Filed on behalf of:

AMAZON WEB SERVICES, INC.
AND AMAZON.COM SERVICES LLC,

By:

J. DAVID HADDEN, Reg. No. 40,629
SAINA SHAMILOV, Reg. No. 48,266
DARGAYE CHURNET, Reg. No. 71,288
FENWICK & WEST LLP
801 California Street
Mountain View, CA 94041
Telephone: 650.988.8500
Facsimile: 650.938.5200

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON WEB SERVICES, INC.
AND AMAZON.COM SERVICES LLC,
Petitioners,

v.

ZENTIAN LIMITED
Patent Owner.

Case No. IPR2023-01197
Patent No. 10,971,140

PETITIONERS' REPLY[1] TO PATENT OWNER'S PRELIMINARY RESPONSE AND CONTINGENT JOINDER OPPOSITION

---

[1] The Board authorized Petitioners to file this Reply in an email sent November 1, 2023.

TABLE OF CONTENTS

Page

I. *FINTIV* FACTORS 1-5 FAVOR INSTITUTION UNDER THE DISTRICT COURT'S NEW CASE SCHEDULE.....1

II. *FINTIV* FACTOR 6: REQUIRING A *SOTERA* STIPULATION IS "INAPPROPRIATE" AND PREJUDICIAL TO PETITIONERS.....2

EXHIBIT LIST (37 C.F.R. § 42.63(E))

Exhibit	Description
1001	U.S. Patent No. 10,971,140 ("*'140 Patent*")
1002	Prosecution History for the 10,971,140 Patent ("*'140 File History*")
1003	Declaration of Christopher Schmandt ("*Dec.*")
1004	U.S. Patent No. 6,374,219 to Jiang ("*Jiang*")
1005	U.S. Patent No. 5,428,803 to Chen et al. ("*Chen*")
1006	Hsiao-Wuen Hon, *A survey of hardware architectures designed for speech recognition*, Carnegie Mellon University, 1991 ("*Hon*")
1007	Ph.D. Thesis of Mosur Ravishankar ("*Ravishankar*")
1008	U.S. Patent Application Publication No. 2001/0053974 to Lucke et al. ("*Lucke*")
1009	U.S. Patent No. 5,983,180 to Robinson ("*Robinson*")
1010	U.S. Patent No. 5,036,539 to Wrench Jr., et al. ("*Wrench*")
1011	Frederick Jelinek, *Statistical Methods for Speech Recognition*, The MIT Press, 1997 ("*Jelinek*")
1012	Christopher Schmandt, *Voice Communication with Computers*, Van Nostrand Reinhold, 1994 ("*Schmandt*")
1013	Lawrence Rabiner and Biing-Hwang Juang, *Fundamentals of Speech Recognition*, Prentice Hall PTR, 1993 ("*Rabiner*")
1014	Richard Klevans and Robert Rodman, *Voice Recognition*, Artech House, 1997 ("*Klevans*")
1015	U.S. Patent No. 7,120,582 to Young et al. ("*Young*")
1016	John Holmes and Wendy Holmes, *Speech Synthesis and Recognition*, 2nd Edition, Taylor & Francis, 2001 ("*Holmes*")
1017	U.S. Patent No. 4,926,488 to Nadas et al. ("*Nadas*")

