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**To:** [Director PTABDecision Review](#)  
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**Subject:** Request for Director Review of Institution Decision in IPR2024-00134  
**Date:** Monday, June 17, 2024 8:06:38 PM  
**Attachments:** [IPR2024-00134 Document\(s\) Filed - Delta Electronics Inc. v. Vicor Corporation.msg](#)  
[2024-06-17 - Petition for Director Review \(IPR2023-00134\).pdf](#)  
[IPR2024-00134 Service of Petitioner's Request for Director Review.msg](#)

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Director Vidal,

Petitioner Delta Electronics, Inc. hereby notifies Patent Owner and the USPTO of the filing of the attached Request For Director Review ("Request") of the Institution Decision in IPR2024-00134 ("Decision"). The Request is being filed pursuant to the Revised Interim Director Review Process (<https://www.uspto.gov/patents/ptab/decisions/revised-interim-director-review-process>).

The Request seeks review of two issues (ranked below):

1. The first issue is the Board's application of different standards in evaluating the expert testimony submitted by Petitioner and Patent Owner. The Board discounted testimony of Petitioner's expert (Dr. Douglas Hopkins) for allegedly not citing to the patent or invalidating art (though, as described below, Dr. Hopkins did cite to both), but relied upon and adopted the opinion of Patent Owner's expert, Dr. Juan Rivas-Davila, despite Dr. Rivas-Davila's opinion actually being unsupported by citations to the patent or invalidating art, contradicting itself and the evidence of record, and being based on an unproven assumption about the invalidating art. The Board thus gave little to no weight to Petitioner's expert testimony for not having sufficient support, but credited and adopted Patent Owner's expert's unsupported and contradictory opinions. Petitioner believes the Board's inequitable consideration of the testimonial evidence was an abuse of discretion.
2. The second issue is the Board's determination to give little to no weight to Petitioner's expert's testimony for allegedly not being supported by citations to the challenged patent or invalidating art. A cursory review of the relevant portion of Dr. Hopkins' declaration shows this is not true: he cites to the invaliding references throughout his analysis, as well as the challenged patent, including equations disclosed by the invalidating references themselves. Petitioner believes the Board's dismissal of Petitioner's expert's evidence, which is demonstrably incorrect, was an abuse of discretion.

Issue 1 implicates important policy issues: expert opinions that are not supported by disclosures from the prior art submitted with a patent owner's preliminary response should not be sufficient to create a genuine issue of material fact, and the Board should not, when resolving genuine issues of material fact, be permitted to rely upon such testimony. Neither should the Board be permitted to

apply different evaluation standards to the testimonial evidence submitted by petitioners and patent owners.

Respectfully submitted,  
Jiaxiao Zhang

Reg. No. 63,235

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(she/her/hers)

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