

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SHENZHEN TUOZHU TECHNOLOGY CO., LTD.,
Petitioner,

v.

STRATASYS, INC.,
Patent Owner.

Case IPR2025-00257
Patent 9,592,660

AUTHORIZED RESPONSE TO DIRECTOR REVIEW REQUEST

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A. The Board Properly Weighed the *Fintiv* Factors as a Whole

Patent Owner’s claim that the Board “effectively applied the rescinded memorandum” and “over-reli[ed] on Petitioner’s [*Sotera*] stipulation” is easily disproved. Req. at 5–6. The Board did not fixate on the *Sotera* stipulation alone but rather weighed the stipulation in the context of the circumstances, including:

1. That the final written decision likely will precede any district court trial;
2. The lack of court orders or expert discovery regarding the ’660 patent; and
3. The Petition’s “particularly strong” obviousness challenges.

Paper 9, 10–15. These factors outweighed the lack of a stay and the fact that the same parties are involved in co-pending proceedings. *Id.*, 15. What’s more, in response to changes in the application of *Fintiv* after institution, Petitioner elevated to an even “broad[er] stipulation” recently endorsed by the Acting Director in *Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00217, Paper 9 at 2 (Jun. 13, 2025). Petitioner’s *Tesla*-type stipulation provides compelling reasons to sustain institution.

B. Institution Will Not Cause Duplicative Work and Inconsistent Decisions Due to Petitioner’s Multiple Stipulations

Responding to the withdrawal of Former Director Vidal’s *Fintiv* memo, Petitioner elevated its initial *Sand*-type stipulation (EX1100), up to a full *Sotera*-type stipulation to not pursue “any other ground that was raised or could have been reasonably raised in an IPR,” (EX1102). *See* Paper 9, 12–14. Petitioner duly submitted the *Sotera*-type stipulation to the Board with no opposition or request for

briefing by Patent Owner. See Paper 8. The Board sensibly concluded, after noting “particularly strong merits,” that the *Fintiv* factors weighed against discretionary denial. Paper 9, 15. Now, however, after choosing to remain silent before institution, Patent Owner claims the Board somehow abused its discretion by “failing to consider the facts concerning Petitioner’s contentions in the district court and whether Petitioner’s stipulation would moot those contentions.” Req., 11; Paper 9, 13. But Patent Owner is too late because new arguments like this one are not appropriate for Director Review. See <https://www.uspto.gov/patents/ptab/decisions/director-review-process> (the Director will not consider new evidence or arguments).

Nevertheless, and despite having obtained institution, Petitioner continued to monitor and heed the Acting Director’s direction on discretion. Accordingly, in the wake of the Acting Director’s subsequent decision to forego discretionary denial based on a *Tesla*-type stipulation, Petitioner promptly followed suit, vowing that the defendants in the related litigations would not pursue against the ’660 patent:

(i) the specific grounds asserted and instituted in IPR2025-00257, (ii) any other ground that was raised or could have been reasonably raised in an IPR (i.e., any ground that could be raised under §§ 102 or 103 on the basis of prior art patent or printed publications), or (iii) any ground based on a combination of system prior art[] and the references that form the basis of any ground raised in IPR2025-00257.

See Paper 11, 13.

To be clear, if the Board’s institution decision is sustained, the Cable, Naware, Kritchman, Comb, and Tummala references that form the basis of the Petition grounds cannot be used in any invalidity ground whatsoever in the related litigations. The limited district court invalidity grounds that remain include system art alone or system art in combination with other prior art never presented in the IPR grounds. *See* EX2007, 155–165. No overlap. None.