Exhibit	Description
1018	U.S. Patent No. 6,182,037 to Maes ("*Maes*")
1019	U.S. Patent Application Publication No. 2003/0220796 to Aoyama et al. ("*Aoyama*")
1020	U.S. Patent No. 6,092,045 to Stubley et al. ("*Stubley*")
1021	U.S. Patent No. 6,151,574 to Lee et al. ("*Lee*")
1022	U.S. Patent No. 6,580,814 to Ittycheriah et al. ("*Ittycheriah*")
1023	U.S. Patent No. 6,452,348 to Toyoda ("*Toyoda*")
1024	William A. Wulf and C.G. Bell, *C.mmp–A multi-mini-processor*, Carnegie-Mellon University, 1972 ("Wulf")
1025	Lee D. Erman, Richard D. Fennell, Victor R. Lesser, and D. Raj Reddy, *System Organizations for Speech Understanding: Implications of Network and Multiprocessor Computer Architectures for AI*, IEEE Transactions on Computers, Vol. C-25, No. 4, April 1976 ("Erman")
1026	U.S. Patent No. 6,393,481 to Deo et al. ("Deo")
1027	U.S. Patent No. 6,615,338 to Tremblay et al. ("Tremblay")
1028	U.S. Patent No. 5,922,076 to Garde ("Garde")
1029	Lawrence R. Rabiner, *A Tutorial on Hidden Markov Models and Selected Applications in Speech Recognition*, Proceedings of the IEEE, Vol. 77, No. 2, February 1989 ("*Rabiner 89*")
1030	*[RESERVED]*
1031	*[RESERVED]*
1032	Zentian, Ltd. v Apple Inc. WDTX Waco (6:22-cv-122) Scheduling Order "*Scheduling Order*"
1033	Declaration of June Ann Munford ("*Munford*")
1034	*[RESERVED]*
1035	*[RESERVED]*

Exhibit	Description
1036	*[RESERVED]*
1037	*[RESERVED]*
1038	*[RESERVED]*
1039	*[RESERVED]*
1040	*[RESERVED]*
1041	*[RESERVED]*
1042	*[RESERVED]*
1043	Declaration of Les Atlas, Ph.D.
1044	*Zentian Ltd. v. Amazon.com Services LLC, et al.*, No. 6:22-cv-123 (W.D. Tex.) Mar. 22, 2023 Amended Scheduling Order

I. *FINTIV* FACTORS 1-5 FAVOR INSTITUTION UNDER THE DISTRICT COURT'S NEW CASE SCHEDULE

Patent Owner argues that the Board should deny institution and joinder under *Fintiv* because the district court case is not stayed, there is overlapping prior art asserted, and expert reports (not trial) are due before a final written decision is expected. (POPR at 1-2.) But the *Fintiv* factors weigh in favor of institution.

Fintiv factor 2 weighs against discretionary denial because trial in the parallel district court proceeding is now set for September 23, 2024, more than three months *after* the expected date of the final written decision. (*See* Ex. 2002.)

Fintiv Factor 3, investment in the parallel proceeding *as of the institution decision*, also favors institution. *Apple Inc. v. Fintiv Inc.*, IPR2020-00019, Paper 11 at 9-10 (March 20, 2020). Under the new schedule, deadlines for final invalidity contentions (February 22, 2024), prior art narrowing (March 14, 2024), close of fact discovery (April 4, 2024), expert reports (May 2, 2024), and dispositive motions (June 27, 2024) all occur well after the January 2024 institution decision. (Ex. 2002.) Thus, there will have been minimal investment in the validity of the patents at time of institution.

Factor 4, regarding overlap of the issues, also favors institution. The final written decision is scheduled to issue *months before* trial. Therefore, there is little risk of overlap or conflicting decisions because Petitioners will be subject to

estoppel well before trial. 35 U.S.C. § 315(e)(2); *Network-1 Techs., Inc. v. Hewlett-Packard Co.*, 981 F.3d 1015, 1027 (Fed. Cir. 2020).

Factors 1 (neutral because no stay requested) and 5 (slightly against institution because same parties) do not tip the scales against institution. *See, e.g.*, *Lifecore Fitness, Inc. v. Woodway USA, Inc.*, IPR2023-0084, Paper 6 at 17 (Oct. 25, 2023) ("we determine that factor 1 is neutral, factors 2–4 weigh against denial of institution, and factor 5, which is the lone factor favoring denial of institution, does not outweigh factors 1–4"); *STMicroelectronics, Inc. v. Ocean Semiconductor LLC*, IPR 2021-01349, Paper 13 at 13 (Mar. 4, 2022). Thus, the *Fintiv* factors 1-5 on balance weigh against discretionary denial.

