

From: [Kaiser, Jessica \(Perkins Coie\)](#)
To: [Director_PTABDecision_Review](#)
Cc: [haotan@archlakelaw.com](#); [Rose, Kate \(Perkins Coie\)](#); [SES-imagotag-IPRs@perkinscoie.com](#); [shenwang@archlakelaw.com](#); [pete_curtin@archlakelaw.com](#); [marioavaldi@archlakelaw.com](#)
Subject: FW: IPR2024-00208, Hanshow v. SES-Imagotag: Director Review Request
Date: Monday, June 3, 2024 12:30:56 PM
Attachments: [2024-06-03 Request for Director Review IPR2024-00208.pdf](#)

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Director Vidal,

Re-sending below and attached to correct error in case number in the subject line.

Sincerely,

Jessica Kaiser
Lead Counsel for Patent Owner

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From: Kaiser, Jessica (DEN) <JKaiser@perkinscoie.com>
Sent: Monday, June 3, 2024 10:27 AM
To: Director_PTABDecision_Review@uspto.gov
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Subject: IPR2024-00188, Hanshow v. SES-Imagotag: Director Review Request

Director Vidal,

Patent Owner SES-Imagotag GmbH (now known as VusionGroup GmbH), requests Director Review (attached) of the decision granting institution in IPR2024-00208 (Paper 14) (May 20, 2024), for the following issue:

All grounds in the Petition rely on a reference that the Board found was already considered by the PTO, so denial of institution under 35 U.S.C. §325(d) was warranted. The Board applied an erroneous conclusion of law at step two of the *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH* framework when it crafted a reading of the reference, found nowhere in the Petitioner's papers, to satisfy Petitioner's burden to "demonstrate[] that the Office erred in a manner material to the patentability of challenged claims." IPR2019-01469, Paper 6, 8 (Feb. 13, 2020) (precedential). The Board's error derived from a misreading of the Director review decision in *Keysight*

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Ex. 3100

Technologies, Inc. v. Centripetal Networks, Inc., IPR2022-01421 as authorizing the Board to find examiner error based on its own analysis, not that of the Petitioner. The institution decision cannot be squared with the Board's statutory obligation under §314(a) to make institution decisions based on arguments and evidence contained in the Petition. Further, once the Board's reading is set aside, the Board's decision to institute IPR over this already-considered reference constitutes an abuse of discretion, as Petitioner provided no sufficient §325(d) argument in its Petition and other papers.

Sincerely,

Jessica Kaiser
Lead Counsel for Patent Owner

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