

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,

Petitioner,

v.

SONRAI MEMORY LIMITED,

Patent Owner.

Case IPR2023-00975

Patent 6,874,014

PATENT OWNER’S PRELIMINARY RESPONSE

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PATENT OWNER’S EXHIBIT LIST

Exhibit No.	Description
2001	Plaintiff’s Notice of IPR Petition, <i>Sonrai Memory Limited v. Apple Inc.</i> , No. 6:22-cv-00787-ADA, Dkt. No. 67 (W.D. Tex. Apr. 25, 2023)
2002	Amended Scheduling Order, <i>Sonrai Memory Limited v. Apple Inc.</i> , No. 6:22-cv-00787-ADA, Dkt. No. 80 (W.D. Tex. Sep. 6, 2023)
2003	Docket Sheet, <i>Sonrai Memory Limited v. Apple Inc.</i> , No. 6:22-cv-00787-ADA, (W.D. Tex. Aug. 23, 2023)
2004	Law360 Article: <i>West Texas Judge Says He Can Move Faster Than PTAB</i>
2005	Joint Claim Construction Statement, <i>Sonrai Memory Limited v. Apple Inc.</i> , No. 6:22-cv-00787-ADA, Dkt. No. 49 (W.D. Tex. Mar. 16, 2023)
2006	March 31, 2023 Email from Apple counsel confirming claim construction agreement
2007	Text Order Denying Motion to Stay Pending IPR, <i>Solas OLED Ltd. v. Google, Inc.</i> , Case No. 6:19-cv-00515-ADA (W.D. Tex. June 23, 2020)
2008	Order Denying Motion to Stay Pending IPR, <i>Multimedia Content Management LLC v. DISH Network L.L.C.</i> , Case No. 6:18-cv-00207-ADA, Dkt. No. 73 (W.D. Tex. May 30, 2019)
2009	June 30, 2023 U.S. District Courts—Federal Court Management Statistics—Comparison Within Circuit https://www.uscourts.gov/statistics/table/na/federal-court-management-statistics/2023/06/30-3

Exhibit No.	Description
2010	June 30, 2022 U.S. District Courts—Federal Court Management Statistics—Comparison Within Circuit https://www.uscourts.gov/statistics/table/na/federal-court-management-statistics/2022/06/30-3
2011	Apple Inc.’s First Supplemental Invalidity Contentions, <i>Sonrai Memory Limited v. Apple Inc.</i> , No. 6:22-cv-00787-ADA (W.D. Tex. June 15, 2023)
2012	Memorandum: Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation (June 21, 2022)
2013	Apple Inc.’s Preliminary Invalidity Contentions, <i>Sonrai Memory Limited v. Apple Inc.</i> , No. 6:22-cv-00787-ADA (W.D. Tex. December 5, 2022)
2014	[First Amended] Preliminary Disclosure of Asserted Claims and Infringement Contentions to Defendant Apple Inc., <i>Sonrai Memory Ltd. v. Apple Inc.</i> , Case 6:22-cv-000787-ADA (W.D. Tex. Jan. 20, 2023)
2015	Plaintiff’s Motion to Sever Patents into Separate Actions, <i>Sonrai Memory Limited v. Apple Inc.</i> , No. 6:22-cv-00787-ADA, Dkt. No. 72 (W.D. Tex. Aug. 15, 2023)
2016	Defendant Apple Inc.’s Opposition to Plaintiff’s Motion, <i>Sonrai Memory Limited v. Apple Inc.</i> , No. 6:22-cv-00787-ADA, Dkt. No. 76 (W.D. Tex. Aug. 29, 2023)
2017	Motion Hearing Minute Entry, <i>Sonrai Memory Limited v. Apple Inc.</i> , No. 6:22-cv-00787-ADA, Dkt. No. 77 (W.D. Tex. Aug. 30, 2023).

