

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NEARMAP US, INC.,  
Petitioner,

v.

EAGLE VIEW TECHNOLOGIES,  
Patent Owner.

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IPR2024-00716  
Patent 10,671,648 B2

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Before STACEY G. WHITE, GARTH D. BAER, and RUSSELL E. CASS,  
*Administrative Patent Judges.*

WHITE, *Administrative Patent Judge.*

DECISION  
Denying Institution of *Inter Partes* Review  
*35 U.S.C. § 314*

## I. INTRODUCTION

Nearmap US, Inc. (“Petitioner”) requests *inter partes* review of claims 1, 2, 4–6, 9–13, and 15 of U.S. Patent No. 10,671,648 B2 (Ex. 1001, “the ’648 patent”). Paper 2 (“Pet.”). Eagle View Technologies, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). With our authorization, Petitioner filed a Reply to the Preliminary Response, (Paper 7, “Prelim Reply”) and Patent Owner filed a Sur-Reply to Petitioner’s Preliminary Reply (Paper 8, “Prelim. Sur-reply”).

Under 35 U.S.C. § 314(a), an *inter partes* review may not be instituted unless the information presented in the petition “shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” For the reasons stated below, we determine that Petitioner has not established a reasonable likelihood that it would prevail with respect to at least one claim. We, therefore, deny Petitioner’s request to institute *inter partes* review.

### A. Related Matters

The parties identify *Eagle View Technologies Inc., and Pictometry International Corp v. Nearmap US, Inc., Nearmap Australia Pty Ltd, and Nearmap Ltd*, No. 2:21-cv-00283-TS-DA0 (D. Utah) . , as a related district court case. Pet. 14; Paper 5, 2.

### B. The ’648 Patent

The ’648 patent is titled “Integrated Centralized Property Database Systems and Methods.” Ex. 1001, code (54). The ’648 patent relates to “aggregating information associated with all geographic points on the earth, where the information is captured from distributed data sources and integrated into a centralized database that may be queried for a complete

time history of any geographic point on the earth.” *Id.* at 1:8–13. Figure 1 of the ’648 patent is reproduced below.

