UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WESTERN DIGITAL TECHNOLOGIES, INC.,
Petitioner,

v.

GODO KAISHA IP BRIDGE 1,
Patent Owner.

Case No. IPR2024-01494
Patent No. 11,968,909

PATENT OWNER'S MOTION TO TERMINATE *EX PARTE* REEXAMINATION PURSUANT TO 35 U.S.C. §315(d) AND 37 C.F.R. §42.122(a)

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LISTING OF EXHIBITS

Exhibit	Description
2001	Kittel, C., *Introduction to Solid State Physics*, 6th Edition, 1986, pgs. 13-15, 18, 23 ("Kittel")
2002	Duke, C.B., *Tunneling in Solids*, Solid State Physics: Advances in Research and Applications, 1969, pgs. 1, 6-7, 34-35, 78-79 ("Duke")
2003	Definition of "ferromagnetism," Oxford English Reference Dictionary, Second Edition, pg. 513 ("Oxford English Reference Dictionary")
2004	"Ferromagnetism," The New Encyclopaedia Britannica: Volume 4, 15th Edition, 2003, pgs. 748-749 ("Britannica")
2005	Zhu, J.G., et al., *Magnetic tunnel junctions*, Materials today, Volume 9, Number 11, November 2006, pgs. 36-45 ("Zhu")
2006	Wulfhekel, W., et al., *Single-crystal magnetotunnel junctions*, Applied Physics Letters, Volume 78, Number 4, January 2001, pgs. 509-511 ("Wulfhekel")
2007	Hard disk Market – Global Industry Analysis and Forecast (2025-2032), https://www.maximizemarketresearch.com/marketreport/global-hard-disk-market/63888/
2008	Yuasa citations, https://scholar.google.com/citations?view_op=view_citation&hl=en&user=kb5EQcsAAAAJ&citation_for_view=kb5EQcsAAAAJ:3fE2CSJIrl8C
2009	Yuasa citations 2, https://scholar.google.com/citations?view_op=view_citation&hl=en&user=kb5EQcsAAAAJ&citation_for_view=kb5EQcsAAAAJ:kNdYIxmwKoC
2010	Wang, S.X., et al., *Magnetic Information Storage Technology* (Academic Press 1999) (Chapter 6)
2011	RESERVED

Exhibit	Description
2012	Parkin, S.P, et al., *Giant tunneling magnetoresistance at room temperature with MgO (100) tunnel barriers*, Nature Materials, 3 (2004), 862-867
2013	Transcript of Deposition of Jeffrey Bokor, Ph.D. (June 24, 2025)
2014	Transcript of Deposition of Jeffrey Bokor, Ph.D. (June 25, 2025)
2015	Djayaprawira, D., et al., *230% room-temperature magnetoresistance in CoFeB/MgO/CoFeB magnetic tunnel junctions*, Applied Physics Letters, 86(9) (2005)
2016	Yuasa, S., et al., *High Tunnel Magnetoresistance at Room Temperature in Fully Epitaxial Fe/MgO/Fe Tunnel Junctions due to Coherent Spin-Polarized Tunneling*, Japanese Journal of Applied Physics, 43(4B), (2004) L588
2017	Yuasa, S., et al., *Giant room-temperature magnetoresistance in single crystal Fe/MgO/Fe magnetic tunnel junctions*, Nature Materials, 3(12) (2004), 868-871
2018	Statutory Disclaimer Under 37 C.F.R. §1.321(a)
2019	Marrows, C.H., *Spin-polarised currents and magnetic domain walls*, Advances in Physics, 52(8), (2005) 585-713
2020	Tsymbal, E., et al., *Handbook of Spin Transport and Magnetism*, 2012
2021	Nagamine, Y, et. al*., Ultralow resistance-area product of 0.4 Ω (μm)^2 and high magnetoresistance above 50% in CoFeB/MgO/CoFeB magnetic tunnel junctions*, Applied Physics Letters, 89 (2006), 16507
2022	Nakatani, T., et al., *Read sensor technology for ultrahigh density magnetic recording*, MRS Bulletin, Materials Research Society, 43(2), (2018) 106-111
2023	Jiang, B., et al., *Tunneling magnetoresistive devices as read heads in hard disk drives*, Journal of Magnetism and Magnetic Materials, 571 (2023) 170546

