

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner

v.

SANDPIPER CDN, LLC,
Patent Owner

Case IPR2025-00969
U.S. Patent No. 8,478,903

**PATENT OWNER'S BRIEF ON
DISCRETIONARY DENIAL**

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PATENT OWNER'S EXHIBIT LIST

Exhibit No.	Description
2001	“Cloud CDN: content delivery network,” <i>Google Cloud</i> , accessed at https://cloud.google.com/cdn (last accessed July 2, 2025)
2002	<i>Intentionally Left Blank</i>
2003	<i>Sandpiper CDN, LLC v. Google LLC</i> , No. 2:24-cv-03951, ECF No. 1 (C.D. Cal. May 10, 2024)
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2007	<i>Sandpiper CDN, LLC v. Google LLC</i> , No. 2:24-cv-03951, ECF No. 28 (C.D. Cal. Sept. 16, 2024)
2008	FAQs for Interim Processes for PTAB Workload Management, accessed at https://www.uspto.gov/patents/ptab/faqs/interim-processes-workload-management
2009	<i>Intentionally Left Blank</i>
2010	<i>Intentionally Left Blank</i>
2011	<i>Intentionally Left Blank</i>
2012	<i>Intentionally Left Blank</i>
2013	Interim Processes for PTAB Workload Management Memorandum (March 26, 2025)

I. INTRODUCTION

Inter partes review of the '903 patent would be a complete waste of the Board's limited resources. The '903 patent is expired. The inventions disclosed therein are already free to the public going forward and the settled expectations of the parties counsels against institution. Additionally, the Office has already expended substantial resources on this patent during its initial prosecution, which was thorough and identified the same novel features of the invention that distinguish the prior art cited in the Petition.

Furthermore, the Petition here challenges one of seven patents presently asserted against Google LLC ("Petitioner") in the Central District of California. All of the asserted patents are also challenged in Petitions before the Board.

IPR2025	Months Petitioner Waited to file IPR	Patent Expiration	Litigation Status
-00806 ('517)	10.5	Expired	Asserted
-00826 ('112)	10.5	Expired	Asserted
-00860 ('573)	11	2029	Asserted
-00846 ('778)	11.25	2032	Dismissed (§ 101)
-00952 ('886)	11.25	2032	Dismissed (§ 101)
-00969 ('903)	11.25	Expired	Asserted
-01010 ('322)	4	2036	Added late

For the '903 patent, despite waiting over 11 months to file this Petition, the merits of Petitioner's arguments suffer numerous flaws discussed in detail below. The Petition should be discretionarily denied.

II. BACKGROUND

The challenged patent arises from pioneering technology directed to delivering content across a network. Content delivery networks (CDNs) provide the critical services that enable content providers like Google to quickly deliver online content to millions of consumers simultaneously over the Internet. The technology underlying these CDNs was made possible through a series of inventions developed by a California start-up called Sandpiper Software Consulting, LLC, a predecessor of Patent Owner Sandpiper CDN, LLC.

In the early 1990s, the World Wide Web saw increasing adoption, becoming a household staple. This mass adoption led to data congestion issues from the ever-growing number of users seeking to simultaneously access Internet content. A typical computer server in the 1990s could only handle a limited number of simultaneous connections before becoming overloaded. Moreover, signals take time to traverse routers and move through content-congested internet cables. Consumers living far from the physical server(s) hosting content experienced sluggish load times and high latency due to problems such as overloaded servers, congested network segments, and geographic separation.

In the mid-1990s, Andrew Swart and David Farber were among the first individuals to develop services that allowed content providers to distribute their content over the Internet, while avoiding the common congestion and performance

issues that plagued Internet transmission at that time. Sandpiper's solution was to deploy CDN servers around the world, replicate appropriate content from customers' origin servers to appropriate CDN servers, and transparently rendezvous end-users requesting that content to the "best" CDN server to deliver that content, all while providing their customers with control over their content and user experience. This service and its architecture was quickly imitated by many others in the industry.

Using solutions developed by Mr. Swart and Mr. Farber, end-users would connect to an optimal edge server—one that that was closer to them or that had available capacity. Distributing content across a network of servers alleviated data congestion issues, and allowing consumers to connect to edge servers located near them reduced latency. Swart and Farber developed and built systems and methods for propagating data from origin servers to edge servers (known as "caching") based on network demand and for seamlessly routing users to the optimal edge server with the correct content. Using caching to perform the replication process within the CDN framework flew in the face of conventional wisdom.

In 1996, Mr. Swart and Mr. Farber founded Sandpiper Networks Inc. to further develop and commercialize their novel concept for a content delivery network. Sandpiper Networks was based in Thousand Oaks, California. There, the inventors designed and built a CDN ultimately referred to as "Footprint." By at

least May 24, 1996, the Sandpiper team had conceived techniques for delivering static and dynamic content, including streaming resources, such as audio and video, using Sandpiper's CDN.

Sandpiper Networks labored not only to build and implement its CDN, but also to protect their groundbreaking innovation through the patent system. Recognizing that its invention could revolutionize content delivery worldwide, Sandpiper Networks (and its successor companies, including Patent Owner) filed numerous patent applications directed to its foundational CDN technology, including the patent challenged in this Petition.

By at least May 1998, Sandpiper Networks was caching content and delivering cached content to end users of content providers using its CDN. Sandpiper Networks' first paying customer was the L.A. Times, which paid Sandpiper Networks to host the report of Independent Counsel Ken Starr on his investigation of President Bill Clinton ("the Starr Report") beginning on September 11, 1998. Sandpiper Networks' CDN was capable of caching, and was used to cache and deliver Internet resources including inter alia, pictures, text files, dynamic resources, and streaming multimedia resources.

In the early-to-mid 2000s, demand for CDNs exploded. Sandpiper Networks continued to commercialize its technology and compete in this expanding market, doing business as various entities including Digital Island, Inc. and a company

called “Level 3.” It also created Patent Owner, Sandpiper CDN, LLC. Other businesses also entered the market by misappropriating Sandpiper’s innovations and directly competing with Sandpiper for market share.

One such company is Google. Google built its own in-house CDN, which uses technology described and claimed by Sandpiper’s patents. Additionally, YouTube, which Google purchased in 2006, relies upon CDN technology to meet its enormous data streaming needs, as well as for Google’s video search results (powered by YouTube). EX2001. Google did not license this patented technology from Sandpiper, Level 3, and/or its predecessors. Accordingly, Sandpiper brought suit against Google in district court for patent infringement. Google filed IPR Petitions against all of Sandpiper’s asserted patents in response.

