

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GLOBUS MEDICAL, INC.
Petitioner,

v.

SPINELOGIK, INC.,
Patent Owner

IPR2025-00226
Patent No. 8,460,385

**PETITIONER’S RESPONSE TO PATENT OWNER’S REQUEST FOR
DISSCRETIONARY DENIAL**

TABLE OF CONTENTS

I.	INTRODUCTION	8
II.	BACKGROUND	9
	A. The 2023 Lawsuits	9
	B. The Globus Lawsuit	10
	C. The 2024 Lawsuit	11
	D. The Sanctions Against Patent Owner’s Litigation Counsel	11
III.	THE FINTIV FACTORS WEIGH HEAVILY AGAINST EXERCISION DISCRETION.....	13
	A. A Stay has Been Granted, Weighing Heavily Against Denial	13
	B. No Trial Date is Set, Weighing Heavily Against Denial.....	18
	C. Minimal Investment Has Been Made in the Litigation, Weighing Heavily Against Denial.....	21
	D. The Sotera Stipulation Mitigates All Concerns of Inefficiency and Conflicting Decisions, Weighing Heavily Against Denial.....	23
	E. Fintiv Factor Five Weighs Against Denial	28
	F. Other Circumstances Weigh Heavily Against Denial.	30
	1. The Merits of the Petition are Compelling	30
	2. The Settled Expectations of the Parties Weigh Against Discretionary Denial	31
	3. The Petition’s Reliance on Expert Testimony Does Not Favor Discretionary Denial.....	32
	4. The Disingenuous Nature of Arguments in the Request for Discretionary Denial Weighs Against Exercising Discretion.....	34

5. Compelling Public Health Interests Weigh Against Discretionary Denial.....	35
6. The Expired Status of the '385 Patent and the District Court Stay Weigh Heavily Against Exercising Discretion	36
7. The Efficiencies Gained by Institution Are Heightened Under these Circumstances.....	37
IV. CONCLUSION.....	38

EXHIBIT LIST

Exhibit No.	Description
1001	U.S. Patent No. 8,460,385 to Wensel (“the ’385 Patent”)
1002	Expert Declaration of Brad Culbert
1003	File History, U.S. Patent Application 12/705,972 (’385 Patent).
1004	U.S. Patent No. 7,942,903 (“Moskowitz”)
1005	U.S. Patent No. 4,790,303 (“Steffee”)
1006	U.S. Patent No. 8,075,593 to Hess (“Hess”)
1007	U.S. Patent Application Publication US 2006/0030851 (“Bray”)
1008	U.S. Patent Application Publication US 2005/0085913 (“Fraser”)
1009	Excerpts from Webster’s New World College Dictionary (4th Ed., 1999)
1010	Excerpts from The Oxford American Desk Dictionary (1998)
1011	Excerpts from The American Heritage Dictionary (2nd College Ed., 1982)
1012	Infringement Contentions Claim Chart of ’385 Patent
1013	YouTube Video File cited in Patent Owner’s Infringement Contents available at: https://www.globusmedical.com/products/hedron-ia/ downloaded from https://www.youtube.com/watch?v=mfkNhww75N0
1014	USPTO Discretionary Denial Guidance
1015	U.S. Patent No. 9,980,824

Exhibit No.	Description
1016	Lumbar Interbody Fusion Techniques <i>Cages, Dowels, and Grafts</i> , ed. Haid, Jr. et al., Quality Medical Publishing, Inc., St. Louis, Missouri 2003.
1017	Advances in Spinal Fusion – Molecular Science, Biomechanics, and Clinical Management, ed. Lewandrowski et al., Marcel Dekker, Inc., New York, New York 2004.
1018	U.S. Patent 8,100,955
1019	U.S. Patent No. 7,662,186
1020	U.S. Patent No. 7,041,135
1021	U.S. Patent Application Publication No. US 2009/0112261
1022	U.S. Patent No. 6,447,546
1023	U.S. Patent 8,172,854
1024	U.S. Patent 8,273,127
1025	Machinery Handbook, 28th Ed. (excerpts)
1026	A Method to Machine a Curved Tunnel with EDM, International Journal of Electrical Machining, No. 7, 2002, Goto et al.
1027	Curriculum Vitae of Brad Culbert
1028	Plaintiff’s Disclosure of Proposed Constructions, <i>Spinelogik Inc. v. Globus Medical, Inc.</i> , No. 2:23-cv-00529-JRG (E.D. Tex. Oct. 30, 2024)
1029	Defendant Globus Medical, Inc.’s Preliminary Claim Constructions, <i>Spinelogik Inc. v. Globus Medical, Inc.</i> , No. 2:23-cv-00529-JRG (E.D. Tex. Oct. 30, 2024)
1030 - 1100	RESERVED

Exhibit No.	Description
1101	Order Staying Case (Dkt. 53), <i>Spinelogik, Inc. v. Globus medical, Inc.</i> , No. 2:23-CV-529-JRG-RSP (E.D. Tex. Jan. 24, 2025)
1102	Globus’ Motion to Transfer (Dkt. 18), <i>Spinelogik, Inc. v. Globus medical, Inc.</i> , No. 2:23-CV-529-JRG-RSP (E.D. Tex. Apr. 2, 2024)
1103	Sanctions Order, <i>Symbology Innovations, LLC v. Valve Corp.</i> , No. 2:23-CV-00419-JRG (Dkt. 110), <i>Quantum Tech. Innovations, LLC v. Valve Corp.</i> , No. 2:23-CV-00425-JRG (Dkt. 75) (E.D. Tex. Jan. 31, 2025)
1104	PDF-Printout of “Team” Webpage, <i>available at</i> https://ghiplaw.com/team (last accessed May 2, 2025)
1105	Sanctions Order (Dkt. 72), <i>Blue Spike, LLC v. Caterpillar, Inc.</i> , No. 6:16-CV-01361-RWS (E.D. Tex., May 10, 2017).
1106	Exceptional Case Order (Dkt. 94), <i>Decapolis Systems, LLC v. UT Southwestern Health Systems</i> , No. 2:22-cv-00159-JRG-RSP (E.D. Tex. Mar. 28, 2025)
1107	Stay Order (Dkt. 106), <i>Cellspin Soft, Inc. v. ByteDance Ltd.</i> , No. 2:23-CV-00496-JRG-RSP (E.D. Tex. Jan. 26, 2025)
1108	USPTO “Documents & Transaction History” for Application No. 12/705,972 (last accessed on May 27, 2025).
1109	Preliminary Infringement Contentions, <i>Spinelogik, Inc. v. Globus medical, Inc.</i> , No. 2:23-CV-529-JRG-RSP (E.D. Tex. Mar. 11, 2024)
1110	Preliminary Infringement Claim Chart Against Globus’s Independence MIS® Implant, <i>Spinelogik, Inc. v. Globus medical, Inc.</i> , No. 2:23-CV-529-JRG-RSP (E.D. Tex. Mar. 11, 2024)
1111	Preliminary Infringement Claim Chart Against Globus’s Coalition MIS®, <i>Spinelogik, Inc. v. Globus medical, Inc.</i> , No. 2:23-CV-529-JRG-RSP (E.D. Tex. Mar. 11, 2024)

