

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CHARTER COMMUNICATIONS, INC.,
Petitioner,

v.

IARNACH TECHNOLOGIES LTD.,
Patent Owner.

Case IPR2025-00473
Patent 9,674,035 B2

**PATENT OWNER'S BIFURCATED
DISCRETIONARY DENIAL BRIEFING PURSUANT
TO THE DIRECTOR'S MARCH 26, 2025 MEMORANDUM**

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

EXHIBIT LIST

Exhibit	Description
EX2001	Second Amended Complaint for Patent Infringement, <i>Iarnach Technologies Ltd. v. Charter Communications, Inc. et al.</i> , No. 2:24-cv-00230 (E.D. Tex.)
EX2002	Defendants' Preliminary Invalidity and Ineligibility Contentions, <i>Iarnach Technologies Ltd. v. Charter Communications, Inc. et al.</i> , No. 2:24-cv-00230 (E.D. Tex. Sept. 5, 2024)
EX2003	United States District Courts — National Judicial Caseload Profile through Dec. 2024, https://www.uscourts.gov/sites/default/files/2025-02/fcms_na_distprofile1231.2024.pdf (accessed April 23, 2025).
EX2004	Iarnach's P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions and P.R. 3-2 Document Production, <i>Iarnach Technologies Ltd. v. Charter Communications, Inc. et al.</i> , No. 2:24-cv-00230 (E.D. Tex. July 12, 2024)
EX2005	Memorandum Opinion and Order Denying Motion to Transfer Venue, <i>Iarnach Technologies Ltd. v. Charter Communications, Inc. et al.</i> , No. 2:24-cv-00230 (E.D. Tex. Feb. 14, 2025)
EX2006	Order Denying Motion to Dismiss for Lack of Patent Eligibility Under 35 U.S.C. § 101, <i>Iarnach Technologies Ltd. v. Charter Communications, Inc. et al.</i> , No. 2:24-cv-00230 (E.D. Tex. March 26, 2025)
EX2007	Defendant's Disclosure of Proposed Claim Terms for Construction, <i>Iarnach Technologies Ltd. v. Charter Communications, Inc. et al.</i> , No. 2:24-cv-00230 (E.D. Tex. April 7, 2025)
EX2008	Plaintiff Iarnach Technologies Ltd.'s Proposed Claim Terms for Construction (P.R. 4-1), <i>Iarnach Technologies Ltd. v. Charter Communications, Inc. et al.</i> , No. 2:24-cv-00230 (E.D. Tex. April 7, 2025)
EX2009	Lex Machina Filter Criteria Showing Decisions on Requests for Rehearing, available from https://law.lexmachina.com (accessed April 24, 2025)
EX2010	Lex Machina Underlying Data Showing Decisions on Requests for Rehearing, available from https://law.lexmachina.com (accessed April 24, 2025)

EX2011	While Tempting, PTAB Requests for Rehearing Face Long Odds, https://www.foley.com/insights/publications/2019/10/ptab-requests-rehearing-face-long-odds/ (accessed April 22, 2025)
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TABLE OF CONTENTS

I.	Introduction.....	1
A.	The USPTO should exercise its discretion to deny the Petition under <i>Fintiv</i>	1
1.	Factor 1: whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted.....	4
2.	Factor 2: proximity of the court’s trial date to the Board’s projected statutory deadline for a final written decision	4
3.	Factor 3: investment in the parallel proceeding by the court and the parties	7
4.	Factor 4: overlap between issues raised in the petition and in the parallel proceeding	9
5.	Factor 5: whether the petitioner and the defendant in the parallel proceeding are the same party.....	13
6.	Factor 6: other circumstances that impact the Board’s exercise of discretion, including the merits.	13
B.	Additional Considerations.....	15
II.	Conclusion	17

I. Introduction

Patent Owner Iarnach Technologies Ltd. (“Iarnach” or “Patent Owner”) respectfully requests that the USPTO discretionarily deny Charter Communications, Inc.’s (“Charter” or “Petitioner”) Petition to institute *inter partes* review of U.S. Patent No. 9,674,035 (“the ’035 Patent”). In support of discretionary denial, Patent Owner submits this bifurcated briefing—limited in scope to discretionary denial issues¹—pursuant to the Director’s March 26, 2025 Memorandum.² As discussed below, both the *Fintiv* factors and additional considerations bearing on the Director’s discretion strongly support denying the Petition.