III. OVERVIEW OF THE ’903 PATENT

Expired U.S. Patent No. 8,478,903 (“the ’903 patent”) is entitled “Shared Content Delivery Infrastructure” and was filed as U.S. Patent Application No. 09/021,506 on February 10, 1998.

One issue related to using CDN technology is delivering resources associated with more than one content provider. The inventors of the ’903 patent understood that website owners and other content providers want to have their own internet domain shown in end users’ browsers, even when the content providers are using a CDN to serve their content.

The '903 patent is directed to CDN technology and to solving issues related to delivering resources from more than one content provider. In some embodiments, this involves replicating content from a source associated with a client of a CDN network onto CDN servers. End user requests are then directed to the CDN servers instead of to the client's source servers (generally referred to as "origin" servers), in some cases. Embodiments of the '903 patent address issues such as load balancing and reducing traffic to client origin servers. When an origin server receives and must reply to multiple requests, delivery of content from a content provider can be slow. Methods of using CDN servers to deliver content as described in the '903 patent help to solve this issue.

The inventors devised the concrete solutions recited in the '903 patent to address unique problems related to providing content from various content providers using CDN technology. For instance, the inventors conceived of approaches to content delivery in a network for delivering resources associated with more than one content provider, embodiments of which involve a shared CDN server and alias names in order to provide resources in response to requests.

The solutions recited in the claims of the '903 patent include specific combinations that were not conventional at the time of the invention of the '903 patent. The '903 patent describes how such solutions are implemented. As one example, the '903 patent describes using a second alias name in association with a

second resource and a second content provider, and a table that can be consulted to determine a content provider associated with a particular resource. Specific innovations by the inventors enable CDN customers to use their own name while using a provider's CDN services to serve content to end users.

IV. PROSECUTION HISTORY

The '903 patent was examined as U.S. Application No. 11/065,412 ("412 application"), which was filed on February 23, 2005. Applicant co-filed a First Preliminary Amendment that included one claim ("originally presented claim"). EX1002, 954, 1024.

On June 26, 2007, Applicant filed a Second Preliminary Amendment that cancelled the originally presented claim and introduced new claims 2-26. EX1002, 876-92. On July 12, 2007, January 25, 2008, and May 12, 2008, Applicant filed three separate Information Disclosure Statements. EX1002, 788, 781, and 717. On August 5, 2008, Applicant filed a Third Preliminary Amendment that cancelled claims 2-26 and introduced new claims 27-51 ("prosecution claims"). EX1002, 687-96.

In a Non-Final Office Action mailed on September 18, 2008, Examiner Blair rejected the originally presented claim. EX1002, 605-09. Recognizing that the Non-Final Office Action did not address the claims in the Third Preliminary Amendment, Applicant filed a Fourth Preliminary Amendment on December 10,

2008 that again cancelled all claims and re-advanced prosecution claims 27-51.

EX1002, 583-92, 599-00.

In a Non-Final Office Action mailed on January 9, 2009, Examiner Blair rejected prosecution claims 27-38, 43-45, 47, and 49-51 under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,867,706 (“Martin”) and claims 39-42, 46, and 48 under 35 U.S.C. §103 as unpatentable over Martin in view of U.S. Patent No. 6,052,718 (“Gifford”). EX1002, 536-45. Examiner Blair rejected prosecution claims 27-44 under 35 U.S.C. § 101 and prosecution claims 27-51 under 35 U.S.C. § 112. EX1002, 538-39.

On July 9, 2009, Applicant responded with amendments and remarks. EX1002, 505-29. For example, Applicant amended claim 29:

29. (Currently amended) A ~~distributed hosting framework~~ content delivery system operative in a computer network for delivering resources associated with a plurality of content providers to multiple client machines, the ~~framework~~ system comprising:

at least one shared ~~content~~ repeater server constructed and adapted to replicate at least some of the resources associated with a first content provider of said plurality of content providers, and to replicate at least some of the resources associated with a second content provider of said plurality of content providers; and

~~at least one name server that provides domain name service (DNS) resolution;~~

wherein ~~resources~~ at least a first resource associated with the first content provider ~~are~~ is associated with a first alias name, said first alias name being associated with said at least one shared repeater server; and

~~wherein, that causes the at least one name server to identify the at least one shared content server to serve the resources in response to requests for the first resource~~ resources associated with the first content provider made from said client machines are directed to the at least one shared repeater server, based at least in part on said first alias name; and

wherein ~~the resources~~ at least a second resource associated with the second content provider ~~are~~ is associated with a second alias name, said second alias name being associated with said at least one shared repeater server; and wherein

~~that causes the at least one name server to identify the at least one shared content server to serve the resources in response to requests for the resources~~ second resource associated with the second content provider made from said client machines are directed to the at least one shared repeater server, based at least in part on said second alias name.

EX1002, 506-07.

Applicant argued that Martin did not disclose “‘at least one repeater server’ that replicates at least some of the resources associated with a first content provider and

a second content provider” and that “Martin pertains to a server that serves resources only from and on behalf of a single content source (or content provider).” EX1002, 520. Applicant also advanced new claims 53 and 54:

54. (New) The content delivery system as in claim 45, further comprising:
providing a subscriber table listing origin servers having content located thereon that is authorized for delivery to client machines via the at least one shared repeater server, wherein the origin servers comprise the first origin server and the second origin server; and
wherein the at least one repeater server is further constructed and adapted to analyze, using the subscriber table, information about an alias name received with a client request for a resource to determine an origin server associated with the requested resource.

EX1002, 512-13.

On September 10, 2009, Examiner Blair issued a Notice of Non-Compliant Amendment that objected to additional text in the amendment between prosecution claims 51 and 52. EX1002, 332-34. On September 11, 2009, Applicant filed a response to the notice of non-compliant amendment with a corrective amendment that removed the text. EX1002, 319-28. The amendment was substantively similar to the claims filed on July 9, 2025 and included new claims 53 and 54. *Id.*

On November 25, 2009, Examiner Blair issued a Restriction Requirement because prosecution claims 27 and 28 (Group I) were drawn to a different invention than prosecution claims 27-42, 45-50, and 52-57 (Group II). EX1002,

303-08. On January 25, 2010, Applicant filed a response to the Restriction Requirement electing Group II. EX1002, 297.

