

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 IPR2025-01165
U.S. Patent No. 11,664,926

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

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EXHIBITS

- SAMSUNG-1001 U.S. Patent No. 11,664,926 (“the ’926 Patent”)
- SAMSUNG-1002 Excerpts from Prosecution History of the ’926 Patent (“the Prosecution History”)
- SAMSUNG-1003 Declaration and Curriculum Vitae of Dr. Mark Mahon
- SAMSUNG-1004 U.S. Patent Pub. No. 2017/0111951 (“Chu”)
- SAMSUNG-1005 IEEE P802.11ax/D1.0, “Draft Standard for Information technology - Telecommunications and information exchange between systems Local and metropolitan area networks – Specific requirements, Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications Amendment 6: Enhancements for High Efficiency WLAN,” 802.11 Working Group of the LAN/MAN Standards Committee of the IEEE Computer Society (December 1, 2016) (“IEEE-D1”)
- SAMSUNG-1006 Liwen Chu, IEEE 802.11-16/1185r2 “IEEE P802.11 Wireless LANs 5.10.3 A-MPDU comment resolution,” IEEE Standards Ass’n (September 14, 2016) (“IEEE-D2”)
- SAMSUNG-1007 RESERVED
- SAMSUNG-1008 M. Shahwaiz Afaqui et al., “IEEE 802.11ax: Challenges and requirements for future high efficiency Wi-Fi,” (December 20, 2016)(“Afaqui”)

- SAMSUNG-1009 IEEE St 802.11 - 2016, “IEEE Standard for Information technology - Telecommunications and information exchange between systems Local and metropolitan area networks – Specific requirements, Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications,” IEEE Computer Society (December 14, 2016) (“IEEE-D3”)
- SAMSUNG-1010 Boris Bellalta, “IEEE 802.11ax: High-Efficiency WLANs,” IEEE Wireless Communications (December 2015) (“Bellalta”)
- SAMSUNG-1011 RESERVED
- SAMSUNG-1012 Liwen Chu, IEEE 802.11-16/1186r0 “HE Variant HT Control – A-MPDU Content,” IEEE Standards Ass’n (September 12, 2016) (“IEEE-D4”)
- SAMSUNG-1013 Robert Stacey et al., IEEE 802.11-16/0024r1 “Proposed TGax draft specification,” IEEE Standards Ass’n (March 2, 2016) (“IEEE-D5”)
- SAMSUNG-1014 RESERVED
- SAMSUNG-1015 IEEE St 802.11 - 2012, “IEEE Standard for Information technology - Telecommunications and information exchange between systems Local and metropolitan area networks – Specific requirements, Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications,” IEEE Computer Society (March 29, 2012) (“IEEE-D6”)

SAMSUNG-1016 U.S. Patent Pub. No. 2015/0139214 (“Noh”)

SAMSUNG-1017 U.S. Patent Pub. No. 2012/0230448 (“Kang”)

SAMSUNG-1018 IEEE P802.11ax/D0.5, “Draft Standard for Information technology - Telecommunications and information exchange between systems Local and metropolitan area networks – Specific requirements, Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications Amendment 6: Enhancements for High Efficiency WLAN(#1121),” 802.11 Working Group of the LAN/MAN Standards Committee of the IEEE Computer Society (September 2016) (“IEEE-D7”)

SAMSUNG-1019 RESERVED

SAMSUNG-1020 IEEE St 802.11ac - 2013, “IEEE Standard for Information technology - Telecommunications and information exchange between systems Local and metropolitan area networks – Specific requirements, Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications,” IEEE Computer Society (December 18, 2013) (“IEEE-D8”)

SAMSUNG-1021 Liwen Chu et al., IEEE 802.11-16/0069r0 “Multi-TID A-MPDU in MU Transmission,” IEEE Standards Ass’n (January 18, 2016) (“IEEE-D9”)

