

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ENTEGRIS, INC.,
Petitioner

v.

INPRIA CORP.,
Patent Owner

Case IPR2025-00267
Patent No. 11,673,903

**PATENT OWNER'S REQUEST FOR DIRECTOR REVIEW
OF DECISION GRANTING INSTITUTION (PAPER 33)**

PUBLIC VERSION
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Memorandum – PTAB consideration of prior findings of fact and conclusions of law, Sep. 16, 2025, available at <https://www.uspto.gov/subscription-center/2025/uspto-issues-memorandum-regarding-ptab-consideration-prior-adjudications> 8

LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
2001	Case Docket for <i>Inpria Corp. v. Lam Research Corp.</i> , C.A. No. 22-01359-CJB (D. Del.)
2002	Order, <i>Inpria Corp. v. Lam Research Corp.</i> , C.A. No. 22-01359-CJB (D. Del.), D.I. 116 (May 3, 2024)
2003	Lam's Initial Invalidity Contentions, <i>Inpria Corp. v. Lam Research Corp.</i> , C.A. No. 22-01359-CJB (D. Del.) (May 13, 2024)
2004-2027	<i>Reserved</i>
2028	Lam-Entegris Strategic Collaboration Announcement, <i>available at</i> https://www.entegris.com/en/home/about-us/news/lam-research-entegris-gelest-team-team-up-to-advance-euv-dry-resist-technology-ecosystem-july-2022.html (last visited May 12, 2025), and https://www.prnewswire.com/news-releases/lam-research-entegris-gelest-team-up-to-advance-euv-dry-resist-technology-ecosystem-301584404.html (last visited May 12, 2025)
2029	Amended Complaint, <i>Inpria Corp. v. Lam Research Corp.</i> , C.A. No. 22-01359-CJB (D. Del.), D.I. 43 (Dec. 13, 2023)
2030	Lam's Answer, <i>Inpria Corp. v. Lam Research Corp.</i> , C.A. No. 22-01359-CJB (D. Del.), D.I. 52 (Jan. 12, 2024)
2031	Lam's Initial Invalidity Contentions, Ex. 13, <i>Inpria Corp. v. Lam Research Corp.</i> , C.A. No. 22-01359-CJB (D. Del.) (May 13, 2024)
2032	Lam's Final Invalidity Contentions, Ex. 903-A, <i>Inpria Corp. v. Lam Research Corp.</i> , C.A. No. 22-01359-CJB (D. Del.) (Feb. 20, 2025)
2033	Lam's Final Invalidity Contentions, Ex. 903-B, <i>Inpria Corp. v. Lam Research Corp.</i> , C.A. No. 22-01359-CJB (D. Del.) (Feb. 20, 2025)

2034	Lam's Final Invalidity Contentions, Ex. 903-C, <i>Inpria Corp. v. Lam Research Corp.</i> , C.A. No. 22-01359-CJB (D. Del.) (Feb. 20, 2025)
2035	Lam's Final Invalidity Contentions, Ex. 903-D, <i>Inpria Corp. v. Lam Research Corp.</i> , C.A. No. 22-01359-CJB (D. Del.) (Feb. 20, 2025)
2036	Lam's Final Invalidity Contentions, Ex. 903-E, <i>Inpria Corp. v. Lam Research Corp.</i> , C.A. No. 22-01359-CJB (D. Del.) (Feb. 20, 2025)
2037	Lam's Final Invalidity Contentions, Ex. 903-F, <i>Inpria Corp. v. Lam Research Corp.</i> , C.A. No. 22-01359-CJB (D. Del.) (Feb. 20, 2025)
2038	U.S. Patent No. 8,198,352
2039	May 9, 2025 email correspondence between counsel for Entegris and counsel for Inpria regarding Lam Common Interest
2040	JSR Corporation/Inpria Corporation and Lam Research Enter Cross Licensing and Collaboration Agreement to Advance Semiconductor Manufacturing, <i>available at</i> https://www.jsr.co.jp/jsr_e/news/2025/20250916.html (last visited October 2, 2025)
2041	Lam Research and JSR Corporation/Inpria Corporation Enter Cross-Licensing, Collaboration Agreement to Advance Semiconductor Manufacturing, <i>available at</i> https://investor.lamresearch.com/2025-09-15-Lam-Research-and-JSR-Corporation-Inpria-Corporation-Enter-Cross-Licensing,-Collaboration-Agreement-to-Advance-Semiconductor-Manufacturing (last visited October 2, 2025)
2042	PTAB de-designates SharkNinja Operating LLC v. iRobot Corp., <i>available at</i> https://www.uspto.gov/subscription-center/2025/ptab-de-designates-decision (last visited October 2, 2025)
2043	Entegris IDS Citing the '903 Patent Application US20190315781A1 (May 4, 2022)