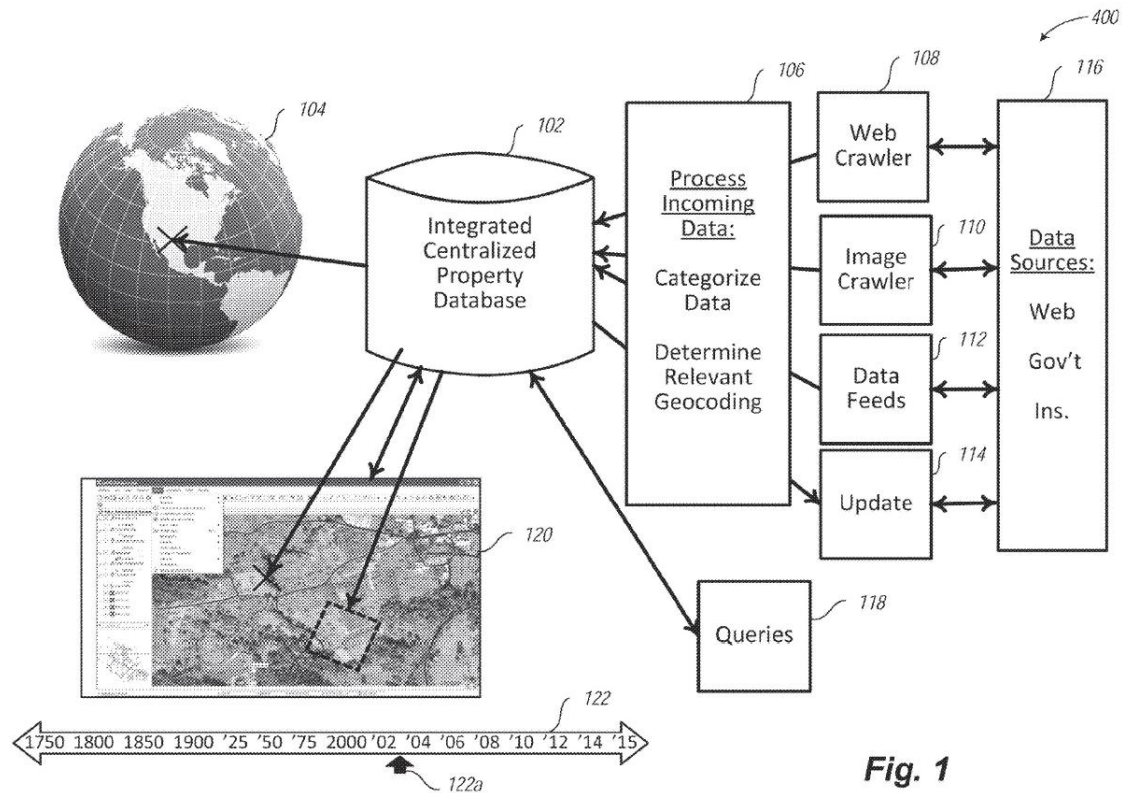


Fig. 1

Figure 1, reproduced above, depicts an environment in which integrated centralized property database 102 is used. *Id.* at 4:31–33. Integrated database 102 receives data from data sources 116. *Id.* at 5:49–51. “A wide range of data may be associated with a particular geographic point on the earth, including but not limited to legal data, property characteristic data, transactional data, environmental data, demographic data, and event data.” *Id.* at 4:58–61. “[G]iven a particular point and a particular time, the web crawler 108 will identify and collect the information . . . on the parcels, neighborhoods, cities, counties, and state with which the point is associated.” *Id.* at 8:3–7. Users make queries 118 through user interface 120. *Id.* 12:50–53. “In response to queries 118, the integrated database 102 may provide the relevant data overlaid on a map in the user interface 120.”

*Id.* at 13:64–66. User interface 120 may include time scale 122, which allows users to select a time or range of time using time scale 122 (e.g., moving slider 122a to the time period of interest). *Id.* at 14:7–9. “[T]ime scale 122 may allow users to query 118 the integrated database 102 for information associated with particular points on the earth at any time, including decades, years, months, weeks, etc.” *Id.* at 14:9–13.

### *C. Illustrative Claim*

Claims 1, 2, 4–6, 9–13, and 15 are challenged, and claims 1, 9, and 12 are independent claims. Claim 12 is illustrative of the subject matter at issue and reproduced below.

[12.pre] A system, comprising:

[12.a.1] an integrated centralized property database stored on computer-readable storage media,

[12.a.2] the integrated centralized property database including a plurality of data items,

[12.a.3] each of the plurality of data items being associated with one or more geographic location identifiers indicating a particular geographic point on earth, and

[12.a.4] at least a portion of the plurality of data items further being associated with one or more time identifiers including one or more time or time periods, indicative of a time history of an associated data item regarding the associated geographic point on earth;

[12.b] at least one computer processor communicatively coupled with the integrated centralized property database, the at least one computer processor configured to:

[12.c] receive, from a user computer system, a query of a geographic location and time information indicative of the time history of an associated data item regarding the associated geographic point on earth;

[12.d] retrieve, from the integrated centralized property database, data items having associated geographic location

identifiers matching the received geographic location and having associated time identifiers matching the received time information; and

[12.e] provide the retrieved data items to the user computer system via a graphical user interface.

Ex. 1001, 17:21–18:4 (bracketed designations added by Patent Owner (*see* Prelim. Resp. iii)).

*D. Asserted Grounds of Unpatentability*

Petitioner, supported by the declaration of Dr. Cyrus Shahabi (Ex. 1003), asserts the following grounds of unpatentability (Pet. 15)<sup>1</sup>:

<b>Claim(s) Challenged</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>
1, 2, 4–6, 9, 12, 13, 15	§ 102	Harris <sup>2</sup>
1, 2, 4–6, 9, 12, 13, 15	§ 103	Harris
9, 10, 12, 13, 15	§ 103	Harris, Florance <sup>3</sup>
11	§ 103	Harris, Florance, Salvagio <sup>4</sup>

**II. ANALYSIS<sup>5</sup>**

*A. Level of Ordinary Skill in the Art*

In order to determine whether an invention would have been obvious at the time the application was filed, we consider the level of ordinary skill

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<sup>1</sup> We apply 35 U.S.C. §§ 102, 103 as amended by The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 287–88 (2011), because the claims at issue have an effective filing date after March 16, 2013. *See* Ex. 1001, code (22).

