

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMPHENOL CORP.,
Petitioner

v.

CREDO TECHNOLOGY GROUP LTD.,
Patent Owner

Case IPR2025-00607
Patent 11,495,898

PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	BACKGROUND	3
III.	ARGUMENT.....	4
	A. The Director should decline institution because the '898 Patent is not asserted and is not in dispute	4
	B. The Petition relies on duplicative and substantively deficient expert testimony	7
IV.	CONCLUSION.....	10

EXHIBITS

EX-2001	Acting Director's Stewart's March 26, 2025 Memorandum titled "Interim Processes for PTAB Workload Management"
EX-2002	U.S. Pat. No. 10,877,233 ("Dai et al.")
EX-2003	U.S. Pat. No. 11,012,252 ("Lam et al.")
EX-2004	U.S. Pat. No. 11,032,111 ("Sun et al.")
EX-2005	September 1, 2023 Letter re Credo Technology Group, Ltd.'s Intellectual Property
EX-2006	H.R. Rep. No. 112-98, pt. 1 (2011), 2011 U.S.C.C.A.N. 67, 69
EX-2007	Redline Comparison of Petition vs. Declaration of Shukri Souri (EX1003) in IPR2025-00607

I. INTRODUCTION

Credo is an American innovator. Its patented technologies power the next generation of energy-efficient data center interconnects. To protect its technology, Credo has pursued a pending investigation before the International Trade Commission (ITC) (Inv. No. 337-TA-1446) where it is seeking exclusionary relief to prevent infringement by competitors, including, among others, Petitioner Amphenol. However, the patent challenged in this proceeding—U.S. Patent No. 11,495,898 (“the ’898 Patent”)—is **not** one of the asserted patents.

As outlined in the Stewart Memo¹ issued in March 2025, the Board is encouraged to focus its resources on matters where review will have the most meaningful impact. That is not the case here.

The ’898 Patent has been in force and unchallenged since its issuance on November 8, 2022. It has never been asserted in any litigation—including in the ITC and district court proceedings initiated by Patent Owner on March 13, 2025.

¹ Memorandum to All PTAB Judges from Coke Morgan Stewart, Acting Secretary of Commerce for Intellectual Property, Regarding the Interim Processes for PTAB Workload Management (March 26, 2025) (“Stewart Memo”, EX2001).

Petitioner filed the present Petition on April 1, 2025, after those complaints were filed. The timing and circumstances suggest that this challenge was not driven by a genuine dispute over the '898 Patent, but rather as an attempt to impose unnecessary costs on Patent Owner in retaliation for asserting unrelated patents in concurrent litigation.

Notably, Petitioner does not identify any ongoing controversy involving the '898 Patent, and the Petition appears to be entirely untethered from any parallel litigation or commercial urgency. The '898 Patent is not related to the patents Credo has asserted against Amphenol at the ITC. Nor does it relate to the same technology. Simply put, the '898 Patent is not in dispute and it would be an inefficient use of Board resources to reconsider the '898 Patent at this time.

The present Petition also is weak on the merits. It relies heavily on a conclusory expert declaration that largely duplicates the attorney arguments in the Petition without offering independent analysis or technical support. Such a showing fails to justify use of the Board's limited resources.

Taken together, these facts reflect a misuse of the IPR process, a lack of any live controversy, and a failure to present a compelling challenge on the merits. For these reasons, Credo asks the Director to exercise discretion to deny institution of *inter partes* review of the '898 Patent.

II. BACKGROUND

The '898 Patent was filed on January 11, 2021, published as U.S. Patent Application Publication No. 2021/0280996 on September 9, 2021, and issued on November 8, 2022.

On March 13, 2025, Patent Owner initiated parallel enforcement actions against Petitioner by filing: (i) a patent infringement complaint in the U.S. District Court for the Eastern District of Texas and (ii) a complaint with the U.S. International Trade Commission (ITC). Both actions assert U.S. Patent Nos. 10,877,233 (“the '233 Patent”), 11,012,252 (“the '252 Patent”), and 11,032,111 (“the '111 Patent”) (collectively, “the Asserted Patents”).

The '898 Patent was **not** asserted in either the district court or the ITC proceeding, it has not been the subject of any litigation, and Petitioner is not facing a bar date for filing a petition challenging the '898 Patent.

The '898 Patent also relates to different technology than the Asserted Patents. In particular, the '898 Patent is directed to improvements in wiring connection geometry, which is distinct from the subject matter of the Asserted Patents. For example, (i) the '233 Patent relates to pre-equalization of electrical transit signals using transmit filter coefficient values stored in nonvolatile memory, (ii) the '252 Patent is directed to enhanced cable performance through advanced transmitter/receiver equalization, adaptive equalization, and retiming, and (iii) the

'111 Patent relates to a serializer-deserializer (SerDes) pre-equalizer having adaptable preset coefficient registers. See EX2002-2004. Thus, there is no overlap between the '898 Patent and the Asserted Patents.

Nevertheless, on April 1, 2025, after the district court and ITC complaints were filed, Petitioner filed the present IPR challenging all 20 claims of the '898 Patent.