I. INTRODUCTION

Patent Owner Sonrai Memory Limited (“Patent Owner”) submits this preliminary response to Petitioner Apple Inc.’s (“Petitioner”) Petition for *inter partes* review of U.S. Patent No. 6,874,014 (“the ’014 patent”).

First, the Board should exercise its discretion to deny the petition in light of a parallel district court case involving the same patent, overlapping claims, the same prior art, and the same parties. By the time the Board reaches an institution decision in this proceeding, the parties and the district court will have already invested significant time and resources in the case which was filed on July 15, 2022 – over a year before the institution decision is due. Fact discovery is ongoing (including source code review). Claim construction has been completed. By the date of the institution decision, the parties will have completed fact discovery and served expert reports. A Final Written Decision will not be due until five (5) months *after* trial, which is set to begin on July 8, 2024. The *Fintiv* factors strongly favor a discretionary denial.

Second, the Board should exercise its discretion to deny the Petition under § 314(a) because this is the type of proceeding that the Board’s precedential decision—*General Plastic*—was developed to prevent. Petitioner has filed two petitions challenging the claims of the ’014 patent: the petition in this IPR, Petition for *Inter Partes* Review of United States Patent No. 6,874,014 (“Petition”), Paper 2, and

the petition in IPR2023-0819, also titled Petition for *Inter Partes* Review of United States Patent No. 6,874,014 (“Previous Petition”), IPR2023-0819, Paper 2.

Here, the majority of *General Plastic* factors weigh against institution in light of copending IPR2023-00819 challenging similar claims of the ’014 patent. As such, the Board should deny the Petition under § 314(a). *See, e.g.*, Exhibit 2012, Memorandum: Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation (June 21, 2022), at 9 (explaining that PTAB “retains the right to deny institution for other reasons under 35 U.S.C. §§ 314(a), 324(a), and 325(d). For example, the PTAB may deny institution if other pertinent circumstances are present, such as abuse of process by a petitioner.”).

II. THE *FINTIV* FACTORS WEIGH AGAINST INSTITUTION

35 U.S.C. § 314(a) gives the Board discretion to deny institution of the requested *inter partes* review due to the advanced state of parallel district court litigation regarding the same issues. *See NHK Spring Co. v. Intri-Plex Techs., Inc.*, IPR2018-00752, Paper 8 (PTAB Sept. 12, 2018) (precedential, designated May 7, 2019) (“*NHK Spring*”). The Board has set forth six factors for determining whether discretionary denial due to such parallel litigation is appropriate (the “*Fintiv* factors”):

whether the court granted a stay or evidence exists that one may be granted

if a proceeding is instituted;

proximity of the court's trial date to the Board's projected statutory deadline for a final written decision;

investment in the parallel proceeding by the court and the parties;

overlap between issues raised in the petition and in the parallel proceeding;

whether the petitioner and the defendant in the parallel proceeding are the same party; and

other circumstances that impact the Board's exercise of discretion, including the merits.

Apple Inc. v. Fintiv, Inc., IPR2020-00019, Paper 11 at 5-6 (PTAB Mar. 20, 2020) (precedential, designated May 5, 2020) (“*Fintiv I*”); *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 15 at 7-8 (PTAB May 13, 2020) (decision denying institution of *inter partes* review) (“*Fintiv II*”). “These factors relate to whether efficiency, fairness, and the merits support the exercise of authority to deny institution in view of an earlier trial date in the parallel proceeding.” *Fintiv I* at 6. In evaluating the factors, “the Board takes a holistic view of whether efficiency and integrity of the system are best served by denying or instituting review.” *Id.*

As set forth below, all of the *Fintiv* factors weigh against institution. To avoid duplication of efforts, wasting resources, and potentially inconsistent decisions, the Board should deny institution.