Exhibit No.	Description
1112	Preliminary Infringement Claim Chart Against Globus's Corbel® Implant, <i>Spinelogik, Inc. v. Globus medical, Inc.</i> , No. 2:23-CV-529-JRG-RSP (E.D. Tex. Mar. 11, 2024)
1113	Preliminary Infringement Claim Chart Against Globus's Hedron IA® Implant, <i>Spinelogik, Inc. v. Globus medical, Inc.</i> , No. 2:23-CV-529-JRG-RSP (E.D. Tex. Mar. 11, 2024)
1114	Stay Order (Dkt. 103), <i>Multimedia Techs. PTE. LTD. v. Vizio, Inc.</i> , No. 2:23-CV-00124-JRG-RSP (E.D. Tex. Aug. 22, 2024)
1115	Transfer Order (Dkt. 114), <i>Multimedia Techs. PTE. LTD. v. Vizio, Inc.</i> , No. 2:23-CV-00124-JRG-RSP (E.D. Tex. Jan. 22, 2025)
1116	Docket Sheet (as of April 30, 2025) in <i>Spinelogik, Inc. v. Globus Medical, Inc.</i> , No. 2:23-CV-529-JRG-RSP (E.D. Tex.)
1117	Order Denying Stay (Dkt. 73), <i>MyPort, Inc. v. Samsung Electronics Co., Ltd.</i> , No. 2:22-CV-00114 (E.D. Tex. June 13, 2023)

I. INTRODUCTION

Pursuant to Acting Director Stewart’s March 26, 2025 Memorandum titled “Interim Processes for PTAB Workload Management” (“March 26 Memorandum”), Petitioner files this response brief addressing the factors under *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (Mar. 20, 2020) (precedential) (“*Fintiv*”) and other relevant discretionary denial considerations, all of which weigh heavily against discretionary denial.

Patent Owner’s contrary positions are premised on fundamental mischaracterizations of fact. As perhaps the most egregious example, Patent Owner repeatedly represents that “Trial is scheduled for August 18, 2025, a year before the statutory deadline of August 17, 2026 for issuing a Final Written Decision in this matter.” Paper 6, 2 (emphasis in original). This statement is truly remarkable given that the parallel litigation was ***stayed by the district court more than four months ago***. As such, the original scheduling order is null and void—there is no scheduled trial and the case is at a standstill. In yet another attempt to improperly tilt the *Fintiv* factors in its favor, Patent Owner misrepresents that the projected statutory deadline for a final written decision is August 17, 2026—a month later than the actual deadline. *Id.*, 4. The relevant considerations weigh heavily against discretionary denial when the actual ***facts*** are considered.

II. BACKGROUND

A. The 2023 Lawsuits

On June 22, 2023, Patent Owner filed two separate lawsuits asserting U.S. Patent Nos. 8,460,385 (“the ’385 Patent”) and 9,730,805 (“the ’805 Patent”). *See Spinelogik, Inc. v. Zimmer Biomet Spine, Inc.*, No. 2:23-cv-00298 (E.D. Tex.); *Spinelogik, Inc. v. Genesys Orthopedics Systems, LLC*, No. 2-23-cv-00297 (E.D. Tex.). That same day, Patent Owner also filed a separate lawsuit asserting only the ’385 Patent. *Spinelogik, Inc. v. Choice Spine, LLC*, 2-23-cv-00296 (E.D. Tex.). All of these cases were consolidated into Case No. 2-23-cv-00297 (hereinafter “2023 Lawsuit”) before Judge Gilstrap and Magistrate Judge Payne (hereinafter, “the Court”).

In September of 2023, defendants ZimVie, Inc. and Zimmer Biomet Spine, Inc. filed a motion to dismiss for improper venue, failure to state a claim or, alternatively to transfer venue. *Spinelogik, Inc. v. Genesys Orthopedics Systems, LLC*, No. 2-23-cv-00297, Dkt. 17 (E.D. Tex.). That same month, defendant Genesys Orthopedics Systems, L.L.C. filed a motion to dismiss for improper venue. *Id.* at Dkt. 19. And in December 2023, defendant Choice Spine filed a motion to dismiss for improper venue or alternatively to transfer venue. *Spinelogik, Inc. v. Choice Spine, LLC*, 2-23-cv-00296, Dkt. 9 (E.D. Tex.).

Defendants Zimmer Biomet Holdings, Inc., LDR Spine USA, Inc., Zimmer Biomet Spine, Inc., ZimVie, Inc., LDR Medical SAS and Genesys Orthopedics were voluntarily or jointly dismissed before the merits of the motions were ruled on by the Court. *Spinelogik, Inc. v. Genesys Orthopedics Systems, LLC*, No. 2-23-cv-00297, Dkts. 40, 49, 59 (E.D. Tex.). Defendant Choice Spine’s motion is still pending, and all briefing is complete. *Id.*, Dkt. 83.

On January 24, 2025, the Court *sua sponte* issued an indefinite stay of the 2023 Lawsuit “pending resolution of the Motion to Dismiss.” *Id.*, Dkt. 89.

B. The Globus Lawsuit

Life Spine filed suit against Globus alleging infringement of the ’385 and ’805 patents in November 2023. *Spinelogik, Inc. v. Globus Medical, Inc.*, No. 2:23-cv-00529, Dkt. 1 (E.D. Tex.) (“Globus Lawsuit”); Ex. 1116, 3. Just like the earlier defendants, Globus filed a motion to transfer venue on April 2, 2024. *Id.*, 4 (Dkt. 18). The Court issued a scheduling order on April 9, 2024 that set the deadlines in the case, including a *Markman* hearing on February 12, 2025 and jury selection on August 18, 2025. *Id.* (Dkt. 22).

