs. Ward, Klosson, and Miller), then suddenly Mr. Ward’s testimony about presenting the 2009 Video at seminars for law enforcement (as well as background investigators) becomes all the more complete. The Board’s failure to do so constitutes an abuse of discretion.

E. The Board misapprehends the significance of Mr. Klosson’s sworn testimony that the POBITS Manual was posted on his company’s website no later than February 1, 2011

The Board’s finding that the posting of the POBITS Manual on a “public website by February 1, 2011” was insufficient to show that the POBITS Manual was publicly accessible by that date for institution (Paper No. 23, at 20) is directly contradicted by the body of case law addressed in section II(B), *supra*, as well as MPEP §2128(II)(B), which states that “[p]rior art disclosures on the Internet or on an online database are considered to be publicly available as of the date the item was publicly posted.” While the MPEP does not have the full force and effect of law, it is entitled to judicial notice as an official interpretation of the Patent Office as to statutes and regulations with which it is not in conflict. *Litton Sys., Inc. v. Whirlpool*

his LinkedIn profile, it is admissible as an admission against interest to rebut the evidence and position taken in the Patent Owner’s Preliminary Response (and supporting Howell Declaration (Ex. 2002, at ¶¶ 26–43)) on the level of skill of a skilled artisan. Fed. R. Evid. 801(d)(2). Guardian intended to depose Mr. Miller about the level of skill (especially in view of his LinkedIn profile) after institution.

Corp., 728 F.2d 1423, 1439 (Fed. Cir. 1984), *abrogated on other grounds* by *Two Pesos, Inc. v. Taco Cabana, Inc.*, 505 U.S. 763, 768 (1992). *See also* MPEP, Foreword (the MPEP is “ a reference work on the practices and procedures relative to the prosecution of patent applications and other proceedings before the USPTO”).

Guardian presented not only the 2010 copyright date on the face of the POBITS Manual, but also Mr. Klosson’s sworn testimony that he authored and uploaded the POBITS Manual I onto his company’s website by the end of 2010. Ex. 1004, at ¶ 10. The POBITS Manual printed publication (Ex. 1004) is also a compilation of screenshots from <https://internetarchive.org> showing that the POBITS Manual was available on the company website no later than February 1, 2011. At a minimum, Guardian should be afforded the opportunity to prove through discovery that the POBITS Manual was publicly accessible. Yet, the Board overlooked previous decisions, as well as the MPEP guidance, and abused its discretion in deciding that a copyright date, sworn testimony regarding the posting date, and webpages from the Internet Archive are not enough to meet the threshold showing of public accessibility required for the institution of *Inter Partes* Review.

III. CONCLUSION

For these reasons, the Board abused its discretion in denying institution. Petitioner respectfully requests rehearing of the Non-Institution Decision.

Case No. IPR2020-00031
Patent 10,043,188

Attorney Docket No. 2993.003

Respectfully submitted,

Date: April 27, 2020

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PETITIONER'S EXHIBIT LIST

<u>Exhibit No.</u>	<u>Description</u>
Ex. 1001	U.S. Patent No. 10,043,188 (Miller)
Ex. 1002	A printed publication, which is a video demonstration entitled "Background Assistant"
Ex. 1003	U.S. Patent Pub. No. 2005/0033633 (LaPasta et al.)
Ex. 1004	A printed publication, which is the POBITS online User Manual and Technical Guide, dated 02-01-2011 and bearing a 2010 copyright date
Ex. 1005	U.S. Patent No. 9,070,098 (Miller)
Ex. 1006	Prosecution History for U.S. Patent No. 10,043,188
Ex. 1007	Prosecution History for U.S. Patent No. 9,070,098
Ex. 1008	Patent Owner Proposed Claim Constructions from Related Litigation
Ex. 1009	Declaration of Tom Ward
Ex. 1010	Background Solutions Website Products Page
Ex. 1011	Public Safety Information Bureau Website - Safetysource.com

Ex. 1012	Background Solutions Website Services Page
Ex. 1013	Expected Practices in Background Checking: Review of the Human Resource Management Literature
Ex. 1014	Declaration of Kingsley Klosson
Ex. 1015	U.S. Patent Pub. No. 2008/0306750 (Wunder et al.)
Ex. 1016	CrimLink File History
Ex. 1017	U.S. Patent No. 6,904,407 (Ritzel)
Ex. 1018	CandidateLink File History
Ex. 1019	Patent Owner's Infringement Contentions from Related Litigation
Ex. 1020	ADP Website - Identity Validations
Ex. 1021	Background Solutions PowerPoint Presentation
Ex. 1022	Compilation of Background Solutions printed publication timestamped screenshots
Ex. 1023	Internet Archive Captures of http://www.backgroundsolutions.com/index.html

Ex. 1024	Background Assistant™ Product Brochure
Ex. 1025	Listing of Challenged Claims
Ex. 1026	Transcript of 2.6.20 Telephonic Hearing
Ex. 1027	2009 Background Solutions Video Demonstration (“2009 Video”)
Ex. 1028	Declaration of Jordan A. Sigale In Support of Petitioner’s Motion to Correct a Clerical Mistake in the Petition Under 37 C.F.R. Motion for Pro Hac Vice Admission § 42.104(c)
Ex. 1029	Background Solutions Invalidity Chart 1
Ex. 1030	Background Solutions Invalidity Chart 2
Ex. 1031	Correspondence between Counsel re: IPR Petition and Exhibit
Ex. 1032	The City of Oklahoma City’s Non-Infringement and Invalidity Contentions
Ex. 1033	Correspondence from PO’s Counsel re: request for authorization to seek permission to request correction
Ex. 1034	Declaration of Evan W. Talley in Support of Petitioner’s Motion for <i>Pro Hac Vice</i> Admission

CERTIFICATE OF SERVICE

I hereby certify pursuant to 37 C.F.R. §§ 42.6(e) that on this 27th day of April, a true and correct copy of the foregoing materials:

- Petitioner’s Request for Rehearing Pursuant to 37 C.F.R. § 42.71(D)

was served via electronic mail on the Lead and Back-Up Counsel for Patent Owner:

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