A. Factor 1: The district court has not granted a stay, nor is there any evidence that a stay will be granted.

There is presently one active district court case involving the '014 patent pending in the Western District of Texas before Judge Albright: *Sonrai Memory Limited v. Apple Inc.*, No. 6:22-cv-00787-ADA (W.D. Tex.). The district court is aware of Petitioner's pending IPR petition because Patent Owner filed a Notice of IPR Petition informing the court that defendant/Petitioner filed an IPR petition regarding claims of the '014 patent. Ex. 2001. Nevertheless, the district court has not stayed the case pending IPR. Nor is there any evidence that the case will be stayed.

To the contrary, the district court has entered a scheduling order and the case is set for trial on July 8, 2024. *See* Ex. 2002, Amended Scheduling Order at 2. The district court case is not at an early stage. The case against Apple was filed on July 15, 2022 – which will be more than 17 months before an institution decision is due in three months. *See* Ex. 2003, Docket Sheet at 4. This has been an actively litigated matter with 80 docket entries to date. *See* Ex. 2003, Docket Sheet at 4-11. A Final Written Decision will not be due until more than five (5) months *after* trial is scheduled to begin with jury selection on July 8, 2024. *See* Ex. 2002, Amended Scheduling Order at 2.

Petitioner has not filed a motion to stay, likely because Judge Albright does not favor stays pending IPR proceedings. *See* Ex. 2004 (Law360 Article: *West Texas Judge Says He Can Move Faster Than PTAB*) (Judge Albright: “It’s my job to give people the opportunity to have their cases tried in a federal court . . . and I probably can get a patent trial resolved more quickly than the PTAB can.”). Indeed, Petitioner does not indicate in its Petition that it intends to seek a stay, only asserting that the alleged simplification that the *inter partes* review process offers “increases the likelihood that the court will grant a stay in view of IPR institution.” Petition at 74; *see also Samsung Elecs. Co. Ltd. v. Evolved Wireless LLC*, IPR2021-00950, Paper 10 at 10–11 (PTAB Nov. 29, 2021) (“*Evolved*”) (finding this factor weighed in favor of denial and denying institution where patent owner showed a stay was unlikely based on the advanced stage of the case and the court’s past decisions denying stays).

Regardless, by the deadline for an institution decision (December 18, 2023), fact discovery will have been well underway and will close only five weeks later. *See* Ex. 2002, Amended Scheduling Order at 1. Claim construction has been completed and a Claim Construction Order has been issued. The parties agreed on all disputed terms with respect to the ’014 patent, obviating the need for Judge Albright to issue a claim construction order with respect to the ’014 patent. *See* Ex. 2005 at 2, 4; Ex. 2006 at 1; *see also* Petition at 15-18. Thus, even if Petitioner ultimately files a motion to stay, it is highly unlikely that Judge Albright would grant

a stay at that late juncture in the case. *See, e.g.*, Ex. 2007 (Order denying motion to stay pending IPR where plaintiff had served its preliminary infringement contentions and where claim construction was scheduled to begin before the IPR institution deadline); Ex. 2008 at 5 (Order denying stay pending IPR even though discovery had not yet begun, as the district court had already “invested significant resources and time in construing all the contested claim terms”). A stay is even more unlikely because the district court action involves not only the ’014 patent, but also U.S. Patent No. 6,724,241, for which petitioner has not filed any IPR. *See, e.g.*, Ex. 2003, Docket Sheet, at 11.

As explained by the Board, a stay of the district court litigation pending resolution of the PTAB proceedings “allays concerns about inefficiency and duplication of efforts.” *Fintiv I* at 6; *Fintiv II* at 12. But here, the district court has not stayed the pending litigation, nor is there any evidence that a stay will be granted. Allowing this IPR to proceed simultaneously with the district court litigation would be wasteful and inefficient. This factor weighs against institution.

B. Factor 2: The proximity of the court’s trial date to the Board’s projected statutory deadline for a final written decision.

