From:	Detrixhe, Jonathan I.
To:	Director_PTABDecision_Review
Cc:	Hannah, James; Price, Jeffrey H.; Fuller, Jenna; Bradley Wright; Scott M. Kelly; John R. Hutchins; Donovan, Gerard M.; Chassman, Peter J.; Kapoor, Sidharth
Subject:	IPR2023-00448 - Petitioner"s Request for Director Review
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Honorable Director Vidal,

Petitioner Keysight Technologies, Inc. in the above-referenced *inter partes* review proceeding (IPR2023-00448) respectfully requests that the Final Written Decision in that proceeding receive Director Review pursuant to the interim rules governing such review. The Request has been filed and assigned Paper No. 26. A copy is attached.

Ranked in order of importance are the following issues for which review is sought:

1. The Board's Final Written Decision diverged from its Institution Decision without explanation in its analysis of dependent claims 6, 14, 22, 30, and 33. Whereas the Institution Decision explicitly found that the Petition had "establishe[d] sufficiently that the combined disclosures in [the prior art] teach the inventions covered by claims" 6, 14, 22, 30, and 33, which was not disputed by Patent Owner, the Final Written Decision reached the opposite conclusion on the same record, finding that "the Petition does not address the obviousness of these claims," without any considerations of the Petition's arguments and evidence or any explanation of the inconsistency. The Board's unexplained inconsistent findings and failure to address the evidence from the Petition constitute legal and material error and present important issues of law and policy.

2. The Board's Final Written Decision is internally inconsistent in its analysis of dependent claim 33. Specifically, the Final Written Decision found that the primary reference renders obvious the subject matter of claim 33 in its analysis of other claims, whereas it then found claim 33 not unpatentable, without any explanation as to how the same subject matter can be both unpatentable and not-unpatentable over the primary reference. The Board's unexplained inconsistent findings regarding the patentability of the subject matter of claim 33 constitute legal and material error and present important issues of law and policy.

These issues implicate the important policy question of whether permitting a few clearly-

unpatentable claims of an otherwise invalid patent to survive IPR without even a merits analysis of the evidence presented in the Petition – after the Board found the Petition sufficiently established that such evidence taught the claimed inventions at institution and/or while also having found such evidence invalidated the subject matter of the claimed invention in its analysis of other claims in the final written decision – would be contrary to the IPR statutory purpose of improving patent quality.

Respectfully submitted,

Jonathan I. Detrixhe
415.659.4856
jdetrixhe@reedsmith.com

ReedSmith LLP
101 Second Street
Suite 1800
San Francisco, CA 94105
415.543.8700
Fax 415.391.8269

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