UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PRECISION PLANTING LLC, AGCO CORPORATION,
Petitioners,

v.

DEERE & COMPANY,
Patent Owner

IPR2019-01046
U.S. Patent No. 9,480,199

PATENT OWNER SUR-REPLY

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I. INTRODUCTION

Petitioners cannot explain why, if it were so obvious based on thirty-year-old references, others did not develop the claimed inventions earlier, given the need to increase productivity by planting faster while maintaining spacing accuracy. Precision's own failures are undisputed, as is its praise of its own eventual success. POR 68-69 (moon shot). The extensive record evidence confirms that Petitioners engage in "the distortion caused by hindsight bias." *KSR Intern. Co. v. Teleflex Inc.*, 550 U.S. 398, 421 (2007).

This bias is apparent when considered against Precision's characterization of Koning when it sought its own patent. As Precision persuasively argued then, Koning "is not directed to a seed planter for row crops" and a POSA "would not be motivated to look for planters for planting potatoes or bulbs." Ex.2001-7-Sauder-File-History, 318. Petitioners' current litigation-inspired arguments completely contradict this representation, as they attempt to shoehorn Koning into a three-way combination with Yamahata and Hedderwick to recreate the preferred embodiment of the '199 Patent by treating the prior art as a parts catalog. Petitioners—not Deere—must prove all propositions of unpatentability. *Fanduel, Inc. v. Interactive Games LLC*, 2020 WL 4342681, 6 (Fed. Cir. Jul. 29, 2020); 35 U.S.C. §316(e). They have not done so. Validity should be confirmed.

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