The statutory deadline for a final written decision in this proceeding is December 18, 2024, which can be extended to June 18, 2025, for good cause or in

the case of joinder. 37 C.F.R. § 42.100. Jury selection in the district court is scheduled for July 8, 2024. *See* Ex. 2002, Amended Scheduling Order at 2.

Even if the Board disregards the scheduled trial date, an analysis of the current median time-to-trial statistics still weighs against institution. *See* Ex. 2009, June 30, 2023 U.S. District Courts—Federal Court Management Statistics— Comparison Within Circuit. The most recent statistics show a median time-to-trial in the Western District of Texas of 26.4 months. *Id.* at 5. This is down slightly from a median time-to-trial in the Western District of Texas of 27.2 months under the operative statistics at the time the case was filed. *See* Ex. 2010, June 30, 2022 U.S. District Courts— Federal Court Management Statistics – Comparison Within Circuit, at 5. Accordingly, the projected trial date for purposes of *Fintiv* in accordance with Director’s June 21, 2022 Memorandum on Discretionary Denials would be in late September of 2024 – within three months of the scheduled trial date and nearly three months before the expected timing of a Final Written Decision if proceedings are instituted. It is certainly *not* around the same time or after the projected statutory deadline for the PTAB’s final written decision.

This factor weighs against institution.

C. Factor 3: The parties and the courts have made a substantial investment in the parallel proceeding.

This factor relates to the “amount and type of work already completed in the parallel litigation by the court and the parties *at the time of the institution decision*.” *Fintiv I* at 9 (emphasis added). For example, “if, at the time of the institution decision, the district court has issued substantive orders related to the patent at issue in the petition,” this factor favors denial. *Id.* at 9-10. Claim construction orders entered by the district court likewise “indicate that the court and parties have invested sufficient time in the parallel proceeding to favor denial.” *Id.* at 10.

As discussed above, this has been an actively litigated matter with 80 docket entries to date. *See* Ex. 2003, Docket Sheet. By the deadline for an institution decision (December 18, 2023), fact discovery will have been well underway and will close only five weeks later. *See* Ex. 2002, Amended Scheduling Order at 1. Significant discovery efforts have been expended, including foreign discovery. *See, e.g.,* Ex. 2003, Docket Sheet, at 8 (Dkt. Nos. 44-45). In fact, fact discovery was originally scheduled to close October 23, 2023, nearly seven weeks before the deadline for an institution decision. *See id.* However, due to delays in the foreign discovery production, the schedule was extended by three months. *See, generally,* Ex. 2015, Plaintiff’s Motion to Sever Patents into Separate Actions, *Sonrai Memory Limited v. Apple Inc.*, No. 6:22-cv-00787-ADA, Dkt. No. 72 (W.D. Tex. Aug. 15,

2023); Ex. 2016, Defendant Apple Inc.’s Opposition to Plaintiff’s Motion, *Sonrai Memory Limited v. Apple Inc.*, No. 6:22-cv-00787-ADA, Dkt. No. 76 (W.D. Tex. Aug. 29, 2023); Ex. 2017, Motion Hearing Minute Entry, *Sonrai Memory Limited v. Apple Inc.*, No. 6:22-cv-00787-ADA, Dkt. No. 77 (W.D. Tex. Aug. 30, 2023).

In addition, claim construction has been completed and a Claim Construction Order has been issued. The parties agreed on all disputed terms with respect to the ’014 patent, obviating the need for Judge Albright to issue a claim construction order with respect to the ’014 patent. *See* Ex. 2005 at 2, 4; Ex. 2006 at 1; *see also* Petition at 15-18.

Thus, the parties and the federal courts will have invested significant time and resources in the litigation by the time the Board reaches an institution decision in this matter. This favors discretionary denial. *Fintiv I* at 10; *Fintiv II* at 13-14 (finding that “the level of investment and effort already expended on claim construction and invalidity contentions” favored denial).

