

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SANDISK TECHNOLOGIES, INC. AND
WESTERN DIGITAL TECHNOLOGIES, INC.,
Petitioners

v.

POLARIS POWERLED TECHNOLOGIES, LLC,
Patent Owner

Case IPR2025-00516
U.S. Patent No. 8,601,346

**PATENT OWNER POLARIS POWERLED TECHNOLOGIES, LLC'S
BRIEF ON DISCRETIONARY DENIAL**

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PATENT OWNER'S EXHIBIT LIST

Exhibit No.	Description
2001	List of Docket Entries, <i>Polaris PowerLED Techs., LLC v. Western Digital Corp. et al.</i> , 1-24-cv-00101 (W.D. Tex.)
2002	List of Docket Entries, <i>Polaris PowerLED Techs., LLC v. Western Digital Corp. et al.</i> , 2-24-cv-02864 (C.D. Cal)
2003	List of Docket Entries, <i>Micron Technology Inc. et al. v. Polaris PowerLED Techs., LLC</i> , 1-25-cv-00073 (D. Idaho)
2004	Scheduling and Case Management Order, <i>Polaris PowerLED Techs., LLC v. Western Digital Corp. et al.</i> , 2-24-cv-02864 (C.D. Cal Jan. 27, 2025), ECF No. 54
2005	Western Digital's Notice of Motion and Motion to Stay Action Pending <i>Inter Partes</i> Review, <i>Polaris PowerLED Techs., LLC v. Western Digital Corp. et al.</i> , 2-24-cv-02864 (C.D. Cal Feb. 3, 2025), ECF No. 58
2006	Minute Order, <i>Polaris PowerLED Techs., LLC v. Western Digital Corp. et al.</i> , 2-24-cv-02864 (C.D. Cal Feb 3, 2025), ECF No. 59
2007	Plaintiff's Opposition to Motion to Stay, <i>Polaris PowerLED Techs., LLC v. Western Digital Corp. et al.</i> , 2-24-cv-02864 (C.D. Cal Feb. 10, 2025), ECF No. 60
2008	Patent L.R. 3-3 and 3-4 Invalidity Disclosures of Western Digital Defendants, <i>Polaris PowerLED Techs., LLC v. Western Digital Corp. et al.</i> , 2-24-cv-02864 (C.D. Cal), ECF No. 60-3 and Appendices A-C of the Invalidity Disclosures
2009	Defendants' Identification of Claim Terms for Construction, <i>Polaris PowerLED Techs., LLC v. Western Digital Corp. et al.</i> , 2-24-cv-02864 (C.D. Cal), ECF No. 60-4
2010	Stipulated Protective Order, <i>Polaris PowerLED Techs., LLC v. Western Digital Corp. et al.</i> , 2-24-cv-02864 (C.D. Cal), ECF No. 61

Exhibit No.	Description
2011	Western Digital's Reply in Support of Motion to Stay Action Pending <i>Inter Partes</i> Review, <i>Polaris PowerLED Techs., LLC v. Western Digital Corp. et al.</i> , 2-24-cv-02864 (C.D. Cal Feb. 14, 2025), ECF No. 62
2012	USPTO Appeal Statistics (Mar. 31, 2025), <i>available at</i> https://www.uspto.gov/patents/ptab/statistics
2013	Patent Trial & Appeal Board (PTAB) Dashboard, <i>available at</i> https://www.uspto.gov/dashboard/ptab/
2014	Press Release: SanDisk Celebrates Nasdaq Listing After Completing Separation from Western Digital (Feb. 24, 2025), <i>available at</i> https://shop.sandisk.com/company/newsroom/press-releases/2025/sandisk-celebrates-nasdaq-listing-after-completing-separation
2015	Defendants' Identification of Claim Terms for Construction (Apr. 18, 2025), <i>Polaris PowerLED Techs., LLC v. Western Digital Corp. et al.</i> , 2-24-cv-02864 (C.D. Cal. Feb. 10, 2025)

I. INTRODUCTION

The Board should exercise its discretion under 35 U.S.C. § 314(a) and *Fintiv* to deny institution of this *inter partes* review (IPR) because the same parties are in advanced stages of litigating the validity of this patent in district court. The district court trial is scheduled for June 16, 2026—more than two months *before* the Board’s projected deadline for issuing a final written decision. Litigating the same issues at the Board would therefore be duplicative and contrary to the intent of IPRs for “providing a more efficient system for challenging patents” and “reducing unwarranted litigation costs.” H.R. Rep. No. 112-98 at 39-40 (2011); *see also NHK Spring Co. Ltd. v. Intri-Plex Techs., Inc.*, IPR2018-00752, Paper 8 at 19-20 (P.T.A.B. Sept. 12, 2018) (precedential).

Other considerations also strongly favor discretionary denial. For example, Petitioners have not agreed to a *Sotera* stipulation or identified any reason why instituting an IPR would reduce the number of issues litigated in district court. Since the district court trial is already scheduled and instituting an IPR would not improve judicial efficiencies, the Board should deny institution and focus its limited resources on other pending cases at the Board.

II. THE BOARD SHOULD DENY INSTITUTION UNDER § 314(a).

A. The *Fintiv* factors favor discretionary denial.

When the patent owner raises an argument for discretionary denial due to an earlier trial date in a co-pending litigation, the Board weighs the following factors:

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.

Apple Inc. v. Fintiv, Inc., IPR2020-00019, Paper 11 at 5-6 (P.T.A.B. Mar. 20, 2020) (precedential) ("*Fintiv*"). These factors, when considered as a whole, support *denying* institution. Factor 1 is neutral, factors 2-6 all weigh in favor of denial, and no factor weighs against exercising the Board's discretion to deny institution.

1. Factor 1 is, at worst, neutral because there is no evidence a stay order will be granted in the district court.

Under the first factor, if the district court stays the case or provides guidance that it will stay the case and await the Board's final resolution of the patentability issues, this fact usually weighs against exercising authority to deny institution. *Fintiv*, 7. However, here, the district court has not provided such guidance and issued a scheduling order to continue through trial. EX2004.

Actions in the district court indicate that a stay is *not* imminent because the case is moving faster than initially scheduled. On January 27, 2025, the district

court issued its scheduling and case management order, which set the deadlines to file infringement contentions and invalidity contentions as February 18, 2025, and April 4, 2025, respectively. EX2004, 26. After Western Digital filed a motion to stay the case (EX2005), the parties decided to advance the case by jointly stipulating to serve, before they were due, amended infringement and invalidity contentions. EX2006.

