

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

**SAMSUNG ELECTRONICS CO., LTD., AND
SAMSUNG ELECTRONICS AMERICA, INC.,**

Petitioners,

v.

VASU HOLDINGS, LLC,

Patent Owner.

Case IPR2025-00449
U.S. Patent No. 10,368,281

**PETITIONERS' OPPOSITION TO PATENT OWNER'S REQUEST FOR
DISCRETIONARY DENIAL**

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EXHIBIT LIST

Exhibit No.	DESCRIPTION
1001	U.S. Patent No. 10,368,281 (“’281”)
1002	File History of U.S. Application No. 15/480,293 (“’281FH”)
1003	Declaration of Mark Lanning (“Lanning”)
1004	U.S. Patent App. Pub. No. 2004/0137902 (“Chaskar”)
1005	U.S. Patent App. Pub. No. 2005/0048977 (“Dorenbosch”)
1006	U.S. Patent No. 6,049,715 (“Willhoff”)
1007	U.S. Patent App. Pub. No. 2005/0063348 (“Donovan”)
1008	<i>Reserved</i>
1009	<i>Reserved</i>
1010	U.S. Patent App. Pub. No. 2005/0136927 (“Enzmann”)
1011	U.S. Patent App. Pub. No. 2005/0282541 (“Iizuka”)
1012	U.S. Patent App. No. 14/806,482 (“’482-App”)
1013	Docket Control Order (Dkt. No. 28), <i>Vasu Holdings, LLC v. Samsung Electronics Co., Ltd.</i> , No. 2:24-cv-00034-JRG-RSP (E.D. Tex.)
1014	Plaintiff Vasu Holdings, LLC’s Objections and Responses to Defendants Samsung Electronics Co., Ltd, and Samsung Electronics America, Inc.’s First Set of Interrogatories (Nos. 125)
1015	Plaintiff Vasu Holdings, LLC’s Supplemental Objections and Responses to Defendants Samsung Electronics Co., Ltd, and Samsung Electronics America, Inc.’s Interrogatories (Nos. 1-5, 8, 9, 13-15, 19-22, 25)
1016	Plaintiff Vasu Holdings, LLC’s Objections and Responses to Defendants Samsung Electronics Co., Ltd, and Samsung Electronics America, Inc.’s Second Set of Interrogatories (No. 26)

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1017	Gregory P. Pollini, Trends in Handover Design (March 1996)
1018	U.S. Patent App. Pub. No. 2003/0017842
1019	U.S. Patent App. Pub. No. 2002/0037715
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1021	<i>Reserved</i>
1022	<i>Reserved</i>
1023	Timer, The IEEE Standard Dictionary of Electrical and Electronics Terms (6th ed., 1996).
1024	<i>Reserved</i>
1025	<i>Reserved</i>
1026	Declaration of Jonathan Bradford in Support of Petition for <i>Inter Partes</i> Review of U.S. Patent No. 10,368,281
1027	Petitioners' Offered Stipulation
1028	Order Denying Defendants' Motion to Stay Pending Inter Partes Review (Dkt. No. 69), <i>Vasu Holdings, LLC v. Samsung Electronics Co., Ltd.</i> , No. 2:24-cv-00034-JRG-RSP (E.D. Tex.)
1029	C. Bonny Letter to P. Andre (June 25, 2024)
1030	Plaintiff Vasu Holdings, LLC's Disclosure of Asserted Claims and Supplemental Infringement Contentions Under Patent Local Rules 3-1, 3-2, 3-4, and Dkt. No. 29 (Aug. 30, 2024)
1031	<i>Multimedia Techs. PTE Ltd. v. LG Elecs. Inc., et al.</i> , 2:22-cv-00494-JRG-RSP, Dkt. 273 (E.D. Tex. Mar. 18, 2025)
1032	Eastern District of Texas, Calendar Events Set For 11/3/2025, Judge Rodney Gilstrap

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TABLE OF ABBREVIATIONS

Abbreviation	DESCRIPTION
'281	U.S. Patent No. 10,368,281 (Ex.1001)
'281FH	File History of U.S. Application No. 15/480,293 (Ex. 1002)
IPR	<i>Inter Partes</i> Review
Petitioners, Samsung	Petitioners Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc.
PO, Vasu	Patent Owner Vasu Holdings, LLC
POSITA	Person of Ordinary Skill in the Art
PTAB	Patent Trial and Appeal Board
USPTO	United States Patent and Trademark Office
Pet.	Petition, Pap. 2
Dorenbosch-498	U.S. Patent Application Publication No. 2005/0239498 (“Dorenbosch-498”) (Ex. 2001)
Belkin	U.S. Patent No. 7,398,088 (“Belkin”) (Ex. 2015)
Ibe	U.S. Patent No. 8,041,360 (“Ibe”) (Ex. 2016)

I. INTRODUCTION

Discretionary Denial is not warranted under either under §314(a) or §325(d). The *Fintiv* factors do not support denial, and are at worst neutral. Samsung's original motion to stay the district court case was denied without prejudice as "premature," but Samsung intends to promptly renew its motion upon institution of this Petition. There is still much work to be done in the district court, with all of expert discovery and dispositive motions yet to be completed. Further, there is no guarantee that the trial date will hold given that there are ***thirteen other trials set on the same date*** as the trial involving PO and Samsung. Moreover, Samsung has agreed to ***withdraw all §102 and §103 challenges entirely*** in the district court case should the Board institute review, eliminating any possibility of overlap between the IPR and the district court proceeding. And Samsung's petition has compelling merits, which PO does not dispute.