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2024	The 23rd (FY2022) Japan Society of Applied Physics Achievement Award Recipients (with English translation), The Japan Society of Applied Physics, https://www.jsap.or.jp/outstanding-achievementaward/recipients/recipients23
2025	JSAP Outstanding Achievement Award Recipients, The Japan Society of Applied Physics, https://www.jsap.or.jp/english/awards/outstanding-achievementaward/recipients
2026	2021 New Fellows, IEEE Japan Council, https://ieeejp.org/en/kaiin/fellow/fellow21.html
2027	JST owned patent wins Future Creative Invention Prize at the National Invention Award 2021, Japan Science and Technology Agency, https://www.jst.go.jp/report/2021/210525_e.html
2028	Dr. Shinji Yuasa profile, https://www.jst.go.jp/impact/sahashi/en/system/index.html
2029	AIST wins three Science and Technology Awards in the 2016 Minister of Education, Culture, Sports, Science and Technology Commendation for Science and Technology, https://www.aist.go.jp/aist_j/news/prize/pr20160412_3.html
2030	Yuasa, S., *Magnetoresistance and Spin-Transfer Torque in Magnetic Tunnel Junctions*, IEEE Transactions on Magnetics, IEEE Magnetics Society Distinguished Lecturers for 2012, Vol. 48, No. 1, 2012
2031	Shinji Yuasa – IEEE Magnetics Society, https://ieeemagnetics.org/contact/shinji-yuasa#biography
2032	AIST: 20th Tsukuba Prize winner, https://www.aist.go.jp/aist_j/news/prize/itemid025-000077.html
2033	Announcing the winners for “Tsukuba Prize,” “Esaki Leona Prize,” and “Tsukuba Encouragement Prize”: Ibaraki Prefectural Science and Technology Promotion Foundation (with English translation), https://www.tsukuba-sci.com/cms/?p=9853

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2034	AIST: 34th Inoue Harunari Prize, https://www.aist.go.jp/aist_j/news/prize/itemid025-000082.html
2035	RESERVED
2036	RESERVED
2037	Saito, Y. et al. *Correlation between barrier width, barrier height, and dc bias voltage dependences on the magnetoresistance ratio in Ir-Mn exchange biased single and double tunnel junctions*, Jpn J. Appl. Phys. 39, L1035–L1038 (2000)
2038	Maat, S., et al., *Physics and Design of Hard Disk Drive Magnetic Recording Read Heads*, Handbook of Spintronics, 2014
2039	Soukup, R.J., *Hot Electron Transport in Vacuum Deposited Thin Film Emission Diodes*, University of Minnesota, Ph.D., Physics, solid state, 1969, pgs. 1-209 ("Soukup-Dissertation")
2040	U.S. Patent Application Publication No. 2006/0003185 A1
2041	J. C. Slonczewski, *Conductance and exchange coupling of two ferromagnets separated by a tunneling barrier,* Phys. Rev. B 39, 6995-7002 (1989)
2042	RESERVED
2043	RESERVED
2044	RESERVED
2045	RESERVED
2046	RESERVED
2047	RESERVED
2048	RESERVED
2049	RESERVED

Exhibit	Description
2050	RESERVED
2051	RESERVED
2052	RESERVED
2053	Declaration of Caroline A. Ross, Ph.D.
2054	*Curriculum Vitae* of Caroline A. Ross, Ph.D.
2055	U.S. Application No. 10/824835 File History (Partial)
2056	Citations to Butler: https://scholar.google.com/scholar?hl=en&as_sdt=0%2C22&q=Butler+et+al.%2C+Spin-dependent+tunneling+conductance+of+Fe%7CMgO%7CFe+sandwiches%2C+63+Phys.+Rev.+B+054416+%282001%29&btnG=
2057	Citations to Soukup: https://scholar.google.com/scholar?hl=en&as_sdt=0%2C22&q=Soukup+et+al.%2C+Voltage-Current+Characteristics+for+Electrical+Conduction+Through+Thin+MgO+Films%2C+41+J.+Appl.+Phys.+3229-+3236+%281970%29&btnG=
2058	Errata to EX2013 - Deposition of Jeffrey Bokor, Ph.D. (June 24, 2025)
2059	Errata to EX2014 - Deposition of Jeffrey Bokor, Ph.D. (June 25, 2025)
2060-2071	RESERVED
2072	EX2024 - The 23rd (FY2022) Japan Society of Applied Physics Achievement Award Recipients (with English translation), The Japan Society of Applied Physics, https://www.jsap.or.jp/outstanding-achievementaward/recipients/recipients23 with Amended Certification of Translation **[SUPPLEMENTAL EVIDENCE - NOT FILED]**
2073	Certified English Translation of EX2029 - AIST wins three Science and Technology Awards in the 2016 Minister of Education, Culture,