The amended infringement and invalidity contentions were served early to resolve a discovery dispute over the scope of accused products. Polaris's initial infringement contentions, served in October 2024, accused all Western Digital and SanDisk solid-state drive products from 2018 onward supporting NVMe, among other features, and included a list of exemplar product lines. Western Digital challenged the sufficiency of these contentions, arguing they lacked adequate detail for products beyond WD Black-branded SSDs, and consequently limited its discovery production to only those SSDs. To break this impasse and advance discovery on the full scope of accused products, Polaris prepared and sent proposed amended infringement contentions to Western Digital. These amended contentions included significantly expanded claim charts, reflecting a substantial increase in detail about exemplary SSD product lines. Polaris maintained that its initial contentions were sufficient and compliant with applicable rules, and the amended contentions were offered to address Western Digital's concerns and

resolve the dispute amicably. Western Digital acknowledged that the proposed amended contentions addressed its concerns about detail but conditioned its agreement to Polaris' service of these contentions on Polaris allowing Western Digital to serve amended invalidity contentions. Western Digital claimed its December 2024 invalidity contentions inadvertently omitted certain details and sought to amend them. After negotiations, the parties reached an agreement and submitted a stipulation to the Court on February 3, 2025. That same day, the Court approved the stipulation, permitting both Polaris' amended infringement contentions and Western Digital's amended invalidity contentions. As ordered, the parties exchanged the amended infringement and invalidity contentions early.

The parties also exchanged proposed terms for construction earlier than required. EX2002 (deadline for exchange April 18, 2025); EX2009 (identification of claim terms served on January 24, 2025). Such proactive measures show that the district court case is advancing according to schedule (if not faster).

Western Digital's motion to stay the district court case (EX2005) is still pending, but there is no indication that the court will grant the motion. In fact, the district court canceled the hearing on the motion. EX2002, ECF No. 63. And the court has denied motions to stay in cases—like this one—where the defendant waited almost a year after it was served with a complaint to file an IPR petition. Order Denying Defendant Skechers U.S.A., Inc.'s Motion to Stay Pending *Inter*

Partes Review at 2, *Nike, Inc. v. Skechers U.S.A., Inc.*, 2-19-cv-9230 (C.D. Cal Dec. 30, 2020), ECF No. 82 (“Defendant waited almost a year after it was served with the Complaint to file its IPR petitions. Defendants’ delay in filing its IPR petitions also weighs against granting a stay.”) (citation omitted); Order Denying Defendant’s Motion to Stay at 5, *Jiaying Super Lighting Elec. Appliance Co., Ltd. et al. v. MaxLite, Inc.*, 2-19-cv-4047 (C.D. Cal June 17, 2020), ECF No. 73 (“Such a delay cuts against granting a stay because ‘courts expect accused infringers to evaluate whether to file, and then to file, IPR petitions as soon as possible after learning that a patent may be asserted against them.’”) (citation omitted).

Regardless of Western Digital’s arguments in favor of a stay (EX2005, EX2011), there is no specific evidence that the district court will stay the case. “In the absence of specific evidence, [the Board] will not attempt to predict how the district court in the related district court litigation will proceed because the court may determine whether or not to stay any individual case . . . based on a variety of circumstances and facts beyond [the Board’s] control and to which the Board is not privy.” *Sand Revolution II, LLC v. Continental Intermodal Group – Trucking LLC*, IPR2019-01393, Paper 24 at 7 (P.T.A.B. June 16, 2020) (informative). The first *Fintiv* factor is therefore, at worst, neutral. *Id.*; *Fintiv*, 6-9.

2. Factor 2 favors discretionary denial because the district court’s trial date is scheduled to occur before the projected final written decision.

The second factor weighs in favor of denying institution because the district court’s scheduled trial date is before the Board’s projected statutory deadline. *See Fintiv*, 9. The district court scheduled trial for June 16, 2026. EX2004, 25. This trial date is *before* the Board’s projected final written decision. Polaris’s POPR is due May 27, 2025.¹ An institution decision is then due August 27, 2025. 35 U.S.C. § 314(b). If instituted, that timeline would make the final written decision due August 27, 2026—more than two months *after* the district court’s trial date. 35 U.S.C. § 316(a)(11). “If the court’s trial date is earlier than the projected statutory deadline, the Board generally has weighed this fact in favor of exercising authority to deny institution” *Fintiv*, 9. In *Fintiv*, a scheduled district court trial date two months before the projected final written decision—a similar timeframe—weighed in favor of discretionary denial. *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 15 at 13 (P.T.A.B. May 13, 2020) (informative) (“*Fintiv II*”).

Petitioners’ statistical-based argument for a 2027 trial date is no longer

¹ The POPR is due three months after the February 26th Notice of Filing Date. 37 C.F.R. § 42.107(b). May 26th is a Federal holiday, which makes the POPR due the next business day. 37 C.F.R. § 1.7(a).

relevant. In the petition, Petitioners projected a trial date in January 2027 based on the median time-to-trial for civil cases in the Central District of California. Pet., 77 n.1 (citing EX1016). But after Petitioners filed the petition, the court scheduled trial for June 16, 2026. EX2004, 25. Nothing in the district court record indicates that the court intends to deviate from this schedule. To the contrary, the court stated that this date was “firm.” EX2004, 1.

The second *Fintiv* factor therefore weighs in favor of discretionary denial as it did in *Fintiv*. *Fintiv*, 9; *Fintiv II*, 13.

3. Factor 3 favors denial because the parties have already invested substantial resources in the parallel proceedings.

Under the third *Fintiv* factor, “[t]he Board also has considered 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*.” *Fintiv*, 9 (emphasis added). The deadline for issuing an institution decision is August 27, 2025. *Supra* Section II.A.2. By this date, substantial work will have already been done, including final invalidity contentions, all discovery and briefing for claim construction, and the Markman hearing. This heavy investment by the parties and the district court favors denial of institution. *Fintiv*, 9-12.

Work Performed to Date:

- January 30, 2024: Polaris filed a complaint for patent infringement in the Western District of Texas. EX2001, ECF No. 1.