As to §325(d), the art and arguments considered during prosecution are not the same or substantially the same as the art or arguments contained in the petition. Indeed, there are multiple references for each ground that PO fails to show are cumulative of art before the Examiner.

II. DISCRETIONARY DENIAL IS NOT WARRANTED

A. The Fintiv Factors Do Not Support Discretionary Denial

Co-pending district court litigation in the United States District Court for the Eastern District of Texas does not warrant the exercise of discretion under §314(a). *See Apple Inc. v. Fintiv, Inc.*, No. IPR2020-00019, Pap. 11 (designated precedential) (“*Fintiv*”). Nearly all of the *Fintiv* factors, enumerated below, do not support discretionary denial. *Id.* at 5-6.

1. Factor 1 (Stay) Does Not Support Discretionary Denial

The first *Fintiv* factor weighs against discretionary denial and is at worst neutral. This factor weighs against exercising discretion in cases where there is no stay but “the district court has denied a motion for stay without prejudice and indicated to the parties that it will consider a renewed motion . . . to stay if a PTAB trial is instituted.” *Fintiv* at 6-7. Here, the district court denied Samsung’s pre-institution motion without prejudice, stating that the motion was “premature.” Ex. 1028. Samsung is free—and intends—to renew its motion to stay if the Board institutes IPR. Indeed, in the past, this district court has weighed a pre-institution motion to stay followed by a prompt renewal of that motion after institution *in favor* of granting a stay. *e-Watch Inc. v. Apple, Inc.*, No. 2:13-cv-1061-JRG-RSP, 2015 WL 12915668, at *3 (E.D. Tex. Mar. 25, 2015) (holding that the timing of the defendant’s earlier motion to stay weighs in favor of granting the defendant’s “promptly renewed” motion to stay after institution).

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PO's argument that Judge Gilstrap has "denied nearly every petitioner's motion to stay when the IPR petition was filed 10 months after receiving the complaint" should be given no weight as it lacks any support and, further, ignores that Patent Owner's ("PO") conduct was the cause of any alleged delay in filing the Petition (which Samsung filed within the statutory deadline to do so). PO served infringement contentions on May 15, 2024 and subsequently served supplemental contentions on August 30, 2024 and again on October 24, 2024—both in response to deficiency letters served by Samsung that identified myriad issues with PO's contentions. For example, as outlined in Samsung's June 25, 2024 deficiency letter, PO's preliminary infringement contentions improperly grouped disparate products under single claim charts without sufficient explanations of representativeness, failed to chart each accused produce and to provide element-by-element specificity for each asserted claim, inadequately identified how certain claim elements were met by the accused products, and used broad, unsupported assertions regarding product similarity and functionality—creating profound uncertainty for Samsung as to PO's infringement theories. Ex. 1029. PO's supplemental contentions suffered from these same, if not worse, defects. PO doubled down on its vague, inconsistent arguments—this time adding new accused products and hundreds of files of Samsung source code without identifying where each claim element was found. Ex. 1030. Despite Samsung's attempts to understand PO's assertions, PO's deficient

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contentions created uncertainty as to the asserted claims and infringement theories, such that Samsung could not seek IPR earlier. As such, Samsung was as diligent as it could be under these circumstances. Indeed, the uncertainty surrounding PO's infringement theories has continued even after the Petition was filed on January 24, 2025, as PO served proposed supplemental infringement contentions on February 28, 2025 and supplemental infringement contentions on March 24, 2025. The time of filing should therefore be given no weight because it was PO's own lack of diligence that forced Samsung to file when it did.

Moreover, contrary to PO's argument, it is not a "foregone conclusion" that a renewed motion to stay would be denied because of the stage of the district court case. While fact discovery has closed and a trial date is scheduled, the parties do not exchange opening expert reports until June 16, 2025, no depositions have been scheduled for any of the eight experts in the case, and expert discovery does not close until July 21, 2025. Furthermore, besides the parties' joint motion to dismiss two of the asserted patents, no case dispositive motions have been filed. The deadline to file summary judgment and *Daubert* motions is weeks away on July 28, 2025. And the parties will still have pre-trial filings, motions in limine, and the pre-trial conference to follow after institution. It is unlikely Judge Gilstrap will have issued any decisions on summary judgment and *Daubert* motions, and will not have issued or yet considered any motions in limine, by the time of the Board's institution

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decision. Contrary to PO’s arguments, the district court has granted stays in similar circumstances. *See SSL Servs., LLC v. Cisco Sys., Inc*, 5-cv-433, 2016 WL 3523871, at *2 (E.D. Tex. June 28, 2016) (granting a stay even though the case was at “a relatively late stage” in which claim construction had taken place and trial was less than three months away, in part because “this case is not yet on the eve of trial...”); *Stingray Music USA, Inc. v. Music Choice*, No. 16-cv-00586, 2017 WL 9885167 (E.D. Tex. Dec. 12, 2017) (granting stay where fact discovery had closed and expert reports exchanged because “a stay might still obviate the need to prepare for trial [on] some or all ... claims, thus reducing the burden ... on the parties and the Court”).

