

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMERICAN AIRLINES, INC. and SOUTHWEST AIRLINES CO.,
Petitioners,

v.

INTELLECTUAL VENTURES II LLC,
Patent Owner.

IPR2025-00931
U.S. Patent No. 8,332,844

**PETITIONERS' BRIEF IN OPPOSITION TO PATENT OWNER'S
REQUEST FOR DISCRETIONARY DENIAL**

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EXHIBIT LIST

Exhibit No.	Description of Document
1001	U.S. Patent No. 8,332,844
1002	Prosecution File History of U.S. Patent No. 8,332,844 (Application No. 11/709,477)
1003	Expert Declaration of Erez Zadok, Ph.D.
1004	Erez Zadok, Ph.D. Curriculum Vitae
1005	Sapuntzakis, et al. "Optimizing the Migration of Virtual Computers," Association for Computing Machinery, Special Interest Group on Operating Systems, Operating Systems Review, Proceedings of the 5th Symposium on Operating Systems Design and Implementation (OSDI), Volume 36, Issue S1, published December 31, 2002 ("Sapuntzakis")
1006	U.S. Patent No. 7,089,300B1, entitled "Method and Apparatus for Administering the Operating System of a Net-Booted Environment," filed on October 18, 1999, and issued August 8, 2006 to Birse, et al. ("Birse")
1007	U.S. Patent Application Publication No. 2005/0283597 A1, entitled "System and Method for Booting Multiple Servers from a Single Operating System Image," filed on June 22, 2004, and published on December 22, 2005 ("Holzmann")
1008	U.S. Patent Application Publication No. 2003/0182313 A1, entitled "System and Method for Determining Changes in Two Snapshots and for Transmitting Changes to Destination Snapshot," filed on March 19, 2002, and published on September 25, 2003 ("Federwisch")
1009	File History for U.S. Patent Application No. 11/026,622 (the "'622 Application", now abandoned)
1010	File History for U.S. Patent Application No. 11/395,816 (the "'816 Application", now U.S. Patent No. 7,721,282)
1011	Microsoft Computer Dictionary, 3rd ed., 1997, excerpts ("Microsoft Computer Dictionary")
1012	Abraham Silberschatz and Peter B. Galvin, Operating Systems Concepts, 4th Edition, 1994, Addison-Wesley Publishing, excerpts ("Silberschatz")
1013	File System Design for an NFS File Server Appliance, Dave Hitz et al.,

	Network Appliance, USENIX 1994 (“Hitz”)
1014	SnapMirror: File System Based Asynchronous Mirroring for Disaster Recovery, Hugo Patterson et al., Network Appliance, USENIX 2002 (“Patterson I”)
1015	U.S. Patent 6,668,264B1 to Patterson et al., Filed Apr. 3, 2001, Issued Dec. 23, 2003, titled “Resynchronization of a target volume with a source volume” (“Patterson II”)
1016	U.S. Patent 7,334,095B1 to Fair et al. Filed Apr. 30, 2004 (“Fair”)
1017	Internet Small Computer Systems Interface (iSCSI), RFC 3720, IETF, April 2004, https://www.rfc-editor.org/rfc/pdf/rfc3720.txt.pdf
1018	Claim Listing
1019	Complaint, <i>Intellectual Ventures I LLC et al. v. Southwest Airlines Co.</i> , No. 7:24-cv-00277 (W.D. Tex. Nov. 2, 2024)
1020	Complaint, <i>Intellectual Ventures I LLC et al. v. American Airlines, Inc.</i> , No. 4:24-cv-980-ALM (E.D. Tex. Nov. 2, 2024)
1021	Claim Chart Exhibit to Complaint, <i>Intellectual Ventures I LLC et al. v. Southwest Airlines Co.</i> , No. 7:24-cv-277 (W.D. Tex. Nov. 2, 2024)
1022	Screenshots From Internet Archive Related to www.usenix.org
1023	Declaration of Keith D. Harden
1024	American’s Opposition to IV’s Motion for Leave to File an Amended Complaint, <i>Intellectual Ventures I LLC et al. v. American Airline, Inc.</i> , No. 4:24-cv-980-ALM (E.D. Tex. June 24, 2025) (Dkt. 56)
1025	IV’s Reply in Support of its Motion for Leave to File an Amended Complaint, <i>Intellectual Ventures I LLC et al. v. American Airline, Inc.</i> , No. 4:24-cv-980-ALM (E.D. Tex. July 8, 2025) (Dkt. 60)
1026	Order Granting Plaintiffs’ Motion for Leave to File Amended Complaint, <i>Intellectual Ventures I LLC et al. v. American Airline, Inc.</i> , No. 4:24-cv-980-ALM (E.D. Tex. Aug. 19, 2025) (Dkt. 71)
1027	IV’s Disclosure of Preliminary Infringement Contentions, <i>Intellectual Ventures I LLC, et al. v. American Airlines, Inc.</i> , No. 4:24-cv-980-ALM (E.D. Tex. Mar. 28, 2025) (cover pleading only) (redacted)
1028	IV’s Disclosure of Preliminary Infringement Contentions, <i>Intellectual Ventures I LLC, et al. V. Southwest Airlines Co.</i> , No. 7:24-cv-277 (W.D. Tex. Feb. 10, 2025) (cover pleading and exhibit 1 only)
1029	Defendant American Airlines, Inc.’s P.R. 3-3 Invalidity Contentions, <i>Intellectual Ventures I LLC et al. v. American Airline, Inc.</i> , No. 4:24-

	cv-980-ALM (E.D. Tex. June 20, 2025) (cover pleading and Exhibits D-23 and D-25 only)
1030	Defendant Southwest Airlines Co.’s Preliminary Invalidity Contentions, <i>Intellectual Ventures I LLC et al. v. Southwest Airlines Co.</i> , No. 7:24-cv-277 (W.D. Tex. Apr. 8, 2025) (cover pleading and Exhibits 844-23 and 844-24 only)
1031	Defendant American Airlines, Inc.’s Rule 4-2 Disclosures, <i>Intellectual Ventures I LLC et al. v. American Airline, Inc.</i> , No. 4:24-cv-980-ALM (E.D. Tex. July 14, 2025)
1032	Defendant Southwest Airlines Co.’s Disclosure of Preliminary Proposed Claim Constructions, <i>Intellectual Ventures I LLC et al. v. Southwest Airlines Co.</i> , No. 7:24-cv-277 (W.D. Tex. May 9, 2025)
1033	Defendant Southwest Airlines Co.’s Motion to Transfer Venue, <i>Intellectual Ventures I LLC et al. v. Southwest Airlines Co.</i> , No. 7:24-cv-277 (W.D. Tex. May 9, 2025) (Dkt. 21)

I. INTRODUCTION

Patent Owner’s request for discretionary denial trades on rhetoric and speculation rather than evidence. Its “campaign to harass” refrain flips reality: Patent Owner chose to sue these Petitioners in two different district courts on November 2, 2024. Seeking PTAB review to streamline validity is not harassment; it is the very mechanism Congress created in the America Invents Act to provide an efficient, expert forum for testing patent validity and to prevent the burden of litigating improvidently granted claims in multiple Article III courts.

