

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.

Petitioner,

v.

ADVANCED CODING TECHNOLOGIES, LLC

Patent Owner.

Patent No. 8,139,150

Filing Date: October 10, 2007

Issue Date: March 20, 2012

Inventors: Hiroya Nakamura and Motoharu Ueda

Title: METHOD AND APPARATUS FOR
ENCODING AND DECODING MULTI-VIEW VIDEO SIGNAL,
AND RELATED COMPUTER PROGRAMS

PATENT OWNER'S PRELIMINARY RESPONSE

Case No. IPR2024-00245

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Exhibit No.	Description of Document
2001	Third Amended Docket Control Order, Dkt. 89, <i>Advanced Coding Techs. LLC v. LG Elecs. Inc.</i> , Case No. 2:22-cv-00501-JRG (E.D. Tex. March 11, 2024)
2002	Defendants' Joint Patent L.R. 3-3 Invalidity Contentions and Subject Matter Ineligibility Contentions, <i>Advanced Coding Techs. LLC v. LG Elecs. Inc.</i> , Case No. 2:22-cv-00501-JRG (E.D. Tex.), served Feb. 21, 2024

I. INTRODUCTION

On December 8, 2023, Samsung Electronics Co., Ltd. (“Petitioner” or “Samsung”) submitted a Petition (Paper 2, “Petition” or “Pet.”) to institute *inter partes* review (“IPR”) of U.S. Patent No. 8,139,150 (Ex. 1001, the “’150 Patent”), challenging claims 1-4 (the “Challenged Claims”). The Petition asserts that (i) Claims 2-3 are rendered obvious over U.S. Patent No. 5,886,736 (“Ex. 1005” or “Chen-736”); (ii) Claims 2-3 are rendered obvious over Chen-736 and U.S. Patent App. Pub. No. 2003/0138051 (“Ex. 1011” or “Chen-051”); (iii) Claims 2-3 are rendered obvious over Chen-736 and Belle L. Tseng & Dimitris Anastassiou, *Multiviewpoint Video Coding with MPEG-2 Compatibility*, IEEE Transactions on Circuits & Systems for Video Technology, Vol. 6, No. 4 (August 1996) (“Ex. 1013” or “Tseng”); (iv) Claims 2-3 are rendered obvious over Chen-736, Tseng, and Chen-051; (v) Claim 1 is rendered obvious over Chen-736 and *Information Technology – Generic Coding of Moving Pictures and Associated Audio Information: Video. ITU-T Recommendation H.262*, February 2000 (“Ex. 1006” or “H.262”); (vi) Claims 1 and 4 are rendered obvious over Chen-736, H.262 Specification, and Chen-051; (vii) Claim 1 is rendered obvious over Chen-736, Tseng, and H.262 Specification; and (viii) Claims 1 and 4 are rendered obvious over Chen-736, Tseng, H.262 Specification, and Chen-051. Pet. at 1-2. The Board should deny the Petition for at least the reasons described briefly below.

Petitioner fails to show that any combination of Chen-736, Chen-051, Tseng, and H.262 discloses at least “wherein the coded multi-view video signal contains coded information representing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint,” “decoding the coded information in the coded multi-view video signal to recover the desired delay times for the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint,” and “delaying the decoding of the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint relative to the decoding of the coded signal originating from the picture signal corresponding to the base viewpoint by time intervals equal to the recovered desired delay times,” as required by Claims 1-3. In particular, Petitioner fails to show that Chen-736 and Chen-051 either disclose or render obvious “coded information representing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint” because (i) Chen-736’s decode time stamp (DTS) is a designated time, which is “not coded information representing a desired delay time” or “relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint,” as required by the claim; (ii) Chen-051

describes a decoding time differential specifically between a picture and an adjacent picture in coded data order, without any mention of multiple viewpoints or desired decoding delays between a base and non-base viewpoint picture signal; (iii) Petitioner's cited portions of Chen-736 and Chen-051 show a decode time stamp (DTS) corresponding to *all* picture signals, including both base viewpoints and non-base viewpoints in contravention of the claim language; and (iv) Petitioner's citations to Chen-736 and Chen-051 do not disclose one coded signal that contains all of the information representing desired delay times from each of the non-base viewpoint picture signals.

Similarly, Petitioner fails to show that any combination of Chen-736, H.262, and Chen-051 discloses at least "wherein the coded multi-view video signal contains coded information about view dependencies representing which of the picture signals are referred to as reference signals for the encoding of each of the picture signals," "decoding the coded information in the coded multi-view video signal to recover the view dependencies," "computing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint in response to the recovered view dependencies," and "delaying the decoding of the coded signals originating from the picture signals corresponding to the viewpoints

except the base viewpoint relative to the decoding of the coded signal originating from the picture signal corresponding to the base viewpoint by time intervals equal to the computed desired delay times,” as required by Claim 4. In particular, (i) the Petition is silent regarding whether one coded signal contains all of the information about view dependencies from each of the viewpoint picture signals is disclosed or rendered obvious by Chen-736, H.262, and/or Chen-051; (ii) the Petition’s unsupported expert testimony fails to describe how either Chen-736, H.262, or Chen-051 “comput[e] a desired delay time . . . in response to the recovered view dependencies,” as required by the claim; (iii) Petitioner’s cited portions of Chen-051 do not distinguish between providing decoding timestamps for pictures corresponding to a base viewpoint versus a non-base viewpoint; and (iv) the Petition fails to describe how Chen-051 discloses the recited “**computing** a desired delay time” since the cited portions of Chen-051 merely disclose decoding time stamps from an adaptation header without computation.

The Board should exercise its discretion to deny the Petition under 35 U.S.C. § 314(a) for at least the following reasons: (i) a parallel District Court Litigation (defined below) exists between the same parties or real-parties-in-interest; (ii) the District Court Litigation involves the same subject patent (the ’150 Patent) with substantially the same claims; (iii) the District Court’s trial will be **over eight months before** the projected statutory deadline; (iv) the parties have heavily invested in the

District Court Litigation and a trial date is set for October 7, 2024; and (v) there is no stay of the parallel District Court Litigation.

