

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CAMBRIDGE INDUSTRIES USA INC.,
Petitioner

v.

APPLIED OPTOELECTRONICS, INC.,
Patent Owner

Case No. IPR2025-00435
U.S. Patent No. 10,042,116

**DECLARATION OF NICOLA A. PISANO
IN SUPPORT OF REQUEST FOR REHEARING**

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
PO Box 1450
Alexandria, Virginia 22313-1450

I, Nicola A. Pisano, do hereby declare and say as follows:

1. I am the Lead Counsel for Petitioner Cambridge Industries USA Inc. (“CIG USA”), who submitted the Petition for *Inter Partes* Review of U.S. Patent No. 10,042,116 (“the ’116 Patent”), designated IPR2025-00435.

2. I am a member of the state bars of California, New York and Texas, numerous federal district courts, the Court of Appeals for the Federal Circuit, and the United States Supreme Court. I have been registered Patent Attorney with the United States Patent and Trademark Office since 1990.

3. At my direction and under my supervision, my legal team prepared Annex A to this declaration. Annex A was compiled using data collected using the on-line database LexMachina to create a “snapshot” of U.S. district court litigations decided in calendar year 2024 through mid-2025, in which a judge or jury determined a patent to be invalid as anticipated or obvious over prior art, i.e., on the same bases employed in an IPR proceeding.

4. Patent invalidity determinations made during the period 2024 to mid-2025 were considered to provide a manageable sample because according to LexMachina, more than a thousand cases were decided since 2001 in which one or more patents were adjudged invalid.

5. Annex A includes all 53 cases in which a judge or jury determined a patent to be invalid as anticipated or obvious over prior art, and includes a total of

86 patent invalidity determinations. For each of those 86 patents, Annex A identifies the issue date of the patent and the patent's age in years when first asserted in litigation, as well as the filing date of the Complaint. Also set forth in Annex A are columns identifying how many invalidated patents were six or more years old when asserted, and how many were less than six years old.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Executed July 21, 2025 at San Diego, California.



Nicola A. Pisano

ANNEX A

Title	Civil Action #	Court	Filed On	Patent #	Findings	Invalidated	Age	> 6 years	< 6 years
Corel Software v. Microsoft	2:15-cv-00528	D.Utah	2015-07-27	6731309 7827483 8700996	Invalidity No Infringement	309	11	1	0
Lowe v. ShieldMark, Inc. et al	1:19-cv-00748	N.D. Ohio	2019-04-04	10214664 10738220	Invalidity No Infringement	664	0.17	0	0
VANDOR GROUP, INC. v. BATESVILLE CASKET COMPANY, LLC., et al	1:23-cv-00013	S.D. Ind.	2023-01-03	10098801 8104151 8959732 9649240	Invalidity	151 '732 '240	10.92 7.83 5.58	2	1
WSOU Investments, LLC v. Cisco Systems, Inc.	6:21-cv-00128	W.D. Tex.	2021-02-05	7443859 8191106 8665733 8989216 9357014	Invalidity No Infringement	216	3.83	0	1
Ferring Pharmaceuticals Inc. et al v. Finch Therapeutics Group, Inc. et al	1:21-cv-01694	D. Del.	2021-12-01	10022406 10064899 10251914 10286011 10286012 10328107 10463702 10675309 11491193 11541080 9308226 9962413	No Invalidity Invalidity Infringement	309	1.42	0	1
Jetaire Aerospace, LLC v. AerSale Inc.	1:20-cv-25144	S.D. Fla.	2020-12-17	10633109 10800541 9849998	Invalidity	109 '541 '998	0.58 0.17 2.92	0	3
Geigtech East Bay LLC v. Lutron Electronics Co., Inc.	1:18-cv-05290	S.D.N.Y.	2018-06-12	10294717 10822872 9237821 9327821	Invalidity No Unenforceability	821	2.92	0	1
Apple Inc. v. Masimo Corporation et al	1:22-cv-01377	D. Del.	2022-10-20	10627783 10987054 11474483 D735131 D883279 D947842 D962936	Infringement Invalidity No Infringement No Unenforceability No Invalidity	483	0	0	1
Apple Inc. v. Masimo Corporation et al	1:22-cv-01378	D. Del.	2022-10-20	10076257 10627783 10687743 10687745 10722159 10736507 10912501 10912502 10942491 10945648 10984911 10987054 11106352 11474483 7761127 8190223 D735131 D883279 D947842	No Invalidity Invalidity No Infringement Infringement	483	0	0	0

