

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KANGXI COMMUNICATION TECHNOLOGIES
Petitioner,

v.

SKYWORKS SOLUTIONS CANADA, INC.,
Patent Owner.

U.S. Patent No. 7,409,200
Case No. IPR2025-00912

PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL

TABLE OF EXHIBITS

Exhibit	Description
EX2001	KCT News Regarding KCT Founding (https://kxcomtech.com/En/News/Company-Events/700.html)
EX2002	International Trade Commission Inv. No. 337-TA-1413, Huan Zhao (Open) Testimony July 14, 2025
EX2003	U.S. Patent No. 9,853,620
EX2004	Huan Zhao Declaration for U.S. Patent No. 9,853,620

I. INTRODUCTION

Under the factors set forth in the Board's guidance on "Interim Processes for PTAB Workload Management," dated March 26, 2025, Patent Owner Skyworks Solutions Canada, Inc. ("Skyworks") respectfully requests that institution of the petition be denied as an inefficient use of the Board's time and resources.

The challenged patent has been in force for a significant period of time. U.S. Patent No. 7,409,200 (the "'200 patent") issued more than 16.5 years before Petitioner Kangxi Communication Technologies ("KCT") decided to file its petition for *inter partes* review, and has been in force for over a decade since KCT was founded. Patent Owner Skyworks thus has had long-settled expectations that the '200 patent is valid and enforceable. There is no reason the Board should use the Patent Office's resources to disturb those settled expectations.

II. THE PETITION SHOULD BE DISCRETIONARILY DENIED

a. Patent Owner Skyworks Has Strong Settled Expectations in the '200 Patent

The lengthy time that the '200 patent has been in force strongly favors exercising discretion and denying institution of this petition.

"[I]n general, the longer the patent has been in force, the more settled expectations should be." *Dabico Airport Solutions Inc. v. AXA Power Aps*, No.

IPR2025-00408, Paper 21, at 3 (P.T.A.B. June 18, 2025). The '200 patent issued on August 5, 2008, *i.e.*, more than 16.5 years before KCT filed its petition. Undoubtedly, 16.5 years is a significant period of time for a patent to be in force—far longer than the patents that recent Board decisions have discretionarily denied institution based on settled expectations. *See, e.g., id.* at 2 (challenged patent in force for nearly 8 years created settled expectations); *Intel Corp. v. Proxense LLC*, Nos. IPR2025-00327, IPR2025-00328, IPR2025-00329, Paper 12, at 2 (P.T.A.B. June 26, 2025) (same for patents in force for over 9 years); *Cambridge Indus. USA, INC. v. Applied Optoelectronics, Inc.*, Nos. IPR2025-00433, IPR2025-00435, Paper 11, at 3 (P.T.A.B. June 26, 2025) (same for patents in force for 7 and 9 years); *see also Google LLC v. VirtaMove, Corp.*, Nos. IPR2025-00487, IPR2025-00488, IPR2025-00489, IPR2025-00490, Paper 11, at 2 (P.T.A.B. July 11, 2025) (patents in force for 14 years “create[d] strong settled expectations”); *Amazon.com, Inc. v. VirtaMove, Corp.*, Nos. IPR2025-00561, IPR2025-00563, IPR2025-00566, Paper 9, at 2 (P.T.A.B. July 11, 2025) (same). Such strong settled expectations favor discretionary denial even where parallel district court litigation has been stayed or has not had a trial date scheduled. *See, e.g., Google*, Paper 11, at 2 (Patent Office “disinclined to disturb” the “strong settled expectations” for patents in force for more than 14 years, despite no trial date set in parallel litigation); *Amazon*, Paper 9, at 2

(Patent Office “disinclined to disturb” the “strong settled expectations” for patents in force for more than 14 years, despite stayed parallel litigation); *Sandisk Techs., Inc. v. Polaris PowerLED Techs., LLC*, Nos. IPR2025-00515, IPR2025-00516, IPR2025-00517, Paper 15, at 2 (P.T.A.B. July 16, 2025) (Patent Office “disinclined to disturb” the “strong settled expectations” for patents in force for 9, 12, and 12 years, despite stayed parallel litigation).