II. THE '150 PATENT

The '150 Patent is “relate[d] to a method, an apparatus, and a computer program for encoding signals representative of multi-view video taken from multiple viewpoints. In addition, this invention relates to a method, an apparatus, and a computer program for decoding coded data representative of multi-view video taken from multiple viewpoints.” '150 Patent, 1:9-14.

The '150 Patent describes one of the problems that it solves as the inability to utilize disparity-compensated prediction since “it is difficult to know, at the time of decoding a coded picture of a viewpoint, whether or not the decoding of a coded picture of another viewpoint to obtain a related reference picture has been completed”:

A conceivable system includes a plurality of processors for decoding a coded bitstream representative of multi-view pictures into decoded video signals on a parallel processing basis, and a three-dimensional display for indicating the decoded video signals. The decoded video signals correspond to different viewpoints, respectively. Generally, disparity compensated prediction (parallax-compensated prediction) implemented for the decoding of a coded picture of a viewpoint refers to a reference picture which is a decoded picture of another viewpoint. In the parallel-processing-based decoding in the conceivable system, it is difficult to know, at the time of decoding a coded picture of a viewpoint, whether or not the decoding

of a coded picture of another viewpoint to obtain a related reference picture has been completed. Therefore, the conceivable system can not utilize disparity-compensated prediction.

Id., 4:3-19.

As noted in the '150 Patent, a primary goal in this field of the art is “to reduce the total amount of coded picture information.” *Id.*, 2:56-57.

III. THE ALLEGED PRIOR ART

A. Chen-736

Chen-736 “relates to an apparatus and method for synchronizing the decoding and display (e.g., presentation) of a stereoscopic video sequence. In particular, a system for determining a presentation time stamp and decoding time stamp of an enhancement layer is presented, in addition to a corresponding optimal bitstream transmission ordering which minimizes the required decoder input buffer size.” Ex. 1005, 1:5-12.

Chen-736 is directed to synchronizing the decoding and presentation of a stereoscopic video sequence:

Accordingly, it would be advantageous to provide a system for synchronizing the decoding and presentation of a stereoscopic video sequence. The system should also be compatible with decoders that decode pictures either sequentially (e.g. one picture at a time) or in parallel (e.g., two pictures at time). Moreover, the system should provide an optimal picture transmission order that minimizes the required decoder input buffer size.

Id. at 3:55-62.

To achieve this synchronization, Chen-736 uses “a decode time stamp (DTS) . . . for each picture” that “indicates the time when the picture needs to be decoded by the STD [system target decoder].” *Id.*, 4:5-6, 7:47-49. Chen-736 distinguishes between a decoding time stamp (DTS) and presentation time stamp (PTS). *Id.*, 4:5-7 (“a decode time stamp (DTS) and presentation time stamp (PTS) for each picture can be determined”). Chen-736’s DTS of an enhancement layer (DTS_{Ei}) can be related to the DTS of a lower layer (DTS_{Li}), but this relation has to be “determined from DTS_{Li} ”:

Furthermore, for the i th picture in either the lower or enhancement sequences, the DTS and PTS can be determined from DTS_{Li} as follows:

$$\begin{aligned} PTS_{Li} &= DTS_{Li} + 1.5F; \\ DTS_{Ei} &= DTS_{Li} + 1.5F; \text{ and} \\ PTS_{Ei} &= PTS_{Li}. \end{aligned}$$

Id., 10:4-11. In the equations noted above, F is “the time interval $[]$ between the presentation of successive pictures.” *Id.*, 8:9-10.

Chen-736’s decoding time stamps correspond respectively to all picture signals, including both its lower and enhancement layer sequences. *Id.*, 4:5-9, 21:1-4 (“Furthermore, a decode time stamp (DTS) and presentation time stamp (PTS) for each picture can be determined to provide synchronization between the lower layer and enhancement layer pictures at the decoder.”); *id.* at 10:4-11, 10:45-46, 11:45-

46, 12:23-25, 12:60-61 (“[F]or the *i*th picture in either the lower or enhancement sequences, the DTS [] can be determined”). Similarly, Chen-736 describes encoding information relating to “the time interval, *F*, between the presentation of successive pictures” for both its lower and enhancement sequences. *Id.*, 4:5-9, 8:9-10, 10:4-11, 10:45-46, 11:45-46, 12:23-25, 12:60-61, 21:1-4.

B. Tseng

Tseng describes a “proposed approach” for “[a]n efficient video coding scheme [that] is presented as an extension of the MPEG-2 standard to accommodate the transmission of multiple viewpoint sequences on bandwidth-limited channels” and “incorporates a variety of existing computer graphics tools and techniques” to achieve “the goal of compression and speed.” Ex. 1013, 1.

C. Chen-051

Chen-051 relates to “an efficient and flexible method to represent and to encode decoding times or presentation times using either fixed intervals or variable intervals between pictures,” “a system or a method that uses differential values to represent picture display times or presentation times and to represent picture decoding times or buffer removal times,” and “a system or a method that uses differential values to represent picture presentation times or picture decoding times.” Ex. 1011, [0018]-[0021].

Chen-051 describes that any decoding time differential is specifically between a picture and an adjacent picture in coded data order:

[A] decoding time of a picture may be represented by the difference between the decoding times of the picture and the decoding times of an adjacent picture in coded data order.

Id., [0012].

In another embodiment, the present invention may provide that decoding times of pictures may be represented by differences between the decoding times of two adjacent pictures in coded data order.

Id., [0023].

Chen-051 also describes that an adaptation header may include “a decoding time” without any computation and that “[t]he adaptation header need not be present in every packet”:

The adaptation header may include information, for example, relating to one or more of the following: a presentation time, a decoding time, a differential presentation time, a differential decoding time, other types of time stamps or other types of differential time stamps. The adaptation header need not be present in every packet 24.

Id., [0025].

Chen-051 describes that any picture without a decoding time could be decoded based upon “a decoding time [] of a previous picture,” regardless of any type of referential picture:

In one embodiment, if a decoder encounters a picture without a non-differential decoding or a non-differential presentation time coded in the stream, then the decoder may determine the respective decoding time or the respective presentation time for the picture based upon, for example, a decoding time or a presentation time of a previous picture (e.g., a previous frame picture or a previous field picture).