D. Factor 4: There is complete overlap between this IPR and the district court proceedings.

This factor looks at “whether all or some of the claims challenged in the petition are also at issue in district court,” and whether the “petition includes the same or substantially the same claims, grounds, arguments, and evidence” as the parallel district court case. *Fintiv I* at 12-13.

Here, Petitioner has challenged all of the asserted claims of the '014 patent. Petitioner's Invalidity Contentions in the district court case identify the same Gulick and AAPA references asserted in the Petition as prior art that anticipates and/or renders obvious the asserted claims. *See* Ex. 2011 at 7. In fact, Petitioner explicitly incorporated by reference the IPR petition and exhibits in the district court invalidity contentions. *Id.* at 8-9. Thus, there is complete overlap with respect to Petitioner's invalidity arguments and evidence. That the district court case involves additional prior art references not asserted in this IPR is "not relevant to the question of the degree of overlap for this factor." *Fintiv II* at 15. The fact that the Petition challenges additional claims also does not warrant institution. *See, e.g., Next Caller Inc. v. TRUSTID, Inc.*, IPR2019- 00961, Paper 10 at 14 (PTAB Oct. 16, 2019) (denying institution where the district court case involved only a subset of the challenged claims).

In sum, this IPR and the district court case involve the same claims—which will be construed under the same *Phillips* standard—and substantially the same prior art (and, as discussed below, the same parties), which raises substantial "concerns of inefficiency and the possibility of conflicting decisions." *Fintiv I* at 12. This factor thus weighs in favor of a discretionary denial. *See Fintiv II* at 15; *NHK Spring* at 19–20.

E. Factor 5: Petitioner is a defendant in the district court litigation.

There is no dispute that Petitioner is the defendant in the district court litigation. “Because the petitioner and the defendant in the parallel proceeding are the same party, this factor weighs in favor of discretionary denial.” *Fintiv II* at 15.

F. Factor 6: Other circumstances that impact the Board’s exercise of discretion, including the merits.

The Board may consider other circumstances in the exercise of its discretion, including the merits of the case. *Fintiv I* at 14. However, “a full analysis of the merits is not necessary to evaluate this factor.” *Fintiv II* at 17. And, it is important to note that the compelling merits standard is a higher standard than the standard for institution set by statute. “A challenge can only ‘plainly lead to a conclusion that one or more claims are unpatentable’ if it is highly likely that the petitioner would prevail with respect to at least one challenged claim.” *OpenSky Indus., LLC v. VLSI Tech. LLC*, IPR2021-01064, Paper 102, 49 (PTAB Oct. 4, 2022) (precedential).

Citing *Sand Revolution*, Petitioner asserts that it will stipulate to not “using the grounds asserted” in the Petition in the district court litigation. This narrow stipulation is insufficient under *Sand Revolution*, only concerning the obviousness combinations directed to particular claims asserted in the Petition. Petitioner would still be free to raise anticipation arguments or other combinations based on the same references, or even the same combinations directed to different claims. As explained

in *Sand Revolution*, Petitioner could have stipulated that it “would not pursue any ground raised or that could have been reasonably raised in an IPR, i.e., any ground that could be raised under §§ 102 or 103 on the basis of prior art patents or printed publications.” *Sand Revolution II, LLC, Continental Intermodal Grp. – Trucking LLC*, IPR2019-013393, Paper 24 at 12 n.5 (PTAB June 16, 2020). Such a stipulation “might better address concerns regarding duplicative efforts and potentially conflicting decisions in a much more substantial way ... [and] might help ensure that an IPR functions as a true alternative.” *Id.* Factor 4 favors denial. Even had Petitioner made the type of stipulation described in *Sand Revolution*, it would have only weighed “marginally in favor of not exercising discretion.” *Sand Revolution* at 12; *Evolved* at 15.

Petitioner has not presented a “particularly strong” case of unpatentability because it is based solely on alleged obviousness and not anticipation. The different references relied upon by Petitioner do not disclose all of the elements of the challenged claims, which is presumably why Petitioner relies on alleged obviousness.

