UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORP., DELL INC., AND DELL TECHNOLOGIES INC.,
Petitioner,

v.

GENERAL VIDEO, LLC,
Patent Owner.

IPR2025-01036
U.S. Patent No. 9,036,010

PETITIONER'S OPPOSITION TO PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL

Table of Contents

I. REVIEW OF THE '010 PATENT IS AN APPROPRIATE USE OF OFFICE RESOURCES 1

A. The Examiner erred by overlooking *Suzuki*, which teaches the supposedly inventive concept claimed by the '010 patent..... 2

B. Patent Owner's delay in asserting the '010 patent undermines any settled expectations..... 6

C. A single PTAB proceeding alleviates multiple district court trials..... 8

II. DISCRETIONARY DENIAL UNDER 35 U.S.C. § 325(D) IS UNWARRANTED..... 8

A. *Advanced Bionics* first prong: discretionary denial is not appropriate because the prior art and arguments are not substantially the same. 9

B. *Advanced Bionics* second prong: discretionary denial is not appropriate because of material Examiner error..... 10

III. DISCRETIONARY DENIAL UNDER *FINTIV* IS NOT WARRANTED..... 12

A. Factor 1 is neutral: No evidence regarding a stay..... 12

B. Factor 2 weighs against denial: The Final Written Decision would issue before the parallel litigation's trial date..... 12

C. Factor 3 weighs against denial: Minimal relevant investment by the parties. 15

D. Factor 4 weighs against denial: this IPR is a "true alternative" to parallel litigations. 16

E. Factor 5 is neutral: whether Petitioners are defendants in parallel litigations..... 17

F. Factor 6 weighs against denial: The merits of the Petition are strong. .. 18

IV. PATENT OWNER'S REMAINING ARGUMENTS ARE MERITLESS. 18

V. CONCLUSION 19

Petitioner's Exhibit List 20

Certificate of Service 23

I. REVIEW OF THE '010 PATENT IS AN APPROPRIATE USE OF OFFICE RESOURCES

Review is appropriate because the '010 patent issued only after material examination error. During prosecution, the Examiner erred by overlooking the substance of *Suzuki* (Ex.1006), a prior art reference cited in an IDS, which teaches the same concept claimed by the '010 patent. Patent Owner does not even attempt to dispute that *Suzuki* and the '010 patent address the same concept: using the 48-bit capacity of the then-newly released HDMI 1.3 to transmit both 2D and 3D video. On the contrary, Patent Owner glosses over *Suzuki*, ignoring its teachings, just like the Examiner. But "overlooking certain teachings in the prior art on the IDS" is exactly the type of error that warrants review by the Board. *See Ecto World, LLC v. RAI Strategic Holdings, Inc*., IPR2024-01280, Paper 13, 5-6 (PTAB May 19, 2025) (precedential). The Director should refer the Petition to a merits panel to consider *Suzuki's* substance and correct the Examiner's error.

Review is also appropriate because (1) Patent Owner's nearly ten-year delay in asserting the '010 patent undermines any settled expectations, (2) a single PTAB proceeding alleviates multiple district court trials, (3) Petitioner Intel is not a party to district court litigation and Dell's district court case is in its infancy with a scheduled trial date expected many months after a final written decision, and (4) the merits are compelling.

A. The Examiner erred by overlooking *Suzuki*, which teaches the supposedly inventive concept claimed by the '010 patent.

The Petition should proceed to a full merits review because the record demonstrates that the Examiner materially erred during examination by overlooking U.S. Pub. No. 2007/0296858 ("*Suzuki*"), which was cited in an IDS and impacts the patentability of the claims.

When the Examiner errs materially in examination of a patent, "it is an appropriate use of Office resources to review the potential error." *Anthony Inc., v. Controltec, LLC*, IPR2025-00559, Paper 9 at 2 (PTAB Jul. 16, 2025). Material error includes "overlooking certain teachings in the prior art on the IDS" that impact the patentability of the claims. *Ecto World* at 5; *see also Shenzen Chic Elecs. Co., Ltd. v. Pilot, Inc.*, IPR2023-00810, Paper 12, 21 (PTAB July 16, 2025) (internal citation omitted) (the Examiner erred because there was no "substantive evaluation of [the prior art previously presented to the Office in an IDS] in an Office action during prosecution" and "the challenged claims would have been obvious in view of" the prior art).