Id., [0028].

D. H.262

H.262 “specifies coded representation of video data and the decoding process required to reconstruct pictures. It provides a generic video coding scheme which serves a wide range of applications, bit rates, picture resolutions and qualities. Its basic coding algorithm is a hybrid of motion compensated prediction and DCT.” Ex. 1006, 4. For example, H.262 describes a “video decoding process” which “specifies the decoding process that a decoder shall perform to reconstruct frames from the coded bitstream.” *Id.*, 74.

IV. CLAIM CONSTRUCTION

For the purposes of this Preliminary Response, Patent Owner does not dispute Petitioner’s proposed constructions for several terms, including terms that it contends are subject to 35 U.S.C. § 112(6), because, even under Petitioner’s proposed constructions, the Petition is deficient and should not be instituted. Pet. at 5-26. Patent Owner reserves the right to respond to the constructions offered by Petitioner and propose its own constructions. However, at this stage, Patent Owner

does not opine about the constructions of Petitioner's proposed terms or whether any terms are subject to 35 U.S.C. § 112(6).

V. LEVEL OF ORDINARY SKILL IN THE ART

For the purposes of this Preliminary Response only, Patent Owner utilizes Petitioner's proposed level of skill in the art: "at least a bachelor's degree in computer science, electrical engineering, computer engineering, or a related field, with 2-3 years of experience in digital video processing, or a related field. Additional graduate education could substitute for professional experience, and *vice versa*." Pet. at 3 (citations omitted).

VI. PETITIONER HAS NOT DEMONSTRATED A REASONABLE LIKELIHOOD OF SUCCESS FOR THE GROUNDS ADVANCED IN THE PETITION, AND THE PETITION SHOULD BE DENIED

The question of obviousness is resolved on the basis of underlying factual determinations, including: (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) so-called secondary considerations where in evidence. *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17-18 (1966); *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1537 (Fed. Cir. 1983).

The Board has held that a failure to identify the differences between the claimed subject matter and the prior art is fatal to an obviousness challenge. *See, Apple, Inc. v. Contentguard Holdings, Inc.*, IPR2015-00355, Decision Denying Institution of *Inter Partes* Review, Paper 9 at 9-10 (P.T.A.B. June 26, 2015) (denying institution for failure to identify the differences between the claimed subject matter and the prior art).

In arriving at an obviousness determination, the Board must sufficiently explain and support the conclusions that the prior art references disclose all the elements recited in the Challenged Claims and a relevant, skilled artisan not only could have made, but would have been motivated to combine all the prior art references in the way the patent claims and reasonably expected success. *Pers. Web Techs., LLC v. Apple, Inc.*, 848 F.3d 987, 994 (Fed. Cir. 2017). That is, even if all the claim elements are found across a number of references, an obviousness determination must consider whether a person of ordinary skill in the art would have the motivation to combine those references. *Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1368 (Fed. Cir. 2016); *Los Angeles Biomedical Rsch. Inst. at Harbor-UCLA Med. Ctr. v. Eli Lilly & Co.*, 849 F.3d 1049, 1067 (Fed. Cir. 2017) (vacating and remanding an obviousness determination, in part, because the Board did not make factual finding as to whether there was an apparent reason to combine all three prior art references to achieve the claimed invention and whether

a person of skill in the art would have had a reasonable expectation of success from such a combination). This combinability determination, as supported by an articulated motivation to combine, requires a plausible rationale as to why those prior art references would have worked together. *Broadcom Corp. v. Emulex Corp.*, 732 F.3d 1325, 1335 (Fed. Cir. 2013). Absent some articulated rationale, a “common sense” finding is no different than the conclusory statement “would have been obvious.” *In re Van Os*, 844 F.3d 1359, 1361 (Fed. Cir. 2017). Of additional importance, “knowledge of a problem and motivation to solve it are entirely different from motivation to combine particular references. . . .” *Innogenetics, N.V. v. Abbott Lab’ys.*, 512 F.3d 1363, 1373 (Fed. Cir. 2008).

A. Ground 1A: Claims 2-3 Are Not Obvious Over Chen-736

- 1. The Petition Does Not Show that Chen-736 Discloses “*wherein the coded multi-view video signal contains coded information representing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint,*” as Required by Claim Element [2.pre.iv]**

Claim 2 of the ’150 Patent recites “wherein the coded multi-view video signal contains coded information representing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint relative to the start of decoding a coded signal

originating from the picture signal corresponding to the base viewpoint.”

The Petition is deficient because Petitioner fails to show that Chen-736’s “DTS parameters” disclose or render obvious the claimed “coded information representing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint.”

First, Chen-736’s DTS corresponds to “a decode time stamp (DTS) . . . for each picture” that “indicates the time when the picture needs to be decoded by the STD [system target decoder].” Ex. 1005, 4:5-6, 7:47-49. This time stamp does not “represent[] a desired delay time” because a designated time is not “relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint,” as required by the claim. While Petitioner notes that the DTS of an enhancement layer (DTS_{Ei}) can be related to the DTS of a lower layer (DTS_{Li}), Petitioner’s cited portion of Chen-736 describes that this relation has to be “*determined* from DTS_{Li} ” and is, therefore, not “*coded information* representing a desired delay time”:

Furthermore, for the i th picture in either the lower or enhancement sequences, the DTS and PTS can be determined from DTS_{Li} as follows:

$$\begin{aligned} PTS_{Li} &= DTS_{Li} + 1.5F; \\ DTS_{Ei} &= DTS_{Li} + 1.5F; \text{ and} \\ PTS_{Ei} &= PTS_{Li}. \end{aligned}$$

Pet. at 36 (citing Ex. 1005, 10:4-11).

Petitioner alternatively argues that Chen-736’s “F-based offset” is the claimed “desired delay time.” *Id.* at 36-37. It is not. As Chen-736 explains, such an offset is merely a multiple of “the time interval, F, ***between the presentation*** of successive pictures.” Ex. 1005, 8:9-10 (emphasis added). The time interval between presentation is different than the concept of a desired delay between decoding, as admitted by Chen-736 itself through its distinction between a decoding time stamp and presentation time stamp. *Id.*, 4:5-7 (“a decode time stamp (DTS) and presentation time stamp (PTS) for each picture can be determined”).

