

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORPORATION,
Petitioner

v.

ADVANCED CLUSTER SYSTEMS, INC.,
Patent Owner

IPR2025-00794
Patent No. 10,333,768

**PATENT OWNER'S OPPOSITION TO PETITIONER'S REQUEST FOR
REHEARING¹**

¹ Authorized on September 18, 2025. Ex. 3103.

PO Opposition to Petitioner's Request for Rehearing

PATENT OWNER'S EXHIBIT LIST

<u>Exhibit</u>	<u>Description</u>
2001	DocketNavigator Statistics for Motion Success for Stay Pending IPR (Post-Institution) for Judge Albright
2002	J. Albright Standing Order Governing Proceedings (OGP) 4.4 – Patent Cases (Jan 23, 2024)
2003	DocketNavigator Statistics for Time-to-Milestones for Judge Albright
2004	<i>Advanced Cluster Systems, Inc. v. Intel Corporation</i> , Amended Scheduling Order (D.I. 54)
2005	<i>Allani v. Apple Inc.</i> , No. 6:24-cv-304-ADA (W.D. Tex. May 6, 2025) (D.I. 30)
2006	<i>Intellectual Ventures I LLC v. TCL Elects. Holdings Ltd.</i> , No. 6:23-cv-309-ADA (W.D. Tex. Sept. 10, 2024) (D.I. 44)
2007	<i>Acquis, LLC v. Hon Hai Precision Indus Co. Ltd.</i> , No. 6:23-cv-264-ADA (W.D. Tex. May 31, 2024) (D.I. 46)
2008	Intel Corporation's Amended Invalidity Contention Cover Pleading (Apr. 25, 2025)
2009	Intel Corporation's Preliminary Invalidity Contention – Chart A-8
2010	Declaration of Dr. Melissa C. Smith Under 37 C.F.R. § 1.68
2011	<i>Curriculum Vitae</i> of Dr. Melissa C. Smith
2012	Intel FAQ: The Sustainable Data Center – More Energy Efficient AI (available at https://www.intel.com/content/www/us/en/content-details/791405/faq-the-sustainable-data-center-ai-use-case.html?wapkw=sustainability&DocID=791405)
2013	NVIDIA Company Overview (May 2025) (available at https://investor.nvidia.com/events-and-

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presentations/presentations/presentation-details/2025/Company-Overview-5-25/default.aspx)

- 2014 Intel Corporation's Answer and Counterclaims to First Amended Complaint, *Advanced Cluster Systems, Inc. v. Intel Corporation*, 7:24-cv-00245-ADA (W.D. Tex. Feb. 5, 2025) (D.I. 41)
- 2015 (New) "Lutnick says Intel has to give government equity in return for CHIPS Act funds" (available at <https://www.cnbc.com/2025/08/19/lutnick-intel-stock-chips-trump.html>)

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Patent Owner submits this opposition to Petitioner's Request for Rehearing (Paper 14, "Rehearing Req.").

Petitioner has not carried its burden under 37 C.F.R. § 42.71(d). Rehearing requires a showing that the Director misapprehended or overlooked a matter previously presented or that a relevant post-decision development now alters the § 314(a) discretionary analysis. Petitioner shows neither.

I. Petitioner Does Not Address – Let Alone Overcome – The Decision's Settled-Expectations Rationale

The Director's discretionary denial decision rested, in part, on settled expectations for the '768 Patent as part of a holistic § 314(a) assessment. (Paper 13, at 2-3) Petitioner's rehearing request does not explain how its policy narrative—even if credited—would displace that independent ground. Under § 42.71(d), Petitioner must show the Decision "should be modified." It does not address the settled-expectations determination at all, much less carry its burden to undo it.

II. No Misapprehension or Oversight – Only Disagreement with the Director's Weighing

Petitioner asserts the Director "overlooked" its national-security record, but it repeatedly cites the same pages of its discretionary-denial briefing that the Director expressly considered and found insufficiently detailed to alter § 314(a) ("Petitioner, however, does not explain in sufficient detail why review of the challenged patents is in the interest of national security"). (Paper 13, at 2-3). Rehearing is not a vehicle

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to re-argue the same points. Moreover, Petitioner repeats its assertion that “it is important to the national security of the United States that Intel has the opportunity to have the merits of the prior art be analyzed with respect to the overly-broad claims of the '768 patent.” Paper 14 at 8 (citing Paper 10 at 17, Paper 12 at 6). But Petitioner fails once again to explain—because it cannot—**why** there is a national security interest for such analysis to be performed at the Patent Office rather than by the district court (the forum that will decide issuance of any injunction). District Courts, and especially Judge Albright, address prior art challenges all the time. That Patent Owner is seeking an injunction does not foreclose Petitioner's prior art case in the district court, and does not create any national security interest.

III. The “\$9B Investment” Is Not a Relevant Changed Circumstance Under Section 42.71(d)

The announcement eight days after the Director's discretionary denial decision **was not a new appropriation or a development** that affects § 314(a) considerations such as timing, duplication, or Board efficiency, but rather was merely an equity securitization of **pre-existing** federal support. Petitioner's policy theme (that its semiconductor products are important to national security) is the same failed proposition it advanced pre-decision; the press release is cumulative packaging, not a change relevant to the § 314(a) discretionary analysis.

Moreover, Petitioner's rehearing request is factually misleading on the supposedly “new” investment event and on the quoted rationale.

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First, Petitioner argues that “eight (8) days after the Director’s denial of institution, the U.S. government invested \$8.9 billion in Intel.” (Paper 14, at 1) That is false. The funds were previously committed under CHIPS-Act grants; the post-decision event was simply that the Government secured an equity position against those already-allocated taxpayer funds (i.e., collateralizing pre-existing support), as Petitioner’s own Exhibit 1086 confirms. The change was one of form, not a new appropriation or national-security epiphany. *See* Paper 14 at 1 (citing Ex. 1086).

Petitioner also attributes to the Secretary of Commerce a statement that this equity transaction was undertaken “for ‘strengthening [] national security.’” *Id.* The text of the cited Petitioner’s own press release does not support that reading; it speaks at a general level about national priorities when companies invest in the U.S. (Ex. 1086 at 1 (para. 4)), not about any retroactive national-security justification for the prior administration’s grant commitments. Public reporting contemporaneous with the equity announcement likewise explains the purpose as fairness to taxpayers rather than a new national-security action. Ex. 2015 at 3. (Secretary of Commerce Lutnick stating: “we’re just converting what was a grant under Biden into equity . . . for the American people . . .”).

* * *

Petitioner identifies no misapprehension or oversight and no relevant post-decision change under § 42.71(d). The rehearing request should be denied.

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Dated: September 22, 2025

Respectfully submitted,

/David P. Lindner/

David P. Lindner, Reg. No. 53,222

Counsel for Patent Owner

Advanced Cluster Systems, Inc.

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned hereby certifies that I caused true and correct copies of the foregoing **PATENT OWNER'S OPPOSITION TO PETITIONER'S REQUEST FOR REHEARING AND EXHIBIT 2015** to be served in their entirety on September 22, 2025 by filing this document through the U.S. Patent Office's P-TACTS Filing System as well as causing true and correct copies be delivered by electronic mail on Petitioner's lead and backup counsel at the following email addresses (as agreed by counsel for Petitioner):

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