Here, the Examiner erred by overlooking *Suzuki's* material teachings, which discloses the exact subject matter that the Examiner believed was missing from the prior art. The '010 patent seeks to improve the transmission of 3D images over High-Definition Multimedia Interface (HDMI). Ex.1001, 1:58-62. When the '010

patent was filed, HDMI 1.2 could carry up to 24 bits per pixel, while HDMI 1.3 (just then released) doubled the capacity to 48 bits per pixel in "deep color" mode. Ex.1001, 7:24-31; Ex.1013. The '010 patent's purported invention is to use the 48-bit capacity in HDMI 1.3 to transmit a 24-bit pixel from a left-eye image and a 24-bit pixel from a right-eye image within a single 48-bit pixel—thus transmitting 3D images within the existing capacity of the interface. Ex.1001, 2:14-19. Accordingly, the claims require, among other things, a transmission interface operable in two modes—one for 2D and another for 3D—wherein the pixels transmitted in the 3D mode (*i.e.*, second data elements) have a capacity that is no greater than the known carrying capacity of the interface (*e.g.*, HDMI 1.3's 48-bit capacity).

During prosecution, the Examiner's noted reason for allowance was that the prior art "did not disclose specifics about the interface having its known data carrying capacity operating in two different modes of transmitting 2D/3D image as claimed…[w]hile the second data elements have a capacity that is no greater than the corresponding first data elements." Ex.1002, 26-36.

The Examiner was mistaken. *Suzuki*, which was cited in an IDS, teaches precisely that feature and the Examiner never analyzed *Suzuki*. As the Petition establishes, *Suzuki* discloses that HDMI 1.3 interfaces can be used to operate in both 2D/3D modes, and discusses using the 48-bit capacity to transmit two 24-bit

left and right eye images in the 3D mode. Ex.1006, [0019]-[0020], [0035], [0053]-[0055], FIGS. 2-3, 6; Pet., 30-70. First, *Suzuki's* Figure 3 illustrates that the HDMI 1.3 interface operates in 2D mode to transmit 48 bits per image data with deep color. *See* Ex.1006, [0019]-[0020], [0035], FIG. 3. Second, the below side-by-side comparison of *Suzuki's* Figure 6 and the '010 patent's Figure 4 demonstrates that *Suzuki* provides the exact same technique of using HDMI 1.3 total capacity of 48 bits to transmit 24-bit left eye data and 24-bit right eye data for 3D mode.

'010 patent-3D Mode

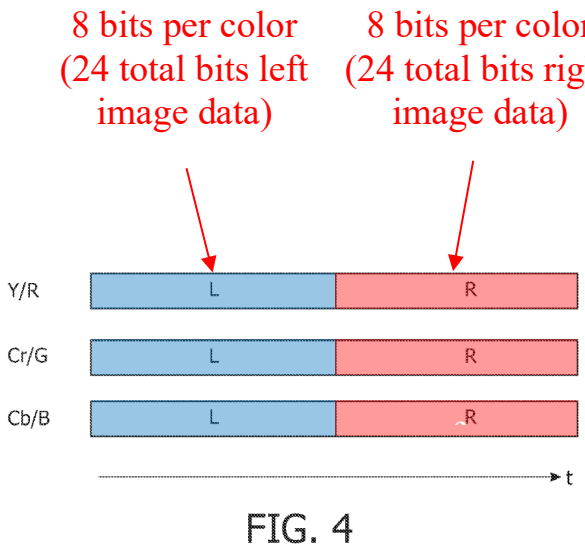
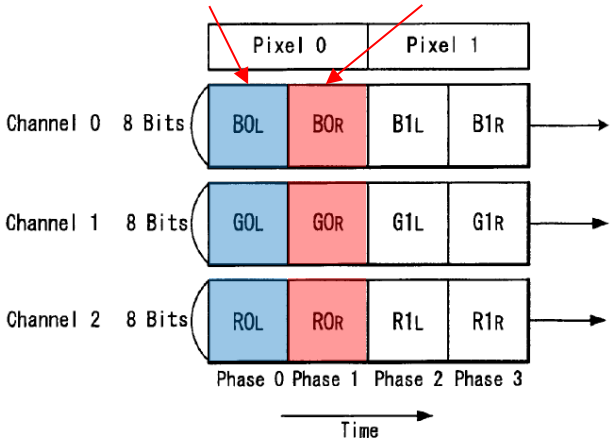


FIG. 4

Ex.1001, FIG. 4 (annotated).