Patent Owner’s speculative complaints ignore the Acting Director’s reasonable tact in *Tesla* and the reality of Petitioner’s *Tesla*-type stipulation here. It is absurd to suggest Petitioner can “include many combinations of system art with only *some* references forming an IPR ground.” Req., 13 (original emphasis). The *Tesla*-type stipulation plainly prevents this. Nor is Petitioner attempting to “game the system” by relying on “system art [that] is substantively identical to printed publications that were raised or could have been raised during IPR.” Req., 12–13. Petitioner’s system art and printed publications are not substantially the same and, thus, not fungible in this way—a fact Patent Owner tacitly concedes through silence.

C. Institution Will Utilize the Board’s Resources Efficiently, Avoid Wasteful Duplicative Efforts, and Promote Fairness and Competition

The relative timelines of the co-pending proceedings paired with Petitioner’s stipulations present a prime opportunity to conserve resources. As the Board pointed out, “the district court’s docket control order indicates, fact and expert discovery do not close until next year, and the *Markman* hearing is not scheduled until December

3, 2025, approximately six months after [the] deadline for this [institution] decision.”

Paper 9, 12 (citing EX1101). With *Markman* briefing and expert discovery still months away, the parties have expended no more than minimal efforts litigating the ’660 patent’s validity; the District Court, none at all. Petitioner is the only one who’s work will be moot, now that its *Sotera* and *Tesla* stipulations have severely curtailed the invalidity contentions. That is a sacrifice Petitioner is willing to make for the Board to finish reviewing the ’660 patent.

Patent Owner’s laundry list of routine fact discovery production, most of which consists of public information, and generic court orders, none specific to the ’660 patent, are hardly relevant and far from dispositive. *See* Req., 10–11. It is beyond debate that the related litigations are in their early stages, especially as to invalidity, and there is more work to do going forward than has already been accomplished. To top it off, Patent Owner now seeks to add new products to the suit, expanding the work ahead and potentially delaying resolution. The best way to narrow the scope of that work is to sustain institution and keep Petitioner’s broad stipulations in place. The nascent stage of the related litigations in conjunction with Petitioner’s broader *Tesla*-type stipulation sets this case apart from *Motorola Solutions v. Stellar, LLC*, IPR2024-01205, Paper 19 at 3–4 (PTAB Mar. 28, 2025).

That Patent Owner argues against this result for no reason other than *Fintiv* discretion—with no attempt to identify any error by the Board on the merits—is

revealing. Patent Owner does not want to conserve resources. It wants to waste the Board's work already expended in determining Petitioner's challenge would likely succeed. Patent Owner wants a second try with a different factfinder that it believes will be more favorable on the merits. Indeed, as in *Tesla*, the "diverse range of subject matter" for the ten patents from multiple patent families involved in the parallel litigations, nine of which are the subject of IPR petitions, indicates that the Board is best suited to evaluate the merits of Petitioner's unpatentability arguments. *Tesla* at 3. Here, the Board's work to determine Petitioner's likely success should be preserved, not wastefully tossed aside only to reinflate the related litigations.

In addition, it is notable that the flagship 3D printer of Petitioner's subsidiary company launched on Kickstarter in May 2022, before Patent Owner acquired the '660 patent from a failed startup called Arevo, Inc. in September 2023. *See* Reel 064942 / Frame 0384. Less than a year after the acquisition, and just two years after the Kickstarter launch, Patent Owner filed suit. Petitioner could not have anticipated Patent Owner's acquire-and-assert scheme or challenged the '660 patent sooner, and Petitioner made every effort to abide the Acting Director's guidance on discretionary considerations for institution. Given the clear errors during prosecution (*see* Pet., 4–7), and the Board's determination of "particularly strong merits," (Paper 9, 14–15), Petitioner respectfully requests that the Board be permitted to finish its review of the '660 patent in an effort to promote fairness, efficiency, and competition.

Respectfully submitted,

Dated: June 30, 2025

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(1) and 42.6(e)(4)(iii), the undersigned certifies that on June 30, 2025, a complete and entire copy of this Authorized Response to Director Review Request is provided via email to the Patent Owner via electronic mail on Patent Owner's lead and backup counsel listed below at the following email address:

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