In a Final Office Action mailed on May 7, 2010, Examiner Blair rejected prosecution claims 29-38, 43-45, 47, and 55-57 under 35 U.S.C. § 103 as being anticipated by U.S. Patent No. 6,085,193 (“Malkin”) in view of Martin and claims 39-42, 46, and 48 under 35 U.S.C. §103 as unpatentable over Malkin in view of Martin in view of Gifford. EX1002, 241-50. Examiner Blair noted that claims 53 and 54 contained Allowable Subject Matter. EX1002, 249.

On July 2, 2010, Applicant responded with amendments and remarks. EX1002, 207-26. Applicant amended the independent claims to incorporate the subject matter deemed allowable by Examiner Blair in prosecution claims 53 and 54:

29. (Currently amended) A content delivery system operative in a computer network for delivering resources associated with a plurality of content providers to multiple client machines, the system comprising:

at least one shared repeater server constructed and adapted to replicate at least some of the resources associated with a first content provider of said plurality of content providers, and to replicate at least some of the resources associated with a second content provider of said plurality of content providers;

at least one table listing a plurality of alias names corresponding to content providers authorized to have resources delivered to client machines via the at least one shared repeater server, wherein the plurality of content providers comprises the first content provider and the second content provider,

wherein at least a first resource associated with the first content provider is associated with a first alias name of the plurality of alias names, said first alias name being associated with said at least one shared repeater server; ~~and~~

wherein, requests for the first resource from said client machines are directed to the at least one shared repeater server, based at least in part on said first alias name; ~~and~~

wherein at least a second resource associated with the second content provider is associated with a second alias name of the plurality of alias names, said second alias name being associated with said at least one shared repeater server; ~~and~~

wherein requests for the second resource made from said client machines are directed to the at least one shared repeater server, based at least in part on said second alias name; and

wherein the at least one shared repeater server is further constructed and adapted to analyze, using the table, an alias name received with a client request for a particular resource to determine a content provider associated with the particular resource.

EX1002, 210.

On October 9, 2012, the Examiner issued a First Notice of Allowance including an Examiner's Amendment that added "wherein the second content provider is distinct from the first content provider" to the independent claims:

at least one shared repeater server constructed and adapted to replicate at least some of the resources associated with a first content provider of said plurality of content providers, and to replicate at least some of the resources associated with a second content provider of said plurality of content providers, <u>wherein the second content provider is distinct from the first content provider;</u>
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EX1002, 82.

Examiner Blair noted that the closest prior art (Armbruster) "teaches [] a table listing aliases associated with content providers . . . [but] the cache servers in Arbruster do not perform the claimed analysis using the table." EX1002, 94.

On October 17, 2012, Applicant paid the Issue Fee. EX1002, 76. On October 31, 2012, Applicant filed a Petition to Withdraw an Application from Issue After Payment of the Issue Fee. EX1002, 60-61. Applicant co-filed an Information Disclosure Statement listing a European Search Report. EX1002, 62-64.

On April 29, 2013, Examiner Blair issued a Second Notice of Allowance. EX1002, 16. The Second Notice of Allowance also included the Examiner's Amendment noted above. EX1002, 23-34. On May 15, 2013, Applicant again filed the Issue Fee Payment form. EX1002, 13-14. The '903 patent issued on July 2, 2013. EX1002, 2.

V. LEGAL STANDARDS

It is Petitioner's burden to demonstrate unpatentability by a preponderance of the evidence. The Petition must establish, with particularity, the grounds and evidence that support invalidating the patented claims. 35 U.S.C. § 312(a)(3).

Petitioner "must 'specify where each element of the claim is found in the [relied upon] prior art patents.'" *In-Depth Geophysical, Inc. v. ConocoPhillips Co.*, IPR2019-00850, Paper 56 at 27 (PTAB Sept. 3, 2020) (quoting 37 C.F.R. § 42.104(b)(4)).

In addition, the Board makes its determination regarding institution based on what the Petition actually presents and not what it could have reasonably contained had it been drafted differently. *In re Magnum Oil Tools Int'l, Ltd.*, 829 F.3d 1364, 1381 (Fed. Cir. 2016) (holding that the Board is not "free to adopt arguments on behalf of petitioners that could have been, but were not, raised by the petitioner during [a post-grant proceeding]"). The Board cannot "deviate from the grounds in the petition and raise its own" theories of invalidity. *Sirona Dental Sys. GmbH v. Institut Straumann AG*, 892 F.3d 1349, 1356 (Fed. Cir. 2018).

In addition to the underlying failures of the Petition, the Board should deny institution under *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (PTAB Mar. 20, 2020) (precedential) and other discretionary factors committed to the Board's discretion under § 314(b), including the factors identified by the Acting Director in

the March 26, 2025 Memorandum (EX2013, “Director Memo”) and the Board’s latest guidance on the Interim Processes for PTAB Workload Management (EX2008, “FAQs”). The *Fintiv* factors include:

1. Whether the court has granted a stay or evidence exists that one may be granted if an IPR is instituted.
2. The proximity of the court’s trial date to the PTAB’s projected statutory deadline for a final written decision.
3. The investment in the parallel proceeding by the court and the parties.
4. The overlap between issues raised in the petition and those in the parallel proceeding.
5. Whether the petitioner and the defendant in the parallel proceeding are the same party.
6. Other circumstances that impact the PTAB’s exercise of discretion, including the merits of the petition.

Apple, IPR2020-00019, Paper 11 at 5-6; EX2013, 2. The Board takes a “holistic view” of whether efficiency and integrity of the system are best served by denying or instituting review. *Apple*, IPR2020-00019, Paper 11 at 5-6; EX2013, 2.

Furthermore, the Director Memo identified a non-exhaustive number of additional factors that may be considered by the Board when evaluating how to apply the Board’s discretion under § 314(b) (“Memo Factors”) including:

1. Whether the PTAB or another forum has already adjudicated the validity or patentability of the challenged patent claims;

2. Whether there have been changes in the law or new judicial precedent issued since issuance of the claims that may affect patentability;
3. The strength of the unpatentability challenge (related to *Fintiv* Factor 6, above);
4. The extent of the petition's reliance on expert testimony;
5. Settled expectations of the parties, such as the length of time the claims have been in force;
6. Compelling economic, public health, or national security interests; and
7. Any other considerations bearing on the Director's discretion.

EX2013, 2-3. The Board's FAQs further indicate that "[t]he Process Memorandum includes a non-exhaustive list of issues that may be raised in discretionary briefing. Parties are encouraged to address any fact or circumstance they believe bears on the Director's discretion to institute, including reasons not discussed in current Board precedent or in the Process Memorandum." EX2008, Q.11 (emphasis added).

