

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LINKPLAY TECHNOLOGY INC.,
Petitioner,

v.

SONOS, INC.,
Patent Owner.

Case No. IPR2025-00509
U.S. Patent No. 10,853,023

**PATENT OWNER SONOS, INC.'S REQUEST
FOR DISCRETIONARY DENIAL OF INSTITUTION**

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	DISCRETIONARY DENIAL IS WARRANTED UNDER § 314(A)	5
A.	The <i>Fintiv</i> Factors Favor Discretionary Denial	6
1.	Factor 1 Favors Denial: Linkplay Expressed No Intention to Move for a Stay	7
2.	Factor 2 Favors Denial: July Trial Is Set Two Months Before the Projected FWD	8
3.	Factor 3 Favors Denial: There Has Been Substantial Investment in the Delaware Litigation	11
a.	Highlights of the Substantial Investment	13
b.	Linkplay’s Lack of Diligence.....	16
4.	Factor 4 Is Neutral: IPR Here Would Not Be a True Alternative to The Delaware Litigation.....	18
5.	Factor 5 Favors Denial: The Parties Overlap	21
6.	Factor 6 Favors Denial: The Merits of Linkplay’s Arguments Are Weak	21
a.	Brief Overview of the ’023 Patent	22
b.	Ground 1 Lacks Merit: Barbe Does Not Anticipate Any Challenged Claim	24
c.	Ground 2 Lacks Merit: Barbe Does Not Render Obvious Dependent Claims 3-6, 10-12, 16-17.....	26
d.	Ground 3 Lacks Merit: Richenstein Does Not Anticipate Any Challenged Claim	27
e.	Ground 4 Lacks Merit: Richenstein Does Not Render Any Claim Obvious	31
7.	Summary of <i>Fintiv</i> Factors	32
B.	Other Considerations Also Favor Discretionary Denial	32
1.	Linkplay’s Heavy Reliance on Expert Testimony Favors Denial	33
2.	The Delaware Court Is Best Positioned to Apply Its Prior Claim Constructions	36

3.	Risk of Competing Constructions Favors Denial	37
4.	Economic and National Interests Favor Denial.....	38
5.	Summary of Additional Considerations	39
III.	CONCLUSION	39

TABLE OF AUTHORITIES

<i>Arashi Vision (U.S.) LLC d/b/a Insta360 v. GoPro, Inc.,</i> IPR2025-00017, 2025 WL 1223981 (PTAB Apr. 28, 2025)	21
<i>Arthrex, Inc., v. Medshape, Inc.,</i> IPR2025-00053, 2025 WL 1203664 (PTAB Apr. 25, 2025)	12
<i>CIPLA Limited v. Gilead Sciences, Inc.,</i> IPR2025-00033 (PTAB May 15, 2025)	21
<i>Cisco Sys., Inc. v. Portsmouth Network Corp.,</i> IPR2024-00503, 2024 WL 3678420 (PTAB Aug. 6, 2024)	8
<i>Crown Operations Int'l, Ltd. v. Solutia Inc.,</i> 289 F.3d 1367 (Fed. Cir. 2002)	28, 29
<i>Cuozzo Speed Techs., LLC v. Lee,</i> 579 U.S. 261 (2016)	5
<i>Dell Inc. v. Universal Connectivity Techs., Inc.,</i> IPR2024-01480, 2025 WL 1195479 (PTAB Apr. 24, 2025)	10
<i>Ericsson Inc. and Cellco Partnership d/b/a Verizon Wireless v. Procomm</i> <i>International PTE. Ltd.,</i> IPR2024-01455 (PTAB May 16, 2025)	17
<i>Harmonic Inc. v. Avid Tech., Inc.,</i> 815 F.3d 1356 (Fed. Cir. 2016)	5
<i>Ingenico Inc. v. IOENGINE,</i> No. 2023-1367, 2025 WL 1318188 (Fed. Cir. May 7, 2025)	19
<i>Innolux Corp. v. Phenix Longhorn LLC,</i> IPR2025-00043 (PTAB May 15, 2025)	22
<i>N. Atl. Imports, LLC v. LoCo-Crazy Good Cookers, Inc.,</i> 23-cv-999, 2024 WL 4827250 (D. Del. Nov. 19, 2024)	7
<i>Nokia of Am. Corp., et al. v. Pegasus Wireless Innovation LLC,</i> IPR2025-00036, 2025 WL 1203702 (PTAB Apr. 25, 2025)	12, 17
<i>Nxp Usa, Inc. v. Impinj, Inc.,</i> IPR2021-01556, 2022 WL 1262218 (PTAB Apr. 21, 2022)	8
<i>Orthopedics v. Med.,</i> IPR2023-00894, 2023 WL 8001473 (PTAB Nov. 17, 2023)	11

<i>Personal Web Techs., LLC v. Apple, Inc.</i> , 848 F.3d 987 (Fed. Cir. 2017)	26, 35
<i>Samsung Elecs. Am., Inc. v. Collision Commc'ns, Inc.</i> , IPR2025-00011, 2025 WL 1221026 (PTAB Apr. 28, 2025)	21
<i>Samsung Elecs. Co., Ltd. v. Truesight Commc'ns LLC</i> , IPR2025-00123, 2025 WL 1170627 (PTAB Apr. 22, 2025)	12, 17
<i>Sand Revolution II, LLC v. Cont'l Intermodal Group – Trucking LLC</i> , IPR2019-01393 (PTAB June 16, 2020)	21
<i>Sotera Wireless, Inc. v. Masimo Corporation</i> , IPR2020-01019 (PTAB Dec. 1, 2020)	21
<i>Tigo Energy Inc. v. SMA Solar Tech. Am. LLC</i> , 22-cv-915, 2024 WL 1637511 (D. Del. Apr. 16, 2024)	7
<i>TikTok Inc. v. NTech Properties, Inc.</i> , IPR2024-01339, 2025 WL 607860 (PTAB Feb. 25, 2025)	35
<i>VLSI Tech. LLC v. Intel Corp.</i> , 53 F.4th 646 (Fed. Cir. 2022)	37
<i>Xerox Corp. v. Bytemark, Inc.</i> , IPR2022-00624, 2022 WL 3648989 (PTAB. Aug. 24, 2022)	35
Statutes	
35 U.S.C. § 314(a)	5
<i>KSR Int'l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007)	26

EXHIBIT LIST

Exhibit	Description
2001 to 2100	RESERVED FOR PRELIMINARY RESPONSE
2101	<i>Sonos, Inc. v. Linkplay Technology Inc, et al.</i> , 24-cv-00131 (D. Del.), D.I. 156, Oral Order Scheduling Discovery Hearing
2102	<i>Sonos, Inc. v. Linkplay Technology Inc, et al.</i> , 24-cv-00131 (D. Del.), D.I. 174, Oral Order re Discovery Dispute
2103	<i>Sonos, Inc. v. Linkplay Technology Inc, et al.</i> , 24-cv-00131 (D. Del.), D.I. 172, Order Granting <i>Pro Hac Vice</i> Motion
2104	<i>Sonos, Inc. v. Linkplay Technology Inc, et al.</i> , 24-cv-00131 (D. Del.), D.I. 159, Order Amending Scheduling Order
2105	<i>Sonos, Inc. v. Linkplay Technology Inc, et al.</i> , 24-cv-00131 (D. Del.), D.I. 111, Order Denying Linkplay's Motion
2106	Judge Ranjan's Practices and Procedures (rev. 3/10/23)
2107	<i>Sonos, Inc. v. Linkplay Technology Inc, et al.</i> , 24-cv-00131 (D. Del.), D.I. 45, Rule 16 Conference Transcript
2108	<i>Samsung Electronics Co., Ltd. v. Technical Consumer Products, Inc.</i> , 23-cv-00186 (D. Del.), D.I. 134, Oral Argument Transcript
2109	Linkplay Source Code Reviewer Log
2110	Linkplay's Initial Invalidity Contentions, served Feb. 27, 2025
2111	<i>Sonos, Inc. v. Linkplay Technology Inc, et al.</i> , 24-cv-00131 (D. Del.), D.I. 132, Linkplay's Answer, Defenses, Counterclaims
2112	March 25, 2025 Email Correspondence
2113	April 1, 2025 Email Correspondence Chain