That said, in these circumstances, factor one is often found to be neutral because the district court’s consideration of a renewed stay motion “is based on a variety of circumstances and facts beyond [the Board’s] control and to which the Board is not privy.” *Samsung Elecs. Co., Ltd. v. Truesight Commc’ns LLC*, IPR2024-01477, Paper 12 at 10-11 (PTAB Apr. 21, 2025) (finding factor one neutral in IPR brought by petitioner against another patent asserted in the same district court litigation). As such, this factor weighs against discretionary denial and is at worst neutral.

2. Factor 2 (Trial Date) Does Not Support Discretionary Denial

Even if Factor 2 (“proximity of the court’s trial date to the Board’s projected

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statutory deadline”) weighs somewhat in favor of exercising discretion, it does not outweigh the other factors, which collectively weigh in favor of the Board not exercising discretion to deny institution. Samsung acknowledges that a trial date in the parallel litigation is presently scheduled ten months prior to an expected date of a Final Written Decision in this proceeding. However, trial dates in this district court are routinely delayed for various reasons. *See, e.g.,* Ex. 1031, *Multimedia Techs. PTE Ltd. v. LG Elecs. Inc., et al.*, 2:22-cv-00494-JRG-RSP, Dkt. 273 (E.D. Tex. Mar. 18, 2025) (stating that “[t]his case has been set for trial five times: November 18, 2024, January 27, 2025, February 7, 2025, March 3, 2025, and March 17, 2025. The parties have also been notified that other cases are preferentially set ahead of them for the April 7, 2025 and April 21, 2025 trial settings.”).

In this regard, although trial is currently set for November 3, 2025, Samsung expects the district court litigation to be delayed because thirteen other active cases are also scheduled for trial on that same date. Ex. 1032; *see Boe Tech. Grp. Co. v. Optronix Scis. LLC*, No. IPR2024-01130, 2025 WL 305477, at *4 (P.T.A.B. Jan. 27, 2025) (*Fintiv* factor 2 “neutral or weigh[s] slightly in favor of not exercising discretion” where Judge Gilstrap “set 10 cases for jury selection on the same day”).

Moreover, this factor still “must be balanced” against other factors, including the existence of a petitioner stipulation (factor 4). *Samsung Display Co., Ltd., v. Pictiva Displays Int’l Ltd.*, IPR2024-01222, Paper 12 at 6, 9 (P.T.A.B. Mar. 6, 2025)

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(postrescission) (deciding not to exercise discretionary denial even though trial date preceded the expected final written decision date by seven months, in view of other factors); *see also Posco Co., Ltd., v. Arcelormittal*, IPR2024-01376, Paper 11 at 13-14, 17 (P.T.A.B. Mar. 18, 2025) (post-rescission) (deciding not to exercise discretionary denial even though trial date preceded the expected final written decision date by five months, in view of other factors); *Palo Alto Networks, Inc. v. Croga Innovations Ltd.*, IPR2024-01421, Paper 8 at 11, 13-14 (P.T.A.B. Mar. 14, 2025) (postrescission) (deciding not to exercise discretionary denial even though the trial date preceded the expected final written decision date by five months, in view of other factors). As such, factor 2 does not outweigh the considerations in the other factors, which on balance favor the Board not exercising its discretion.

3. Factor 3 (Parallel Proceeding) Does Not Support Discretionary Denial

Factor 3 either weighs against discretionary denial or is at worst neutral. This factor considers “the amount and type of work already completed in the parallel litigation by the court and the parties at the time of the institution.” *Fintiv*, Paper 11 at 9. “If, at the time of the institution decision, the district court has not issued orders related to the patent at issue in the petition, this fact weighs against exercising discretion to deny institution.” *Id.* at 10. Here, the district court has not made a single substantive ruling regarding the '281 patent, and PO does not argue otherwise. Paper 8 at 12-16. This factor therefore weighs against discretionary denial for this

reason alone.

Moreover, while fact discovery has closed and a trial date is scheduled in this case, this factor weighs against discretionary denial given the number and type of outstanding issues remaining. The parties do not exchange opening expert reports until June 16, 2025 and no depositions have been scheduled for any of the eight experts in the case. Expert discovery does not close until July 21, 2025. Furthermore, besides the parties' joint motion to dismiss two of the asserted patents, no case dispositive motions have been filed. The deadline to file summary judgment and Daubert motions is weeks away on July 28, 2025, with pre-trial filings, motions in limine, the pre-trial conference and trial to follow. Notably, the Board has found that this factor favors institution even in cases that have advanced beyond the completion of Markman briefing and fact discovery. *See Samsung*, IPR2024-1222, Paper 12 at 7 (finding this factor weighs against denial, even though a Markman hearing has been held, in part because "much remains to be done, including expert discovery"); *see also SAP America, Inc. v. Cyandia, Inc.*, IPR2024-01432, Paper 14 at 8-9 (P.T.A.B. Apr. 7, 2025) (this factor favored institution even after Markman briefing was complete).

PO's claims that this factor weighs in favor of denial because Samsung was not diligent in filing the Petition but, as stated in Factor 1, PO, not Samsung, was responsible for any alleged filing delay. PO states that its preliminary infringement

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contentions were served on May 15, 2024, but conveniently omits that it twice served supplemental contentions in the months before the Petition was filed in response to the deficiencies raised by Samsung. Exs. 1029-1030. PO's repeated deficiencies, which continued even after the Petition was filed, created uncertainty regarding PO's infringement claims, hindering Samsung's ability to file. In other words, it was *PO's* lack of diligence—not Samsung's—that caused any purported delay in filing. Samsung was as diligent as it could be under the circumstances.

