

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO. LTD. and SAMSUNG ELECTRONICS
AMERICA, INC.,
Petitioners,

v.

VB ASSETS, LLC,
Patent Owner

IPR2025-00869

U.S. Patent No. 8,886,536

PETITIONERS' SUR-REPLY REGARDING DISCRETIONARY DENIAL

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TABLE OF AUTHORITIES

Page(s)

Cases

<i>Shenzen Tuozhu Tech. Co., Ltd. v. Stratasys, Inc.</i> , IPR2025-00354 (PTAB June 12, 2025)	1
<i>Samsung Electronics Co., Ltd. et al. v. Headwater Research LLC</i> , IPR2025-00481 (PTAB Aug. 4, 2025)	3
<i>Samsung Electronics Co., Ltd. et al. v. Headwater Research LLC</i> , IPR2025-00483 (PTAB Aug. 4, 2025)	3
<i>Samsung Electronics Co., Ltd. et al. v. Headwater Research LLC</i> , IPR2025-00484 (PTAB Aug. 4, 2025)	3

EXHIBIT LIST

Exh.	Reference
1001	U.S. Patent 8,886,536 to Freeman & Kennewick (“the ’536 patent”)
1002	Prosecution History for U.S. Patent 8,886,536
1003	Declaration of Stuart Lipoff in Support of Inter Partes Review of U.S. Patent 8,886,536
1004	Curriculum Vitae of Stuart Lipoff
1005	U.S. Patent Application Publication 2005/0278180 to O’Neill & Hanna (“O’Neill”)
1006	U.S. Patent Application Publication 2007/0174258 to Jones & Bostic (“Jones”)
1007	U.S. Patent Application Publication 2010/0125458 to Franco et al. (“Franco”)
1008	U.S. Patent 7,609,829 to Wang et al. (“Wang”)
1009	U.S. Patent 6,513,006 to Howard & Junqua (“Howard”)
1010	Memorandum Order Regarding Claim Construction from <i>VB Assets, LLC v. Amazon.com Servs. LLC</i> , No. 1:19-cv-01410-MN (D. Del., filed July 29, 2019)
1011	Second Amended Joint Claim Construction Chart from <i>VB Assets, LLC v. Amazon.com Servs. LLC</i> , No. 1:19-cv-01410-MN (D. Del., filed July 29, 2019)
1012	U.S. Patent 7,620,549 to Di Cristo et al. (“Di Cristo”)
1013	U.S. Patent 5,321,608 to Namba (“Namba”)
1014	Niels Ole Bernsen et al., <i>Designing Interactive Speech Systems: From First Ideas to User Testing</i> , Springer (1998) (“Bernsen”)
1015	Xuedong Huang et al., <i>Spoken Language Processing</i> , Prentice Hall PTR (2001) (“Huang”)

Exh.	Reference
1016	Michael F. McTear, <i>Spoken Dialogue Technology</i> (2004) (“McTear”)
1017	Andrew Kehler, <i>The Effect of Establishing Coherence in Ellipsis and Anaphora Resolution</i> , 31st Annual Meeting of the Association for Computational Linguistics (1993) (“Kehler”)
1018	Sebastian Möller, <i>Quality of Telephone-Based Spoken Dialogue Systems</i> , Springer (2005) (“Möller”)
1019	Phillip R. Cohen et al., <i>An Open Agent Architecture</i> , Proceedings of the 1994 AAAI Spring Symposium, Software Agents (1994) (“Cohen”)
1020	Stephanie Seneff et al., <i>Multimodal Discourse Modelling in a Multi-User Multi-Domain Environment</i> , 4th International Conference on Spoken Language Processing (Oct. 1996)
1021	Stephanie Seneff et al., <i>GALAXY-II A Reference Architecture for Conversational System Development</i> , Proceedings of the 5th International Conference on Spoken Language Processing (Nov. 1998)
1022	Ian O’Neill et al., <i>Cross Domain Dialogue Modelling: An Object-Based Approach</i> , Proceedings of the 8th International Conference on Spoken Language Processing (2004) (“O’Neill (2004)”)
1023	Botond Pakucs, <i>SesAME: A Framework for Personalised and Adaptive Speech Interfaces</i> , Proceedings of the 2003 EACL Workshop on Dialogue Systems: Interaction, Adaptation, and Styles of Management (2003) (“Pakucs”)
1024	Mikio Nakano et al., <i>Grounding New Words on the Physical World in Multi-Domain Human-Robot Dialogues</i> , Papers from the 2010 AAAI Fall Symposium (2010) (“Nakano”)
1025	Honghua (Kathy) Dai et al., <i>Detecting Online Commercial Intention (OCI)</i> , Proceedings of the 15th International Conference on World Wide Web (2006) (“Dai”)
1026	Interactive Advertising Bureau, <i>IAB Internet Advertising Revenue Report</i> (May 2007)