As set forth above the Petition does not present a reasonable likelihood of invalidity under any ground or challenged claim, let alone compelling evidence of unpatentability, and factor 6 weighs against institution. All six *Fintiv* factors strongly favor discretionary denial, and the Petition should be denied.

III. INSTITUTION SHOULD BE DENIED UNDER § 314(a)

35 U.S.C. § 314(a) gives the Board discretion to deny instituting “follow on” petitions. *General Plastic Indus. Co. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19 (Sept. 6, 2017) (precedential).

The Board has set forth seven factors for determining whether discretionary denial is appropriate (the “*General Plastic* factors”):

1. whether the same petitioner previously filed a petition directed to the same claims of the same patent;
2. whether at the time of filing of the first petition the petitioner knew of the prior art asserted in the second petition or should have known of it;
3. whether at the time of filing of the second petition the petitioner already received the patent owner’s preliminary response to the first petition or received the Board’s decision on whether to institute review in the first petition;
4. the length of time that elapsed between the time the petitioner learned of the prior art asserted in the second petition and the filing of the second petition;
5. whether the petitioner provides adequate explanation for the time elapsed between the filings of multiple petitions directed to the same claims of the same patent;
6. the finite resources of the Board; and
7. the requirement under 35 U.S.C. § 316(a)(11) to issue a final determination not later than 1 year after the date on which the Director notices institution of review.

General Plastic Indus. Co., IPR2016-01357, Paper 19 at 16.

Here, the *General Plastic* factors weigh against institution or are neutral.

A. Factor 1 weighs against institution.

Factor 1 relates to successive petitions filed by the same petitioner, which is precisely the issue here because petitioner filed serial petitions that are directed against the same claims of the same patent. The Previous Petition relies on the Asano, Joy, and Babaian references to assert invalidity of claims 1, 3, 5, 7, 11-13, and 15 of the '014 patent. *See, generally*, IPR2023-0819, Paper 2. More specifically, petitioner asserts the combination of Asano and Joy in Ground 1, *see id.* at 20-59, and the combination of Asano and Babaian in Ground 2, *see id.* at 59-73. The current Petition relies on the Gulick reference in combination with the Applicant Admitted Prior Art (“AAPA”) under Grounds 1 and 2 to assert invalidity of **the same claims**. *See* Petition, Paper 2, at 15-59 (Gulick in view of AAPA), 59-88 (AAPA in view of Gulick).

B. Factor 2 weighs against institution and Factors 3, 4, 5, and 7 are neutral.

Factor 2 weighs against institution because petitioner relies upon prior art that it was clearly aware of when it filed the Previous Petition. The Previous Petition was filed on April 12, 2023. The current Petition was filed on May 26, 2023, approximately six weeks after the Previous Petition. Petitioner plainly knew of the prior art asserted in the first petition when it filed the second petition.

Indeed, Petitioner identified the Gulick and AAPA references in its original invalidity contentions, served on December 5, 2022. *See* Ex. 2013. Because both petitions were filed closely together, factors 3, 4, 5, and 7 are neutral.

C. Factor 6 weighs heavily against institution, as the same claims are asserted in the Previous Petition.

Factor 6 relates to efficiency and the finite resources of the Board. *See General Plastic* at 16. This factor weighs heavily against institution.

As stated in the Trial Practice Guide, “one petition should be sufficient to challenge the claims of a patent in most situations. Two or more petitions filed against the same patent at or about the same time (e.g., before the first preliminary response by the patent owner) may place **a substantial and unnecessary burden on the Board** and the patent owner and could raise fairness, timing, and **efficiency** concerns. *See* 35 U.S.C. § 316(b). In addition, multiple petitions by a petitioner are not necessary in the vast majority of cases. To date, a substantial majority of patents have been challenged with a single petition.” Patent Trial and Appeal Board Consolidated Trial Practice Guide (November 2019), 59 (emphasis added).