- April 9, 2024: Polaris re-filed the case in the Central District of California to resolve a threatened motion to transfer. EX2002, ECF No. 1. Polaris dismissed its Western District of Texas (W.D. Tex.) case on April 5, 2024, and refiled in the Central District of California (C.D. Cal.) on April 9, 2024, at Western Digital's suggestion, to resolve a venue dispute and avoid related motion practice costs. Western Digital proposed a stipulated dismissal without prejudice for transfer to C.D. Cal. because Western Digital argued that W.D. Tex. was an improper venue.
- June 21, 2024: Polaris filed an amended complaint. EX2002, ECF No. 40. The complaint included claim charts detailing alleged infringement of claims 1–3, 5-8, 10, 11, and 14-16 of the '346 patent. *See* EX2002, ECF No. 40-6.
- October 2, 2024: Polaris served its first sets of requests for production and interrogatories. *See* EX2007, *22.
- October 2, 2024: Polaris served its initial infringement contentions and accompanying document production. *See* EX2007, *22. The initial infringement contentions again identified the asserted claims. EX2008, *3.
- June 5, 2024: Western Digital filed answers to the amended complaint. EX2002, ECF Nos. 43-45.
- November 1, 2024: Western Digital responded to requests for production. *See* EX2007, *22.
- November 22, 2024: Western Digital responded to interrogatories. *See* EX2007, *22.
- December 16, 2024: Western Digital served invalidity contentions and accompanying document production. EX2008. The contentions charted 10 references for the '346 patent, cited numerous other references, and cited product art from different companies. *Id.*, *17-20. The contentions also analyze the motivation to combine for different combinations. *Id.*, *20-26. They also provide contentions under §§ 101 and 112. *Id.*, *26-32. In total, the invalidity contentions comprise over 3,000 pages. *See* EX2007, *22.
- January 24, 2025: Western Digital identified terms for construction, including eleven terms for the '346 patent. EX2009.

- February 4, 2025: Polaris had served amended infringement contentions that identified the asserted claims again. *See* EX2007, *22.
- February 6, 2025: Western Digital served amended invalidity contentions. *See* EX2007, *22.
- February 11, 2025: The court ordered entry of the protective order. EX2010.
- April 18, 2025: Western Digital served Defendants' Identification of Claim Terms for Construction, which this time included four terms for the '346 patent. EX2015, *3-4.

Additional Work To Be Completed Before the Institution Decision (EX2004, 26):

- May 9, 2025: Preliminary Claim Constructions and Extrinsic Evidence Due
- May 24, 2025: Damages Contentions Due
- June 3, 2025: Joint Claim Construction, Prehearing Statement, and Expert Reports on Claim Construction Due
- June 23, 2025: Responsive Damages Contentions Due
- July 28, 2025: Deadline to Amend Pleadings or Add Parties
- July 3, 2025: Claim Construction Discovery Cutoff
- July 18, 2025: Claim Construction Opening Briefs Due
- July 23, 2025: Damages Contentions Meeting Deadline
- August 1, 2025: Claim Construction Responsive Briefs Due
- August 8, 2025: Claim Construction Reply Briefs Due
- August 22, 2025: Markman Hearing

For the work scheduled between filing this brief and the deadline of the institution decision, the district court has stated that “[t]hese dates and requirements are firm.” EX2004, 1. Based on the level of investment and effort

already expended on claim construction and invalidity contentions in the district court, this factor weighs in favor of discretionary denial. *Fintiv II*, 14.

Under *Fintiv* factor 3, the Board also considers whether the petitioner could have filed the petition more expeditiously to avoid unnecessary investment by the parties and the court. *Fintiv*, 11. “[I]f the petitioner cannot explain the delay in filing its petition, these facts have favored denial.” *Fintiv*, 12; *Next Caller Inc. v. TRUSTID, Inc.*, IPR2019-00961, Paper 10 at 16 (P.T.A.B. Oct. 16, 2019) (weighing the petitioner’s unexplained delay in filing the petition in favor of denial and noting that had the petitioner filed the petition earlier, the PTAB proceeding may have resolved the issues before the district court).

Here, Petitioners could have filed the IPR petition well before substantial work started in the district court case. Western Digital Technologies, Inc. was first served with a complaint alleging infringement of the ’346 patent on January 30, 2024. EX2001 at ECF No. 1.² Polaris first identified the asserted claims on June

² The litigation was originally filed in the Western District of Texas on January 30, 2024, as Case No. 1:24-cv-00101, but refiled in the Central District of California on April 9, 2024. The one-year time bar for filing an IPR petition is tied to the filing of the first case. *Click-To-Call Techs., LP v. Ingenio, Inc.*, *Yellowpages.Com, LLC*, 899 F.3d 1321, 1328 n.3 (Fed. Cir. 2018) (*en banc*),

21, 2024, in its amended complaint, and then again on October 2, 2024, in its initial infringement contentions. *See* EX2002, ECF No. 40-4; EX2008, *3. So Western Digital first had notice of the asserted claims in June 2024. Rather than filing a petition in the early stages of the case after knowing the asserted claims, Petitioners waited *for about seven months* and filed the petition in the last possible week after substantial work ensued. Petitioners did not explain this lengthy delay in the Petition. This inexcusable delay makes factor 3 weigh even more in favor of denying institution. *Next Caller*, IPR2019-00961, Paper 10 at 16. It also makes a stay less likely. *Supra* Section II.A.1.

4. Factor 4 favors denial because there is substantial overlap between the IPR grounds and the invalidity contentions in the district court case.

The fourth *Fintiv* factor—overlap between issues raised in the petition and in the parallel proceeding—favors denying institution. “[I]f the petition includes the same or substantially the same claims, grounds, arguments, and evidence as presented in the parallel proceeding, this fact has favored denial.” *Fintiv*, 12. “Conversely, if the petition includes materially different grounds, arguments, and/or evidence than those presented in the district court, this fact has tended to weigh against exercising discretion to deny institution” *Id.*, 12-13.

vacated on other grounds.

Petitioners have relied on the same references in this IPR as the references in its invalidity contentions, showing that parallel proceedings would result in substantial overlap and duplicative work. The IPR grounds include four references: (1) U.S. Patent Application Pub. No. 2011/0078496 to Jeddeloh; (2) U.S. Patent No. 5,950,225 to Kleiman; (3) U.S. Patent No. 8,341,332 to Ma *et al.*; and (4) U.S. Patent No. 5,787,460 to Yashiro *et al.* Pet., 15-16. The top three claim charts in Western Digital’s invalidity contentions (A1, A2, and A3) rely on the same references in ground 1, as shown below. The only reference not in Western Digital’s invalidity contentions (Yashiro) is used only for claims 4 and 17, which are not asserted in district court. *See* Pet., 15-16; EX2008, *3.

