Paper 10
Filed: September 4, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORPORATION,
ADVANCED MICRO DEVICES,
Petitioners,

v.

ADVANCED CLUSTER SYSTEMS, INC.,
Patent Owner

IPR2025-00915
Patent No. 11,563,621

PATENT OWNER'S REPLY IN SUPPORT OF REQUEST FOR DISCRETIONARY DENIAL[1]

[1] Authorized on September 2, 2025. Ex. 3101.

PATENT OWNER'S EXHIBIT LIST

Exhibit	Description
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	*Advanced Cluster Systems, Inc. v. Intel Corporation*, Amended Scheduling Order (D.I. 54)
2005	*Advanced Cluster Systems, Inc. v. Advanced Micro Devices, Inc.*, Scheduling Order (D.I. 36)
2006	Judge Albright Clerk emails
2007	*Allani v. Apple Inc.*, No. 6:24-cv-304-ADA (W.D. Tex. May 6, 2025) (D.I. 30)
2008	*Intellectual Ventures I LLC v. TCL Elects. Holdings Ltd.*, No. 6:23-cv-309-ADA (W.D. Tex. Sept. 10, 2024) (D.I. 44)
2009	*Acquis, LLC v. Hon Hai Precision Indus Co. Ltd.*, No. 6:23-cv-264-ADA (W.D. Tex. May 31, 2024) (D.I. 46)
2010	*ParkerVision, Inc. v. MediaTek Inc. et al.*, No. 6:22-cv-01163-ADA (W.D. Tex. April 29, 2024)
2011	*TOT Power Control, S.L. v. AT&T, Inc. et al.*, No. 6:21-cv-00107-ADA (W.D. Tex. June 6, 2025)
2012	*AlmondNet, Inc. v. Amazon.com, Inc., et al.*, No. 6:21-cv-00898-ADA (W.D. Tex. June 19, 2025)
2013	Intel Corporation's Amended Invalidity Contention Cover Pleading (Apr. 25, 2025)
2014	[EXHIBIT NOT USED]

2015	AMD's Preliminary Invalidity & Subject-Matter Eligibility Contentions Cover Pleading (Corrected Apr. 25, 2025)
2016	AMD's Preliminary Invalidity Contention – Chart A-8
2017	*Advanced Cluster Systems, Inc. v. Intel Corporation*, Order Appointing Technical Advisor (D.I. 71)
2018	*Advanced Cluster Systems, Inc. v. Advanced Micro Devices, Inc.*, Order Appointing Technical Advisor (D.I. 53)
2019	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)
2020	NVIDIA Company Overview (May 2025) (available at https://investor.nvidia.com/events-and-presentations/presentations/presentation-details/2025/Company-Overview-5-25/default.aspx)
2021	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)
2022 (New)	Considered 02/18/2022 IDS Submitted in U.S. Patent Appln. No. 17/374,789
2023 (New)	Exhibit A-18 - MultiMatlab References, U.S. Patent No. 10,333,768, as listed in Defendant NVIDIA Corporation's Supplemental Invalidity Contentions in Case No. 1 :19-cv-2032-CFC, Advanced Cluster Systems, Inc., v. NVIDIA Corporation as dated August 17, 2021 in 254 pages (submitted with IDS in U.S. Patent Appln. No. 17/374,789) (ACS_0065212-0065465)
2024 (New)	*Advanced Cluster Systems, Inc. v. Intel Corporation*, Case No. 7:24-cv-00245-ADA (D.I. 79), Minute Entry Markman Hearing Proceedings Held 08/18/2025
2025 (New)	*VirtaMove, Corp. v. Microsoft Corp.*, Case No. 1:25-cv-00794-ADA (D.I. 33), Order Granting Motion to Dismiss

2026 (New)	*Yeti Coolers, LLC v. Waterbear Global, LLC*, Case No. 1:24-cv-1251-ADA (D.I. 35, 35-1), Unopposed Motion to Extend Scheduling Order Deadlines and Proposed Order
2027 (New)	Intel Corporation's Third Amended Preliminary Invalidity And Subject-Matter Eligibility Contentions (Aug. 28, 2025)

Patent Owner submits this reply brief in support of its request for discretionary denial (Paper 7, "DD Req.").

