

Gregory Cordrey

From: Gregory Cordrey
Sent: Saturday, May 31, 2025 10:49 AM
To: Edwin Hernandez
Cc: Stan M. Gibson
Subject: FW: IPR2025-00349, -00350, & -00351 | Request for Additional Briefing re Discretionary Denial

Edwin,

Please see the email below from the Patent Trial and Appeal Board. They authorized each party to submit a two-page brief addressing how the motion to withdraw in the litigation affects the *Fintiv* analysis. Each party's brief is due by Wednesday, June 4.

Best,
Greg

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From: Trials <Trials@USPTO.GOV>
Sent: Friday, May 30, 2025 12:18 PM
To: Joshua Wyde <JWyde@aatrillaw.com>; Trials <Trials@USPTO.GOV>
Cc: Gregory Cordrey <GCordrey@JMBM.com>; Stan M. Gibson <SMG@JMBM.com>; IPR2025-00351 <IPR2025-00351@aatrillaw.com>; IPR2025-00349 <IPR2025-00349@aatrillaw.com>; IPR2025-00350 <IPR2025-00350@aatrillaw.com>; Masood Anjom <MANjom@aatrillaw.com>; Michael McBride <MMcBride@aatrillaw.com>
Subject: RE: IPR2025-00349, -00350, & -00351 | Request for Additional Briefing re Discretionary Denial

Counsel,

We authorize the parties to submit a two page brief in each IPR addressing how the change affects the *Fintiv* analysis. **The briefs must be filed no later than Wednesday, June 4, 2025.** The parties are authorized to file documentary evidence in support of any facts asserted in their briefs but are not authorized to file additional declarations.

The parties must also file the most recent scheduling order from the related litigation if there have been any changes with respect to the order issued on September 9, 2024. *See, e.g.*, IPR2025-00349, Ex. 2003 (“Order Setting Jury Trial Schedule, Requiring Mediation, and Referring Certain Matters to Magistrate Judge”).

Regards,

Andrew Kellogg,
Deputy Chief Clerk, Trials
Patent Trial and Appeal Board
USPTO
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(571) 272-5366

From: Joshua Wyde <JWyde@aatrilllaw.com>
Sent: Thursday, May 29, 2025 6:06 PM
To: Trials <Trials@USPTO.GOV>
Cc: GCordrey@JMBM.com; SMG@JMBM.com; IPR2025-00351 <IPR2025-00351@aatrilllaw.com>; IPR2025-00349 <IPR2025-00349@aatrilllaw.com>; IPR2025-00350 <IPR2025-00350@aatrilllaw.com>; Masood Anjom <MAnjom@aatrilllaw.com>; Michael McBride <MMcBride@aatrilllaw.com>
Subject: IPR2025-00349, -00350, & -00351 | Request for Additional Briefing re Discretionary Denial

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Your Honors:

Patent Owner’s counsel has filed a motion for leave to withdraw as counsel for plaintiffs and to continue deadlines in related litigation. *See Hernandez, et al. v. Stingray Group Inc., et al.*, Case No. 1:24-cv-21226-RAR (S.D. Fla. filed May 28, 2025) (Dkt. 266) (“Motion”); *see also* Paper 4. The Motion indicates that:

- On May 23, 2025, Plaintiffs’ damages expert abruptly terminated his engagement without notice and it is too late for Plaintiffs to find another damages expert;
- Plaintiffs will not provide Counsel with dates for their depositions, despite Counsel’s repeated requests;
- Plaintiffs will not pay the mediator’s fee for the Court-ordered mediation scheduled in this case; and
- On May 26, 2025, Plaintiffs acknowledged that they cannot pay Counsel’s bills, including past and current.

At 1. The Motion additionally requests a 30-day continuance of all pending deadlines to allow Plaintiffs time to secure substitute counsel. *Id.* at 4–5.

Given this highly relevant and unforeseeable change in facts that occurred after briefing regarding Patent Owner’s request to discretionarily deny the above referenced IPRs, see Papers 10–11, Petitioners request an additional two (2) pages of briefing in each IPR to address how the change affects the *Fintiv* analysis. See Director Review, *Vector Flow, Inc. v. HID Global Corp.*, IPR2023-00353-11, at 7–8 (PTAB Aug. 10, 2023) (Paper 11) (explaining that a change in the factual situation is generally good cause to allow additional briefing regarding such changes). Petitioners do not oppose an equal length response from Patent Owner.

Petitioners sent an email to Patent Owner on May 28, 2025, after Patent Owner filed the Motion and noting that the pending deadline for institution decisions in the IPRs meant that time was of the essence and Patent Owner wanted to file its request today. The email asked if Patent Owner would oppose the Motion and offered to speak with Patent Owner’s counsel today via phone to expedite the meet and confer process. Patent Owner’s counsel did not reply by close of business. Given the time constraints, Patent Owner is sending the request and copying Patent Owner’s counsel who may provide their position.

Petitioners are generally available for the remainder of this and next week, should the Board wish to discuss the matter via teleconference.

JoshuaWyde

ALAVI & ANAIPAKOS PLLC, OF COUNSEL

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