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	Sports, Science and Technology Commendation for Science and Technology, *available at* https://www.aist.go.jp/aist_j/news/prize/pr20160412_3.html **[SUPPLEMENTAL EVIDENCE - NOT FILED]**
2074	Certified English Translation of EX2032 - AIST, "Winner of the 20th Tsukuba Award," *available at* https://www.aist.go.jp/aist_j/news/prize/itemid025-000077.html **[SUPPLEMENTAL EVIDENCE - NOT FILED]**
2075	Certified English Translation of EX2034 - AIST: 34th Inoue Harunari Prize, *available at* https://www.aist.go.jp/aist_j/news/prize/itemid025-000082.html **[SUPPLEMENTAL EVIDENCE - NOT FILED]**
2076	RESERVED
2077	RESERVED
2078	Declaration of Dara Del Rosario **[SUPPLEMENTAL EVIDENCE - NOT FILED]**
2079	Transcript of October 24, 2025 Board Conference Call
2080	RESERVED
2081	RESERVED
2082	RESERVED
2083	RESERVED
2084	RESERVED
2085	Transcript of Deposition of Jeffrey Bokor, Ph.D. (Oct. 30, 2025)
2086	Transcript of Deposition of Jeffrey Bokor, Ph.D. (October 31, 2025)
2087	Sur-Reply Declaration of Caroline A. Ross, Ph.D.
2088	Errata to EX2085 - Deposition of Jeffrey Bokor, Ph.D. (Oct. 30, 2025)

Exhibit	Description
2089	Errata to EX2086 - Deposition of Jeffrey Bokor, Ph.D. (Oct. 31, 2025)
2090	Patent Owner's Demonstrative Exhibits
2091	Request for *ex parte* reexamination of U.S. Patent No. 11,968,909, Control No. 90/016,097, filed by Western Digital Technologies, Inc. on March 29, 2026.

I. STATEMENT OF RELIEF REQUESTED

Patent Owner ("IPB") asks the Board to exercise its authority under 35 U.S.C. §315(d) and 37 C.F.R. §42.122(a) to terminate the reexamination (Control No. 90/016,097) that Petitioner requested of the '909 Patent. On March 29, 2026—just weeks before the FWD is due—Petitioner filed its reexamination request. EX2091 ("Request"). The Request challenges the same claims at issue here, relies on prior art Petitioner knew or should have known about before the Petition was filed, and seeks to circumvent 35 U.S.C. §315(e)'s estoppel provision.

Section 315(d) empowers the Director to prevent this serial attack on the '909 Patent while this IPR is pending. The Director's recently-proposed rule change would prohibit Petitioner's reexam. Revision to Rules of Practice Before the Patent Trial and Appeal Board, 90 Fed. Reg. 48335-48341 (Oct. 17, 2025) ("Proposed Rules"). Although these Proposed Rules are not in effect, Director Squires's detailed explanation of why the new rules are proposed leaves little doubt he would exercise his discretion to terminate Petitioner's reexam.

IPB requests that the Board terminate the Reexamination under §315(d) and Rule 122(a), do so before the FWD issues, and order Petitioner to not file another reexam request challenging the '909 Patent before the FWD issues.

II. REASONS SHOWING GOOD CAUSE FOR REQUESTED RELIEF

A. The Board Has the Authority to Terminate the Reexam

The Board has "exclusive jurisdiction within the Office" over the '909

Patent during this IPR. 37 C.F.R. §42.3(a). Without Board authorization, Petitioner requested a different proceeding before the Office challenging the '909 Patent. The Director and the Board have the authority to terminate that reexamination proceeding. 35 U.S.C. §315(d) ("***during the pendency of an inter partes review***, if another proceeding or matter involving the patent is before the Office, the Director may determine the manner in which the inter partes review or other proceeding or matter may proceed, including providing for … ***termination of any such matter or proceeding***."); Rule 122(a) ("the Board" has similar termination authority). The Board exercised this authority and terminated reexaminations in *Ariosa Diagnostics v. Illumina*, IPR2014-01093, Paper 81, 13–15 (PTAB May 24, 2016).

