MEMORANDUM

To: All PTAB Judges

From: John A. Squires
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

Subject: Precedential designation of *Corning Optical Communications RF, LLC v. PPC Broadband Inc.*, IPR2014-00440, Paper 68 (PTAB Aug. 18, 2015) (except for § II.E.1)

Date: October 28, 2025

Introduction

On September 26, 2025, I de-designated *SharkNinja Operating LLC v. iRobot Corp.*, IPR2020-00734, Paper 11 (PTAB Oct. 6, 2020), as precedential. Today, I am restoring the Office's pre-*SharkNinja* practice of requiring petitioners to identify the real parties in interest ("RPIs") to their petitions before institution by designating as precedential *Corning Optical Communications RF, LLC v. PPC Broadband Inc.*, IPR2014-00440, Paper 68 (PTAB Aug. 18, 2015) (except for § II.E.1).

The AIA provides that: "A petition filed under section 311 may be considered *only if* … the petition [for *inter partes* review] identifies all real parties in interest." 35 U.S.C. § 312(a)(2) (emphasis added); *see also* 35 U.S.C. § 322(a)(2). The prevailing USPTO view prior to *SharkNinja* recognized that § 312(a)(2) requires addressing properly raised issues about a petitioner's RPI identification. In *Corning Optical* and numerous other cases decided before *SharkNinja*, the PTAB held that § 312(a) must be satisfied before the Director can institute trial. IPR2014-00440, Paper 68 at 23-24 (collecting cases); *id.* at 4 (disclosure of all RPIs is "required by 35 U.S.C. § 312(a)(2)"). Designating *Corning Optical* as precedential returns the Office to its original and better interpretation of the statute.

Discussion

SharkNinja focused on the difficulty of determining the RPIs in many cases, which is a legitimate policy concern. However, policy justifications alone do not provide adequate reason for the Office to ignore the best reading of the statute. *See, e.g.*, *SAS Inst., Inc. v. Iancu*, 584 U.S. 357, 363 (2018). Furthermore, even judged purely as a matter of policy, *SharkNinja* failed adequately to account for important countervailing policy considerations, some of which have come into clearer focus since *SharkNinja* was decided.

Exploitation by Foreign State-Backed Actors

One of these considerations in particular bears mention. As emphasized in my *Statement for the Record* to the U.S. Senate (October 9, 2025) and the Senate IP Subcommittee's hearing entitled *"Foreign Threats to American Innovation and Economic Leadership"* (May 14, 2025), failure to appropriately discharge our duties with respect to properly and accurately identifying RPIs raises significant national-security concerns. Opaque investment structures have been used by foreign adversaries to gain influence over, or access to, U.S. intellectual-property assets and proceedings. State-linked entities have covertly financed or directed U.S. patent challenges, acquisitions, or licensing transactions in sectors such as semiconductors, artificial intelligence, quantum computing, and advanced materials.

Entities identified by the Office of Foreign Assets Control (OFAC) and the U.S. Trade Representative (USTR) have been sanctioned or listed for activities including technology misappropriation and forced technology transfer. OFAC and USTR designations, coupled with publicly reported front-entity behavior, demonstrate that foreign state actors have sought to manipulate U.S. IP systems, including administrative challenges before the PTAB, to weaken or misappropriate U.S. technological leadership.

Since *SharkNinja* was decided, parties on the Department of Commerce "entity list,"—*i.e.*, parties "involved in activities that are contrary to the national security or foreign policy

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interests of the United States"—have filed a substantial and increasing number of IPRs. 15 C.F.R. § 744.16; *see* 15 C.F.R. § 744 (Supp. IV 2023) (listing Yangtze Memory Technologies Co. Ltd., DJI, Huawei Device Co., Ltd. and Huawei Technologies Co., Ltd., and Semiconductor Manufacturing International Corporation). Congress also has expressed concern that one frequent petitioner could have been used by the Chinese government "to track the locations of Federal employees and contractors, build dossiers of personal information for blackmail, and conduct corporate espionage." *See TikTok Inc. v. Garland*, 604 U.S. 56, 74 (2025) (TikTok and ByteDance). If just these petitioners, which already have been deemed a national security threat, were treated as a single entity, they collectively would be among the top 10 IPR petitioners for the period 2019-2024.*