Suzuki-3D Mode



Ex.1006, FIG. 6 (annotated).

Accordingly, in issuing allowance, the Examiner overlooked *Suzuki*'s disclosure that the HDMI 1.3 interface has a 48-bit data carrying capacity for operating in a 2D/3D mode and that the data elements for 3D mode have a data

capacity of 48 bits, which is not greater than the 48-bit capacity in 2D mode. Ex.1002, 26-36 ("…the interface having its known data carrying capacity operating in two different modes of transmitting 2D/3D image as claimed…[w]hile the second data elements [in 3D mode] have a capacity that is no greater than the corresponding first data elements [in 2D mode]."). This material error should be corrected.

The Examiner's mishandling of *Suzuki* upends the thin "settled expectations" that Patent Owner now invokes. As the Director has recognized, even in instances where the "patent has been in force for fifteen years…it is an appropriate use of Office resources to review the potential error." *Taiwan Semiconductor Manufacturing Company* at 4; *see also Xencor, Inc., v. Merus N.V.*, IPR2025-00604, Paper 12, 2-3 (PTAB July 17, 2025) (holding that even when "the challenged patent has been in force for approximately nine years" "discretionary denial…is not appropriate because the Office materially erred during prosecution of the challenged patent."); *Amazon.com, Inc., v. Soundclear Technologies LLC*, IPR2025-00565, Paper 11, 2 (PTAB July 10, 2025) (holding that error "in a manner material to the patentability of the challenged claims with respect to previously presented prior art" weighs in favor of consideration of the Petition by a merits panel).

Therefore, any settled expectations are outweighed by the Examiner's

material error in overlooking substantive disclosure in *Suzuki*, which was cited in an IDS. Merits panel review is appropriate.

B. Patent Owner's delay in asserting the '010 patent undermines any settled expectations.

The '010 patent issued in May 2015, but Patent Owner did not file suit against Petitioner Dell for infringement of that patent until 2024—***a nearly ten-year delay***. That delay created a settled expectation that Patent Owner would not assert the '010 patent against Dell's products. The Director has recognized that such situations favor referral. *See Intel Corp. v. Proxense LLC*, IPR2025-00327, Paper 12 at 2 (PTAB June 26, 2025) ("For example…a patent may have been in force for years but may not have been commercialized, asserted, marked, licensed, or otherwise applied in a petitioner's particular technology space, if at all.").

Patent Owner attempts to shift the blame to Dell for its own delay, arguing that Dell waited "over nine years" to file the Petition after purportedly being notified of the '010 patent and its alleged infringement in May 2016, but that argument cannot justify discretionary denial.

First, the facts do not support Patent Owner's argument. The March 2015 communication from MPEG LA to Dell that Patent Owner cites did ***not*** mention the '010 patent, let alone assert that any Dell product infringed that patent. Ex.1040. The letter instead attached a draft patent license agreement for eight

other patents—and did not assert infringement of any of those patents, either. Ex. 2018. Patent Owner contends that MPEG LA also provided a link to a URL where it might add more patents to the license and that the '010 patent was added to this URL in 2016. Ex. 2017. This argument concedes that MPEG LA had no authority to license to the '010 patent in 2015.

Second, Patent Owner's allegation is an admission of its own delay in asserting its patent, which supports merits review. The Office recently found that a Patent Owner's delay in filing suit after notifying the Petitioner of infringement "counsel[s] against discretionary denial." *See Apple*, IPR2025-00856, Paper 10, 2 (referring an IPR of a 13-year-old patent "because Patent Owner did not assert the challenged patent against Petitioner until eleven years after the parties' discussion about that patent"). So too here, Patent Owner's ***own*** alleged timeline weighs against discretionary denial: according to Patent Owner, Dell had notice of the '010 Patent by 2016 when it was added to the MPEG LA URL, but by that time Dell had already explained to Patent Owner that it did not need a license to the MPEG LA patent pool, Ex. 1041, and yet Patent Owner still waited eight years before finally filing suit in 2024. Patent Owner's years of silence created settled expectations for Dell that the '010 patent would not be asserted against it, and counsels against discretionary denial. *See Apple*, IPR2025-00856, Paper 10, 2. This case warrants review by a merits panel.