2114	<i>Sonos, Inc. v. Linkplay Technology Inc, et al.</i> , 24-cv-00131 (D. Del.), D.I. 19, Order Re: Judge Ranjan Practices and Procedures
2115	<i>Sonos, Inc. v. Linkplay Technology Inc, et al.</i> , 24-cv-00131 (D. Del.), D.I. 188, Claim Construction Chart
2116	Mendelsohn and Rak, “These Companies Were the Patent Powerhouses of 2024,” IEEE Spectrum (Apr. 23, 2025) <i>available at</i> https://spectrum.ieee.org/patent-power-2025 .
2117	“Issa: China is Stealing America’s Intellectual Property While Benefitting From America’s Laws” (Mar. 9, 2023) <i>available at</i> https://issa.house.gov/media/press-releases/issa-china-stealing-americas-intellectual-property-while-benefitting-americas
2118	“GOP Lawmakers Introduce Bill to Protect US Intellectual Property From CCP” (July 7, 2025) <i>available at</i> https://youngkim.house.gov/2024/07/07/gop-lawmakers-introduce-bill-to-protect-us-intellectual-property-from-ccp/

I. INTRODUCTION

Pursuant to the March 26, 2025 Memorandum titled “Interim Processes for PTAB Workload Management” (“Workload Memo”), Patent Owner Sonos, Inc. (“Sonos” or “Patent Owner”) respectfully requests that the Director exercise its discretion to deny institution of IPR filed by Petitioner Linkplay Technology Inc. (“Linkplay” or “Petitioner”).

As set forth below, *five* of the six *Fintiv* factors and *four* additional relevant considerations clearly *favor* discretionary denial. The *one* remaining *Fintiv* factor is, at best for Linkplay, *neutral*. Thus, the interests of efficiency and integrity of the IPR process strongly call for discretionary denial.

***Fintiv* Factor 1 Favors Denial:** given at least the facts that (a) Linkplay waited to file this IPR until the last moment resulting in the parallel Delaware Litigation (*Sonos, Inc. v. Linkplay Technology Inc, et al.*, 24-cv-00131 (D. Del.)) to progress significantly, (b) this IPR would not meaningfully simplify the Delaware Litigation, and (c) Sonos and Linkplay are competitors, a stay in the Delaware Litigation is unrealistic under District of Delaware precedent. Moreover, Linkplay has only escalated its district court efforts after filing this IPR demonstrating no intention to even request a stay of the Delaware Litigation.

***Fintiv* Factor 2 Favors Denial:** the Delaware trial is set for August 10, 2026—two months before the expected Final Written Decision (“FWD”) on October

11, 2026. This trial date was recently agreed upon by the parties—after Linkplay’s IPR filing—and fixed by Judge Ranjan, a visiting judge specifically appointed to ease Delaware’s court congestion, who also called for strict adherence to the schedule absent extraordinary circumstances. Moreover, while statistical trial forecasts are rendered irrelevant in view of Judge Ranjan’s strict schedule, even Delaware’s speculative 32-month median time-to-trial projects a trial date of October 1, 2026—still *before* the expected FWD.

***Fintiv* Factor 3 Favors Denial:** Linkplay’s eleventh-hour IPR filing—exactly one year after Sonos filed its original complaint—results in this paper being filed after the District Court for the District of Delaware (the “Delaware Court”) and parties have substantially invested in the Delaware Litigation, and that investment will grow significantly leading up to the expected institution decision. By the October 11, 2025 institution decision deadline, *Markman* briefing and the hearing will be complete. Given Judge Ranjan’s track record of timely *Markman* rulings and stated adherence to the set schedule, a *Markman* order is expected around the institution decision deadline.

***Fintiv* Factor 4 Is, At Best for Linkplay, Neutral:** rather than serving as a true alternative to the Delaware Litigation, this IPR is a detour that would only create inefficiencies. The Delaware Litigation—spanning six patents, dozens of accused products, 15 affirmative defenses, and 18 counterclaims—raises far broader issues

than an IPR can address, even for the '023 Patent alone. Further, the Federal Circuit's recent decision in *Ingenico Inc. v. IOENGINE, LLC* (*infra* §II.A.4) erodes the practical value of Linkplay's *Sotera* stipulation.

***Fintiv* Factor 5 Favors Denial:** the parties are identical in this IPR and the Delaware Litigation.

***Fintiv* Factor 6 Favors Denial:** the Petition is objectively weak on the merits. First, Barbe (Grounds 1-2) is distinguished by Linkplay's own expert, who concedes that Barbe's solution simply switches to the most recent source instead of prioritizing a line-in connected source, as required by the challenged claims. Second, Linkplay's anticipation theory as to Richenstein (Ground 3) is a patchwork of no fewer than *six* different Richenstein devices—none of which individually disclose each and every limitation of the independent claims. Worse yet, Linkplay fails to make even a *prima facie* case of obviousness for Barbe (Ground 2) or Richenstein (Ground 4), offering no explanation of how any proposed modification would work or why a POSITA would have been motivated to implement it with a reasonable expectation of success. These shortcomings are mere examples of the Petition's fatal flaws.

Heavy Reliance on Unfocused Expert Testimony Favors Denial: in view of the weakness of Linkplay's prior art references, Linkplay leans heavily on the unfocused and conclusory testimony of Dr. Hartpence, who attempts to backfill missing claim limitations with legally deficient analysis. If this IPR is instituted,

Sonos's own expert's testimony will expose further flaws in Dr. Hartpence's opinions, setting up a complex expert dispute far better suited for resolution in an Article III court.

Delaware Court Applying Its Own Constructions Favors Denial: the Delaware Court previously construed claim terms implicated by this IPR. The Delaware Court is the obvious choice for applying constructions of claim terms that it previously construed and applied to Sonos's patents.

Avoiding Possible Conflicting Constructions Favors Denial: Linkplay's intent in the current Delaware Litigation to challenge the Delaware Court's prior constructions—particularly for the term “*line-in connector*” in the challenged claims—risks creating conflicting claim interpretations in parallel proceedings. If successful, Linkplay could exploit a narrow construction in the Delaware Litigation to argue noninfringement, while advancing a broader construction here to pursue invalidity. This duplicative strategy is inefficient, prejudices Sonos, and wastes judicial resources.

Economic and National Interests Favors Denial: this IPR juxtaposes two parties with fundamentally different views on intellectual property protection: (1) Sonos, an American innovator that has invested heavily in protecting its innovations and building its U.S. patent portfolio, and (2) Linkplay, a Chinese entity seeking to misuse and thereby, capitalize on Sonos's 20+ years of innovation. There is a clear

economic and national interest in protecting American innovators, like Sonos, by preventing foreign entities from exploiting the legal system through duplicative and unnecessary parallel litigation

In sum, viewed as a whole, the *Fintiv* factors and additional relevant considerations compel a single conclusion: discretionary denial is necessary to safeguard the efficiency, fairness, and integrity of the IPR process.