<sup>2</sup> U.S. Patent No. 9,501,507 (Ex. 1004, “Harris”).

<sup>3</sup> U.S. Patent Pub. No. 2009/0132316 (Ex. 1005, “Florance”).

<sup>4</sup> U.S. Patent No. 8,401,877 (Ex. 1006, “Salvagio”).

<sup>5</sup> Petitioner argues that discretionary denial is not warranted under 35 U.S.C. § 314(a). Pet. 91. Because Patent Owner does not argue for discretionary denial, we see no need to consider the issue further.

in the pertinent art at the critical time. *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966). The resolution of this question is important because it allows us to “maintain[] objectivity in the obviousness inquiry.” *Ryko Mfg. Co. v. Nu-Star, Inc.*, 950 F.2d 714, 718 (Fed. Cir. 1991). In assessing the level of ordinary skill in the art, various factors may be considered, including the “type of problems encountered in the art; prior art solutions to those problems; rapidity with which innovations are made; sophistication of the technology; and educational level of active workers in the field.” *In re GPAC, Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995) (quotation omitted). Generally, it is easier to establish obviousness under a higher level of ordinary skill in the art. *Innovention Toys, LLC v. MGA Entm’t, Inc.*, 637 F.3d 1314, 1323 (Fed. Cir. 2011) (“A less sophisticated level of skill generally favors a determination of nonobviousness . . . while a higher level of skill favors the reverse.”).

Petitioner asserts that a person of ordinary skill in the art would have “a bachelor’s degree or higher in computer science, computer engineering, or an equivalent educational background, or at least five years of industry experience in software development. Pet. 17 (citing Ex. 1003 ¶¶ 12–15). Patent Owner does not address the level of ordinary skill in the art in its papers. *See generally* Prelim. Resp.

The level of ordinary skill in the art usually is evidenced by the references themselves. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001); *In re GPAC Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995); *In re Oelrich*, 579 F.2d 86, 91 (CCPA 1978). As Petitioner’s description of a person of ordinary skill appears commensurate with the subject matter before us, we apply Petitioner’s definition for purposes of this Decision.

### *B. Claim Construction*

We interpret claim terms using “the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. 282(b).” 37 C.F.R. § 42.100(b) (2019). In this context, claim terms “are generally given their ordinary and customary meaning” as understood by a person of ordinary skill in the art in question at the time of the invention. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (citations omitted) (en banc).

Petitioner states that it “construes all other terms per *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc); §42.100(b), presuming ‘ordinary and customary meaning [to POSITA] at the time of the invention.’” Pet. 16. Petitioner addresses the term “data aggregation system” which it defines as “system that aggregates data from multiple distributed external data sources into a centralized database.” *Id.* (emphasis omitted). Patent Owner does not address claim construction in its papers. *See generally* Prelim Resp.

Based on the record before us, we see no need for express construction of any term for the purposes of this Decision. *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (“we need only construe terms ‘that are in controversy, and only to the extent necessary to resolve the controversy’”).

### *C. Overview of the Asserted Prior Art*

#### *1. Harris (Ex. 1004)*

Harris is titled “Geo-Temporal Indexing and Searching,” and relates to “[a] method and apparatus for a data analysis system for analyzing data object collections that include geo-temporal data.” Ex. 1004, codes (54, 57).

Harris addresses the need for efficient data retrieval in systems where data is associated with specific locations and times. Figure 1 of Harris is reproduced below.