C. A single PTAB proceeding alleviates multiple district court trials.

The '010 patent is already being litigated by ***four*** accused infringers in ***three*** jurisdictions (WDTX, EDTX, DDE), with multiple trials projected to occur months ***after*** the Board's projected final written decision. Ex.1015, 7. Resolving patentability now avoids duplicative litigation, corrects Office error, and promotes uniformity. Resolution would be much more efficient at the Office. *Berkshire Hathaway Energy Company et al. v. Birchtech Corp*. IPR2025-00274, Paper 23, 2 (July 2, 2025) ("Because the litigation between the parties would proceed to several district court trials in different jurisdictions, resolving the dispute between the parties at the Office would be more efficient.").

Because the Examiner's material error undermines every asserted claim and PTAB review will streamline multiple pending cases, institution is warranted and essential to the integrity and efficiency of the patent system. *See also,* 77 F. Reg. No. 157, 48612 (Aug. 14, 2012) ("The purpose of the AIA … is to establish a more efficient and streamlined patent system that will improve patent quality.").

II. DISCRETIONARY DENIAL UNDER 35 U.S.C. § 325(D) IS UNWARRANTED

Consistent with the discussion above, the *Advanced Bionics* factors favor referral. *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 at 7-8 (Feb. 13, 2020) (precedential).

A. *Advanced Bionics* first prong: discretionary denial is not appropriate because the prior art and arguments are not substantially the same.

The first part of the *Advanced Bionics* framework asks "whether the same or substantially the same art previously was presented to the Office or whether the same or substantially the same arguments previously were presented to the Office." *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH, IPR2019-01469*, Paper 6, 8 (PTAB Feb. 13, 2020) (precedential). The present analysis is informed by *Becton, Dickinson* factors (a), (b), and (d). *Becton, Dickinson & Co. v. B. Braun Melsungen AG*, IPR2017-01586, Paper 8, 17-18 (PTAB Dec. 15, 2017) (precedential as to § III.C.5, first paragraph); *Advanced Bionics*, 10 (the first part looks to " [*Becton, Dickinson*] factors (a), (b), and (d)" and whether "the same or substantially the same art or arguments previously were presented to the Office").

The Petition relies on *Tu* (Ex.1005) and *Yun* (Ex.1007) in combination with *Suzuki*—art and combinations the Examiner never considered. Pet., 30-77. Patent Owner contends that these references are cumulative and substantially similar to the prior art applied by the Examiner. *See* DD Req., 31-41. For alleged support, Patent Owner presents a claim chart spanning multiple pages. DD Req., 31-41. The claim chart, however, fails to show any similarities between the Examiner applied art and *Tu*, *Suzuki*, and *Yun* for claim 1 limitations [1.0.3], [1.2.1], [1.3.1], 1.3.2], [1.4.2], [1.5.1], [1.5.2], [1.5.3]. Patent Owner cannot because the Petition's

references are better and not substantially similar to the Examiner applied art. Patent Owner's own claim chart demonstrates a lack of "overlap between the arguments made during examination and the manner in which petitioner relies on." *Advanced Bionics*, 9 n.10 (stating *Becton, Dickinson* factor (d)).

Accordingly, the first part of the *Advanced Bionics* framework is not satisfied. The Director can end her analysis here and decline to exercise her discretion under § 325(d).

B. *Advanced Bionics* second prong: discretionary denial is not appropriate because of material Examiner error.

Even considering the second prong of *Advanced Bionics*, the evidence shows that the Examiner "erred in a manner material to the patentability of challenged claims" by overlooking *Suzuki's* express disclosure that directly addresses the reasons for allowance. The second prong is guided by *Becton, Dickinson* factors (c), (e), and (f). *Id.* at 9-10, n.10 (*citing Becton, Dickinson & Co. v. B. Braun Melsungen AG*, IPR2017-01586, Paper 8 at 17-18 (Dec. 15, 2017)).