Therefore, because of the stage of the parallel litigation and Samsung's diligence, this factor weighs slightly against discretionary denial and is at worst neutral.

4. Factor 4 (Issue Overlap) Does Not Support Discretionary Denial

The *Fintiv* Board explained that “if the petition includes materially different grounds, arguments, and/or evidence than those presented in the district court, this fact has tended to weigh against exercising discretion to deny institution under NHK.” *Fintiv*, IPR2020-00019, Paper 11, 12–13. Here, Samsung's stipulation is ironclad—going even further than a *Sotera* stipulation. Samsung has unequivocally committed that, should the Board institute review, it will not only withdraw any §§ 102 and 103 grounds it raised or could have raised in the IPR, but it will ***withdraw all §102 and §103 challenges entirely***—leaving only §§ 101 and 112 issues for trial. Ex. 1027. Those remaining questions are beyond the Board's statutory jurisdiction

in this IPR, so they can proceed in district court without risk of duplicative effort or inconsistent rulings. Because of this stipulation, the district court and the Board will be adjudicating distinct questions, supported by distinct records, governed by distinct evidentiary standards, and tried to distinct decision-makers. The forums will not confront duplicative arguments or expert testimony, and institution would promote efficiency in the district court because the judge and jury will not have to consider hundreds of pages of evidence and hours of expert testimony on these matters.

The Board routinely finds that Factor 4 weighs strongly against discretionary denial where a petitioner tenders a broad "*Sotera* stipulation" relinquishing any ability to pursue in the district court the same §§ 102 and 103 grounds it advances in the IPR because there is no meaningful overlap of issues. Here, in light of Samsung's stipulation regarding all §§ 102 and 103 arguments, this factor even more strongly weighs against discretionary denial.

PO's arguments regarding statements in the Petition are misplaced, as Samsung's statements were mooted by its stipulation.

In sum, Factor 4 strongly weighs in favor of institution because Samsung's stipulation streamlines the overall dispute by channeling all anticipation and obviousness inquiries to the Board and indisputably ensures that this IPR will be a true alternative to the district court litigation.

5. Factor 5 (Same Party) Does Not Support Discretionary Denial

Factor 5 is neutral. Each of the Petitioners is a defendant in the parallel litigation. Nothing within *Fintiv* suggests that the same party between the proceedings weighs in favor of discretionary denial. See *HP Inc. v. Slingshot Printing LLC*, IPR2020-01084, Paper 13 at 9 (P.T.A.B. Jan. 14, 2021) (having the “same parties as parallel proceeding” makes factor 5 “neutral”).

6. Factor 6 (Other Considerations) Does Not Support Discretionary Denial

This factor considers “other circumstances” that may impact the exercise of discretionary denial, such as the merits of the petition. *Fintiv* at 14.

Factor 6 weighs against denial because the merits of the Petition are compelling. PO makes no real argument against the merits of Samsung's petition aside from generically disputing whether Samsung has met its burden and incorporating PO's §325(d) argument. Paper 8, at 23. As described in detail below, however, the same or substantially the same art and arguments were not previously before the PTO. See *infra* §III.

Further, that Samsung presents parallel petitions does not favor denial. Samsung challenges six lengthy independent claims. Paper 3, at 1. In the present Petition, challenged claim 45 is focused on how a network “server interface” controls switching between networks, while claim 23 has the additional requirement

that a mobile device twice activates a second communication module, with these differences in scope requiring two other primary references not used in the other '281 Petition. Paper 3, at 1-2. In the other '281 Petition, all Grounds are based on a single primary reference, with challenged claims 1, 31, and 37 focusing on a wireless local area network to cellular network switch, and challenged claim 12 focusing on the opposite switching scenario. Paper 3, at 1-2. PO does not address the substance of these material differences beyond denying without explanation that they exist. Paper 8, at 24. Further, PO dismisses the number and length of the challenged claims by relying on the Board's decision in *Intel Corp. v. Ax Wireless*. Paper 8, at 25 (citing No. IPR2023-01140, Paper 12 at 7-8 (P.T.A.B. Feb. 14, 2024)). But in that decision, the Board noted that the petitioner challenged two "largely identical" independent claims and two respective sets of dependent claims that "also substantially overlap...providing for 'two nearly identical groups of just seven claims each.'" No. IPR2023-01140, Paper 12 at 8 (P.T.A.B. Feb. 14, 2024). That is not the case here where Samsung challenges six independent claims with wide variation in scope.

* * *

As demonstrated above, nearly all *Fintiv* factors are either neutral or weigh against discretionary denial and the other relevant considerations in this case further disfavor denial. Discretionary denial is therefore not warranted.

III. §325(d) DISCRETION SHOULD NOT BE APPLIED

Under the two-part *Advanced Bionics* framework, there is no basis for discretionary denial under 35 U.S.C. § 325(d) as the Grounds raised by this Petition are not the same or substantially the same as the art or arguments raised during '281's prosecution. *See Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Pap. 6, *8 (precedential) (establishing two-part framework for addressing 35 U.S.C. § 325(d)). Samsung relies on the following Grounds, none of which was considered by the Patent Office:

Ground 1: Enzmann in view of Dorenbosch, Chaskar, and Willhoff (claim 23);

Ground 2: Iizuka in view of Chaskar and Willhoff (claim 45); and

Grounds 3-4 applying Donovan in view of Grounds 1-2 (claims 23 and 45, respectively). Pet., 7.