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* *See Study of high-volume filers and domestic university-related patentees in district court litigation and PTAB proceedings* (listing top IPR petitioners from 2019-2024), available at https://www.uspto.gov/sites/default/files/documents/HVF_study_presentation.pdf. The IPRs involving these entities include:

DJI: IPR2023-01227, IPR2023-01105, IPR2023-01104, IPR2023-01107, IPR2023-01106, IPR2022-00453, IPR2022-00163, IPR2022-00162, IPR2020-01475, IPR2020-01474, IPR2020-01472, IPR2020-00517, IPR2020-00345, IPR2019-00846, IPR2019-00723, IPR2019-00722, IPR2019-00721, IPR2019-00719, IPR2019-00717, IPR2019-00716, IPR2019-00343, PGR2019-00016, PGR2019-00014, IPR2019-00250, IPR2019-00249, IPR2018-00208, IPR2018-00207, IPR2018-00206, IPR2018-00205, IPR2018-00204.

Yangtze Memory: IPR2025-00499, IPR2025-00498, IPR2025-00501, IPR2025-00500, IPR2025-00099, IPR2025-00098.

Semiconductor Manufacturing International Corporation: IPR2020-01003, IPR2020-00839, IPR2020-00837, IPR2020-00786.

ByteDance/TikTok: IPR2025-01485, IPR2025-01224, IPR2025-01061, IPR2024-01343, IPR2024-01342, IPR2024-01341, IPR2024-01340, IPR2024-01339, IPR2024-01338, IPR2024-00770, IPR2024-00769, IPR2024-00768, IPR2024-00767, IPR2024-00760, IPR2024-00759, IPR2024-00757, IPR2022-01548, IPR2022-01547, IPR2022-01546, IPR2021-00476, IPR2021-00774, IPR2021-00099.

Huawei: IPR2021-01012, IPR2021-00692, IPR2021-00690, IPR2021-00691, IPR2021-00689, IPR2021-00617, IPR2021-00616, IPR2021-00229, IPR2021-00228, IPR2021-00227, IPR2021-00226, IPR2021-00225, IPR2021-00224, IPR2021-00223, IPR2021-00222, IPR2019-01631, IPR2019-01512, IPR2019-01570, IPR2019-01439, IPR2019-01185, IPR2019-01175, IPR2019-01174, IPR2019-01172, IPR2019-01186, IPR2019-00661, IPR2019-00656, IPR2019-00640, IPR2019-00622, IPR2019-00576, IPR2019-00575, IPR2019-00563, IPR2019-00562, IPR2019-00462, IPR2019-00464, IPR2019-00192, IPR2018-00816, IPR2018-00807, IPR2018-00658, IPR2018-00585, IPR2018-00655, IPR2018-00653, IPR2018-00487, IPR2018-00485, IPR2018-00479, IPR2018-00472, IPR2018-00465, IPR2018-00251, IPR2018-00246, IPR2018-00233, IPR2018-00210, IPR2018-00209, IPR2017-02090, IPR2017-01986, IPR2017-01983, IPR2017-01982, IPR2017-01981, IPR2017-01980, IPR2017-01979, IPR2017-01974, IPR2017-01973,

AIA proceedings should not be used by foreign adversaries to harass American patentees or otherwise provide an advantage to those that wish us ill. But the Office cannot address the misuse of AIA proceedings by foreign adversaries unless it requires parties to identify RPIs. Under *Corning Optical*, the Office will now enforce § 312(a)(2)'s requirement that a petition must "identif[y] all real parties in interest."

National-Security Imperative of Transparency

Overall, the RPI requirement therefore functions not merely as a procedural safeguard, but as a national-security measure. The integrity of PTAB proceedings depends on knowing who is behind a petition—who funds it, directs it, and/or benefits from it. Any opacity in that chain of control invites exploitation, may facilitate technology transfer contrary to U.S. law, regulation, and interests, and serves only to undermine public confidence in the integrity of the patent system. We will not have that at America's Innovation Agency.

IPR2017-01610, IPR2017-01609, IPR2017-01604, IPR2017-01548, IPR2017-01547, IPR2017-01581, IPR2017-01545, IPR2017-01542, IPR2017-01540, IPR2017-00779, IPR2017-00449, IPR2017-00448, IPR2017-00443, IPR2017-00415, IPR2015-01390, IPR2015-01382, IPR2015-00221, IPR2015-00203.

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