A. The USPTO should exercise its discretion to deny the Petition under *Fintiv*

The USPTO should exercise its discretion to deny the Petition under *Fintiv* because the same issues will be resolved in the parallel District Court proceeding long before the USPTO would issue a final written decision in this proceeding.

¹ Patent Owner will submit its Preliminary Response addressing how the Petition fails to present a reasonable likelihood of invalidating any claims by the deadline set out in the Feb. 25, 2025 Notice of Filing Date Accorded (Paper 5).

² <https://www.uspto.gov/sites/default/files/documents/InterimProcesses-PTABWorkloadMgmt-20250326.pdf>, accessed on April 24, 2025 [hereinafter “Memorandum”].

Iarnach sued Charter for infringement of the '035 Patent³ on April 5, 2024 in *Iarnach Technologies Ltd. v. Charter Communications, Inc., et al.*, Case No. 2:24-cv-00230 (E.D. Tex.) (the “District Court Proceeding”). EX1016; *see also* EX2001.

The Director has discretion to deny institution under 35 U.S.C. § 314(a). *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2140 (2016). The USPTO should exercise such discretion here and deny the Petition because the same invalidity arguments will be addressed, and resolved, in the co-pending district court proceedings approximately six months before the Board would likely issue a final written decision in this proceeding.

The USPTO considers the presence and status of parallel district court litigation in determining whether to deny institution. *See NHK Spring Co. Ltd. v. Intri-Plex Techs. Inc.*, IPR2018-00752, Paper 8 at 20 (P.T.A.B. Sept. 12, 2018) (precedential); *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 15 at 17 (P.T.A.B. May 13, 2020) (informative) [hereinafter “*Fintiv*”]; *see also Gen. Plastic Indus. Co.*,

³ In the Parallel District Court Proceeding Patent Owner has asserted two other patents in addition to the '035 Patent: U.S. Patent No. 8,942,378 (the “'378 Patent”) and U.S. Patent No. 9,287,982 (the “'982 Patent”). EX2001 at 4. More than eight months ago, Petitioner filed IPR2024-01286 against the '378 Patent (institution denied), and IPR2024-01287 against the '982 Patent (institution granted).

Ltd. v. Canon Kabushiki Kaisha, IPR2016-01357, Paper 19 at 16-17 (P.T.A.B. Sept. 6, 2017) (“[W]e recognize that an objective of the AIA is to provide an effective and efficient alternative to district court litigation . . .”). *Fintiv* “sets forth factors that balance considerations of system efficiency, fairness, and patent quality when a patent owner raises an argument for discretionary denial due to the advanced state of a parallel proceeding.” *Fintiv*, Paper 15 at 7-8.

The factors are:

1. whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted;
2. proximity of the court’s trial date to the Board’s projected statutory deadline for a final written decision;
3. investment in the parallel proceeding by the court and the parties;
4. overlap between issues raised in the petition and in the parallel proceeding;
5. whether the petitioner and the defendant in the parallel proceeding are the same party; and
6. other circumstances that impact the Board’s exercise of discretion, including the merits.

Id. “[T]he Board examines these factors, which relate to whether efficiency, fairness, and the merits support the exercise of authority to deny institution. In evaluating the factors, the Board takes a holistic view of whether efficiency and integrity of the system are best served by denying or instituting review.” *Id.* (internal citations

omitted). As detailed below, these factors strongly favor discretionary denial under §314(a).