Exh.	Reference
1027	Joe Plummer et al., <i>The Online Advertising Playbook</i> , (2007) (“Plummer”)
1028	Ganesh Iyer et al., <i>The Targeting of Advertising</i> , INSEAD Working Paper Series (Feb. 2004) (“Iyer”)
1029	Alex Kinnier, <i>Why We’re Buying DoubleClick</i> , Google Blog (June 26, 2007), https://googleblog.blogspot.com/2007/06/why-were-buying-doubleclick.html
1030	Daniel C. Fain & Jan O. Pedersen, <i>Sponsored Search: A Brief History</i> , 32(2) Bulletin of the American Society for Information Science & Technology 12 (2006) (“Fain”)
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1032	Eric J. Sinrod, Duane Morris LLP, <i>Internet Advertising Via “Behavioral Targeting”</i> , USA Today.com (Sept. 28, 2004) (“Duane Morris”)
1033	Kate Burns, <i>Ten Golden Rules to Search Advertising</i> , 6(3) Interactive Marketing 248 (2005) (“Burns”)
1034	H.P. Grice, <i>Logic and Conversation in 3</i> Syntax and Semantics 41, Academic Press (1975) (“Grice”)
1035	<i>Nuance Buys VoiceBox Technology with Little Fanfare</i> , Speech Technology News (May 22, 2018), https://www.speechtechmag.com/Articles/News/Speech-Technology-News/Nuance-Buys-VoiceBox-Technology-with-Little-Fanfare-125216.aspx , accessed Aug. 18, 2025
1036	U.S. Pat. & Trademark Off., Assignment abstract of title for Application 11/580926, accessed Dec. 18, 2024
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Exh.	Reference
1038	Final Judgment from <i>VB Assets, LLC v. Amazon.com Servs. LLC</i> , No. 1:19-cv-01410-MN (D. Del., filed July 29, 2019)
1039	Official Transcript of Jury Trial for Nov. 02, 2020, <i>VB Assets, LLC v. Amazon.com Servs. LLC</i> , No. 1:19-cv-01410-MN (D. Del., filed July 29, 2019)
1040	Docket Navigator, Gilstrap Uncontested Motions to Stay Pending IPR, 2014-present, accessed Aug. 18, 2025
1041	Pacer, List of Calendar Events Set for Judge Gilstrap for 6/29/2026-7/7/2026, pulled Aug. 7, 2025, accessed Aug. 18, 2025
1042	United States District Court – Judicial Caseload Profile 2020-March 2025, accessed Aug. 18, 2025.
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1044	Andrew T. Dufresne et al., Perkins Coie, <i>How Reliable are Trial Dates Relied on by the PTAB in the Fintiv Analysis?</i> , 1600 PTAB & Beyond (Oct. 29, 2021)
1045	Katherine K. Vidal, Under Sec’y of Com. for Intell. Prop. & Dir. of the USPTO, Mem. Re Interim Proc. for Discretionary Denials in AIA Post-Grant Procs. with Parallel Dist. Ct. Litig. (June 21, 2022), <i>rescinded</i> Feb. 28, 2025
1046	Letter from D. Kline to Counsel Regarding Updated Sotera Stipulation
1047	Email from A. Ligotti Regarding Updated Sotera Stipulation
1048	H.R. Rep. No. 112-98 (2011)
1049	<i>America Invents Act: Hearing on H.R. 1249 Before the Subcomm. on Intell. Prop., Competition, & the Internet of the H. Comm. on the Judiciary</i> , 112th Cong. (March 30, 2011)
1050	157 Cong. Rec. 13,159 (2011)

Exh.	Reference
1051	Jury Verdict from <i>VB Assets, LLC v. Amazon.com Servs. LLC</i> , No. 1:19-cv-01410-MN (D. Del., filed July 29, 2019)
1052	Letter from PJ McCarthy to Counsel Regarding Sotera Stipulation

Petitioners respectfully submit this sur-reply in response to Patent Owner's ("PO's") Reply in Support of Discretionary Denial. (*See* Paper 11, 1; EX-3101.)