SAMSUNG-1022-1026 RESERVED

SAMSUNG-1027 Declaration of June Ann Munford

SAMSUNG-1028 Complaint, *Wilus Institute of Standards and Technology Inc., v. Samsung Electronics Co., Ltd.*, 2:25-cv-00070 (E.D. TX Jan 2025)

SAMSUNG-1029 Declaration of Dr. Christopher Hansen

SAMSUNG-1030 *Fintiv* Stipulation

SAMSUNG-1031-1105 RESERVED

SAMSUNG-1106 Order Granting Stay in *Maxeon Solar PTE. LTD. v. Hanwha Solutions Corp.*, No. 2:24-CV-00262-JRG (E.D. Tex. May 5, 2025) (Gilstrap, J.)

SAMSUNG-1107 Order Granting Stay in *Cellspin Soft, Inc. v. Bytedance Ltd.*, No. 2:23-CV-00496-JRG-RSP (E.D. Tex. Jan. 26, 2025) (Payne, J.)

SAMSUNG-1108 Motion Success for Stay Pending IPR (Post-Institution) (E.D. Tex.), DOCKETNAVIGATOR (last visited August 27, 2025)

SAMSUNG-1109-1110 RESERVED

SAMSUNG-1111 U.S. District Court for the Eastern District of Texas Calendar Events Set for 8/17/2026 for Judge Rodney Gilstrap

SAMSUNG-1112 RESERVED

SAMSUNG-1113 Wi-Fi 6 Patent Brochure, SISVEL (Mar. 21, 2025), https://www.sisvel.com/xlin7ipl485u/1kNkzUZptdvqKbYiX1DSfi/f518e18ee158be974d3c83f7cd7173be/Wi-Fi_6_Pool_patent_brochure.pdf

SAMSUNG-1114 RESERVED

SAMSUNG-1115 Alfred Asterjadhi et al., IEEE 802.11-16/0616r2 “Block Ack generation and selection rules,” IEEE Standards Ass’n (May 17, 2016)

SAMSUNG-1116-1121 RESERVED

SAMSUNG-1122 U.S. District Court – Judicial Caseload Profile (E.D. Tex),
ADMIN. OFF. U.S. CTS. (June 2025)

SAMSUNG-1123-1128 RESERVED

SAMSUNG-1129 Letter re “Notice of Wi-Fi 6 license offer – Follow-up to our
letter dated April 08, 2022, and follow-up communications”
from Sisvel to Samsung Electronics Co., Ltd. with Attachments
1-3, October 25, 2023

SAMSUNG-1130-1131 RESERVED

SAMSUNG-1132 Decision Referring Petitions to the Board, IPR2025-00933,
IPR2025-00934, IPR2025-00988, IPR2025-01043, IPR2025-
01044, IPR2025-01069, IPR2025-01110, IPR2025-01111, Pa-
per 11, (P.T.A.B. Oct. 2025)

SAMSUNG-1133 Decision Referring Petitions to the Board, IPR2025-00935, IPR-
2025-00936, Paper 12, (P.T.A.B. Sept. 2025)

I. Introduction

Samsung Electronics Co., Ltd. (“**Samsung**” or Petitioner) seeks review of twelve Wi-Fi 6-related patents, including U.S. Pat. No. 11,664,926 (“**the ’926 patent**”), asserted against it by Wilus Institute of Standards & Technology Inc. (“**Wilus**” or Patent Owner). As explained below, Samsung respectfully requests that the Director decline Wilus’s request to discretionarily deny institution of this IPR and refer Samsung’s Petition for a determination on the merits at least because (1) Wilus lacks settled expectations, (2) the prosecution of the ’926 patent suffers from material Examiner error, (3) the breadth of the 12 asserted patents is better suited for review before the Board, and (4) the *Fintiv* factors do not favor discretionary denial since the Final Written Decision (FWD) deadline is before the median time-to-trial. Indeed, as explained below, Wilus has not made a case for discretionary denial because the ’926 patent recently issued in **2023** and the median time-to-trial statistics project trial to occur *after* the FWD deadline. Thus, neither settled expectations nor *Fintiv* favors discretionary denial.