2044	Oral Order regarding claim construction on term 5 in <i>Inpria Corp. v. Lam Research Corp.</i> , C.A. No. 22-01359-CJB (D. Del.) (Sept. 8, 2025)
2045	Transcript of Board Teleconference, dated December 3, 2025
2046	Document Bates Labelled ENTEGRIS.903IPR.000061-67 (Declaration of Dr. Joseph Rivers (Dec. 12, 2025))
2047	Document Bates Labelled ENTEGRIS.903IPR.000005-15 [REDACTED]
2048	Document Bates Labelled ENTEGRIS.903IPR.000028-43 [REDACTED]
2049	Document Bates Labelled ENTEGRIS.903IPR.000016-23 [REDACTED])
2050	Document Bates Labelled ENTEGRIS.903IPR.000026-27 [REDACTED])
2051	Document Bates Labelled ENTEGRIS.903IPR.000044-52 [REDACTED])
2052	Document Bates Labelled ENTEGRIS.903IPR.000053-59 [REDACTED])
2053	Document Bates Labelled ENTEGRIS.903IPR.000060 (Letter from Andrew Grenville, Inpria Corporation, CEO, to Bertrand Loy, Entegris, Inc., CEO (Jul. 14, 2022))
2054	Document Bates Labelled ENTEGRIS.903IPR.000001-4 [REDACTED])

2055	Deposition Transcript of Dr. Joseph Rivers (January 9, 2026)
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I. INTRODUCTION

The Director should vacate the Board’s institution decision and terminate this IPR proceeding for two independent reasons. First, the Board applied a real party-in-interest (RPI) standard that permits petitioners to evade meaningful RPI scrutiny through broad witness declarations from individuals lacking personal knowledge—an approach Entegris used here. Second, the Board departed from the Director’s policy regarding parallel proceedings by analyzing unpatentability under a claim interpretation that is inconsistent with the District Court’s construction—an inconsistency that neither Entegris nor the Board has explained.

II. BACKGROUND

Entegris has never been sued for infringement of the ’903 patent; but Lam—Entegris’s customer and “strategic partner”—has. *Inpria Corp. v. Lam Research Corp.*, C.A. No. 22-1359-CJB (D. Del.). Yet, curiously, Lam never filed an IPR against the ’903 patent, even though it filed three separate IPRs on *other* patents Inpria asserted against Lam, including two IPRs filed within days of Entegris’s filing. *See* IPR2024-00033, IPR2025-00256, IPR2025-00309. Instead of filing its own IPR against the ’903 patent, Lam allowed Entegris to challenge the patent and then expressly incorporated Entegris’s IPR into Lam’s district court invalidity contentions. Paper 7 at 4-5, 14-18; EX2003. That sequence—Lam being sued on the ’903 patent, Lam declining to file an IPR, Entegris filing at Lam’s bar date, and

Lam adopting Entegris's petition in court—strongly indicates coordinated strategy, a point Inpria raised at the outset of this proceeding. Paper 7 at 3-5, 18-20.

Entegris responded with flat denials on the legal issues while failing to explain the true nature of the Entegris-Lam relationship and withholding relevant evidence in its possession. Paper 10 at 1, 3-10. For instance, Entegris argued it “has an arms-length business relationship with Lam” (*id.* at 5) while [REDACTED] (EX2047; EX2048; EX2050); denied that there was a common interest privilege (Paper 10 at 7) despite [REDACTED] (EX2054); and characterized itself as “one of multiple suppliers of chemical precursors that may be used in Lam’s MOR equipment” (Paper 10 at 5) even though [REDACTED] [REDACTED] (Paper 28 at 2-4; EX2047; EX2048). This briefing occurred before Inpria and Lam settled.

Because the Acting Director discretionarily denied institution shortly after that briefing, Paper 12, Inpria did not press the RPI issue further at that time. When the Acting Director later revived the proceeding, Paper 21, the RPI question became live again, and Inpria promptly sought RPI discovery. Entegris vigorously opposed. *See* EX3001; EX2045. Based on Entegris’s opposition, the Board granted only narrow discovery limited to certain Entegris-Lam agreements. Paper 24.