With respect to factor (c), the Petition relies on a combination of references (*Tu*, *Suzuki*, and *Yun*) that has never been evaluated by the Office and consequently are not merely "a disagreement with a specific finding of record by the Office." *Advanced Bionics* at 10-11; *see also Puma N. Am., Inc. v. Nike, Inc.*, IPR2019-01058, Paper 10, 19 (PTAB Oct. 31, 2019) (instituting where the Petition

presented "new non-cumulative evidence…. probative to issues of patentability and helpful to our consideration of a prior art combination that was not before the Examiner").

With respect to factors (e) and (f), as discussed above in Section I.A, the Examiner materially erred by overlooking *Suzuki's* disclosure that confirms the '010 patent's claims are not patentable. In the Notice of Allowance, the Examiner determined that the prior art "did not disclose specifics about the interface having its known data carrying capacity operating in two different modes of transmitting 2D/3D image as claimed…[w]hile the second data elements have a capacity that is no greater than the corresponding first data elements." Ex.1002, 26-36. But as already explained, that is just incorrect—*Suzuki* expressly teaches this. *See also* Pet., 30-73. In light of *Suzuki's* specific teachings, which address the reasons for allowance, the Examiner clearly erred in his rationale for allowing the claims. *See Ecto World* at 5-6 (explaining that an examiner materially errs where "previously presented art teaches the limitations of the challenged claims, and that no reasonable examiner could have found otherwise").

Accordingly, under the second part of the *Advanced Bionics* framework, discretionary denial under § 325(d) is not warranted because *Suzuki* "was not a basis for rejection during examination, is not substantially the same as prior art the Examiner applied, and includes specific teachings that 'impact patentability of the

challenged claims.'" *Ecto World* at 5 (quoting *Advanced Bionics* at 8 n.9).

III. DISCRETIONARY DENIAL UNDER *FINTIV* IS NOT WARRANTED

Petitioner Intel is not a party to litigation and Petitioner Dell's trial date is several months after the final written decision. Ex.1015, 7. Thus, *Fintiv* does not apply here. Nevertheless, the analysis below addresses the *Fintiv* factors.

A. Factor 1 is neutral: No evidence regarding a stay.

No motion to stay has been filed, so the Director should not infer the outcome of such a motion. *Sand Revolution II,* LLC *v. Continental Intermodal Group – Trucking LLC*, IPR2019-01393, Paper 24, 7 (PTAB June 16, 2020) (informative). This factor is thus neutral.

B. Factor 2 weighs against denial: The Final Written Decision would issue before the parallel litigation's trial date.

Factor 2 weighs against denial. First, the trial date for Petitioner Dell's case in WDTX is currently set for March 29, 2027, which would occur ***three months after*** the FWD (December 23, 2026). Ex.1042,7. Patent Owner's argument regarding its motion to move Dell's trial date is meritless. *See Apple Inc. v. Fintiv, Inc*., IPR2020- 00019, Paper 15 at 13 (P.T.A.B. May 13, 2020) (informative) ("We generally take courts' trial schedules at face value absent some strong evidence to the contrary."). Furthermore, this argument ignores Chief Judge Moses' order that, going forward from January 2025, Judge Albright is taking on ***40%*** of the docket

in the Austin division. Ex.1043 (Paper 7, 12). In the about seven months since Chief Judge Moses's order, the Austin division has transferred over 400 cases to Judge Albright, including 80 patent cases. Ex.1044; Ex.1045. The result has been that the judge is handling more cases (600) by the end of July 2025 than he did in total in either of the two previous years (529 and 571). Ex.1046. The volume and timing of the new cases assigned to the judge strongly indicates that Patent Owner's motion will be denied and weighs against discretionary denial.