III. ARGUMENT

The Director should exercise discretion and deny institution of *inter partes* review of the '898 Patent. Indeed, rather than limiting counterproductive litigation costs, the Petition merely seeks to burden Patent Owner with unnecessary costs in retaliation for asserting unrelated patents in concurrent litigation. Institution here would thus represent an inefficient and inappropriate use of the Board's limited resources.

A. The Director should decline institution because the '898 Patent is not asserted and is not in dispute

The '898 Patent is not asserted in any parallel litigation, including the district court and ITC proceedings that were initiated by Patent Owner on March 13, 2025. In fact, as discussed above, those proceedings involve entirely different patents that are directed to different technology. The '898 Patent has never been

asserted against Petitioner, or any party, and is not the subject of any ongoing dispute.

The Petition challenging the '898 Patent was filed on April 1, 2025, after the above actions were filed. However, Amphenol had been made aware of the '898 Patent on September 1, 2023—more than a year before it filed this IPR. *See* EX2005. Yet Petitioner took no steps to challenge the patent until after it was sued on unrelated patents, strongly suggesting a retaliatory motive rather than a legitimate desire to resolve a genuine controversy. The timing raises serious questions about Petitioner's intent and supports the inference that this IPR is being used as a procedural weapon to impose unnecessary cost and burden on Patent Owner. This conduct also undermines the settled expectations of Patent Owner, which reasonably relied on Petitioner's inaction in deciding not to initiate litigation involving the '898 Patent for more than a year.

This situation mirrors recent discretionary denial decisions. For example, the Director concluded that proceeding with an IPR for a patent dismissed from litigation would be an "inefficient use of Board resources." *Google LLC, Samsung Electronics Co., LTD., and Samsung Electronics America, Inc., v. Mullen Industries LLC*, IPR2025-00227, Paper 14 (PTAB June 25, 2025); *see also Ericsson Inc. and Cellco Partnership D/B/A Verizon Wireless v. Procomm International PTE. LTD*, IPR2024-01453, Paper 16 (PTAB June 25, 2025); *Cellco*

Partnership D/B/A Verizon Wireless, T-Mobile USA, Inc., AT&T Services, Inc., Nokia of America, Corp., Ericsson Inc., and Google LLC v. Pegasus Wireless Innovation LLC, IPR2025-00290, IPR2025-00291, and IPR2025-00317, Paper 17 (PTAB Jun 26, 2025). That logic applies with even greater force here, where the '898 Patent was never part of any litigation to begin with, and where Petitioner's prolonged delay, despite early notice, demonstrates that this IPR is not being used for its intended purpose of resolving a genuine patentability dispute.

The decision in *Sig Sauer Inc., v. Lone Star Future Weapons, Inc.*, IPR2025-00410, Paper 13 (PTAB June 26, 2025) is even more applicable. In that case, the Petitioner filed its petition after the Patent Owner filed a separate trade secret misappropriation suit that did not involve the challenged patent. *Id.* Because the Petitioner filed the IPR only after being sued for trade secret misappropriation, the IPR was discretionarily denied over concern that the petition was filed as an improper strategic response to unrelated litigation. *Id.* The Director found "a persuasive argument that the filing of the Petition may be inappropriate" in view of the broader litigation context. *Id.*

The same concern arises here. As explained above, Amphenol had been aware of the '898 Patent for over a year but chose not to challenge it until after Credo asserted unrelated patents in district court and before the ITC. The '898 Patent is not asserted in any litigation, and the timing of Amphenol's IPR filing,

coming only after it was sued on other technologically distinct patents, suggests that this proceeding, like in IPR2025-00410, is a retaliatory strategic maneuver aimed at burdening Credo rather than resolving a real patentability dispute.

Post-grant proceedings are meant to “limit unnecessary and counterproductive litigation costs.” See EX2006 at p. 40. Allowing this IPR to proceed under these circumstances would contradict that fundamental policy objective and open the door to abusive filings targeting non-asserted patents for retaliatory leverage.

B. The Petition relies on duplicative and substantively deficient expert testimony

The Petition’s reliance on the declaration of Dr. Sourì does not justify institution and further highlights the Petition’s overall weakness. As noted in the Stewart Memo, one relevant discretionary denial factor is the extent to which a petition improperly relies on expert testimony that adds no independent value. That is precisely the case here.

Rather than providing technical insight or analysis, Dr. Sourì’s declaration merely repeats, often word-for-word, the conclusory assertions of the Petition without any added reasoning, data, or engineering justification. For example, the Petition asserts that:

Regardless, POSAs would have had reasons
to connect inner wires to Ayzenberg’s paddle

card by disposing them so they “*maintain contact*” with the surface of the PCB as this would have facilitated uniform positioning of the signal wire leads for soldering to the pads (as shown in Fig. 6B) and because Ayzenberg teaches that the wires are both “***physically and electrically mounted… side-by-side on the PCB.***” EX1005, Fig. 6B, [0043]; Souri, ¶105.