The produced agreements fatally undermine Entegris’s portrayal of an “arms-length relationship” with Lam—

See Paper 28; EX2047; EX2048; EX2050; EX2054. Entegris cannot plausibly deny that such provisions point directly to an RPI relationship. Instead, Entegris (in Paper 29) attempts to deflect by relying on evidence that should not have been credited—most notably an attorney-drafted declaration (EX2046) signed by a witness with no personal knowledge of many of its assertions and who admitted in deposition that Entegris attempted to coordinate the timing of this IPR with Lam’s “around the Delaware case” (EX2055 at 159:22-161:15; *see also id.* at 19:8-20:7).

III. ARGUMENT

A. Testimony from a Witness Without Personal Knowledge Cannot Satisfy Entegris’s RPI Burden

The question here is whether a petitioner may avoid an adverse RPI finding by submitting a declaration from a witness who lacks personal knowledge and broadly attest that no RPI relationship exists despite contractual evidence to the contrary. The Board’s RPI ruling rests on the declaration of Dr. Joseph Rivers, yet Dr. Rivers lacked the personal knowledge necessary to support the sweeping statements the Board credited. And Entegris prohibited Dr. Rivers from testifying as to his conversations with the attorneys who prepared the IPR, due to privilege. Crediting Dr. Rivers’s declaration effectively permits hearsay and the inequitable

use of privilege to obscure the factual record. The Board's decision should therefore be vacated to prevent it from becoming a roadmap that allows petitioners to unfairly cloak RPI relationships.

Dr. Rivers's declaration asserts "Entegris prepared and filed this IPR with no participation by Lam." EX2046 at ¶ 3. He confirmed that this statement was intended to include "inside and out[side] counsel" for Entegris. EX2055 at 73:16-22; Paper 33 at 10 (quoting this statement). And, because there is no temporal limitation, the declaration creates the impression that this assertion applies to the entire period during which Entegris prepared the IPR. Dr. Rivers, however, lacks the personal knowledge necessary to support such sweeping assertions.

Dr. Rivers conceded that he "was not involved in the preparation of this IPR," EX2055 at 77:2-7; *see also id.* at 48:17-20, 50:2-8, 51:1-6, 52:12-16. In fact, other than a single individual, he testified that he did not know who was involved and would be "speculating to list out names." *Id.* at 58:16-61:16. Nor was he aware of when petition preparation began, only that it was before he assumed his current role. *Id.* at 99:3-101:10 (testifying the decision to file an IPR "had been discussed before I was involved" and "I'm not familiar with the timing of ... when the process began"). Although outside counsel was presumably involved, Dr. Rivers did not speak with them before signing his declaration. EX2055 at 25:11-16; 74:12-75:2.

And when asked about communications with Lam regarding the petition's preparation, he confirmed he had no personal knowledge:

8 Q. Leading up to the filing of the petition,
9 do you have any personal knowledge about whether any
10 in-house counsel or outside counsel for Entegris
11 communicated with anyone at Lam about the IPR?

...

17 THE WITNESS: No.

Id. at 57:8-17; *see also id.* at 56:17-58:5.

Dr. Rivers conceded that his declaration statements were instead based on what others told him. EX2055 at 54:10-21; 61:15-67:22; 68:17-75:8; 163:7-16. That is classic hearsay, and where he relayed what in-house counsel said about communications with outside counsel, it is double hearsay—none of which the Board could properly credit as substantive proof of who actually prepared the petition or whether Lam participated. *Cf. Spezzaferro v. F.A.A.*, 807 F.2d 169, 173 n.2 (Fed. Cir. 1986) (rejecting affidavit “based on hearsay, double hearsay, rumor, innuendo, and self-serving statements without probative value”).

Crediting that second-hand testimony also permits privilege to be used to shield the underlying communications that would confirm the truth—as occurred here—compounding the evidentiary defect. EX2055 at 61:19-71:7, 163:7-164:5. The Federal Circuit has repeatedly held that a party may not simultaneously rely on

privileged communications while insulating those communications from scrutiny— “The attorney-client privilege cannot be used as both a sword and a shield.” *Energy Heating, Ltd. Liab. Co. v. Heat On-The-Fly, Ltd. Liab. Co.*, 889 F.3d 1291, 1303 (Fed. Cir. 2018) (affirming district court exclusion of witness testimony at trial after the proponent of that testimony had prohibited the same witness from providing such testimony at his deposition, instead asserting privilege); *see also Ironburg Inventions Ltd. v. Valve Corp.*, 64 F.4th 1274, 1294 (Fed. Cir. 2023) (describing *Energy Heating* and similarly affirming exclusion of witness testimony on a topic that was shielded from discovery with privilege during deposition); *see also Fort James Corp. v. Solo Cup Co.*, 412 F.3d 1340, 1351 (Fed. Cir. 2005) (“It would be unfair to permit Fort James to rely on favorable legal opinions, but protect the communications on which those opinions depend.”) This unfairness is heightened here, where Dr. Rivers admitted Entegris attempted to coordinate the timing of this IPR with Lam’s “around the Delaware case.” EX2055 at 159:22-161:15. For these reasons, the Board erred in relying on Dr. Rivers’s declaration to resolve the RPI question.