Title	Civil Action #	Court	Filed On	Patent #	Findings	Invalidated	Age	> 6 years	< 6 years
PACIRA PHARMACEUTICALS , INC. et al v. EVENUS PHARMACEUTICALS LABORATORIES INC. et al	2:21-cv-19829	D.N.J.	2021-11-08	11033495 11179336	Invalidity	495	0.33	0	1
CosmoKey Solutions GmbH & Co. KG v. Duo Security, Inc.	1:18-cv-01477	D.Del.	2018-09-25	9246903	Invalidity No Infringement	903	2.58	0	1
Columbia Sportswear North America, Inc. v. Seirus Innovative Accessories	3:17-cv-01781	S.D.Cal.	2017-09-05	8424119 8453270 D657093	Invalidity No Infringement Infringement	270	4.25	0	1
Otsuka Pharmaceutical Co., Ltd. v. Lupin Limited et al	1:21-cv-00900	D.Del.	2021-06-23	10905694 8273735 8501730	No Invalidity Invalidity No Infringement	735	8.75	1	0
Her Majesty the Queen in Right of Canada v. Van Well Nursery Inc et al	2:20-cv-00181	E.D.Wash.	2020-05-18	PP20551	Invalidity	551	10.42	1	0
Huiying Health et al v. Ongshu Tang et al	1:24-cv-10319	N.D.Ill.	2024-10-15	12025904	Invalidity	904	0.25	0	1
Lighting Defense Group LLC v. Shanghai Sansi Electronic Engineering Company Limited	2:22-cv-01476	D.Ariz.	2022-08-31	7874700 8256923 8939608 9163807	No Invalidity Invalidity	923 '608 '807	9.92 7.58 6.83	3	0
Nippon Shinyaku.,Ltd. v. Sarepta Therapeutics, Inc.	1:21-cv-01015	D.Del.	2021-07-13	10227590 10266827 10385092 10407461 10487106 10647741 10662217 10683322 9708361 9994851	No Invalidity Invalidity Infringement	092	1.83	0	1
TrackTime, LLC v. Amazon.com Services LLC, et al.	1:18-cv-01518	D.Del.	2018-10-01	8856638 8862978	No Invalidity Invalidity No Infringement	638 '978	3.92 3.92	0	1
Applications in Internet Time, LLC v. Salesforce, Inc.	3:13-cv-00628	D.Nev.	2013-11-08	7356482 8484111	Invalidity No Infringement No Invalidity	482 '111	5.58 3.06	0	2
RSB Spine, LLC v. DePuy Synthes Sales, Inc., et al.	1:19-cv-01515	D.Del.	2019-08-13	6984234 9713537	No Infringement Infringement	234	13.58	1	0
Really Right Stuff v. Field Optics Research	2:20-cv-00345	D.Utah	2020-06-02	10585337 10612718 6773172	Invalidity	337 '718 '172	.23 .15 15.75	1	2