Second, even if Chen-736’s enhancement layer’s DTS were incorrectly considered “coded information representing a desired delay time of the start of decoding a coded signal . . . relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint,” Petitioner’s cited portions of Chen-736 show a DTS corresponding to ***all*** picture signals, including both base viewpoints and non-base viewpoints in contravention of the claim language, which recites “a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints ***except the base viewpoint.***” See Ex. 1005, 4:5-9, 21:1-4 (“Furthermore, a decode time stamp (DTS) and presentation time stamp (PTS) ***for each picture*** can be

determined to provide synchronization between the lower layer and enhancement layer pictures at the decoder.”); *see also id.* at 10:4-11, 10:45-46, 11:45-46; 12:23-25, 12:60-61 (“[F]or the *i*th picture ***in either the lower or enhancement sequences***, the DTS [] can be determined”) (emphases added).

Third, the claim recites that ***one*** “coded multi-view video ***signal*** contains coded information representing a desired delay time . . . from each of the picture signals.” In other words, one coded signal contains all of the information representing desired delay times from each of the non-base viewpoint picture signals. The Petition is silent regarding where this aspect of the recited claim limitation is present in Chen-736.

As noted in the ’150 Patent, a primary goal in this field of the art is “to reduce the total amount of coded picture information,” which is precisely what this claim limitation accomplishes by encoding (and subsequently decoding) only information representing a desired delay time for non-base viewpoints. ’150 Patent, 2:56-57. As highlighted through the three aspects above, the Petition ignores the recited claim language and its accompanying benefit by citing to Chen-736, which does not reduce the total amount of coded picture information but redundantly encodes DTS time stamps for ***both*** the base viewpoint and any non-base viewpoint, as well as possibly information relating to “the time interval, *F*, between the presentation of successive pictures.” Ex. 1005, 4:5-9, 8:9-10, 10:4-11, 10:45-46, 11:45-46; 12:23-25, 12:60-61,

21:1-4.

Therefore, the Petition is deficient because it fails to show that this claim limitation is disclosed or rendered obvious by Chen-736.

2. The Petition Does Not Show that Chen-736 Discloses “*decoding the coded information in the coded multi-view video signal to recover the desired delay times for the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint,*” as Required by Claim Element 2.1

Claim 2 of the '150 Patent recites “decoding the coded information in the coded multi-view video signal to recover the desired delay times for the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint.”

As noted in Sections VI.A.1 above, the Petition does not show that Chen-736 discloses “wherein the coded multi-view video signal contains coded information representing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint.” As a result, the Petition does not show that Chen-736 discloses “decoding the coded information in the coded multi-view video signal to recover the desired delay times for the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint.”

Therefore, the Petition is deficient because it fails to show that this claim limitation is disclosed or rendered obvious by Chen-736.

**3. The Petition Does Not Show that Chen-736 Discloses
“*delaying the decoding of the coded signals originating
from the picture signals corresponding to the
viewpoints except the base viewpoint relative to the
decoding of the coded signal originating from the
picture signal corresponding to the base viewpoint by
time intervals equal to the recovered desired delay
times,*” as Required by Claim Element 2.4**

Claim 1 of the '150 Patent recites “delaying the decoding of the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint relative to the decoding of the coded signal originating from the picture signal corresponding to the base viewpoint by time intervals equal to the recovered desired delay times.”

As noted in Sections VI.A.1 and VI.A.2 above, the Petition does not show that Chen-736 discloses “wherein the coded multi-view video signal contains coded information representing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint,” or “decoding the coded information in the coded multi-view video signal to recover the desired delay times for the coded signals originating from the picture signals corresponding to the

viewpoints except the base viewpoint.” Therefore, the Petition does not show that Chen-736 discloses “delaying the decoding of the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint relative to the decoding of the coded signal originating from the picture signal corresponding to the base viewpoint by time intervals equal to the recovered desired delay times.”

Therefore, the Petition is deficient because it fails to show that this claim limitation is disclosed or rendered obvious by Chen-736.

4. The Petition Does Not Show that Chen-736 Renders Claim 3 Obvious

The Petition admits that it alleges “Chen-736 discloses and renders obvious each of elements [3.pre.i]-[3.4] *for substantially the same reasons* as those addressed above with respect to corresponding elements of claim 2.” Pet. at 47-49 (emphasis added). Therefore, for at least the same reasons as described for Claim 2, the Petition fails to show how Claim 3 is rendered obvious over Chen-736.

B. Ground 1B: Claims 2-3 Are Not Obvious Over Chen-736 and Chen-051

- 1. The Petition Does Not Show that Chen-736 in Combination with Chen-051 Discloses “*wherein the coded multi-view video signal contains coded information representing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint,*” as Required by Claim Element [2.pre.iv]**

Claim 2 of the '150 Patent recites “wherein the coded multi-view video signal contains coded information representing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint.”

Petitioner’s combination of Chen-051 with Chen-736 does not remedy the deficiencies of the Petition noted in Section VI.A.1. In particular, Petitioner relies on Chen-051 to disclose that “the decoding time of a picture can be expressed using a ‘decoding interval or time difference’ between the picture and a reference picture” and that “the encoded differential DTS constitute coded information that defines the desired delay time between the start of decoding an enhancement layer picture signal for the left view.” Pet. at 55. However, the cited portions of Chen-051 only describe that any decoding time differential is specifically between a picture and an adjacent

picture in coded data order:

[A] decoding time of a picture may be represented by the difference between the decoding times of the picture and the decoding times of an adjacent picture in coded data order.

Ex. 1011, [0012].

In another embodiment, the present invention may provide that decoding times of pictures may be represented by differences between the decoding times of two adjacent pictures in coded data order.

Id., [0023]. The Petition is completely silent on how Chen-051's differential decoding times represent the desired delay between a base viewpoint picture and non-base viewpoint picture(s), as required by Claim 2. Petitioner's cited portions of Chen-051 only describe providing the difference between the decoding times of pictures between pictures adjacent to each other in "coded data order." Chen-051 otherwise does not mention multiple viewpoints or desired decoding delays between a base and non-base viewpoint picture signal.