Even though Inpria identified the hearsay and privilege problems, Paper 28 at 5, the Board still credited Dr. Rivers’s supposed personal knowledge. Paper 33 at 9-12 (quoting EX2046 at ¶¶ 3-4). But the PTAB applies the Federal Rules of Evidence. 37 C.F.R. § 42.62(a). Under FRE 602, a fact witness may testify only

from “personal knowledge.” A “person who has no knowledge of a fact except what another has told him does not satisfy the requirement of knowledge from observation.” 1 *McCormick on Evidence* § 10 (9th ed. 2020); *Rex Med., L.P. v. Intuitive Surgical, Inc.*, 156 F.4th 1289, 1299 (Fed. Cir. 2025) (affirming district court opinion rejecting testimony as hearsay where declarant “admitted he had no personal knowledge”). The Board’s reliance on Dr. Rivers’s second-hand statements therefore contravenes FRE 602.

Similarly, to the extent Dr. Rivers’s testimony of “no participation,” (EX2046 at ¶ 3), was intended to cover the full period of IPR preparation, it cannot be credited because he lacks personal knowledge of events that occurred before he assumed his current role. EX2055 at 99:3-101:10; see *Delaware Valley Floral Grp., Inc. v. Shaw Rose Nets, LLC*, 597 F.3d 1374, 1378 (Fed. Cir. 2010) (affirming grant of summary judgment, despite witness testimony that might cut against SJ because the witness “lacked personal knowledge of events that occurred before he was hired.”)

This defect in a key piece of evidence credited by the Board should not be excused. The petitioner bears the burden of proving it has correctly identified *all* RPIs, *Worlds Inc. v. Bungie, Inc.*, 903 F.3d 1237, 1242 (Fed. Cir. 2018), and Entegris cannot meet that burden by offering a last-minute declaration from a witness who lacked personal knowledge of the IPR’s preparation.

B. Neither Entegris Nor the Board Explained Why They Adopted Claim Constructions That Were Inconsistent With Those at the District Court

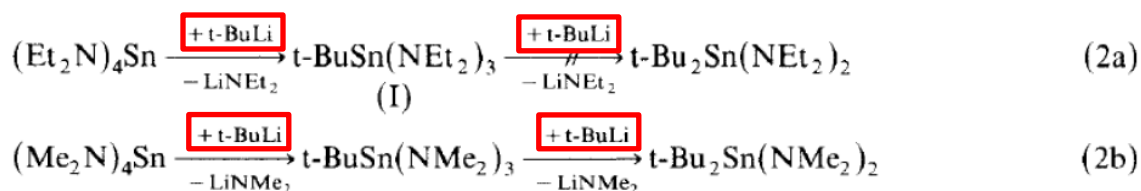
Even setting aside the significant flaws in the Board’s RPI analysis, the institution decision should be vacated because the Board failed to reconcile its understanding of the claims with the Delaware court’s construction. At a minimum, vacatur and remand are required so the Board can explain the inconsistency. But here, the most appropriate remedy would be to terminate the proceeding because Entegris advanced a broader interpretation for unpatentability in its Petition than the narrower construction Lam—[REDACTED]—advanced in district court, and the Board accepted that divergence without any explanation.

The Board’s institution decision ignores the requirement that “if the Board reaches an initial ... decision on a ... conclusion of law that is different than the prior ... conclusion of the ... district court ... the Board *shall* explain in the institution ... decision why a different outcome is warranted.” *Memorandum – PTAB consideration of prior findings of fact and conclusions of law*, Sep. 16, 2025, available at <https://www.uspto.gov/subscription-center/2025/uspto-issues-memorandum-regarding-ptab-consideration-prior-adjudications> (last visited Feb. 10, 2026) (“Memorandum”) (emphasis added). Claim construction is a “conclusion of law” for purposes of this Memorandum, so any divergence from a district court’s

construction requires an explanation. Here, the Board's institution analysis departs from the parallel Delaware court's construction, yet the Board did not explain why.