On January 24, 2025 the Court *sua sponte* issued an indefinite stay of the Globus Lawsuit “pending resolution of the Motion to Dismiss,” which is the same day the 2023 Lawsuit was stayed. Ex. 1101 (“The Court hereby **STAYS** the above-captioned case pending resolution of the Motion to Transfer, including the Markman

hearing scheduled for February 12, 2025.”) (Emphasis in original). The stay remains in effect, and the Court has provided no indication as to when it may rule on the transfer motion. Consequently, the scheduling order is no longer in effect due to the stay.

C. The 2024 Lawsuit

In October 2024, Spinelogik filed another lawsuit asserting the ’385 Patent. *Spinelogik, Inc. v. Camber Spine Technologies, LLC*, 2-24-cv-00873, Dkt. 1 (E.D. Tex.). That lawsuit is still in its infancy, as an answer is not due until May 2025 and a scheduling order has yet to issue. *Id.* at Dkts. 6, 7.

D. The Sanctions Against Patent Owner’s Litigation Counsel

In all of these lawsuits, Patent Owner is represented by Randall T. Garteiser of Garteiser Honea PLLC. *Spinelogik, Inc. v. Globus Medical, Inc.*, No. 2:23-cv-00529, Dkt. 1 (E.D. Tex); *Spinelogik, Inc. v. Genesys Orthopedics Systems, LLC*, No. 2-23-cv-00297, Dkt. 1 (E.D. Tex); *Spinelogik, Inc. v. Camber Spine Technologies, LLC*, 2-24-cv-00873, Dkt. 1 (E.D. Tex.).

On January 31, 2025—a week after the Court *sua sponte* stayed the lawsuits pending a decision on the motions to transfer—the Court issued a Rule 11 sanctions order (Ex. 1103) against Mr. Garteiser in *Symbology Innovations, LLC v. Valve Corp.*, Nos. 2:23-CV-00419-JRG, 2:23-CV-00425-JRG (E.D. Tex. Jan. 31, 2025). Specifically, Mr. Garteiser was sanctioned for (1) improperly delaying resolution of

a motion to dismiss and needlessly increasing costs, (2) repeatedly asserting “frivolous” venue allegations, (3) repeatedly misrepresenting the law on venue, and (4) repeatedly making “factual contentions that [h]e knew or should have known were false.” *See* Ex. 1103, 11-18.¹ Thus, Patent Owner’s litigation counsel has recently been sanctioned for making baseless venue allegations, apparently in an effort to improperly force defendants to defend themselves in the Eastern District of Texas. The fact that this sanction ruling came a week after the 2023 and Globus Lawsuits were *sua sponte* stayed suggests that the Court may also have serious reservations about the venue allegations in those lawsuits.²

Petitioner also notes that lead counsel for Patent Owner in this proceeding identifies himself as counsel at Sinergia Technology Law Group, PLLC. Paper 4, 2.

¹ The Court also found that Mr. Garteiser made a “false representation to the Court” that he was not served with the Rule 11 motion. *Id.* at 10.

² Despite Garteiser Honea being a small firm, it was also found to have violated Rule 11 by making baseless allegations in at least one other case. *See* Ex. 1105. Garteiser Honea was also the only counsel representing plaintiff in a case that was very recently deemed “exceptional” under 35 U.S.C. § 285 by Judge Payne, because plaintiff’s “litigation conduct evidences a strategy focused on unjustifiably pursuing [an accused infringer’s] customers in various forums despite another court finding the asserted patents invalid” and pursuing “meritless patent claims.” Ex. 1106, 4. A substantial fee award of \$643,248 was granted to defendants, indicating the severity of the misconduct. *Id.*

Interestingly, however, he is listed as a partner at Garteiser Honea PLLC—the same firm that represents Patent Owner in the parallel litigations and that was recently sanctioned for making false representations to the Court. Ex. 1104. It is unclear why Patent Owner’s lead counsel in this proceeding elected to not disclose that he is a partner at Garteiser Honea.

III. THE *FINTIV* FACTORS WEIGH HEAVILY AGAINST EXERCISING DISCRETION

A. A Stay has Been Granted, Weighing Heavily Against Denial

The first *Fintiv* factor is “whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted.” *Fintiv* at 6. On January 25, 2025, the Court issued an indefinite stay *sua sponte*. Ex. 1101. Given that “the court granted a stay” that remains in effect, the first *Fintiv* factor heavily weighs against exercising discretion.

Recognizing this, Patent Owner characterizes this factor as being limited to stays “in connection with the present IPR.” Paper 6, 2. But this factor considers “whether the court granted *a* stay or evidence exists that one may be granted.” *Fintiv* at 6 (emphasis added). Indeed, this factor is concerned with inefficiency and unnecessary duplication of efforts, and a stay of the entire case (as here) alleviates those concerns *regardless of the reason for the stay*.

Patent Owner further attempts to downplay the significance of the stay by representing that “a decision on the Motion to Transfer is imminent.” Paper 6, 2.

Patent Owner has no evidence whatsoever to support this assertion. Nothing has transpired in the parallel litigation since the stay issued, and nobody—not Petitioner, Patent Owner, nor the Board—can possibly know when the Court may rule on the transfer motion. Ex. 1116, 7. Indeed, Patent Owner acknowledges that “[a]ll briefing on the Motion to Transfer was completed as of November 20, 2024” (i.e., more than **six months** ago) and that the Court issued the stay on January 24, 2025 (i.e., more than **four months** ago). Paper 6, 2. Far from suggesting “imminence,” if anything this suggests that it could be many more months before the Court rules.

Patent Owner’s representation that “the stay will be lifted and a Markman Hearing will be scheduled” is equally speculative because it assumes—again with no evidence—that the transfer motion will be denied. But even accepting Patent Owner’s invitation to speculate, the fact that it has been more than six months since briefing was complete and four months since the stay issued suggests that the Court is leaning toward transferring the case. *See e.g., Multimedia Techs. Pte. Ltd. v. Vizio, Inc.*, No. 2:23-CV-00124-JRG-RSP, Dkt. 103 (E.D. Tex. Aug. 22, 2024) (Ex. 1114) (granting stay pending resolution of disputed motion to transfer); *Id.* at Dkt. 114 (Ex. 1115) (subsequent order adopting magistrate recommendation to transfer case based on transfer motion).

Moreover, about a week after the stay was issued, the Court issued Rule 11 sanctions against Patent Owner’s litigation counsel in another patent infringement

lawsuit **for making baseless venue allegations**. *Supra* Section II.D. The fact that Patent Owner’s litigation counsel was recently sanctioned under Rule 11 for making baseless **venue allegations**—an extraordinarily rare occurrence—and the Court stayed the litigation relating to Patent Owner’s **venue allegations** just before issuing those sanctions, further suggests that the case will be transferred.

