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To: [Director PTABDecision Review](#)
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Subject: IPR2024-00101 - Request for Director Review
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Attachments: [Request for Director Review.pdf](#)

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Dear Director Vidal,

Petitioner Luminex International Company, Ltd. respectfully notifies the parties and the USPTO of its filing of the attached Request for Director Review (the "Request") of the decision by the Board denying institution (Paper 10) in IPR2024-00101.

The Request seeks Director review of an important issue of law and policy: Does a demand under an arms-length agreement for indemnification or defense of an infringement claim of a district-court patent-infringement case *necessarily* transform the indemnitee into an RPI if the indemnitor subsequently files an IPR petition?

The Board has held repeatedly that an indemnification agreement, without something more, is insufficient to establish a RPI relationship. In denying IPR, the panel found that a third party's demands for indemnification or defense are "something more" and *necessarily* establish that Luminex's petition was filed at the third party's behest. Luminex submits that the panel applied an impermissible bright-line test for "behest" that caused the panel to misapprehend and overlook critical facts establishing that the petition was not filed at the third party's behest.

Luminex believes that the issue presented here is one of first impression. Express guidance from the Director would be beneficial to stakeholders because the indemnification agreement at issue here is typical of those used across multiple industries. Further, the issue presented is discrete and can be addressed with minimal burden on the Director, especially since the Board's Trial Practice Guide has already rejected bright-line RPI tests as inappropriate, as has the Federal Circuit.

Respectfully submitted,

/s/ Joshua R. Nightingale /
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