The Board has the authority to terminate the reexam ***before the FWD issues*** ("during the pendency of" the IPR) and should do so for the reasons below.

B. The Board Should Terminate the Reexam

1. The Request's Grounds Could Have Been in the Petition

The Request is based on two references (Parkin and Kishi) Petitioner knew, or should have known, about when the Petition was filed. Petitioner admits Parkin (Publ. No. 2009/0324814) is among the '909 Patent's "References Cited." Request, 9. And Petitioner admits Kishi was used to reject claims in a child of the '909 Patent on June 26, 2024 (*id*., 1–2), ***three months before*** the Petition was filed on September 27, 2024. Petitioner cited Kishi, the Examiner's Kishi-based rejection

and the child application abandonment in its petition in IPR2025-00701, filed March 6, ***2025***, and could have done so in this Petition against the '909 Patent too.

2. Buyer's Remorse on the Petition's Grounds is Not Justification for a Second Serial Attack on the '909 Patent

The Director does not consider "new … prior art" to be an unusual or extraordinary circumstance that justifies filing a reexam after an IPR has been instituted. Proposed Rules, 48341. But even if it were, the Request's prior art is not new. Petitioner knew or should have known of both references before filing its Petition ***more than a year and a half ago***. *Supra* II.B.1. Petitioner is a sophisticated company represented by experienced IPR counsel. Petitioner made a strategic choice to pursue ***different grounds*** in this IPR. Petitioner should not be permitted to hold references in reserve as a fallback in case the IPR trial unfolds in a manner unfavorable to Petitioner—precisely as it did here.

Sanctioning Petitioner's conduct would undermine the intent of §315(e)'s estoppel provision and be inconsistent with the Director's guidance that an instituted IPR suffices to challenge a patent. Proposed Rules, 48336 (Congress "did not want 'repeated … administrative attacks on the validity of a patent'"), 48336 ("*Serial … validity challenges remain a significant problem for the patent system*") (emphasis original), 48337 (the proposed rule limiting a petitioner of an instituted IPR to one challenge "*is intended to enhance fairness, efficiency, and predictability in patent disputes*") (emphasis original), 48337–38 ("allowing multiple …

patentability challenges against the same patent can reduce competition" and lead to "inconsistent decisions"), 48341 (the proposed rules would require an IPR petitioner to stipulate that if its IPR is instituted the petitioner will not raise an unpatentability challenge under 102/103 "in any other proceeding" including "ex parte reexamination"); *PacifiCorp v. Birchtech*, IPR2025-00687, Paper 40, 2–3 (Squires Jan. 12, 2026) (precedential) (granting director review, vacating decisions granting institution, and remanding) (only one petition should have been instituted against the challenged patent rather than multiple where—***as in this IPR***—petitioners "had ample room" in the petition to present multiple grounds).

3. Allowing the Reexam to Proceed Would Waste Office Resources, Risk Inconsistent Results and Prejudice IPB

If Petitioner prevails in the FWD, its requested reexamination would be unnecessary. The Request serves one purpose—to act as a hedge for Petitioner in case it loses at FWD. Petitioner seeks to game the system and avoid §315(e)'s estoppel provision by filing its Request just before the FWD issues. *See infra* §II.B.5. The Board should not sanction Petitioner's conduct.

Waste of Office Resources – after having chosen to seek IPR and have the Office devote substantial resources to conducting this trial, Petitioner seeks to have the Office devote more resources to addressing its second serial challenge to the '909 Patent. That would be a waste of the Office's limited resources. Proposed Rules, 48336 (Congress "did not want 'repeated … administrative attacks on the

validity of a patent"), 48337 (limiting a petitioner of an instituted IPR to one challenge would "*enhance ... efficiency ... in patent disputes*").

