

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAVANT TECHNOLOGIES LLC d/b/a GE LIGHTING and
LEDVANCE LLC,

Petitioners,

v.

FEIT ELECTRIC COMPANY, INC.,

Patent Owner.

IPR2024-01357 (Patent 8,604,678 B2)

SAVANT TECHNOLOGIES LLC d/b/a GE LIGHTING,

ELONG INTERNATIONAL USA INC., and

XIAMEN LONGSTAR LIGHTING CO. LTD,

Petitioners,

v.

FEIT ELECTRIC COMPANY, INC.,

Patent Owner.

IPR2025-00260 (Patent 8,604,678 B2)

PATENT OWNER'S REQUEST FOR DIRECTOR REVIEW

Mail Stop Patent Board
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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37 C.F.R. § 42.75(c)(1)	1

PATENT OWNER’S EXHIBIT LIST

Exhibit No.	Description
2001	Declaration of E. Fred Schubert, Ph.D.
2002	<i>Curriculum vitae</i> for E. Fred Schubert, Ph.D.
2003	U.S. Patent Publication 2002/0180351 (“McNulty”)
2004	U.S. Patent Publication 2001/0000622 (“Reeh”)
2005	Scheduling Order (Dkt. 37), <i>Feit Electric Co., Inc. v. Elong International USA Inc.</i> , No. 3:24-cv-1089 (N.D. Tex.)
2006	June 2024 United States District Courts — Federal Court Management Statistics for N.D. Tex., E.D. Ky., and N.D. Ohio (https://www.uscourts.gov/statistics-reports/federal-courtmanagement-statistics-june-2024)
2007	Case Management Order (Dkt. 19), <i>Feit Electric Co., Inc. v. Savant Technologies LLC d/b/a GE Lighting</i> , No. 1:24-cv-473 (N.D. Ohio)
2008	Scheduling Order (Dkt. 33), <i>Feit Electric Co., Inc. v. Ledvance, LLC</i> , No. 5:24-cv-31 (E.D. Ky.)
2009	Savant’s Initial Invalidity and Unenforceability Contentions, <i>Feit Electric Co., Inc. v. Savant Technologies LLC d/b/a GE Lighting</i> , No. 1:24-cv-473 (N.D. Ohio), served on September 5, 2024
2010	Ledvance’s Initial Invalidity and Unenforceability Contentions, <i>Feit Electric Co., Inc. v. Ledvance, LLC</i> , No. 5:24-cv-31 (E.D. Ky.), served on September 24, 2024
2011	Elong’s Initial Invalidity and Unenforceability Contentions, <i>Feit Electric Co., Inc. v. Elong International USA Inc.</i> , No. 3:24-cv-1089 (N.D. Tex.), served on December 9, 2024
2012	Comparison of Petition and Expert Testimony Analysis
2013	Mike Krames, <i>Light-Emitting Diode Technology for Solid-State Lighting</i> , in <i>Frontiers of Engineering: Reports on Leading-Edge Engineering from the 2009 Symposium</i> , 67 (2009)
2014	E. Fred Schubert, <i>Light-Emitting Diodes</i> (2nd ed. 2006)
2015	Matthew G. Bevan & Bruce M. Romenesko, <i>Modern Electronic Packaging Technology</i> , 20 JOHNS HOPKINS APL TECH. DIGEST 22 (1999)
2016	X. A. Cao & S. D. Arthur, <i>High-power and reliable operation of vertical light-emitting diodes on bulk GaN</i> , 85 <i>Applied Physics Letters</i> 3971 (2004).
2017	Michael R. Krames et al., <i>Status and Future of High-Power Light-Emitting Diodes for Solid-State Lighting</i> , 3 <i>J. Display Tech.</i> 160 (2007)