Petitioners have offered an amended *Sotera* stipulation in view of *Shenzen Tuozhu Tech. Co., Ltd. v. Stratasy, Inc.*, IPR2025-00354, Paper 11, 2-3 (PTAB June 12, 2025). (Paper 10, 25.) With this stipulation, *Fintiv* factor four weighs against discretionary denial.

PO did not oppose Petitioners' request to file the amended *Sotera* stipulation as an exhibit in these proceedings, provided it was afforded a reply. (EX-1046; EX-1047; Paper 10, 25.) After petitioning the Court for leave to file a reply, PO filed a brief comprised of recycled arguments. In fact, the only new argument raised by PO in its reply is relates to the page limit of Petitioners' sur-reply.

As its sole new argument, PO accuses Petitioners of "gamesmanship" based on Petitioners' request for an equitable sur-reply. In support of its position, PO states that Petitioners' discretionary denial briefing addressed the amended stipulation in "less than a page," and, therefore, a three-page sur-reply is unfitting. (Paper 11, 2.) Balanced briefing, approved by leave of the court, is not evidence of gamesmanship. Petitioners submit this sur-reply in response to PO's supplemental brief, not in response to its own argument.

The remaining portion of PO's reply brief merely parrots arguments put forth in its opening brief. First, PO argues that Petitioners' amended stipulation fails to

reduce overlap with the district court proceedings and is evidence of gamesmanship, an argument previously presented over multiple pages in PO's opening brief. (Paper 11, 1; Paper 8, 24-30.) PO is incorrect in both assertions. First, in a letter sent on June 20, 2025, Petitioners stipulated, consistent with *Sotera*, that it would not pursue in the district court litigation "the grounds raised or any other grounds that could have been reasonably raised before the PTAB in the instituted proceeding." (EX-1052; *see also*, Paper 10, 23.) Second, Petitioners do not rely on any of the prior art references discussed in the Petition anywhere in their district court invalidity claim charts related to the system art references. (EX-2012, 72-73; Paper 10, 24.) Further, PO's argument is speculative, in that it assumes that, if institution is granted, Petitioners will present invalidity defenses based on one or more of the asserted system art at trial in combination with the references discussed in the Petition. Petitioners have identified twenty-two other prior art references that could be combined with the system art. (EX-2012, 42-43; Paper 10, 24.) The original stipulation, the amended stipulation, and Petitioners' district court briefing all show Petitioners' intent to reduce overlap with the district court proceedings.

PO then argues, for the second time, that Petitioners fail to identify its invalidity theories with specificity. (Paper 11, 2-3; Paper 8, 28-29.) As stated in its opposition, Petitioners have not decided which exact prior art references or

combinations of prior art they will ultimately present at trial in the district court case, particularly given that PO will undoubtedly narrow the asserted claims from the 197 claims currently asserted. (EX-2012; 1-2; Paper 10, 23-24.) Moreover, Petitioners' invalidity expert report is not due until February 17, 2026. (EX-2009, 4; Paper 10, 24-25.) There is no evidence of gamesmanship.

Finally, PO's argument that similar stipulations have failed to secure institution is misleading. In support of its position, PO cites to proceedings in which the Board denied institution "based on a holistic assessment of all evidence and arguments presented." The Board did not even address the Petitioners' *Sotera* plus stipulation in its decision and therefore did not make any determination that the stipulation itself was insufficient. (*Samsung Electronics Co., Ltd. et al. v. Headwater Research LLC*, IPR2025-00481, -00483, -00484, Paper 9 at 2 (PTAB Aug. 4, 2025).) Notably, the Board did address several other (non-*Sotera*) factors with particularity in its decision. (*Id.*)

Petitioners have agreed that, if IPR is instituted, they will not pursue in the related district court litigation any commercial prior art theory that is coextensive with prior art presented to the Board. (Paper 10, 23-25.) This stipulation limits overlap with the district court proceedings. Accordingly, Petitioners respectfully submit that the Director should not exercise discretionary denial.

Date: September 5, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of Petitioners' Sur-reply
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of Exhibits have been served on the Patent Owner via e-mail to the following
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