II. DISCRETIONARY DENIAL IS WARRANTED UNDER § 314(A)

The Director should deny institution of IPR under 35 U.S.C. § 314(a). It is well-settled that institution of IPR is discretionary. *See* 35 U.S.C. § 314(a) (“The Director may not authorize an inter partes review to be instituted unless...”); *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1367 (Fed. Cir. 2016) (“[T]he PTO is permitted, but never compelled, to institute an IPR proceeding”); *Cuozzo Speed Techs., LLC v. Lee*, 579 U.S. 261, 273 (2016) (“[T]he agency’s decision to deny a petition is a matter committed to the Patent Office’s discretion.”).

The core of the Board’s precedential decision in *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (PTAB March 20, 2020) (“*Fintiv*”) focuses on whether institution would promote efficiency, fairness, and align with the strength of the unpatentability challenge. *Fintiv*, 5-6. The Director’s Workload Memo lends further support to this approach by accounting for “all relevant considerations,” including, *inter alia*, the strength of the unpatentability challenge, the extent of the petition’s

reliance on expert testimony, and compelling economic interests, among others. Workload Memo, 2-3. As discussed below, both the *Fintiv* factors and several additional “relevant considerations” weigh decisively in favor of denying institution.

A. The *Fintiv* Factors Favor Discretionary Denial

Fintiv identifies the following non-exclusive six factors for the Director to consider in deciding whether to exercise discretion to deny institution based on parallel proceedings involving the same patent:

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 [Director]’s exercise of discretion, including the merits.

Fintiv, 5-6. When the Director evaluates these factors, it is to take “a holistic view of whether efficiency and integrity of the system are best served by denying or instituting review.” *Id.*, 6.

Together, these factors strongly support the Director’s discretion to deny institution.

1. Factor 1 Favors Denial: Stay in Delaware Litigation Is Unrealistic—Linkplay’s Intent Not to Seek One Confirms This

Factor 1 favors denial because a stay would not be warranted in the Delaware Litigation. The Delaware Litigation involves five other patents beyond the ’023 Patent, three of which are not subject to any IPR, has progressed significantly (*see infra* §II.A.3), and would not be simplified by this IPR (*see infra* §II.A.4), and a stay of the Delaware Litigation would prejudice Sonos given that the parties are direct market competitors.

Courts in the District of Delaware routinely deny stay motions under similar circumstances. *See, e.g., N. Atl. Imports, LLC v. LoCo-Crazy Good Cookers, Inc.*, 23-cv-999, 2024 WL 4827250, at *3-4 (D. Del. Nov. 19, 2024) (denying stay motion pending IPR outcome because IPR outcome would simplify only “some portion of the issues for trial” and stay would be prejudicial to Patent Owner given that parties are “direct competitors in the market”); *Tigo Energy Inc. v. SMA Solar Tech. Am. LLC*, 22-cv-915, 2024 WL 1637511, at *2-3 (D. Del. Apr. 16, 2024) (denying stay

motion because fact discovery is substantially underway, claim construction briefing is complete, and parties are direct competitors).

Nevertheless, Linkplay asserts that Factor 1 is “neutral as no stay has been requested or granted.” Pet., 73. But Linkplay’s escalating litigation efforts and complete silence on any stay request tell a different story: Linkplay knows a stay is not realistic. Since filing this IPR, Linkplay has not once suggested a stay—even after multiple hearings before the Delaware Court (*see* Ex.2101, Ex.2102). Instead, Linkplay has doubled down in the Delaware Litigation, initiating multiple discovery dispute hearings before the Court (*see id.*), retaining an additional (third) law firm as outside counsel (Ex.2103), and engaging multiple experts, all reinforcing that it has no intention to seek a stay. *See also infra* §II.A.3.

Factor 1 therefore favors denial.

2. Factor 2 Favors Denial: Jury Trial Is Set Two Months Before the Projected FWD

Factor 2 favors denial because trial in the Delaware Litigation is set for August 10, 2026 (Ex.2104, 2)—two months *before* the projected FWD on October 11, 2026. *See, e.g., Nxp Usa, Inc. v. Impinj, Inc.*, IPR2021-01556, 2022 WL 1262218, at *3 (PTAB Apr. 21, 2022) (finding Factor 2 favored denial because trial date was set two months before FWD deadline); *Cisco Sys., Inc. v. Portsmouth Network Corp.*, IPR2024-00503, 2024 WL 3678420, at *5 (PTAB Aug. 6, 2024) (same).

Linkplay's arguments to the contrary are premised on two incorrect assumptions.

First, Linkplay incorrectly assumed "an FWD in August 2026." Pet., 71 n.5. However, the Notice of Filing Date Accorded to Petition was mailed April 11, 2025 (Paper 5), which means that the FWD is not actually expected until October 11, 2026.

Second, Linkplay incorrectly assumed that "the Court will likely reschedule the rest of the case, putting trial after... when the FWD is expected." Pet., 72. To the contrary, Judge Ranjan sitting by designation in the District of Delaware recently rescheduled trial for August 10, 2026. Ex.2104, 2.

Moreover, Linkplay's attempts to cast doubt on the certainty of the Delaware Court's actual schedule by pointing to statistical forecasts (i.e., "[t]he median and average time to trial in Delaware for jury trial cases....") are misplaced for multiple reasons. *See* Pet., 71-72.

To start, the recently-rescheduled August trial date is, without a doubt, a better indicator of the actual trial date than any statistical forecast. Judge Ranjan is a visiting judge from the Western District of Pennsylvania, and according to Judge Ranjan himself, he was "designated to preside over [the Delaware Litigation] from another district, specifically to alleviate concerns about court congestion in Delaware." Ex.2105, 19. Under these unique circumstances, forecasting based on

District of Delaware statistics is much less instructive than looking at the actually-scheduled jury trial date.

Judge Ranjan also left no doubt that he intends to hold the parties accountable as to the schedule, and Linkplay voluntarily *agreed* with Sonos on the August 2026 trial date *after* Linkplay filed this IPR. *See* Ex.2104, 1; Ex.2106, 5(“Requests to continue the trial date will be granted only in extraordinary circumstances.”); Ex.2107, 10 [37:22-38:3] (“I do try to hold, as a general matter, hold people’s feet to the fire as to the schedule and so that might be something you can also take into account. I like to set the deadlines and try not to move them as best as we can.”); Ex.2108, 28 (“I hate to do it. And I think maybe at our first status conference I mentioned this to counsel, that I don’t like extensions generally.”). Thus, the August trial date should be taken at face value. *See, e.g., Dell Inc. v. Universal Connectivity Techs., Inc.*, IPR2024-01480, 2025 WL 1195479, at *4 (PTAB Apr. 24, 2025) (finding trial date not speculative because district court stated trial date “cannot be changed without an acceptable showing of good cause.”).

Next, Linkplay cites to the Board’s 2022 Interim Procedure and asserts that the Board “valu[es] the time to trial statistics because the actual scheduled trial date is ‘unreliable’ and ‘not by itself a good indicator.’” Pet., 71. But the USPTO’s March 24, 2025 memorandum (“Recission Memo”) rescinded the Board’s 2022 Interim Procedure and its guidance.

Finally, even if considering statistical forecasts (i.e., “[t]he median and average time to trial in Delaware for jury trial cases”) were appropriate, Linkplay’s invocation of “average time to trial” is misplaced for Factor 2. *See, e.g., Orthopedics v. Med.*, IPR2023-00894, 2023 WL 8001473, at *13 (PTAB Nov. 17, 2023) (rejecting “*average* time-to-trial” statistics) (emphasis in original); *see also, e.g.*, 2022 Interim Procedure, 8-9 (considering “median time-to-trial” statistics; not average statistics). Moreover, even if the Director were to consider Delaware’s median time-to-trial (that Linkplay represents is 32 months), the trial date would fall on October 1, 2026,¹ which is still *before* the projected FWD (i.e., October 11, 2026).