I. First Office Action Allowance Does Not Demonstrate Material Error

Petitioners incorrectly rely on *Shenzen*, in which a single reference taught all of the limitations of the challenged claims, for a general principle that issuing a first action allowance is material error *per se*. (Paper 8, "DD Opp.," at 8) (citing *Shenzen Chic Elecs. Co., Ltd. v. Pilot, Inc.*, IPR2023-00810, Paper 12, 21 (PTAB July 16, 2025)). No such *per se* rule exists and those facts do not apply here. Petitioners further allege the Examiner erred because Petitioners would have applied the Menon and Trefethen references differently, DD Opp. at 9-12, but that does not constitute material error. *See Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 at 9 (PTAB Feb. 13, 2020) ("If reasonable minds can disagree regarding the purported treatment of the art . . . it cannot be said that the Office erred in a manner material to patentability."). Petitioners' arguments are pure speculation and legally deficient.

II. § 325(d) Applies Because RS6000 And POEref Are Cumulative And Petitioners Have Failed To Show Material Error

It is undisputed that Menon, Trefethen, and MPIref were before the Examiner. DD Req. at 38-39. Petitioners allege that RS6000 discloses a minimum of four processors. DD Opp. at 13-14. Menon, however, already discloses that its system includes at least four processors. Ex. 1005 at 5, 13 (32 processors), Fig. 1; Pet. at 29

("Menon's cluster comprises multiple processors"), Ex. 1003, ¶ 178. Petitioners have failed to show that the number of processors in RS6000 is material. *Becton, Dickinson & Co. v. B. Braun Melsungen AG*, IPR2017-01586, Paper 8 at 9 (PTAB Dec. 15, 2017) (Petitioner's burden in IPRs "never shifts to the Patent Owner.").

Petitioners also argue that RS6000 discloses "internal or external" "disk drives or memory cards," DD Opp. at 14, but fail to show that this is material because the claims do not require disk drives or memory cards. Claims 1 and 3 only recites "computer-readable medium" (Pet. 32-33 (element [1.2], 69-70 (element [3.1])), and this is already disclosed by Menon. "Menon describes that each MATLAB process has MATLAB in an 'address space.'" Pet. at 32, citing Ex. 1005, Fig. 2, 5. Petitioners' expert confirms this. Ex. 1003, ¶ 62("Menon discloses that each processor includes a set of components in the MATLAB process address space (computer-readable medium). . . .") citing Ex. 1005, 3, 5.

Petitioners argue that RS6000 discloses "switches that connect the processors" and thus alleges RS6000 is not cumulative of Menon. DD Opp. at 14. However, Claim 30 does not require switches, but connectivity through network components" Pet. at 105, and Menon discloses a communication subsystem of "a network of workstations connected by TCP/IP." Ex. 1005 at 5. Petitioners' expert further highlights Menon's Fig. 1 as showing an interconnecting network between each MATLAB process. Ex. 1003, ¶ 236 citing Ex. 1005, Fig. 1 (annotated).

Petitioners' POEref argument likewise fails because it is also cumulative of Menon. Petitioners allege that POEref discloses a command to start a cluster initialization process for the computer cluster. DD Opp. at 14. But, Claims 4 and 17 only require initialization from a cluster configuration module. Pet. at 109, 113. Furthermore, the petition states that "Menon discloses that the 'MATLAB processes are started via POE, IBM's Parallel Operating Environment.' Ex. 1005, 6. After using POE, all non-interactive processes, 'wait for commands from the interactive MATLAB process.' Ex. 1005, 6." Pet. at 109. Hence, Petitioners failed to show that POEref is not cumulative of Menon.