While Chaskar was cited during the examination of the '281, the Examiner never considered or relied on Willhoff, Iizuka, Dorenbosch, Enzmann or Donovan. '281FH, 438-443. PO does not dispute this. Instead, PO argues that these references are cumulative of art or arguments previously considered. But Vasu admits that the art considered by the Examiner does not teach the limitations for which Samsung relies on Willhoff and Iizuka, and ignores key disclosures of Dorenbosch when presenting its comparison of the art in Samsung's Petition to the art considered during prosecution.

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First, PO admits that the art considered during prosecution does not teach a timer, for which Samsung relies on Willhoff (all Grounds). While Vasu argues that Willhoff and Chaskar disclose the same averaging window teaching, Vasu ignores Willhoff's teaching of specifically timed windows for which timers are used in its analysis. Because Willhoff is included in all Grounds, this alone confirms that §325(d) discretion should not be applied.

Second, PO fails to address Dorenbosch's (Grounds 1 and 3) disclosure of a handover manager for switching networks relied on by Samsung and not found in Dorenbosch-498 cited during prosecution.

Third, PO admits that the art considered during prosecution does not teach establishing a second communication link, for which Samsung relies on Iizuka's (Grounds 2 and 4) teaching of establishing two simultaneous communication links. PO instead glosses over Iizuka's extensive disclosures regarding establishing a second communication link to draw an untenable comparison to art that was merely cited in an IDS during the '281 prosecution.

And even if PO's assertion that the same or substantially the same art or arguments were before the Examiner (they were not), the Examiner erred by failing to apply the art to—and allowing—the '281's Challenged Claims. Thus, for the reasons set forth in the Petition, the IPR should be instituted.

A. Examiner Did Not Consider Chaskar in Combination With Newly-Identified References

While the Examiner identified Chaskar during prosecution, the Examiner did not consider Enzmann, Iizuka, Dorenbosch, Willhoff, or Donovan, and therefore the same or substantially the same art or argument was not presented to the PTO. Pet., 11 (citing *Sony Group Corp. v. MZ Audio Scis., LLC.*, No. IPR2022-01544, Paper 12 at 7 (P.T.A.B. Apr. 21, 2023)). PO does not dispute that these other references were not before the Examiner. Instead, PO attempts to distinguish the Board's decision in *Sony Group* as only applying "to cases where the patent owner only argued the primary reference was the same as previously presented art but fails to address the secondary references relied on in challenging the independent claim." Paper 8, at 34. This argument is without support.

While the patent owner's preliminary response in *Sony Group* addressed only the primary reference and not the other secondary references, the Board did not merely rely on this lack of argument as a basis to grant institution, or create a *de facto* rule that any assertion by a patent owner that the PTO already considered the same or substantially the same primary and secondary references is sufficient to show §325(d) applies. Indeed, *Sony Group* did not provide any qualifiers in stating that "[b]ecause the Examiner did not consider the specific combination of references asserted in the three grounds during prosecution and because those three grounds cover all the challenged claims, we find that the same or substantially the same art

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or argument was not presented to the Office.” IPR2022-01544, Paper 12, at 7
(P.T.A.B. Apr. 21, 2023); *see also Reflex USA LLC v. Longyear TM, Inc.*, IPR2023-
00642, Paper 11 at 14-20 (P.T.A.B. Sept. 26, 2023) (declining to exercise §325(d)
discretion where primary reference used in prosecution was combined with new
reference).

Nevertheless, and as shown below, Samsung's references that were not in
front of the Examiner are neither the same nor substantially the same as art or
arguments previously considered by the Examiner.

**1. Willhoff Provides a Timer Teaching That Chaskar Does
Not Provide (All Grounds)**

PO incorrectly argues that Willhoff is cumulative of Chaskar because they
both teach time averaging windows. Paper 8, at 31-33, 40-43. But as explained
below, PO ignores key disclosures of Willhoff—not found in Chaskar—that involve
the use of a timer to measure the time averaging windows and are relied on in
Samsung's Petition for all Grounds.

Samsung relies on Willhoff's timer teaching across all Challenged Claims to
satisfy the requirement of “a timer” establishing time windows as recited in
limitations [23.g], [23.h], [45.d], [45.e]. Pet., 42-48, 74-78. Specifically, Willhoff
discloses using “a long term RSSI average to determine when a handoff condition is
to be checked” followed by a “short term average” before handoff is performed.
Willhoff, 2:33-37, 9:54-10:7. Willhoff explains that its “RSSI average” is computed

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by “averaging samples representing the strength of the received signal, contained in a particular window of time.” Willhoff, 9:56-59. The measurement is performed over “several seconds” or “tens to hundreds of milliseconds” for longer and shorter time windows, respectively. Willhoff, 9:56-62, 10:46-47. For example, the time window can be exactly 120 ms. Willhoff, 11:1-3. And, as Samsung argues, “[a] POSITA would have understood, or at least found it obvious, that a timer is used to measure the ‘window’” of Willhoff’s disclosure because the measurements are precisely measured according to “seconds” or “milliseconds,” or even precisely “120 ms.” See Pet., 44-45.

PO incorrectly alleges that Willhoff is substantially the same as Chaskar, which was already considered by the Examiner, because both references disclose “averaging windows.” Paper 8, at 31-33, 40-43. Willhoff’s disclosure is not the same as Chaskar’s because Willhoff’s teachings support disclosure of a timer, and Samsung is relying specifically on this timer teaching in its Petition.