VI. THE BOARD SHOULD EXERCISE DISCRETION TO DENY INSTITUTION UNDER 35 U.S.C. § 314(A)

Inter partes review of the '903 patent would not be an efficient use of the Board's limited resources. The '903 patent has been in force for over a decade and is now expired. The inventions disclosed therein are therefore free to the public going forward, and the settled expectations of the parties counsels against institution. Additionally, the Office already expended substantial resources on this

patent during its initial prosecution, which was thorough and identified the same points of novelty that distinguish the currently cited prior art.

Patent Owner's claim for past damages associated with Petitioner's infringement of the '903 patent is presently pending in district court. *See* EX2003 (*Sandpiper CDN, LLC v. Google LLC*, 2:24-cv-03951, ECF No. 1 (C.D. Cal. May 10, 2024)). All of Petitioner's IPR invalidity arguments against the challenged claims are duplicated in that action. *See* EX2004 (Petitioner's Invalidity Contentions served March 11, 2025). Petitioner carved out from its *Sotera* stipulation the right to assert system-art variations of the present challenges in district court. *See* EX1016. While the parallel district court case is in its early stages, there is no urgency to Petitioner's validity challenge. Indeed, Petitioner waited over 11 months to file the Petition. Finally, the weak merits of the Petition—including multiple limitations missing from the prior art—weigh against institution.

A. Settled expectations and efficiency favor discretionary denial.

Memo Factor 5 favors denial. The Office has indicated that it is not a good use of resources and upsets the settled expectations of patent owners and the marketplace to review patentability challenges for patents that have been in force for many years. *See, e.g., Dabico Airport Solutions Inc., v. AXA Power ApS*, IPR2025-00408, Paper 21 at 2 (PTAB June 18, 2025) (discretionarily denying

review for a patent that had been in force for “almost eight years”). The patent challenged here has been in force for even longer. This factor thus weights in favor of discretionary denial.

Moreover, the '903 patent expired September 24, 2023. Proceeding with an IPR on an expired patent is an inefficient use of the Board's and the parties' resources. While the Board has jurisdiction to do so in its discretion,¹ committing substantial Board and party resources to adjudicate an expired patent, especially where the same claims are already pending in the district court, is contrary to the goals of improving PTAB efficiency and managing workload.

While there is a claim for past damages attributable to infringing the patent in district court, the limited nature of that dispute does not justify expending the Board's resources on instituting review of the Petition. As Petitioner itself has argued in the district court case, a claim limited to past damages that have already accrued has no urgency. EX2005, 1 (*Sandpiper CDN, LLC v. Google LLC*, No. 2:24-cv-03951, ECF No. 75 (C.D. Cal. May 23, 2025)); *VirtualAgility Inc., v.*

¹ The Supreme Court is currently being asked to review the issue of whether expired patents can be subject to PTAB review. EX2009 (*Gestures Tech. Partners LLC. v. Apple Inc. et al.*, Petition for Writ of Certiorari, Case. No. 24- (Filed June 11, 2025)).

Salesforce.com, Inc., 759 F.3d 1307, 1318 (Fed. Cir. 2014) (explaining that delaying a case involving only past damages does not prejudice either side). The PTAB’s ability to render a decision on validity more quickly than a district court thus does nothing to promote efficiency or a just and speedy resolution of this dispute.

Finally, there is little potential benefit to the industry or the public at large in the PTAB canceling a patent that has already expired. The subject matter of this patent is already available to the public, and has been for nearly two years. Instituting review of this Petition is therefore unlikely to expand the industry’s freedom to operate in this space, and therefore does not promote the legislative purpose of IPR proceedings. *See* Changes to Implement Inter Partes Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents, 77 Fed. Reg. 48,680 (Aug. 14, 2012); *see also* *Hunting Titan, Inc. v. DynaEnergetics Europe GmbH*, 28 F.4th 1371, 1381 (Fed. Cir. 2022) (observing that the “basic purpose of IPR proceedings” is to reexamine an earlier agency decision to “[keep] patent monopolies ... within their legitimate scope”).

Expired patents do not implicate the right to exclude or the public’s interest in policing a patentee’s exercise of that right. *See Kimble v. Marvel Ent., LLC*, 576 U.S. 446, 451 (2015) (“[W]hen the patent expires, the patentee’s prerogatives

expire too, and the right to make or use the article, free from all restriction, passes to the public.”). The end of the inventor’s exclusive monopoly likewise ends the need for an administrative process to protect the public interest by maintaining that monopoly within its legitimate scope. *See Oil States Energy Services, LLC v. Greene’s Energy Group, LLC*, 584 U.S. 325, 336-37 (2018). When a patent expires, the “public” part of the patent right ceases to exist, and “the right to make or use the article, free from all restriction, passes to the public.” *Kimble*, 576 U.S. at 451 (citing *Sears, Roebuck & Co. v. Stiffel Co.*, 376 U.S. 225, 230 (1964)). As such, disputes involving expired patents do not implicate the public’s interest in “seeing that patent monopolies are kept within their legitimate scope.” *Cuozzo Speed Techs., LLC v. Lee*, 579 U.S. 261, 279-80 (2016) (cleaned up). This factor thus weighs strongly in favor of discretionary denial.

B. The *Fintiv* Factors Weigh in favor of denial in view of the parallel district court litigation.

On March 24, 2025, the Office issued new guidance clarifying how the Board will apply the precedential *Fintiv* and *Sotera* decisions to parallel proceedings (“*Fintiv* Guidance”). *See also Apple*, IPR2020-00019, Paper 11 (articulating six non-exclusive factors for determining whether to institute an AIA post-grant proceeding where there is parallel litigation). Every one of the *Fintiv* Factors favors denial, and the balance of the factors heavily favors discretionary denial of this Petition.

***Fintiv* Factor 1 favors denial.** There is no stay of proceedings in the parallel district court case. While the district court has extended certain pre-trial deadlines to fall after the Director’s expected discretionary denial decisions, the trial date remains unchanged. *See* EX2006, 5 (*Sandpiper CDN, LLC v. Google LLC*, No. 2:24-cv-03951, ECF No. 82 (C.D.Cal. June 24, 2025)). The original trial date is still set for September 28, 2026 and has not been stayed.