For all of these reasons, Factor 2 favors denial.

3. Factor 3 Favors Denial: There Has Been Substantial Investment in the Delaware Litigation

Factor 3 also favors denial because the parties and the Delaware Court have expended—and will continue to expend—significant resources in the Delaware Litigation leading up to the institution decision. This is because Linkplay waited until the eve of its one-year deadline to file this Petition.

The Board routinely finds this factor favors denial when parties have exchanged contentions and the district court has held a *Markman* hearing before the institution decision. *See, e.g.:*

¹ 32 months from February 1, 2024—the filing date of the Original Complaint.

- *Samsung Elecs. Co., Ltd. v. Truesight Commc'ns LLC*, IPR2025-00123, 2025 WL 1170627, at *3 (PTAB Apr. 22, 2025) (finding this factor favors denial because “[t]he parties have exchanged infringement and invalidity contentions and substantially completed document production, and the District Court has held a claim construction hearing.”)
- *Nokia of Am. Corp., et al. v. Pegasus Wireless Innovation LLC*, IPR2025-00036, 2025 WL 1203702, at *6 (PTAB Apr. 25, 2025) (finding this factor favors denial because *Markman* hearing was held, and “the parties have exchanged [preliminary] invalidity contentions”)
- *Arthrex, Inc., v. Medshape, Inc.*, IPR2025-00053, 2025 WL 1203664, at *5 (PTAB Apr. 25, 2025) (finding this factor favors denial even when fact discovery recently opened and no deposition have taken place but parties exchanged infringement and invalidity contentions, claim construction briefing, and held a *Markman* hearing before institution decision).

The Delaware Litigation presents these circumstances—and significantly more. In short, the Delaware Litigation involves six asserted patents, with extensive fact and written discovery already completed, substantial document production closed, and detailed contentions exchanged. By the October 11, 2025 institution decision deadline, *Markman* briefing will be complete, with a hearing scheduled for September 2025. Given Judge Ranjan’s track record of timely *Markman* rulings, a *Markman* order is expected around the institution decision deadline.

Below, Sonos provides further detail regarding the substantial investment in

the Delaware Litigation, as well as Linkplay's lack of diligence in pursuing this IPR.

a. The Parties' and Delaware Court's Substantial Investment

Sonos filed the Delaware Litigation well over a year ago on February 1, 2024. Today, the litigation involves six asserted patents,² approximately ten accused products (along with software apps) directly sold by Linkplay, as well as approximately ten additional accused products (along with software apps) that Linkplay provides to third parties, 15 affirmative defenses, and 18 counterclaims, including counterclaims of noninfringement, invalidity, and unenforceability based on at least lack of standing, equitable estoppel, waiver, inequitable conduct, prosecution laches, unclean hands, and patent misuse. *See, e.g.,* Ex.2111.

Given the breadth of the Delaware Litigation, both parties have poured in substantial resources since its inception, including an extensive amount of fact discovery, written discovery, contention work, and *Markman*-related work.

To start, the deadline for substantial completion of document production has already passed. To date, the parties have produced thousands of documents spanning hundreds of thousands of pages, including Chinese technical documents produced by Linkplay that required Sonos to expend additional resources to translate for

² As previously mentioned, Linkplay has only filed IPRs against three of the asserted patents.

review. Email production is also underway. And Sonos has served and completed numerous document subpoenas on third parties.

Further, Linkplay has produced for inspection well over a million files of source code, and Sonos has so far spent over 500 man-hours reviewing that source code. Ex.2109. Depositions have also begun, and Sonos has served three 30(b)(6) deposition notices on Linkplay, for which depositions are expected to begin in June.

Turning to written discovery, the parties have exchanged multiple rounds of written discovery that began more than a year ago in May 2024. To date, Linkplay has served at least 20 interrogatories and 161 requests for production, while Sonos has served at least 21 interrogatories and 120 requests for production. Both parties have exchanged dozens of written discovery responses and letters, met and conferred on numerous occasions over discovery disputes, and ultimately sought court intervention on numerous occasions.

Moreover, the parties' contention work has been extensive. Sonos has already served initial and supplemental infringement contentions that contain detailed source code traces. For its part, Linkplay has served multiple rounds of its so-called "non-infringement contentions." Linkplay has also served multiple iterations of invalidity contentions. Linkplay's invalidity contentions for the '023 Patent *alone* include an identification of over 100 prior art references (13 of which are charted and another 20 of which relate to alleged prior use, sale, and/or offer for sale), at least 13 different

§ 112 grounds, and at least four other invalidity grounds, including a non-statutory obviousness-type double-patenting ground and invalidity grounds under §§ 101, 102(f), and 111(a). *See* Ex.2110, 35-40, 47-48, 129-34, 154-58; 171, 173-76, 178-81; Ex.2111, 78-79. At Linkplay’s insistence and despite Sonos having no Court-imposed obligation to do so, Sonos also served so-called “validity contentions” in April 2025, spanning over 525 pages of rebuttals to Linkplay’s invalidity contentions.

Turning to *Markman*, to date, the parties have completed many *Markman* deadlines. More significantly, before the institution decision deadline of October 11, 2025, all *Markman* briefing will be completed, and with the *Markman* hearing scheduled for September 4, 2025, there is a strong likelihood that Judge Ranjan’s *Markman* order will issue before, or only shortly after, the institution decision deadline.³

It is also worth noting that, absent Linkplay’s litigation delay tactics, a *Markman* order issuing before the institution decision deadline would have been a

³ To date, Judge Ranjan has only issued two *Markman* orders and both were issued promptly after the *Markman* hearing. In 19-cv-1636 (W.D. Pa.), Judge Ranjan issued his *Markman* order 27 days after the *Markman* hearing, and in 23-cv-186 (D. Del.), Judge Ranjan issued his *Markman* order 29 days after the *Markman* hearing.

near certainty. Linkplay’s strategic conduct is exemplified by its last-minute request to delay all *Markman* deadlines—made two months after its IPR filing and just three days before the parties’ first original *Markman* deadline. *See* Ex.2112; Ex.2113, 5-6. Despite Sonos’s opposition, the Delaware Court ultimately acquiesced to Linkplay’s request and moved the *Markman* deadlines by about one month. Ex.2104.

In sum, the Delaware Litigation has progressed significantly, and as a result, the Delaware Court and the parties have invested substantial resources, which will continue to compound in the coming months ahead of the October institution decision deadline.

b. Linkplay’s Lack of Diligence

As noted above, Linkplay waited until the eleventh hour to file its Petition. In particular, Sonos filed the Original Complaint on February 1, 2024 and served it on February 6, 2024. The Original Complaint included a detailed explanation of Linkplay’s infringement of the independent claims of the ’023 Patent. Sonos’s initial infringement contentions were later served on September 27, 2024, which identified additional dependent claims that Linkplay infringes.

In turn, Linkplay filed its Petition on the one-year anniversary of Sonos’s Original Complaint (i.e., February 1, 2025). Linkplay offered no explanation to justify the eleventh-hour filing. *See* Pet., 72. Instead, Linkplay states “Petitioner

filed this Petition only half a month after Patent Owner’s supplemental contentions, which included an identification of asserted claims.” *Id.* This is greatly misleading. The “supplemental contentions” Linkplay refers to have nothing to do with the ’023 Patent; instead, they are Sonos’s initial infringement contentions served on January 16, 2025 for a newly-added patent.

