

From: [Director_PTABDecision_Review](#)
To: sfuller@ghiplaw.com; cmcmahon@beneschlaw.com; jhynds@rfem.com; mbattaglia@rfem.com; tdamario@beneschlaw.com; rvazquez@sinergialaw.com
Subject: RE: IPR2025-00102, -00103, and -00104 Director Review Request_Dismissed
Date: Monday, May 18, 2026 3:33:00 PM

Counsel,

The referenced FAQ relates to decisions on institution under the interim processes implemented by the Office. See [Memorandum, Interim Processes for PTAB Workload Management \(March 26, 2025\)](#). The Memorandum applies to IPR and PGR proceedings where the deadline for the patent owner to file a preliminary response had not yet passed as of March 26, 2025, and is not applicable to the above identified proceedings.

Thanks.

IPR2025-00102, 00103, and 00104
Ex. 3101

From: M. Scott Fuller <sfuller@ghiplaw.com>
Sent: Friday, May 15, 2026 5:09 PM
To: Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>; cmcmahon@beneschlaw.com; jhynds@rfem.com; mbattaglia@rfem.com; tdamario@beneschlaw.com; rvazquez@sinergialaw.com
Subject: Re: IPR2025-00102, -00103, and -00104 Director Review Request_Dismissed

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Director Review Team,

Patent Owner respectfully requests clarification regarding the May 14, 2026 email (included below) stating that Patent Owner's Request for Director Review "will not be considered" under 37 C.F.R. § 42.75(c).

Patent Owner understands that 37 C.F.R. § 42.75(c) generally limits a party to requesting Director Review or Board rehearing, but not both, of the same decision. Patent Owner does not seek to reargue that general rule. Rather, Patent Owner respectfully requests clarification regarding whether the Office considered FAQ 28 of the Interim Processes for PTAB Workload Management in this unusual posture.

FAQ 28 addresses rehearing requests that raise both discretionary considerations and merits or other non-discretionary considerations. It states that such requests must be filed as requests for Director Review and further states that, if a party incorrectly files such a request for rehearing by the Board panel, "the Office will treat that request as a request for Director Review" and notify the party to refile and pay the Director Review fee.

Patent Owner's rehearing request raised **both** discretionary issues, including fresh *Fintiv* and settled-expectations issues, and merits or other non-discretionary

issues, including *Revvo* claim-construction inconsistency and the Board's reliance on a TikTok-developed record. The Board's April 28 rehearing denial confirms that Patent Owner's request raised discretionary issues, including a "fresh Fintiv analysis" and settled expectations. Paper 22 at 4. Patent Owner's rehearing request also raised claim-construction divergence under *Revvo*, explaining that inconsistent positions across forums created efficiency, consistency, and merits-framework concerns. Paper 18.

The rehearing denial did not address *Revvo* or analyze whether that claim-construction issue required treatment under FAQ 28. Patent Owner therefore respectfully requests clarification whether FAQ 28 was considered and whether the procedure described there should apply to Patent Owner's rehearing request.

If the Office determines that FAQ 28 does not apply, Patent Owner respectfully requests that this email be treated, in the alternative, as a request that the Director consider whether sua sponte Director Review is warranted. The issues arise from the unusual post-vacatur posture created by the Director's March 30, 2026 Order requiring the Board to determine whether these petitions should be instituted "on their own." Paper 42 at 6–7. Patent Owner respectfully submits that the Board's treatment of that directive, including the refusal of pre-institution briefing, the *Revvo* claim-construction issue, and the reliance on a TikTok-developed record, presents important issues of law and policy warranting the Director's consideration.

Patent Owner is not submitting new evidence or new merits argument through this email. Patent Owner requests only clarification of the procedural treatment of its rehearing request and, alternatively, consideration of sua sponte Director Review.

Counsel for all parties are copied.

Respectfully,

M. Scott Fuller

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On Thu, 14 May 2026 18:02:43 +0000, Director_PTABDecision_Review
<Director_PTABDecision_Review@uspto.gov> wrote:

Counsel,

Patent Owner's request for Director Review of the Board's Decision Granting Institution in the above-identified proceedings (see IPR2025-00102, Paper 22) is outside the scope of Director Review. See 37 C.F.R. § 42.75(c) ("A party to a proceeding under this part may file one request for Director Review of a decision as

provided in paragraph (a) of this section, instead of filing a request for rehearing of that decision pursuant to § 42.71(d).”). Patent Owner has already requested rehearing of the Board’s Decision Granting Institution. See IPR2025-00102, Paper 18. Patent Owner’s request for Director Review, therefore, will not be considered.

Thank you.