The district court indicated that *if* the PTAB were to institute on *all* of Google’s pending petitions, then “the likelihood of resource conservation and issue simplification would be far more crystalized” and noted that Sandpiper (Patent Owner) would agree to a post-institution stay under such circumstances. EX2006, 4. Patent Owner submits that the PTAB should not institute on all petitions. Indeed, it should discretionarily deny all of them or otherwise deny institution on the merits.

Indeed, for most of the petitions, certain countervailing facts align with situations the Director has recently found to justify discretionary denial. Google’s petitions in IPR2025-00806, IPR2025-00826, and IPR2025-00969 challenge expired patents that have each been in force for over a decade. The Office has recently denied similar petitions. *See, e.g., Dabico*, IPR2025-00408, Paper 21 at 2 (discretionarily denying review for a patent that had been in force for “almost eight years”). And Google’s petitions in IPR2025-00846 and IPR2025-00952 challenge

patents that the district court found invalid under 35 U.S.C. § 101. *See* EX2007 (*Sandpiper*, No. 2:24-cv-03951, ECF No. 28 (C.D. Cal. Sept. 16, 2024)). The Office should deny institution of the '846 and '952 petitions under *Hulu, LLC v. Piranha Media Distribution, LLC*, IPR2024-01252, IPR2024-01253 (PTAB April 17, 2025) (designated precedential May 7, 2025). The Office should not decide differently here.

Furthermore, all of Google's petitions have serious flaws on the merits, as well as other factors that the Director considers to weigh in favor of denial, as further detailed in their respective briefs. Even if one or two petitions were instituted, the district court has now indicated that such a limited institution would not meaningfully conserve resources or simplify the issues. *See* EX2006, 4. Factor 1 therefore favors denial for this and all six other Petitions.

***Fintiv* Factor 2 favors denial.** The projected statutory deadline for a Final Written Decision in this IPR is December of 2026. *See* 35 U.S.C. § 316(a)(11). A jury trial in the parallel litigation is set for September of 2026. EX2006, 5. Accordingly, multiple tribunals will be adjudicating validity at the same time, increasing duplication and expenses for the parties and the tribunals. Moreover, the jury will render its verdict on all issues—including invalidity issues—three months *before* the PTAB would render its Final Written Decision.

The Board has recently confirmed that where another tribunal will adjudicate the same issues presented in the petition before the scheduled FWD date, that weighs heavily against institution. *See, e.g., EClinicalWorks, LLC v. Decapolis LLC*, IPR2022-00229, Paper 10 at 9 (PTAB Apr. 13, 2022) (finding this factor weighed in favor of discretionary denial and denying institution where “the beginning of the jury trial ... is roughly one to two months before any final decision would have been due had inter partes review been instituted” (emphasis added)); *see also, e.g., Resmed Corp. v. Cleveland Med. Devices Inc.*, IPR2023-00565, Paper 13 at 11 (PTAB September 25, 2023) (denying institution where trial was scheduled to occur “approximately one month” before the deadline to issue a final written decision). Factor 2 favors denial.

***Fintiv* Factor 3 favors denial.** Significant work has already been done in the parallel district court litigation. Patent Owner served its infringement contentions in January 2025, and Petitioner served its invalidity contentions in April 2025. Fact discovery opened in March 2025 with the exchange of initial disclosures, and the parties have since propounded written discovery.

Additionally, the parties briefed and the district court already decided multiple substantive motions, including a motion to dismiss multiple asserted patents based on subject-matter ineligibility under 35 U.S.C. § 101. *See, e.g., EX2007*. In the process of adjudicating these motions, the district court has already

become well-versed with the underlying patented technology (per *Alice* step one), and the general state of the art and specific disclosures of the pertinent prior art (per *Alice* step two). *Id.* Instituting review of the Petition will therefore do little to preserve judicial economy compared to other cases.

Moreover, Petitioner waited until almost the last moment—over 11 months after being served with a complaint—to file its Petition. *Apple*, IPR2020-00019, Paper 11 at 11-12 (When analyzing *Fintiv* Factor 3, if “the evidence shows that the petitioner [did not] file[] the petition expeditiously, ... these facts have favored denial.”). Factor 3 favors denial.

***Fintiv* Factor 4 favors denial.** The parallel litigation involves the same claims and defenses as those at issue in the Petition. *See Fintiv* Memo, 7–8 (emphasis added). Petitioner has nominally executed a *Sotera* stipulation. *See* EX1016; *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 at 18–19 (PTAB Dec. 1, 2020) (precedential as to § II.A). The effect of this stipulation, however, is mitigated because Petitioner asserts obviousness combinations of unpublished system prior art in the district court proceeding together with prior-art references relied on in its Petition, and several other invalidity theories. *Compare* EX1016 (*Sotera* stipulation), *with* EX2008, Q.14 (“The Director will take into account whether the stipulation materially reduces overlap between the proceedings. Where the petitioner is relying on corresponding system art in a

compending proceeding and/or several other invalidity theories, a stipulation may not be particularly meaningful because the efficiency gained by any AIA proceeding will be limited.”).

Indeed, Petitioner has expressly carved out from its stipulation the option to try overlapping invalidity arguments in multiple fora, undermining the efficiency sought by the creation of inter partes review in the AIA. *See* EX1016. As the Acting Director recently recognized, such stipulations do not ensure that the IPR proceedings would be a “true alternative” to the district court proceeding where unpublished system prior art is asserted in combination with the art used in the IPR grounds. *Motorola Sol’ns, Inc. v. Stellar, LLC*, IPR2024-01205, Paper 19 at 3-4 (PTAB March 28, 2025) (finding that a *Sotera* stipulation was unlikely to moot the petitioner’s combination of IPR art with unpublished system prior art in district court proceedings, and therefore could not outweigh other factors favoring denial). Because Petitioner’s stipulation specifically preserves the right to file invalidity grounds based on prior-art systems and products, it confirms Petitioner’s intent to raise the very kinds of duplicative arguments that the Director identified as a cause for concern in *Motorola. Id.* Factor 4 favors denial.

***Fintiv* Factor 5 favors denial.** The parties are the same in both proceedings. *Apple*, IPR2020-00019, Paper 15 at 15 (PTAB May 13, 2020) (“Because the

petitioner and the defendant in the parallel proceeding are the same party, this factor weighs in favor of discretionary denial.”).

***Fintiv* Factor 6 favors denial.** The petition suffers from numerous flaws, and the merits of the arguments presented are weak for the reasons discussed in detail below.