1. Factor 1: whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted

The District Court Proceeding is ongoing and no party has moved for a stay (nor is there evidence that one may be granted if the Petition is instituted). Thus, this factor is neutral (as Petitioner concedes).⁴ See *Sand Revolution II, LLC v. Continental Intermodal Group-Trucking LLC*, IPR2019-01393, Paper 24 at 7 (P.T.A.B. June 16, 2020) (informative); Pet. at 12.

2. Factor 2: proximity of the court’s trial date to the Board’s projected statutory deadline for a final written decision

Trial in the District Court Proceeding is scheduled for February 9, 2026. EX1017 at 1 (Docket Control Order). Patent Owner is filing this discretionary denial briefing on April 25, 2025, and will file its Preliminary Response by the deadline of

⁴ Petitioner notes for this factor that it “has challenged all three patents asserted in the Lawsuit.” Pet. at 12. As discussed below in Section I.B, one of Petitioner’s challenges has already been rejected on the merits—a fact that further supports discretionary denial.

May 27, 2025.⁵ If the Board reaches its institution decision within three months of receiving the preliminary response, 35 U.S.C. §314(b), and issues a final written decision within one year of institution, 35 U.S.C. §316(a)(11), a final written decision would likely not issue until near the end of August 2026 (six months after the scheduled trial). Thus, given the much earlier scheduled trial date there is no efficiency to be gained by trying a duplicative IPR proceeding in parallel, and this factor weighs in favor of denial.

Petitioner suggests this factor weighs against denial because “Petitioner was diligent in filing this and the other petitions.” Pet. at 12-13. However, Petitioner’s actions actually demonstrate its lack of diligence in filing its challenge in this proceeding. First, when Petitioner filed its August 9, 2024 challenge to one of the other patents asserted in the same District Court Proceeding, it claimed it would be filing its petition challenging the other asserted patents (including the ’035 Patent) “concurrently or soon hereafter.” *Charter Communications, Inc. v. Iarnach*

⁵ The Notice of Filing Date Accorded set a preliminary response deadline three months from the February 25, 2025 mailing date of the notice. *See* Paper 5 at 1. May 25, 2025 is a Sunday and May 26, 2025 is Memorial Day, therefore 35 U.S.C. § 21(b) extends the filing deadline to the next succeeding business day of May 27, 2025.

Technologies, Inc., IPR2024-01286, Paper 1 at 12. Despite representing to the PTAB that it was prepared to file its '035 Patent challenge at the same time as (or soon after) that prior August 9, 2024 petition, Petitioner instead waited more than five months to file its Petition against the '035 Patent. *Compare* IPR2024-01286, Paper 1 at 64 (showing an August 9, 2024 filing date) *with* Pet. at 97 (showing a January 15, 2025 filing date).

Petitioner's delay is further evidence by the fact that it served its invalidity contentions in the District Court Proceeding on September 5, 2024—more than four months before it filed its '035 Patent Petition. *Compare* EX2002 at 45 (invalidity contentions showing a September 5, 2024 service date) *with* Pet. at 97 (Petition showing a January 15, 2025 filing date). Such unexplained delays do not demonstrate diligence, especially in light of the accelerated trial schedule of which Petitioner was well aware. *See generally* EX1017 (Docket Control Order).

Next, Petitioner cites to its previously filed petitions against other patents asserted against it in the District Court Proceeding as support for this factor. Pet. at 12-13. However, as discussed in more detail in Section I.B, one of those petitions (IPR2024-01286) has already been denied on the merits. Furthermore, while its other petition IPR2024-01287 was instituted on Feb. 20, 2025, the final written decision deadline in that proceeding is not until Feb. 20, 2026—which is still later than the

scheduled trial date. Thus, Petitioner cannot substitute its lack of diligence in this proceeding by pointing to its “diligence” in other proceedings.