Potential for Inconsistent Results - Petitioner is seeking to hedge against the Board upholding the patentability of the challenged claims and hoping it might get a different ***inconsistent*** result from a different part of the Office (the CRU) on those same claims via reexamination. The Director is clear that "inconsistent decisions" should be avoided (*id*., 48338) and that allowing serial patentability attacks undermines the reliability and predictability of the patent system because "*Even extremely strong patents become unreliable when subject to serial or parallel validity challenges*" (*id*., 48335) (emphasis original).

Any assertion that Petitioner's second serial challenge is warranted because IPB "acquiesced to the Examiner's finding the prior art 'teaches a barrier height of (0.1 eV to 0.85 eV) and (.2eV to .5eV)'" fails. Reply, 1. That Kishi rejection was made ***three months before the Petition was filed*** and Petitioner was aware of it at least by March of 2025—***more than a year before the reexam request was filed***. *Supra* §II.B.1; IPR2025-00701, Paper 1 at 5 ("The Examiner found that 'Kishi … teaches a barrier height of (0.1 eV to 0.85 eV) and (.2eV to .5eV)'" and IPB "abandon[ed]" the application). Like it did here (Reply, 1), Petitioner pointed to the Kishi rejection for color and ***chose*** to not include Kishi in any ground in its IPR2025-00701 petition. Petitioner knew or should have known about Kishi before

the Petition in this IPR was filed and ***chose*** to not use it in its grounds. That is no justification for a second serial challenge now—18 months later—based on Kishi. A party seeking a second serial attack will always tout the alleged strength of the prior art used therein in seeking to justify its second serial attack. The Director rejects that rationale: there is nothing "[u]sual" or "extraordinary" about "new or additional prior art" which is no justification for another challenge after an IPR has already been instituted. Proposed Rules, 48341.

Prejudice to Patent Owner – in terminating a reexamination filed during pendency of an IPR in *Ariosa*, the Board was influenced by the petitioner having benefitted from seeing the patent owner's arguments, deposing the patent owner's expert, and having the opportunity to "adjust its invalidity challenges based on information it obtained" from its prior challenge. IPR2014-01093, Paper 81 at 15.

The same is true here. Petitioner had the benefit of a ***full IPR trial***—including seeing IPB's POR and Sur-Reply, hearing IPB's arguments at oral hearing, cross-examining IPB's expert multiple times (EX1101-1102, EX1107), and gauging the Board's reaction to the parties' arguments at oral hearing. Paper 52. Petitioner was not shy about trying to take full advantage of this information in its Reexam Request. Request, 1 and 14-16 (seeking to use IPB's IPR arguments against it) and 15 ("Patent Owner's decision to defend the '909 Patent claims based on its recitation of specific tunnel barrier heights further demonstrates its claims

are unpatentable."). Petitioner should not be permitted to use its instituted IPR against the '909 Patent to "adjust its invalidity challenges based on information it obtained" therefrom. *Ariosa*, IPR2014-01093, Paper 81 at 15.

In addition to prejudicing IPB on the merits, Petitioner's reexam would force IPB to "spend substantial funds defending their rights." Proposed Rules, 48337.

Finally, Petitioner's delay in filing its reexam request (*infra* §II.B.5) compounds the prejudice to IPB. The litigation against Petitioner has been stayed for nearly 18 months pending the outcome of this IPR. If Petitioner's reexam moves forward, Petitioner will undoubtedly argue that the stay should continue even after the IPR ends. By waiting to seek reexam until 18 months after the Petition was filed, rather than pursuing it in parallel with this IPR, Petitioner seeks to lengthen the stay and further delay IPB's litigation. The Board should not reward that gamesmanship which is highly prejudicial to IPB.

4. Failing to Terminate the Reexam Would Render Section 315(e)'s Estoppel Provision Toothless

An IPR petitioner who loses at FWD is estopped from bringing another challenge before the Office. 35 U.S.C. §315(e)(1) ("The petitioner in an inter partes review of a claim in a patent … that results in a final written decision … may not request or maintain a proceeding before the Office with respect to that claim on any ground that the petitioner raised or reasonably could have raised during that inter partes review."). Petitioner filed its reexam request just before the

FWD issues in an attempt to avoid estoppel and not be bound by the results of this IPR. *Infra* §II.B.5; Proposed Rules, 48336 (estoppel applies "only after the issuance of" an FWD). If Petitioner loses at FWD, Petitioner will argue that §315(e)'s estoppel provision does not apply to their already-filed reexam proceeding because the requestor does not "maintain" a reexam. *Gesture Tech. Partners*, 160 F.4th 1317, 1321 (Fed. Cir. 2025) (affirming the Office's decision to not terminate a reexam filed before FWD because "the petitioner does not maintain the [reexam] proceeding" and §315(e)'s estoppel provision is "inapplicable against the Patent Office to ongoing *ex parte* reexamination proceedings").

