

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ANTHONY INC.,
Petitioner

v.

CONTROLTEC, LLC,
Patent Owner.

IPR2025-00559
U.S. Patent 7,207,181

PATENT OWNER REPLY ON DISCRETIONARY DENIAL

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PATENT OWNER'S EXHIBIT LIST

Ex.2001	Anthony corporate history webpage, https://www.anthonyintl.com/Aboutus/History.aspx
Ex.2002	U.S. Patent No. 4,261,179 to Dageford
Ex.2003	U.S. Patent No. 5,778,147 to Kim
Ex.2004	Declaration of John “Weeb” Bunch under 37 C.F.R. § 1.68
Ex.2005	Photographs of ControlTec LLC’s AS-20 Anti-Sweat Controller case
Ex.2006	Maintenance fee report for U.S. 7,207,181
Ex.2007	<i>Reserved</i>
Ex.2008	<i>Reserved</i>
Ex.2009	<i>Reserved</i>
Ex.2010 (New)	Information Disclosure Statement filed in U.S. Patent Application No. 12/337,981 on March 17, 2009.
Ex.2011 (New)	Patent Assignment, Reel 023084, Frame 0117 (assigning U.S. Patent Application No. 12/337,981 to Anthony International).
Ex.2012 (New)	Patent Assignment, Reel 027144, Frame 0103 (confirming Anthony International as a DBA of Anthony, Inc. and that U.S. Patent Application No. 12/337,981 was assigned to Anthony Inc.).

I. Introduction

As authorized by the Director’s email dated June 11, 2025 (Ex.3101), Patent Owner ControlTec LLC respectfully files this two-page Reply to address the applicability to this case of the Director’s discretionary denial rationale articulated in *iRhythm Technologies, Inc. v. Welch Allyn, Inc.*, IPR2025-00363, Paper 10 (June 6, 2025) (“*iRhythm*”).

II. *iRhythm* applies here and supports discretionary denial.

Petitioner has been aware of the challenged patent, U.S. 7,207,181, for most of its statutory lifetime. In 2009—more than fifteen years ago—Petitioner cited the ’181 patent as a prior art reference during prosecution of its own patent application no. 12/337,981. Ex.2010, 2 (cite no. 23); Ex.2011 & Ex.2012 (assignment of 12/337,981 to Petitioner Anthony, Inc.). Petitioner also cited to a related family member of the ’181 Patent that is the subject of another of Petitioner’s requests for *inter partes* review: U.S. Publication No. 2007/0193294 (now U.S. 7,421,847 challenged in IPR2025-00636). Ex.2010, 3 (cite no. 32). Despite knowing of the ’181 Patent and its related family member for well over a decade, Petitioner did nothing, creating an expectation between the parties.

These facts are substantially identical to those the Director considered in *iRhythm*, where the petitioner submitted information disclosure statements identifying the targeted patent and a related family member many years before

seeking *inter partes* review. *iRhythm Techs., Inc. v. Welch Allyn, Inc.*, IPR2025-00363, Paper 7 at 30-31 (Apr. 18, 2025) (Patent Owner’s Argument for Discretionary Denial). Just as in *iRhythm*, “[b]y delaying over ten years from the date it first became aware of the [’181] Patent (and then the subsequent to issue [’847] Patent), Petitioner has created an implicit expectation between the parties, an acquiescence as to the patentability of the claims of the [’181] Patent.” *Id.* at 31.

Accordingly, Patent Owner ControlTec asks that the Director reach the same conclusion and provide the same remedy: “Petitioner’s awareness of Patent Owner’s applications and failure to seek early review of the patents favors denial and outweighs” other considerations. *iRhythm Techs.*, IPR2025-00363, Paper 10 at 3 (June 6, 2025) (Director Discretionary Denial Decision).

III. Conclusion

For the additional reason that Petitioner knew of the ’181 patent for over fifteen years before seeking review, Patent Owner respectfully requests that the Director exercise her discretion to deny institution of the petition.

Respectfully submitted,

Dated: June 12, 2024
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/Robert P. Ziemian/
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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that a true and correct copy of the foregoing was served on the Petitioner as detailed below:

<i>Date of service</i>	June 12, 2025
<i>Manner of service</i>	Electronic Email: IPR43789-0259IP1@fr.com ; PTABInbound@fr.com
<i>Documents served</i>	Patent Owner Reply on Discretionary Denial Exhibits Ex.2010-Ex.2012
<i>Persons Served</i>	Kenneth W. Darby Jr. Kenneth Hoover Christopher Dillon (Pending <i>Pro Hac Vice</i>) Fish & Richardson P.C. 60 South Sixth Street, Suite 3200 Minneapolis, MN 55402

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