If it files a reply, Petitioner might refer to the median time to trial statistics for the Eastern District of Texas. At the time of filing of this brief, the most recent median time to trial statistics for the District show 23 months from filing to trial. EX2003 at 35. The District Court Proceeding complaint was filed on April 5, 2024, which would suggest an early March 2026 trial. EX1016 at 31. Yet again, this demonstrates that any District Court trial is likely to occur well in advance of the projected August 2026 final written decision deadline. Regardless of how this factor is analyzed, it strongly supports discretionary denial.

3. Factor 3: investment in the parallel proceeding by the court and the parties

The USPTO “consider[s] the amount and type of work already completed in the parallel litigation by the court and the parties at the time of the institution decision.” *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 9 (P.T.A.B. March 20, 2020) (precedential) (emphasis added). In this case, the District Court and the parties have already invested significant resources in the parallel proceeding. For example, the parties served infringement on July 12, 2024 and invalidity contentions on September 5, 2024. EX2004 at 6 (Infringement Contentions); EX2002 at 45 (Invalidity Contentions). After extensive discovery, the Court denied Petitioner’s motion to transfer venue on February 14, 2025. EX2005 at 7 (Order Denying

Transfer). The Court has also denied Petitioner's motion to dismiss regarding §101 patentable subject matter on March 26, 2025. EX2006 at 4-5, 7-8, 12-13 (Order Denying MTD).

Moreover, the parties have already engaged in extensive discovery on the merits. For example, the parties have each answered twenty interrogatories relating to all issues in the case, including infringement, invalidity, and damages. And the parties have already produced more than 400,000 pages of documents—not to mention the more than 11,000 pages of documents produced by third parties pursuant to subpoena. Further, the parties have already produced and reviewed voluminous source code.

And by the time of the projected institution decision in late August 2025, the parties and the court will have invested far more time and resources in the parallel District Court Proceeding. For example, the parties have preliminarily asked the court to construe at least nineteen '035 Patent claim terms. *See* EX2007 at 3 (Petitioner's claim terms); EX2008 at 2-3 (Patent Owner's claim terms). The parties will have briefed and the court will have conducted a Markman hearing for those terms before the institution decision deadline. EX1017 at 3 (Scheduling Order showing an August 11, 2025 Claim Construction hearing). Further, discovery will be largely complete since fact discovery closes on September 15, 2025. *Id.*

Under similar circumstances (involving the same Petitioner), the Board recently declined to institute IPR. *Charter Communications, Inc. v. Adaptive Spectrum and Signal Alignment, Inc.*, IPR2024-01379, Paper 16 at 11-13 (P.T.A.B. April 17, 2025) (finding *Fintiv* factor 3 favors the exercise of discretionary denial because the parties had already exchanged infringement and invalidity contentions, engaged in fact discovery, exchanged proposed claim terms and preliminary claim constructions, attended a claim construction hearing, and the fact discovery deadline would have passed before the statutory deadline for issuing an institution decision).

Therefore, given the significant investment in the parallel District Court Proceeding, this factor favors denial.

4. Factor 4: overlap between issues raised in the petition and in the parallel proceeding

There is near total overlap between the Petition and the parallel District Court Proceeding. The Petition challenges '035 Patent Claims 1-32. Pet. at 24. In the District Court Proceeding, Petitioner is challenging Claims 1-18, 20-24, 26-30, and 32—a difference of only three dependent claims. *See* EX2002 at 28-32 (Invalidity Contentions). Similarly, both of Petitioner's primary references and all but two of its secondary references are asserted in the District Court Proceeding. *Compare* Pet. at 23-24 *with* EX2002 at 32 (Invalidity Contentions identifying Tsuge, Noel, Bourgart, Barrow, and Koshy in both venues). This extensive overlap in both claims and grounds strongly supports discretionary denial.