Congress enacted IPRs to improve patent quality and provide a faster, less costly alternative to litigation for resolving validity disputes. That policy applies equally to old patents as to new ones. Indeed, shielding the oldest patents from review is most at odds with Congress’s design. If an invalid patent survives for years without meaningful testing, it should not thereby become *stronger*, whereby its assertion would impose ever-greater burdens on innovation and unsuspecting operating companies. Nothing in the AIA suggests that old patents should be insulated from review, and such a “settled expectations” theory would invert Congress’s design by thwarting review of precisely those patents most in need of scrutiny.

The record here further underscores why IPR is appropriate.

First, denial under 35 U.S.C. § 325(d) is not warranted. The co-pending *ex parte* reexamination (see Exs. 2001, 2002) independently filed by Unified Patents also does not warrant denial under § 325(d), at least because the reexamination does not concern art or arguments previously presented to or considered by the Office, and the reexamination is not at an advanced stage. Additionally, the Petition's grounds rely on prior art that was neither substantively addressed nor even cited during prosecution; the only tangentially related reference (U.S. 6,751,658 (Haun)) was merely mentioned—not relied upon—while a different examiner relied on Haun in the abandoned grandparent. The record favors institution, not denial.

Second, Patent Owner's "coordination" theory with Unified Patents is unsupported. Petitioners' mandatory notices confirm no unnamed entity is funding, controlling, or directing this Petition. Patent Owner relies on conjecture about timing and similarity, and presents no evidence that Petitioners coordinated with Unified Patents in bringing this Petition. Speculation is not evidence, nor is it logical considering that the Unified Patents reexam follows an invalidity roadmap not from this pending IPR, but charted in the *previous* Liberty Mutual IPR. (IPR2025-00202).

Third, consistent with the Director's recent guidance in *Intel Corp v. Proxense, LLC*, IPR2025-00327, Paper 12, although the '844 Patent has been in force for years, it has not been "commercialized, asserted, marked, licensed, or otherwise applied" in Petitioners' technology space—commercial airlines, but was only first asserted

against these Petitioners—commercial airlines—on November 2, 2024, and only after years of dormancy. Whatever “settled expectations” supposedly existed in other markets, the patent had not been applied in Petitioners’ business space until Patent Owner initiated these suits.

Fourth, Petitioners’ claim construction positions are not inconsistent and therefore do not warrant discretionary denial. The Petition proceeds under *Phillips* and demonstrates unpatentability “under any reasonable interpretation,” which is fully compatible with preserving alternative § 112 defenses in Article III proceedings.

Fifth, the *Fintiv* factors favor institution or are neutral. There is no legitimate question that this IPR would reach a final written decision before either of the district court cases could make it to trial, thereby streamlining the issues for trial. Moreover, Petitioners have already offered a *Sotera* stipulation to avoid any overlap with the parallel litigations or risk of duplication.

Finally, PTAB review here will promote efficiency across the broader litigation landscape. The parallel actions involve a dozen patents from ten different families, covering disparate accused technologies supplied by various vendors. No Article III court could reasonably try all of them together. Indeed, no single jury trial could reasonably adjudicate them all at once. However, PTAB review focused on a

single patent at a time can streamline the larger dispute so that the district courts can resolve infringement and damages, if necessary, on any claims that survive.

The Director should deny Patent Owner's request for discretionary denial and allow the Petition to be decided on the merits.

II. THE DIRECTOR SHOULD ALLOW THE PETITION TO PROCEED ON THE MERITS

A. Discretionary denial is not appropriate under § 325(d).

1. The *Advanced Bionics* framework favors institution, not discretionary denial.

Under *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 (PTAB Feb. 13, 2020) (precedential), the Board asks: (1) whether the same or substantially the same art or arguments previously were presented to the Office; and, if so, (2) whether the petitioner has shown material error by the Office, guided by the *Becton, Dickinson* factors. *See Advanced Bionics*, IPR2019-01469, Paper 6 at 8–10 (P.T.A.B. Feb. 13, 2020) (precedential); *Becton, Dickinson & Co. v. B. Braun Melsungen AG*, IPR2017-01586, Paper 8 at 17–20 (PTAB Dec. 15, 2017) (informative).

The prosecution history does not reflect substantive consideration of the Petition's printed-publication combinations. The Petition relies on Sapuntzakis, Holzmann, Birse, and Federwisch in specific combinations with expert-supported mappings; those combinations were not substantively evaluated during examination. The only tangentially related reference (Haun) appears in the file history but was not

relied upon in allowing the claims, while a different examiner relied on Haun in an abandoned grandparent—underscoring that the particular teachings and combinations advanced here were not before the examiner of the '844 patent. *See* Petition at 80–81; Ex. 1002 at 64, 66; Ex. 1009 at 94, 146, 205, 263, 295. On this record, Part One is not satisfied under *Advanced Bionics*.

Patent Owner cannot satisfy Part One of the *Becton, Dickinson* factors for at least the following reasons:

(a) Similarities and material differences in the art weigh against discretionary denial because the Petition advances prior art and combinations materially distinct from what the examiner actually evaluated.

(b) The extent to which the asserted art is cumulative weighs against discretionary denial; the Petition's references supply claim-element teachings and rationales not addressed in the prosecution record.

(c) The extent of the Office's evaluation of the art or arguments was limited; there is no indication the examiner analyzed the Petition's specific combinations or the expert-supported rationales for combining them.