Even if the first factor was limited to stays “in connection with the present IPR,” this factor also considers whether “evidence exists that one **may** be granted if a proceeding is instituted.” *Fintiv* at 6. The fact that a four-plus month stay has already been granted is clear evidence that the Court is willing to stay the litigation to preserve judicial resources, despite the alleged “undue prejudice” and “stage of the litigation” complained of by Patent Owner. Paper 6, 3-4.

Patent Owner speculates that “[o]nce the stay is lifted ... the Court in the EDTX case is unlikely to issue another stay based on the present IPR.” *Id.* at 3. However, the Board does not infer how the district court may rule based on the court’s prior decisions in unrelated cases. *See Sand Revolution II, LLC v. Continental Intermodal Group - Trucking LLC*, IPR2019-01393, Paper 24 at 7 (PTAB June 16, 2020) (informative) (“In the absence of **specific** evidence, we will not attempt to predict how the district court in the related district court litigation will proceed because the court may determine whether or not to stay any individual case, including the related one, based on a variety of circumstances and facts beyond our

control and to which the Board is not privy.”) (Emphasis added); *see also e.g., Hulu, LLC v. SITO Mobile R&D IP, LLC*, IPR2021-00298, Paper 11 at 10-11 (May 19, 2021); *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 15, 12 (PTAB May 13, 2020) (informative) (“We decline to infer, based on actions taken in a different case with different facts, how the District Court would rule should a stay be requested by the parties in the parallel case here.”); *Western Digital Corp. v. Kuster*, IPR2020-01391, Paper 10 at 8-9 (Feb. 16, 2020). The only specific evidence here is **a stay has already been issued by the Court**, clearly demonstrating that a stay “may” be granted if trial is instituted.

Even if it were appropriate to speculate as to what the Court may do based on unrelated cases, this factor would still weigh against exercising discretion. Patent Owner relies on “survey of cases from the Eastern District of Texas” from *Trover Group, Inc. v. Dedicated Micros USA*—a case that is **more than a decade old**. Paper 6, 3. A decade old survey cannot meaningfully evidence how the Court may rule today. Indeed, in a recent decision the Court granted an opposed motion to stay pending the outcome of instituted IPRs, despite a final written decision in the IPRs not expected to issue until after the scheduled jury trial. *Cellspin Soft, Inc. v. ByteDance Ltd.*, No. 2:23-CV-00496-JRG-RSP, Dkt. 106 (E.D. Tex. Jan. 26, 2025) (Ex. 1107).

Patent Owner’s reliance on *Samsung Elecs. Co. Ltd. v. Evolved Wireless LLC*

is also unavailing. Unlike *Evolved Wireless* where there was an anticipated date for the ITC's Final Determination, there is no anticipated trial date here given the indefinite nature of the stay. *Samsung Elecs. Co. Ltd. v. Evolved Wireless LLC*, IPR2021-00950, Paper 10 at 11 (PTAB Nov. 29, 2021).³

Samsung Electronics Co. Ltd. v. Clear Imaging Research, LLC also does not support Patent Owner speculative efforts—it undermines them. In that proceeding, the Board weighed this factor in favor of discretionary denial because Judge Gilstrap had not only previously denied a motion to stay based on a filed IPR, but did so using explicit language strongly indicating a stay would not be granted even if the Board instituted trial. *Samsung Elecs. Co. Ltd. v. Clear Imaging Research, LLC*, IPR2020-001552, Paper 12 at 12-13 (PTAB Mar. 3, 2021). No such evidence exists here. To the contrary, the only specific evidence relevant here is that the Court has ***already proven it is willing to grant a stay to preserve judicial resources.***

Patent Owner cites *MyPort, Inc. v. Samsung Electronics Co.* as alleged evidence that the Court would “find that a stay in this situation would unduly prejudice Patent Owner.” Paper 6, 3. Yet, the Court has already issued a stay

³ Petitioner notes that *Evolved Wireless* appears to be an outlier from routine Board practice because, as far as Petitioner can ascertain, other Board decisions decline to speculate as to how a court may rule based on generalized historical data. See *Sand Revolution II*, IPR2019-01393, Paper 24 at 7 (informative).

requested by neither party—undermining Patent Owner’s speculation. Moreover, Patent Owner acknowledges that the motion to stay in *MyPort* was denied in part because “the PTAB decision is not due until over two months after jury trial is set to begin.” *MyPort, Inc. v. Samsung Electronics Co., Ltd.*, No. 2:22-cv-00114-JRG, Dkt. No. 73 at 4 (E.D. Tex. June 12, 2023) (Ex. 1117). Here, a jury trial is not “set to begin” on any date and so *MyPort* is inapplicable.

B. No Trial Date is Set, Weighing Heavily Against Denial

The second *Fintiv* factor is the “proximity of the court’s trial date to the Board’s projected statutory deadline.” *Fintiv* at 9. This factor weighs against exercising discretion because there is no scheduled trial date. Indeed, the trial date no longer exists because the entire case has been stayed for months. *See Snap, Inc. v. SRK Tech. LLC*, IPR2020-00820, Paper 15 at 8-9 (PTAB Oct. 21, 2020) (precedential as to § II.A) (finding that second *Fintiv* factor does not weigh in favor of discretionary denial where a stay was issued after trial date was set, and further that Patent Owner’s contention as to when the trial court may set a new a new trial date “amounts to ‘unfounded speculation as to how the court might proceed.’”).

Patent Owner represents to the Board that “the EDTX Case is scheduled for August 18, 2025, a year before the statutory deadline of August 17, 2026.” Paper 6, 4. As an initial matter, Patent Owner attempts to improperly tilt this factor in its favor by misrepresenting the expected statutory deadline as occurring later. However, the

expected deadline for a final written decision is July 17, 2026. *See* 35 U.S.C. § 316(a)(11).