Petitioner asserts that this factor weighs against denial because it challenges all claims of the patent, “whereas only claims 1-18, 20-24, 26-30, and 32 are asserted in the litigation.” Pet. at 13. Petitioner’s argument is flawed—challenging more claims than are asserted in the litigation does nothing to simplify or provide an alternative to the litigation or eliminate the duplication of effort. Petitioner cites a nonprecedential PTAB opinion in support of its position that challenging additional claims supports it on Factor 4. Pet. at 13 (citing *Mark-forged, Inc. v. Continuous Composites, Inc.*, IPR2022-00679, Paper 7 at 32-33 (PTAB Oct. 25, 2022)). However, a nonprecedential PTAB opinion is not binding on the Director, and the approach taken in *Mark-forged* (addressing claims which are not asserted or otherwise in dispute between the parties) would not provide for an efficient use of the PTAB’s finite resources.

Nor is the *Mark-forged* opinion comparable to the situation here. In *Mark-forged* only four claims were at issue in the parallel proceeding and the petitioner had challenged 17 additional claims including multiple independent claims that were not in front of the District Court. Compare *Mark-forged* at 32-33 (noting that only claims 1, 5, 9, and 21 were challenged in the District Court) with U.S. Patent No. 10,744,708 (the patent challenged in *Mark-forged* which contained additional *independent* claims 13, 17, and 20). Here, Petitioner has only challenged three

additional *dependent* claims (19, 25, and 31) in an apparent attempt to draw an analogy to *Mark-forged*. Petitioner's strained analogy should be rejected.

In its responsive briefing Petitioner may try to argue that this factor supports discretionary denial because it has asserted two secondary references (McKinnon [EX1007] and Go [EX1009]) that are not expressly identified in its invalidity contentions in the District Court. Compare Pet. at 23-24 with EX2002 at 32 (Invalidity Contentions). Petitioner did not make that argument in its Petition, possibly because even a cursory review of the Petition demonstrates that Petitioner treated those "additional" references as ancillary at best. Both of Petitioner's primary references (Tsuge and Bourgart) are part of its District Court invalidity theories, along with three (Noel, Barrow, Koshy) of its five secondary references. Pet. at 23-24; EX2002 at 32. Petitioner asserts for Grounds 1 and 2 that Tsuge alone renders obvious Claims 1-13, demonstrating that Petitioner views McKinnon and Go as cumulative of Tsuge. Pet. at 24. Similarly, Petitioner asserts for Ground 3 that Bourgart alone renders obvious the rest of the independent claims (14, 20, 26, and 32), with no reliance on McKinnon or Go. Pet. at 24. Petitioner cites to Go only five times for the dependent claims of Ground 4, *see* Pet. at 88-96, and Petitioner does not rely on Go or McKinnon at all for Ground 5, *see* Pet. at 96-97. Thus, Petitioner's reliance on Go and McKinnon is minimal.

The bottom line is that, if the Petition is instituted, the claims at issue in the District Court Proceeding will be addressed in both proceedings on largely the same art. Furthermore, Petitioner declined to make a *Sotera* stipulation, showing that it intends that any efforts made in this proceeding will be duplicated in the District Court. *See Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 at 18-19 (P.T.A.B. Dec. 1, 2020) (precedential).

Furthermore, even if Petitioner had made a *Sotera* stipulation, that still might not have mooted Petitioner's prior art invalidity arguments in the District Court Proceeding. For example, Petitioner's invalidity contentions allege that multiple systems "anticipate and/or render obvious" the '035 Patent Claims. EX2002 at 43-44. Thus, even if Petitioner had made a *Sotera* stipulation, this proceeding still might not provide a "'true alternative' to the district court proceeding" and the system art theories Petitioner has suggested it may try to assert there. *See ORDER Granting Director Review, Vacating the Decision Granting Institution, and Denying Institution of Inter Partes Review*, IPR2024-01205, Paper 19 at 3-4 (P.T.A.B. March 28, 2025) ("Petitioner's invalidity arguments in the district court are more expansive and include combinations of the prior art asserted in these proceedings with unpublished system prior art, which Petitioner's [Sotera] stipulation is not likely to moot.").

In light of the extensive overlap with the parallel proceeding, this factor favors denial.