(d) The overlap between the arguments made during examination and those in the Petition is minimal; the Petition presents different combinations and motivations to combine.

(e) Patent Owner has not identified examiner error—certainly not the kind of material error *Advanced Bionics* requires to justify § 325(d) discretion.

(f) The new evidence (including detailed arguments and expert testimony) favors institution; the Board routinely finds this factor weighs against discretionary denial where the petition marshals evidence not before the examiner.

Since Part One of the *Becton, Dickinson* factors has not been satisfied, Petitioner need not show how the Office erred under Part Two.

Taken together, the *Becton, Dickinson* factors do not support exercising discretion under § 325(d).

2. The parallel reexamination is not a basis for § 325(d) denial.

Patent Owner asserts that an *ex parte* reexamination of the '844 Patent, filed by Unified Patents (*See* Ex. 2001) warrants denial under 35 U.S.C. § 325(d). While an *ex parte* reexamination proceeding may be a proceeding under § 325(d) in which the same or substantially the same prior art or arguments may have been previously presented to the Office (*see Advanced Bionics*, IPR2019-01469, Paper 6 at 7-8), the Board has previously found that, where an *ex parte* reexamination is in its early stages, even where the reexamination includes the same grounds, denial is not warranted. *See Thermaltake Technology Co., Ltd. et al v. Chien-Hao Chen*, IPR2024-01230, Paper 12 at 7-13 (PTAB Feb. 19, 2025).

In *Thermaltake*, the Board analyzed a situation in which an *ex parte* reexamination request was filed by a third party on July 2, 2024, a few weeks before the filing of the IPR Petition in *Thermaltake* on July 26, 2024. *Thermaltake*, IPR2024-01230, Paper 12 at 3, 7-13. However, although the reexamination and the IPR in *Thermaltake* presented similar art and arguments, the Board declined to exercise its discretion under § 325(d) because, while the Board may deny institution under § 325(d) of a proceeding that is “in *a more advanced stage* and involves overlapping issues,” the *ex parte* reexamination was in its early stages, with only an office action rejecting claims 1-5 having been issued at the time. *Thermaltake*, IPR2024-01230, Paper 12 at 11 (emphasis original) (citing *Mueller Sys., LLC v. Rein Tech, Inc.*, IPR2020-00100, Paper 9 at 13 (PTAB May 12, 2020) (“The early stage of the Reexamination Proceeding, however, weighs against denying institution.”)).

The Board in *Thermaltake* further explained that Part Two of the *Becton, Dickson* factors (whether the Office erred) need not even be addressed if the grounds have not yet been evaluated by the Office because “the EPR submission is not an Office evaluation of the art and need not be distinguished by Petitioner,” as “[i]t would be nonsensical to require Petitioner to argue that the Office erred in its preliminary evaluation.” *Thermaltake*, IPR2024-01230, Paper 12 at 12.

Here, the *ex parte* reexamination filed independently by Unified Patents was filed on the same day as Petitioners’ IPR Petition, and currently, reexamination has

only been “ordered” by the Office, with no Office Actions having yet been issued. *See* Exs. 2001, 2002. The Unified Patents reexamination is therefore in its very early stages; no Office evaluation of the grounds has yet occurred.

Petitioners also note that grounds using the same prior art were raised in a previous IPR Petition filed by Liberty Mutual and Comerica, but the parties to the Liberty Mutual IPR settled and the proceeding was terminated prior to any institution decision. *Liberty Mutual et al. v. Intellectual Ventures II LLC*, IPR2025-00202, Paper 9 (PTAB April 23, 2025). Therefore, the Office also did not previously evaluate the prior art in the Liberty Mutual IPR.

Accordingly, § 325(d) does not support discretionary denial.

B. Petitioners and Unified Patents are not affiliated and did not coordinate.

Patent Owner asks the Director to deny institution based on an asserted affiliation/coordination between Petitioners and Unified Patents. The Request supplies no evidence—only conjecture about “memberships,” “membership fees,” and purported “coordination.” Patent Owner’s lack of evidence is unsurprising given the indisputable facts set forth herein, demonstrating that Petitioners and Unified Patents are not related in any way and Petitioners and Unified Patents have not coordinated at all. On this record, discretionary denial is not warranted.

1. Patent Owner’s coordination theory is unsupported by evidence.

Patent Owner offers speculation that Petitioners are “members” of Unified Patents, that “membership fees” were “likely” paid, and that there is a coordinated “campaign.” Request at 8–9. But speculation is not evidence. Petitioners’ mandatory notices identify only the named Petitioners and confirm that no unnamed entity is funding, controlling, or directing this IPR. *See* Petition at 1 (Mandatory Notices). Patent Owner identifies no contrary proof.

Patent Owner also points to similarities across public filings (e.g., overlapping grounds or a shared technical expert) to imply coordination. That inference is unfounded. Reliance on public prior art and publicly filed analyses—by different challengers—does not establish funding, control, privity, or coordination. *See, e.g.*, Request at 11–12 (noting similarities).

For example, Patent Owner contends that coordination is evident because aspects of the Reexamination Request filed by Unified Patents on the ’582 Patent (Ex. 2004) were “cut and pasted almost verbatim.” Request at 8. In a table on pages 11–12 of the Request, Patent Owner shows two excerpts from the Petition and the Reexamination which Patent Owner contends “show the lengths to which Unified Patents has gone to maintain consistency with the positions taken by Petitioners herein.” *Id.* That Patent Owner could find only two alleged instances of “coordination” in the **48-page** Petition and the **68-page** Reexamination demonstrates

a *lack of coordination*. Moreover, Petitioner filed the Petition on the '582 Patent more than two months before Unified Patents filed its Request. As the Petition is publicly available, it is reasonable to believe that Unified Patents accessed the Petition on its own, agreed with Petitioners' description of the level of skill in the art of a POSITA, and adopted it in its Request. This, too, is not evidence of "coordination."

The mere fact that another party pursued related arguments or cited the same expert in a different challenge says nothing about Petitioners' relationship with Unified Patents and does not justify discretionary denial here. If the Director believes further confirmation would be helpful, limited discovery could be ordered; absent evidence, denial on this basis would be improper.