In truth, Linkplay has no justification for its delay, which favors discretionary denial. *See, e.g., Samsung Elecs. Co., Ltd.*, IPR2025-00123, 2025 WL 1170627, at *3 (PTAB April 22, 2025) (finding this factor favors denial because “Petitioner filed the Petition ten months after Patent Owner filed its complaint in the District Court Litigation and five months after Patent Owner served its infringement contentions.”); *Nokia of Am. Corp.*, IPR2025-00036, 2025 WL 1203702, at *6 (PTAB April 25, 2025) (finding this factor favors denial because “Petitioner did not file the Petition expeditiously.”); *Ericsson Inc. and Cellco Partnership d/b/a Verizon Wireless v. Procomm International PTE. Ltd.*, IPR2024-01455, Paper 15, at *2-3 (PTAB May 16, 2025) (granting discretionary denial, highlighting Petitioner’s failure to sufficiently “explain why it waited nearly a year to file the Petition” and “insufficient evidence the district court is likely to stay its proceeding even if the Board were to institute trial.”).

* * *

In view of the substantial investment by the Delaware Court and parties in the Delaware Litigation, and Linkplay's lack of diligence in filing this Petition, Factor 3 favors denial.

4. Factor 4 Is Neutral (If Not in Favor of Denial): IPR Here Would Not Be a True Alternative to the Delaware Litigation

This factor is, at best for Linkplay, neutral for several reasons.

First, Linkplay's reliance on several other invalidity theories in the Delaware Litigation severely limits any potential efficiencies gained from this IPR.

As previously mentioned, the Delaware Litigation involves five patents in addition to the '023 Patent, 15 affirmative defenses, and 18 counterclaims. Linkplay's supplemental invalidity contentions for the '023 Patent also identify 20 alleged prior use, sale, and/or offer for sale grounds, at least 13 different § 112 grounds, and at least four other invalidity grounds, including a non-statutory obviousness-type double-patenting ground and grounds under §§ 101, 102(f), and 111(a). *Supra* II.A.3. Thus, carving Linkplay's patent and printed publication prior art grounds from the Delaware Litigation would barely scratch the surface of the broader issues at play, and the Board's FWD—projected two months *after* the Delaware trial—would not serve to mitigate concerns of duplicative efforts and inconsistent outcomes.

Second, the Federal Circuit’s recent decision in *Ingenico Inc. v. IOENGINE, LLC* casts significant doubt on how meaningful a *Sotera* stipulation remains to be. 136 F.4th 1354 (Fed. Cir. May 7, 2025).

As background, Linkplay initially offered a *Sand Revolution* stipulation in its Petition. Pet., 73. However, likely in view of the Recission Memo dated March 24, 2025 and the Board’s recent decisions, Linkplay strategically changed course and crafted a *Sotera* stipulation on May 5, 2025 stating:

[Linkplay] agrees that if IPR2025-00509 is instituted, Linkplay will not pursue in the [Delaware Litigation] the following invalidity challenges to U.S. Patent No. 10,853,023 relying on 35 U.S.C. §§ 102, 103: (1) any *ground* raised or that could have been reasonably raised in IPR2025-00509, as well as (2) any *ground* based on corresponding system prior art.

Ex.1024 (emphasis added). As the Recission Memo states, such a stipulation is “highly relevant, but will not be dispositive by itself.” Recission Memo, 2-3.

That said, the Federal Circuit’s recent decision in *Ingenico* raises serious questions as to whether a *Sotera* stipulation like Linkplay’s is “highly relevant” anymore. In *Ingenico*, the Federal Circuit interpreted the word “ground”—found in a *Sotera* stipulation like Linkplay’s—narrowly in the context of IPR estoppel under 35 U.S.C. § 315(e)(2). 136 F.4th at 1365-66. The Federal Circuit made clear that “a ground is *not* the prior art asserted during an IPR” and “IPR estoppel does *not*

preclude a petitioner from asserting the *same* prior art raised in an IPR in district court, but rather precludes a petitioner from asserting grounds that were raised or reasonably could have been raised during an IPR.” *Id.* (emphasis added). In other words, the Federal Circuit explained “IPR estoppel does *not* preclude a petitioner from relying *on the same patents and printed publications* as evidence in asserting a ground that could not be raised during the IPR, such as that the claimed invention was known or used by others, on sale, or in public use.” *Id.*, 1366 (emphasis added).

The Federal Circuit’s interpretation of the word “ground” in connection with IPRs likewise limits the scope of a *Sotera* stipulation. For example, a Petitioner that agrees to a *Sotera* stipulation can lose before the Board in arguing a given prior art publication anticipates challenged claims but get a second bite at the apple by arguing before a district court that the same prior art publication renders the challenged claims obvious in combination with system art (whether related to the publication or not) that was known or used by others, on sale, or in public use, even if that obviousness combination relies almost exclusively on the disclosure of the prior art publication and gap fills with the system art.

This contravenes the *Sotera* Board’s rationale that a stipulation like Linkplay’s here “mitigates any concerns of duplicative efforts between the district court and the Board, as well as concerns of potentially conflicting decisions.” *Sotera Wireless, Inc. v. Masimo Corporation*, IPR2020-01019, Paper 12, p.19 (PTAB Dec.

1, 2020). As such, a *Sotera* stipulation in view of the Federal Circuit’s interpretation of the word “ground” no longer ensures that an IPR is a “true alternative” to a district court proceeding. *Id.* (quoting *Sand Revolution II, LLC v. Cont’l Intermodal Group – Trucking LLC*, IPR2019-01393, Paper 24 at *7 (PTAB June 16, 2020)).

Factor 4 is therefore, at best for Linkplay, neutral.

5. Factor 5 Favors Denial: The Parties Overlap

Factor 5 clearly favors denial because the parties involved in this IPR and the Delaware Litigation overlap.

Yet, Linkplay asserts—without any explanation—that “[a]lthough Petitioner is also the defendant in the litigation, **Factor 5** does not warrant denial.” Pet., 73 (emphasis in original). The Board’s recent decisions say otherwise. *See, e.g., Samsung Elecs. Am., Inc. v. Collision Commc’ns, Inc.*, IPR2025-00011, 2025 WL 1221026, at *9 (PTAB Apr. 28, 2025) (agreeing with Patent Owner that “precedential PTAB authority holds that where the petitioner and the defendant in the parallel proceedings are the same party, Factor 5 favors denial.”); *CIPLA Limited v. Gilead Sciences, Inc.*, IPR2025-00033, Paper 22, p. 12 (PTAB May 15, 2025); *Arashi Vision (U.S.) LLC d/b/a Insta360 v. GoPro, Inc.*, IPR2025-00017, 2025 WL 1223981, at *6 (PTAB Apr. 28, 2025).

Thus, Factor 5 favors denial.

6. Factor 6 Favors Denial: The Merits of Linkplay’s Arguments Are Weak

Factor 6 favors denial because Linkplay’s invalidity grounds are objectively weak. *See, e.g., Innolux Corp. v. Phenix Longhorn LLC*, IPR2025-00043, Paper No. 10, p.13 (PTAB May 15, 2025) (finding weakness of petitioner’s arguments “determinative” “for application of [Board’s] discretion overall” to deny institution).