The Petition also does not address whether Chen-051 resolves the other deficiencies of the Petition described in Section VI.A.1, namely, that "Petitioner's cited portions [] show a DTS corresponding to *all* picture signals, including both base viewpoints and non-base viewpoints in contravention of the claim language" and Petitioner's citations do not disclose "one coded signal [that] contains all of the information representing desired delay times from each of the non-base viewpoint

picture signals.” *See supra* Section VI.A.1.

Therefore, the Petition is deficient because it fails to show that this claim is disclosed or rendered obvious by Chen-736 in combination with Chen-051.

2. The Petition Does Not Show that Chen-736 in Combination with Chen-051 Discloses “decoding the coded information in the coded multi-view video signal to recover the desired delay times for the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint,” as Required by Claim Element 2.1

Claim 2 of the ’150 Patent recites “decoding the coded information in the coded multi-view video signal to recover the desired delay times for the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint.”

As noted in Sections VI.B.1 above, the Petition does not show that Chen-736 in combination with Chen-051 discloses “wherein the coded multi-view video signal contains coded information representing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint,” and, therefore, does not show that Chen-736 discloses “decoding the coded information in the coded multi-view video signal to recover the desired delay times for the coded signals originating from the picture signals corresponding to the viewpoints except

the base viewpoint.”

Therefore, the Petition is deficient because it fails to show that this claim limitation is disclosed or rendered obvious by Chen-736 in combination with Chen-051.

3. The Petition Does Not Show that Chen-736 in Combination with Chen-051 Discloses “*delaying the decoding of the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint relative to the decoding of the coded signal originating from the picture signal corresponding to the base viewpoint by time intervals equal to the recovered desired delay times,*” as Required by Claim Element 2.4

Claim 1 of the ’150 Patent recites “delaying the decoding of the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint relative to the decoding of the coded signal originating from the picture signal corresponding to the base viewpoint by time intervals equal to the recovered desired delay times.”

As noted in Sections VI.B.1 and VI.B.2 above, the Petition does not show that Chen-736 in combination with Chen-051 discloses “wherein the coded multi-view video signal contains coded information representing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint relative to the start of decoding a coded signal originating from the picture signal corresponding to the base

viewpoint,” or “decoding the coded information in the coded multi-view video signal to recover the desired delay times for the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint.” Therefore, the Petition does not show that Chen-736 in combination with Chen-051 discloses “delaying the decoding of the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint relative to the decoding of the coded signal originating from the picture signal corresponding to the base viewpoint by time intervals equal to the recovered desired delay times.”

Therefore, the Petition is deficient because it fails to show that this claim limitation is disclosed or rendered obvious by Chen-736 in combination with Chen-051.

4. The Petition Does Not Show that Chen-736 in Combination with Chen-051 Renders Claim 3 Obvious

The Petition addresses each of Claims [3.pre.iv], [3.1], and [3.4] along with [2.pre.iv.], [2.1], and [2.4], respectively. Pet. at 54-57. Therefore, for at least the same reasons as described for Claim 2, the Petition fails to show how Claim 3 is rendered obvious over Chen-736 in combination with Chen-051.

C. Ground 1C: Claims 2-3 Are Not Obvious Over Chen-736 and Tseng

Petitioner only relies on Tseng “[t]o the extent that the “*“coded multi-view video signal”* requires multiple ‘*viewpoints except the base viewpoint*’ (i.e., multiple

non-base viewpoints).” Pet. at 62-63. The Petition otherwise admits that it relies on its arguments “described above in [] Ground 1A.” Pet. at 66. Therefore, for at least the same reasons as described for Ground 1A, the Petition fails to show how Claims 2-3 are rendered obvious over Chen-736 in combination with Tseng.

D. Ground 1D: Claims 2-3 Are Not Obvious Over Chen-736, Tseng, and Chen-051

The Petition admits that it alleges “[t]he Chen-736+Tseng+Chen-051 combination renders these claim elements obvious *for substantially the same reasons* as those addressed above in Grounds 1B and 1C.” Pet. at 66-67 (emphasis added). Therefore, for at least the same reasons as described for Grounds 1B and 1C, the Petition fails to show how Claims 2-3 are rendered obvious over Chen-736, Tseng, and Chen-051.

E. Ground 1E: Claim 1 Is Not Obvious Over Chen-736 and H.262

Petitioner only relies on H.262 for Claims 1.1 and 1.2 “[t]o the extent that Chen-736 lacks details regarding the processing functions performed by the decompression/prediction processor 640 for lower layer data, H.262 describes the “video decoding process” that “specifies the decoding process that a decoder shall perform to reconstruct frames from the coded bitstream” and “[t]o the extent Chen-736 lacks details regarding the processing functions performed by the decompression/prediction processor 640 for enhancement layer data, H.262

“specifies the decoding process that a decoder shall perform to reconstruct frames from the coded bitstream.” Pet. at 72, 76 (citing Ex. 1006, 74).

Petitioner otherwise admits that it relies on Chen-736 and its arguments described above in Ground 1A for Claims [1.pre.i] – [1.pre.iv], [1.1], and [1.4]. *See, e.g.*, Pet. at 69 (“To the extent the preamble is limiting, the Chen-736+H.262 combination renders it obvious for the reasons addressed above with respect to [2.pre.i.]-[2.pre.iv] in Ground 1A.”), 70 (“A POSITA understood or would have found it obvious to implement the ‘transport level syntax parser 610’ as discussed above in element [2.1] of Ground 1A”); 70-71 (“For example, the desired delay times are represented by and contained in the DTS values. *See supra*, Ground 1A at [2.pre.iv]. The processor in the combination identifies the desired delay times when reading and processing the DTS values to inform decoding start times for pictures in the enhancement layer. *Supra*, Ground 1A at [2.4].”), 78 (“In Chen-736, the ‘video DTS. . . indicates the time when the picture needs to be decoded by the STD’ (system target decoder) and ‘times indicated by the. . . DTS are evaluated with respect to the current PCR [(program clock reference)] or SCR [(system clock reference)] value.’ SAMSUNG-1005, 6:31-7:53; *supra*, Ground 1A at [2.4].”), 79 (“Through these operations, Chen-736’s enhancement layer decoder compares the DTS value for a coded enhancement layer picture (which represents the desired delay time (*see supra*, Ground 1A at [2.pre.iv]))”).