C. The weak merits of the Petition favor denial.

Fintiv Factor 6 and Memo Factor 3 weigh against institution where the merits of the petition are flawed or fail to present a compelling challenge.

The Petition here is deeply flawed. Even if the Board were inclined to decipher the Petition on the Petitioner’s behalf, the deficiencies of Kenner (the lone reference relied upon to invalidate the independent claims) are unavoidable. The flaws in the merits are so clear and dispositive that further consideration by the Board outside of the context of discretionary denial would simply waste resources.

As a preliminary matter, the ’903 patent and Kenner disclose very different systems. The ’903 patent leverages a network of shared repeater servers to optimize content transmission to clients from multiple content providers. Requests for content are “reflected” by a reflector to an appropriate repeater, and the repeater provides cached content to clients via redirect. In contrast, Kenner discloses a video retrieval system. A user terminal accesses a primary index manager (a search engine) that accesses information about available videos, retrieves videos from

storage units (local or remote), and provides videos to the terminal for viewing and manipulating.

The Petition tries to bridge this gap between the claims and the prior art by stretching and reworking the disclosure of Kenner as far as it can, and then purporting to fill the remaining gaps in its own retelling of Kenner with an expert declaration. *See also* Section VI.D below. Yet somewhat paradoxically, the testimony of Petitioner's expert, Dr. Mowry, offers little substantive detail or insights to actually address the deficiencies of Kenner.

For example, the '903 patent claims a content delivery network that serves multiple content providers. Specifically, the claims of the '903 patent are directed to a technique that allows a repeater to receive a reflected request, identify authorized origin servers, and serve content from authorized content providers to clients. Kenner does not disclose such a network. Instead, Kenner describes handling many simultaneous *end-users* by serving content *from* multiple providers. Pet., 8-12 (citing EX1005, 4:32-5:5 (describing general advantages of parallel systems), 5:21-26 (describing capability of supporting thousands of simultaneous users), 28:3-6 (describing remote storage units), 33:4-11 (describing subscription service for users), 35:11-16 (describing user accessing videos from a subscription service), 40:24-28 (describing multiple index managers to server a large number of

concurrent users), 41:13-19 (noting that a PIM can contact a source index manager), 54:12-16 (describing a large number of geographically dispersed users)).

Unable to find a disclosure of serving multiple content providers in Kenner, the Petition used annotation to modify Figure 4 of Kenner to include “an additional source IM” where none exists in the actual disclosure. *See* Pet., 11 (annotating a modified Figure 4). Furthermore, the “subscribers” in Kenner and the ’903 patent are not the same. *See, e.g.*, Pet., 19. In the ’903 patent, a “subscriber” is “an entity (e.g., a company) that publishes resources (e.g., files) via one or more origin servers. EX1001, 10:24-31 (“When the entity subscribes, it is permitted to utilize the repeater network.”). In Kenner, a “subscriber” is the end user. *See* EX1005, 52:7-12. The Petition erroneously conflates the two. *See* Pet., 19.

The Petition also falsely equates Kenner’s PIM 64 to the claimed *at least one shared repeater server*. But Kenner’s PIM is more akin to a web server with access to local and remote storage than a repeater server—e.g., Kenner does not describe a proxy, a cache, etc. *See* EX1001, 4:37-40 (“[A] repeater can be considered as a dedicated proxy server that maintains a partial or sparse mirror of the origin server 102 by implementing a distributed coherent cache of the origin server.”).

Kenner's high-level failure to disclose a system for serving multiple content providers precludes any likelihood that the Petition will succeed in showing that Kenner teaches or suggests the following limitations of independent claim 1:

- (1) a first/second alias name that is associated with both a first/second resource and the at least one shared repeater server, wherein requests for the first/second resource are directed to the at least one shared repeater server, based at least in part on the first/second alias name ([1.c]-[1.f]);
- (2) at least one table listing a plurality of alias names corresponding to content providers authorized to have resources delivered to client machines via the at least one shared repeater server ([1.b]); and
- (3) wherein the at least one shared repeater server is further constructed and adapted to analyze, using the table, an alias name received with a client request for a particular resource to determine a content provider associated with the particular resource ([1.g]).

These are the same features that the Examiner recognized as being novel during prosecution. *See* Section IV, *supra*. Each failing is discussed in more detail below.

1. Kenner does not teach or suggest a first/second alias name or at least one shared repeater server ([1.c]-[1.f]).

The Petition asserts that Kenner's video ID teaches the claimed *first/second alias name*. Pet., 20-24. But Kenner's video ID is not an alias and it is not associated with both a *resource* and *at least one shared repeater server*.

a. Kenner’s video ID is not an alias.

Kenner’s video ID is not a first or second alias name as claimed. An alias name is a special form of URL created to provide the identity of (1) the source of the original resource and (2) the identity of the selected repeater. *See* EX1001, 3:12-29, 8:29-33 (“It is necessary that the reflection step create a single URL containing the URL of the original resource, as well as the identity of the selected repeater.”) (“A special form of URL is created to provide this information,”—e.g., a URL in the format `http://<repeater>/<server>/<path>`), 8:31-37, 9:48-54 (“[I]f `www.example` is the origin server ... , [t]he name ‘`wr1.example.com`’ would be *an alias* for `repeater1`.” (emphasis added)). The alias name identifies both the repeater (“`wr1`”) and the origin server (“`example.com`”).

Repeater Name	Example Alias Names
repeater1	“wr1.example.com” “wr1.anotherExample.com” “wr1.example.edu”

EX1001, 9:44-55.

The claimed repeater receives a reflected request that includes this alias name (e.g., the repeater can examine the host tag of the HTTP header). EX1001, 10:4-7. Using the alias name, the repeater determines the origin server being addressed by referencing a table that “associates alias names with origin server names.” EX1001, 9:56-59. The table indicates whether the origin server is a valid subscriber and whether a particular repeater may be used by the subscriber. *See*

EX1001, 17:51-57. In this fashion, the repeater can identify the origin server for the resource and assess whether a corresponding content provider can use that repeater. EX1001, 9:56-59, 17:54-57.

Accordingly, limitation [1.c] requires that *a first alias name* be associated with both: (1) *a first resource associated with the first content provider* (i.e., the “URL of the original resources”) and (2) *at least one shared repeater server* (“the identity of the selected repeater”). Limitation [1.e] recites a separate and distinct *second alias name* associated with (1) *a second resource associated with the second content provider* and (2) *at least one shared repeater server*.

