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Subject: RE: IPR2024-01430 and -01431: Request for Authorization to File Supplemental Information
Date: Thursday, March 6, 2025 1:31:41 PM

Counsel,

The panel determines that further briefing in view of the February 28, 2025, rescission of the 2022 Guidance would be helpful to the panel.

The panel authorizes Patent Owner to file a *Fintiv* Brief of up to five pages in IPR1430 and 1431. The Response may address *Fintiv* discretionary denial in view of the pending ITC proceeding. Patent Owner may, if necessary, file additional exhibits related to the ITC proceeding, but Patent Owner should not incorporate any arguments by reference. The Supplementary Patent Owner Response shall be due March 13, 2025.

The panel authorizes Petitioner to file a Response to Patent Owner's *Fintiv* Brief of up to five pages in IPR1430 and 1431. Petitioner may similarly file additional exhibits related to the ITC proceeding if necessary. The Reply to the Supplementary Patent Owner Response shall be due March 20, 2025.

Regards,

Andrew Kellogg,
Deputy Chief Clerk, Trials
Patent Trial and Appeal Board
USPTO
andrew.kellogg@uspto.gov
(571) 272-5366

From: McCarthy, Alison L. <Alison.McCarthy@troutman.com>
Sent: Wednesday, March 5, 2025 5:45 PM
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Subject: IPR2024-01430 and -01431: Request for Authorization to File Supplemental Information

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Your Honors:

Pursuant to 37 C.F.R. 42.123(c), Patent Owner in the above-referenced proceedings seeks leave to file a submission in each proceeding limited to 5 pages setting forth grounds for discretionary denial under *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (PTAB March 20, 2020) in view of the USPTO's decision on February 28, 2025 to withdraw former USPTO Director Kathi Vidal's June 21, 2022 memo titled, Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court ("Guidance"). The challenged patent is the subject of an ITC Investigation (Inv. No. 337-TA-1403) scheduled for trial on May 5, 2025 and scheduled for an initial determination by September 5, 2025. Patent Owner's Preliminary Responses ("POPR") were filed January 22, 2025 (Paper 13 in IPR2024-01430 and Paper 11 in IPR2024-01431) and institution is due April 22, 2025. The Guidance had provided that an ITC investigation could not be a ground for discretionary denial, which is the only reason a discretionary denial argument was not made in the POPRs.

Counsel for Petitioner opposes this request. Counsel for the parties are available for a conference call with the Board during the mornings of either Tuesday, March 11 or Wednesday, March 12 regarding the above request.

Respectfully submitted,

/Alison L. McCarthy/

Alison L. McCarthy

Counsel

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