Moreover, like the Director did for the first 10 IPRs (*see* SAMSUNG-1132; SAMSUNG-1133; *infra* Section IV) challenging 10 of the 12 asserted Wilus patents, the Director should refer this IPR2025-01165 petition to the Board, particularly because an even more favorable fact pattern (e.g., with a trial date after the FWD) applies for this case.

II. Wilus Has Little to No Settled Expectations in the '926 Patent

A. The '926 Patent Has Been in Force Less Than Three Years

The '926 patent issued on May 30, 2023—*less than three years* before the instant Petition was filed. Because the '926 patent has not been in force “for a significant period of time,” Wilus “has not developed strong settled expectations that favor discretionary denial.” *Samsung Elecs. Co., Ltd. v. Wilus Inst. of Standards & Tech. Inc.*, IPR-2025-00935, Paper 12, 2 (Sept. 26, 2025) (finding that patents issued in **2021 and 2023** have “not been in force for a significant period of time” and thus Patent Owner’s settled expectations “weigh against discretionary denial”); *see also Intel Corp. & Advanced Micro Devices, Inc. v. Advanced Cluster Sys., Inc.*, IPR2025-00913, Paper 12, 2 (Sept. 19, 2025); *Straumann USA, LLC v. Smart Denture Conversions, LLC*, IPR-2025-00956, Paper 11, 2 (Sept. 19, 2025).

B. Wilus’s Allegations of Licensing and Notice are Misleading and Fail to Entitle Wilus to Any Settled Expectations

Wilus’s arguments with respect to purported “industry-wide licensing” and “actual notice” are inapposite for several reasons. *See* Paper 6, 15–17.

First, the '926 patent has been in force for less than 3 years. The *Dabico* case cited by Wilus presupposes that settled expectations had been developed over the length of time in which the patent at issue has been in force. *Dabico Airport Sols. Inc. v. AXA Power ApS*, IPR2025-00408, Paper 21, 2-3 (June 18, 2025) (“[T]he challenged patent has been in force almost eight years, creating settled expectations. . . .

in the absence of any such information, *the Office is disinclined to disturb the settled expectations* of Patent Owner in this instance.” (Emphasis added)). The ’926 patent’s less-than-3-year time period since issuance does not entitle Wilus to the same type of settled expectations in *Dabico*.

Second, Wilus’s arguments related to settled expectations are meritless. For example, Wilus points to the “Sisvel Wi-Fi 6 Patent Pool” as evidence of “industry-wide licensing.” Paper 6, 16 (*citing* WILUS-2009). But that patent pool contains over 2,000 patents from various patent holders, including Huawei, MediaTek, Panasonic, and Phillips. *See generally* SAMSUNG-1113. It would be unreasonable for Wilus or the public to draw conclusions as to the validity of the ’926 patent based on its licensing alongside thousands of other patents—it’s far too attenuated.

Wilus’s assertion that “industry-wide licensing supports an expectation that the patent is valid” is misleading. Paper 6, 16. Companies routinely enter into licensing agreements for reasons unrelated to patent validity—such as avoiding litigation, gaining access to standardized technologies, or reducing transaction costs. Licensing a patent does not imply that the patent is valid. Indeed, the validity of the ’926 patent has never been judicially tested, and as such, there is no presumption of settled expectations for these recently issued, unchallenged patents.

Moreover, case law is clear that licensing does not imply validity. Courts have long held that licensees may challenge patent validity even while honoring license

terms. *See Lear v. Adkins*, 395 U.S. 653 (1969); *MedImmune Inc. v. Genentech Inc.*, 549 U.S. 118 (2007). Licensing is indicative of a commercial or contractual obligation—not judicial endorsement of validity—and cannot support settled expectations for untested patents.