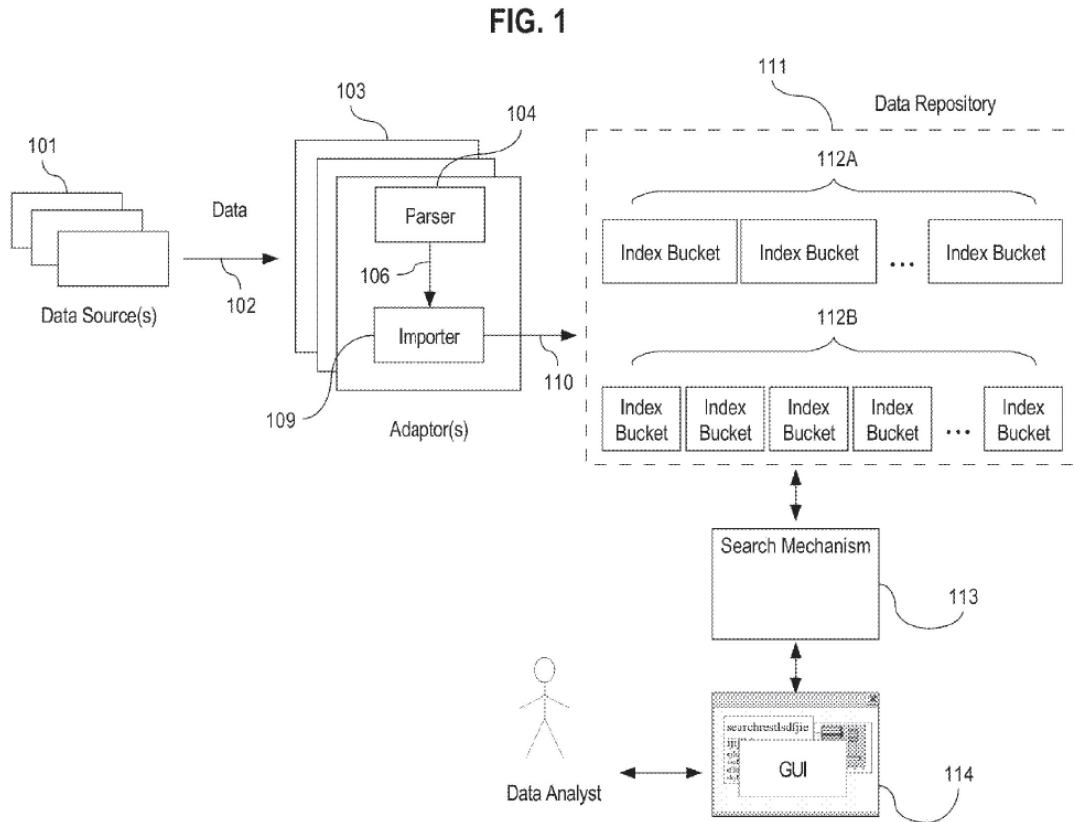


Figure 1 of Harris, reproduced above, depicts an embodiment of Harris’s system for indexing and searching geo-temporal data. *Id.* at 4:7–9. The system comprises a geospatial indexing component designed to manage and store input data associated with both geospatial and temporal elements. Data sources 101 “includes, but is not limited to, geotemporal data” which is data that “include[s] both a geospatial component and a temporal component.” *Id.* at 4:26–30. “[I]nput data 102 that includes a geospatial component may be specified as geospatially searchable.” *Id.* at 6:58–59. The system stores references to the input data within the geospatial index, which is organized based on temporal index buckets 112 that represent



particular ranges of time. *Id.* at 8:15–20, 8:47–53. Interface 114 may be used to specify the time granularity. *Id.* at 7:62–65. The user can perform searches on the data via search mechanism 113. *Id.* at 9:18–20, 10:21–23.

## 2. *Florance (Ex. 1005)*

Florance is titled “System and Method for Associating Aerial Images, Map Features, and Information.” Ex. 1005, code (54). Florance relates to “creating a unified commercial real estate data model through collection, distribution and use of information in connection with commercial real estate.” *Id.* at code (57). Florance describes aggregating data associated with a geographic location identifier and time identifier in “a comprehensive database of information that is relevant to commercial real estate transactions” that has “obtained and assimilated over 50 proprietary databases.” *Id.* ¶¶ 55, 188 (“all commercial real estate available during a particular time period in a particular region, all commercial real estate of a certain class, all commercial real estate of a certain cost, a lease space equivalent use”).