Therefore, for at least the same reasons as described for Ground 1A, the Petition fails to show how Claim 1 is rendered obvious over Chen-736 in combination with H.262.

F. Ground 1F: Claims 1 and 4 Are Not Obvious Over Chen-736, H.262, and Chen-051

1. The Petition Does Not Show that Chen-736 in Combination with H.262 and Chen-051 Renders Obvious Claim 1

The Petition admits that it alleges “[t]he Chen-736+H.262+Chen-051 combination render these claim elements obvious *for substantially the same reasons* as those addressed above in the analysis of corresponding elements of Ground 1E, and further using differential DTS values based on Chen-051 as described in Ground 1B.” Pet. at 80 (emphasis added). Therefore, for at least the same reasons as described for Grounds 1B and 1E, the Petition fails to show how Claim 1 is rendered obvious over Chen-736, H.262, and Chen-051.

2. The Petition Does Not Show that Chen-736 in Combination with H.262 and Chen-051 Discloses “*wherein the coded multi-view video signal contains coded information about view dependencies representing which of the picture signals are referred to as reference signals for the encoding of each of the picture signals,*” as Required by Claim Element [4.pre.iv]

Claim 4 of the ’150 Patent recites “wherein the coded multi-view video signal contains coded information about view dependencies representing which of the

picture signals are referred to as reference signals for the encoding of each of the picture signals.”

Claim 4 recites that *one* “coded multi-view video *signal* contains coded information about view dependencies . . . of each of the picture signals.” In other words, one coded signal contains all of the information about view dependencies from each of the viewpoint picture signals. The Petition is silent regarding where this aspect of the recited claim limitation is present in Chen-736, H.262, or Chen-051.

Therefore, the Petition is deficient because it fails to show that this claim limitation is disclosed or rendered obvious by the combination of Chen-736, H.262, and Chen-051.

3. The Petition Does Not Show that Chen-736 in Combination with H.262 and Chen-051 Discloses “*decoding the coded information in the coded multi-view video signal to recover the view dependencies*,” as Required by Claim Element 4.1

Claim 4 of the ’150 Patent recites “decoding the coded information in the coded multi-view video signal to recover the view dependencies.”

As noted in Section VI.F.2 above, the Petition does not show that Chen-736 in combination with H.262 and Chen-051 discloses “wherein the coded multi-view video signal contains coded information about view dependencies representing which of the picture signals are referred to as reference signals for the encoding of

each of the picture signals,” and, therefore, does not show that the combination of Chen-736, H.262, and Chen-051 discloses “decoding the coded information in the coded multi-view video signal to recover the view dependencies.”

Therefore, the Petition is deficient because it fails to show that this claim limitation is disclosed or rendered obvious by the combination of Chen-736, H.262, and Chen-051.

4. The Petition Does Not Show that Chen-736 in Combination with H.262 and Chen-051 Discloses “*computing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint in response to the recovered view dependencies,*” as Required by Claim Element [4.2]

Claim 4 of the ’150 Patent recites “computing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint in response to the recovered view dependencies.”

First, as noted in Sections VI.F.2 above, the Petition does not show that Chen-736 in combination with Chen-051 discloses “wherein the coded multi-view video signal contains coded information about view dependencies representing which of the picture signals are referred to as reference signals for the encoding of each of the

picture signals,” and, therefore, does not show that the combination of Chen-736, H.262, and Chen-051 discloses “computing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint in response to the recovered view dependencies.”

Second, in the entirety of Petitioner’s Ground 1F discussion, the Petition fails to describe how either Chen-736, H.262, or Chen-051 “comput[e] a desired delay time. . .in response to the recovered view dependencies.” *See generally* Pet. at 79-85. Petitioner merely resorts to an unsupported statement by its expert: “As described above, a POSITA would have found it obvious for the decoder to distinguish pictures in the base/lower layer stream from the enhancement layer stream based on the recovered ‘layer_id’ values, and thus the computation of desired delay times for the non-timestamped enhancement layer pictures would be performed in response to the recovered view dependency information.” Pet. at 85 (citing Ex. 1003, ¶ 263).

Third, Petitioner’s discussion for this claim limitation is largely limited to describing the disclosure of Chen-051, and specifically Chen-051’s alleged ability to “provide decoding timestamps in the bitstream for some pictures but not others.” Pet. at 82-84. However, this claim limitation recites “the start of decoding a coded

signal originating from *each of the picture signals corresponding to the viewpoints except the base viewpoint* relative to the start of decoding a coded signal originating from *the picture signal corresponding to the base viewpoint.*” Petitioner’s cited portions of Chen-051 do not distinguish between providing decoding timestamps for pictures corresponding to a base viewpoint versus a non-base viewpoint, but only that an adaptation header may include “a decoding time” and that “[t]he adaptation header need not be present in every packet”:

The adaptation header may include information, for example, relating to one or more of the following: a presentation time, a decoding time, a differential presentation time, a differential decoding time, other types of time stamps or other types of differential time stamps. The adaptation header need not be present in every packet
24.

Ex. 1011, [0025].

Petitioner’s cited portions of Chen-051 actually describe that any picture without a decoding time, including either a base viewpoint picture or non-base viewpoint picture (to the extent those concepts are imputed to Chen-051, which does not describe such a distinction), could be decoded based upon “a decoding time [] of a previous picture,” without any regard to whether the referential picture corresponds to a base viewpoint or not:

In one embodiment, if a decoder encounters a picture without a non-differential decoding or a non-differential presentation time coded in the stream, then the decoder

may determine the respective decoding time or the respective presentation time for the picture based upon, for example, a decoding time or a presentation time of a previous picture (e.g., a previous frame picture or a previous field picture).

Id., [0028].

Fourth, the Petition fails to describe how Chen-051 discloses the recited “***computing*** a desired delay time” since the cited portions of Chen-051 merely disclose decoding time stamps from an adaptation header without computation:

The adaptation header may include information, for example, relating to one or more of the following: a presentation time, a decoding time, a differential presentation time, a differential decoding time, other types of time stamps or other types of differential time stamps.