Patent Owner’s representation that trial “is scheduled” for August 18, 2025 is also false and misleading. Patent Owner willfully disregards that the parallel litigation is stayed and has been for months, which not only “includ[es] the Markman hearing” previously scheduled for February 12, 2025 but *all* deadlines and settings. Ex. 1101.⁴ Patent Owner and its counsel are clearly aware that the schedule is no longer applicable. They are also clearly aware that even if the case is not transferred, an entirely new scheduling order would need to be issued, necessarily pushing all original deadlines much further back. Patent Owner implicitly acknowledges as much by offering an alternative argument that assumes the Court “pushes the existing trial date by 6 months once the stay is lifted.” Paper 6, 4. However, Patent Owner’s contention as to when a new trial date may be set “amounts to ‘unfounded speculation as to how the court might proceed.’” *Snap, Inc.*, IPR2020-00820, Paper 15 at 9. Under the present facts, there is no trial date set and thus the “proximity of the court’s trial date” cannot weigh in favor of exercising discretion. *See Twitch Interactive, Inc. v. Razdog Holdings LLC*, IPR2025-00307, Paper 18 at 2 (PTAB May 16, 2025) (Director Decision denying request for discretionary denial

⁴ It should go without saying, but the stay would serve no purpose if the parties were expected to continue complying with the deadlines from the scheduling order.

“primarily based on a parallel district court proceeding” but where “there is ***no currently scheduled trial date*** in the co-pending district court litigation”) (emphasis added).

And even if trial were only delayed six months, discretionary denial would still not be warranted. “[A]n early trial date” is “non-dispositive” and simply means that “the decision whether to institute will likely implicate other factors,” which, as explained herein, weigh against denial *Fintiv* at 5, 9. In view of Petitioner’s *Sotera* stipulation and additional stipulation (*infra* Section III.D), if the Board institutes this IPR any ***grounds*** that were raised or reasonably could have been raised in this IPR will not be tried in district court *and* any ***prior art*** that was raised or could have been raised in this proceeding will not be raised before the district court. *See Dish Network, L.L.C. v. Broadband iTV, Inc.*, IPR2020-01267, Paper 15 at 17-18 (Jan. 21, 2021) (explaining that the second *Fintiv* factor “is a proxy for the likelihood that the trial court will reach a decision on validity issues before the Board reaches a [FWD]”). Indeed, even before the now-withdrawn Interim Procedure memorandum,⁵ the Board routinely instituted review where a petitioner offered a

⁵ On February 28, 2025, the Office rescinded the June 21, 2022 memorandum entitled “Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation,” which dictated that a *Sotera* stipulation precluded discretionary denial under *Fintiv*.

Sotera stipulation notwithstanding an early scheduled trial date. *See, e.g., Delta T, LLC v. MacroAir Techs., Inc.*, IPR2021-01214, Paper 10 at 8-12 (Dec. 16, 2021) (trial date 7 months before FWD); *Tianma Microelectronics Co. Ltd. v. Japan Display Inc.*, IPR2021-01057, Paper 15 at 8-14 (Jan. 6, 2022) (11 months); *PNC Bank, N.A. v. United Services Automobile Association*, IPR2021-01073, Paper 20 at 24-30 (Jan. 24, 2022) (9 months); *EcoFasten Solar, LLC v. Esdec, Inc.*, IPR2022-00087, Paper 8 at 12-20 (Jun. 8, 2022) (6 months); *Samsung Electronics Co., Ltd. v. RightQuestion LLC*, IPR2022-00244, Paper 17 at 14-18 (Jun. 10, 2022) (9 months).

C. Minimal Investment Has Been Made in the Litigation, Weighing Heavily Against Denial

The third *Fintiv* factor considers “the amount and type of work already completed in the parallel litigation by the court and the parties at the time of the institution decision.” *Fintiv* at 9. Despite the litigation pending since November 17, 2023 (more than a year and a half), there has been very minimal investment in the litigation.

Patent Owner provides an oddly broken down and specific bullet point list of litigation activity intended to evidence “significant effort” investment in the litigation. Paper 6, 5-6. However, even a cursory review of the list reveals that Patent Owner merely identifies (1) the exchange of preliminary infringement and invalidity contentions, (2) briefing relating to a motion to transfer, and (3) the exchange of proposed claim constructions, submission of the joint claim construction statement

and partial claim construction briefing. Far from “significant” investment, the list demonstrates that there has been remarkably little investment.

Indeed, fact discovery has been minimal and largely limited to the materials required as part of initial disclosures or preliminary contentions. For its part, Spinelogik has produced the patents, their file histories, and a handful of prior license agreements. Globus has produced technical drawings for the accused products, and a small number of additional documents relating to the venue dispute. The only deposition taken (or even noticed) in the case was a half-day deposition relating to venue. By any reasonable standard, there is nothing “significant” about the investment made in the case, particularly given that it has been pending for over a year. And given that the case is currently stayed, there will be no additional investment by the time the Board issues its institution decision no later than July 17, 2025.

Moreover, this factor takes into account whether the district court has “issued substantive orders related to the patent at issue in the petition” including “claim construction orders.” *Fintiv* at 9-10. The Court has issued no such substantive orders, and in fact the *Markman* hearing was cancelled. *See generally* Ex. 1116; Ex. 1101. While Patent Owner points to general litigation activity, activity unrelated to claim construction or validity “does not weigh in [the Board’s] consideration of this issue.” *Western Digital*, IPR2020-01391, Paper 10 at 11. By the time the Board is projected

to issue its institution decision, fact and expert discovery will not have closed, and dispositive motions and briefings will not have been submitted. Indeed, it is likely *no* additional activity will have occurred in the litigation due to the stay and/or because the Court grants Globus’ motion to transfer. The minimal amount of investment by the parties by the institution deadline thus strongly weighs against discretionary denial. *Juniper Networks, Inc. v. Huawei Digital Techs. (Cheng Du) Co., Ltd.*, IPR2020-01130, Paper 13 at 12-13 (PTAB Jan. 22, 2021); *Dish* at 19-21 (similar); *HP Inc. v. Slingshot Printing LLC*, IPR2020-01085, Paper 12 at 7 (PTAB Jan. 14, 2021); *Samsung Display Co., Ltd.*, IPR2024-01222, Paper 12 at 7 (PTAB Mar. 6, 2025) (finding factor three weighs against denial because “much remains to be done, including expert discovery.”).

D. Petitioner’s Stipulations Mitigate All Concerns of Inefficiency and Conflicting Decisions, Weighing Heavily Against Denial

Patent Owner dedicates much of its arguments toward demonstrating that there is “substantial overlap between the invalidity arguments raised in the Petition and the invalidity arguments raised in the EDTX Case.” Paper 6, 7-9. However, the challenged claims include claims 2-4, 6, and 12—none of which are asserted in the district court proceeding. *Fintiv* at 13. Thus, the validity of those claims will only be adjudicated in this proceeding, not in district court. *Samsung Display Co., Ltd.*, IPR2024-01222, Paper 12 at 8 (finding factor four weighs against denial because of a narrower stipulation and “additional challenged claims not at issue in the district

court”). And to the extent there is overlap, Petitioner’s stipulations eliminate any “concerns of inefficiency and the possibility of conflicting decisions.” *Fintiv* at 12. This factor thus weighs heavily against discretionary denial.