Claim Charts in the Invalidity Contentions

Claim Chart	Reference
Chart A1	U.S. Patent Application Pub. No. 2011/0078496 to Jeddeloh
Chart A2	U.S. Patent No. 5,950,225 to Kleiman
Chart A3	U.S. Patent No. 8,341,332 to Ma <i>et al.</i>

Western Digital’s invalidity contentions rely on additional references (EX2008, *17-18), but “Petitioner’s assertion of additional invalidity contentions in the District Court is not relevant to the question of the degree of overlap for this factor.” *Fintiv II*, 15. “[B]ecause the identical claims are challenged based on the

same prior art in both the Petition and in the District Court, this factor weighs in favor of discretionary denial in this case.” *Id.*

Western Digital has also not submitted any stipulation limiting the art that it can present at trial, which indicates that it intends to raise the same invalidity positions in district court. *See Sand Revolution II*, IPR2019-01393, Paper 24 at 12 (“Petitioner’s stipulation, however, mitigates to some degree the concerns of duplicative efforts between the district court and the Board, as well as concerns of potentially conflicting decisions.”); *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 (P.T.A.B. Dec. 1, 2020) (precedential as to II.A) (“such a broad stipulation better addresses concerns of duplicative efforts and potentially conflicting decisions in a much more substantial way.”). Even if Western Digital were to submit a stipulation, it is too late—the Board’s discretionary panels should consider stipulations only if they are filed with sufficient time for a patent owner to address the impact of the stipulation in its discretionary denial brief. *See* FAQs for Interim Process for PTAB Workload Management, FAQ14; PTAB Boardside Chat on Interim Process for PTAB Workload Management (Apr. 17, 2025) (petitioners “*must*” file a stipulation within one month of the notice of filing date for consideration). Petitioners have had ample time to file a stipulation and have chosen not to. Factor 4 weighs in favor of denial on this basis alone.

Factor 4 also weighs in favor of denial because Western Digital relies on

system prior art in its invalidity contentions, which prevents this case from being a “true alternative” to the district court proceeding. *Cf. Motorola Solutions, Inc. v. Stellar, LLC*, IPR2024-01205, Paper 19 at 3-4 (P.T.A.B. Mar. 28, 2025). In *Motorola*, the Director denied institution under 35 U.S.C. § 314(a) because “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” *Id.*, 4.³ Similar here, Western Digital’s invalidity contentions include combinations of the asserted art with system prior art. *See* EX2008, *18-20 (relying on system prior art from numerous companies). For example, Western Digital has alleged invalidity based on: “Micron Technology, Inc. products embodying US Patent Application Publication No. 2011/0078496 to Jeddeloh;” “Super Talent Electronics, Inc. products embodying US Patent No. 8,341,332 to Ma;” and “Network Appliance, Inc. (also known as NetApp, Inc.) products embodying US Patent No. 5,950,225 to Kleiman.”

³ In *Motorola*, the Director suggested that the petitioner’s stipulation “is not likely to moot” a combination of prior art asserted in the IPR proceeding and system prior art. *Motorola*, IPR2024-01205, Paper 19 at 4. Patent Owner takes no position whether a *Sotera* stipulation is not likely to moot such a combination of prior art. Regardless, Petitioners have not offered such stipulations here.

EX2008, *18-19. Accordingly, this IPR would not be a “true alternative” to the district court case but instead litigate the same or (at best) substantially similar invalidity grounds.

The risk of duplicative litigation is even higher here because Western Digital Corporation is not a named petitioner, RPI, or privy, and may still try to raise the identical invalidity positions in the district court case. Petitioners appear to have strategically omitted the defendant Western Digital Corporation—the parent corporation of Western Digital Technologies, Inc.⁴—from the petition to evade estoppels.⁵ When Polaris raised this issue in briefing in the district court case

⁴ If the Board determines that Western Digital Corporation is an unnamed real party in interest or privy of Petitioners, Petitioners’ gamesmanship favors denying institution. *See* 35 U.S.C. §§ 312(a)(2).

⁵ Estoppels under 35 U.S.C. § 315(e)(2) apply only to a petitioner, real party in interest, or privy of the petitioner. Western Digital Corporation is not a petitioner, and is not listed as an RPI or privy of the petitioner. So Western Digital Corporation appears to be reserving an argument that it is not estopped in district court from raising the same grounds presented in the IPR, which further demonstrates that this IPR is not a “true alternative” to litigating validity before the district court.

(EX2007, *16), Western Digital Corporation tried to cure the issue by agreeing to estoppels. EX2011, *5. But it did so conditionally, stating: “[S]hould a stay be granted, Western Digital Corporation agrees to be bound under 35 U.S.C. § 315(e)(2).” *Id.* (emphasis added). If the court does not grant a stay, Western Digital Corporation could try to litigate the same grounds in district court.

For these reasons, the fourth *Fintiv* factor weighs strongly in favor of denying institution. *Fintiv*, 12. This inefficiency and duplication of efforts is precisely what the Board’s discretionary authority is intended to prevent. *NHK Spring*, IPR2018-00752, Paper 8 at 19-20; H.R. Rep. No. 112-98 at 39-40 (2011). And the Board should not permit Western Digital Corporation’s gamesmanship.

5. Factor 5 favors denial because the parties in the IPR overlap with the parties in the district court litigation.

Under the fifth *Fintiv* factor, “[i]f a petitioner is unrelated to a defendant in an earlier court proceeding, the Board has weighed this fact against exercising discretion to deny institution” *Fintiv*, 13-14. But here, both of the Petitioners are or are related to a defendant in the co-pending litigation. Western Digital Technologies, Inc. is a defendant in the litigation. SanDisk Technologies, Inc. is a related party and real party in interest because it was owned by Western Digital as of the filing date of the petition. *See* EX2014 (announcing on February 24, 2025 its separation from Western Digital); Pet., 80 (“The real parties-in-interest (‘RPI’) are SanDisk Technologies, Inc. and Western Digital Technologies, Inc.

(‘Petitioner’).”). Even if SanDisk were unrelated to a defendant, “if the issues are the same as, or substantially similar to, those already or about to be litigated, or other circumstances weigh against redoing the work of another tribunal, the Board may, nonetheless, exercise the authority to deny institution.” *Fintiv*, 14.

This factor therefore weighs in favor of denial. *Fintiv*, 13-14. And, if the Board deems SanDisk unrelated, it should still deny institution. *Id.*

6. Factor 6 favors denial, but Polaris will raise its merits arguments in the POPR.

Under the sixth *Fintiv* factor, the Board may consider other circumstances that impact the Board’s exercise of discretion, including the merits. *Fintiv*, 14-15. Polaris’s merits arguments will be in its Patent Owner Preliminary Response (POPR), which will explain why the grounds fail to disclose the claim elements. The Director should consider these arguments when determining whether to exercise its discretion to deny institution under 35 U.S.C. § 314(a). *See* FAQs for Interim Process for PTAB Workload Management, FAQ8 (“The Director will receive each . . . POPR”), FAQ12 (“the Director will consider the merits in the merits briefing if the parties ask the Director to do so.”).