## 3. *Salvagio (Ex. 1006)*

Salvagio is titled “Insurance Claim Processing.” Ex. 1006, code (54). Salvagio relates to accessing information about one or more properties for use by an insurance provider or claims administrator. *Id.* at code (57). Salvagio describes aggregating data in a “property database” searchable by “street address, city, state, ZIP code, a loan number, a work order number, a claim number, a borrower first name, and/or a borrower last name.” *Id.* at code (57), 10:48–55. Salvagio further describes that “insurance information” and “insurance polic[ies]” “associated with a geographic location identifier” and stored in a database that includes “property-specific

information” such as “the current location of the property,” and “insurance carrier, insurance policy number, the effective date of insurance, the maximum amount of coverage under the policy, the person who procured the insurance, [and] the expiration date of the policy.” *Id.* at 6:5–19, 11:11–32, Fig. 4 (showing “insurance policy” and “insurance information” related to “a particular property”).

#### *D. Petitioner’s Patentability Challenge*

Each of the challenged claims is asserted to be anticipated by Harris or obvious over Harris either alone or in combination with Florance and/or Salvagio. Pet. 15. Petitioner’s challenges are laid out in the form of a claim chart. Pet. 27–91. The claim chart discusses all claims and all grounds in a single 64-page claim chart. *Id.* According to Petitioner, “[t]he Petition collects disclosures from the asserted references and provides a detailed, limitation-by-limitation chart expressly mapping each word of the Claims to the disclosures of each relied-upon reference, with statements in the text following each mapping describing the particular combinations and motivations to combine.” *Id.* at 26.

The left side of Petitioner’s claim chart lists the specific claim language and the right side is composed of Petitioner’s evidence for each limitation. *See, e.g., id.* at 29. For example, for claim limitation 12.a, the right side of the claim chart states that “Harris discloses or renders obvious this limitation (Grounds 1–3).” *Id.* (emphasis omitted). Then, it restates a portion of the claim language in bold followed by a parenthetical listing a series of snippets from Harris. An exemplar of the claim chart is reproduced below:

Claim 12	Prior Art
stored on computer-readable storage media, the integrated centralized property database including a plurality of data items, each of the plurality of data items being associated with one or more geographic location identifiers	<b>Harris discloses an integrated centralized property database</b> (e.g., “geo-temporal data may be obtained from potentially multiple disparate data sources and... is received and indexed in a data repository”; “data repository 111 may operate on one or more computing nodes of a cluster of computing nodes”; “a data processing system comprises a data repository 111”; “database” that “store[s]” “geo-temporal data”; “data stored in data repository... may be stored as key-value pairs”) <b>stored on computer-readable storage media</b> (e.g., “indexes may be stored on disk and cached in memory on demand”; “storage media... that store data”; Fig.5 (“computer system” upon which system “implemented,” including storage media including, e.g., “Main Memory” 506, “Storage Device” 510)), <b>the integrated centralized property database including a plurality of data items</b> (e.g., multiple items of geo-temporal data “associated with a geospatial component and a temporal component” (such as “crime reports received within a particular city,” “cell phone call records,” or “data objects

*Id.* at 31. The claim chart portion shown above is representative of the information provided for each limitation of the claims in the claim chart. This portion of the claim chart then concludes with a citation to 30 paragraphs of Dr. Shahabi’s declaration, numerous citations to Harris, and reproductions of figures from Harris. *Id.* at 33–34 (citing Ex. 1003 ¶¶ 96–125, 134; Ex. 1004, Abstract, 1:6–8, 1:13–50, 2:1–3, 2:24–25, 2:50–67, 3:1–11, 4:7–17, 4:19–33, 4:34–5:24, 5:26–35, 5:51–6:10, 7:32–36, 7:47–9:4, 9:47–64, 12:12–41, Figs. 1, 3, 5). There is no argument<sup>6</sup> in the claim chart addressing how Harris teaches these claim limitations, nor is there any narrative discussion of how Petitioner views the disclosures of Harris.