Patent Owner attempts to portray the rescission of the Interim Procedure memorandum as rendering a *Sotera* stipulation largely irrelevant to this factor. Paper 6, 9-10. That is clearly not true. As the Office clarified in additional guidance, the presence of a *Sotera* stipulation remains “highly relevant” and the rescission merely dictates that such a stipulation “will not be dispositive by itself.” Chief Judge Boalick’s March 24, 2025 Memorandum, “Guidance on USPTO’s rescission of ‘Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation,” at 3. Indeed, the Board very recently confirmed as much in rejecting a patent owner’s similar attempt to downplay the significance of a *Sotera* stipulation as part of the *Fintiv* calculus. See *Nikon Corp. v. Optimum Imagine Techs., LLC*, IPR2024-01372, Paper 17 at 21-23 (PTAB Apr. 23, 2025).

Patent Owner also appears to argue that the *Sotera* stipulation should be given no weight because, according to Patent Owner, such a stipulation does not “address ‘concerns of duplicative efforts and potentially conflicting decisions’ between the Board and the district court and ‘ensure[] that an inter partes review is a ‘true alternative’ to the district court proceeding.’” Paper 6, 10. However, this argument is exactly ***the opposite*** of the binding precedent from *Sotera*:

Petitioner’s stipulation here **mitigates any concerns of duplicative efforts between the district court and the Board, as well as concerns of potentially conflicting decisions....** Importantly, Petitioner broadly stipulates to not pursue “any ground raised or that could have been reasonably raised.”... As noted in *Sand Revolution*, such a broad stipulation better addresses concerns of duplicative efforts and potentially conflicting decisions in a much more substantial way.... Accordingly, **Petitioner’s broad stipulation ensures that an inter partes review is a “true alternative” to the district court proceeding.**

Sotera Wireless, Inc. v. Masimo Corp., IPR2020-01019, Paper 12 at 19 (PTAB Dec. 1, 2020) (precedential) (emphasis added).

To the extent Patent Owner’s position is that a petitioner should be required to stipulate to not assert *any* invalidity defenses as trial, such a position is unreasonable given that IPR proceedings are limited to invalidity based on prior art publications. Indeed, the Board expressly rejected this position in another IPR proceeding where Patent Owner’s same counsel offered it. *See TikTok, Inc. v. CellspinSoft, Inc.*, IPR2024-00769, Paper 8 at 11 (PTAB Sept. 30, 2024) (rejecting this position and explaining that “[i]t is always the case that IPR is limited to certain grounds and prior art” and that “[i]f anything, this demonstrates a lack of overlap between this proceeding and the Texas Litigation”).

Patent Owner also appears to argue that the *Sotera* stipulation should be given no weight because Petitioner’s invalidity contentions state that discovery “may

reveal prior art systems” and “expects additional system art to be revealed as discovery progresses.” Paper 6, 10. According to Patent Owner:

Because unpublished “system prior art” is not eligible for inclusion in an IPR, it is not prior art that Petitioner reasonably could have raised in the present Petition. Thus, Petitioner’s Sotera stipulation does not cover ***potential invalidity theories based on system prior art*** that Petitioner could bring in the EDTX Case.

Id. (emphasis added). In other words, Patent Owner argues that Petitioner should be required to stipulate that it will not raise system prior art in the district court proceedings. As Patent Owner acknowledges, however, system prior art “is not eligible for inclusion in an IPR.” Just as it is illogical that a petitioner would be expected to stipulate away its indefiniteness and written description defenses, it is equally illogical to require a petitioner to stipulate away its right to rely on system prior art.

While a recent Director Review decision did consider the presence of asserted system art in invalidity contentions, those contentions “include[d] ***combinations*** of the prior art asserted in [the IPR] proceedings ***with*** unpublished system prior art.” *Motorola Solutions, Inc. v. Stellar, LLC*, IPR2024-01205, Paper 19 at 3–4 (PTAB Mar. 28, 2025) (Director Review) (emphasis added). But as Patent Owner admits, Petitioner has not identified any system prior art, nor is there any assertion of published prior art in conjunction with system prior art. Indeed, the invalidity

contentions reflect nothing more than optimism that system prior art *might* be discovered. Further, “Patent Owner does not explain how the system art is used in the district court invalidity contentions or whether it is combined with the art raised in this IPR,” and “even considering the presence of system art as a mitigating factor in favor of Patent Owner,” the Director should “still find that the *Sotera* stipulation significantly reduces the overlap between the district court litigation and this IPR.” *See Nikon Corp.*, Paper 17 at 23. Thus, Patent Owner’s attempt to rely on these unspecific references to system prior art as somehow mitigating or offsetting the significance of the *Sotera* stipulation should be rejected. *Id.* at 21-23 (rejecting patent owner attempt to downplay significance of *Sotera* stipulation because specific system prior art was asserted in invalidity contentions).

Regardless, in light of the recent precedential Federal Circuit decision in *Ingenico Inc. v. IOENGINE, LLC*—determining that “IPR estoppel does not preclude a petitioner from relying on the same patents and printed publications as evidence in asserting a ground that could not be raised during the IPR, such as that the claimed invention was known or used by others, on sale, or in public use”—Petitioner offers an additional stipulation. No. 2023-1367, 2025 U.S. App. LEXIS 10956, 2025 WL 1318188 at *17, __ F.4th __ (Fed. Cir. May 7, 2025). Specifically, in addition to the prior *Sotera* stipulation, Petitioner further stipulates that if the Board institutes trial in this proceeding, with respect to the ’385 Patent Petitioner

will not pursue in the co-pending district court proceeding: (1) any prior art that was raised or reasonably could have been raised in this IPR proceeding, including in combination with any prior art ineligible for IPR (e.g., system prior art); or (2) any system prior art that is embodied by prior art that was raised or reasonably could have been raised in this IPR proceeding.

Finally, Patent Owner argues that “it is highly unlikely that the EDTX Case will be transferred based on information identified during venue discovery.” Paper 6, 6. This argument is irrelevant to the third factor. Even if it was somehow relevant, the argument is premised on speculation as to how the Court may rule on the motion to transfer. In fact, Patent Owner fails to even attach the transfer motion briefing to its request for discretionary denial, making it impossible for the Board to reach its own conclusions as to the merits of the transfer motion. If anything, the fact that the case has been stayed for nearly four months without a ruling suggests that the Court is leaning toward transfer. Moreover, the recent sanctions against Patent Owner’s counsel for making baseless venue allegations should further cast doubt on Patent Owner’s speculation that the case will not be transferred.