5. Factor 5: whether the petitioner and the defendant in the parallel proceeding are the same party

Petitioner Charter and Patent Owner Iarnach are both parties to the District Court Proceeding. EX1009 at 1. Under *Sotera*, when the parties are the same, this factor supports denying institution. *Sotera*, IPR2020-01019, Paper 12 at 19.

6. Factor 6: other circumstances that impact the Board's exercise of discretion, including the merits.

The merits of the Petition are weak. In the absence of any compelling prior art, Petitioner was forced to try to piece together various permutations of seven different references, resulting in largely incoherent obviousness theories. *See* Pet. at 23-24. Petitioner's primary arguments for the '035 Patent independent claims appear to be that Tsuge alone renders obvious Claims 1, 5, 9, and 13, and that Bourgart alone renders obvious claims 14, 20, 26, and 32. *See* Pet. at 24. However, as discussed in Patent Owner's forthcoming Preliminary Response, neither of those references (nor the proposed combinations with the secondary references Petitioner asserts as backup theories) could teach or render obvious any of the challenged claims. For example, Tsuge does not teach or render obvious generating an updated configuration file for an ONU as claimed, and Bourgart does not teach or render obvious (a) receiving a notification that an updated configuration file is available or

(b) determining changes between the current configuration file of the ONU and the updated configuration file as claimed. Furthermore, Petitioner's reliance on other secondary references for its backup theories cannot overcome the deficiencies in its invalidity theories.

Petitioner argues for Factor 6 that the “[c]hallenged claims are alleged to cover DPoE v2.0 standard, so their cancelation will provide public good, weighing against denial.” Pet. at 14. Under Petitioner's logic, any patented innovation which was widely copied would be counter to the public good, meriting its cancellation. Petitioner cites nothing in support of its apparent assertion that widely copied inventions should be unpatentable, and its logic runs counter to the long-understood purposes of the patent system. *See, e.g., Kewanee v. Bicron*, 416 U.S. 470, 481 (1974) (“When a patent is granted and the information contained in it is circulated to the general public and those especially skilled in the trade, such additions to the general store of knowledge are of such importance to the public weal that the Federal Government is willing to pay the high price of [] years of exclusive use for its disclosure, which disclosure, it is assumed, will stimulate ideas and the eventual development of further significant advances in the art.”).

On balance, the *Fintiv* factors and additional considerations discussed below strongly favor discretionary denial.

B. Additional Considerations

In addition to the *Fintiv* factor analysis discussed above, several additional considerations support discretionary denial.

First, in the Parallel District Court Proceeding, Patent Owner has asserted two other patents in addition to the '035 Patent: U.S. Patent No. 8,942,378 (the "'378 Patent") and U.S. Patent No. 9,287,982 (the "'982 Patent"). EX2001 at 4. Petitioner previously filed IPR2024-01286 against the '378 Patent, and that Petition was denied on the merits for failing to present a reasonable likelihood of success on any challenged claim. *Charter Communications, Inc. v. Iarnach Technologies, Inc.*, IPR2024-01286, Paper 13 at 28 (P.T.A.B. Feb. 19, 2025). In its responsive briefing, Petitioner may try to suggest that the motion for rehearing that it filed on March 21, 2025 will revive the proceeding. However, motions for rehearing are rarely granted. For example, some commenters have noted success rates of "2.5% and 6.4%" on motions for rehearing on institution decisions. EX2011 at 2-3. Data from Lex Machina on motions for rehearing tracked up until around August of 2021 supports a similar conclusion, suggesting that less than 6% (70 out of 1228) of rehearing motions were granted. EX2009 at 1 (showing grant and denial counts from the available dataset for rehearing motions); EX2010 (showing underlying data). Thus, Petitioner's failed challenge to one of the other asserted patents supports discretionary denial, because the parallel IPR proceedings would not be able to

provide a true alternative to the ongoing District Court Proceeding even if this proceeding was instituted.