First, Willhoff’s RSSI average disclosure is not the same as Chaskar’s averaging window disclosure. Chaskar briefly mentions that “mobile nodes may use some method for robust measurement of received signal strength,” and provides an exemplary list of said methods including “signal strength averaging windows.” Chaskar, [0076]. Aside from noting that employing “different values for the widths of averaging windows” can build in “aggressiveness or conservativeness into

handoff logic,” Chaskar contains no other discussion of signal strength averaging windows or how said windows are measured. Chaskar, [0077]. Indeed, as Samsung recognized, Chaskar “does not specify implementation details” for its averaging windows and therefore “a POSITA would have looked to **Willhoff** for implementation details for **Chaskar’s** signal strength averaging window teachings.” Pet., 29.

Willhoff’s disclosure of its “RSSI average” technique is more robust, and far from the “same” as Chaskar’s averaging windows disclosure, as PO claims. Paper 8, at 32. Willhoff explains that its “RSSI average” is computed by during “particular window[s] of time,” which can be “several seconds” or “tens to hundreds of milliseconds” for longer and shorter time windows, respectively. Willhoff, 9:56-62, 10:46-47. And, as Samsung argues, “[a] POSITA would have understood that these windows are determined using a timer activated at the beginning of the time window.” Pet., 28. Chaskar, on the other hand, does not specify any particular time period for a signal strength measurement, or otherwise require a timer be used to measure its signal strength averaging window.

Second, Samsung does not rely on Willhoff’s entire RSSI average procedure, but rather Willhoff’s more limited timer teaching. Ignoring this fact, PO argues that there are “no timers set and no time window” during which Willhoff’s “trigger” is realized. Paper 8, at 32-33. But this reference to “trigger” refers to when Willhoff’s

system triggers an operation, which is a feature Samsung is not relying on. Willhoff, 3:24-37, 9:15-25. Rather, Samsung is applying Willhoff's more limited teaching of using **timers** to measure a "particular window of time" (Willhoff, 9:56-59) to Chaskar's teaching of "signal strength averaging windows." Pet., 44-46. This use of a timer addresses the "activating a timer to establish" time window limitations that PO argues was not disclosed in Chaskar. PO's challenge that there is no timer set "during which the 'trigger is . . . realized'" does not address Samsung's reliance on Willhoff. Paper 8, at 32-33.

Third, PO incorrectly claims that Samsung admits that Willhoff's RSSI averages teaching is already found in Chaskar (Paper 8, at 42), but Samsung made no such admission. In fact, Samsung argues that Chaskar "contemplates using measurement windows of different widths," but does not allege that Chaskar discloses that these have a particular period of, *e.g.*, seconds or milliseconds, let alone measuring these windows with a timer, like Willhoff does. Pet., 29. Notably, PO presents no argument that anything besides a timer would be used to measure a time period of seconds or milliseconds.

Because Samsung relies on Willhoff's timer teaching, and PO does not argue that Chaskar discloses a timer, its assertion that the two references are cumulative falls short.

**2. Dorenbosch and Dorenbosch-498's Disclosures are
Critically Different for Purposes of the '281 Claims
(Grounds 1 and 3)**

PO incorrectly argues that Dorenbosch is cumulative of Dorenbosch-498. Paper 8, at 35-40. But as explained below, PO ignores key disclosures of Dorenbosch—not found in Dorenbosch-498—that involve the use of a handover manager to perform switching between different networks.

Samsung relies on Dorenbosch's disclosure of a "handover manager 514" to meet '281 claim limitation [23.c] ("a switching system to switch operation between the first communication module and the second communication module"). Pet., 33-35 (citing Dorenbosch, [0021], [0027], [0038]). As Samsung notes, Dorenbosch explains that its handover manager 514 included in its mobile subscriber unit 306 performs the handover method depicted in Figure 7 and 8. Pet., 35 (citing Dorenbosch, [0038]).

PO incorrectly equates Dorenbosch-498's disclosure of a "[c]ontroller 505" including "memory 515" further including "signal quality assessment routine 519" with the disclosures in Dorenbosch that Samsung relies for [23.c]. Paper 8, at 38-39 (citing Dorenbosch-498, [0063]-[0064]). But Dorenbosch-498's "signal quality assessment routine 519" does not perform any switching between communication modules. Instead, Dorenbosch-498's "signal quality assessment routine 519" will merely "determine the probability that a mode switch or handover situation is

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imminent” and involves the use of “a signal to noise determination, an RSSI
determination, a frame error rate determination, a ping response failure, or other
determination resulting in a quality factor.” Dorenbosch-498, [0064].

These critical differences in functionalities show that Dorenbosch-498 is
neither “substantially the same as” nor “cumulative” of Dorenbosch in the context
of the '281 Challenged Claims.

**3. Iizuka's Teaching of Establishing a Second Communication
Link is Not the Same as Belkin's Teaching of Rerouting
(Grounds 2 and 4)**

PO incorrectly argues that Iizuka is cumulative of Belkin based on the
incorrect assertion that they both teach rerouting of information instead of the
“establishing a second communication link” as required by the claims.¹ Paper 8, at
48-52. But as explained below, PO ignores that instead of merely rerouting data,
Iizuka teaches establishing a second communication link while a first
communication “still continues,” such that two communication links are established
simultaneously, and not a mere re-routing of a single communication link that the
Examiner found to be insufficient. Moreover, while Belkin is listed on the face of

¹ While PO also asserts that Iizuka is “cumulative to Belkin and Ibe” (Paper 8, at 48),
PO only addresses Belkin, and makes no attempt to show any overlap between
Iizuka's disclosure and Ibe's.