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<sup>6</sup> We note that there is a footnote that is approximately one page long discussing whether Harris teaches or discloses an integrated centralized property database as part of multiple embodiments and asserts that to the extent that we consider Harris to disclose multiple embodiments it would have been obvious to combine them. *See* Pet. 29 n. 5.

The claim chart for limitation 12.a then moves to obviousness and states that “Harris in view of Florance also renders obvious this limitation based on the same Harris disclosures above in combination with the Florance disclosures below, including in particular Florance’s disclosures of storing ‘property information’ in a database (on which Petitioner relies for Ground 3).” Pet. 35–36 (citing Ex. 1003 ¶ 126) (emphasis omitted). The claim chart then states that “Florance discloses storing property information” and provides a parenthetical with quoted language and citations from Florance. *Id.* at 36 (emphasis omitted). The discussion of limitation 12.a then concludes with argument as to why a person of ordinary skill in the art would have been motivated to combine the teachings of Harris and Florance. *Id.* at 36–38.

Patent Owner contends that “[t]he Petition does not address any claim limitation ‘with particularity.’” Prelim. Resp. 5 (emphasis omitted). Patent Owner points out that “[t]he petition must include ‘a detailed explanation of the significance of the evidence,’ 37 C.F.R. § 42.22(a)(2), including ‘where each element of the claim is found in the prior art patents or printed publications relied upon.’” *Id.* at 5–6 (citing 37 C.F.R. § 42.104(b)(4)). Patent Owner asserts that the Petition does not explain how the features of Harris meet the claim requirements. *Id.* at 8. Patent Owner argues that “Petitioner has not provided any context for the quoted portions” of the asserted references. *Id.* at 12. Further, the citations provided are not specifically discussed or directed to any specific limitation and “[i]f the phrase happens to appear more than once in the reference, then the reader must attempt to determine which instance(s) Petitioner may have been referring to, as the context of a quote can be important to understanding the

associated meaning.” *Id.* at 12–13. In addition, Patent Owner contends that Petitioner may be attempting to circumvent the 14,000 word count limit by limiting its Petition to bare quotes that often lack citation. *Id.* at 13 (noting that the Petition was a mere 15 words shy of the word count limit). In short, Patent Owner argues that

[t]he Petition provides, at best, a list of bare, unexplained quotations. That is not ‘a detailed explanation.’ It is no explanation at all. Instead, Petitioner seems to have pulled every passage that may be vaguely connected with some aspect of the claim limitations and aggregated it into an enormous list. This is precisely the type of ‘underdeveloped’ argument in petitions that should be rejected.

*Id.* at 14.

We agree with Patent Owner. As the Supreme Court has noted, “the petitioner is master of its complaint.” *SAS Inst., Inc. v. Iancu*, 584 U.S. 357, 363 (2018). As such, Petitioner has the responsibility to make plain its challenges to the disputed claims. *See* 37 C.F.R. § 42.104 (“The petition must specify where each element of the claim is found in the prior art patents or printed publications relied upon.”). The Petition does not make clear Petitioner’s theory of the case. It is not the Board’s responsibility to weave together Petitioner’s evidence into a cohesive case. *See* 37 C.F.R. § 42.22(a)(2) (stating that Petitioner “must include” a full statement supporting its challenge “including a detailed explanation of the significance of the evidence”); *see also Parus Holdings, Inc. v. Google LLC*, 70 F.4th 1365, 1371 (Fed. Cir. 2023) (Noting that a party’s burden “cannot be met simply by throwing mountains of evidence at the Board without explanation or identification of the relevant portions of that evidence.”).

