UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PRECISION PLANTING LLC, AGCO CORPORATION,
Petitioners,

v.

DEERE & COMPANY,
Patent Owner

_____

IPR2019-01050
U.S. Patent No. 9,807,922

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PATENT OWNER SUR-REPLY

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I.   INTRODUCTION

The Petition is infected with "the distortion caused by hindsight bias," *KSR Intern. Co. v. Teleflex Inc.*, 550 U.S. 398, 421 (2007), and should be rejected. No prior art reference teaches use of a brush-belt such as that disclosed by Koning to convey seeds, as would be required in Petitioners' Hedderwick-Koning-Yamahata combination. Thus, no motivation exists to replace Hedderwick's flighted belt with Koning's brush-belt as Petitioners propose. Pet. 6, 48. The only evidence in the record that discloses use of a brush-belt to convey seeds is the '922 Patent, but it is improper to use the disclosure of the challenged patent as evidence of a motivation to combine. *Otsuka Pharm. Co. v. Sandoz, Inc.*, 678 F.3d 1280, 1296 (Fed. Cir. 2012) ("The inventor's own path itself never leads to a conclusion of obviousness; that is hindsight.")

Further, the unpredictable nature of a moving brush-belt, even at conventional planting speed, would have eliminated any expectation of successfully making Petitioners' proposed combination and further dissuaded a POSA from attempting it. A POSA would have been further discouraged from adding Yamahata's seed guide to the combination due to Hedderwick's use of interfering fins on the seed meter. Moreover, even if added to the combination. a POSA would not have expected Yamahata's seed guide to insert seeds into the

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