Wilus’s reliance on *Eibel Process* is also misplaced. Paper 6, 16-17. At best, *Eibel Process* suggests that widespread market adoption is indicative of the purported invention resolving a problem in the industry and therefore providing utility, but does not link licensing to the validity of a patent. *Eibel Process Co. v. Minnesota & Ontario Paper Co.*, 261 U.S. 57 (1923). Wilus’s argument that a “large licensing portfolio implies patent validity and settled expectations” is legally unsustainable, which explains why Wilus resorted to citing a 100+ year old case, to conjure support for its flawed position.

As recent USPTO decisions make clear, settled expectations must be based on specific, direct evidence such as patent age and public awareness—not generalized licensing behavior. *iRhythm Techs., Inc. v. Welch Allyn, Inc.*, IPR2025-00363, Paper 10, 3 (June 6, 2025); *Cambridge Indus.*, Paper 12, 2–3.

Regarding the alleged “actual notice,” Wilus points to an April 2022 demand letter (WILUS-2010). Paper 6, 16-17. Wilus’s reliance on this letter is misplaced because the ’926 patent had not even issued at this time and the scope of the claimed subject matter was indeterminate because the ’926 patent was still being prosecuted.

Moreover, the time frame associated with this notice (approximately 3.2 years between Wilus's demand letter and the filing date of the petition) is significantly shorter than other decisions where the Office has found such notice relevant for purposes of determining settled expectations. *See, e.g., iRhythm Techs.*, Paper 10, 3.

Furthermore, the April 2022 demand letter lists hundreds of patents, but did **not** include the '926 patent and several other patents Wilus asserted against Samsung. *See* WILUS-2010. Wilus's failure to provide clear and sufficient notice is further underscored by its October 25, 2023 demand letter, which was sent nearly five months after the '926 patent issued on May 30, 2023. *See* SAMSUNG-1129. Despite having ample opportunity to include the newly issued '926 patent, Wilus again omitted it from the list of asserted patents. The absence of the '926 patent from both the April 2022 and October 2023 demand letters undermines Wilus's assertion of "actual notice" and further supports the conclusion that Samsung lacked clear and timely notice of Wilus's infringement allegations regarding the '926 patent.

Further, although Wilus contends that Samsung was "notified of the parent by continuation of the '926 Patent," i.e., U.S. Pat. No. 10,931,396 (the '396 patent) on April 8, 2022 (Paper 6, 17), the '396 patent claims do not recite several limitations recited in the '926 patent claims, including, e.g., "a PPDU (physical layer protocol data unit) including an A-MPDU" and features [1h] and [1i] (discussed in more detail in the next section).

Even to the extent that Samsung could have been generally made aware of the existence of the '926 patent via the April 2022 letter's general identification of the '396 patent, Samsung still would not have been notified of the specific scope of coverage of the '926 patent—directed at least in part to features that Wilus had not claimed before in this application family.

Lastly, while Wilus claims it provided Samsung notice in April 2022, Wilus does not explain why it waited more than two years to assert infringement for a few of the hundreds of listed patents. This self-imposed delay does not afford Wilus the settled expectations it seeks.

III. Examiner Error in Issuing The '926 Patent Warrants Board Review

A material error occurred during examination of the '926 patent, and Board resources are well-spent to correct this error. *See Microsoft Corp. v. Partec Cluster Competence Cent. GmbH*, IPR2025-00318, Paper 9, 3 (June 12, 2025); *Padagis US LLC v. Neurelis, Inc.*, IPR2025-00464, Paper 12, 3 (July 16, 2025); *Samsung Elecs. Co., Ltd.*, IPR-2025-00935, Paper 12, 2-3 (Sept. 26, 2025).