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2018	Mehmet Arik et al., <i>Thermal Management of LEDs: Package to System</i> , 5187 Proc. SPIE 64 (2004)
2019	U.S. Dep't Energy, Critical Materials Strategy (Dec. 2010)
2020	Zongyuan Liu et al., <i>Measurement and numerical studies of optical properties of YAG:Ce phosphor for white light-emitting diode packaging</i> , 49 Applied Optics 247 (2010)
2021	March 2024 United States District Courts — Federal Court Management Statistics for N.D. Tex., E.D. Ky., and N.D. Ohio (https://www.uscourts.gov/data-news/reports/statisticalreports/federal-court-management-statistics/federal-courtmanagement-statistics-march-2024)
2022	September 2024 United States District Courts — Federal Court Management Statistics for N.D. Tex., E.D. Ky., and N.D. Ohio (https://www.uscourts.gov/data-news/reports/statisticalreports/federal-court-management-statistics/federal-courtmanagement-statistics-september-2024)
2023	Declaration of William A. Doolittle, Ph.D., dated November 6, 2024, <i>Feit Electric Company, Inc. v. Savant Technologies, d/b/a GE Lighting</i> , Case No. 24-cv-00473
2024	Rebuttal Declaration of William A. Doolittle, Ph.D., dated November 20, 2024, <i>Feit Electric Company, Inc. v. Savant Technologies, d/b/a GE Lighting</i> , Case No. 24-cv-00473
2025	Deposition Transcript of William A. Doolittle, Ph.D., dated June 10, 2025
2026	Declaration of E. Fred Schubert, Ph.D., dated June 25, 2025
2027	U.S. Provisional App. No. 61/427,411, filed on December 21, 2010
2028	U.S. Provisional App. No. 61/390,091, filed on October 5, 2010
2029	Home Depot - Feit Electric White Filament LED Light Bulbs listing
2030	Candle Power Forums article: Feit LED filament bulb with white filaments
2031	The Home Depot Announces 2024 Innovation Award Winners
2032	Feit Electric Lighting Instagram consumer comments regarding filaments
2033	Feit Electric Lighting Instagram consumer comments regarding yellow filaments
2034	Feit Electric Lighting Instagram consumer comments: Regular Yellow Filament vs. White Filament
2035	Home Depot White Filament price point of \$29.97
2036	Home Depot Yellow Filament price point of \$21.97
2037	Reddit: Do white filament LED edison bulbs exist?
2038	Deposition Transcript of William A. Doolittle, Ph.D., dated July 17, 2025

Exhibit No.	Description
2039	Declaration of E. Fred Schubert, Ph.D., dated July 25, 2025
2040	March 3, 2017 LEDVANCE Press Release, <i>available at</i> https://www.ledvance.com/en-int/company/press/press-releases/2017/chinese-consortium-completes-acquisition-of-ledvance-n159186 (last accessed on November 13, 2025)
2041	March 4, 2018 LEDVANCE Press Release, <i>available at</i> https://www.ledvance.com/unternehmen/newsroom/pressemeldungen/2018/mls-wird-alleiniger-eigentumer-von-ledvance-n159699 (last accessed on November 13, 2025)
2042	MLS International Website, <i>available at</i> https://www.mls-ledlights.com/html_news/?2-Welcome-to-our-website-1.html#:~:text=Qinghuan%20Sun%2C%20President%20of%20MLS,Canada%20on%20an%20interim%20basis (last accessed on November 13, 2025)
2043	MLS Website “Our Team” available at https://www.led-mls.com/our-team.html (last accessed on November 13, 2025)
2044	LEDVANCE Wikipedia page, <i>available at</i> https://en.wikipedia.org/wiki/LEDVANCE (last accessed on November 13, 2025)
2045	MLS International Website, <i>available at</i> https://www.mls-ledlights.com/html_news/?1-Welcome-to-our-website-1.html (last accessed on November 13, 2025)
2046	MLS International Website, <i>available at</i> https://www.mls-ledlights.com/html_news/?3-Welcome-to-our-website-1.html (last accessed on November 13, 2025)
2047	MLS LinkedIn page, <i>available at</i> https://www.linkedin.com/company/china-electronics-corporation-beijing/ (last accessed on November 13, 2025)

