

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ERICSSON INC., NOKIA OF AMERICA CORP., AT&T SERVICES, INC.,
CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, GOOGLE LLC, AND
T-MOBILE USA, INC.,
Petitioners,

v.

PEGASUS WIRELESS INNOVATION LLC,
Patent Owner.

Case IPR2025-00083
U.S. Patent No. 10,638,463

PATENT OWNER'S PRE-INSTITUTION SUPPLEMENTAL FILING

The Supplemental Filing was authorized by the Board by email on May 7, 2025, to address Patent Owner's recent withdrawal of the '463 patent from co-pending litigation. The parties had been litigating infringement and validity of the '463 patent since the initiation of the District Court litigations, and have expended considerable resources doing so. In late April 2025, Patent Owner narrowed the dispute with Petitioners, and elected not to submit an expert infringement report addressing infringement of the '463 patent. However, this does not change the outcome of the *Fintiv* analysis here, where conserving resources of the Board heavily favors denial. Specifically, the fact that Patent Owner did not serve an expert infringement report regarding the '463 patent makes the validity of the '463 patent less important to the global dispute between the parties, not more important. There no reason to expend Board resources to decide the validity of patent claims that have been dropped from the co-pending litigation, particularly where a *Fintiv* denial is appropriate and warranted for the patents that remain in the litigation.¹

Moreover, Patent Owner's decision to drop the '463 patent during expert

¹ Two of Petitioners' other IPRs—IPR2025-00036 and IPR2025-00037—were denied by the Board under *Fintiv*, on April 25, 2025, due to the extensive activities that have already occurred in the co-pending litigation, the schedule of the upcoming trial, and the overlap in parties between those IPRs and the litigation.

discovery reveals just how far along the co-pending litigation is, with trial scheduled to proceed on September 8, 2025. It would be illogical to require patent owners to maintain claims against defendants just to increase likelihood of a *Fintiv* denial, rather than drop claims and therefore conserve judicial and administrative resources, along with resources of the parties.

Petitioners may contend that this IPR should continue because the dismissal of the '463 patent is without prejudice, and therefore a future lawsuit could arise beyond the statutory bar date for filing a new IPR. But Petitioner Google is not a defendant and has not been served with a complaint alleging infringement of the '463 patent. Also, it is mere speculation that a future dispute would arise where no current dispute exists. And speculation does not warrant the Board dedicating resources on the chance that some dispute might arise in the future.

The narrowing of claims in litigation does not change the balance of *Fintiv* factors, which still weigh in favor of denial. No Board resources are needed to address the '463 patent claims that have been dropped, as the parties' global dispute is now focused on claims that remain in litigation and are on a timeline to proceed to trial in a matter of months, far sooner than a final written decision would issue from the Board.

Dated: May 12, 2025

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CERTIFICATE OF SERVICE

Petitioner has consented to e-mail service in this proceeding. Pursuant to 37 C.F.R. §42.6, the undersigned certifies that on this date, a copy of the foregoing document was served by email upon the following counsel at the below email addresses:

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