With respect to the second part of the *Advanced Bionics* framework, Petitioners' arguments on *Becton, Dickinson* factors (e) and (f) fail. As to factor (e), Petitioners have not identified how the Examiner erred in its evaluation of the asserted prior art. Petitioners argue that the combination of references in their petition was not before the Examiner. DD Opp. at 17. This is insufficient to satisfy the *Advanced Bionics* analysis. *Ecto World, LLC v. RAI Strategic Holdings, Inc.*, IPR2024-01280, Paper 13 at 6 (PTAB May 19, 2025); *Sony Interactive Ent. LLC v. Terminal Realty, Inc.*, IPR2020-00711, Paper 15 at 12 (PTAB Oct. 13, 2020).

To the extent that Petitioners argue that Menon and Trefethen were buried in an IDS and did not provide guidance to the Examiner to support a *Becton Dickinson* factor (f) argument, Petitioners ignore that the '621 Patent was examined by the same

Examiner that examined U.S. Pat. No. 11,570,034 and reviewed NVIDIA's invalidity contentions applying Menon and Trefethen to claims from U.S. Pat. No. 10,333,768 that was cited in a 19-reference IDS there and considered again here. Ex. 2022 (cite 17); Ex. 2023; Ex. 1002 at 237 (cite 541). The Examiner understood and considered the references. Petitioners failed to show that § 325(d) does not apply.

III. The Economic and Security Interest Arguments Are Unavailing

Petitioners cite many documents to say that their chips are used by the government and in data centers, and that those users would be harmed by an injunction. DD Opp. at 18-24. Petitioners do not explain, however, how a PTAB review of the '679 Patent implicates such economic and security interests. Similar arguments untailored to particular products have been rejected in connection with Patent Owner's related U.S. Patent No. 10,333,768. *Advanced Micro Devices v. Advanced Cluster Systems*, IPR2025-00862, Paper 14 at 3 (PTAB Sept. 3, 2025).

IV. Petitioners' *Fintiv* Factor 2 Analysis Is Speculative

Petitioners fail to show that the Parallel Litigation trial will not occur until July 2027. DD Opp. at 25-27. Petitioners rely upon median time-to-trial statistics for the entire district (Ex. 1021 at 37), not specifically for Judge Albright. Petitioners have not shown that since Chief Judge Moses' reassignment order that any of Judge Albright's prior cases—like the Parallel Litigation—have changed as a result of the order. In the Parallel Litigation, Judge Albright recently issued preliminary claim

constructions (Aug. 16) and held a *Markman* hearing consistent with the existing schedule and indicated his rulings (Aug. 18). Ex. 2024. Finally, Petitioners fail to show that the Parallel Litigation will move because other trials are scheduled for the same day or week prior to the Parallel Litigation (DD Opp. at 27) because cases will often be resolved prior to the trial dates. Indeed, *VirtaMove v. Microsoft* (1:25-cv-794) (Ex. 1069 at 2) has already been dismissed. *See* Ex. 2025. And, in *Yeti Coolers v. Waterbear Global* (1:24-cv-1251) the parties are seeking to extend the schedule and trial into March 2027 in part to explore settlement. *Compare* Ex. 2026 at 2,8 *with* Ex. 1072 at 3.

V. Petitioners' Misrepresent The *Fintiv* Factor 3 Activities

Contrary to Petitioners' argument, both the district court and parties have invested substantial time in the Parallel Litigation. *See* Paper 7 at 8-9. Judge Albright has appointed a technical advisor, held a *Markman* hearing, and stated his rulings. Petitioner Intel has also served extensive third supplemental invalidity contentions (Ex. 2027) and the parties have begun extensive accelerated fact discovery. By the time of institution, the parties will have also invested significant time involving the same art for the related '768 Patent. IPR2025-00862, Paper 14 (denying institution).

Dated: September 4, 2025

Respectfully submitted,

/David P. Lindner/

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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 **REPLY IN SUPPORT OF PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL AND EXHIBITS 2022-2027** to be served in their entirety on September 4, 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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