Id., [0025].

Therefore, the Petition is deficient because it fails to show that this claim is disclosed or rendered obvious by the combination of Chen-736, H.262, and Chen-051.

5. **The Petition Does Not Show that Chen-736 in Combination with H.262 and Chen-051 Discloses “*delaying the decoding of the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint relative to the decoding of the coded signal originating from the picture signal corresponding to the base viewpoint by time intervals equal to the computed desired delay times,*” as Required by Claim Element 4.4**

Claim 4 of the ’150 Patent recites “delaying the decoding of the coded signals

originating from the picture signals corresponding to the viewpoints except the base viewpoint relative to the decoding of the coded signal originating from the picture signal corresponding to the base viewpoint by time intervals equal to the computed desired delay times.”

As noted in Sections VI.F.2 and VI.F.4 above, the Petition does not show that Chen-736 in combination with H.262 and Chen-051 discloses “wherein the coded multi-view video signal contains coded information about view dependencies representing which of the picture signals are referred to as reference signals for the encoding of each of the picture signals,” or “computing a desired delay time of the start of decoding a coded signal originating from each of the picture signals corresponding to the viewpoints except the base viewpoint relative to the start of decoding a coded signal originating from the picture signal corresponding to the base viewpoint in response to the recovered view dependencies.” Therefore, the Petition does not show that Chen-736 in combination with H.262 and Chen-051 discloses “delaying the decoding of the coded signals originating from the picture signals corresponding to the viewpoints except the base viewpoint relative to the decoding of the coded signal originating from the picture signal corresponding to the base viewpoint by time intervals equal to the computed desired delay times.”

Therefore, the Petition is deficient because it fails to show that this claim limitation is disclosed or rendered obvious by the combination of Chen-736, H.262,

and Chen-051.

G. Ground 1G: Claim 1 Is Not Obvious Over Chen-736, Tseng, and H.262

The Petition admits that it alleges “Chen-736+Tseng+H.262 combination renders these claim elements obvious *for substantially the same reasons* as those addressed above in 1E, and further in the context of a system having multiple non-base viewpoints as described above in Ground 1C based on Tseng.” Pet. at 85-86 (emphasis added). Therefore, for at least the same reasons as described for Grounds 1C and 1E, the Petition fails to show how Claim 1 is rendered obvious over Chen-736.

H. Ground 1H: Claims 1 and 4 Are Not Obvious Over Chen-736, Tseng, H-262, and Chen-051

The Petition admits that “[t]he Chen-736+Tseng+H.262+Chen-051 combination renders these claim elements obvious for substantially the same reasons as those addressed above in Grounds 1B, 1C, 1E, and 1F.” Pet. at 86-87. Therefore, for at least the same reasons as Grounds 1B, 1C, 1E, and 1F, the Petition does not show how Claims 1 and 4 are rendered obvious over Chen-736, Tseng, H-262, and Chen-051.

**VII. THE PETITION SHOULD BE DENIED IN THE DISCRETION
OF THE DIRECTOR UNDER 35 U.S.C. § 314(a)**

Based on Petitioner’s reasons regarding § 314(a), the Board should exercise its discretion to deny this Petition.

The circumstances of the parallel District Court Litigation, *Advanced Coding Techs. LLC v. LG Elecs. Inc.*, Case No. 2:22-cv-00501-JRG (E.D. Tex.) (“District Court Litigation”) necessitate denial of the Petition under the Board’s precedent, as every factor considered in relation to efficiency, fairness, and the merits supports denial. *See Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11, at 6 (P.T.A.B. Mar. 20, 2020) (precedential) (considering (a) “whether the petitioner and the defendant in the parallel proceeding are the same party”; (b) “overlap between issues raised in the petition and in the parallel proceeding” (c) “proximity of the court’s trial date to the Board’s projected statutory deadline for a final written decision”; (d) “investment in the parallel proceeding by the court and the parties”; (e) “whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted”; and (f) “other circumstances that impact the Board’s exercise of discretion, including the merits.”).

As set forth below, these factors collectively demonstrate that efficiency and integrity of the AIA are best served by denying review. First, the Petitioner is the Defendant in the parallel proceeding. *See infra* Section VII.A. Second, the asserted

claims in the District Court Litigation are all at issue in the Petition. *See infra* Section II.B. Third, trial in the District Court Litigation is set for October 7, 2024, over eight months prior to the projected statutory deadline for a Final Written Decision of this Petition in June 19, 2025. *See infra* Section VII.C. Fourth, the parties (and Patent Owner in particular) have invested significant resources on developing legal and factual issues of validity and infringement in the District Court Litigation and will have invested substantially more resources before any decision on this Petition. *See infra* Section VII.D. Fifth, the Court has neither granted nor denied a stay pending this Petition. *See infra* Section VII.E. Finally, no other factors favor institution. *See infra* Section VII.F.

Accordingly, the Board should exercise its discretion under § 314(a) and deny the Petition because institution of this proceeding would not be consistent with the objective of the AIA to “provide an effective and efficient alternative to district court litigation.” *NHK Spring Co. v. Intri-Plex Techs., Inc.*, IPR2018-00752, Paper 8, at 20 (P.T.A.B. Sept. 12, 2018) (quoting *Gen. Plastic Indus. Co. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19, at 16–17 (P.T.A.B. Sept. 6, 2017) (precedential)).

**A. The Parallel District Court Litigation and the Petition
Involve the Same Parties**

As noted in Patent Owner’s Mandatory Notice, there exists a parallel District

Court Litigation between the same parties regarding the same subject patent (the '150 Patent). Pet. at 1. Petitioner is a party to the District Court Litigation captioned as *Advanced Coding Techs. LLC v. LG Elecs. Inc.*, Case No. 2:22-cv-00501-JRG (E.D. Tex.). Accordingly, this factor weighs in favor of discretionary denial.

B. The District Court Litigation Involves Substantially the Same Claims

All of the asserted claims of the '150 Patent in the District Court Litigation are at issue in this Petition. “In at least these ways, the parallel proceedings would duplicate effort. This is an inefficient use of Board, party, and judicial resources and raises the possibility of conflicting decisions.” *Cisco Sys., Inc. v. Ramot at Tel Aviv Univ. Ltd.*, IPR2020-00122, Paper 15 at 10 (P.T.A.B. May 15, 2020). Accordingly, this fact weighs in favor of discretionary denial.