Second, Patent Owner's arguments regarding the timing of the HP and ASUSTeK Cases in the EDTX (collectively EDTX Cases) are misplaced. DD Req., 11-12. Neither HP nor ASUSTeK are a Petitioner in the present IPR. Under *Fintiv*, "[i]f a petitioner is unrelated to a defendant in an earlier court proceeding, the Board has weighed this fact against exercising discretion to deny institution[.]" *Fintiv*, 13-14. Additionally, these unrelated parties may settle at any time before reaching the validity issues presented in the Petition, which weighs against *Fintiv* denial. *See Nikon et al. v. Optimum Imaging Tech, LLC*., IPR2024-01372, Paper 17, 13 (PTAB Mar. 20, 2020) ("[B]ecause a settlement of the district court litigation would remove the potential for duplication of efforts and an earlier trial date in district court, it undermines the entire premise of a *Fintiv* denial"). As Patent Owner notes, Acer, who was sued in EDTX, has since settled without adjudicating validity. DD Req., 3. For this reason, the Director's determination is

based on "whether the PTAB or another forum ***has already*** adjudicated the validity or patentability of the challenged patent claim." Ex.1048, March 26, 2025, UPSTO Memorandum, *"Interim Procedure for PTAB Workload Management*" (hereafter "March 2025 Office Memo"). Because no such adjudication has already taken place—nor will take place at the time of the institution decision—this factor weighs against denying institution.

Moreover, even if the Director was to consider the EDTX Cases, the trial timing is only around two months before the FWD and under similar circumstances trial has been instituted. Ex.1047, 1; *see e.g., Liberty Energy, Inc. v. U.S. Well Services, LLC*., IPR2025-00031, Paper 9, 10, 17-19 (PTAB Apr. 29, 2025). Under *Fintiv*, "[i]f the court's trial date is at or around the same time as the projected statutory deadline…, the decision whether to institute will likely implicate other factors." *Apple Inc. v. Fintiv, Inc*., IPR2020-00019, Paper 11, 9 (PTAB Mar. 20, 2020) (precedential) ("*Fintiv*").

Third, Patent Owner ignores that following Lenovo's dismissal from the EDTX litigation, Lenovo filed a declaratory judgment on the '010 patent in DDE, which will have a trial date ***more than a year*** after the FWD. Ex.1049. Accordingly, this factor weighs against denial.

C. Factor 3 weighs against denial: Minimal relevant investment by the parties.

Factor 3 weighs against denial because, at institution, investment by the court and parties at issue in the present proceeding will have been relatively minimal as to the activities pertinent to Fintiv. Indeed, Patent Owner fails to identify any substantial investment by the parties that are participating in this proceeding, which weighs this factor against denial. This is not surprising because fact discovery for Petitioner Dell's case in WDTX does not completely open until the Markman hearing, which is not even scheduled yet.

Recognizing the deficiency, Patent Owner focuses on the HP and ASUSTeK EDTX Cases. *See* DD Req., 7-9. These activities should be given little weight because HP and ASUSTeK are not petitioners—they are in an entirely separate case from Dell. But, even ignoring that issue, the HP and ASUSTeK activities do not support discretionary denial because "[i]f, at the time of the institution decision, the district court has not issued orders related to the patent at issue in the petition, this fact weighs against exercising discretion to deny institution." *Fintiv*, 10 (emphasis added).

The only one of the multiple activities in the HP and ASUSTeK EDTX Cases listed by Patent Owner that relates to an order regarding the '010 patent is the Markman hearing. DD Req., 16. But even after Markman is complete "much

other work remains in the parallel proceeding as it relates to invalidity," including "fact discovery," "expert reports," and "substantive motion practice." *Sotera Wireless, Inc. v. Masimo Corp*., IPR2020-01019, Paper 12, 16 (PTAB Dec. 1, 2020) (precedential as to § II.A). Here, the completion of each of these activities will take place about two to five months after the institution decision. Ex.1042. Patent Owner also ignores that the Lenovo declaratory judgment was just filed in the DDE and therefore has minimal investment. Ex.1049. Accordingly, this factor weighs against denial.

D. Factor 4 weighs against denial: this IPR is a "true alternative" to parallel litigations.

Patent Owner's assertions regarding factor 4 are meritless.[1] DD Req., 17-23. First, Petitioner Dell has made a *Sotera* stipulation. *See* Pet., 11-12. This *Sotera* stipulation renders the IPR a "true alternative" to the parallel litigation because the stipulations disclaim "grounds that were raised or reasonably could have been raised during the IPR (i.e., any ground that could have been raised under 35 U.S.C. §§ 102 or 103 on the basis of prior art patents or printed publications)." *Id*. These "grounds are the theories of invalidity available to challenge a claim under 35

[1] Petitioner Dell is not asserting systems art in the WDTX case that map to the prior art raised in the Petition.