2. The record affirmatively shows no affiliation or coordination.

Apart from Patent Owner's conjecture, the undisputed facts are straightforward:

- Petitioner American Airlines, Inc. is not a member of Unified Patents; has never paid any membership fees to Unified Patents; had no knowledge that Unified Patents would be filing its Request; and has never coordinated with Unified Patents regarding anything.
- Petitioner Southwest Airlines Co. is not a member of Unified Patents; has never paid any membership fees to Unified Patents; had no

knowledge that Unified Patents would be filing its Request; and has never coordinated with Unified Patents regarding anything.

Petitioners’ mandatory notices identify only the named Petitioners and confirm that no unnamed entity is funding, controlling, or directing this IPR. *See* Petition at 1 (Mandatory Notices).

3. The parallel *ex parte* reexamination does not establish coordination and does not support § 314(a) denial.

Patent Owner also invokes Unified’s *ex parte* reexamination to suggest “coordination.” But the existence of a parallel PTO proceeding—filed by a different requester under different statutes, procedures, and evidentiary rules—does not prove affiliation or coordination and is not a basis to deny an otherwise meritorious IPR. *See* 35 U.S.C. §§ 311–319; 37 C.F.R. §§ 41.1–42.80 (IPR); 35 U.S.C. §§ 302–307; 37 C.F.R. §§ 1.501–1.570 (*ex parte* reexamination).

A review of the *ex parte* reexamination request filed by Unified Patents as compared to the previous Liberty Mutual IPR also shows lack of “coordination.” Unified’s reexamination request uses claim charts almost identical to the ones used in the Liberty Mutual IPR Petition, and that cite to the same paragraphs of the expert declaration in the Liberty Mutual IPR. *Compare* Ex. 2001, pages 32-29, *with Liberty Mutual*, IPR2025-00202, Paper 3 at 22-23 (PTAB Nov. 20, 2024) (both citing to paragraph 312 of the Liberty Mutual expert declaration). This again shows that

Unified Patents used publicly available documents to create its *ex parte* reexamination requests; there was no coordination with Petitioners.

Inter partes review is adversarial and panel-decided; *ex parte* reexamination is not. Any risk of duplication with the district courts is already mitigated by Petitioners’ *Sotera* stipulation, and perceived overlap with a separate PTO proceeding is a manageability question for the Office—not evidence of coordination warranting denial. *See* Petition at 80 (*Sotera* Stipulation).

4. Patent Owner’s “harassment” narrative inverts the record.

Patent Owner initiated two separate district-court actions against these Petitioners; seeking PTAB review to streamline validity is a statutorily authorized response, not harassment. The Director should reject Patent Owner’s attempt to convert conjecture about “memberships” and public-record similarities into a basis for discretionary denial.

Accordingly, the record contains no basis to deny institution under § 314(a) on the ground of alleged affiliation or coordination with Unified Patents.

C. “Settled Expectations”: A “persuasive reason” for Board review is that the ’844 patent laid dormant for years and had not been applied in Petitioners’ airline technology space.

Patent Owner argues that the age of the ’844 patent, taken alone, establishes “settled expectations” favoring discretionary denial. Request at 13–15. Director guidance recognizes that the Board may have “persuasive reasons” to review claims

years after issuance where, among other things, the patent has not been commercialized, asserted, marked, licensed, or otherwise applied in the petitioner's particular technology space. *See Intel Corp. v. Proxense, LLC*, IPR2025-00327, Paper 12 at 2–3 (PTAB June 26, 2025). Here, the record reflects the '844 patent was first asserted against these Petitioners—commercial airlines—on November 2, 2024. Petition at 2; Exs. 1019, 1020. Patent Owner identifies no evidence that, before those lawsuits, the '844 patent had been commercialized, asserted, marked, licensed, or otherwise applied in the airline technology space.

Rather, the '844 Patent laid dormant for years until November 2, 2023, when Patent Owner was assigned the '844 Patent, as evidenced by Patent Owner's Exhibit 2008. *See* Ex. 2008 (showing assignment of the '844 Patent to Patent Owner years after the original owner (Panta Systems, Inc.) forfeited ownership subject to a security interest). Only then was the '844 Patent asserted in any industry, much less the airline technology space. The current Patent Owner (Intellectual Ventures II LLC), therefore, cannot have had any “settled expectations,” but, rather, should have *expected* validity challenges in response to asserting a previously dormant patent.

On this record, Patent Owner's “settled expectations” contention carries little weight. *See Intel v. Proxense*, Paper 12 at 2–3.

The posture of the parallel litigations reinforces this conclusion. Both actions involve six patents from six different families covering disparate subject matter. In

addition to the block-level storage claims of the '844 patent, the asserted portfolio includes: U.S. Patent No. 7,949,785 (IPR2025-00786) directed to virtual communication networks; U.S. Patent No. 7,257,582 (IPR2025-00785) directed to parallel processing; U.S. Patent No. 8,407,722 (IPR2025-00987) directed to routing/transferring information for remote updates; U.S. Patent No. 7,324,469 (IPR2025-00782) directed to providing rural hotspots; and U.S. Patent No. 8,027,326 (IPR2025-01055). Exs. 1019, 1020.¹ Director decisions recognize that, where multiple patents across diverse technologies are being litigated in parallel, PTAB review promotes efficiency and may weigh against discretionary denial. *See Shenzhen Tuozhu Technology Co., Ltd.*, IPR2025-00438; IPR2025-00531; IPR2025-00532; IPR2025-00585; IPR2025-00611, Paper 10 at 3 (PTAB July 17, 2025) (citing *Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00217, Paper 9 at 2–3 (PTAB June 13, 2025)).

The chart below shows the differences among the claimed subject matter of each patent and shows the different classifications assigned by the PTO to each patent, thereby showing that the PTO has already established that the patents involve different subject matter. *See* <https://www.uspto.gov/patents/search/classification-standards-and-development> (“Patent classification is a system for organizing all U.S.

¹ Patent Owner has asserted 5 additional overlapping patents against both Southwest and American, plus one additional patent against American.

patent documents and other technical documents into specific technology groupings based on common subject matter.”).