Patent Owner also argues that, to the extent that Petitioner’s specific arguments may be found in Dr. Shahabi’s declaration, that amounts to

improper incorporation by reference. Prelim. Resp. 16. Patent Owner asserts that “[e]xcluding Dr. Shahabi’s CV, the Shahabi Declaration is a lengthy 71,911-word, 330-page document.” *Id.* at 16–17. Patent Owner contends that “Petitioner uses the Shahabi Declaration to present its substantive legal arguments that are missing from the Petition” and “[t]he Petition functions as a list of citations that reference the Shahabi Declaration as the primary document.” *Id.* at 17. In short, Patent Owner argues that “[g]iven the stark inadequacies of the Petition, the only way to understand Petitioner’s proposed unpatentability challenges is to wade through the 70,000+ words of the Shahabi Declaration, which dwarfs the 14,000 words granted to petitioners.” *Id.* (citing 37 C.F.R. § 42.24(a)(1)(i)).

We agree that Petitioner’s reliance on Dr. Shahabi’s declaration is improper. In its claim chart for limitation 12.a, Petitioner cites to 30 paragraphs from Dr. Shahabi’s declaration. Pet. 33 (citing Ex. 1003 ¶¶ 96–124, 134). These 30 paragraphs are approximately 25 pages in length. Petitioner goes on to cite another eight paragraphs from Dr. Shahabi’s declaration as part of its claim chart for limitation 12.a regarding obviousness over Harris and Florance. *Id.* at 36–38 (citing Ex. 1003 ¶¶ 126–132, 134). These eight paragraphs are approximately four pages in length. Thus, Petitioner has seven pages of claim chart in its Petition directed to limitation 12.a (Pet. 31–38) and approximately 30 pages of declaration testimony (limitation 12.a is discussed in paragraphs 96–134 of Exhibit 1003, which are found on pages 55–85 and only two of those paragraphs are not cited in the claim chart). This is in addition to Dr. Shahabi’s claim chart, which is found in Appendix C of his report. This claim chart discusses limitation 12.a for approximately 17 pages (Ex. 1003, App. C. p. 6–23). Our

rules expressly prohibit such incorporation by reference. 37 C.F.R. § 42.6(a)(3) (“Arguments must not be incorporated by reference from one document into another document.”). The Federal Circuit has held that “the ‘prohibition against incorporation of arguments from other documents serves various policy goals, including to ‘minimize the chance that an argument may be overlooked’ and to ‘eliminate[ ] abuses that arise from incorporation and combination.’” *Parus Holdings*, 70 F.4th at 1372 (citing *General Access Solutions, Ltd. v. Sprint Spectrum L.P.*, 811 F. App'x 654, 657 (Fed. Cir. 2020)). We decline to sift through Dr. Shahabi’s declaration in order to find the arguments that may support Petitioner’s challenge.

Finally, Patent Owner attempts to step through one limitation of claim 12 in an attempt to showcase the alleged lack of clarity in the Petition. Prelim. Resp. 20. Patent Owner directs us to claim 12’s recitation of “at least a portion of the plurality of data items further being associated with one or more time identifiers including one or more time or time periods, *indicative of a time history of an associated data item regarding the associated geographic point on earth.*” *Id.* (quoting the portion of claim 12 that Patent Owner identifies as limitation 12.a.4) (emphasis added). Patent Owner also directs us to limitation 12.c, which similarly recites “indicative of the time history of an associated data item regarding the associated geographic point on earth.” Patent Owner refers to these portions of claim 12 as “the time history limitation.” *Id.*

Patent Owner argues that the Petition does not address the time history limitation nor does it explain how Harris discloses or teaches this limitation. *Id.* Patent Owner lists the seven quotations from Harris cited in the claim chart that may relate to the time history limitation, but notes that

“[w]hile each of these passages generally refers to time-related data, the Petition never explains how any of these features are ‘indicative of a time history.’” *Id.* at 21. Patent Owner also includes screen shots of Petitioner’s claim chart regarding the time history limitation. *Id.* at 22–23 (reproducing portions of pages 32–33 and 41–44 of the Petition). Patent Owner also contends that Dr. Shahabi fails to address this limitation anywhere in his declaration. *Id.* at 23.