Sonos’s forthcoming Preliminary Patent Owner’s Response (“POPR”) more fully demonstrates the weak merits of the Petition, but the Petition’s (1) reliance on four separate grounds premised on two primary references, (2) heavy reliance on expert testimony to fill in the gaps of the primary references (*infra* §II.B.1), and (3) numerous legally deficient theories of invalidity evince the weakness of the Petition’s merits. Sonos provides a preview of the Petition’s deficiencies below and will provide a more fulsome explanation of why the Petition fails to show a reasonable likelihood of prevailing on any challenged claim in its POPR.

a. Brief Overview of the ’023 Patent

To offer some background, the ’023 Patent is directed to devices, methods, and computer-readable media for “smart line-in processing.” Ex.1001, 2:38-39. The ’023 Patent improved the technological capabilities of existing multi-source media systems by providing a solution for multi-source “playback devices” to intelligently switch between media sources based on specific criteria, thereby changing how multi-source media systems of the time previously operated to switch between media sources. *See, e.g., id.*, 2:42-56, 6:41-53, 7:13-24.

For instance, instead of a media system relying on a user to first instruct a given source to begin playing media and then receiving an instruction to switch the media system's input source to the given source, the claimed inventions of the '023 Patent allow a user to instruct a given line-in connected source to begin playing media, and the claimed "*playback device*"⁴ is equipped with technological capabilities to intelligently switch from playing media from a different source (e.g., an Internet music service) to playing media from that given line-in connected source. *See, e.g., id; see also, e.g., id.*, Claims 1, 8, 14. Importantly, the claimed "*playback device*" is configured to prioritize a line-in connected source for playback:

- [1.5-1.6][8.3-8.4][14.3-14.4] *while playing the second type of media content, determining that the playback device is receiving the first type of media content via a line-in connector; in response to determining that playback device is receiving the first type of media content [via the line-in connector], ceasing playback of the second type of media content and playing the first type of media content [via the line-in connector];*
- [1.8][8.6][14.6] *in response to determining that the playback device is no longer receiving the first type of media content, ceasing playback of the first type of media content and rearming the playback device so that subsequent receipt of the first type*

⁴ For clarity, claim language is presented herein in quotation marks and italics.

of media content [via the line-in connector] preempts playback of the second type of media content.

Id.

b. Ground 1 Lacks Merit: Barbe Does Not Anticipate Any Challenged Claim

In Ground 1, Linkplay’s assertion that Barbe anticipates every challenged claim (Pet., 11) falls flat for several clear reasons. Above all, Linkplay *concedes* that Barbe’s disclosed system is fundamentally different than the “*playback device*” recited in the challenged claims.

Critically, by Linkplay’s own characterization of the ’023 Patent, “the challenged claims recite automatically switching to a *priority input* when that priority input is detected.” Pet., 1 (emphasis added). Indeed, as previously discussed, the claimed “*playback device*” is configured to prioritize a specific source—namely, a line-in connected source—for playback.

In direct contrast, Linkplay’s expert— Dr. Hartpence—testifies that Barbe’s system is entirely different—it does not prioritize any particular source for playback, much less a line-in connected source. Instead, according to Dr. Hartpence, Barbe proposes a clearly distinguishable “automatic switching technique” “*without* making use of some frozen *priority* that is a function of a hierarchy specific to the various sources,” which “Barbe accomplishes [] by simply giving the highest priority to ‘*any* source that is beginning to send data..., with this implicitly being

representative of an intention of the user who has switched on an appliance.”

Ex.1003, ¶49 (*citing* Barbe, [0014], [0018]) (emphasis added). In this regard, Barbe’s solution simply switches to the ***most recent*** source instead of prioritizing a line-in connected source over another source, as required by the challenged claims. As such, Barbe (Ground 1) does ***not*** anticipate at least the following limitations recited in each independent claim:

- [1.5][8.3][14.3] *while playing the second type of media content, determining that the playback device is receiving the **first type of media content via a line-in connector**;*
- [1.6][8.4][14.4] *in response to determining that playback device is receiving the first type of media content, ceasing playback of the second type of media content and **playing the first type of media content [via the line-in connector]**; and*
- [1.8][8.6][14.6] *in response to determining that the playback device is no longer receiving the first type of media content, ceasing playback of the first type of media content and rearming the playback device so that **subsequent receipt of the first type of media content [via the line-in connector] preempts playback of the second type of media content.***

Ground 1 therefore lacks merit.

**c. Ground 2 Lacks Merit: Barbe Does Not Render
Obvious Dependent Claims 3-6, 10-12, 16-17**

In Ground 2, despite the plainly evident differences between Barbe’s solution and the challenged independent claims, Linkplay makes no effort to cure Barbe’s deficiencies as a purported anticipatory reference. For instance, critically, Linkplay does not contend that Barbe alone renders any limitation of the challenged independent claims obvious. *See* Pet., 14-28, 34-35, 37-38. That failure is dispositive because, in Ground 2, Linkplay relies on Barbe solely for the ***additional*** limitations in dependent claims 3-6, 10-12, and 16-17 without establishing obviousness of the underlying independent claims they depend on.

Moreover, Linkplay’s obviousness arguments as to dependent claims 3-6, 10-12, and 16-17 are conclusory and therefore legally insufficient. To establish *prima facie* obviousness Linkplay must “identify a reason that would have prompted a [POSITA] to combine the elements in the way the claimed new invention does.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). Accordingly, “a clear, evidence-supported account of the contemplated workings of the combination is a ***prerequisite*** to adequately explaining and supporting a conclusion that a [POSITA] would have been motivated to make the combination and reasonably expect success in doing so.” *Personal Web Techs., LLC v. Apple, Inc.*, 848 F.3d 987, 994 (Fed. Cir. 2017) (emphasis added).

Here, as detailed below, Linkplay fails to make even a *prima facie* showing of obviousness—at a minimum, it provides no explanation of how any proposed modification would work and why a POSITA would reasonably expect success in doing so:

- Pet., 29-30, 39 (Claims 3, 16: “To the extent this limitation is not disclosed, a POSITA would find it obvious to play media content on both loudspeaker units 12 and 14 in synchrony to enhance listener enjoyment and avoid echoes”);
- *Id.*, 31-32, 36, 39 (Claims 4, 10, 17: “To the extent this limitation is not disclosed, a POSITA would find it obvious to modify Barbe’s device to receive the second type of media content via the same Bluetooth connection from an Internet-accessible media source in order to provide users with the expansive media library that the Internet offers.”);
- *Id.*, 33, 36 (Claims 5, 11: “To the extent this limitation is not disclosed, a POSITA would find it obvious to configure loudspeaker 12 to send audio signals to more than one loudspeakers in the same way audio signals are sent to loudspeaker 14 to form a surround-sound home cinema system to enhance listener enjoyment.”);
- *Id.*, 34, 36 (Claims 6, 12: same as Claim 5).

These critical shortcomings are fatal to Ground 2.

d. Ground 3 Lacks Merit: Richenstein Does Not Anticipate Any Challenged Claim

In Ground 3, Linkplay’s reliance on Richenstein for anticipation is not well-founded. In short, Linkplay’s anticipation theory is a tangled web that is pieced

together with no fewer than **six** different Richenstein devices without a single Richenstein device disclosing each and every limitation of the independent claims. This alone dooms Ground 3. *C.f. Crown Operations Int'l, Ltd. v. Solutia Inc.*, 289 F.3d 1367, 1375 (Fed. Cir. 2002) (“A patent is invalid for anticipation when the **same** device or method, having **all** of the elements contained in the claim limitations, is described in a single prior art reference.”).

To unpack this further, Linkplay alleges that the following six Richenstein devices each individually amounts to the claimed “*playback device*”:

1. audio device 34 (Fig. 27);
2. headphones 14 (Figs. 1, 27);
3. computer 1142 (Fig. 26);
4. headphones 14 (Fig. 26);
5. speaker 1144 (Fig. 26); and
6. speaker 1146 (Fig. 26).