<u>Patent No.</u>	<u>Subject of Claims</u>	<u>Patent Classifications</u>
7,324,469	“A method for establishing and operating an Internet Hotspot . . .” (6:38-39)	(51) Int. Cl. <i>H04B 7/185</i> (2006.01) (52) U.S. Cl. 370/316; 370/351; 370/352; 455/428 (58) Field of Classification Search 370/316, 370/474, 475, 352, 321, 390, 432, 351, 355, 370/356; 455/13.3, 12.1, 428, 445; 714/752, 714/791, 794, 800
8,027,326	“A method for increasing data rates and data throughput in a network . . .” (17:26-27)	(51) Int. Cl. <i>H04J 1/00</i> (2006.01) (52) U.S. Cl. 370/343; 370/210; 370/480 (58) Field of Classification Search 370/208, 370/343, 480
7,721,282	“A system for distributing an application environment . . .” (7:11).	(51) Int. Cl. <i>G06F 9/445</i> (2006.01) <i>G06F 9/44</i> (2006.01) (52) U.S. Cl. 717/176; 717/175; 709/203 (58) Field of Classification Search 717/172–177, 717/149; 709/203–204
8,332,844 (these patents are in the same family)	“A system for providing data to a plurality of compute nodes . . .” (10:56-57)	(51) Int. Cl. <i>G06F 9/445</i> (2006.01) (52) U.S. Cl. 717/176 (58) Field of Classification Search 345/557; 717/176
8,407,722	“A method comprising: providing, using a processing device of an input source, a data representation to a client device, different from the input source, coupled to a routing network . . .” (23:54-57).	(51) Int. Cl. <i>G06F 3/00</i> (2006.01) <i>G06F 15/16</i> (2006.01) (52) U.S. Cl. 719/316; 709/206 (58) Field of Classification Search 709/203, 709/219; 719/309

<u>Patent No.</u>	<u>Subject of Claims</u>	<u>Patent Classifications</u>
7,949,785	“A virtual network system, comprising: a virtual network manager implemented with a first device memory and a first device processor of a first computing device . . .” (34:35-38).	<p>(51) Int. Cl. <i>G06F 15/16</i> (2006.01)</p> <p>(52) U.S. Cl. 709/245; 726/15</p> <p>(58) Field of Classification Search 709/245; 726/15</p>
7,257,582	“A method of effecting on a preexisting input file a computer-executable process comprised of a plurality of subtasks . . .” (6:44-46).	<p>(51) Int. Cl. <i>G06F 17/30</i> (2006.01)</p> <p>(52) U.S. Cl. 707/10; 707/104.1</p> <p>(58) Field of Classification Search 707/1-10, 707/100-104.1, 200-206; 718/105; 719/316; 703/23; 705/35; 711/147.3, 133</p>
10,103,845	“A method of operation of a transceiver in a plurality of modes including at least a first mode and a second mode . . .” (7:61-62).	<p>(51) Int. Cl. <i>H04J 1/00</i> (2006.01) <i>H04L 1/06</i> (2006.01) (Continued)</p> <p>(52) U.S. Cl. CPC <i>H04L 1/06</i> (2013.01); <i>H04B 7/04</i> (2013.01); <i>H04B 7/0697</i> (2013.01); <i>H04J 9/00</i> (2013.01); (Continued)</p> <p>(58) Field of Classification Search CPC H04L 1/12; H04L 25/0248; H04L 1/0656; H04L 5/0046; H04L 1/0003; H04L 1/0009; H04L 25/02; H04W 28/06; H04W 24/00; H04W 52/42; H04W 28/18; H04B 7/0837; H04B 7/0613; H04B 7/0417; H04B 7/0632; H04B 7/0443 USPC 370/203, 204-215, 229-240, 310-337, 370/338-350, 351-394, 395.1, 395.3, 370/395.4, 395.41, 395.42, 395.5, 395.52, 370/431-529</p> <p>(51) Int. Cl. <i>H04B 7/04</i> (2017.01) <i>H04B 7/06</i> (2006.01) <i>H04J 9/00</i> (2006.01) <i>H04L 1/04</i> (2006.01) <i>H04B 7/0404</i> (2017.01) <i>H04L 27/26</i> (2006.01)</p> <p>(52) U.S. Cl. CPC <i>H04L 1/04</i> (2013.01); <i>H04B 7/0404</i> (2013.01); <i>H04L 27/2601</i> (2013.01)</p>

<u>Patent No.</u>	<u>Subject of Claims</u>	<u>Patent Classifications</u>
11,032,000	“A user equipment (UE) comprising: a receiver and a processor are configured to receive resource allocation information associated with an uplink physical signal . . .” (9:55-58).	<p>(51) Int. Cl. <i>H04B 7/26</i> (2006.01) <i>H04W 72/04</i> (2009.01) <i>H04W 52/14</i> (2009.01) <i>H04J 3/16</i> (2006.01) <i>H04L 5/00</i> (2006.01) <i>H04W 52/54</i> (2009.01)</p> <p>(52) U.S. Cl. CPC <i>H04B 7/2643</i> (2013.01); <i>H04J 3/1694</i> (2013.01); <i>H04L 5/0053</i> (2013.01); <i>H04W 52/146</i> (2013.01); <i>H04W 72/042</i> (2013.01); <i>H04W 72/0406</i> (2013.01); <i>H04W 72/0446</i> (2013.01); <i>H04W 52/54</i> (2013.01)</p> <p>(58) Field of Classification Search CPC <i>H04B 7/2643</i>; <i>H04J 3/1694</i>; <i>H04L 5/0053</i>; <i>H04W 52/146</i>; <i>H04W 72/0406</i>; <i>H04W 72/042</i>; <i>H04W 72/0446</i></p>
7,712,080	“A method of developing a distributed parallel computing program . . .” (11:5-6).	<p>(51) Int. Cl. <i>G06F 9/44</i> (2006.01) <i>G06F 9/45</i> (2006.01) <i>G06F 15/00</i> (2006.01)</p> <p>(52) U.S. Cl. <i>717/119</i>; <i>717/107</i>; <i>717/108</i>; <i>717/149</i>; <i>712/10</i>; <i>712/23</i>; <i>712/32</i></p> <p>(58) Field of Classification Search None</p>
7,822,841	“A computer system for hosting computing clusters . . .” (10:66-67).	<p>(51) Int. Cl. <i>G06F 15/16</i> (2006.01) <i>G06F 15/173</i> (2006.01) <i>G06F 15/177</i> (2006.01)</p> <p>(52) U.S. Cl. <i>709/223</i>; <i>709/224</i>; <i>714/4</i>; <i>705/6</i></p> <p>(58) Field of Classification Search <i>709/217–228</i>; <i>714/4</i>; <i>705/6</i></p>
8,352,584	“A computer system, comprising: a private communications network linked to a public communications network; a first cluster comprising a set of computing resources, including at least one hardware processor, in a first configuration, . . . ; a second cluster comprising a set of computing resources, including at least one hardware processor, in a second configuration, . . . ; . . .” (11:8-18).	<p>(51) Int. Cl. <i>G06F 15/16</i> (2006.01) <i>G06F 15/173</i> (2006.01) <i>G06F 15/177</i> (2006.01)</p> <p>(52) U.S. Cl. <i>709/223</i>; <i>713/153</i>; <i>719/311</i>; <i>726/11</i>; <i>726/12</i>; <i>709/224</i></p> <p>(58) Field of Classification Search <i>709/223</i>, <i>709/224</i>; <i>713/153</i>; <i>719/311</i>; <i>726/12</i>, <i>11</i></p>