Title	Civil Action #	Court	Filed On	Patent #	Findings	Invalidated	Age	> 6 years	< 6 years
Regeneron Pharmaceuticals, Inc. v. Mylan Pharmaceuticals Inc.	1:22-cv-00061	N.D.W.Va.	2022-08-02	10130681	No Invalidity Invalidity No Unenforceability Infringement	601	1.5	0	1
				10406226					
				10415055					
				10464992					
				10669594					
				10857205					
				10888601					
				10927342					
				10973879					
				11053280					
				11066458					
				11084865					
				11104715					
				11174283					
				11186625					
				11253572					
				11299532					
				11306135					
				11332771					
Purdue Pharma L.P. et al v. Accord Healthcare Inc.	1:22-cv-00913	D.Del.	2022-07-08	11304908 11304909	Invalidity	908	0.22	0	1
Evolve BioSystems, Inc. et al v. Abbott Laboratories	1:19-cv-05859	N.D.Ill.	2019-08-30	10918653 8197872 9200091	Invalidity	872 '091	7.16 3.75	1	1
Hafeman v. LG Electronics Inc. et al	6:21-cv-00696	W.D.Tex.	2021-07-02	10325122 10789393 9021610 9390296 9672388	Invalidity No Infringement	122 '393 '287	2.04 0.75 3.34	0	3
				9892287					
				5760069 RE40000	No Invalidity Invalidity No Infringement Infringement				
						RE40000	6.48	1	0
Abbott Laboratories v. Grifols Diagnostic Solutions Inc. et al	1:19-cv-06587	N.D.Ill.	2019-10-03	5156949 7205101	No Invalidity Invalidity No Infringement	101	12.42	1	0
Motion Offense, LLC v. Dropbox, Inc.	6:20-cv-00251	W.D.Tex.	2020-03-31	10013158 10021052	Invalidity No Infringement	158 '052	1.75 1.73	0	2
Top Brand LLC et al v. Cozy Comfort Company LLC et al	2:21-cv-00597	D.Ariz.	2021-04-08	10420431 D859788 D886416 D903237 D905380	No Invalidity Invalidity No Infringement Infringement	237 '380	1.33 0.29	0	2
Crown Packaging Technology, Inc. et al v. Belvac Production Machinery, Inc.	6:18-cv-00070	W.D.Va.	2018-07-09	10751784 7530445 7770425 9308570 9968982	No Invalidity Invalidity No Infringement No Unenforceability	'425 '570 '982	7.92 2.24 0.15	1	2
IGT et al v. Zynga Inc.	1:23-cv-00885	W.D.Tex.	2021-04-06	7168089 7303473 8266212 8708791 8795064 9159189	Invalidity No Infringement	189	5.48	0	1

Title	Civil Action #	Court	Filed On	Patent #	Findings	Invalidated	Age	> 6 years	< 6 years
DataCore Software Corporation v. Scale Computing, Inc.	1:22-cv-00535	D.Del.	2022-04-26	9344235	Invalidity No Infringement	235	5.92	0	1
Halliburton Energy Services, Inc. et al v. U.S. Well Services, LLC	6:21-cv-00367	W.D.Tex.	2021-04-15	10337308 10408030 10900475 10948472 7574325 7836949 8789601 9410410 9435333 9611728 9745840 9970278 RE46725 RE47695	No Invalidity Invalidity No Infringement	325 '695 '308 '601 '410 '728 '278	11.67 1.92 1.75 6.67 4.67 4.03 2.92	2	5
Inline Plastics Corp. v. Lacerta Group, Inc.	4:18-cv-11631	D.Mass.	2018-08-02	7073680 7118003 8795580 9527640 9630756	Invalidity No Infringement Infringement	003 '580 '640 '756	11.83 3.99 1.58 1.25	1	3
Definitive Holdings v. Powerteq	2:18-cv-00844	D.Utah	2018-10-29	8458689	Invalidity	689	5.4	0	1
The United States of America v. Gilead Sciences, Inc. et al	1:19-cv-02103	D.Del.	2019-11-06	10335423 7446190 7608597 8129385 8815830 9044509 9579333 9937191	Invalidity Infringement	423 '333 '191 '509	0.35 2.67 1.58 4.42	0	4
Enanta Pharmaceuticals, Inc. v. Pfizer Inc.	1:22-cv-10967	D.Mass.	2022-06-21	11358953	Invalidity	953	0.02	0	1
Abbott Diabetes Care Inc. et al v. Dexcom, Inc.	1:21-cv-00977	D.Del.	2021-07-01	10820842 10827954 10874338 10881341 10945647 10945649 10952653 10959654 10966644 10973443 11000216 11013440 5264104 6576101 6591125	No Invalidity Invalidity No Infringement Infringement	954	0.64	0	1
Graco Inc. et al v. Carlisle Construction Materials, LLC	1:21-cv-00245	D.Del.	2021-02-22	5170939 5226565 7527172 RE46002	No Invalidity Invalidity No Infringement No Unenforceability	172	11.75	1	0
Mission Integrated Technologies, LLC et al v. Clemente et al	1:23-cv-01608	E.D.Va.	2023-11-27	11174677	Invalidity	677	2.03	0	1