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2048	Entities Identified as Chinese Military Companies Operating in the United States in accordance with Section 1260H of the William M. (“Mac”) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283), <i>available at</i> https://media.defense.gov/2024/Jan/31/2003384819/-1/-1/0/1260H-LIST.PDF (last accessed on November 13, 2025)
2049	August 18, 2024 FitchRatings Commentary on Yiwu State-Owned Capital Operation, <i>available at</i> https://www.fitchratings.com/research/international-public-finance/fitch-affirms-yiwu-state-owned-capital-operation-at-bbb-outlook-stable-18-08-2024 (last accessed on November 13, 2025)
2050	June 12, 2025 CCXAP Credit Rating Commentary on Yiwu State-Owned Capital Operation, <i>available at</i> https://www.ccxap.com/upload/news/1358/self/684a996a624bc.pdf (last accessed on November 13, 2025)
2051	LEDVANCE Opening Claim Construction Brief, <i>Feit Electric Company, Inc. v. LEDVANCE, LLC</i> , Case No. 5:24-00031 Dkt. 54-1 (E.D. Ky.)
2052	RESERVED
2053	Elong and Xiamen Longstar Responsive Claim Construction Brief, <i>Feit Electric Company, Inc. v. Elong Int’l USA, Inc., et al.</i> , Case No. 3:24-cv-01089, Dkt. 52 (N.D. Tex.)
2054	Savant Opening Claim Construction Brief, <i>Feit Electric Company, Inc. v. Savant Techs. LLC</i> , Case No. 1:24-cv-473, Dkt. 45 (N.D. Ohio)
2055	Returned summons confirming service of the complaint on March 14, 2024, in <i>Feit Electric Company, Inc. v. Savant Techs. LLC</i> , Case No. 1:24-cv-473 (N.D. Ohio)
2056	“Chinese packaged LED manufacturer MLS buys stake in Kaistar Lighting,” BUILDINGS, <i>available at</i> https://www.buildings.com/building-systems-om/lighting/article/55257801/chinese-packaged-led-manufacturer-mls-buys-stake-in-kaistar-lighting (last accessed on November 13, 2025)
2057	About LEDVANCE: Who we are and what this means for our stakeholders, <i>available at</i> https://www.ledvance.com/en-int/company/about-ledvance (last accessed on February 6, 2026)

Exhibit No.	Description
2058	MLS Company Profile, <i>available at</i> https://www.led-mls.com/uploads/file/65e81abb9eb5f.pdf (last accessed on February 6, 2026)
2059	MLS Website – About Us – Our Team, <i>available at</i> https://www.led-mls.com/our-team.html (last accessed on February 6, 2026)
2060	MLS Website – About Us – Our Team, <i>available at</i> https://www.led-mls.com/our-team.html (last accessed on February 6, 2026)
2061	Patent Owner’s Demonstrative Exhibits, February 26, 2026
2062	Stipulation dated March 3, 2026, in <i>Feit Electric Company, Inc. v. Savant Techs. LLC</i> , Case No. 1:24-cv-473 (N.D. Ohio) (Dkt. 50)
2063	Notice and Stipulation Concerning Withdrawal of Claim Construction Position in <i>Feit Electric Company, Inc. v. LEDVANCE, LLC</i> , Case No. 5:24-00031 (E.D. Ky.) (Dkt. 67)

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.75(a), Patent Owner Feit Electric Company, Inc. (“Feit Electric”) timely requests Director Review of the Board’s April 9, 2026 Order (Paper 69, “Order”) declining to terminate these consolidated proceedings based on Petitioners’ failure to disclose their contradictory claim constructions from parallel district court litigation. In the Order, the Board concluded that the Director *alone* has authority to remedy this situation and therefore denied Patent Owner’s motion to terminate. Paper 69 at 9-10. Patent Owner therefore seeks Director Review and requests that the Director vacate institution just as he has recently and repeatedly done in similar cases.¹

This request is timely pursuant to 37 C.F.R. §§ 42.75(c)(1) and 42.71(d)(1) because it is filed within 14 days after the Board’s Order denying Patent Owner’s motion to conclude this *inter partes* review proceeding brought under 35 U.S.C. § 311. Further, the Board’s conclusion that only the Director has authority to provide the remedy Patent Owner seeks provides good cause for seeking Director Review at this time pursuant to § 42.75(c)(1).

¹ Patent Owner separately seeks termination of IPR2024-001357 based on the failure of Petitioner LEDVANCE LLC to identify its Chinese owner as a real party in interest. That motion is presently before the Board. Paper 57.

