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To: [Director PTABDecision Review](#)
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Subject: IPR2024-00630: Request for Director Review
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Dear Director Vidal,

Patent Owner iQar, Inc. respectfully notifies the USPTO and the parties of its filing of the attached Request for Rehearing by the Director (“the Request”) of the decision by the Board granting institution (Paper 7) in IPR2024-00630.

The Request seeks Director review because the Board abused its discretion by misapplying 35 U.S.C. § 325(d) and its own precedential *Advanced Bionics* decision. The Board’s decision also raises an important policy issue regarding the deference to be afforded to prior Office determinations. The petition in this proceeding relies on a publication of one of the applications in the priority chain leading to the ‘616 patent-at-issue as prior art. According to the petition, the ‘616 patent is rendered unpatentable by—but cannot claim priority to—this publication because certain of the ‘616 patent’s claim elements purportedly lack § 112 support. But the Examiner specifically considered § 112 during prosecution. And the very same claim elements that the petition now argues are unsupported were added to the ‘616 patent via examiner amendment. Thus, the same issue at the heart of the petition was already considered and rejected by the Office. Despite this, the Board instituted. In doing so, it addressed the substance of the petition—rather than the threshold issue raised by the Office’s prior consideration—first. It also afforded no deference to the Office’s prior decision undermining the central purpose of both § 325(d) and *Advanced Bionics*. It found no specific, material error with the Office’s prior determinations and simply replaced the Office’s determinations with its own. Patent Owner requests Director review of this decision both to correct the Board’s error and to ensure that future panels do not apply § 325(d) and *Advanced Bionics* in a similarly erroneous manner.

Respectfully submitted,
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