E. *Fintiv* Factor Five Weighs Against Denial

The fifth *Fintiv* factor considers “whether the petitioner and the defendant in the parallel proceeding are the same party.” *Fintiv* at 6. Prior Board decisions have found that factor 5 generally follows factor 2, such that “this factor favors denial if

trial precedes the Board’s Final Written Decision and favors institution if the opposite is true.” *Huawei Tech. Co. v. WSOU Inv., LLC*, IPR2021-00225, Paper 11 at 14 (PTAB June 14, 2021) (internal quotation marks omitted); *See also Google LLC v. Parus Holdings, Inc.*, IPR2020-00846, Paper 9 at 21 (PTAB. Oct. 21, 2020) (“Here ... Petitioner is the defendant in the parallel proceeding. This fact could weigh either in favor of, or against, exercising discretion to deny institution, depending on which tribunal was likely to address the challenged patent first.”); *Hanwha Solutions Corp. v. REC Solar Pte. Ltd.*, IPR2021-00989, Paper 12 at 14, 17 (PTAB Dec. 13, 2021) (determining that factor 5 did not weigh in favor of exercising discretion to deny institution where district court trial date was set for three months after statutory deadline for a final written decision); *Carrier Fire & Security Americas Corp. v. Sentrilock, LLC*, IPR2021-00665, Paper 12 at 13–14 (PTAB Sept. 16, 2021) (The parties being the same “could weigh either in favor of, or against, exercising discretion to deny institution, depending on which tribunal is likely to address the challenged patent first,” and the Board reaching the merits before the district court means “estoppel will apply against Petitioner should we determine that Petitioner failed to demonstrate unpatentability of the challenged claims.”)); *Tesla, Inc. v. Autonomous Devices LLC*, IPR2023-01054, Paper 20 at 14–15 (PTAB Dec. 13, 2023) (“When the Board’s deadline for a Final Written Decision precedes the district court trial date and the parties are the same in both proceedings, Fintiv factor

5 typically weights against exercising discretion to deny institution.”).

Factor two weighs against discretionary denial because there is no trial date, or even an applicable scheduling order for that matter. *Supra* Section III.A.2. Patent Owner’s contrary position is premised on the illusory August 18, 2025 trial date, which is no longer in effect because of the stay.

F. Other Circumstances Weigh Heavily Against Denial.

The sixth *Fintiv* factor considers any other circumstances that impact the Board’s exercise of discretion, including the merits. There are numerous other considerations weighing against discretionary denial.

1. The Merits of the Petition are Compelling⁶

As an initial matter, Patent Owner did not file a preliminary response. Nor does Patent Owner argue that the validity challenge is weak in its request for discretionary denial, despite the strength of the validity challenge being listed as a relevant consideration in the March 26, 2025 Memorandum. Where a patent owner does not even allege the petition is weak (e.g., in a request for discretionary denial) or identify any vulnerability (e.g., by filing a preliminary response), there should be a presumption that the merits are strong for purposes of determining whether

⁶ The March 26 Memorandum lists “the strength of the validity challenge” as a relevant discretionary denial consideration. The validity challenge is both “strong” and “compelling” as explained below.

discretionary denial is appropriate.

Even absent such a presumption, the challenges presented are compelling. Ground 1 is asserted against all challenged claims and relies on a single prior art reference—U.S. Patent No. 7,942,903 (“Moskowitz”)—in combination with the general knowledge of a POSITA. Pet., 14. The challenged claims are directed toward a fusion device, and the Petition clearly maps the claim language to color-coded figures from the prior art. *See generally id.*, 30-59.

Ground 2 is also asserted against all challenged claims, except claims 4 and 5,⁷ based on a single prior art reference—U.S. Patent No. 8,075,593 (“Hess”)—in combination with the general knowledge of a POSITA. *Id.*, 15, 61-84.

Ground 3 is asserted against all challenged claims, and combines Moskowitz with U.S. Patent No. 4,790,303 (“Steffee”) as to address a narrower interpretation of “curved channel.” *Id.*, 15, 84-96.

2. The Settled Expectations of the Parties Weigh Against Discretionary Denial

Patent Owner argues that settled expectations of the parties favor discretionary denial because “the claims of the ’385 Patent have been in force for

⁷ Claims 4 and 5 have not been asserted in the litigation. Ex. 1109, 1.

over 11 years.” Paper 6, 11-12. This is yet another misrepresentation by omission.⁸ Patent Owner neglects to inform the Board that the ’385 Patent expired on July 19, 2021 due to non-payment of the maintenance fee. Ex. 1108. The ’385 Patent was never revived. *Id.* Consequently, the length of time the claims “have been in force” is about eight years—beginning at issuance on June 11, 2013 until expiration on July 19, 2021.

Additionally, the fact that the patentee chose to allow the ’385 Patent to expire tilts this factor against discretionary denial. The expectation flowing from that decision is that the patentee does not intend to enforce its patent rights or considers the validity of the patent dubious—otherwise the patentee would not have allowed the patent to prematurely expire. Given that the ’385 Patent expired almost four years ago, this expectation is settled.

3. The Petition’s Reliance on Expert Testimony Does Not Favor Discretionary Denial.

Petitioner alleges that “the Petition relies on a 131-page expert declaration that largely parrots the wording of the Petition. Ex. 1002.” Pet. 6, 12. Yet, Petitioner does not identify even a single example of this alleged “parroting,” but instead simply cites to the entire expert declaration without any specificity. Patent Owner should be

⁸ Patent Owner’s representation that trial “is set” for August 17, 2025 omitted the fact that the case has been stayed for months, rendering that trial date void.

held to the same standard as Petitioner, requiring it to “identify[] ***specific portions*** of the evidence that support the challenge. The Board may exclude or give no weight to the evidence where a party has ***failed to state its relevance or to identify specific portions*** of the evidence that support the challenge.” 35 C.F.R. § 42.104(b)(5) (emphasis added).

The Petition’s general reliance on Mr. Culbert’s declaration also does not favor discretionary denial. First, this consideration should not weigh against Petitioner because this discretionary denial consideration did not exist when the Petition was prepared. Punishing Petitioner based on new guidance that did not exist at the time of filing would raise serious due process concerns, in addition to basic questions of fundamental fairness. Second, the Office has since clarified this consideration, explaining:

extensive reliance on expert testimony and/or reasonable disputes between experts on dispositive issues *may* suggest that the questions are better resolved in an Article III court.... As the judges have technical and legal expertise, it is not necessary for an expert to explain every aspect of the prior art. It is most helpful if an expert is providing focused testimony, for example to provide helpful context or to explain terms of art. The failure to provide focused expert testimony *may* weigh against institution.