Here, the Examiner erred by overlooking disclosure within the references cited in an Office Action that disclosed the alleged allowable subject matter. In particular, in the Office Action dated August 25, 2022, the Examiner rejected all the pending claims based on an obviousness ground involving a combination of (1) “Multi-TID A-MPDU in MU Transmission,” Marvel, IEEE 802.11-16/0069r0

(“Marvel”) and (2) “Block Ack generation and selection rules,” Qualcomm, IEEE 802.11-16/0616r2, (“Qualcomm”). SAMSUNG-1002, 376-387. To overcome the rejection and attain allowance, the Patent Owner (then Applicant) amended the claims to recite features [1h] (“*wherein a type of the response frame is determined as one of an Ack frame, a compressed BlockAck frame, and a multi-STA BlockAck frame according to a combination of a type of the MPDU determined by the EOF field and the length field, and the Ack policy information, and*”) and [1i] (“*wherein the compressed BlockAck frame is used to transmit a response to the one or more MPDUs corresponding to one TID, when the one or more MPDUs correspond to the one TID among an one or more TIDs (traffic IDs)*”), as issued. SAMSUNG-1002, 207-217, 187-191. However, as explained below, these features are disclosed by Qualcomm and Marvel.

As shown in the table below, Qualcomm teaches that: 1) a compressed Block-Ack (“C-BA”) frame is included in a controlled response to a single-TID “A-MPDU” (i.e., MPDUs within A-MPDU have the same TID) and the “Ack Policy setting” is an Implicit BAR (BlockAck Request); and 2) a Multi-Station BlockAck (“M-BA”) frame is included in a controlled response to a Multi-TID A-MPDU and the “Ack Policy setting” is an Implicit BAR (BlockAck Request). SAMSUNG-1115, 17.

# of originators generating the DL MU PPDU	Content of the A-MPDU(s) carried in the DL MU PPDU	Ack Policy setting	Control response frame generated by the recipient	UL PPDU response format
ONE (AP)	(A-) MPDU	No Ack or BlockAck	No Response	N/A
ONE Single-TID A-MPDU	VHT Single MPDU	Normal Ack*	Ack frame	SU
ONE	A-MPDU	Implicit BAR*	C-BA frame	SU
ONE	Multi-TID A-MPDU**	Implicit BAR*	M-BA frame	SU
*Normal Ack and Implicit BAR are represented by the same value of the Ack Policy.				

SAMSUNG-1115, 17 (annotated).

For the Board's convenience and in view of response page limitations, a summary of the relevant disclosure in Marvel and Qualcomm that renders obvious features [1h] and [1i] is provided in the table below.

	Type of Response Frame		
	Ack frame	BlockAck frame	
		Compressed BlockAck frame	Multi-STA Block-Ack frame
EOF field and length field (per '926 patent)	MPDU having (1) EoF=1 and (2) nonzero MPDU length	MPDU having (1) EoF=0 and (2) nonzero MPDU length	MPDU having (1) EoF=0 and (2) nonzero MPDU length
Ack policy information (per '926 patent)	Policy information representing Normal Ack Request	Policy information representing Implicit Block Ack Request	Policy information representing Implicit Block Ack Request
Type of A-MPDU received (per '926 patent)	A-MPDU having a single MPDU (<i>see</i> Pet., 6-9)	Single-TID A-MPDU (<i>see</i> Pet., 6-9)	Multi-TID A-MPDU (<i>see</i> Pet., 6-9)
Marvel Disclosure	"When <i>EoF</i> is 1, <i>MPDU length</i> is not 0 and Ack Policy of the MPDU is Normal Ack Request, the MPDU	"When <i>EoF</i> is 0, <i>MPDU length</i> is not 0 and Ack Policy of the MPDU is Implicit Block Ack	"When <i>EoF</i> is 0, <i>MPDU length</i> is not 0 and Ack Policy of the MPDU is Implicit Block Ack