B. Other considerations also favor discretionary denial.

The Board’s Memorandum on the Interim Process for PTAB Workload Management presents additional considerations for discretionary denial, including:

Whether the PTAB or another forum has already adjudicated the validity or patentability of the challenged patent claims;

Whether there have been changes in the law or new judicial precedent issued since issuance of the claims that may affect patentability;

The strength of the unpatentability challenge;

The extent of the petition's reliance on expert testimony;

Settled expectations of the parties, such as the length of time the claims have been in force;

Compelling economic, public health, or national security interests; and

Any other considerations bearing on the Director's discretion.

Interim Processes for PTAB Workload Management at 2 (Mar. 26, 2025). There are several considerations that weigh in favor of discretionary denial here.

1. Instituting an IPR would not reduce the number of issues for the judge and jury to decide in the district court case.

The Board should also deny institution because the Petitioners have not explained how instituting an IPR would reduce the number of issues adjudicated by the district court judge and decided by a jury. For example, Petitioners have not represented or indicated that they would present fewer references or grounds to the jury if an IPR is instituted. Instead, Western Digital's extensive 3,000-page invalidity contentions show the opposite—that it will present as many grounds and references to the jury as the court allows. In the invalidity contentions, Western Digital charted ten references for the '346 patent. EX2008, *17-18. It also served a list of approximately **140** different "References and Exemplary Combinations of

References” for the ’346 patent that it reserves the right to present to the jury.

EX2008 (Appendix A).

Western Digital also cited product art from numerous companies. EX2008, *18-20. Even if the three references in the petition were removed from the candidate pool (EX1005, EX1006, EX1007), Western Digital would still have many references to combine with product art. *See* 35 U.S.C. § 315(e) (estoppels do not apply to product prior art). Instituting an IPR would therefore not reduce the number of references or grounds but instead merely shift which references and grounds the defendants decide to present to the jury.

Instituting an IPR would also not resolve other invalidity theories such as Western Digital’s arguments under 35 U.S.C. §§ 101 and 112. “Where the petitioner is relying on corresponding system art in a co-pending proceeding *and/or several other invalidity theories*, a stipulation may not be particularly meaningful because the efficiency gained by any AIA proceeding will be limited.” FAQs for Interim Process for PTAB Workload Management, FAQ14 (emphasis added). Western Digital has raised, and is continuing to pursue, other invalidity theories under § 101 and § 112. EX2008, *26-32. Since these invalidity theories cannot be resolved in an IPR (35 U.S.C. § 311(b)), instituting an IPR would not resolve all the invalidity defenses at issue in the district court case and therefore not serve as a “true alternative” to the district court proceeding. *Motorola*,

IPR2024-01205, Paper 19 at 3-4.

Instituting an IPR would also not reduce issues for claim construction. In the IPR, Petitioners proposed a construction for only one term: “without storing each data block in a data buffer.” Pet., 12-15. Western Digital initially identified this term in the district court for construction (EX2009, *4), but it has subsequently dropped the term. EX2015, *3-4. The Board’s resolution of a dispute about the term would therefore not reduce the claim-construction issues for the district court. Additionally, Petitioners in the IPR alleged that the other terms should be construed according to their ordinary and customary meaning. Pet., 12. However, Western Digital in the district court has identified four other terms of the ’346 patent for construction. EX2015, *3-4. Since the grounds do not address any of the constructions the defendants intend to present in the district court, it is unclear how instituting an IPR would help the district court resolve these disputes. To the contrary, instituting an IPR may complicate claim construction issues because Petitioners appear to be taking inconsistent positions—ordinary and customary meaning for terms in the IPR but more narrow constructions in the district court, including indefiniteness.

2. The expert declaration does not provide adequate, independent analysis that should accompany a petition.

When deciding whether to deny institution under § 314(a), the Board should also consider the substantial overlap between the petition and the expert

declaration. When the declaration “merely repeats, *verbatim*, the conclusory assertion for which it is offered to support” and “does not cite to any additional supporting evidence or provide any technical reasoning to support [the] statement,” the testimony is entitled to little weight. *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 at 15 (P.T.A.B. Aug. 24, 2022) (precedential); *see also* 37 C.F.R. § 42.65(a) (“Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.”).

Petitioners submitted a declaration by Dr. Paul Min to support the arguments in the petition. But like the expert declaration in *Xerox*, Dr. Min’s declaration merely repeats, *verbatim*, conclusory assertions in the petition. He does not provide additional technical reasoning to support many of the substantive statements.

Some examples of Dr. Min’s repeating the petition (or vice versa) are provided below. Dr. Min repeats, *verbatim*, the arguments from the petition. He even uses the same italicized, bolded, and underlined styling and repeats legal conclusions with verbiage lifted straight from the petition. When Dr. Min’s declaration varies, it merely provides longer or additional block quotations that are cited in the petition.

Petition	Dr. Min Declaration
A POSITA would have been motivated to utilize Kleiman’s on-the-fly	A POSITA would have been motivated to utilize Kleiman’s on-the-fly

technique because it provides various benefits. • First, Kleiman’s on-the-fly technique “performs XOR operations on data transferred to and from the disk drives without requiring separate transfers.” Ex.1006, 1:67-2:2. • Second, the on-the-fly technique “dynamically computes a set of parity information for the RAID stripe, without requiring additional resources from any part of the system 100.” Ex.1006 3:17-20; Ex.1003, ¶67. Pet., p. 23.	technique because the on-the-fly technique “performs XOR operations on data transferred to and from the disk drives without requiring separate transfers.” Kleiman, 1:67-2:2. Additionally, the on-the-fly technique “dynamically computes a set of parity information for the RAID stripe, without requiring additional resources from any part of the system 100.” Kleiman 3:17-20. Min Declaration, ¶67.
Given that Jeddeloh’s switch may be a DMA module, a POSITA would have found it obvious to look to known techniques for DMA operations between a switch and a plurality of memory controllers. Ex.1003, ¶79. In other words, by referring to DMA techniques, Jeddeloh explicitly suggests the combination. <i>See In re Kahn</i>, 441 F.3d 977, 986 (Fed. Cir. 2006) (obviousness may be established by combining or modifying prior art elements when there is a teaching, suggestion, or motivation to do so). Ma provides an example of such known techniques. In particular, Ma provides evidence that it was known for a memory controller to request data from the host when processing write commands in a queue. Like both	Given that Jeddeloh’s switch may be a DMA module, a POSITA would have found it obvious to look to known techniques for DMA operations between a switch and a plurality of memory controllers. Ma provides an example of such known techniques. In particular, Ma provides evidence that it was known for a memory controller to request data from the host when processing write commands in a queue. Like both Jeddeloh and the ’346 patent, Ma “relates to flash-memory solid-state-drive (SSD) devices.” Ma, 1:52-53. Min Declaration, ¶79.