Both of the consolidated Petitions violated the Director’s recent decisions requiring that a petitioner explain any inconsistent claim construction positions to the Board *in the petition*. See *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 20 at 3–5 (Director Nov. 3, 2025) (precedential) (“*Revvo I*”) (explaining the Office’s approach to addressing a petitioner’s different claim construction positions in two forums); *Tesla, Inc., v. Intellectual Ventures II LLC*, IPR2025-00340, Paper 18 (Director Nov. 5, 2025) (informative) (“*Tesla*”) (same). In *Revvo I* and *Tesla*, the Director granted Director Review and vacated the decisions to institute because the petitioner argued inconsistent claim constructions before the Board and the district court. *Id.* The Director has continued to reinforce this requirement in other proceedings. See, e.g., *Generac Power Sys., Inc. v. Champion Power Equip., Inc.*, IPR2025-00805, Paper 40 (Director Feb. 3, 2026) (“*Generac*”) (vacating institution based on failure to explain contradictory claim constructions); *Revvo Technologies, Inc. v. Tire Stickers, LLC*, IPR2025-00631, Paper 34 (Director Feb. 3, 2026) (“*Revvo III*”) (same).

Here, *all four* Petitioners did the same thing. Petitioners urged the Board to interpret *all* claim terms according to their plain and ordinary meaning to a person of ordinary skill in the art. In direct contradiction, Petitioners argued in their respective district court proceedings that certain limitations of the ’678 Patent are indefinite because a person of ordinary skill in the art *could not discern* their

meaning. In one of the district court cases, Petitioners’ approach forced Patent Owner to respond and argue against Petitioners’ indefiniteness claims, giving Petitioner the unfair advantage of taking inconsistent positions in two forums. *See* EX1044 at 31. Petitioners failed to inform the Board of these contradictory positions in their Petitions—much less explain the alleged basis for contradicting themselves—and this failure independently justifies vacatur of the institution Decisions, and termination of the consolidated IPRs.²

II. STATEMENT OF FACTS

A. The Petitions and Consolidated Proceedings

After being sued by Feit Electric for patent infringement, Petitioners LEDVANCE LLC (“LEDVANCE”) and Savant Technologies LLC (“Savant”) filed IPR2024-01357 on August 26, 2024. In that Petition, LEDVANCE and Savant challenged claims 1-3, 6-7, 9-10, 16-21, 25-26, 29 of the ’678 Patent. IPR2024-01357, Paper 1. On December 17, 2024, Feit Electric filed its Patent Owner Preliminary Response, including a request for discretionary denial of institution

² Feit Electric initially sought Director Review on this issue in the immediate wake of *Revvo I* and *Tesla*, but the Director denied the request on procedural grounds as it was outside the 10-day period for review of the institution decision. Paper 47, EX3100. This request timely seeks Director Review of the April 9, 2026 Order.

based on pending patent infringement litigation involving the same parties in district court. IPR2024-01357, Paper 13 at 26-35. On March 5, 2025, the Board instituted IPR2024-01357. Paper 17.

Petitioners Savant, Elong International USA Inc. (“Elong”), and Xiamen Longstar Lighting Co. Ltd. (“Xiamen Longstar”) filed IPR2025-00260 on December 9, 2024. In that petition, Savant, Elong, and Xiamen Longstar challenged claims 11-14 of the ’678 Patent. IPR2025-00260, Paper 1. On April 24, 2025, Feit Electric filed a Request for Discretionary Denial based on pending patent litigation involving the same parties in district court. IPR2025-00260, Paper 13. On June 12, 2025, the Director denied Feit Electric’s Request for Discretionary Denial. IPR2025-00260, Paper 16. On June 23, 2025, the Board instituted IPR2025-00260 and consolidated it with IPR2024-01357. IPR2025-00260, Paper 17.

B. Petitioners’ Inconsistent Claim Construction Positions Before the Board and the District Courts, and the Board’s Reliance on Petitioners’ Positions

In their IPR2024-01357 Petition, filed on August 26, 2024, LEDVANCE and Savant argued that “[c]laims should be understood according to their ordinary and customary meaning as understood by a POSA at the time of the invention considering the language of the claims, the specification, and the prosecution history of record.” IPR2024-01357, Paper 1 at 18-19. On this basis, LEDVANCE

and Savant submitted that “no construction should be necessary to institute this petition.” *Id.* at 19. Similarly, in their IPR2025-00260 Petition, filed on December 9, 2024, Savant, Elong, and Xiamen Longstar made the same assertion. IPR2025-00260, Paper 1 at 20-21. Neither Petition made any specific claim construction argument concerning the claim limitations “improves an off state white appearance” or “improves the OFF state white appearance” (collectively, the “OFF state white appearance” limitations). On the contrary, by urging the Board to adopt their plain and ordinary meaning, both Petitions asserted that these terms would be understood by a person of ordinary skill in the art and should be interpreted according to their plain and ordinary meaning. IPR2024-01357, Paper 1 at 18-19; IPR2025-00260, Paper 1 at 20-21.

