Subject: Re: IPR2025-012023 & -01071: Request for Authorization to file Motion for Sanctions
Date: Monday, May 18, 2026 at 9:00:29 PM Eastern Daylight Time
From: Chris Evans <chris@offorevans.com>
To: Modi, Naveen <naveenmodi@paulhastings.com>, Trials <trials@uspto.gov>
CC: PH-Samsung-CMHK-IPR <PH-Samsung-CMHK-IPR@paulhastings.com>, Bansal, Chetan R. <chetanbansal@paulhastings.com>
Attachments: image001.png, 2025-03-28 CM HK NDCA Samsung's PR 4-1 Proposed Terms for Construction.pdf, 2025-04-18 Samsung's PR 4-2 Proposed Constructions and Extrinsic Evidence.pdf

Dear Honorable Board,

Patent Owner respectfully submits the attached Northern District of California filings because they further clarify the factual record underlying the Board's prior *Tesla* analysis and Petitioner's recent assertion that its indefiniteness positions had been "effectively withdrawn" prior to filing these IPRs.

On March 28, 2025, Samsung served its Patent Rule 4-1(a) Proposed Terms for Construction and stated that it was identifying claim terms "which Plaintiffs contend should be construed by the Court or found indefinite." Samsung further stated that it reserved the right to "modify, supplement, or amend the list (including the identification of terms, phrases, and/or clauses that are indefinite or governed by 35 U.S.C. § 112(f))," that "[a]ny potentially indefinite terms could also be subject to alternative claim constructions or ordinary meaning," and that the listed terms should not be construed as an admission "that the term or phrase is capable of construction and not indefinite under 35 U.S.C. § 112."

Then, on April 18, 2025—twenty-five days before the Joint Claim Construction Statement and one month before the filing of these IPRs—Samsung served its Patent Rule 4-2 Preliminary Proposed Claim Constructions and Extrinsic Evidence. In that filing, Samsung expressly reserved the right to rely on invalidity positions identified in its Invalidity Contentions and stated that expert testimony could include "an opinion that a person of ordinary skill in the art would find claim terms indefinite." Samsung explicitly reserved "the right to assert defenses under 35 U.S.C. § 112 for indefiniteness and lack of written description and/or enablement of claim terms, including, for instance, those exemplarily set forth in Plaintiffs' Invalidity Contentions and the following terms."

These local patent rule disclosures respectfully appear difficult to reconcile with Petitioner's assertion earlier today that "Samsung had **effectively withdrawn** its March 2025 indefiniteness contentions ***prior to*** filing the IPRs."

Patent Owner will comply with the procedures required by 37 C.F.R. § 42.11(d)(2), including service of any proposed sanctions motion at least 21 days before seeking authorization to file it.

At present, Patent Owner respectfully submits that these additional district-court disclosures materially bear on the Board's prior *Tesla*/*Revvo*-related analysis in Paper 17 and Petitioner's representations regarding its indefiniteness positions.

Respectfully,

Christopher Evans

Counsel for Patent Owner

From: Chris Evans <chris@offorevans.com>
Date: Monday, May 18, 2026 at 11:37 AM
To: Modi, Naveen <naveenmodi@paulhastings.com>, Trials <trials@uspto.gov>
Cc: PH-Samsung-CMHK-IPR <PH-Samsung-CMHK-IPR@paulhastings.com>, Bansal, Chetan R. <chetanbansal@paulhastings.com>
Subject: Re: IPR2025-012023 & -01071: Request for Authorization to file Motion for Sanctions

Dear Honorable Board,

Patent Owner respectfully submits that Samsung's response does not resolve the inconsistency identified in Patent Owner's request.

Samsung argues that it had "effectively withdrawn" its March 2025 indefiniteness contentions before filing the IPRs because Samsung did not identify indefiniteness issues in the parties' later Joint Claim Construction Statement in the Northern District of California. But Samsung cites no rule or authority providing that omission of indefiniteness from a joint claim construction statement withdraws previously served invalidity contentions or waives indefiniteness defenses.

To the contrary, the Northern District of California Patent Local Rules specifically require indefiniteness grounds to be disclosed in Invalidity Contentions. Patent L.R. 3-3(d) ("Invalidity Contentions" shall disclose "[a]ny grounds of invalidity based on . . . indefiniteness under 35 U.S.C. § 112(2)"). The later claim construction procedures under Patent L.R. 4-3 do not require parties to identify indefiniteness defenses in the Joint Claim Construction Statement.

