UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

WILUS INSTITUTE OF STANDARDS
AND TECHNOLOGY INC.,
Patent Owner.

Case No. IPR2025-01110
U.S. Patent No. 11,716,171

PATENT OWNER'S SUPPLEMENTAL BRIEF[1]

[1] Authorized by Board email dated November 13, 2025.

PATENT OWNER'S EXHIBIT LIST

Exhibit	Description
2001	Order, *Wilus Institute of Standards and Technology Inc., v. HP Inc.*, Case No. 2:25-00069-JRG-RSP, Dkt. No. 51 (E.D. Tex., June 13, 2025) ("Docket Control Order")
2002	Intentionally Omitted
2003	Excerpts of Defendants' P.R. 3-3 and 3-4 Invalidity Contentions and Subject Matter Eligibility Contentions in the consolidated case, *Wilus Institute of Standards and Technology Inc., v. HP Inc.*, Case No. 2:25-cv-00069-JRG-RSP (E.D. Tex.), dated J 2025.
2004	Docket Navigator Stay Statistics
2005	Excerpt from U.S. District Court – National Judicial Caseload Profile for the Easter District of Texas, March 31, 2025, https://www.uscourts.gov/sites/default/files/document/fcms_na_distprofile0331.202
2006	Judge Rodney Gilstrap's median time to trial from August 25, 2024 until August 25 2025, retrieved from www.docketnavigator.com
2007	D. Crouch, *Estoppel Gutted: A Pelican's Guide to Patent Litigation*, Patently-O, https://patentlyo.com/patent/2025/05/estoppel-pelicans-litigation.html (May 7, 202
2008	Declaration of Jin Sam Kwak
2009	List of Licensees to Wifi 6 from Sisvel, https://www.sisvel.com/licensing-programmes/Wi-Fi/wifi-6/#tab-list-of-licensees
2010	Letter re "Notice of Wi-Fi 6 License offer" from Sisvel to Samsung Electronics Co. with Attachments 1-2, April 8, 2022
2011	Defendants' P.R. 4-1 Exchange of Proposed Terms and Claim Elements for Constru October 23, 2025
2012	November 13, 2025 email withdrawing contentions as to indefiniteness
2013	November 5, 2025 email re: Samsung v. Wilus IPRs – requests for supplemental br

In district court litigation, Samsung contended that claims 1–10 of the '171 patent are indefinite. Ex. 2011, at p. 3 (10/23/2025 claim construction statement providing Samsung's positions on indefiniteness for the '171 patent claims). On November 5, after the PTAB issued and simultaneously designated the *Revvo* and *Tesla* decisions, Patent Owner contacted Samsung concerning its request for authorization to file this supplemental brief to address the impact of Samsung's inconsistent claim construction positions. Ex. 2013 (11/5/2025 email regarding requests for supplemental briefing). *See Tesla, Inc. v. Intellectual Ventures II LLC*, Case No. IPR2025-00340, Paper 18 at 4 (P.T.A.B. Nov. 5, 2025) (informative); *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, Case No. IPR2025-00632, Paper 20 at 4–5 (P.T.A.B. Nov. 3, 2025) (precedential).

Perhaps recognizing that it risked soon being penalized for its inconsistent claim construction positions, Samsung reversed course. On November 13, Samsung "withdrew" its "contentions as to indefiniteness for the claim terms." Ex. 2012, at 1 (11/13/2025 email from Samsung's litigation counsel to Patent Owner's counsel). This was a transparent attempt by Samsung to defuse the impact of its gamesmanship on the discretionary denial decision.

Even now, Samsung has offered no explanation, in this *inter partes* review or in the district court litigation, why it adopted inconsistent claim construction positions between the two proceedings. When the Patent Office transitioned IPRs

away from the Broadest Reasonable Interpretation claim construction and to the same *Phillips* standard applied in district court, one goal was to "reduce the potential for inconsistency in the interpretation of the same or similar claim terms" between PTAB and district court proceedings. 83 Fed. Reg. at 51,350 (2018). Samsung's adoption of inconsistent claim construction arguments between its district court position and its Petition not only generated the risk with which the Patent Office was concerned, but also unfairly forced Patent Owner to prepare a response to Samsung's indefiniteness theories in district court before Samsung summarily "withdrew" those arguments, also without explanation.

Failure to disclose Samsung's belief that one or more of the claims of the '171 patent were indefinite also deprived the Board of information relevant to the institution decision, as the Board may well have agreed with Samsung and refused to institute the IPR on that basis. Samsung presumably believed that it has a good faith basis for arguing indefiniteness of these claims, or it would not have advanced that theory in district court. But in spite of having a basis for contending the claims are indefinite in district court, it withheld that information from the Board and instead advanced obviousness theories that are based upon the claims not being indefinite.

Such unexplained, materially inconsistent claim-interpretation positions between district court and the Board are themselves a sufficient basis for

discretionary denial. *See Tesla*, IPR2025-00340, Paper 18 at 4 (P.T.A.B. Nov. 5, 2025) (informative) ("Allowing a petitioner to advance a claim construction before the Board when that petitioner has made inconsistent indefiniteness arguments in district court fails to further, but instead detracts from, the Office's goal of 'providing greater predictability and certainty in the patent system.'"); *Revvo*, IPR2025-00632, Paper 20 at 4–5 ("although a petitioner is not necessarily precluded from arguing different claim construction positions before a district court and the Board, the petitioner should explain sufficiently why the different positions are warranted."). Thus, "when a petitioner advances different positions before the Board and a district court, that petitioner is *required* to explain why those different positions are warranted." *Tesla*, IPR2025-00340, Paper 18 at 3. Here, Petitioner fails to provide an explanation and could not plausibly do so. There was no judicial decision or other development that would justify advancing a different position in district court than the position it has taken at the PTAB. *See Revvo*, IPR2025-00632, Paper 20 at 5. The Petition should therefore be denied.

Dated: November 19, 2025 *_/Neil A. Rubin/_*

Reza Mirzaie (Reg. No. 69,138)
Neil A. Rubin (Reg. No. 67,030)
Philip X. Wang (Reg. No. 74,621)
Linjun Xu (Reg. No. 73,887)
RUSS AUGUST & KABAT
12424 Wilshire Boulevard, 12th Floor
Los Angeles, CA 90025
Telephone: 310-826-7474
Email: rmirzaie@raklaw.com
Email: nrubin@raklaw.com
Email: pwang@raklaw.com
Email: lxu@raklaw.com

Attorneys for Patent Owner,
WILUS INSTITUTE OF
STANDARDS AND TECHNOLOGY
INC.

CERTIFICATE OF SERVICE

I hereby certify that "Patent Owner's Supplemental Brief" was served on November 19, 2025 by email sent to:

W. Karl Renner
Jeremy J. Monaldo
FISH & RICHARDSON PC
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
Telephone: 202-783-5070
Email: renner@fr.com
Email: jjm@fr.com
Email: IPR39843-0196IP1@fr.com
Email: PTABInbound@fr.com

Dated: November 19, 2025 *<u>/Neil A. Rubin/</u>*