U.S.C. §§ 102 and 103, which are limited in an IPR to asserting that the claimed invention was patented or described in a printed publication (or would have been obvious only on the basis of prior art patents or printed publications)." *Ingenico Inc. v. IOENGINE, LLC*, 136 F.4th 1354, 1366 (Fed. Cir. 2025).

Also favoring institution under Factor 4 is that the Petition ***challenges claims that are not asserted in the parallel proceedings***, which further minimizes overlap. *See Fintiv*, Paper 11 at 13 ("The existence of non-overlapping *claim challenges* will weigh for or against exercising discretion to deny institution under NHK depending on the similarity of the claims challenged in the petition to those at issue in the district court.") (emphasis added). In *Klein Tools, Inc. v. Milwaukee Electric Tool Corp. et al.*, the Board found that where "6 of the 11 claims of the challenged patent [were] not addressed by the" parallel proceeding, factor 4 "weighs heavily against discretionary denial." IPR2024-01400, Paper 17 at 19 (April 8, 2025). Here, only claims 1 and 12 are currently asserted against Dell. Pet., 1; Ex.1050. The Petition challenges an additional thirteen claims (i.e., claims 2-8 and 13-18), including two additional independent claims. Accordingly, factor 4 weighs against denial.

E. Factor 5 is neutral: whether Petitioners are defendants in parallel litigations.

Petitioner Intel is ***not*** a defendant in parallel litigation. Petitioner Dell is a

defendant in parallel litigation, but that is true of most IPR petitioners. *See HP Inc. v. Slingshot Printing LLC*, IPR2020-01084, Paper 13, 9 (PTAB Jan. 14, 2021). And, as discussed above, the final written decision would issue several months before the WDTX trial date where Dell is a defendant. This factor is neutral or slightly weighs against denial.

F. Factor 6 weighs against denial: The merits of the Petition are strong.

Factor 6 weighs ***heavily*** against denial. As shown in Sections II.A and B above and detailed in the Petition, *Kim* teaches the limitations that the Examiner identified in the reasons for allowance. Thus, the evidence of unpatentability is strong here, and the PTAB should not deny institution under *Fintiv*. Accordingly, the merits are strong and factor 6 weighs ***heavily*** against denial.

IV. PATENT OWNER'S REMAINING ARGUMENTS ARE MERITLESS.

Patent Owner's argument that it "will need to seek third-party discovery" to "investigate whether it can swear behind" is meritless. DD Req., 53. The district court's subpoena powers are available to Patent Owner regardless of whether this IPR is instituted. And Patent Owner has not yet asked the court for any subpoenas, or otherwise indicated that it will have sufficient evidence to swear behind. Patent Owner's speculative plans should not be a reason for discretionary denial.

Also, Patent Owner's arguments regarding expert testimony are meritless. DD Req., 48-52. The unpatentability grounds set forth in the Petition are fully

supported by the references themselves—Dr. Schonfeld's testimony serves to confirm, support, and explain the disclosures of the references from the perspective of a POSITA. Accordingly, the Petition's proper reliance on evidence-backed expert testimony to support the unpatentability grounds weighs against denial.

V. CONCLUSION

For the above reasons, Petitioner respectfully requests that the Director refrain from exercising her discretion to deny the petition and instead pass it to a merits panel for consideration.

Date: September 23, 2025

Respectfully submitted,

/Gregory P. Huh/
Gregory P. Huh
Lead Counsel for Petitioner Intel
Registration No. 70,480

HAYNES AND BOONE, LLP
2801 N. Harwood Street, Ste 2300
Dallas, Texas 75201
Customer No. 27683