This is not a situation where more than one petition is necessary. As an initial matter, Patent Owner has **not** asserted a large number of claims in litigation. In fact, Patent Owner has only asserted eight (8) claims in litigation. *See* Ex. 2014, [First Amended] Preliminary Disclosure of Asserted Claims and Infringement

Contentions to Defendant Apple Inc., *Sonrai Memory Ltd. v. Apple Inc.*, Case 6:22-cv-000787-ADA (W.D. Tex. Jan. 20, 2023). Petitioner has challenged **the same eight claims** in both the instant petition and the Previous Petition.

This case does not present circumstances in which more than one petition is necessary. Accordingly, the Board should exercise its discretion to deny institution rather than unfairly and inefficiently subjecting itself and Patent Owner to substantial and unnecessary burdens.

D. Summary of Factors

<i>Factor 1</i>	Weights against institution
<i>Factor 2</i>	Weights against institution
<i>Factor 3</i>	Neutral
<i>Factor 4</i>	Neutral
<i>Factor 5</i>	Neutral
<i>Factor 6</i>	Weights strongly against institution
<i>Factor 7</i>	Neutral

In summary, one *General Plastic* factor weighs strongly against institution; two factors weigh against institution and four factors are neutral. Under § 314(a) and the totality of *General Plastic* factors, institution should be denied.

IV. CLAIM CONSTRUCTION

As discussed above and noted in the Petition, the parties have agreed to the construction of all identified claim terms of the '014 patent in the district court litigation. The claim terms and corresponding constructions are as follows:

Claim Term	Agreed-To Construction
“simultaneously executing two or more operating systems”	“simultaneously executing two or more independent operating systems” Ex. 2005 at 2; Petition at 16.
“multiple operating systems residing in a memory”	“multiple operating systems residing in the same memory” Ex. 2005 at 4, Ex. 2006 at 1; Petition at 16.
“multiple processors are connected to said memory via a bus”	“multiple processors are connected to said memory via the same bus” Ex. 2005 at 4, Ex. 2006 at 1; Petition at 16-17.
“processor means for executing a plurality of operating system means”	Means-plus-function limitation, subject to § 112 ¶ 6. Function: “executing a plurality of operating system means.” Structure: chip multiprocessor 350 having multiple processors 305-320 mounted on a single die 360 as shown in Figure 3 and associated descriptions in the specification; or chip multiprocessor 450 having multiple processors 405-420 mounted on a single die 460 as shown in Figure 4 and associated descriptions in the specification; and equivalents thereof.

Claim Term	Agreed-To Construction
	Ex. 2005 at 2; Petition at 17-18.

V. CONCLUSION

All of the *Fintiv* factors strongly favor discretionary denial, and the Petition should be denied for this reason alone. Additionally, the Board should exercise its discretion to deny the Petition under § 314(a) because the *General Plastic* factors weigh against institution. This is the type of proceeding that the Board's precedential decision in *General Plastic* was developed to prevent.

Respectfully submitted,

/Brett Cooper/

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Lead counsel for Patent Owner

Date: September 18, 2023

CERTIFICATE OF WORD COUNT (37 C.F.R. § 42.24(d))

The undersigned hereby certifies that the word count in this Patent Owner Preliminary Response is 3,962 words, as counted by the word-processing program Microsoft Word that was used to generate this Patent Owner Preliminary Response, where such word count excludes the table of contents, table of authorities, mandatory notices, certificate of service, appendix of exhibits, claim listing, and this certificate of word count. This Patent Owner Preliminary Response is in compliance with the 14,000-word limit set forth in 37 C.F.R. § 42.24(b)(1).

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

The undersigned hereby certifies that the above document was served on September 18, 2023, by filing this document through the Patent Trial and Appeal Case Tracking System as well as delivering a copy via electronic mail upon the following attorneys of record for the Petitioner:

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