Jeddeloh and the '346 patent, Ma “relates to flash-memory solid-state-drive (SSD) devices.” Ex.1007, 1:52-53. Pet., 26.	
POSITA would have had a reasonable expectation of success when combining the teachings of Ma with those of Jeddeloh. Both Jeddeloh and Ma relate to solid-state storage devices that stripe data across multiple storage devices. <i>See e.g.</i>, Ex.1005, [0036] (“The non-volatile memory control circuitry 222 can be configured to operate a number of non-volatile memory devices associated with the number of memory channels as a RAID.”); Ex.1007, 2:56-58 (“It is further desired that the smart storage switch interleaves and stripes data accesses to the multiple channels of single-chip flash-memory devices.”). Accordingly, a POSITA would have expected Ma’s DMA techniques to work similarly within Jeddeloh’s system. Ex.1003, ¶82. Pet., 27-28.	A POSITA would have had a reasonable expectation of success when combining the teachings of Ma with those of Jeddeloh. Both Jeddeloh and Ma relate to solid-state storage devices that stripe data across multiple storage devices. <i>See e.g.</i>, Jeddeloh, [0036] (“The non-volatile memory control circuitry 222 can be configured to operate a number of non-volatile memory devices associated with the number of memory channels as a RAID.”); Ma, 2:56-58 (“It is further desired that the smart storage switch interleaves and stripes data accesses to the multiple channels of single-chip flash-memory devices.”). Accordingly, a POSITA would have expected Ma’s DMA techniques to work similarly within Jeddeloh’s system. Min Declaration, ¶82.
First, Jeddeloh’s control circuitry 208 includes non-volatile memory control circuitry 222, which includes a plurality of channel memory control circuits 338 (“<i>plurality of command processing units</i>”). “The memory system control circuitry 208 can include ... non-volatile memory control circuitry 222.” Ex.1005, [0024]. “The	First, Jeddeloh’s control circuitry 208 includes non-volatile memory control circuitry 222, which includes a plurality of channel memory control circuits 338 (“<i>plurality of command processing units</i>”). <u>The memory system control circuitry 208 can include</u>

non-volatile memory control circuitry 222 can be configured to write data in a first stripe across a number of memory channels as described herein.” Ex.1005, [0036]. Pet., 31.	host interface circuitry 214, host-memory translation circuitry 216, memory management circuitry 218, a switch 220, <u>non-volatile memory control circuitry 222</u>, and/or volatile memory control circuitry 224. As described herein, the memory system control circuitry 208 can be provided in the form of an ASIC, however, embodiments are not so limited. Jeddeloh, [0024]. <u>The non-volatile memory control circuitry 222 can be configured to write data in a first stripe across a number of memory channels as described herein.</u> The non-volatile memory control circuitry 222 can be configured to write updated data in a second stripe across the number of memory channels without reading or copying the data in the first stripe. In one or more embodiments, the non-volatile memory control circuitry 222 can be configured to read portions of a stripe on a page-basis without reading a remainder of the stripe. The non-volatile memory control circuitry 222 can be configured to operate a number of non-volatile memory devices
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	associated with the number of memory channels as a RAID. At least one of the number of memory channels can be operated as a parity channel and accordingly, one or more memory devices associated with the at least one of the number of memory channels can be operated as a parity memory device(s). Additional detail on stripe-based memory operation is provided in conjunction with the discussion of FIG. 4 below and throughout the present disclosure. Jeddeloh, [0036]. Min Declaration, ¶93.
Additionally, a POSITA would have found it obvious to use parity write commands when writing parity data. It was known in the art to use a parity write command when writing parity data to memory. <i>See e.g.</i>, Ex.1014, 3:3-5 (“The current proposed ANSI standard for “XOR commands” on SCSI disk drives includes read (READ), data update (XDWRITE), parity update (XPWRITE)”); Ex.1003, ¶103. Accordingly, it would have been obvious to use a parity update command, such as XPWRITE, when writing parity data to a dedicated parity channel. Pet., 36.	Additionally, a POSITA would have found it obvious to use parity write commands when writing parity data. It was known in the art to use a parity write command when writing parity data to memory. <i>See e.g.</i>, Hodges, 3:3-5 (“The current proposed ANSI standard for “XOR commands” on SCSI disk drives includes read (READ), data update (XDWRITE), parity update (XPWRITE)”); Ex.1003, ¶103. Accordingly, it would have been obvious to use a parity update command, such as XPWRITE, when writing parity data to a dedicated parity channel. Min Declaration, ¶103.

As explained above at X.C.5, it would have been obvious for Jeddeloh's memory control circuitry 208 to utilize DMA operations. See e.g., Jeddeloh, [0033]; Ex.1003, ¶107. A POSITA would have understood that when a particular channel memory control circuit processes the next command in the queue, it would request that data when ready, as taught by Ma: "flash-memory device 73 ... sends a DMA activate back to host 10 to indicate that it is ready for the DMA transfer to begin." Ex.1007, 11:40-44. Pet., 37-38.	As explained above at VIII.A.5, it would have been obvious for Jeddeloh's memory control circuitry 208 to utilize DMA operations. See e.g., Jeddeloh, [0033]. A POSITA would have understood that when a particular channel memory control circuit processes the next command in the queue, it would request that data when ready. This is evidenced by Ma: Single-chip flash-memory device 73 at endpoint-1 responds by setting up for the direct-memory access (DMA) transfer, and sends a DMA activate to smart storage switch 30, <u>which then sends a DMA activate back to host 10 to indicate that it is ready for the DMA transfer to begin.</u> Ma, 11:40-44. Min Declaration, ¶107.
Thus, because Jeddeloh describes RAID XOR circuitry, and a POSITA would have found it obvious for the RAID XOR circuitry to include a XOR buffer with XOR accumulators, Jeddeloh and Kleiman render this limitation obvious. ¶¶118-25 Pet., 44.	Thus, because Jeddeloh's memory control circuit 208 includes RAID XOR circuitry for calculating parity data, and the RAID XOR circuitry is connected to the channel memory circuitry 338 of the non-volatile memory control circuitry, Jeddeloh renders obvious "<i>a parity calculator coupled to the plurality of command processing units</i>" as claimed. Min Declaration, ¶117.