The *first alias name* in [1.c] and [1.d] and the *second alias name* in [1.e] and [1.f] are associated with distinct content providers and resources. But both the *first alias name* and the *second alias name* are associated with the same *at least one shared repeater server*. In other words, the same *at least one shared repeater server* is addressable using either/both the *first alias name* and the *second alias name*. See EX1001, 9:59-63; *see also id.*, claim 2 (“wherein the [at] least one shared repeater server is addressable using the first alias name and the second alias name”).

Kenner’s video ID is not an alias—it is a “unique reference identifier for each video clip and corresponds to an identifying field within the text database.” EX1005, 22:1-2, 43:27-29 (“The software tool will also communicate with a

master database to ensure that each clip uploaded, no matter from where, will have a unique video ID.”). Kenner’s video ID is not used as an “alias” for another identifier, rather, it is the only unique identifier of the video.

’903 patent <i>alias names</i>	Kenner’s Video ID
<i>Alternative identifiers for a single repeater server</i>	<i>A unique identifier for a video.</i>
Examples: “wrl.example.com” “wrl.anotherExample.com” “wrl.example.edu”	Constructed from: “a text name of the file,” the “content provider’s account number,” “a category coordinate,” a “geographic coordinate”, a “time stamp,” and a “time period” of relevance.

Compare EX1001, 9:44-55, with EX1005, 36:32-37:6.

b. Kenner’s video ID does not identify a repeater.

Kenner’s video ID is not associated with both a *resource* and *at least one shared repeater server* because Kenner’s video ID does not identify a repeater server. Kenner’s video ID includes:

a text name of the file as defined by the content provider; the **content provider’s account number** as provided by the organization running the subscription service; a category coordinate, possibly a representation of a hierarchical portion of a category tree, a geographic coordinate used to determine where the file is relevant (e.g. a region, state, or city); a time stamp, and a time period over which the file is relevant.

EX1005, 36:32-37:5 (emphasis added). To any extent that the “text name of the file” and the “provider’s account number” taken together can identify *a resource*

associated with a content provider, nothing in the video ID indicates *the at least one shared repeater server*. The Petition asserts that a primary IM is the *at least one shared repeater server* but the video ID itself does not including information identifying a particular primary IM. *See Pet.*, 15-16.

Petitioner acknowledges this deficiency and asserts that Kenner's clip database teaches or suggests an association between the *first/second alias name* and the *at least one shared repeater server*. *Pet.*, 20-21. Kenner's clip database includes the video ID and the storage retrieval units that store the referenced file.

Item Name	Format	Description
Counter	numeric	Primary index for the records. Each record represents one video clip.
Video ID	text	The globally unique name of the video clip, as specified above.
Extended SRUs	IP array	The IP addresses of all the extended SRUs 66 which contain the file.

EX1005, 34:7-11.

Petitioner asserts that a PIM storing a table of Video IDs teaches an association between the video ID and the PIM. However, this interpretation is radically divorced from the claimed context.

Namely, limitations [1.d] and [1.f] require that *requests for the [first/second] resource from said client machines are directed to the at least one shared repeater server, based at least in part on said [first/second] alias name*. Without the *alias*

name specifying both a *resource associated with a content provider* and the *at least one shared repeater server*, a reflector would be unable to direct the request to a repeater in the content delivery network and the repeater would be unable to determine a content provider associated with the request. *See* EX1001, 9:59-63.

In Kenner, the user terminal always accesses the same PIM (which the Petition asserts is the claimed *repeater server*). Nothing is *directed to* the PIM and certainly a request is not directed to the PIM *based on* the “video ID.” Again, the video ID identifies with particularity the video file. The video ID does not identify a PIM and requests are passed to the same PIM from a user terminal . The request is not directed to the PIM *based on the* video ID.

Recognizing the weakness of this position, the Petition alternatively points to a “request [that] may be directed to the primary IM from a neighboring IM.” Pet., 22 (citing EX1005, 40:29-33). The Petition asserts that the “content coordinate data included in the video ID” can be used to “determine which IMs are likely to have the desired clip.” Pet., 22. But Kenner’s content coordinate data specifies “which categories of content are to be made available to the subscribers in its region.” EX1005, 44:27-30. In this fashion, the PM can identify regional IMs that have subscribed to the category of the video ID. EX1005, 36:20-30 (“The content coordinates enable a match with the regional IMs that have subscribed to that type of file ...”). But this does not associate the video ID with a PIM.

The claims require that the *alias name* be associated with a *resource associated with a content provider and at least one shared repeater*. Kenner's video ID is not an alias name, let alone an alias name that is associated with both a *resource associated with a content provider and at least one shared repeater*.

2. Kenner does not teach or suggest at least one table listing a plurality of alias names corresponding to content providers authorized to have resources delivered to client machines via the at least one shared repeater server ([1.b]).

Kenner does not disclose a *table listing a plurality of alias names corresponding to content providers authorized to have resources delivered to client machines via the at least one shared repeater server*. This table allows the repeater to determine a content source and verify that the content source relates to a valid subscriber. EX1001, 9:56-59, 10:24-31, 17:51-57. Examiner Blair recognized the novelty of this table during prosecution. *See* Section IV; *see also* EX1002, 249.

The Petition points to a “clip database” maintained on Kenner's PIM as teaching the *table listing a plurality of alias names*. Pet., 18. Kenner's clip database includes the video ID and other information about the videos stored in the extended SRUs. EX1005, 34:3-6.

Item Name	Format	Description
Counter	numeric	Primary index for the records. Each record represents one video clip.
Video ID	text	The globally unique name of the video clip, as specified above.
Extended SRUs	IP array	The IP addresses of all the extended SRUs 66 which contain the file.

EX1005, 34:7-11.

As discussed above, the video ID is not an *alias name* (it is a “globally unique name of the video clip”) and Kenner fails to teach *a table listing a plurality of alias names* on that basis alone. See Section VI.C.1.

Kenner’s video ID also does not correspond *to content providers authorized to have resources delivered to client machines via the at least one shared repeater server*. The video ID includes a text name of the file and a content provider’s account number. EX1005, 36:32-37:5. The mere inclusion of the provider’s account number in the video ID does not indicate that a content provider *is authorized to have resources delivered to client machines via the at least one shared repeater server*. Kenner does not disclose authorization of content providers and only checks end-users’ access permissions. See EX1005, 33:4-11.