FAQs for Interim Processes for PTAB Workload Management, at #21 (published Apr. 25, 2025), [https://www.uspto.gov/patents/ptab/faqs/ interim-processes-](https://www.uspto.gov/patents/ptab/faqs/interim-processes-)

workload-management (last visited April 28, 2025) (hereafter, “FAQ #21”) (emphasis added). Thus, the failure to provide focused expert testimony “may” weigh against institution, but does not necessarily do so. Moreover, there are no “reasonable disputes between experts” as Patent Owner did not file a preliminary response and in fact does not identify even a single weakness in the Petition as part of its discretionary denial brief. As such, the mere fact that the Petition relies on Mr. Culbert’s detailed declaration as supporting evidence should not weigh in favor of discretionary denial (particularly given that this consideration did not exist at the time the Petition was filed).

4. The Disingenuous Nature of Arguments in the Request for Discretionary Denial Weighs Against Exercising Discretion

Patent Owner premises its request for discretionary denial on several purported facts that are false and highly misleading. The presence of such representations should weigh against discretionarily denial.

First, a major premise of the request is that “Trial is scheduled for August 18, 2025, a year before the statutory deadline of August 17, 2026 for issuing a Final Written Decision in this matter.” Paper 6, 2 (emphasis in original); *See also id.*, 4 (“Trial is scheduled for August 18, 2025, a year before the statutory deadline of August 17, 2026 for issuing a Final Written Decision in this matter.”). This repeated assertion is misleading on its face because the entire case was stayed. Despite this, Patent Owner portrays the trial date as if it is still in effect, apparently

so it can try to artificially tilt the *Fintiv* factors in its favor.

Second, Patent Owner misrepresents that the expected statutory deadline is August 17, 2026. However, the expected deadline is July 17, 2026, which is one-year after the July 17, 2025 institution decision deadline. 35 U.S.C. § 316(a)(11). As with the misrepresented trial date above, Patent Owner misrepresents the expected statutory deadline as being one month later to improperly try and tilt *Fintiv* factors in its favor.

Third, Patent Owner's representation that a decision on the motion to transfer is "imminent" is a false representation to the Director. Patent Owner has no basis whatsoever for representing to the Director that the decision is "imminent," because nothing has transpired in the parallel litigation since the stay was issued. Instead, Patent Owner portrays its statement as fact to once again try to improperly tilt the *Fintiv* factors in its favor.

5. Compelling Public Health Interests Weigh Against Discretionary Denial.

Petitioner Globus Medical, Inc. is leading medical device manufacturer that creates innovative technologies for improving the quality of life for patients with musculoskeletal disorders. See <https://www.globusmedical.com/about/>. These technologies include dozens of different medical implants, designed for different parts of the human anatomy, including but not limited to the spine, hand, ankle and knee. See generally <https://www.globusmedical.com/musculoskeletal->

solutions/products-a-z/.

Patent Owner accuses Globus of infringing based on several spinal fusion implant models. Ex. 1109-1113 (alleging infringement based on Globus's Independent MIS®, Coalition MIS®, Corbel® and Hedron IA® spinal implant models). However, there is a compelling public health interest in ensuring that invalid patents are not asserted against essential medical products, such as spinal fusion implants. That interest is particularly compelling here because Patent Owner is a non-practicing entity and is thus not using the patent to try to protect the market for its own medical device, and because Patent Owner has targeted numerous medical device companies with the expired '385 Patent, not just Globus. Moreover, Patent Owner's litigation counsel has already been found by a district court to have a history of asserting patents that it knows are invalid. *Supra* Section II.D, n.2.

6. The Expired Status of the '385 Patent and the District Court Stay Weigh Heavily Against Exercising Discretion

The '385 Patent expired on July 19, 2021 and has not been revived. Ex. 1108. This means that no monetary damages for infringement can accrue beyond that date. Patent Owner would thus not be harmed if the jury trial is further delayed due to the Board instituting trial, because Patent Owner is a non-practicing entity and infringement damages would not be accruing.

Additional efficiencies would also be gained by instituting trial here given that the litigation is stayed. Indeed, the Board may render a final written decision

invalidating all or some claims at issue in the parallel litigation, entirely eliminating those claims from contention in the district court.

**7. The Efficiencies Gained by Institution Are Heightened
Under these Circumstances**

The '385 Patent is currently being asserted in three lawsuits against three separate defendants. *Spinelogik, Inc. v. Camber Spine Technologies, LLC*, 2-24-cv-00873, Dkt. 1 (E.D. Tex.); *Spinelogik, Inc. v. Choice Spine, LLC*, 2-23-cv-00296, Dkt. 1 (E.D. Tex.); *Spinelogik, Inc. v. Globus Medical, Inc.*, No. 2:23-cv-00529, Dkt. 1 (E.D. Tex.). Thus, institution of trial here would not only serve as a “true alternative” to the lawsuit against Globus, but also the two other lawsuits involving the '385 Patent. While those defendants are not a party in these proceedings, they could file their own copy-cat petitions and seek joinder even after the one-year bar under 35 U.S.C. § 315(b). *See* 35 U.S.C. § 315(b) (“The time limitation set forth in the preceding sentence shall not apply to a request for joinder under subsection (c).”); *See also* 37 C.F.R. § 42.122(b) (“The time period . . . shall not apply when the petition is accompanied by a request for joinder.”).

IV. CONCLUSION

For the reasons above, Petitioner respectfully requests that the Director deny Patent Owner's request for discretionary denial. All relevant considerations weigh heavily against discretionary denial.

Dated: May 27, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITS

Pursuant to 37 C.F.R. § 42.24 *et seq.*, the undersigned certifies that this document complies with the type-volume limitations. This document, excluding those portions identified under § 42.24 (a)(1) (table of contents, table of authorities, mandatory notices under § 42.8, certificates of service and compliance with word count, appendix of exhibits, and claim listing) contains 7,195 words as calculated by the word processing program used in creating it.

/Stephen D. Zinda/

Stephen D. Zinda

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e)(4), the undersigned certifies that on May 27, 2025, a copy of the foregoing document (Petitioner's Response to Patent Owner's Request for Discretionary Denial, including all filed Exhibits), was served via electronic mail on the following attorneys of record at the indicated e-mail address(es):

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