Thus, because Kleiman's on-the-fly technique uses a XOR operation, which is a Boolean logical operation, Jeddeloh and Kleiman render this limitation obvious. Ex.1003, ¶¶142-43. Pet., 49.	Thus, because Kleiman's on-the-fly technique uses a XOR operation, which is a Boolean logical operation, Jeddeloh and Kleiman render obvious <i>"wherein the parity calculator is further configured to update the data block stored in the page frame by performing a logical operation on the data block stored in the page frame and a data block following the first data block in the sequence of data blocks."</i> Min Declaration, ¶143.
A POSITA would have found it obvious to look to known techniques for determining when "all data for the recognized memory buffer has been transferred" as described by Kleiman. Ex.1006, 3:65-67; Ex.1003, ¶224. Yashiro provides one example of a known technique in which a counter is used for determining when the parity block is complete. In particular, Yashiro further describes using a counter to determine when the parity block is complete. "The counter N has been cleared to N=0 in the initial state." Ex.1008, 14:31-32. As the system processes write commands (described in the text accompanying Fig. 12), the "count value of the count N ... is increased by 1." Ex.1008, 14:30-31. If the counter N has not yet reached the "set [] number of [] times" (i.e., a threshold), then the method returns to processing the next write command with respect to Fig. 12.	A POSITA would have found it obvious to look to known techniques for determining when "all data for the recognized memory buffer has been transferred" as described by Kleiman. Yashiro provides one example of a known technique in which a counter is used for determining when the parity block is complete. In particular, Yashiro further describes using a counter to determine when the parity block is complete. "The counter N has been cleared to N=0 in the initial state." Yashiro, 14:31-32. As the system processes write commands (described in the text accompanying Fig. 12), the "count value of the count N ... is increased by 1." Yashiro, 14:30-31. If the counter N has not yet reached the "set number of times" (i.e., a threshold), then the method returns to processing the next write command with respect to Fig. 12. However, once the counter reaches the threshold, the

However, once the counter reaches the threshold, the parity block is complete and the parity block can be stored on the disk in Step 8. <i>See</i> Ex.1008, 14:28-55. Pet., 71.	parity block is complete and the parity block can be stored on the disk in Step 8. <i>See</i> Yashiro, 14:28-55. Min Declaration, ¶224.
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Interestingly, Dr. Min’s declaration follows the same formatting and verbiage as a declaration from a different expert (Dr. Lara Dolecek), which was filed by the same law firm. *SanDisk Technologies, Inc. et al. v. Polaris PowerLED Techs., LLC*, IPR2025-00515, Exhibit 1003 (P.T.A.B. Jan. 29, 2025).

Petitioners have also not established that Dr. Min has the requisite expertise specific to data stripe operations on data blocks for the memory systems at issue in this IPR. Dr. Min’s declaration explains that he has a background in electrical engineering (¶¶9, 14), has developed semiconductor devices and circuits (¶10), and has expertise in networks and wireless cellular communications (¶¶11, 13, 18, 20, 21). One paragraph of the background section of his declaration refers to memory, but even this is silent with respect to parity data generation at issue in this case:

Many of the integrated circuit chips I have developed incorporates high speed memory modules interacting with the memory controllers to perform various types of operations including pointer processing, pattern matching, tree-searching, and mathematical manipulation that require extremely fast read/write/bulk-transfer from/to the memory contents. For example, the latest generations of the switching fabric that

I developed incorporated what is known in the switching field as the virtual output queue based on shared memory. In the switch fabric based on the virtual output queue based on shared memory architecture, there is no space-division switching, and rather, the switching is performed from the shared memory that takes in all of the incoming packets, which are manipulated by the pointers that organized the packets in the memory.

Min Declaration, ¶19.

The lack of supporting evidence and additional technical reasoning from an expert who does not appear to have background experience specific to technology at issue in this case is yet another reason why the Board should deny institution. The standard for what qualifies as independent expert testimony and its use within IPRs should be higher; the declaration should not merely “cop[y], word-for-word, Petitioner’s conclusory assertions.” *Xerox*, IPR2022-00624, Paper 9 at 5. When it does, the Board should deny institution.

3. The ’346 patent issued over eleven years ago.

Under the interim process, the Director can consider “[s]ettled expectations of the parties, such as the length of time the claims have been in force” when deciding whether to exercise discretion to deny institution. Interim Processes for PTAB Workload Management at 2 (Mar. 26, 2025). Here, the ’346 patent issued on December 3, 2013—over eleven years ago. Had Petitioners objected to the issuance of the ’346 patent, they could have raised challenges over a decade ago.

35 U.S.C. §§ 302 (permitting any person at any time to file a request for reexamination), 321 (permitting post-grant review challenges up to 9-months after issuance). Instead, Petitioners waited until after Polaris relied on the issued claims in its complaint for patent infringement. This extended delay in challenging the claims also favors denying institution.

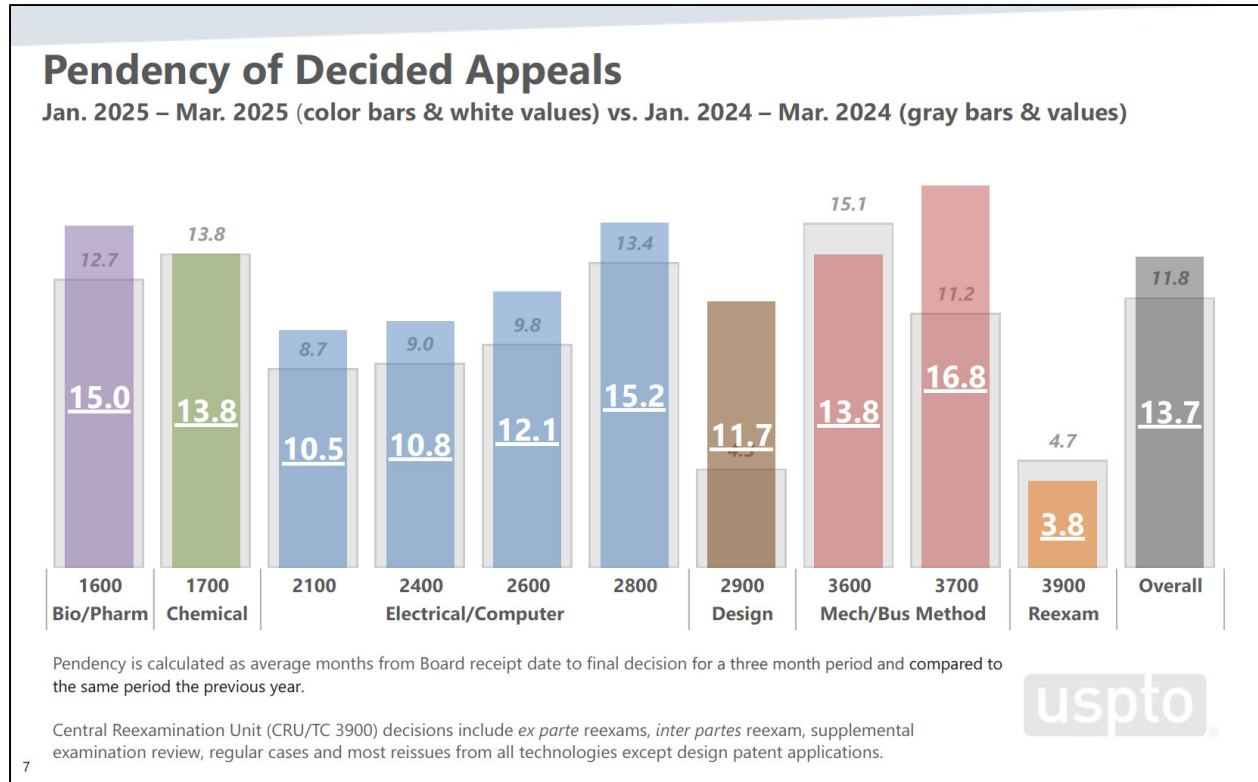
4. PTAB resources are better spent on *ex parte* appeals.