The Board should terminate the reexam ***before the FWD issues***, and order Petitioner to not file another reexam challenging the '909 Patent before the FWD issues, to maintain the viability of §315(e)'s estoppel provision and prevent Petitioner's gamesmanship from being rewarded. If Petitioner prevails at FWD no estoppel will apply. But if Petitioner loses at FWD, it should be bound by the results of its failed IPR. If Petitioner's reexam is not terminated, that would encourage future petitioners to follow the same playbook under which they would gain the benefit of a full IPR trial on their preferred grounds, and then file a reexam request on the eve of the FWD as a hedge. Director Squires has made clear that that is not how he believes the system should operate. *Supra* §II.B.2-3.

Petitioner will say they have complied with the letter of §315(e), under

which they were not estopped from filing their reexam request before the FWD issues. But this scenario is covered by the statute's ***preceding*** subsection (§315(d)), which grants the Director the discretion to terminate the reexam proceeding filed during the pendency of this IPR. *Supra* §II.A. As the panel did in *Ariosa*, the Board should exercise its authority to terminate the reexam. *Supra* §II.A. If the Board is disinclined to grant this motion, the Board should issue any denial ***before issuing the FWD*** and leave time for IPB to seek Director review so that the Director's authority to terminate the reexam is not extinguished by the issuance of the FWD. *Supra* §II.A. It is Director Squires's discretion to exercise under §315(d), and his public statements supporting the proposed new rules—which would prohibit Petitioner's reexam filed after an instituted IPR—leave little doubt he would exercise his discretion to terminate Petitioner's reexam. *Supra* §II.B.2-3.

5. Petitioner's Delay Should Not Foreclose Consideration and Potential Director Review of IPB's Motion

The timing of Petitioner's reexam request reeks of gamesmanship. The Board issued its FWD in IPR2024-01447—in which oral hearing was held on the same day as this IPR—on Friday March 27, 2026, more than three weeks before it was due. This spurred Petitioner into action. Petitioner did not wait even a single business day before filing the reexam request on the following ***Sunday***. The unusual Sunday filing suggests Petitioner had the reexam request ready to file and was waiting until just before the FWD was about to issue to give IPB and the

Office little time to address termination of the reexam. That gamesmanship should not be rewarded. Given that Petitioner has known about the prior art used in its reexam request for more than a year (*supra* §II.B.2), there is no justification for Petitioner to have waited until the eve of the FWD to file it.

The time pressure IPB and the Office are under to address termination of the reexam before the FWD issues is entirely of Petitioner's creation. It is a feature – not a bug – of Petitioner's strategy and it should not be rewarded. The Office should take whatever time is needed for the Board to decide IPB's request and, if it is not granted, for IPB to seek Director review of a decision that exercises discretion expressly granted ***to the Director*** under §315(d). If more time is needed, then "good cause" exists for the Director to extend the one-year period for issuing the FWD under 35 U.S.C. §316.

III. CONCLUSION

To maintain the viability of §315(e)'s estoppel provision, the Board should terminate the reexam under §315(d) ***before issuing the FWD*** and order Petitioner to not file another reexam challenging the '909 Patent before the FWD issues.

Respectfully submitted,
Godo Kaisha IP Bridge 1

Date: April 6, 2026

By: /Richard Giunta /
Richard F. Giunta, Reg. No. 36,149
WOLF, GREENFIELD & SACKS, P.C.

CERTIFICATE OF SERVICE UNDER 37 C.F.R. §42.6 (e)(4)

I certify that on April 6, 2026, a copy of the foregoing document, including any exhibits filed therewith, is being served via electronic mail, as previously consented to by Petitioner, upon the following:

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Dara Del Rosario
Paralegal
WOLF, GREENFIELD & SACKS, P.C.