

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 No. IPR2025-00354
U.S. PATENT NO. 8,747,097

PATENT OWNER'S AUTHORIZED RESPONSE
TO DIRECTOR REVIEW REQUEST

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Pursuant to the Director's July 11, 2025 authorization, Patent Owner submits this response to Petitioner's Director Review request (Paper 12 ("Req.")) for the Director's decision denying institution. Respectfully, the Director should deny the request as it fails to identify any appropriate basis for Director Review.

I. PETITIONER'S REQUEST IS INAPPROPRIATE FOR REVIEW

Petitioner seeks to re-argue its opposition to discretionary denial by improperly seeking in each section of its request to introduce new arguments without explaining why untimely arguments are warranted and/or new evidence without seeking the requisite approval. New arguments and new evidence should not be considered. *See* Director Review Process Page ("DR Page"), § 3.E; 37 C.F.R. § 42.75(c)(3). Petitioner has failed to seek authorization, nor could it as the new arguments/evidence are untimely. *See id.* Further, each section ignores the Director's guidance that the parties' original briefing should "address any fact or circumstance they believe bears on the Director's discretion to institute, including reasons not discussed in current Board precedent or in the Process Memorandum." FAQs for Interim Processes for PTAB Workload Management ("FAQs"), Questions 11, 20. Petitioner also fails to identify any changed circumstance, abuse of discretion, important issue of law/policy, or erroneous facts/legal findings to warrant Director Review. *See id.*; *see also* DR Page, § 2.B. On these bases alone, Petitioner's request should be denied. Further, as explained below, Petitioner's

request should be denied even if Petitioner's request to re-argue discretionary issues with new arguments and evidence is considered.

II. PETITIONER'S THIRD STIPULATION SHOULD BE REJECTED

Petitioner's attempt to revive its petition by submitting yet another (third) stipulation should be rejected. Req. 2-7. The third stipulation is new evidence that should not be considered and is untimely. Indeed, Petitioner's suggestion that it sent its third stipulation due to intervening USPTO changes is misleading. Req. 2-5. Petitioner sent the stipulation last week, nearly a month after the Director's decision and nearly three months after the Discretionary Denial Request and the publication of FAQs that clarified "petitioner should file" its "stipulation as soon as practicable" and that if petitioner relies on system art in district court "a stipulation may not be particularly meaningful." FAQs, Question 14. Indeed, the district court trial will start on June 1, 2026, many months before any final written decision deadline and not 1.5 months as Petitioner incorrectly assumes based on the original institution deadline that has passed. *See* Req. 3. Petitioner fails to account for discretionary denial and the lack of an institution decision.

Even if the untimely stipulation were considered, it fails to moot Petitioner's overlapping invalidity arguments in district court that combine system art with references not asserted in IPR but that could have been or with references that substitute for reference(s) asserted in IPR that are part of Petitioner's common

illustrative categories (e.g., Machine Vision, Web Server, Error Detection, or Structured Light References). *See* Paper 7, 15 (citing EX2007, 122-23, 124-25).

III. PETITIONER CONCEDES THAT THE SUBJECT MATTER OF THE PATENTS FAVORS DENIAL

Petitioner's new argument that the Board is better suited to review patents in the related proceedings is also flawed. Req. 7-9. Under Petitioner's strained view, a narrow exception addressed in the *Tesla, Inc. v. Intellectual Ventures II LLC* decision (IPR2025-00217, Paper 9 (Jun. 13, 2025)) should be greatly expanded to swallow nearly all IPR petitions. Any subject matter is diverse under Petitioner's view, because it does not matter to which field the patents relate. However, as Petitioner concedes, each patent asserted in district court relates to the same field and subject matter—3D printing. Req. 7. Indeed, the level of skill that Petitioner proposes in each IPR centers on 3-D printing. *See* Paper 2 (Petition) in each of IPR2025-00257 (at 7); IPR2025-00311 (at 6); IPR2025-00321 (at 5); IPR2025-00354 (at 6); IPR2025-00438 (at 6); IPR2025-00531 (at 5); IPR2025-00532 (at 4); IPR2025-00585 (at 5); IPR2025-00611 (at 3). The facts here—a 3D printing company protecting its patents in a common field and subject matter—stand in contrast to those in *Tesla*, where an automobile manufacturer is challenging patents from unrelated, diverse fields, such as vehicle docking and power control in a wireless network, that are owned by a patent holding company, Intellectual Ventures. *See* IPR2025-00217, Paper 8 at 6, 17.

IV. NEW CHALLENGES TO SETTLED EXPECTATIONS SHOULD BE REJECTED

Similar to Petitioner's untimely, third stipulation, Petitioner's new assertions and "evidence" regarding settled expectations should be rejected. *Compare* Req. 9-10 *with* Paper 10, 23-24. Petitioner has failed to seek authorization for its introductions. Also, Petitioner ignores the fact that it has infringed the patent and since having knowledge of the patent, continues to infringe. *See* EX2009, 16-19; *see also Dabico Airport Sols. Inc. v. Axa Power Aps*, IPR2025-00408, Paper 21 at 3 (June 18, 2025) ("[N]otice of a patent or of possible infringement is not necessary to create settled expectations").

V. PETITIONER SEEKS TO REVISIT ART BEFORE THE EXAMINER

Petitioner also introduces new arguments about the relationship between asserted references in this IPR and those before the examiner. Req. 10-12. But Petitioner's reliance on the *Microsoft* decision ignores the facts of this case. Petitioner is asserting a reference, Anderson, in combinations (e.g., with Knighton/Luo) in the very same manner that was considered and overcome during prosecution. Paper 7, 24-25. Further, Petitioner fails to address the fact that the same deficiency present in the Anderson combinations is also present in the Bonassar combinations. *See id.*; *see also* Req. 11. Rather than showing a material prosecution error, all Petitioner has done is show that it made a material error fatal to its Petition by attempting to rehash what the USPTO already considered.

VI. DISCRETIONARY DENIAL DECISIONS ARE NOT REQUIRED TO ADDRESS THE MERITS IN WRITING

Petitioner's challenge under Section 314(c) is simply an end-run around the Director's discretion to institute review and conflicts with the plain language of the statute. *See* Req. 12; *see also Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1367 (Fed. Cir. 2016) (USPTO is "never compelled[] to institute"). Namely, the written-notice requirement under § 314(c) only applies if review is instituted. *See* 35 U.S.C. § 314(c) (Director's written "notice shall include the date on which the review shall commence"), § 314(a) ("Director determines that" the petition shows "there is a reasonable likelihood that the petitioner would prevail"). Section 314 does not also require written notice of the merits when review is not instituted.

VII. PETITIONER'S CHALLENGE TO THE DISCRETIONARY DENIAL PROCESS IS FLAWED

Like Petitioner's other new arguments, Petitioner's argument on the Director's rescission is waived as Petitioner failed to raise the argument in its opposition brief. Req. 12-15. Petitioner also fails to identify any changes in law or other reasons that would justify its untimely challenge. Additionally, Petitioner's challenge is wrong on the merits. Notice-and-comment requirements only apply to legislative or substantive rules and not the general statement of policy reflected in the NHK-Fintiv standard. *See* Paper 7, 5-7.

Respectfully submitted,

Dated: July 18, 2025

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e)(4), the undersigned certifies that on July 18, 2025, a complete copy of the foregoing Patent Owner's Authorized Response to Director Review Request was served on Lead and Back-up Counsel for Petitioner at the service address provided in Petitioner's Mandatory Notices:

Email: IPR56224-0012IP1@fr.com

Dated: July 18, 2025

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