The Board should also deny institution because its limited resources are better spent on the growing backlog of *ex parte* appeals. In 35 U.S.C. § 6(b)(1), the Board is tasked with “review[ing] adverse decisions of examiners upon applications for patent pursuant to section 134(a).” Congress also tasked the Board with reviewing appeals of reexaminations, derivation proceedings, IPRs, and PGRs. 35 U.S.C. § 6(b)(2)-(4). But current Office policy is to focus on *ex parte* appeals: “To ensure that the PTAB continues to meet its statutory obligations as to *ex parte* appeals, while continuing to maintain its capacity to conduct AIA proceedings, the Director will exercise her discretion on institution of AIA proceedings” Interim Processes for PTAB Workload Management at 1 (Mar. 26, 2025). The Board should exercise that discretion here because the pendency of *ex parte* appeals has increased (EX2012, 7), nearly a quarter of *ex parte* appeals have been pending more than eleven months (EX2013), and the backlog is growing month-over-month in almost all technology centers (EX2012, 4).

According to the latest data published by the USPTO, roughly a quarter of all *ex parte* appeals have been pending for over eleven months. EX2013.⁶ In 2025, the pendency has increased in almost every technical center. Shown below, the time (in months) to a final decision has increased in 2025 (shown with the color bars and white values) compared to the same data from 2024 (shown with the gray bars and gray values). For the technology center of the '346 patent—2100⁷—the pendency has increased from 8.7 months to 10.5 months, a 20.7% increase.

⁶ The latest data on the PTAB Dashboard is from November 2023. However, the data from FY24 and FY25 also indicates that a substantial number of cases have been pending for over eleven months.

⁷ The '346 patent describes systems and methods for generating parity data in a nonvolatile memory controller. Patents for “Memory Access and Control” are under 2130 and patents for “Computer Error Control, Reliability, & Control Systems” are under 2110, both of which are within tech center 2100 (Computer Architecture Software and Information Security).



EX2012, 7.

In the current fiscal year (FY25), the PTAB's backlog of *ex parte* appeals in the 2100 technology center has also increased. Shown below, in FY25, the PTAB's starting inventory of *ex parte* appeals in the technology center 2100 was 367 cases. EX2012, 4. In FY25 (October 2024 through March 2025), 225 appeals have been filed, whereas the PTAB decided 181 appeals. *Id.* This has increased the backlog for technology center 2100 by 12% (44 cases)—the highest increase in number of cases outstanding for any technology center during FY25. *See id.*

Receipts & Dispositions (Fiscal Year through Mar. 31, 2025)												
Technology Center	Starting Inventory	Appeals Filed	Affirmed	Affirmed -in-Part	Reversed	Panel Remand	Admin Remand	Dismissed	Appeals Decided	Ending Inventory	Inventory Change	% of Inventory
1600	442	191	125	8	66	0	0	7	206	427	▼ -15	9.3%
1700	843	330	210	28	102	0	0	4	344	829	▼ -14	18.1%
2100	367	225	108	22	46	0	3	2	181	411	▲ 44	9.0%
2400	323	164	90	20	47	0	0	0	157	330	▲ 7	7.2%
2600	257	135	69	7	19	0	0	0	95	297	▲ 40	6.5%
2800	346	149	71	14	56	0	0	0	141	354	▲ 8	7.7%
2900	28	5	16	0	4	0	0	0	20	13	▼ -15	0.3%
3600	1,072	384	417	22	89	0	1	1	530	926	▼ -146	20.2%
3700	951	356	183	51	88	0	1	2	325	982	▲ 31	21.4%
3900 (Ex Parte)	12	23	13	0	4	0	1	0	18	17	▲ 5	0.4%
3900 (Sup. Exam)	0	0	0	0	0	0	0	0	0	0	■ 0	0.0%
3900 (Reissue)	7	12	10	0	5	0	0	0	15	4	▼ -3	0.1%
3900 (Regular)	2	0	0	0	0	0	0	0	0	2	■ 0	0.0%
Board Total	4,650	1,974	1,312	172	526	0	6	16	2,032	4,592	▼ -58	100.0%

% Decisions					
Affirmed	Affirmed-in-Part	Reversed	Panel Remand	Admin Remand	Dismissed
64.6%	8.5%	25.9%	0.0%	0.3%	0.8%



4

EX2012, 4 (annotated).

To reduce the average time to final decision, the 411 currently pending *ex parte* appeals in technology center 2100, the 12% backlog growth in the 2100 technology center during FY25, and the 4,592 currently outstanding *ex parte* appeals overall, the PTAB should focus its efforts on the pending *ex parte* appeals—not this IPR, especially since the district court is already scheduled to adjudicate validity months *before* the Board reaches its final decision.

In total, the other considerations also favor discretionary denial.

III. CONCLUSION

Litigating the same or similar issues at the Board as the issues that are already scheduled to get resolved in the district court would be duplicative and contrary to the intent of IPRs for “providing a more efficient system for challenging patents” and “reducing unwarranted litigation costs.” H.R. Rep. No. 112-98 at 39-40 (2011); *see also NHK Spring*, IPR2018-00752, Paper 8 at 19-20. The Board’s limited resources would be better spent elsewhere.

Respectfully submitted,

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CERTIFICATE OF WORD COUNT (37 C.F.R. § 42.24(d))

1. This Patent Owner's Brief on Discretionary Denial complies with the type-volume limitation of 14,000 words, comprising 7,814 words, excluding the parts exempted by 37 C.F.R. § 42.24(a)(1).

2. This Patent Owner's Brief on Discretionary Denial complies with the general format requirements of 37 C.F.R. § 42.6(a) and has been prepared using Microsoft® Word 2016 in 14-point Times New Roman font.

Respectfully submitted,

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PATENT OWNER'S BRIEF ON
DISCRETIONARY DENIAL** and associated Exhibits 2001-2015 were served in
their entireties on April 25, 2025, upon the following parties via electronic mail:

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