Pet., 43-44.

Linkplay characterizes these Richenstein devices into “two categories of *playback devices*: (1) those on the transmitting side that transmit audio data to another device, and (2) those on the receiving side that receive audio data from another device.” *Id.*, 42. Starting with this fractured premise—and instead of

mapping a single Richenstein device to each and every claim limitation—Linkplay’s anticipation theory relies on piecemeal mappings, assigning different Richenstein devices to different claim limitations, and in some instances, assigning multiple Richenstein devices *within* the same claim limitation.

As one example of this practice, each independent claim requires the claimed “*playback device*” to be configured to, “*while playing the second type of media content, determin[e] that the playback device is receiving the first type of media content via a line-in connector.*” See limitations [1.5][8.3][14.3]. But, Linkplay only alleges that two of the six Richenstein devices have a “*line-in connector*” by which it can receive media—namely, “audio device 34” and “computer 1142.” Pet., 52-53. Consequently, Linkplay’s reliance on the other four Richenstein devices—headphones 14 (Figs. 1, 27), headphones 14 (Fig. 26), speaker 1144 (Fig. 26), and speaker 1146 (Fig. 26)—is irrelevant, as they do not (and cannot) anticipate the independent claims. *Cf. Crown Operations*, 289 F.3d at 1375. And, as for the two Richenstein devices that purportedly include a “*line-in connector*,” Linkplay fails to allege that either one discloses all the remaining limitations of the independent claims.

For instance, the independent claims further require the claimed “*playback device*” to be configured to, “*after arming the playback device, play[] the second type of media content.*” See limitations [1.4][8.2][14.2]. But, Linkplay does not

allege that these two remaining Richenstein devices that purportedly include a “*line-in connector*”—“audio device 34” and “computer 1142”—are configured for “*playing the second type of media content.*” Rather, Linkplay relies exclusively on Richenstein devices that do **not** have a “*line-in connector*”—“headphones 14” and or “speakers 1144, 1146”—for that functionality. *See* Pet., 50 (asserting “audio device 34... sending audio data to ***headphones 14*** in a non-priority channel ***for playing*** according to a listener’s selection” and asserting, “while transmitting computer generated audio data to headphone 14 or speakers 1144, 1146, computer 1142 is also already capable of transmitting priority signals to these receiving devices ...”). This is not the only example.

To further illustrate, the table below exposes the defects in Linkplay’s anticipation analysis—highlighting in **red** each instance where Linkplay fails to mention which Richenstein device corresponds to a specific claim limitation. This fragmented approach leaves both Sonos and the Board guessing as to Linkplay’s invalidity theories, underscoring fundamental flaws in Linkplay’s anticipation analysis.

	Alleged Playback Device					
Independent Claim Limitations	audio device 34	headphones 14 (Fig. 27)	computer 1142	headphones 14 (Fig. 26)	speaker 1144	speaker 1146
[1.3] [8.1] [14.1]						
[1.4] [8.2] [14.2]						
after arming the playback device						
playing the second type of media content						
[1.5] [8.3] [14.3]						
while playing the second type of media content						
determining that the playback device is receiving the first type of media content						
via a line-in connector						
[1.6] [8.4] [14.4]						
[1.7] [8.5] [14.5]						
[1.8] [8.6] [14.6]						

Ground 3 therefore lacks merit.

e. Ground 4 Lacks Merit: Richenstein Does Not Render Any Claim Obvious

In Ground 4, Linkplay makes no attempt to remedy its fragmented Richenstein anticipation theory. For one, other than one conclusory statement with respect to the preamble (*see* Pet., 45), the Petition is devoid of any argument addressing obviousness in view of Richenstein for the independent claims. *See id.*, 45-56. Likewise, the Petition is devoid of any argument addressing obviousness in view of Richenstein for dependent claims 2-3, 5-7, 9, 11-13, and 15-16. *Id.*, 56-69. Accordingly, these critical shortcomings are dispositive to these challenged claims for Ground 4.

As to the remaining dependent claims 4, 10, and 17, Linkplay fails to make a *prima facie* showing of obviousness in view of Richenstein. *See supra* II.A.6.c. (discussing obviousness standard). At a minimum, the Petition offers no explanation of how the proposed modification would work and why a POSITA would have been

motivated to implement it with a reasonable expectation of success. *See id.*, 61, 67, 69 (Claims 4, 10, 17: “To the extent this limitation is not disclosed, a POSITA would find it obvious to replace portable MP3 player 45 with an Internet-accessible device as the media source to transmit audio data to audio device 34 using the same wireless transmission link shown in Fig. 27, in order to provide users with the expansive media library that the internet offers.”). Moreover, the proposed modification does not remedy the missing limitations in the independent claims, rendering it futile in obviating Richenstein’s deficiencies.

These critical shortcomings doom Ground 4.

7. Summary of *Fintiv* Factors

In summary, *Fintiv* factors 1, 2, 3, 5, and 6 favor denial, some of which weigh heavily toward denial, and factor 4 is, at best for Linkplay, neutral. Thus, when considered holistically, the *Fintiv* factors strongly favor denial.

B. Other Considerations Also Favor Discretionary Denial

The Workload Memo identifies additional considerations that the Director may consider for discretionary denial, including:

1. Whether the PTAB or another forum has already adjudicated the validity or patentability of the challenged patent claims;
2. Whether there have been changes in the law or new judicial precedent issued since issuance of the claims that may affect patentability;
3. The strength of the unpatentability challenge;
4. The extent of the petition’s reliance on expert testimony;

5. Settled expectations of the parties, such as the length of time the claims have been in force;
6. Compelling economic, public health, or national security interests; and
7. Any other considerations bearing on the Director's discretion.

Workload Memo, 2.

As explained below, several of these considerations further favor denial.

1. Linkplay's Heavy Reliance on Expert Testimony Favors Denial

As noted above, "[t]he extent of the petition's reliance on expert testimony" is a consideration set forth in the Workload Memo. Since that memo issued, the USPTO further explained the importance of "focused" expert testimony:

[E]xtensive reliance on expert testimony and/or reasonable disputes between experts on dispositive issues may suggest that the questions are better resolved in an Article III court... As the judges have technical and legal expertise, it is not necessary for an expert to explain every aspect of the prior art. It is most helpful if an expert is providing *focused* testimony, for example to provide helpful context or to explain terms of art. The failure to provide *focused* expert testimony may weigh against institution.

FAQs for Interim Processes for PTAB Workload Management, at #21 (published Apr. 25, 2025), <https://www.uspto.gov/patents/ptab/faqs/interim-processes-workload-management> ("FAQ #21") (emphasis added).

This consideration favors discretionary denial here for several reasons.

First, Linkplay relies extensively on the unfocused testimony of Dr. Hartpence. This testimony consists of 222 paragraphs spanning 119 pages and lacks the hallmarks of offering helpful context or explanation about terms of art. *See* Ex.1003.

Second, if instituted, this IPR will inevitably present “reasonable disputes between experts on dispositive issues” that are “better resolved in an Article III court.” FAQ #21. Indeed, Sonos’s forthcoming POPR will identify several flaws in the Petition (and by extension, Dr. Hartpence’s opinions), and if the Director institutes IPR, Sonos’s own expert plans to address the flaws in Dr. Hartpence’s analysis that dooms the Petition.