Additionally, Petitioners had settled expectations too. The '844 patent, in particular, is asserted against Petitioners' use of Docker—open-source software that has been available since 2013 and used by countless companies and individuals alike. Petitioners had no reason to know of the '844 patent or to suspect that using Docker would trigger a patent suit and a demand for royalties. Their settled expectation was freedom from harassment by dormant patents suddenly aimed at widespread open-source technology. Congress created IPRs precisely for this scenario—where long-issued patents are unexpectedly deployed against established, widely used technologies. Shielding the oldest patents from review would invert Congress's design, allowing the patents most in need of scrutiny to escape it. At a minimum, fairness and sound economics require that Petitioners be permitted to defend themselves on the merits at the Patent Office.

The Director's interim guidance² recognizes “settled expectations” as one factor to be balanced against efficiency and systemic interests. Petitioners' reliance on open-source software—broadly used for over a decade—carries significant weight in that balance. If Patent Owner were correct, anyone who has relied on Docker could be sued, yet none would be permitted to challenge the '844 patent through IPR. That outcome would subvert the very purpose of the AIA. The guidance

² Acting Director of the United States Patent and Trademark Office Coke Morgan Stewart, *Interim Processes for PTAB Workload Management* (Mar. 26, 2025) (hereinafter, “Director's interim guidance”).

also identifies compelling economic interests as relevant; here, institution will avoid duplicative, system-wide litigation costs across multiple vendors and two courts, conserving resources while the Office resolves patentability on the merits.

D. There is no inconsistency between Petitioners’ claim construction positions that would warrant discretionary denial.

Patent Owner contends that Petitioners are engaging in alleged “gamesmanship” because, on the one hand, Petitioners, in the present Petition, contend that “the challenged claims are obvious under any reasonable interpretation under the *Phillips* standard” Request at 31 (quoting Petition at 11), whereas, on the other hand, Petitioners, in their Preliminary Invalidity Contentions in the District Court Litigations, contend that certain terms of the ’844 patent claims are indefinite. Request at 31-32 (citing Ex. 2012 at 187 and Ex. 2013 at 37).

Patent Owner’s “gamesmanship” refrain falls flat. Patent Owner argues Petitioners are inconsistent because the Petition applies *Phillips* and demonstrates unpatentability “under any reasonable interpretation,” while the *preliminary* invalidity contentions in the litigations preserve indefiniteness defenses. Request at 27, 30 (citing Ex. 2012 at 36–38; Ex. 2013 at 186–188). But neither the Board nor either district court has issued any claim-construction order, and Patent Owner relies only on preliminary contentions. *See* Exs. 2012, 2013. There is no inconsistency between proceeding under *Phillips* here and preserving alternative defenses in Article III proceedings.

Moreover, in both litigations, Petitioners have served preliminary claim constructions that do *not* assert indefiniteness for the '844 patent terms. Exs. 1031, 1032.

E. The *Fintiv* factors favor institution, not discretionary denial.

Patent Owner's *Fintiv* arguments rest largely on projected district court schedules and an asserted "overlap" narrative. Yet the only fixed date in this record is the Board's Final Written Decision deadline, which will arrive before either district-court action could proceed to trial.

In the American District Court Litigation, Patent Owner omits that on May 23, 2025—more than two months before filing its Request—it moved to add six more patents against American. Exs. 1024–1025. American responded by requesting that, if leave were granted, the court extend all deadlines by 34 weeks; Patent Owner did not oppose. Ex. 1024 (Dkt. 56) at 12–13 & Ex. B; Ex. 1025. On August 19, 2025, the Court granted Patent Owner's motion for leave, expressly directing it to file its Amended Complaint "without delay." Ex. 1026 (Dkt. 71). With six new patents added, the October 14, 2025 Markman setting and October 19, 2026 pretrial conference will necessarily be reset, and there is still no trial date. This record confirms the American schedule remains unsettled and subject to significant delay, and there is no real concern of inconsistent outcomes resulting from parallel proceedings.

In the Southwest District Court Litigation, the current trial date is January 11, 2027. Ex. 2010. And that schedule is far from certain: Southwest has moved to transfer the case to the Northern District of Texas, where it is headquartered, as opposed to Midland/Odessa, which has no connection to any party. If granted, transfer will require a new case schedule, further extending trial and ensuring that the Board’s decision will precede any Article III resolution by months or years. In any event, the Final Written Decision (“FWD”) here is due November 29, 2026, months before the current trial setting. Request at 4, 18. On this record—an FWD due before the only trial date actually set—*Fintiv* weighs against discretionary denial.

Patent Owner’s misstatements and omissions regarding these circumstances—and the fact that a Final Written Decision in this matter will precede trial in either district court—undermine its credibility. At a minimum, they underscore why the Director should not exercise discretion to short-circuit merits review. Parties seeking equitable relief must themselves “do equity.” *Telefonaktiebolaget LM Ericsson v. Lenovo (United States), Inc.*, 120 F.4th 864, 877 n 15 (Fed. Cir. 2024) (quoting *Primerica Life Ins. Co. v. Woodall*, 975 F.3d 697, 699 (8th Cir. 2020) and citing 11A Wright & Miller § 2946, p. 106 (“A principle closely related to the clean-hands maxim is that before plaintiff will be permitted to invoke the aid of a court of equity, plaintiff must do equity.”)).