	asks for acknowledgment by Ack [<i>Ack frame</i>].” SAM-SUNG-1021, 11 This covers the scenario where recipient receives an A-MPDU having a single MPDU, as corroborated by Qualcomm below.	Request, the MPDU asks for acknowledgment by BA [Block Ack response].” SAM-SUNG-1021, 11. Based on Qualcomm, as described above and below, this Block-Ack response is a <i>compressed Block-Ack (C-BA)</i> response when the recipient receives a single TID A-MPDU. SAM-SUNG-1115, 17-20	Request . . . the MPDU asks for acknowledgment by BA [Block Ack response].” SAM-SUNG-1021, 11. <i>Multi-STA Block Ack</i> is used as a response when the recipient receives multi-TID A-MPDU (i.e., A-MPDU that includes multiple TID). SAMSUNG-1021, 12; SAM-SUNG-1115, 17-20.
Qualcomm disclosure	When recipient receives A-MPDU having a single MPDU (“[c]ontent of the A-MPDU” is “VHT Single MPDU”) with “<i>Ack Policy setting</i>” of “Normal Ack,” then “response frame” is “<i>Ack frame</i>.” SAM-SUNG-1115, 17.	BlockAck frame is either (i) a <i>multi-STA BlockAck (M-BA)</i> in the context of the recipient receiving an “Multi-TID A-MPDU” or (ii) a <i>compressed BlockAck (C-BA)</i> in the context of the recipient receiving a single TID A-MPDU. SAM-SUNG-1115, 17-20. Additionally, Qualcomm corroborates <i>policy information</i> for all response frames by disclosing that “Normal Ack and Implicit BAR are represented by the same <i>value of the Ack Policy</i>.” SAM-SUNG-1115, 17.	

Accordingly, the Examiner erred by overlooking the relevant disclosure in the references asserted as part of the §103 rejection in the Office Action. The Board is well-positioned to correct these errors and ensure that the patent system functions as

intended. As noted in the Petition, Chu or the Chu-IEEE-D1/IEEE-D2 combinations render obvious these features. Pet., 13-16, 21, 28-29, 47-62, 81-84.

IV. The Complexity of the Litigation and Diverse Technology of the Asserted Patents Favors Institution

Wilus’s assertion of a “large number and vast scope of [] patents” directed toward “a diverse range of subject matter” in the parallel district court proceeding is the precise situation for which “the Board is better suited to review” issues of validity, just as was the case in *Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00217, Paper 9, 2-3. Here, the ’926 patent is one of twelve patents spanning eight different families that Wilus has asserted against Samsung in District Court. *Cf. Shenzhen Tuozhu Tech. Co., Ltd. v. Stratsys, Inc.*, IPR2025-00438, Paper 10, 3 (“Petitioner explains that the parallel district court proceeding involves ***nine different patents spanning six families*** that involve a diverse range of subject matter. The large number and vast scope of the patents asserted in the district court litigation weighs against discretionary denial[] ...” (Emphasis added)).

Samsung asks the Office to apply much-needed scrutiny to each of the asserted patents, spanning a broad range of wireless technologies, including: (1) enhanced distributed channel access prioritization (U.S. Patent Nos. 11,116,035 and 11,516,879); (2) legacy and modern device coexistence via physical layer frame designs (U.S. Patent No. 10,313,077); (3) overlapping basic service set interference

management through BSS coloring (U.S. Patent Nos. 11,129,163 and 11,700,597); (4) multi-user uplink transmission synchronization through block acknowledgments (U.S. Patent Nos. 11,716,171 and 10,911,186); (5) random access mechanisms for unassociated devices using trigger frames (U.S. Patent No. 12,004,262); (6) signaling user-specific fields and spatial stream configurations in multi-user MIMO transmissions (U.S. Patent No. 11,159,210); (7) discontinuous channel bandwidth allocation in fragmented spectra (U.S. Patent Nos. 10,687,281 and 11,470,595); and (8) aggregated MAC protocol data units with multi-traffic ID block aggregation (U.S. Patent No. 11,664,926).