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the '281, the Examiner did not discuss the Belkin reference. Instead, Belkin was discussed during prosecution of the separate U.S. Patent 8,886,181 by a different Examiner.

Samsung relies on Iizuka, in part, as disclosing '281 [45.b] (“...establishing the second communication link between the interface server and an end destination device...”) and [45.c] (“re-directing the second communication link from the interface server to a mobile communication device, thereby establishing the second communication link between the communication device and a second network”). Pet. 65-74.

The Petition provides a detailed discussion as to how Iizuka teaches these limitations. For example, in showing Iizuka meets '281 [45.b], Samsung explains that “after being dialed, the switching processing unit 212 in call management server 200 establishes a voice call through the mobile telephone network 10 to IP telephone 21,” and that “[t]his voice call is established while the VoIP [] ‘still continues.’” Pet., 65-71 (citing Iizuka, [0160]-[0162], [0170]-[0175]). Samsung further explains that “[a]s part of this process of establishing a voice call, the method proceeds in stages. A second communication link (an RTP (Real-time Transport Protocol) connection for real-time audio streams) is established between the interface server and the end destination device as depicted in Iizuka’s Fig. 14.” Pet., 65-71 (citing Iizuka, [0175]). Regarding '281 [45.c], Samsung continues that after the steps

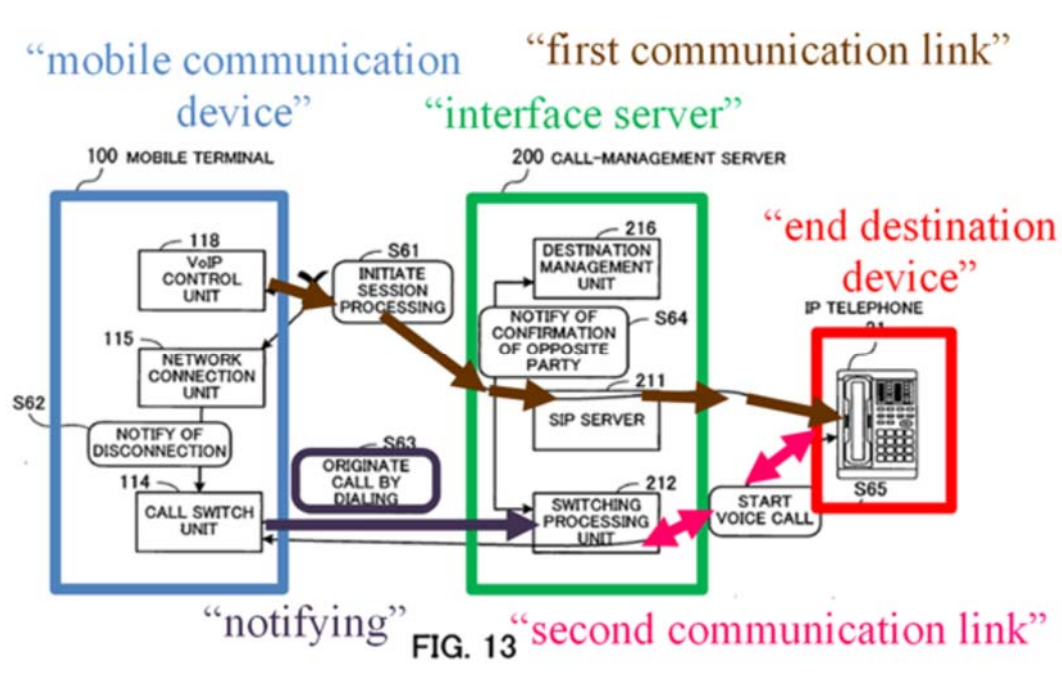
explained in [45.b]:

[C]all-management server 200's switching processing unit 212 returns a response to mobile terminal 100, which "establishes a connection through the mobile telephone network 10" between call-management server 200 and mobile terminal 100. Iizuka, [0176]; *see also* Iizuka, [0162]. This response, (labeled "PSTN Receive" in Fig. 14 step S83) establishes the second communication link between call-management server 200 and mobile terminal 100. Iizuka, Fig. 14, [0176]; *see also* Iizuka, [0162]. As illustrated in Figure 2, the "PSTN receive" process passes through mobile telephone network 10, such that a wireless connection for this communication link is established between mobile terminal 100 and mobile telephone network 10. Thereafter, a voice call between IP telephone 21 and mobile terminal 100 through mobile telephone network 10[] becomes possible. Iizuka, [0176]; *see also* Iizuka, [0162].

Pet., 71-74.

PO ignores this extended discussion and claims that Iizuka's disclosure of establishing a second connection is substantially the same as the Belkin reference, which discloses rerouting. Paper 8, at 48-52. PO's only argument regarding Belkin is that "Applicant argued persuasively to the Examiner during the '181 Patent examination, [that] '[r]erouting a connection is not the same as establishing a second connection,'" and therefore "Iizuka's rerouting of the initial RTP connection is not tantamount to establishing a second connection, as claimed." Paper 8, at 51 (citing

Petitioners' Opposition to Patent Owner's Request for Discretionary Denial IPR2025-00449 (U.S. Patent No. 10,368,281) Ex. 2017, at 36). But Iizuka is clear that it is not simply rerouting an initial RTP connection, rather it provides for two separate communication links, specifically: "[t]he switching processing unit 212 realizes a voice call through the mobile telephone network 10 *while the VoIP call which has already been established still continues.*" Iizuka, [0162] (emphasis added). Because the second link is established while the first link "still continues," the second link is not merely obtained by rerouting the first link as in Belkin, but is instead a distinct second communication link. Indeed, Iizuka's Figure 13 reproduced below as annotated in the Petition shows the two separate communication links that exist at the same time:



Pet., 68.