Title	Civil Action #	Court	Filed On	Patent #	Findings	Invalidated	Age	> 6 years	< 6 years
Smart Path Connections, LLC v. Nokia Corporation et al	2:22-cv-00296	E.D.Tex.	2022-08-03	7386010 7463580 7551599 7697525	Invalidity No Infringement Infringement	010 '580	14.15 13.65	2	0
Waying Technology Development Co., Limited v. Can Glass Inc.	1:24-cv-04209	S.D.N.Y.	2024-06-03	D977994 D979426	Invalidity No Invalidity	994 '426	1.33 1.27	0	2
J.R. Simplot Company v. McCain Foods USA, Inc.	1:16-cv-00449	D.Idaho	2016-10-07	6821540 D640036 D720916	Invalidity No Infringement Infringement	916 '540	1.73 11.88	1	1
Philips North America LLC v. Garmin International, Inc. et al	2:19-cv-06301	C.D.Cal.	2019-07-22	6013007 6976958 7088233 8277377 9314192 9801542	Invalidity No Infringement	542 '007	1.74 19.54	1	1
Shenzhen Topegg Technology Co., Ltd v. Lu	1:24-cv-06782	N.D.Ill.	2024-08-01	7878365 D1033140	Invalidity Unenforceability	140	0.08	0	1
Sable Networks, Inc. et al v. Cloudflare, Inc.	6:21-cv-00261	W.D.Tex.	2021-03-15	6954431 6977932 7012919 8243593	Invalidity No Infringement	919 '431	15 15.41	2	0
Empire Technological Group Limited v. Light & Wonder, Inc. et al	2:22-cv-00923	D.Nev.	2022-06-08	10789805 11341807	Invalidity No Infringement	807	0.04	0	1
CAP-XX, Ltd. v. Maxwell Technologies, Inc.	1:19-cv-01733	D.Del.	2019-09-16	6920034 7382600	Invalidity No Infringement Unenforceability	034 '600	14.16 11.29	2	0
Arendi S.A.R.L. v. Google LLC	1:13-cv-00919	D.Del.	2013-05-22	6323853 7496854 7917843 7921356 8306993	Invalidity No Infringement	843	2.15	0	1
Glacio Inc v Dongguan Sutuo Industrial Co Ltd	2:22-cv-00029	E.D.Wash.	2022-02-23	D918970 D931914	Invalidity	970 '914	0.79 0.41	0	2

Title	Civil Action #	Court	Filed On	Patent #	Findings	Invalidated	Age	> 6 years	< 6 years
Impinj, Inc. v. NXP USA, Inc.	4:19-cv-03161	N.D.Cal.	2019-06-06	10002266	No Invalidity Invalidity No Infringement Infringement	302	2.12	0	1
				10116033					
				7116240					
				7215251					
				7246751					
				7307528					
				7388468					
				7472835					
				7733227					
				8115597					
				8134451					
				8344857					
				8390431					
				8391785					
				8600298					
				8665074					
				8881373					
				8952792					
				9031504					
				9349090					
				9436902					
				9460380					
				9471816					
				9495631					
				9607191					
				9633302					
Shenzhen Taihe Technology Co., Ltd. d/b/a Rottay v. Zhang	1:23-cv-16841	N.D.Ill.	2023-12-15	D957868	Invalidity Unenforceability	868	1.41	0	1
Taser International Inc v. Stinger Systems, Inc.	2:07-cv-00042	D.Ariz.	2007-01-05	6999295 7102870 7145762	No Invalidity Invalidity No Unenforceability Infringement	870	0.33	0	1
								26	60