1. Factor 1 (stay) is neutral.

Patent Owner’s claim that this factor weighs in favor of denial is contrary to Board precedent. The relevant inquiry into *Fintiv* Factor 1 is “whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted.” *Apple, Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 15 at 12 (PTAB May 13, 2020) (informative).

Patent Owner contends that, even if the Board institutes the Petition, it is “unlikely” that Judge Albright would grant a stay in the Southwest District Court Litigation. Request at 24. But Patent Owner fails to address whether Judge Mazzant would “likely” grant a stay in the American District Court Litigation. In any event, speculation about how district courts might rule on hypothetical stay requests—if and when a stay is sought—is premature. The Board has repeatedly stated, “in the absence of specific evidence, [it] will not attempt to predict how the district court in the related district court litigation will proceed.” *Sand Revolution II, LLC v. Continental Intermodal Grp.-Trucking LLC*, IPR2019-01393, Paper 24 at 7 (PTAB June 16, 2020) (informative); *Fintiv, Inc.*, IPR2020-00019, Paper 15 at 12 (same). That is especially true in the Southwest case, where Southwest has moved to transfer the action to the Northern District of Texas. Ex. 1033 (Dkt. 21). If transfer is granted, a different judge will preside and issue a new schedule, rendering Patent Owner’s prediction about Judge Albright irrelevant. At any rate, there are ample examples of

Judges Albright and Mazzant granting a stay after an IPR petition is instituted. *See, e.g., Parkervision v. Mediatek Inc.*, No. 6:23-cv-00375 (W.D. Tex. July 3, 2025); *Proxense, LLC v. Microsoft Corp.*, No. 6:23-cv-00319 (W.D. Tex. June 24, 2025); *SB IP Holdings, LLC v. Viviint, Inc.*, No. 4:21-cv-00912 (E.D. Tex. May 22, 2023); *Onpoint Systems, LLC v. Protect Animals with Satellites, LLC*, No. 4:20-cv-657 (E.D. Tex. July 12, 2022).

Accordingly, it is speculative and presumptuous to predict how any Article III judge will exercise discretion on a stay motion. Federal judges evaluate such requests on the merits and apply their own balancing of equities. Any attempt to forecast the outcome in advance is nothing more than conjecture. With no stay requested or granted, Factor 1 is neutral.

2. Factor 2 (proximity of trial) favors institution, not discretionary denial because a Final Written Decision will predate any trial.

Patent Owner incorrectly asserts “it is unclear” whether the Final Written Decision due November 29, 2026, would precede trial in the district court cases. Request at 4, 18. But the current Southwest schedule sets trial for January 11, 2027—months after the FWD deadline. Ex. 2010. And Southwest has moved to transfer the case to the Northern District of Texas, where it is headquartered. If transfer is granted, a new schedule will issue, further ensuring that the Board’s decision will precede trial by more months.

The American case has no trial date, and the schedule has already been upended: on August 19, 2025, the Court granted Patent Owner's motion to add six additional patents, necessarily requiring rescheduling of the October 14, 2025 Markman hearing and October 19, 2026 pretrial conference. Ex. 1026 (Dkt. 71). The American schedule is therefore unsettled. On this record, the Board's Final Written Decision will issue before the Southwest trial setting, and both district court schedules remain in flux. Factor 2 thus weighs against discretionary denial.

The Director's interim guidance confirms that discretionary denial is a balancing inquiry in which schedule certainty and the Office's statutory timelines are relevant considerations; where, as here, the Final Written Decision will precede any realistic trial setting and the Article III schedules remain in flux, the balance favors institution rather than denial on proximity grounds.

Patent Owner also argues under Factor 2 that multiple tribunals will perform claim construction. Request at 18-19. However, Factor 2 deals with the proximity of the court's trial date, while Factor 3 deals with investment in the parallel proceeding. *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 9–11 (PTAB Mar. 20, 2020) (precedential).

Accordingly, Factor 2 weights against discretionary denial.

3. Factor 3 (investment by courts) favors institution, not discretionary denial.

This IPR is uniquely situated to efficiently resolve the validity of the '844 patent and spare multiple district courts from duplicative invalidity adjudication. Patent Owner acknowledges that the *Markman* hearing in the Southwest District Court Litigation is set for December 8, 2025—after the November 29, 2025 institution decision date. Request at 19; Ex. 2010. Any investment in claim construction will thus occur post-institution.

In the American case, the schedule has already been disrupted: on August 19, 2025, the Court granted Patent Owner's motion to add six additional patents, which necessarily requires extending deadlines and rescheduling the October 14, 2025 *Markman* hearing and October 19, 2026 pretrial conference. Ex. 1026 (Dkt. 71). With no trial date and an expanded case, any pre-institution investment remains limited. When, at the time of institution, the district court has not issued orders directed to the patent at issue, that circumstance weighs against discretionary denial. *Fintiv*, IPR2020-00019, Paper 11 at 10.

The Director's interim guidance identifies, among other considerations, the strength of the unpatentability challenge and the extent of the petition's reliance on expert testimony. The Petition presents detailed element-by-element obviousness showings supported by expert analysis, which weighs in favor of institution and against shifting duplicative validity work to two district courts.

More broadly, Congress designed IPRs to reduce the burden on Article III courts and streamline validity issues in complex, multi-patent litigations. This case illustrates that policy concern in sharp relief: Patent Owner is asserting twelve patents from ten different families against accused products and systems supplied by more than ten vendors. No single jury could reasonably or efficiently adjudicate all of those claims in one trial. By contrast, PTAB review allows validity to be tested one patent at a time by a specialized tribunal, leaving the district courts to resolve infringement and damages only for any claims that survive. Instituting this IPR thus directly advances the statutory purpose of lessening the load on the courts while ensuring that weak patents do not consume judicial and party resources.

Consistent with the AIA's purpose of improving patent quality and reducing burdens on Article III courts, institution here will allow the expert tribunal to address one patent at a time while parallel cases involving twelve patents from ten families and more than ten vendors proceed on narrowed issues, if any remain. Using IPR to streamline sprawling, multi-patent disputes accords with the Director's efficiency focus.

On this record, Factor 3 weighs against discretionary denial.

4. Factor 4 (overlap of claims) favors institution, not discretionary denial.

This Petition challenges all claims 1–27 of the '844 patent. In the American and Southwest District Court Litigations, Patent Owner asserts only claims 7 and 11

(Exs. 1027 and 1028); accordingly, those courts address only claims 7 and 11. Request at 22–24. That claim-set mismatch reduces overlap and favors institution.