Second, Petitioner's failure to follow USPTO rules supports the exercise of discretionary denial. For example, Petitioner was obligated to disclose, for each challenged claim, "[h]ow the challenged claim is to be construed. Where the claim to be construed contains a means-plus-function or step-plus-function limitation as permitted under 35 U.S.C. 112(f), the construction of the claim must identify the specific portions of the specification that describe the structure, material, or acts corresponding to each claimed function." 37 CFR § 42.104(b)(3). In this IPR proceeding, Petitioner has asserted that only '035 Patent Claims 13 and 32 invoke §112(f). Pet. at 10. However, in the District Court, Petitioner is seeking narrower constructions under 35 U.S.C. § 112 ¶6 for '035 Patent independent Claims 5 and 20 as well. EX2007 at 3. Thus, Petitioner's conflicting positions between the forums and failure to follow USPTO rules supports discretionary denial. *See Cambridge Mobile Telematics, Inc. v. Sfara, Inc.*, IPR2024-00952, Paper 12 at 6-9 (December 13, 2024) (holding a "fail[ure] to satisfy the requirements of 37 C.F.R. § 42.104(b)(3)" merits denial of a petition) (informative).

Next, Petitioner’s extensive reliance on an expert declaration supports discretionary denial.⁶ In the absence of compelling prior art, Petitioner has relied heavily on its expert declaration (EX1002), citing to it 300+ times over the course of the Petition. *See generally* Petition. Yet its declarant added little (if any) value to its analysis, frequently relying on conclusory statements and repeating/rewording the contents of the legal brief. Such conclusory analysis is not helpful to the trier of fact, and Petitioner’s heavy reliance on it is another reason that the Petition should be discretionarily denied.

II. Conclusion

Patent Owner respectfully requests that the USPTO refuse to institute *inter partes* review for the reasons stated herein.

⁶ See March 26, 2025 Interim Processes for PTAB Workload Management at 2, available at <https://www.uspto.gov/sites/default/files/documents/InterimProcesses-PTABWorkloadMgmt-20250326.pdf> (accessed on March 27, 2025); *Xerox Corp. et al. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 at 15 (granting little weight to an expert declaration which “merely repeats, *verbatim*, the conclusory assertion for which it is offered to support”) (precedential).

Dated: April 25, 2025

Respectfully submitted,

By: /Christopher L. Limbacher/
Christopher L. Limbacher (Reg. No. 76,551)
Attorney for Patent Owner
Iarnach Technologies Ltd.

CERTIFICATE OF SERVICE

The undersigned certifies that pursuant to 37 C.F.R. § 42.6(e), a copy of the foregoing was served via email to lead and backup counsel of record for Petitioner as follows:

Lead Counsel for Petitioner
Raymond R. Ricordati III, Esq. Marshall, Gerstein & Borun LLP 233 S. Wacker Drive, 6300 Willis Tower Chicago, IL 60606 Phone: (312) 474-6617 Fax: (312) 474-0448 rricordati@marshallip.com USPTO Reg. No. 62,856
Back-Up Counsel for Petitioner
Thomas L. Duston, Esq. Marshall, Gerstein & Borun LLP 233 S. Wacker Drive, 6300 Willis Tower Chicago, IL 60606 Phone: (312) 423-3446 Fax: (312) 474-0448 tduston@marshallip.com
Service Email: mgblitdocket@marshallip.com

Dated: April 25, 2025

Respectfully submitted,

By: / Christopher L. Limbacher /
Christopher L. Limbacher (Reg. No. 76,551)
Attorney for Patent Owner
Iarnach Technologies Ltd.

CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(d), the undersigned hereby certifies that this brief complies with the type-volume limitation of 37 C.F.R. § 42.24 because this brief contains 3,715 words.

Dated: April 25, 2025

Respectfully submitted,

By: / Christopher L. Limbacher /
Christopher L. Limbacher (Reg. No. 76,551)
Attorney for Patent Owner
Iarnach Technologies Ltd.