

From: [Director Discretionary Decision](#)
To: [Ferguson, Brian E.](#); [Director Discretionary Decision](#)
Cc: [Nall, Jennifer](#); [DLA-HD-H2](#); [Ladd, Jacob](#); [Mann, Rex](#)
Subject: RE: IPR2025-00480: Request to File Reply Brief Regarding Discretionary Denial
Date: Wednesday, August 20, 2025 12:36:47 PM
Attachments: [image001.png](#)

Patent Owner is authorized to file a 5-page reply in IPR2025-00480, due no later than Friday, August 22, 2025, limited to addressing the arguments raised below. Petitioner is authorized to file a 5-page sur-reply, due no later than Tuesday, August 26, 2025.

From: Ferguson, Brian E. <BEFerguson@winston.com>
Sent: Wednesday, August 20, 2025 11:56 AM
To: Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>
Cc: Nall, Jennifer <jennifer.nall@us.dlapiper.com>; DLA-HD-H2 <DLA-HD-H2@us.dlapiper.com>; Ladd, Jacob <JLadd@winston.com>; Mann, Rex <RMann@winston.com>
Subject: IPR2025-00480: Request to File Reply Brief Regarding Discretionary Denial

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Dear Honorable Acting Director and Honorable Board:

Pursuant to the Interim Director Discretionary Process (<https://www.uspto.gov/patents/ptab/interim-director-discretionary-process>) Section IV.A, Patent Owner H2 Intellect LLC respectfully requests authorization to file a short reply brief, limited to five pages, in IPR2025-00480 to respond to Petitioner's August 19, 2025, Opposition to Patent Owner's Request for Discretionary Denial ("Opposition") (Paper No. 7).

Patent Owner submits that good cause exists for this request, as Petitioner's Opposition raises new arguments not in the petition or squarely addressed in Patent Owner's Discretionary Denial Brief (Paper No. 6) concerning: (1) alleged Examiner material error during prosecution; (2) alleged compelling economic interests as part of a *Fintiv* analysis; and (3) alleged settled expectations of Petitioner and corresponding lack of settled expectations of Patent Owner. Patent Owner respectfully submits that allowing Patent Owner to address these issues in a short reply is in the interest of the Acting Director, the Board, and the public, so that a full record is available prior to any discretionary denial decision.

Patent Owner has conferred with counsel for Petitioner regarding this request, and Petitioner's position is set forth below.

Petitioner opposes this request because arguments regarding settled expectations and *Fintiv* were entirely foreseeable, are responsive to Patent Owner's brief, and should have been addressed in Patent Owner's opening brief. To the extent that Patent Owner is granted leave to address material error (or

anything else), Petitioner respectfully requests an equal length surreply.

Counsel for the parties are available for a conference call should the Acting Director so desire on the following days: August 22, 25, and 28.

Respectfully submitted,

Brian E. Ferguson
Counsel for Patent Owner



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