The Memorandum's requirement applies here because the Delaware court construed the same claim term before the Board's institution decision. Specifically, after this IPR proceeding was discretionarily denied on July 2, 2025 (Paper 12), the Delaware case continued and the District Court issued a claim construction on the '903 patent's purity limitation on September 8, 2025, EX2044. The Deputy Director then revived the IPR proceeding on October 31, 2025. Paper 21. After the IPR restarted on November 13, 2025, Inpria requested and received authorization to submit the district court's claim construction (EX3001; EX2045 at 50:21-51:10), and Inpria submitted that construction as Exhibit 2044 on December 3, 2025. The Board's January 27, 2026 institution decision fails to address or reconcile that construction, even though it contradicts the basis of the Board's merits determination. *See* Paper 33 at 22-29.

The sole ground the Board addressed at institution was obviousness over Hänssgen, and its analysis centered on the purity limitation. *Id.* The Board expressly recognized that Hänssgen involved "reactions of 't-BuLi,'" *id.* at 25, referencing the following two reactions from Hänssgen:



(EX1005 at 192 (annotations added to show t-BuLi).) The Board then pointed to “fractional distillation” as the purported solution to the alleged problem of “producing a high-purity product.” Paper 33 at 25-26.

But the District Court’s construction excluded “an alkyl lithium reaction” (such as one using t-BuLi) and, more specifically, excluded “an alkyl lithium reaction with a subsequent conventional distillation step” (such as fractional distillation). EX2044 at 1. Because the Board’s merits decision hinged on an alkyl lithium reaction followed by a conventional distillation step, it is irreconcilable with the District Court’s claim construction and cannot stand.

The Board’s decision should be, at a minimum, vacated and remanded so the Board can explain the inconsistency. But termination is the more appropriate remedy here given Entegris advanced an inconsistent interpretation without explanation. A “petitioner should, at a minimum, explain why alternative positions are warranted” when advancing different constructions in the PTAB and in district court. *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 20 at 4 (Director Nov. 3, 2025) (precedential). This directive—intended “to minimize inconsistency in claim construction between forums” and to deter

petitioners from seeking broader claim scope at the PTAB while advancing narrower scope in litigation—has been applied to deny institution where the inconsistency is unexplained. *Id.*; *see also Sun Pharm. Indus. Inc. v. Nivagen Pharm., Inc.*, IPR2025-00893, Paper 18 at 3 (Director Sept. 19, 2025) (designated informative January 9, 2026) (denying institution where inconsistency between broad IPR construction and narrow district court construction unexplained). As *Revvo* explains, simply “appl[ying] PO’s proposed construction” or invoking “ordinary and customary meaning,” Paper 1 at 9 n.3, 23, without explaining why a different position is taken in the two forums—as Entegris has done here—“is not a sufficient reason.” *Revvo* at 5.

Entegris should be held to the *Revvo* / *Sun Pharm.* standard. While Entegris was not expressly named as a defendant in the Delaware case, it acknowledged that the infringement allegations targeted the “chemistries” it supplied, Paper 17 at 1,

[REDACTED], EX2054. Entegris also conceded that its IPR timing was coordinated to avoid litigating privity—because, according to Entegris’s counsel, its “supply [to Lam] of th[e] composition that was accused” of infringement implicated privity. EX2045 at 22:11-18; *see also* EX2055 at 159:22-161:15 (admitting Entegris’s consideration of IPR filing timing was based on the filing of “[o]ther IPRs ... around the Delaware case”).

Thus, Entegris should have been required to explain in its petition why it adopted a broader interpretation position at the PTAB than the narrow construction Lam advanced in the Delaware case to avoid infringement [REDACTED] EX1012 at 53 (Joint Claim Construction Brief showing Lam's proposed construction mirroring the district court's order). Because Entegris failed to explain this inconsistency, the Director should vacate and deny institution. *Sun Pharm.* at 3.

IV. CONCLUSION

The Director should vacate the Board's decision and terminate this proceeding, because the decision is at odds with two core Director policies: (1) RPIs should be disclosed openly and early; and (2) the Board and petitioners should not adopt positions that are inconsistent with those adopted by another judicial tribunal without explanation.

Dated: February 10, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2026, I caused a true and correct copy of the foregoing Patent Owner's Request for Director Review of Decision Granting Institution to be served via email on Petitioner at the following addresses:

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