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Subject: Requests for Director Review – IPR2024-0012, IPR2024-00215
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Attachments: [IPR2024-00215 \("854\) Request for Director Review Final.pdf](#)
[IPR2024-00212 \("116\) Request for Director Review Final.pdf](#)

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Subject: Requests for Director Review – IPR2024-0012, IPR2024-00215

Dear Director,

On behalf of Patent Owner Security First Innovations, LLC, we respectfully submit the attached Requests for Director Review of the Final Written Decision in IPR2024-00212 and IPR2024-00215. We urge the Director to grant review and reverse the Board’s determination of unpatentability in both of these IPRs. Director review is warranted for two independent reasons.

First, in each the Board erred in finding Hayhurst to be analogous art. The totality of Hayhurst’s disclosure—its title, abstract, stated field of invention, summary, figures, and claims—confirms its field is decentralized media delivery, not securing data. Yet the Board focused on a single out-of-context clause rather than the totality of its disclosure. The Board further erred by failing to compare the actual problems addressed by Hayhurst and the patents at issue, as Federal Circuit precedent requires. This misapplication of the analogous art test allowed a reference far outside the relevant field to serve as the basis for unpatentability.

Second, and even more troublingly, in each FWD the Board sustained unpatentability based on a reply-stage theory and a massive evidentiary shift that diverged from the Petition. For example, the Petition proposed combining Foster’s encryption with Hayhurst’s distributed storage system such that all of Foster’s content units are distributed per Hayhurst’s method. But after Patent Owner demonstrated that this combination would defeat Foster’s core purpose of minimizing delay and latency, Petitioner abandoned that theory and advanced a materially different one: applying Hayhurst’s distributed storage method only in a so-called “storage context” of Foster. This revised theory relied on over 40 new exhibits in each case, a 100+-page reply declarations, and arguments never presented in the Petition. The Board adopted this new rationale without assessing the viability of the Petition’s original theory and without giving Patent Owner a meaningful opportunity to respond in kind. This result is inconsistent with the AIA’s framework, which requires that petitioners present their complete case up front—not through reply-stage reconstruction.

In IPR2024-2012, the Board also found claims unpatentable in light of the Tajima/Foster combination. Here too, the Board relied on new material submitted for the first time on reply. The Board also erred in its consideration of the merits of the combination by improperly ignoring the incompatibility of Tajima and Foster, highlighting the lack of a motivation to combine.

Respectfully submitted,

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IPR2024-00212

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