Moreover, Samsung identifies no actual withdrawal of its indefiniteness defenses in either the Northern District of California or Eastern District of Texas cases. The operative invalidity contentions asserting that the claims "fail to meet the definiteness requirement of 35 U.S.C. § 112" and "fail to inform, with reasonable certainty, those skilled in the art about the scope of the invention" remain part of those district court proceedings. At the same time, Samsung repeatedly represented to this Board that it had "never alleged" indefiniteness and distinguished Tesla on that basis.

Patent Owner therefore respectfully maintains that a brief conference call would assist the Board in determining whether further motion practice is appropriate.

Sincerely,

Christopher L. Evans
Attorney for Patent Owner

From: Modi, Naveen <naveenmodi@paulhastings.com>
Date: Monday, May 18, 2026 at 11:17 AM
To: Chris Evans <chris@offorevans.com>, Trials <trials@uspto.gov>
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Subject: RE: IPR2025-012023 & -01071: Request for Authorization to file Motion for Sanctions

Dear Honorable Board,

Petitioner Samsung opposes Patent Owner CM HK's request for a conference call and authorization to file a sanctions motion. CM HK's request is meritless, disregards the Board's rules and procedure, and is nothing more than an attempt at relitigating the same issue of indefiniteness/inconsistent positions that the Board and the Director have already considered and rejected. CM HK has had more than sufficient opportunity to raise this issue, which both the Board and the Director previously considered. *See* -01023 IPR, Paper 17 at 20-23, -01023 IPR Paper 24. CM HK cites no ***new*** evidence that has come to light since those decisions. Indeed, as confirmed by CM HK's email, Samsung's ***alleged*** indefiniteness positions have been part of this IPR's record, *see* Exhibit 2012, since August 2025. Continued litigation of the same issue under the guise of a new remedy ("sanctions") is not in the interests of justice, frustrates the purposes of IPRs as quick and cost effective alternatives to litigation, and frankly, constitutes harassment.

First, CM HK's request for leave to move for sanctions ignores the Board's rules, including 37 C.F.R. § 42.11(d)(2). That provision required CM HK to serve Samsung with the proposed sanctions] motion "[a]t least 21 days prior to seeking authorization to file a motion for sanctions." It further provides that a sanctions motion "must not be filed or be presented to the Board" before that 21-day process runs. *Id*. CM HK, however, did not serve any proposed motion on Samsung prior to sending its email to the Board. Nor did CM HK confer with Samsung before unilaterally sending its email to the Board. CM HK's disregard for the Board's rules is sufficient reason for denying its request.

Second, CM HK's allegations omit a dispositive material fact—Samsung had effectively withdrawn its March 2025 indefiniteness contentions ***prior to*** filing the IPRs. As apparent from the parties' May 13, 2025 Joint Claim Construction Statement—a document of record in this IPR as Exhibit 2007—Samsung did not assert indefiniteness during claim construction before the Northern District of California. In fact, the parties provided the court the "full list of all disputed terms" and Samsung (the plaintiff in that case) did not identify any term as indefinite. *See* Ex. 2007 at 2-3 ("Plaintiff's Proposed Construction").

Third, CM HK offers no persuasive reason why the Board should consider CM HK's belated allegations based on Samsung' briefing filed more than six months ago and Samsung's invalidity contentions served more than one year ago. CM HK has been aware of these documents for a long

time and has raised alleged claim construction inconsistencies several times now in these IPRs. CM HK recognizes its untimeliness but suggests it does not matter because Samsung purportedly had an obligation to disclose its prior positions to the Board. Samsung had no such obligation given that the prior positions were effectively moot before Samsung filed the IPRs, as discussed above.

CM HK has shown no misconduct, no material misrepresentation, and no prejudice. Its request for extraordinary sanctions, including termination, is unwarranted and should be denied. If the Board nevertheless believes a call would be helpful, Samsung will make itself available.

Respectfully,

Naveen Modi
Counsel for Petitioner

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From: Chris Evans <chris@offorevans.com>
Sent: Friday, May 15, 2026 2:33 PM
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Subject: [EXT] IPR2025-012023 & -01071: Request for Authorization to file Motion for Sanctions

To the Honorable Patent Trial and Appeal Board,

Patent Owner CM HK Ltd. respectfully requests a brief conference call to seek authorization to file a motion for sanctions pursuant to 37 C.F.R. §§ 42.11 and 42.12 based on Petitioner's misrepresentations to the Board regarding indefiniteness positions asserted in co-pending district court litigation.

