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To: [Director PTABDecision Review](#)
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Subject: IPR2024-00494 and IPR2024-00558 (U.S. Pat. 9,460,037) – Director Review Request
Date: Friday, October 18, 2024 4:17:19 PM
Attachments: [image003.png](#)
[2024.10.18 \[Petitioner\] Director Review Request IPR2024-00558.pdf](#)
[2024.10.18 \[Petitioner\] Director Review Request IPR2024-00494.pdf](#)

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Honorable Director Vidal,

Petitioner in the above-captioned IPRs respectfully requests Director Review of the Board majority's decision denying institution (Paper 12 in each proceeding). The two attached Director Review requests (filed in P-TACTS today) concern the same patent specification, same claim language, same prior art, and raise the issues set forth in Petitioner's Director Review request in IPR2024-00496 (which remains pending), bringing the number of affected proceedings to three.

The attached Director Review Requests summarize Petitioner's arguments and address five new footnotes the majority added in its two recent decisions. In summary, after both the district court and majority found the claims ***not indefinite***, the majority failed to analyze any intrinsic evidence or apply the parties agreed-upon construction that the "having" limitation covered the primary embodiment of the challenged patent. Without a single citation to the prior art in its "Analysis" section, the majority concluded the "having" limitation was not satisfied, a limitation Patent Owner did not even challenge in the POPR.

The majority abused its discretion by failing to: (1) apply the parties' agreed-upon construction or otherwise construe the claims; (2) perform any prior art analysis whatsoever, and (3) address all of Petitioner's arguments. These same issues bear directly on the PTAB's core responsibilities and thus raise important matters of law and policy. Petitioner respectfully requests Director Review.

Respectfully submitted,

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