This is distinct from Belkin's process relied on by the Examiner during the prosecution of U.S. Patent 8,886,181, which the Applicant argued relates only to

“rerouting” a communication link instead of establishing a second communication link. In particular, Belkin provides that a “message requests that the peer unit 714 route it’s voice bearer RTP to the RTP port associated with the handover call, e.g. WAN leg or UA4836, rather than the wireless communication unit 102.” Belkin, 13:45-14:2. The Examiner relied on this disclosure for “establishing a second communication link between the interface server and the end destination device.” Ex. 2017, 7. In response, the applicant argued that Belkin teaches that “the single connection between the peer CU 714 and the network switching function 710 is rerouted to the handover call port, not that a second connection is made between the peer CU 714 and the network switching function 710. Rerouting a connection is not the same as establishing a second connection.” *Id.* at 36 (emphasis original).

Thus, Iizuka’s process of establishing a voice call over a communication link while a pre-established VoIP call *continues* such that a second link is established for communication is distinct from Belkin’s process of rerouting a single RTP connection.

4. Whether Enzmann and Donovan Are Cumulative to Art Already Considered Is Immaterial to the §325(d) Analysis

As explained above, Willhoff is included in all four Grounds of Samsung’s petition, Dorenbosch is included in Grounds 1 and 3, and Iizuka is included in Grounds 2 and 4. Thus, for the reasons above, there are at least two independent reasons for each Ground as to why it is not cumulative of the art and arguments

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already considered during prosecution, and whether Enzmann and Donovan are
cumulative of art already considered is irrelevant.

**5. Even If the Same or Substantially the Same Art or
Arguments Were Before the Examiner, the Examiner Erred
in Failing to Apply the Art and Arguments to the '281
Claims**

Finally, PO asserts there was no material error during prosecution, but focuses only on the fact that Samsung's Petition relies on Chaskar for similar limitations the Examiner did during prosecution. Paper 8, at 52-54. PO does not address any of the other references. Indeed, if these other references were cumulative of other art or arguments that were already before the Examiner as PO claims, then the Examiner failed to apply them to the claims.

For example, PO disputes only that Chaskar teaches a timer, and not the other limitations for which Samsung relies on Chaskar. To the extent that Willhoff (relied on in all Grounds of Samsung's Petition) is cumulative of Chaskar (it is not), and Chaskar also teaches a timer, the Examiner erred by not recognizing such timer teachings in Chaskar. For example, PO asserts that Willhoff's signal strength averaging teaching is substantially similar to Chaskar's averaging window teaching in paragraphs [0076]-[0077] of Chaskar. Paper 8, at 42. But the Examiner did not cite these disclosures. '281FH, 438-442 (Non-Final Rejection citing Chaskar, [0004], [0057]-[0058], [0060], [0071], Fig. 5). Thus, if Willhoff's teachings are cumulative to these disclosures in Chaskar, then the Examiner erred in overlooking

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the disclosures in Chaskar and allowing the Challenged Claims over them.

Further, PO equates numerous disclosures of Dorenbosch-498 with those of Dorenbosch relied on by Samsung. Paper 8, at 35-39 (citing Dorenbosch-498, [0003], [0045], [0060], [0063]-[0064], [0075], Fig. 9). However, none of these disclosures were relied on by the Examiner who cited Dorenbosch-498 for its disclosure of "a transmission of broadband," which is no longer part of the '281 claims. See '281FH, at 438, 440, 442-443 (citing Dorenbosch-498, [0029]). Thus, if Dorenbosch is cumulative to these disclosures in Dorenbosch-498 (it is not), then the Examiner erred in overlooking the disclosures in Dorenbosch-498 and allowing the Challenged Claims over them.

And PO equates disclosures of Iizuka to Belkin (Paper 8, at 48-52), but the Examiner of the '281 patent did not even address Belkin during prosecution. Thus, if Belkin is cumulative of the disclosures in Iizuka (it is not), then the Examiner erred in overlooking the disclosures in Belkin and allowing the Challenged Claims over them.

* * *

As demonstrated above, the Grounds raised by this Petition are not the same or substantially the same as the art or arguments raised during '281's prosecution. And even if they were, the Examiner erred by failing to apply them to the '281's claims. Therefore, discretionary denial under §325(d) is not warranted.

IV. CONCLUSION

Samsung requests that the Director reject PO's request for discretionary denial.

Dated: June 10, 2025

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CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(a) and (d), the undersigned hereby certify that
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complies with the type-volume limitation of 37 C.F.R. § 42.24(a)(i) because,
exclusive of the exempted portions, it contains 6,174 words as counted by the word
processing program used to prepare the paper.

Dated: June 10, 2025

Respectfully submitted,

By: /James L. Davis, Jr./

Name: James L. Davis, Jr.

Registration No. 57,325

ROPES & GRAY LLP

Lead Counsel for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2025, I caused a true and correct copy of
Petitioners' Opposition to Patent Owner's Request for Discretionary Denial and
supporting exhibits to be served via electronic mail to Patent Owner's counsel listed
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