C. Proximity of the District Court’s Trial Date

The proximity of the District Court Litigation’s trial date to the Board’s projected statutory deadline for a Final Written Decision strongly weighs in favor of discretionary denial.

The parties’ trial is scheduled for October 7, 2024. Exhibit 2001 (Third Amended Docket Control Order, Dkt. 89, *Advanced Coding Techs. LLC v. LG Elecs. Inc.*, Case No. 2:22-cv-00501-JRG (E.D. Tex. March 11, 2024)). Pursuant to 35 U.S.C. §§ 314(b)(1) and 316(a)(11), the projected statutory deadline for a Final

Written Decision of this Petition is May 28, 2025.¹ As the District Court’s trial will be *over seven months before* the projected statutory deadline, this factor weighs strongly in favor of denying institution. *See Supercell Oy v. Gree, Inc.*, IPR2020-00513, Paper 11 at 10-12 (P.T.A.B. June 24, 2020) (denying institution where the jury trial was scheduled to conclude approximately ten months before the statutory deadline); *Edward LifeSciences Corp. v. Evalve, Inc.*, IPR2019-01479, Paper 7, at 6-13 (P.T.A.B. Feb. 26, 2020) (denying institution where jury trial would conclude more than nine months before a final decision would be due); *Samsung Elecs. Am., Inc. v. Uniloc 2017 LLC*, IPR2019-01218, Paper 7, at 7-10 (P.T.A.B. Jan. 7, 2020) (denying institution where jury selection was scheduled for approximately six months before trial in the Board proceeding would conclude); *Next Caller Inc. v. TrustID, Inc.*, IPR2019-00961, -00962, Paper 10, at 8-16 (P.T.A.B. Oct. 16, 2019) (denying institution where trial was scheduled to conclude “several months,” before a final decision would be due); *Cisco Sys., Inc.*, IPR2020-00122, Paper 15 at 8

¹ The statutory deadline for institution is May 28, 2024, “three months after receiving a preliminary response to the petition under section 313.” *See* 35 U.S.C. § 314(b)(1). If instituted, the statutory deadline for Final Written Decision is May 28, 2025, “not later than 1 year after the date on which the Director notices the institution of a review.”

(“Because the trial date is substantially earlier than the projected statutory deadline for the Board’s final decision, this factor weighs in favor of discretionary denial.”).

Petitioner does not contest that the proximity of the trial favors denial of institution. Thus, this factor also weighs in favor of discretionary denial.

D. Significant Investment and Petitioner’s Delay in Filing the Petition

The parties’ investment in the parallel proceeding weighs in favor of discretionary denial. In the District Court Litigation, the Court has already entered four Docket Control Orders (Dkts. 46, 76, 84, 89), Discovery Order (Dkt. 47), Protective Order (Dkts. 50, 64), and E-Discovery Order (Dkt. 57). Discovery is also well under way. The parties have already exchanged infringement contentions pursuant to P.R. 3-1 and invalidity contentions pursuant to P.R. 3-3, and filed their joint claim construction statement pursuant to P.R. 4-3. Ex. 2001. A trial date is also set for October 7, 2024, which is less than seven months away. *Id.* Thus, the parties’ and Court’s substantial investment in this proceeding weighs in favor of denial of institution under this factor.

E. No Stay of the Parallel District Court Litigation

There is no stay of the parallel District Court Litigation. Even if the Petition were instituted and Petitioner filed a motion to stay the District Court Litigation, prejudice, tactical disadvantage to Advanced Coding Technologies LLC, the late stage of the litigation, and the lack of potential simplification would weigh strongly

against such a motion. *See Lennon Image Techs., LLC v. Macy's Retail Holdings, Inc.*, 2:13-CV-00235-JRG, 2014 WL 4652117, at *1 (E.D. Tex. Sept. 18, 2014). The statutory deadline for institution (on June 19, 2024) is not until after the related district court litigation claim construction hearing is completed (on May 14, 2024). Ex. 2001; *see Intell. Ventures II v. FedEx Corp.*, No. 2:16-cv-00980-JRG, Dkt. 141 at 5 (E.D. Tex. Oct. 24, 2017) (“The Court agrees that the Parties have already invested substantial effort and resources during discovery and in preparing claim construction briefing. . . . These circumstances weigh against staying this case”).

Moreover, a stay would not decrease the burden on the Court and the parties since any instituted IPR would only cover 2 out of at least 17 combinations of obviousness that Petitioner has raised in the District Court Litigation, and do not include Petitioner’s challenges under § 101, § 102, or § 112. *See generally* Ex. 2002, at 22-28, 55-58, 137-155, 263-271, 299-303, and 313-314. *Intell. Ventures II*, No. 2:16-cv-00980-JRG, Dkt. 141 at 3-4 (“[T]he instituted IPRs only cover a narrow slice of the invalidity arguments Defendants have raised in this case. For example, Defendants have argued that the ’715 Patent is invalid under § 102 with respect to at least eight references . . . under § 103 with respect to at least twenty-six combinations . . . under § 112 [], and under § 101.”).

Accordingly, it would be unlikely for the Court to hold that a stay would streamline the litigation and this factor supports denial of institution.

F. Other Factors Favor Discretionary Denial

Petitioner does not present a strong case on the merits, further supporting denial of institution. *See supra* Section VI. Petitioner also does not identify any other factors which weigh against discretionary denial. Pet. at 88.

Thus, when viewing the factors together, the Petition should be denied in the Director's discretion under 35 U.S.C. § 314(a).

VIII. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that the Board deny institution of the Petition in its entirety.

Respectfully submitted,

Dated: March 19, 2024

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CERTIFICATE OF WORD COUNT

The undersigned hereby certifies that the portions of the above-captioned PATENT OWNER'S PRELIMINARY RESPONSE specified in 37 C.F.R. § 42.24 has 9,065 words in compliance with the 14,000 word limit set forth in 37 C.F.R. § 42.24. This word count was prepared using Microsoft Word for Office 365.

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CERTIFICATE OF SERVICE

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