The Board relied on Petitioners’ submissions in both proceedings. In its Decision instituting IPR2024-01357, issued on March 5, 2025, the Board did not construe the “OFF state white appearance” limitations. IPR2024-01357, Paper 17 at 17-20. Nor did the Board construe those limitations in its Decision to institute IPR2025-00260, which issued on June 23, 2025. IPR2025-00260, Paper 17.

In the meantime, between filing the Petitions and institution, *all four* Petitioners made the *opposite* argument to the district courts. On January 23, 2025, LEDVANCE argued to the Eastern District of Kentucky that the “OFF state white appearance” limitations are indefinite under 35 U.S.C. § 112 because they “fail[] to

inform, with reasonable certainty, those skilled in the art about the scope of the invention.” EX2051 at 6-13. Similarly, on March 13, 2025, Savant made the same argument to the Northern District of Ohio, asserting that the “OFF state white appearance” limitations cannot be construed because they are indefinite. EX2054 at 3-7. And on April 16, 2025, Elong and Xiamen Longstar made the same indefiniteness arguments to the Northern District of Texas. EX2053 at 2-7. Petitioner further forced Patent Owner to defend against these indefiniteness claims while concurrently taking different positions before this tribunal. Indeed, post-institution, the Northern District of Texas Court subsequently issued a claim construction order finding that the disputed claim terms are not indefinite. *See* EX1044 at 31.

None of the Petitioners informed the Board in either Petition that they would argue indefiniteness in district court, nor did they even attempt to explain how their diametrically opposed invalidity arguments to the Board and the district courts could be reconciled or justified.

C. Patent Owner’s Efforts to Address Petitioners’ Deficient Petitions

On November 14, 2025, in the immediate wake of the Director’s decisions in *Revvo I* and *Tesla*, Patent Owner sought Director Review of both institution decisions in these consolidated proceedings. Paper 47. The Director denied that request on the basis that it was filed more than ten days after the institution

decisions, which had issued months before the Director's decisions in *Revvo I* and *Tesla*. EX3001.

Patent Owner then obtained the Board's permission and filed a motion to terminate the consolidated proceedings based on Petitioners' failure to disclose or explain their contradictory claim constructions in the petition. Paper 56.

Petitioners opposed that motion. Paper 60. On April 9, 2026, the Board denied Patent Owner's motion, concluding the Board "lack[s] the authority to grant Patent Owner's request." Paper 69 at 9-10. Patent Owner now seeks Director Review of that Order.

III. ARGUMENT

Director Review should be granted because Petitioner has unfairly benefited by taking inconsistent positions here and before the trial court *and* because the Board has concluded that *only* the Director has authority to remedy Petitioners' gamesmanship at this late stage. The Director has not delegated discretionary authority to the Board (as the Director did in *Revvo I*), so the Director alone can resolve the issue in these proceedings. *See Revvo I*, Paper 20 at 5 (delegating to the Board authority to decide whether IPR should be terminated based on petitioner's failure to disclose contradictory claim constructions in the petition); Paper 69 at 10 (noting that, unlike *Revvo I*, the Director has not delegated authority

in these proceedings). Patent Owner therefore respectfully requests that the Director grant Director Review.

Here, *all four* Petitioners took contradictory claim construction positions in parallel district court proceedings yet chose not to inform the Board or explain their contradictions in their Petitions. Particularly troubling, Petitioners got the benefit of this strategy, forcing Patent Owner to fend off the indefiniteness allegations before one of the district courts. *See* EX1044 at 31. Only after failing in that effort do Petitioners now attempt to recant and stick with the plain and ordinary meaning. Petitioners' failures to timely disclose or justify their contradictions *in the Petitions* warrant vacatur of the institution Decisions and termination of the consolidated *inter partes* review. *See Revvo I*, Paper 20 at 3–5 (explaining the Office's approach to addressing a petitioner's different claim construction positions in two forums); *Revvo II*, Paper 36 at 4 (rejecting Petitioners' "wait and see" gamesmanship and vacating institution decision); *Tesla*, Paper 18 at 3-4 (same); *Generac*, Paper 40 at 3-5 (same); *Revvo III*, Paper 34 at 3 (same).

