

IPR2025-00324
U.S. Patent No. 7,865,177
Patent Owner's Preliminary Response

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

REALTEK SEMICONDUCTOR CORP.,
Petitioner,

v.

PARKERVISION, INC.
Patent Owner.

U.S. Patent No. 7,865,177

Issue Date: January 4, 2011

Title: METHOD AND SYSTEM FOR DOWN-CONVERTING AN
ELECTROMAGNETIC SIGNAL, AND TRANSFORMS FOR SAME, AND
APERTURE RELATIONSHIPS

Inter Partes Review No. IPR2025-00324

**PATENT OWNER'S PRELIMINARY RESPONSE TO PETITION FOR
INTER PARTES REVIEW OF UNITED STATES PATENT NO. 7,865,177**

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I. INTRODUCTION

Pursuant to 35 U.S.C. § 313 and 37 C.F.R. § 42.107, ParkerVision Inc. (“ParkerVision”) submits this Preliminary Response (“Response”) and respectfully requests the Board to deny the Petition for *Inter Partes* Review (“Petition”) filed by Realtek Semiconductor Corp. (“Petitioner” or “Realtek”) challenging claim 14 (“Challenged Claim”) of U.S. Patent No. 7,865,177 (the “’177 patent”).

ParkerVision objects to the use of *inter partes* review (IPR) as an unconstitutional mechanism for challenging the validity of existing patents. For the foregoing reasons, institution of the Petition should be denied.¹

II. THE IPR PROCEEDING VIOLATES CONSTITUTIONAL DUE PROCESS.

ParkerVision objects to the use of *inter partes* review as an unconstitutional mechanism for challenging the validity of existing patents. Specifically,

¹ This Preliminary Response addresses only the constitutional basis for denying institution. Consistent with Acting Director Stewart’s guidance on “Interim Processes for PTAB Workload Management,” dated March 26, 2025 (*See* Ex. 2001), the basis for discretionary denial is addressed in ParkerVision’s Brief in Support of Discretionary Denial and Opposition to Petitioner’s Motion for Joinder. *See* Paper 8; *See also* Paper 7.

ParkerVision contends that the PTAB's rules and procedures, as applied, violate the Fifth Amendment's guarantees of due process by depriving patent owners of their vested property rights without fundamental fairness and procedural safeguards afforded by Article III courts.

First, IPR proceedings apply a preponderance of the evidence standard to determine patent validity, which is a lower burden of proof than the clear and convincing evidence standard required in district court. This discrepancy undermines the statutory presumption of validity afforded to issued patents and makes it easier to invalidate a patent in an administrative forum than in a judicial proceeding.

Second, the PTAB lacks the adjudicative independence of an Article III court. For example, the PTAB allows the USPTO Director, who is a political appointee, to exert control over IPR outcomes through practices such as panel stacking and discretionary review. Political considerations and policies, and these other practices compromise the neutrality of the adjudicative process and introduce a risk of unfair influence on decision-making.

Third, the USPTO's financial interest in IPR proceedings raises serious concerns about impartiality. The USPTO generates substantial revenue from IPR filings and institution fees, creating a structural incentive to institute IPR

proceedings and invalidate patents. This financial interest leads to a potential bias against patent owners, further undermining the fairness of the process.

Fourth, PTAB decisions are reached only on the basis of paper briefs without live witness testimony and live cross-examination. This is the case, for example, even where there are factual disputes regarding the disclosures in the prior art, explanations of technical evidence, motivations to combine, and secondary considerations of nonobviousness. There is no way for patent owners to confront witnesses and challenge their credibility, or for PTAB judges to assess witness credibility.

Finally, the inability to appeal the PTAB's institution decision to an Article III court exacerbates due process concerns. Once an IPR is instituted, it can significantly alter the patent owner's rights. But the institution decision itself is insulated from Article III review, depriving patent owners of full judicial recourse. And the same PTAB judges who determine institution are then the same PTAB judges to decide the merits.

For these reasons, ParkerVision submits that the due process violations render IPR proceedings unlawful and preserves its right to challenge the constitutionality of the IPR, including before an Article III court.

ParkerVision also submits that IPR proceedings deprive patent owners of their Seventh Amendment right to a jury trial and to have the validity of patents

determined in Article III courts in view of the Supreme Court's recent decision in *SEC v. Jarkesy*, 603 U.S. 109 (2024).²

III. CONCLUSION

For all of the foregoing reasons, ParkerVision respectfully requests the Board to deny the Petition.

Dated: April 30, 2025

Respectfully submitted,

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² While this Preliminary Response only addresses the constitutional basis for denying institution—and ParkerVision's Brief in Support of Discretionary Denial and Opposition to Petitioner's Motion for Joinder addresses the discretionary basis for denying institution (*See* Paper 8)—ParkerVision reserves all additional arguments on the merits. If the Board institutes trial, ParkerVision will fully address the deficiencies in Realtek's invalidity arguments, including any erroneous claim construction positions, motivations to combine, and the failures of the cited prior art to teach or render obvious the Challenged Claim.

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Patent Owner's Preliminary Response

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CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(d), the undersigned certifies that this Patent Owner's Preliminary Response complies with the type-volume limitation of 37 C.F.R. § 42.24(b) because it contains 711 words, as determined by the word-processing program used to prepare the brief, excluding the parts of the brief exempted by 37 C.F.R. § 42.24(a)(1).

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **PATENT OWNER'S PRELIMINARY RESPONSE TO PETITION FOR INTER PARTES REVIEW OF UNITED STATES PATENT NO. 7,865,177**, together with all exhibits filed therewith, was served in its entirety by filing these documents through the PTAB E2E System, as well as by email on the following counsel of record for Petitioner:

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IPR2025-00324 (U.S. Patent No. 7,865,177)
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