

Filed on behalf of Western Digital Technologies, Inc.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WESTERN DIGITAL TECHNOLOGIES, INC.,
Petitioner,

v.

GODO KAISHA IP BRIDGE 1,
Patent Owner.

Case No. IPR2025-00701
U.S. Patent No. 10,367,138

**PETITIONER'S OPPOSITION TO PATENT OWNER'S
REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION**

IP Bridge provides no basis for discretionary denial. The Northern District of California stayed the litigation and set no trial date. Subsequent prosecution reveals the Examiner materially erred in allowing these claims. The Board is on track to address 75% (61/81) of the challenged patent claims in IP Bridge’s asserted patent family as shown in the chart below, and “it is an efficient use of Board resources to address the related patent” too. *Embody v. LifeNet Health*, IPR2025-00248, Paper 13 at 3 (P.T.A.B. June 26, 2025).

	IPR	U.S. Patent	Pet. Filing Date	Institution Status	
1	IPR2024-01384	7,884,403	Aug. 30, 2024	Denied (8 claims)	20 claims
2	IPR2024-01385	8,319,263	Aug. 30, 2024	Denied (4 claims)	
3	IPR2024-01386	9,608,198	Aug. 30, 2024	Denied (6 claims)	
4	IPR2024-01449	9,123,463	Sept. 16, 2024	Denied (2 claims)	
5	IPR2024-01447	8,405,134	Sept. 16, 2024	Granted (4 claims)	61 claims
6	IPR2024-01448	11,737,372	Sept. 16, 2024	All 8 claims disclaimed	
7	IPR2024-01493	10,680,167	Sept. 27, 2024	Granted (15 claims)	
8	IPR2024-01494	11,968,909	Sept. 27, 2024	Granted (14 claims) 6 claims disclaimed	
9	IPR2025-00701	10,367,138	March 6, 2025	<i>pending</i> (14 claims)	

Fintiv does not bar IPR because there is no N.D. Cal. trial date. The Petition pointed out that *Fintiv* provides no support for discretionary denial: the Northern District of California set no trial date, and IP Bridge stipulated to a stay pending IPR. Pet. at 66; EX1085. IP Bridge’s 65-page brief has no response. See Paper 6 at 28-30. An IPR trial is warranted. See, e.g., *Twitch v. Razdog*, IPR2025-00307, Paper 18

at 2 (P.T.A.B. May 16, 2025) (denying discretionary denial because no trial date in N.D. Cal. case).

Advanced Bionics supports IPR because the Examiner materially erred. The Petition pointed out that the Examiner materially erred in considering the prior art of record. Pet. at 66-70. For example, in 2018 the Examiner explained his understanding that “the prior art of record does not teach or suggest” a “barrier layer” with a claimed barrier height “in a range of 0.2 to 0.5 eV” when examining the ’138 application. Pet. at 67-68; EX1012 at 312. The same Examiner changed course in examining the child applications in 2024, acknowledging the same limitation was not inventive because the prior art “Kishi teaches a barrier height of (0.1 eV to 0.85 eV) and (.2eV to .5eV).” Pet. at 67-68; *see also id.* at 4-5; EX1086 at 257; EX1087 at 200. IP Bridge then abandoned its child applications. Pet. at 4-5.

IP Bridge admits that “[a]lmost half of the fourteen challenged claims” require this limitation, and does not deny this damning prosecution history. Paper 6 at 43, 64. It feebly alleges that “what Kishi allegedly shows is irrelevant,” *id.* at 64, but omits that the Petition relies on this prosecution history about Kishi to show obviousness, Pet. at 27-28. Trial is warranted to review “a material error by the Office.” *Microsoft v. ParTec*, IPR2025-00318, Paper 9 at 3 (P.T.A.B. June 12, 2025); *Yealink v. Barco*, IPR2025-00491, Paper 18 at 2-3 (P.T.A.B. June 25, 2025).

IP Bridge had no settled expectations for the patent. The '138 Patent issued in 2019, and IP Bridge admits it did not acquire it until 2021. EX1067 ¶ 13; *Berkshire Hathaway v. Birchtech*, IPR2025-00274, Paper 23 at 3 (P.T.A.B. July 2, 2025) (no settled expectations for “challenged patents issued in 2019 and 2020”). Although the patent is directed to magnetic random access memory (MRAM), *see* EX1011 at 1:37-40, IP Bridge asserts them against Western Digital’s hard drives, EX1067 ¶¶ 41-42. IP Bridge presents no evidence this MRAM patent was commercialized, let alone in Western Digital’s hard drive technology space. *See* Paper 6 at 9-15; *Intel v. Proxsense*, IPR2025-00327, Paper 12 at 2-3 (P.T.A.B. June 26, 2025) (IPR available for patents that were never “commercialized... in a petitioner’s particular technology space, if at all.”).

General Plastic does not bar IPR. Citing *General Plastic*, IP Bridge recycles unsupported allegations of “gamesmanship” based on the Petition’s filing date. Paper 6 at 15-26; *see also* IPR2024-01494, Papers 12-13. *General Plastic* is inapplicable because Western Digital filed only a single challenge to the '138 Patent. *Interactive Commc’ns v. Blackhawk Network*, IPR2024-00465, Paper 11 at 11-12 (P.T.A.B. July 24, 2024) (declining to extend *General Plastic* to “[c]hallenging claims of different patents”). IP Bridge cannot credibly invoke *General Plastic* to complain about the stayed N.D. Cal. litigation when it “stipulated to a stay of that lawsuit.” *Apple v. UUSI*, IPR2019-00358, Paper 12 at 18 (P.T.A.B. Aug. 5, 2019)

(no denial of institution under *General Plastic*); EX1085. As explained, the '138 IPR filing date was dictated by the belated filing of IP Bridge's Amended Complaint asserting the '138 Patent, and subsequent file history for IP Bridge's child applications demonstrating the Examiner materially erred. EX1067; Pet. at 1, 4-5; IPR2024-01494, Paper 13 at 3.

Petitioner's expert testimony satisfies Board rules. IP Bridge argues that "the Petition relies exclusively on expert testimony" for the 0.2 to 0.5 eV claim limitation. Paper 6 at 40-49. But the Petition identifies prior art teachings, the prosecution history, and IP Bridge's admissions to show obviousness. *E.g.*, Pet. at 23-28. The cited expert testimony simply complies with Board rules "requiring disclosure of 'underlying facts or data.'" *GD Energy v. Kerr Machine*, PGR2025-00031, Paper 11 at 2 (P.T.A.B. June 25, 2025) (quoting 37 C.F.R. § 42.65(a)); EX1024 ¶¶ 151-67.

Western Digital respectfully requests the Director deny IP Bridge's request for discretionary denial and allow the Board to consider the Petition on the merits.

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Dated: July 16, 2025

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CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(d), the undersigned certifies that foregoing **PETITIONER’S OPPOSITION TO PATENT OWNER’S REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION** exclusive of the parts exempted as provided in 37 C.F.R. § 42.24, contains 812 words and therefore complies with the type-volume limitations of 37 C.F.R. § 42.24.

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CERTIFICATE OF SERVICE

The undersigned certifies that pursuant to 37 C.F.R. § 42.6(e), a true copy of the foregoing **PETITIONER’S OPPOSITION TO PATENT OWNER’S REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION** is being served electronically on July 16, 2025 to the following counsel for Patent Owner to the following email addresses:

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