A. The Director's Recent Decisions, Including in *Revvo Technologies* and *Tesla*, Require Petitioners to Identify and Explain Any Inconsistent Claim Construction Positions in the Petition

In *Revvo I*, the Director noted that, "although the Board's rules 'do not necessarily prohibit petitioners from taking inconsistent claim construction

positions before the Board and a district court,’ when a petitioner takes alternative positions before the Board and a district court, that petitioner should, at a minimum, explain why alternative positions are warranted.” *Revvo I*, Paper 20 at 3-4 (quoting *Cambridge Mobile Telematics, Inc. v. Sfara, Inc.*, IPR2024-00952, Paper 12 at 8-9 (PTAB Dec. 13, 2024)). Building on this new precedential decision in *Revvo I*, the Director in *Tesla* vacated institution and terminated the proceeding because the petitioner had failed to notify the Board that it was arguing indefiniteness to the district court. *Tesla*, Paper 18 at 3-4.

The Director has explicitly rejected *post-hac* explanations for failing to disclose contradictory positions. For example, the Director in *Tesla* rejected the petitioner’s statement that “it cannot raise indefiniteness challenges in an *inter partes* review” as an insufficient explanation. *Id.* at 3. Rather, the Director noted that this statement amounts to an improper assertion that a petitioner “should be permitted to raise inconsistent invalidity challenges in the two forums.” *Id.* As the Director explained in *Revvo II*, “[m]y precedential decision does not provide for conditional future outcomes, and while petitioner would no doubt like to ‘wait and see,’ we cannot and will not. The appropriate course of action under these circumstances is to deny institution.” *Revvo II*, Paper 36 at 4.

Since *Revvo I* and *Tesla*, the Director has continued to vacate institution decisions where petitioners have similarly failed to explain *in the petition* their

contradictory claim constructions. *See, e.g., Revvo II*, Paper 36 at 4; *Revvo III*, Paper 34 at 3; *Generac*, Paper 40 at 3-5. Like *Tesla*, the *Generac* decision is particularly applicable to the present case because the petitioners in those proceedings—like all four Petitioners here—argued plain and ordinary meaning to the Board and indefiniteness to the district court. *Generac*, Paper 40 at 3-5. These consolidated proceedings present exactly the same problem, and Patent Owner respectfully submits that the institution decisions should likewise be vacated.

B. Petitioners Told the Board to Adopt the Plain and Ordinary Meaning While Telling the District Courts That There Is No Plain and Ordinary Meaning

Here, all four Petitioners have taken the same improper approach that the Director prohibited in *Revvo I*, *Tesla*, and *Generac*. As explained above in Section II.B, each of the Petitioners urged the Board to adopt the plain and ordinary meaning for all claim terms while arguing to three different district courts that the “OFF state white appearance” limitations are indefinite and therefore *have no plain and ordinary meaning*. These are exactly the same circumstances that led the Director in *Tesla* and *Generac* to vacate institution and terminate the *inter partes* review. *Tesla*, Paper 18 at 3-4; *Generac*, Paper 40 at 3-5. Feit Electric respectfully submits that the Director should reach the same conclusion here.

Petitioners have since argued to the Board that these proceedings should continue because one of the three district courts has already rejected Petitioners’

indefiniteness argument, and Petitioners now promise not to continue with their indefiniteness arguments in the district court proceedings. Paper 60 at 9-10.

Petitioners have also purported to file papers making the same promises in the district court proceedings, which are currently stayed. EX2062, EX2063. This is too little, too late. The Director has rejected similar “wait and see” gambits from other petitioners:

Petitioner has stipulated that it will continue to pursue different constructions and abandon the inconsistent construction in district court if the IPR is instituted. This is not in keeping with our precedent, and I decline to modify it to permit this approach . . .

Petitioner’s stipulation not to continue to advance different claim construction positions lacks similar benefits. At best, it replaces one argument in district court for another argument at the Board. Accordingly, the Petition is denied under 35 U.S.C. § 314(a).

TikTok, Inc. v. Shopsee, Inc., IPR2025-01485, Paper 13 at 2–3 (Director Jan. 16, 2026).