Petition at p. 26

However, Dr. Souri’s corresponding declaration paragraph (¶105) provides **no additional explanation, expert analysis, or citations to corroborating evidence**. Instead, it recites nearly the exact same language as the Petition—*verbatim*. He states:

Regardless, POSAs would have had reasons to connect inner wires to Ayzenberg’s paddle card by disposing them so that they “*maintain contact*” with the surface of the PCB because this would have facilitated uniform positioning of the signal wire leads for soldering to the solder pads (as shown in Fig. 6B) and because Ayzenberg teaches that the wires are both “***physically and electrically mounted to the PCB.***” EX1005, Fig. 6B, [0043] (“Cables with a plurality of conductors may be physically and electrically mounted to the PCB, with the conductors for a particular cable mounted side-by-side on the PCB.”).

EX1003 at ¶105

This one-to-one repetition underscores that the declaration is not expert analysis—it is merely attorney argument repackaged under the guise of expert opinion. Such testimony is entitled to little or no weight. *See Xerox Corp. v.*

Bytemark, Inc., IPR2022-00624, Paper 9 at 15 (precedential) (“expert declaration that merely repeats, *verbatim*, the conclusory assertion for which it is offered... is entitled to little or no weight”); *see also* 37 C.F.R. § 42.65(a).

Nor is this an isolated example. A comparison across the Petition and the declaration confirms that large portions of the declaration consist of wholesale duplication, without additional citations, technical elaboration, analysis, or corroborating evidence. *See* EX2007 (side-by-side redline comparison of the Petition and Dr. Souris’s declaration). This is insufficient to support institution. *See Johnston v. IVAC Corp.*, 885 F.2d 1574, 1581 (Fed. Cir. 1989) (“Attorneys’ argument is no substitute for evidence.”); *Enzo Biochem, Inc. v. Gen-Probe, Inc.*, 424 F.3d 1276, 1284 (Fed. Cir. 2005) (same).

Moreover, where Dr. Souris attempts to offer a technical opinion—such as his assertion that Ayzenberg teaches or suggests the configuration in claim 2 of the ’898 Patent—his conclusions are speculative and unsupported. He fails to address key considerations such as whether Ayzenberg actually teaches the claimed spacing to allow inner wires to pass between outer wires while maintaining surface contact. The cited figure (Fig. 6B) of Ayzenberg does not demonstrate this, nor does Ayzenberg describe how the contact would be achieved in practice. Dr. Souris offers no engineering analysis, no physical modeling, and no real-world evidence—only a conclusory assertion unsupported by the record.

Such conclusory expert testimony has repeatedly been rejected by courts and the Board. *See, e.g., Upjohn Co. v. Mova Pharm. Corp.*, 225 F.3d 1306, 1311 (Fed. Cir. 2000); *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 294 (Fed. Cir. 1985); *TRW Automotive US LLC v. Magna Elecs. Inc.*, IPR2014-00258, Paper 16 at 19-23.

Thus, the declaration is both duplicative and deficient. It fails to bolster the Petition with meaningful expert analysis and, instead, reveals the Petition's reliance on improper hindsight and unsupported argumentation. These shortcomings strongly weigh in favor of discretionary denial.

IV. CONCLUSION

Petitioner has offered no legitimate basis for institution. The '898 Patent is not the subject of any ongoing dispute that the PTAB can help resolve. Instead, the Petition appears to be a retaliatory and abusive attempt to add unnecessary and counterproductive costs to Credo and the system. Moreover, the Petition relies on a conclusory expert declaration that offers no independent support, underscoring its substantive weakness.

Accordingly, the Director should deny institution and conserve the Board's limited resources for cases where the Board could have a more meaningful impact.

Respectfully submitted,

Date: July 14, 2025

/Jeremy J. Monaldo/

W. Karl Renner, Reg. No. 41,265
Jeremy J. Monaldo, Reg. No. 58,680
Richard A. Sterba, Reg. No. 43,162
Brian J. Livedalen, Reg. No. 67,450
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402

Attorney for Patent Owner

CERTIFICATION UNDER 37 C.F.R. §42.24(d)

Under the provisions of 37 CFR § 42.24, the undersigned hereby certifies that the word count for the foregoing Patent Owner's Request for Discretionary Denial totals 2,114, which is less than the 14,000 allowed under 37 CFR § 42.24.

Respectfully submitted,

Date: July 14, 2025

/Jeremy J. Monaldo/

W. Karl Renner, Reg. No. 41,265
Jeremy J. Monaldo, Reg. No. 58,680
Richard A. Sterba, Reg. No. 43,162
Brian J. Livedalen, Reg. No. 67,450
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402

Attorney for Patent Owner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e)(4), the undersigned certifies that on July 14, 2025, a complete and entire copy of this Patent Owner's Request for Discretionary Denial and all supporting exhibits were provided via email, to the Petitioner, by serving the correspondence address of record as follows:

Wolf, Greenfield & Sacks, P.C.

Adam R. Wichman

Michael S. Parsons

AWichman-PTAB@WolfGreenfield.com

MParsons-PTAB@WolfGreenfield.com

/Hoi Cheung/

Hoi Cheung

Fish & Richardson P.C.

60 South Sixth Street, Suite 3200

Minneapolis, MN 55402

hcheung@fr.com