The diverse nature of the asserted patents is illustrated by the lack of overlap in prior art applied against the different families of patents. Such diverse technology and complex litigation strongly favor institution. *Tesla*, Paper 9, 2-3. As was the case in *Tesla* and *Shenzhen*, “the Board is better suited to review a large number of patents involving diverse subject matter.” *Id.*; *accord Shenzhen*, Paper 10, 3.

Not only is the subject matter of Wilus’s asserted patents technically disparate, but given the lengthy priority claims of Wilus’s patents and the race-to-the-patent-office nature of standards development in the AIA-era, many of the grounds presented in Samsung’s petitions will require the trier of fact to make complex factual findings, e.g., the effective filing date of both the asserted art and the challenged patents. *See, e.g.*, IPR2025-01110, Paper 2, 5-12 (presenting grounds which involve

an analysis of the priority date of both the challenged patent and the asserted art); IPR2025-00933, Paper 2, 2 (involving a priority analysis of the asserted art); IPR2025-01043, Paper 2, 2-4 (same); IPR2025-00935, Paper 2, 2-3 (same); IPR2025-00936, Paper 2, 2-3 (same); IPR2025-01111, Paper 2, 6-14 (presenting intervening art grounds challenging the priority date of the challenged patent).

These kinds of factual determinations are precisely where the Board's combination of technical acumen and patent law expertise would prove especially valuable. While such an analysis would be standard for the Board, the complexity of the priority issues would be unfairly prejudicial to Samsung in a jury trial and may result in Wilus being able to assert rights in technology that others disclosed or patented first, including Samsung itself in some cases. *See, e.g.*, IPR2025-00988, Paper 2, 1-3 (demonstrating that the technology claimed by the '281 patent was included in provisional patent applications filed by Samsung *months before* the subject matter was disclosed in Wilus's provisional applications). Interests of efficiency, justice, and the promotion of a strong patent system favor Board review of Wilus's patents, including referring the present petition for adjudication on the merits.

In responding to Samsung's arguments in related IPR proceedings, Wilus broadly characterizes its challenged patents as relating to "features of the 802.11ax wireless standard that improve efficiency and performance of wireless communications in congested spectrum." IPR2025-01165, Paper 6, 18. By Wilus's logic, the

Shenzhen patents—each involving different aspects of 3D printing—could be lumped together under one broad category of 3D printing. Yet, in *Shenzhen*, the PTAB recognized their distinct technical scopes. The same principle applies here.

Wilus’s patents are directed to different 802.11ax features—such as scheduling, feedback mechanisms, and signal processing—that require separate analysis. The grounds and prior art references presented in Samsung’s petitions differ across the challenged patents, further underscoring the diversity of subject matter and the need for individualized review. The Board should reject Wilus’s attempt to escape scrutiny by broadly characterizing its patents.

V. Discretionary Denial is Not Warranted Under *Fintiv*

Fintiv does not support discretionary denial. The current median time-to-trial statistics for the parallel litigation project trial to occur *after* the FWD deadline. See SAMSUNG-1122 (placing the expected trial date around February 2027, approximately one month *after* the FWD deadline in January 2027). Under these circumstances, and as the below analysis of the *Fintiv* factors illustrates, *Fintiv* does not favor discretionary denial. See *Intel Corporation and Advanced Micro Devices, Inc., v. Advanced Cluster Systems, Inc.*, IPR2025-00913, Paper 12, 2 (September 19, 2025) (finding that *Fintiv* neither favors nor counsels against discretionary denial when trial was scheduled before the FWD, but statistics suggested trial would occur after the FWD); *Straumann USA, LLC, v. Smart Denture Conversions, LLC*,

IPR2025-00956, Paper 11, 2 (September 19, 2025) (same).