Patent Owner accuses Petitioners of “gamesmanship” for not challenging all claims in district court, arguing the “lack of complete overlap” was “of Petitioners’ own making.” Request at 22. That is legally incorrect. District courts lack jurisdiction to adjudicate the validity of unasserted claims. *Fox Group, Inc. v. Cree, Inc.*, 700 F.3d 1300, 1308–09 (Fed. Cir. 2012) (“There was no case or controversy with respect to the unasserted claims . . . therefore the district court did not have jurisdiction over the unasserted claims.”). Because Patent Owner chose to assert only claims 7 and 11, neither court may adjudicate unasserted claims 1–6, 8–10, and 12–27; there is no “engineering” of overlap by Petitioners.

Patent Owner further speculates that Petitioners will try to circumvent the *Sotera* stipulation through combinations that add system art to the IPR’s printed-publication grounds. Request at 23–24. That is conjecture based on *preliminary* contentions. Petitioners’ preliminary invalidity contentions assert that claims 7 and 11 are invalid over the Southwest Airlines NetApp or VMware systems as primary references in view of Sapuntzakis, Holzmann, and Birse. Exs. 1029, 1030. Those district-court theories are distinct from the printed-publication combinations presented here, and Petitioners have already provided a *Sotera* stipulation to eliminate overlap on grounds that were or reasonably could have been raised in IPR.

Further, the interim guidance cited to by Patent Owner (Request at 22-23³) concerns “corresponding system art” which presumably applies to system art that is directly related to a patent, such as when a company files for a patent on technology related to their commercial system. Here, the system art does not “correspond” to the references cited in the IPR Petition.

The interim guidance looks at whether any forum has already adjudicated the challenged claims; here, none has, and institution would promote uniform, expert resolution of validity rather than piecemeal litigation. On this record—different claim scope, jurisdictional limits on unasserted claims, and a *Sotera* stipulation—Factor 4 favors institution, not discretionary denial.

5. Factor 5 (identity of parties) is neutral.

When the IPR petitioners are the same parties as the district-court defendants, this factor “adds little if anything to the discretionary denial analysis.” *Aylo Freesites Ltd. f/k/a MG Freesites Ltd. v. WellcomeMat, LLC*, IPR2024-00710, Paper 13, at *17–18 (PTAB Sept. 5, 2024) (“We make the unremarkable observation that an IPR petitioner and patent owner are very often named parties in parallel district court litigation regarding the same patent. In our view, this factor adds little if anything to the discretionary denial analysis unless the petitioner is not named as a defendant (or

³ FAQ #15, at <http://www.uspto.gov/patents/ptab/faqs/interim-processes/workload-management>.

declaratory judgment plaintiff) in parallel district court patent litigation.”). As in *Aylo*, overlap between Petitioners here and the district-court defendants adds little to the analysis.

Patent Owner’s “inefficiency, unfairness, or both” scenarios (Request at 25–27) assume away the actual record: they disregard Petitioners’ *Sotera* stipulation that eliminates district-court grounds that were or reasonably could have been raised in IPR; they ignore that this IPR challenges all claims 1–27 while the litigations concern only claims 7 and 11; and they presuppose parallel adjudication of the same printed-publication grounds despite an IPR schedule that yields a Final Written Decision before the current Southwest trial setting and the absence of any American trial date. *See* Request at 4, 18, 22–24; Ex. 2010. On this record, Factor 5 is neutral.

6. Factor 6 (other circumstances) favors institution, not discretionary denial.

Patent Owner leans heavily on “settled expectations.” However, for the reasons detailed above, Patent Owner’s “settled expectations” contention carries little weight and there are persuasive reasons for Board review.

The strength of the Petition likewise favors institution. The Petition presents detailed element-by-element obviousness showings supported by detailed motivations to combine and expert testimony.

Against these circumstances, as described above, Patent Owner’s “gamesmanship” refrain falls flat. Request at 27. Neither the Board nor either district

court has issued any claim-construction order, and Patent Owner relies only on preliminary contentions. *See* Exs. 2012, 2013. There is no inconsistency between proceeding under *Phillips* here and preserving alternative defenses in Article III proceedings. Moreover, in both litigations, Petitioners have served preliminary claim constructions that do **not** assert indefiniteness for the '844 patent terms. Exs. 1031, 1032.

Taken together, the balance of equities on “settled expectations,” the compelling economic interests, the demonstrated strength of the prior-art grounds, and the absence of any inconsistency all weigh strongly against discretionary denial under Factor 6. In short, whatever “settled expectations” Patent Owner invokes cannot outweigh Petitioners’ equally legitimate expectations of non-harassment and the broader statutory purpose of IPRs: to improve patent quality and reduce litigation burdens. Factor 6 therefore favors institution, not denial.

7. 314(a) (catch-all discretion) is neutral.

To the extent IV separately invokes § 314(a) apart from *Fintiv* and § 325(d), that request re-packages the same arguments addressed above. For the reasons already stated—neutral or non-dispositive *Fintiv* factors, § 325(d) inapplicability, and a record that favors merits review—the Board should decline to deny institution under § 314(a). Under the Director’s bifurcated process, discretionary issues are addressed separately from the merits; on this record—where schedule certainty,

strength with expert support, absence of prior adjudication, and efficiency all favor PTAB review—there is no basis to exercise catch-all discretion to deny.

III. CONCLUSION

For the foregoing reasons, the Director should deny Patent Owner's Request for Discretionary Denial and thus allow the Petition to proceed on the merits.

Dated: August 29, 2025

Respectfully submitted,

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CERTIFICATE OF WORD COUNT UNDER 37 C.F.R. § 42.24(d)

The undersigned certifies that the word count of the foregoing PETITIONERS' BRIEF IN OPPOSITION TO PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL, excluding the table of contents, table of authorities, exhibit list, mandatory notices, certificate of service, certificate of word count, and any appendix of exhibits or claim listing, is 6,365.

Dated: August 29, 2025

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that a copy of the foregoing PETITIONERS' BRIEF IN OPPOSITION TO PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL and all exhibits identified therein were served on August 29, 2025 by email on the following counsel of record for Patent Owner:

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