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Subject: RE: IPR2025-00050
Date: Tuesday, April 8, 2025 2:07:34 PM
Attachments: [image001.png](#)

Counsel,

Patent Owner's request to file a supplemental brief addressing the Interim Processes for PTAB Workload Management is denied. The March 26, 2025 Memorandum states that the processes described therein will be implemented in IPRs where the deadline for the patent owner to file a preliminary response has not yet passed. In IPR2025-00050, the preliminary response deadline has already passed. To the extent Patent Owner would like to address the rescission of the June 21, 2022, memorandum entitled "Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation," Patent Owner is authorized to file a 5-page supplemental brief no later than April 15, 2025. If Patent Owner files a supplemental brief, Petitioner is authorized to file a 5-page sur-reply no later than April 22nd.

Regards,

Andrew Kellogg,
Deputy Chief Clerk, Trials
Patent Trial and Appeal Board
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From: McKeown, Scott A. <Scott.McKeown@WolfGreenfield.com>
Sent: Monday, April 7, 2025 12:36 PM
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Subject: IPR2025-00050

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Honorable Board,

Patent Owner requests authorization to file a seven (7) page supplemental brief addressing the recent change to PTAB *Fintiv* policy and the Interim Processes for PTAB Workload Management. The change to the *Fintiv* policy occurred the same day the POPR was filed in this IPR (IPR2025-00050), and since that time, the Interim Process has been announced that is applicable to related IPRs of this dispute that were filed on staggered schedules by Petitioner. Patent Owner has now submitted discretionary briefs to the Director in related IPRs

(IPR2024-00250 & IPR2024-00407). Good cause exists for the filing here as the discretion of the agency should be applied consistently, which is the stated purpose of the Director's Interim policy.

Patent Owner is prepared to file this requested paper within five (5) business days of the Board's authorization.

Petitioners oppose Patent Owner's request. As Mr. McKeown successfully argued in four IPRs, "the plain language of the Memorandum makes clear that these proceedings are excluded since they are months beyond the POPR date." See *Google LLC v Metarail, Inc.*, IPR2024-01269, 01270, 01271, 01272, Paper 10 and Exhibit 3001 (Apr. 2, 2025) ("The processes described herein will be implemented in IPR and PGR proceedings where **the deadline for the patent owner to file a preliminary response has not yet passed.**" (Memo at 3)). Here, the POPR was filed February 28, 2025. Moreover, the applicability of *Fintiv* or 325(d) to the facts of this IPR have not changed after the POPR where Patent Owner made the strategic decision to not address discretionary denial on any basis. Put simply, the bifurcated discretionary denial briefing procedure does not apply to IPR2025-00050.

(Petitioners comments above were included by Patent Owner as a professional courtesy. It is disappointing that Petitioners' counsel would choose to utilize this courtesy as an opportunity to impugn my professional integrity based on such a plainly inapplicable citation. Unlike *Google*, Patent Owner did not unilaterally upload Director Review briefing without authorization; fail to conduct the requisite meet and confer on desired briefing; or misrepresent the date eligibility of the Interim policies to justify such actions after-the-fact. *Google* at Ex. 3001. Indeed, Patent Owner is not even seeking Director Review here, just consistency in related records on a common issue via "**supplemental brief.**")

Counsel for the parties are available for a conference call should the Board so desire on April 9th or 10th.



Scott McKeown

(Mik-Q-En)

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