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Subject: RE IPR2024-00342 (Samsung Electronics Co., Ltd; Google LLC & Samsung Electronics America, Inc., v. Headwater Research LLC)
Date: Monday, August 26, 2024 5:34:24 PM
Attachments: [image001.png](#)
[image002.png](#)
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Director Vidal,

Petitioners provide this notification email in accordance with the Revised Interim Director Review Process, and hereby respectfully request Director Review of the denial of institution in the above captioned IPR (concurrently uploaded to P-TACTS). The denial presents an issue of first impression that impacts important issues of agency policy in applying 35 U.S.C. § 314(a).

Petitioners filed two parallel petitions to challenge all claims of the subject patent as a consequence of petition word count limitations. While one petition was instituted on the merits, the second petition, which included challenges to different claims than the first, was denied as a matter of discretion. In denying the second petition, the panel did not dispute that parallel filings were warranted to cover all claims. Instead, it discretionarily denied the second petition solely based on a PO stipulation filed three weeks prior to the institution deadline. The stipulation represented that PO would not assert the claims unique to the second filing against petitioner Samsung and would not assert the patent against petitioner Google. But the panel misapprehended this stipulation as mooted Google's and Samsung's interests where PO is actively suing Google's partners (such as Samsung) and has the ability to implicate Samsung and Google in potential future litigation involving the use and distribution of their respective products. If left to stand, this decision will (1) result in additional needless litigation against Google's and Samsung's products and partners and (2) encourage the use of narrow, inadequate PO stipulations to attempt to avoid substantive review of a patent's claims.

Accordingly, to ensure the AIA trial proceedings remain a viable alternative to litigation, rather than foster piece-meal litigation, Petitioners respectfully request Director Review to correct these significant misapprehensions of discretionary policy under 314(a).

Respectfully submitted,

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