II. *FINTIV* FACTOR 6: REQUIRING A *SOTERA* STIPULATION IS "INAPPROPRIATE" AND PREJUDICIAL TO PETITIONERS

Patent Owner's other argument—that institution must be denied unless Petitioners as joining parties agree to enter the same *Sotera* stipulation as Petitioner Apple entered—also fails. (POPR at 3.) Patent Owner's baseless argument runs contrary to the Board's previous holdings: "a *Sotera*-style stipulation [is not] a prerequisite for institution" and denying institution "merely because Petitioner has not entered a *Sotera*-style stipulation would be inappropriate." *Zhuhai Cosmx Battery Co., Ltd. v. Maxell, Ltd.*, IPR2022-00984, Paper 8 at 4 (Sept. 29, 2022).

Apple chose to enter its *Sotera* stipulation under distinguishable circumstances. When Apple did so, the operative trial date in its case was two

months *before* the expected written decision date. (*See* Exhibit 1032.) Here, Petitioners' trial date is three months *after* the Board is expected to render its final written decisions. (*See* Exhibit 2002.) That Apple's petition was not evaluated under the "compelling merits" standard is irrelevant (*See* POPR at 2-3), where, as here, the *Fintiv* factors on balance do not favor discretionary denial. *Commscope Techs. LLC v. Dali Wireless, Inc.*, IPR2022-01242, Paper 23 at 4 (Feb. 27, 2023) (precedential) (only when *Fintiv* factors favor discretionary denial should the Board reach the compelling merits question). Moreover, Apple, as the original petitioner, is subject to a different level of statutory estoppel than Amazon would be. *Network-1 Techs.*, 981 F.3d at 1027. Forcing Amazon to enter "the same *Sotera* stipulation as Apple" that would bar Amazon from "pursu[ing] in the parallel district court proceeding the same grounds as in the Petition *or any grounds that could have reasonably been raised in the pending Petition*" (IPR2023-00037, Paper 9 at 1 (emphasis added)) would be unfair and prejudicial to Petitioners, not Patent Owner.

Patent Owner provides no other reason it would be unfair or prejudicial to institute trial. Indeed, is not unfair or prejudicial to institute trial based on a meritorious petition, particularly where the Board already instituted IPR based on Apple's identical petition. The Board should therefore reject Patent Owner's request to deny institution under *Fintiv* Factor 6 absent a *Sotera* stipulation.

Dated: November 8, 2023

Respectfully submitted,

FENWICK & WEST LLP

/J. David Hadden/

J. David Hadden
Reg. No. 40,629
Attorneys for Petitioners
Amazon Web Services, Inc. and
Amazon.com Services LLC

CERTIFICATION OF SERVICE ON PATENT OWNER

The undersigned hereby certifies that the foregoing **Petitioners' Reply to Patent Owner's Preliminary Response and Contingent Joinder Opposition** was served on Patent Owner's lead and back-up counsel in its entirety by electronic service at the email addresses provided below:

Peter C. Knops
Noroozi PC
11601 Wilshire Boulevard, Suite 2170
Los Angeles, CA 90025
peter@noroozipc.com

Kayvan B. Noroozi
Noroozi PC
11601 Wilshire Boulevard, Suite 2170
Los Angeles, CA 90025
kayvan@noroozipc.com

Katherine E. Rhoades
Bartlit Beck LLP
54 West Hubbard Street, Suite 300
Chicago, IL 60654
katherine.rhoades@barlitbeck.com

Nevin M. Gewertz
Bartlit Beck LLP
54 West Hubbard Street, Suite 300
Chicago, IL 60654
nevin.gewertz@barlitbeck.com

FENWICK & WEST LLP

/J. David Hadden/
J. David Hadden
Reg. No. 40,629

Attorneys for Petitioners
Amazon Web Services, Inc. and
Amazon.com Services LLC

Dated: November 8, 2023