b. Petitioner KCT Has Been Aware of the U.S. Patent System and Patent Owner Skyworks Since Its Founding

“[A]ctual notice of a patent or of possible infringement is not necessary to create settled expectations.” *Dabico*, Paper 21, at 3. The '200 patent could have easily been found using the Patent Office's automated search systems and publicly available resources on the Internet. *Id.* (citing 35 U.S.C. § 41(i)).

Even if expectations started in September 2014 when KCT was founded,¹ the '200 patent was still unchallenged for *over a decade* thereafter—despite KCT's sophistication in patent prosecution and awareness of Skyworks as a competitor and market leader. KCT has been aware of and participated in the U.S. patent system since soon after its founding in September 2014. KCT has filed tens of patent

¹ See KXComTech, *In September of 2014, Kangxi Communication Technologies (Shanghai) Co., Ltd. was founded in Shanghai* (Oct. 10, 2014), <https://kxcomtech.com/En/News/Company-Events/700.html> (EX2001).

applications worldwide, including numerous applications in its first few years as a company. *See, e.g.*, CN Patent No. 105049015 (filed Aug. 7, 2015); U.S. Patent No. 9,825,630 (filed Aug. 5, 2016). Furthermore, one of KCT's two co-founders, Huan Zhao, was familiar with and had applied for U.S. patents before founding KCT. Mr. Zhao testified on July 14, 2025 in International Trade Commission ("ITC") Inv. No. 337-TA-1413, that he is "one of the two cofounders and [chief technology officer] of KCT" "in charge of the whole engineering department" and "direct[s] the technical product development." EX2002 at 825:25-826:9. Mr. Zhao is a named inventor on, for example, U.S. Patent No. 9,853,620 (EX2003), which issued from an application filed May 2, 2014, and claims priority to a provisional application filed May 3, 2013 (EX2004 (Huan Zhao Declaration signed 5-2-2014)). In addition, Mr. Zhao explained that KCT has been aware of Skyworks as a market-leading competitor since KCT's founding. EX2002 at 902:24-903:1, 991:10-22. In fact, since its founding, KCT has made Skyworks and Skyworks' products a focus of KCT's business. *Id.* at 903:6-10.

The '200 patent had already been in force and publicly available via online searches to KCT for six years by KCT's founding in 2014, yet KCT did not seek to challenge the '200 patent for 11 more years.

There is no reason to now disturb the settled expectations of the parties. KCT's petition identifies two grounds of alleged unpatentability under (pre-AIA) 35 U.S.C. §103(a) and there has been no significant change in the law since the patent issued that would directly bear on the patentability of the challenged claims.

c. The '200 Patent's Approaching Expiration Date Favors Discretionary Denial

The '200 patent expires on April 1, 2026—over seven months before the Board's final written decision would be due on November 23, 2026. Therefore, undertaking an *inter partes* review of the '200 patent would be an inefficient use of the Patent Office's resources.

III. CONCLUSION

For the foregoing reasons, the Board should exercise its discretion and deny institution of the petition under 35 U.S.C. § 325(d) and/or 35 U.S.C. § 314(a).

Respectfully submitted,

Date: July 23, 2025

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Patent Owner's Request for Discretionary Denial contains 1,021 words as measured by the word processing software used to prepare the document, in compliance with the Memorandum by the Acting Director dated March 26, 2025, titled "Interim Processes for PTAB Workload Management."

By: /Haixia Lin/
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CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2025, I caused a true and correct copy of the following materials:

- Patent Owner's Request for Discretionary Denial
- Certificate of Compliance Under 37 CFR §42.24(d)
- Patent Owner's Exhibit List
- Exhibits 2001-2004

to be served via e-mail, as consented to by Petitioner, on the following attorneys of record:

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