

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DELL INC., DELL TECHNOLOGIES INC., HP INC., AND
LENOVO (UNITED STATES) INC.,

Petitioners,

v.

UNIVERSAL CONNECTIVITY TECHNOLOGIES INC.,

Patent Owner.

Case IPR2024-01480
U.S. Patent No. 9,852,103

**PATENT OWNER'S SUR-REPLY TO PETITIONERS'
REPLY TO PATENT OWNER'S PRELIMINARY
RESPONSE TO THE PETITION**

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TABLE OF EXHIBITS

Exhibit No.	Description
2001	Docket Control Order, <i>Universal Connectivity Technologies Inc. v. Lenovo Group Limited</i> , No. 2:23-cv-00449-JRG (E.D. Tex. June 12, 2024)
2002	Civil Minutes, <i>Universal Connectivity Technologies Inc. v. HP Inc.</i> , No. 4:24-cv-04097-YGR (N.D. Cal. Nov. 4, 2024)
2003	Order, <i>Universal Connectivity Technologies Inc. v. Dell Inc.</i> , No. 1:23-cv-01506-RP (W.D. Tex. Dec. 12, 2024)
2004	Defendant's Invalidity and Eligibility Contentions, <i>Universal Connectivity Technologies Inc. v. Lenovo Group Limited</i> , No. 2:23-cv-00449-JRG (E.D. Tex. July 24, 2024)
2005	Defendants Dell Technologies Inc. and Dell Inc.'s Preliminary Invalidity Contentions, <i>Universal Connectivity Technologies Inc. v. Dell Inc.</i> , No. 1:23-cv-01506-RP (W.D. Tex. July 24, 2024)
2006	HP's Invalidity Contentions, <i>Universal Connectivity Technologies Inc. v. HP Inc.</i> , No. 4:24-cv-04097-YGR (N.D. Cal. Dec. 5, 2024)
2007	U.S. District Courts—Federal Court Management Statistics—Profiles—During the 12-Month Periods Ending September 30, 2019 through 2024
2008	Memorandum Opinion and Order, <i>Universal Connectivity Technologies Inc. v. Lenovo Group Limited</i> , No. 2:23-cv-00449-JRG (E.D. Tex. Oct. 17, 2024)
2009	Order, <i>Universal Connectivity Technologies Inc. v. Lenovo Group Limited</i> , No. 2:23-cv-00449-JRG (E.D. Tex. Oct. 2, 2024)

I. The *Fintiv* Factors Weigh Against Institution

Factor 1: Petitioners' argument that this factor disfavors denial because no stay has been requested in the LGL Case (Paper 10, Reply, 2-3) is flawed. There is no dispute that the LGL Case has not been stayed, nor is there any evidence that a stay would be granted if a proceeding is instituted. This factor favors denial.

Factor 2: Petitioners' attempt to question that the trial date of the LGL Case based on an alleged growing backlog of cases and associated scheduling uncertainty is unsupported. *Id.*, 3. As explained in the POPR, both the scheduled trial date and the date of trial based on median time-to-trial statistics occur many months before a final written decision would be expected in this forum. In addition, as discussed further for Factor 4, the *Sotera* stipulations do not remove concerns regarding the timing of trial with respect to a final written decision. This factor favors denial.

Factor 3: Petitioners do not dispute the substantial investment in resources already devoted to the LGL Case. Petitioners also cannot dispute that claim construction is ongoing. Opening briefs are due on March 28, 2025, responsive briefs are due on April 11, 2025, and reply

briefs are due on April 18, 2025. *See* Case No. 2:23-cv-00449-JRG at Dkt. No. 27 at 4. Petitioners' *Sotera* stipulations do not eliminate the investments the parties have already made in district court. This factor favors denial.

Factor 4: Petitioners do not dispute the complete overlap in the arguments and evidence presented in the Petition and in district court. Petitioners' contention that their *Sotera* stipulations remove all concerns regarding this overlap is unsupported here. In fact, as shown by the *Sotera* stipulations reservations (*see, e.g.*, Exhibit 1036 at 1-2 ("any art not comprised solely of patents and printed publications, including system art, either alone, or in combination with other prior art") and the district court invalidity contentions reservations (*see, e.g.*, Exhibit 2004 at 178-179 ("Defendant additionally identifies and relies on any system, product, or public knowledge or use that embodies or otherwise incorporates any of the prior art patents and publications listed above [including the Zhu, DisplayPort 1.2, and Lyle prior art cited in the Petition];"))). Petitioners have expressly reserved the right to challenge invalidity at the district court based on system art, even in combination with other prior art. *See, e.g.*, Exhibit 1036 at 2. Petitioners' contention

that “system art is not eligible for PTAB consideration in an IPR proceeding, and grounds based on system art either alone, or in combination with patent or printed publication prior art, could not have reasonably been raised before the PTAB in the IPR petition,” *id.*, 2 n.1, demonstrates how the Petitioners intend to evade any limitations on invalidity challenges in the District Court stemming from their *Sotera* stipulations.

Thus, their *Sotera* stipulations notwithstanding, it appears that Petitioners will present the same arguments in district court that they have presented here under the guise of a “system art” combination whose apparent purpose is to avoid their commitment under the stipulations. This factor favors denial.

Factor 5: Petitioners’ argument ignores the Board’s express language in *Fintiv II*. In addition, Petitioners provide no support for their contention that this factor is neutralized when less than all parties to the IPR proceeding are also parties to a district court litigation involving the same patent. This factor favors denial.

Factor 6: Petitioners’ reliance on Patent Owner’s decision to not address the dubious merits of the petition in the Patent Owner’s

Preliminary Response is misplaced. The Patent Owner is not obliged to address the merits in a Patent Owner's Preliminary Response and institution may be appropriately denied when the Patent Owner waives a preliminary response altogether. *See William Sykes v. Smart Vent Products*, No. IPR2019-01061, Paper 11 (P.T.A.B. Oct. 21, 2019) (denying institution where Patent Owner explicitly elected to waive the preliminary response (Paper 10)); *Unified Patents Inc., v. Flectere LLC*, No. IPR2019-00479, Paper 9 (P.T.A.B. July 2, 2019) (denying institution where Patent Owner explicitly elected to waive the preliminary response (Paper 6)); and *Unified Patents Inc. v. Preferential Networks IP, LLC.*, No. IPR2018-00184, Paper 8 (P.T.A.B. June 4, 2018) (denying institution where Patent Owner explicitly waived the preliminary response (Paper 7)).

See also Apple, Inc. v. AGIS Software Development, LLC, No. IPR2018-00817, Paper 9, 29-33 (P.T.A.B. Oct. 3, 2018) (denying institution even though "Patent Owner does not respond specifically to Petitioner's evidence and argument with respect to this limitation" for two limitations of the independent claims). This factor favors denial.

All six *Fintiv* factors favor discretionary denial, and the Petition should be denied on this basis alone.

Date: March 17, 2025

Respectfully submitted,

/Brett Cooper/

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Lead counsel for Patent Owner

CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e)(1))

The undersigned hereby certifies that the above document was served on March 17, 2025, by filing this document through the Patent Trial and Appeal Case Tracking System as well as delivering a copy via electronic mail upon the following attorneys of record for the Petitioners:

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