Third, instead of using expert testimony for helpful context or explaining terms of art, Linkplay uses Dr. Hartpence’s testimony as a crutch to supply limitations missing from its relied-on references and patch up clear shortcomings of its obviousness positions. *See, e.g.,* Pet., 30 (“[A] POSITA would find it obvious to play media content on both loudspeaker units 12 and 14 in synchrony to enhance listener enjoyment and avoid echoes.”), 31, 33, 34, 45, 61. Yet, Dr. Hartpence’s testimony is largely conclusory and merely echoes Linkplay’s Petition, which

renders it unhelpful.⁵ *E.g., compare* Pet., 8-39 (discussing Grounds 1-2) *with* Ex.1003, ¶48-56, 62-139 (discussing Grounds 1-2); *compare* Pet., 39-69 (discussing Grounds 3-4) *with* Ex. 1003, ¶57-60, 140-219.

Moreover, as with the Petition, Dr. Hartpence’s conclusory analysis (*see, e.g.,* Ex.1003, ¶111, 116, 121, 145, 197) is legally deficient at least because it fails to explain in sufficient detail **how** any proposed modification is supposed to work. *See Personal Web Techs.*, 848 F.3d at 994 (“[A] clear, evidence-supported account of the contemplated workings of the combination is a **prerequisite** to adequately explaining and supporting a conclusion that a relevant skilled artisan would have been motivated to make the combination and reasonably expect success in doing so.”) (emphases added).

Thus, in sum, Linkplay’s extensive reliance on unfocused expert testimony favors denial. The Board’s resources would be better allocated to other petitions more grounded in the substance of the prior art.

⁵ *See, e.g., TikTok Inc. v. NTech Properties, Inc.*, IPR2024-01339, 2025 WL 607860, at *7 (PTAB Feb. 25, 2025) (affording “conclusory” expert testimony “little or no weight”); *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, 2022 WL 3648989, at *7 (PTAB. Aug. 24, 2022) (precedential).

2. The Delaware Court Is Best Positioned to Apply Its Prior Claim Constructions

The Board is entitled to consider “[a]ny other considerations bearing on the Director’s discretion.” Workload Memo, 2. An additional consideration that weighs in favor of denial is that the Delaware Court is the best forum to apply its own claim constructions that the Board would otherwise have to apply here.

In this respect, the ’023 Patent claims priority back to the patent application that issued as U.S. Patent 8,938,312 (the “’312 Patent”). In connection with the ’312 Patent, several terms found in the challenged claims of the ’023 Patent were construed by the Delaware Court in *Sonos, Inc. v. D&M Holdings, Inc.*, 1:14-cv-01330-RGA (D. Del) (“D&M Litigation”). Linkplay purports to apply these constructions throughout the Petition. *See* Pet., 8.

However, the Delaware Court is the obvious choice for applying constructions of claim terms that it previously construed and applied to Sonos’s patents in the D&M Litigation, which ultimately ended in a jury verdict in favor of Sonos. This holds particularly true given that Judge Ranjan made clear that he intends to utilize the “forms and orders” of Judge Andrews (Ex.2114), who issued the *Markman* Order in the D&M Litigation. *See* Ex. 1006. Further, several terms found in the challenged claims that were previously construed by the Delaware Court are found in other of the patents asserted against Linkplay aside from the ’023 Patent, including “*playback device*” and “*network interface*.” Having the Delaware Court oversee the application

of its constructions in connection with the '023 Patent, as well as the other asserted patents, will help mitigate potential inconsistencies that may result in the Board analyzing the Delaware Court's claim constructions.

3. Risk of Competing Constructions Favors Denial

Somewhat related to the last consideration, another additional consideration that weighs in favor of denial is that Linkplay has indicated its intent to dispute some of the Delaware Court's prior constructions on which the Petition rests, which presents the risk of competing constructions for the same terms of the '023 Patent.

For example, the Petition purports to apply the Delaware Court's prior construction for the term "*line-in connector*." See Pet., 8. For that term, the Delaware Court rejected D&M's attempt to limit "*line-in connector*" to a specific type of analog connector. See Ex.1006, 20-21. In construing the term to have its plain and ordinary meaning, the Delaware Court explained that Sonos had not disclaimed from the scope of "*line-in connector*" any "digital inputs." See *id.* Recently, however, Linkplay has indicated that the Delaware Court's construction for "*line-in connector*" is incorrect, and the term should instead be construed as "wired, analog input connector." Ex.2115, 27.

Because the Petition defines the IPR proceeding (*VLSI Tech. LLC v. Intel Corp.*, 53 F.4th 646, 654 (Fed. Cir. 2022)), if Linkplay is successful in changing the Delaware Court's construction for "*line-in connector*," there would be two

proceedings progressing in parallel involving that same claim term under different constructions. This would be highly inefficient and prejudice Sonos because Linkplay would be able to “have its cake and eat it too.” For instance, Linkplay would proceed before the Delaware Court with a narrow construction for purposes of non-infringement and proceed here under a broader construction for purposes of invalidity—this is necessary for Linkplay at least for its Richenstein grounds that discloses digital inputs (*see, e.g.*, Ex.1004, ¶40, 43). This would be improper and wasteful.

Accordingly, Linkplay’s own claim construction strategy before the Delaware Court weighs in favor of denial.

4. Economic and National Interests Favor Denial

The Board can consider “[c]ompelling economic, public health, or national security interests.” Workload Memo, 2. Economic and general national interests favor denial here.

In this respect, Sonos is an American success story. Founded in 2002 in Santa Barbara, Sonos essentially created the modern-day “multiroom” market and has been routinely lauded for the technological innovations it has created along the way. Sonos has diligently protected that innovation and amassed a U.S. patent portfolio that is ranked amongst the most powerful in consumer electronics. *See* Ex.2116, 3 (ranking Sonos’s patent portfolio #6 in consumer electronics).

Linkplay is a Chinese company (*see* Pet., 73) that is piggybacking off of two decades' worth of innovation that Sonos has invested tremendously in. By doing so, Linkplay is able to undercut Sonos's prices and erode sales that would otherwise go to Sonos, thereby undermining the economics of Sonos continuing to invest in innovation and grow its U.S. patent portfolio. This is a common trend among Chinese companies vis-à-vis an American innovator. *See, e.g.*, Ex.2117 (Chairman of Subcommittee on Courts, Intellectual Property, and the Internet stating, "[t]o put it simply: China is stealing what is ours while at the same time availing themselves of the legal and regulatory protections – and ownership of intellectual property – that America created in the name of respect for the rule of law."), Ex.2118 ("The C[hinese] C[ommunist] P[arty] seeks to damage or destroy the value of the IP of U.S. businesses, thereby inflicting economic harm to the U.S., while simultaneously enabling Chinese firms to profit from the theft of that IP.") Denying institution would prevent foreign entities, like Linkplay, from exploiting the American legal system through duplicative and unnecessary parallel litigation.

5. Summary of Additional Considerations

In sum, at least four additional considerations weigh in favor of denial.

III. CONCLUSION

Sonos respectfully submits that discretionary denial is warranted here. Given Linkplay's unexcused delay in filing its Petition, many of the *Fintiv* factors favor

denial, and the Petition's weak merits leave no doubt that denial is proper. Yet, even more considerations beyond *Fintiv* are present here that weigh strongly in favor of denial.

Respectfully submitted,

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Dated: June 11, 2025

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CERTIFICATE OF WORD COUNT

The undersigned certifies that the foregoing PATENT OWNER’S REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION complies with the type-volume limits in 37 C.F.R. § 42.24(b)(1). According to the utilized word-processing system’s word count, this paper—excluding the caption, table of contents, table of exhibits, certificate of word count, and certificate of service—contains 8,421 words.

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