

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TESSELL, INC.  
Petitioner,

v.

NUTANIX, INC.,  
Patent Owner.

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IPR2025-00322  
Patent 11,010,336 B2

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Before JAMESON LEE, JUSTIN T. ARBES, and LISA A. MURRAY,  
*Administrative Patent Judges.*

MURRAY, *Administrative Patent Judge.*

ORDER  
Concerning an April 10, 2025 Conference Call with the Board  
*37 C.F.R. § 42.5*

The Board held a telephonic conference with the parties on April 10, 2025, at 2:00 PM Eastern Daylight Time. This Order reflects the discussion that took place during that conference.

The purpose of the conference call was to go over the effect on IPR2025-00322 of Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office Stewart's recently issued memorandum "Interim Processes for PTAB Workload Management" (Mar. 26, 2025), *available at* <https://www.uspto.gov/sites/default/files/documents/InterimProcesses-PTABWorkloadMgmt-20250326.pdf>. The panel confirmed that because the Preliminary Response in this proceeding was filed on March 31, 2025, the interim procedure described in the memorandum will apply in this proceeding.

"Under this interim procedure, the Director, in consultation with at least three PTAB judges, will determine whether discretionary denial of institution is appropriate." Interim Processes for PTAB Workload Management at 1. If the Director determines that discretionary denial is not appropriate, the above-captioned panel "will then handle the case in the normal course including by issuing a decision on institution addressing the merits and other non-discretionary statutory considerations." *Id.*

During the conference call, the above-captioned panel confirmed that in accordance with the memorandum, it will not consider discretionary denial arguments in the Preliminary Response.

The parties are hereby

ORDERED to review the Acting Director's memorandum for guidance on how to submit discretionary denial issues for consideration.

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