Limitation [1.b] requires that the authorization be particularized to the repeater server—i.e., *via the at least one shared repeater server*. See EX1001, 10:29-31 (“The subscriber tables described below include the information that is

used to link reflectors to subscribers.”), 17:56-57 (describing the subscriber table having a list of the repeaters that may be used by a subscriber’s servers). Kenner’s clip database does not include any information related to authorization, let alone authorization to have resources delivered via a specific repeater server. *See* EX1005, 34:5-35:3. Thus, Kenner does not teach or suggest [1.b].

3. Kenner does not teach or suggest wherein the at least one shared repeater server is further constructed and adapted to analyze, using the table, an alias name received with a client request for a particular resource to determine a content provider associated with the particular resource ([1.g]).

The claimed table of alias names is further used by the *at least one shared repeater server* to analyze an alias name received in a client request—another feature that not disclosed, taught, or suggested by Kenner. As discussed above, Kenner does not disclose a *table listing a plurality of alias names*. Kenner thus fails to teach [1.g] on that basis alone. *See* Section VI.C.2.

Kenner also does not teach or suggest *analyze, using the table, an alias name received with a client request*. This deficiency highlights the Petition’s fundamental error in equating Kenner’s video ID to an *alias name*. Pet., 25 (identifying a primary IM locating content at a source IM as teaching [1.g]). In Kenner, a primary IM could identify the source IM with the video ID because the video ID itself contains the provider’s account number. *See* EX1005, 36:32-37:5. Kenner’s primary IM need not analyze the video ID *using the table*. In Kenner,

additional analysis of the video ID to determine the source IM with respect to the clip database would be redundant.

Thus, entirely absent from Kenner is any teaching of *analyzing* the purported *alias name* (“video ID”) with respect to a *table listing a plurality of alias names* (the primary IM’s clip database). Dr. Mowry provides no further insights to cover this gap in Kenner. *Compare* EX1003, ¶96, *with* Pet., 48-49 (nearly matching exactly). In contrast, in the claimed invention, without using the table of alias names, a repeater could not isolate the origin server/content provider within the received single URL. Thus, Kenner does not teach or suggest [1.g].

D. Heavy reliance on an expert declaration to provide the understandings and expectations of a POSA favor denial.

Memo Factor 4 favors discretionary denial of the Petition. The Board’s FAQs explain:

While the Board may consider expert testimony, as a matter of efficiency, extensive reliance on expert testimony and/or reasonable disputes between experts on dispositive issues may suggest that the questions are better resolved in an Article III court. The statute and our reviewing court require that petitions be based on prior art patents and printed publications. As the judges have technical and legal expertise, it is not necessary for an expert to explain every aspect of the prior art. It is most helpful if an expert is providing focused testimony, for example to provide helpful context or to explain terms

of art. The failure to provide focused expert testimony may weigh against institution.

EX2008, Q.21. Here, as discussed above in Section VI.C, the gaps in the prior art are significant. Petitioner relies heavily on expert argument and inferences to fill in these gaps and to explain why the prior art would be modified and combined to allegedly arrive at the challenged claims. *Cf. iRhythm Techs., Inc., v. Welch Allyn, Inc.*, IPR2025-00363, Paper 10 at 2-3 (PTAB June 6, 2025) (suggesting that identifying portions of expert testimony to fill gaps in the prior art weighs in favor of denial). Petitioner also relies on expert testimony for nearly every cited claim limitation, rather than providing a focused expert declaration addressing the limitations for which expert testimony is necessary. *Contra* EX2008, Q.21; *compare* EX1003, ¶¶53-58, *with* Pet., 8-12.

Specifically, for Ground 1, the Petition relies heavily on the declaration to provide the understanding and interpretation of a POSA, for example, independent claim elements [1.pre], [1.a.ii], [1.b], [1.c], [1.e], [1.g], [40.a], and dependent claims 23, 26. For Ground 2, the Petition relies relatively heavily on the Decl. to provide the understanding and interpretation of a POSA, for example, dependent claim 33. For Ground 3, the Petition relies relatively heavily on the Decl. to provide the understanding and interpretation of a POSA, for example, dependent claims [34.a], [34.b]. For Ground 4, the Petition relies relatively heavily on the

Decl. to provide the understanding and interpretation of a POSA, for example, dependent claim 27.

Finally, Patent Owner, in its POR, will present and rely heavily on competing expert testimony explaining why Petitioner's arguments and inferences are incorrect and do not meet the claim limitations. The extensiveness of the competing expert testimony better suits this dispute to resolution in district court, where the experts can present live testimony with cross-examination. This factor favors thus favors denial of institution. EX2008, Q.21.

E. Compelling economic and public interest concerns favor denial.

Memo Factor 6 favors denial. Congress enacted the Leahy-Smith America Invents Act ("AIA"), Pub. L. No. 112–29, 125 Stat. 284, in 2011 to, *inter alia*, “limit unnecessary and counterproductive litigation costs.” H.R. REP. No. 112-98, pt. I at 40 (2011); *see also* 37 C.F.R. § 42.100 (2017) (observing the purpose of IPR as promoting just, speedy, and inexpensive resolution of patent-validity disputes). While promoting judicial economy is among the goals of the IPR process, the AIA was also a reaction to the financial hardship many smaller defendants faced with complex commercial litigation. *Id.*

Petitioner Google is one of the most prolific patent-infringement defendants in history. On balance, this weighs against institution in view of the fact that Google (as of March 2025) has \$345.26 Billion USD in net assets and is the

world's 5th wealthiest company. Google is more than capable of litigating its patent challenges in district court. Unlike the smaller defendants Congress may have had in mind, Google does not need to tax the resources of the Patent Office to offload its invalidity defenses or reduce its litigation costs. The Office's limited resources are better used elsewhere.

VII. CONCLUSION

The Board should exercise discretion to deny *inter partes* review of the '903 patent.

Respectfully submitted,

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

1. This Patent Owner's Brief on Discretionary Denial complies with the type-volume limitation of 14,000 words, comprising 8,244 words, excluding the parts exempted by 37 C.F.R. § 42.24(a)(1).

2. This Patent Owner's Brief on Discretionary Denial complies with the general format requirements of 37 C.F.R. § 42.6(a) and has been prepared using Microsoft® Word 2016 in 14-point Times New Roman font.

Respectfully submitted,

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PATENT OWNER'S BRIEF ON
DISCRETIONARY DENIAL** and associated Exhibits 2001, 2003-2008, and
2013 were served in their entireties on August 7, 2025, upon the following parties
via electronic mail:

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