Petitioners *now* know that their indefiniteness arguments have been rejected. Allowing Petitioners to recant an argument that they *now* know to be defective would effectively promote the same thing that *Tesla* and *Revvo I* sought to avoid—improper gamesmanship. As the Director clarified in *Revvo II*, “[m]y precedential decision does not provide for conditional future outcomes, and while petitioner would no doubt like to ‘wait and see,’ we cannot and will not. The appropriate course of action under these circumstances is to deny institution.” *Revvo II*, Paper 36 at 4.

Likewise, it is not enough that Petitioners have now belatedly tried to explain why their contradictory positions were justified. The time for offering any such explanations was *in the petitions*. See *Am. Airlines, Inc. v. Intellectual Ventures I LLC*, IPR2025-01055, Paper 11 at 13 (PTAB Nov. 21, 2025). As the panel in *American Airlines* explained,

Under 37 C.F.R. § 42.104(b)(3), *petitioners* must clearly articulate *in the petition* “[h]ow the challenged claim is to be construed.” If, according to Petitioner, many limitations in claim 1 (and other claims) are indefinite, then how does Petitioner propose that the Board construe such limitations to assess Petitioner’s invalidity challenges—*Petitioner is silent*. Indeed, Petitioner provides no explanation for its different claim construction positions in the two forums. This alone favors denial of institution.

Id. (emphasis in original, citing *Revvo I*, Paper 20, and *Tesla*, Paper 18).

There is no dispute that all four Petitioners argued plain and ordinary meaning here while urging three different district courts to find the claims indefinite. Nor is there any dispute that all four Petitioners chose not to inform the Board of their contradictory arguments or make any timely effort to explain their basis for making those arguments. The remedy here is clear. Just as the Director did in *Tesla*, *Revvo II*, *Revvo III*, and *Generac*, the institution decisions should be vacated and these proceedings should be terminated.

C. The Interest of Justice Warrants Director Review As It Is the *Only* Vehicle to Remedy Petitioners' Deficient Petitions

As the Board noted in its Order, absent delegation to the Board, the Director's existing procedures on discretionary denial reserve that discretion to the Director. Paper 69 at 8-10 (quoting the Acting Director's March 26, 2025 Memorandum on Interim Processes for PTAB Workload Management).³ Here, the Director has not delegated that discretion to the Board, so only the Director has the authority to address the gamesmanship of Petitioners' contradictory claim constructions. Patent Owner respectfully requests that the Director exercise that discretion to vacate institution and terminate these proceedings just as he has done in other similar cases.

³ *Interim Processes for PTAB Workload Management* (Mar. 26, 2025), available at: <https://www.uspto.gov/sites/default/files/documents/InterimProcesses-PTABWorkloadMgmt-20250326.pdf>.

IV. CONCLUSION

All four Petitioners played games with the Board, urging the plain and ordinary meaning here while arguing indefiniteness in three different district courts. This gamesmanship stands in direct violation of the Director's decisions in *Revvo I* and *Tesla*, among others, and it should not be tolerated. The *Tesla* and *Generac* decisions are most squarely applicable because the petitioners in those cases likewise argued indefiniteness to the district court, and the Director terminated both of those proceeding as a result. Consistent with *Tesla* and *Generac*, Feit Electric urges the Director to grant Director Review, vacate institution, and terminate the consolidated proceedings in IPR2024-01357 and IPR2025-00260.

Date: April 23, 2026

Respectfully submitted,

/Charles M. McMahon/

Charles M. McMahon
USPTO Reg. No. 44,926
Kal K. Shah
USPTO Reg. No. 48,387
Thomas DaMario
USPTO Reg. No. 77,142
BENESCH FRIEDLANDER
COPLAN & ARONOFF LLP
71 South Wacker Drive, Suite 1600
Chicago, IL 60606
Tel: (312) 312-4949
Fax: (312) 767-9192
Email: FeitElectricIPR@beneschlaw.com

CERTIFICATE OF PAGE COUNT

I, the undersigned, do hereby certify that the foregoing Patent Owner's Request for Director Review contains no more than 15 pages, consistent with 37 C.F.R. §§ 42.75(c)(2) and 42.24(a)(1)(v).

/Charles M. McMahon/

Charles M. McMahon

CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2026, a true and correct copy of the foregoing was served by electronic mail upon the following counsel of record for

Petitioners:

David C. Radulescu, Ph.D., david@radip.com,
Etai Lahav, etai@radip.com
Andrew S. Brown, andy@radip.com
Savant_IPR_Service@radip.com

/Charles M. McMahon/

Charles M. McMahon