In the co-pending Eastern District of Texas and California cases, Petitioner served invalidity contentions asserting that all claims of the ’846 and ’687 patents “fail to meet the ‘definiteness’ requirement of 35 U.S.C. § 112, ¶ 2” and “fail to inform, with reasonable certainty, those skilled in the art about the scope of the invention.” (Ex. 2012 at 69–71; Ex. 2047 at 69-71 (this will be filed with the motion).) Those contentions specifically identified numerous terms as indefinite, including “predicted,” “axial acceleration,” “spatial reference frame,” “resulting deviations,” “based on,” and “real-time movement pattern.” (*Id.*)

Yet in these proceedings, Petitioner has repeatedly represented to the Board that it has never asserted indefiniteness positions regarding any of those terms:

- "Samsung has **never alleged** that the term 'predicted axial accelerations' is indefinite." Paper 14 at 1.

- "Specifically, in the co-pending litigation, Samsung has taken the position that the term should be given its 'plain and ordinary meaning.'" *Id*. at 2.

- "But Petitioner **has always maintained** that the term 'predicted axial accelerations' should be given its ordinary meaning." Paper 20 at 4.

- "This is unlike Tesla, where the petitioner asserted the disputed claim term to be indefinite in district court litigation but argued before the Board that the term should be given its plain and ordinary meaning." *Id*. at 4 n.3.

This case is exactly like Tesla.

Samsung is alleging that every relevant claim term is indefinite in two co-pending district court cases (Ex. 2012 at 69–71; Ex. 2047 at 69–71) while telling the Board that none of the claim terms, "[o]ther than the 'spatial reference frame,'" need to be construed. IPR2025-01023, Pet. at 22; IPR2025-01071, Pet. at 22. Samsung has also expressly reserved "all rights to raise claim construction and other arguments in other venues … [including] grounds that can only be raised in district court." Id. at 22 n.6. Petitioner should present a single construction and apply it consistently before the Board and the district courts. S*ee, e.g., Infineon Techs. Am. Corp. v.*

Mosaid Techs. Corp., IPR2025-01456, Paper 27 at 3–4 (Director Mar. 17, 2026).

Patent Owner has not waived this issue by not raising it earlier. It is Petitioner's duty to disclose all inconsistent claim construction to the Board under its duty of candor and good faith. *American Airlines and Southwest Airlines v. Intellectual Ventures I LLC*, IPR202501055, Paper 11, at 13 (PTAB November 21, 2025) (routine opinion); 37 C.F.R. § 42.11. As the Board held in that case: "Patent Owner should not have been the first party to inform the Board as to Petitioner's different claim construction positions in the two forums." *Id*. Permitting Petitioner to benefit from undisclosed inconsistent positions would undermine the duty of candor and the Office's interest in consistent claim construction across forums.

Petitioner has not corrected the record despite a continuing duty of candor and good faith under 37 C.F.R. § 42.11. *See also Duties of Disclosure and Reasonable Inquiry During Examination, Reexamination, and Reissue, and for Proceedings Before the Patent Trial and Appeal Board*, 87 Fed. Reg. 45,764, 45,765 (July 29, 2022)*; Intas Pharms. Ltd. v. Atossa Theras. Inc.*, PGR2025-00043, Paper 33 at 9 (PTAB Jan. 16, 2026) ("Likewise, a petitioner should keep in mind that it has a duty of candor in relation to relevant information that is inconsistent with a position advanced by the petitioner during the proceeding."). The same counsel—Paul Hastings—represents Samsung in both the district court cases and these IPR proceedings, so the inconsistent positions and the failure to correct were known or knowable.

Patent Owner intends to seek, *inter alia*, an order striking Petitioner's *Tesla*-distinguishing argument in Papers 14 and 20, an adverse credibility finding with respect to these representations, and termination of the proceedings under *Tesla*.

Patent Owner is available for a call anytime on Wednesday, Thursday, or Friday next week.

Sincerely,

Christopher L. Evans
Attorney for Patent Owner

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This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments. If you reply to this message, Paul Hastings may collect personal information including your name, business name and other contact details, and IP address. For more information about Paul Hastings' information collection, privacy and security principles please click HERE. If you have any questions, please contact Privacy@paulhastings.com.