PETITIONER'S EXHIBIT LIST

Ex.1001	U.S. Patent No. 9,036,010.
Ex.1002	Prosecution History of U.S. Patent No. 9,036,010.
Ex.1003	Declaration of Dr. Dan Schonfeld under 37 C.F.R. § 1.68.
Ex.1004	*Curriculum Vitae* of Dr. Dan Schonfeld.
Ex.1005	U.S. Patent Pub. No. 2008/0134237 ("Tu").
Ex.1006	U.S. Patent Pub. No. 2007/0296859 ("Suzuki").
Ex.1007	U.S. Patent Pub. No. 2004/0027452 ("Yun").
Ex.1008	U.S. Patent Pub. No. 2009/0153737 ("Glen").
Ex.1009	U.S. Patent Pub. No. 2008/0187028 ("Lida").
Ex.1010	U.S. Patent No. 6,914,637 to Wolf ("Wolf").
Ex.1011	Texas Instruments HDMI Design Guide.
Ex.1012	Understanding HDMI Ver 1.3.
Ex.1013	High-Definition Multimedia Interface, Specification Version 1.3 (June 2006).
Ex.1014	U.S. Patent Pub. No. 2010/0269137.
Ex.1015	U.S. Patent No. 7,394,499.
Ex.1016	U.S. Patent No. 6,932,640.
Ex.1017	U.S. Patent Pub. No. 2006/0209880.
Ex.1018	HDMI Cable Versions, Limitations.
Ex.1019	U.S. Patent No. 4,256,367.
Ex.1020	U.S. Patent Pub. No. 2005/0198682.

Ex.1021	*Reserved*
Ex.1022	U.S. Patent Pub. No. 2010/0073574.
Ex.1023	U.S. Patent Pub. No. 2009/0278984.
Ex.1024	U.S. Patent Pub. No. 2009/0172218.
Ex.1025	U.S. Patent Pub. No. 2010/0033627.
Ex.1026	U.S. Patent Pub. No. 2008/0172708.
Ex.1027	U.S. Patent Pub. No. 2006/0215994.
Ex.1028	U.S. Patent No. 5,283,640.
Ex.1029	3D Video Quality Evaluation.
Ex.1030	U.S. Patent Pub. No. 2008/0232680.
Ex.1031	U.S. Patent Pub. No. 2006/0050383.
Ex.1032	U.S. Patent Pub. No. 2008/0151040.
Ex.1033	U.S. Patent Pub. No. 2008/0055401.
Ex.1034	U.S. Patent Pub. No. 2006/0104392.
Ex.1035	U.S. Patent Pub. No. 2007/0257902.
Ex.1036	U.S. Patent Pub. No. 2006/0010385.
Ex.1037	*Reserved.*
Ex.1038	U.S. Patent Pub. No. 2004/0143847.
Ex.1039	*General Video, LLC v. Dell Inc. et al.* 5:24-cv-00124, EDTX - Complaint - Appendix F.
Ex.1040 (NEW)	MPEG LA Letter to Dell re DisplayPort License (2015-03-18).
Ex.1041	Dell Letter to MPEG LA re DisplayPort (2015-07-13).

(NEW)	
Ex.1042 (NEW)	WDTX Agreed Scheduling Order.
Ex.1043 (NEW)	Judge Moses Order 1/31/24.
Ex.1044 (NEW)	Total Transfers to Judge Albright (LexMachina).
Ex.1045 (NEW)	Patent Transfers to Judge Albright (LexMachina).
Ex.1046 (NEW)	Federal District Court Cases for Judge Albright.
Ex.1047 (NEW)	EDTX First Amended Docket Control Order.
Ex.1048 (NEW)	March 26, 2025, UPSTO Memorandum, *"Interim Procedure for PTAB Workload Management*".
Ex.1049 (NEW)	DDE Lenovo Complaint for Declaratory Judgment of Non-Infringement and Invalidity.
Ex.1050 (NEW)	General Video, LLC's Preliminary Disclosure of Asserted Claims and Infringement Contentions to Dell (Served 2025-03-19).

CERTIFICATE OF SERVICE

The undersigned certifies, under 37 C.F.R. § 42.6, that service was made on the Patent Owner as detailed below.

Date of service September 23, 2025

Manner of service Electronic Email: pmcandrews@mcandrews-ip.com; rechiplunkar@mcandrews-ip.com; dpetty@mcandrews-ip.com; IPR2025-01036@mcandrews-ip.com

Documents served **Petitioner's Opposition to Patent Owner's Request for Discretionary Denial; Exhibits Ex.1040 - Ex.1050**

Persons served Peter J. McAndrews
Rajendra A. Chiplunkar (*Pro Hac Vice motion to be filed*)
David Z. Petty
McAndrews, Held & Malloy, Ltd.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661

/ Gregory P. Huh/
Gregory P. Huh
Lead Counsel for Petitioner Intel
Registration No. 70,480