With our authorization, Petitioner filed a Reply to Patent Owner’s Preliminary Response. *See* Prelim. Reply. In that document, Petitioner argues that Patent Owner “affirmatively *deletes* language from the quotes relied upon in the Petition to support its false suggestion that Petitioner failed to explain how Harris teaches the ‘indicative of time history’ limitation.” *Id.* at 1. Petitioner then reproduces the same portion of the Petition that was provided as a screen shot on page 22 of the Preliminary Response and highlights in yellow terms that it believes to relevant to the time history limitation. *Id.* at 2. Petitioner’s screen shot of pages 32–33 of the Petition is reproduced below.



associated geographic point on earth;	<p><b>and at least a portion of the plurality of data items further being associated with one or more time identifiers including one or more time or time periods indicative of a time history of an associated data item regarding the associated geographic point on earth</b> (e.g., the “geo-temporal data... includes both a geospatial component and a temporal component”; “data that includes one or more values representing a geospatial component and one or more values representing a temporal component”; “geo-temporal input data is received that is associated with a geospatial component and a temporal component” such as “a time value indicating an approximate time the incident in the crime reported occurred”; “geospatial component may comprise one or more stored data values indicating a geographic location and the temporal component may comprise one or more values indicating a point in time or range of time”; “data objects associated with particular geographic regions and that are associated with temporal components with particular year time spans and/or particular hour time spans”; “all activities within a single city</p>
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Claim 12	Prior Art
	block within the past five years to all activities within an entire city within the past five hours”). E.g., EX1003, ¶¶96-125, 134;

The above reproduced screen shot of pages 32–33 of the Petition contains Petitioner’s highlighting to show the relevant passages in the claim chart.

*Id.* With reference to this screen shot, Petitioner asserts that the “[Preliminary Response] (at 21) clips the Petition’s actual mapping of time history disclosures including ‘all activities within a single city block within the past five years’ and ‘all activities within an entire city within the past five hours’ to nothing more than ‘within the past five years’ and ‘within the past five hours.’” *Id.* at 2. Petitioner also contends that the Preliminary Response ignores the detailed discussion of Harris preceding the claim chart. *Id.* at 2–3. Petitioner then highlights portion of the discussion of Harris and

summary of background art that it purports to show the time history limitation. *Id.* at 3 (citing Pet. 4–5, 20–21).

In Patent Owner’s Preliminary Sur-Reply, Patent Owner states that

Upon review of Petitioner’s [Preliminary] Reply, however, it becomes clear Petitioner was expecting the Board and Patent Owner to understand—*without any explanation* in the Petition—that Petitioner meant to link together the *time*-related quotes, the *geographic*-related quotes, six pages of the Petition setting forth a “detailed introduction to Harris,” two pages of the Petition summarizing background art, and thirty-one paragraphs of Dr. Shahabi’s Declaration to address the time history limitation of [12.a.4].

Prelim. Sur-Reply 2 (citing Prelim. Reply 2–3).

We agree. Petitioner did not provide an explanation in the Petition that would lead us to understand that we should pick out the highlighted terms from the listing provided in Petitioner’s claim chart. Petitioner provided no roadmap for us to follow and as such, there was no clear way to understand with particularity Petitioner’s allegations regarding the time history limitation.

The question before us is not whether we could come up with a way to understand how the asserted prior art could render the challenged claims unpatentable, but rather did Petitioner provide the arguments and evidence to show that the challenged claims are unpatentable. Here, Petitioner has not met that burden and as such, Petitioner has not shown by a reasonable likelihood that any of the challenged claims are unpatentable. Thus, we deny Petitioner’s request and do not institute review of the challenged claims.

### III. CONCLUSION

For the foregoing reasons, we determine that the information presented in the Petition does not establish that there is a reasonable likelihood that Petitioner would prevail with respect to at least one of challenged claims 1, 2, 4–6, 9–13, and 15 of the '648 patent. We, therefore, deny Petitioner's request to institute an *inter partes* review.

### IV. ORDER

For the foregoing reasons, it is  
ORDERED that the Petition is denied, and no trial is instituted.

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