A. Factor 1: No Stay Has Been Requested

This factor is neutral. Neither party has requested a stay, and Wilus does not dispute this. *See* Paper 6, 5-6. Wilus cites cases where pre-institution stay motions were denied in the Eastern District of Texas, but those decisions do not establish how the court would rule on a post-institution stay here. *Id.*

In fact, recent data shows that **post-institution** stays are granted in a meaningful number of cases—28% in 2024 and 39% so far in 2025. SAMSUNG-1108. Judge Gilstrap and Magistrate Judge Payne have granted stays where the petitioner made strong estoppel stipulations, as Samsung has done here. *See, e.g.*, SAMSUNG-1106; SAMSUNG-1107; SAMSUNG-1030.

Wilus's speculation about how the court might rule is improper. The Board has consistently declined to predict district court outcomes on stay motions. *See, e.g., Hulu, LLC v. SITO Mobile R&D IP, LLC*, IPR2021-00298, Paper 11, 10-11 (PTAB May 19, 2021); *Sand Revolution II, LLC v. Continental Intermodal Group-Trucking LLC*, IPR2019-01393, Paper 24, 7 (PTAB June 16, 2020) (informative). The Board should accord little to no weight to this factor given the speculative nature of the likelihood of a stay in the District Court proceeding.

B. Factor 2: The Board's Final Decision Will *Precede* Trial by Several Months

Fintiv Factor 2 considers the proximity of the district court’s trial date to the Board’s projected FWD date as part of a broader assessment of fairness and efficiency. *See Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11, 5-6; *see also id.*, IPR2020-00019, Paper 15, 7-17 (informative); *Illumina, Inc. v. Natera, Inc.*, IPR2019-01201, Paper 19, 6.

Wilus filed its complaint on January 23, 2025, and according to the latest statistics from the Administrative Office of the U.S. Courts, the median time-to-trial in the Eastern District of Texas is **25.1 months**. *See SAMSUNG-1122*. This places the expected trial date around **February 2027**.

The instant Petition was filed in June 2025, and the FWD is expected by January 2027— approximately one month *before* trial. PTAB precedent treats such timing as favoring institution or, at worst, neutral. *See Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12, 15; *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11, 9.

Further, Wilus’s reliance on a scheduled trial date of August 17, 2026 is misplaced. Paper 8, 7-8. That date is **speculative** and unlikely to hold. Judge Gilstrap currently has nine trials scheduled to begin jury selection on that same day, and Wilus’s case is just one of them. *See SAMSUNG-1111*. There is no basis to assume Wilus’s case will be prioritized, and the likelihood it proceeds on that date is low.

Moreover, Petitioner offers to shorten its reply period by up to two months,

further increasing the likelihood that the FWD precedes trial. This proactive adjustment supports institution and aligns with the PTAB's goal of efficient adjudication.

Finally, Wilus's litigation includes four patents asserted in the January 2025 complaint, including the '926 patent. SAMSUNG-1028. Petitions against these patents were filed in June 2025, and the FWDs are expected in December 2026 and January 2027 before trial based on median time-to-trial statistics. Board resources are best spent resolving validity across this complex and diverse dispute, rather than denying institution based on speculative trial timing. *See Embody*, IPR2025-00248, Paper 13, 2-3. In sum, the speculative nature of the trial date, the clear statistical gap between trial and FWD dates, and Petitioner's scheduling flexibility all weigh in favor of institution under Factor 2.

C. Factor 3: Limited Resources Would Have Been Expended by the Time of the Decision on Institution

As of the Petition's filing, the case was in early stages. Infringement contentions had been served, but invalidity contentions were not exchanged. *See WILUS-2001*, 6; Paper 6, 10. No depositions have occurred, and claim construction is still in its preliminary phase—the deadline for identifying proposed claim terms is October 23, 2025, and the parties are scheduled to exchange preliminary claim constructions on November 13, 2025. *WILUS-2001*, 6.

Wilus's claim of "substantial progress" is unsupported and speculative at best.

See Paper 6, 9-11. While claim construction briefing may be complete by the institution decision date, the *claim construction hearing will not have occurred*. WILUS-2001, 5; see *SAP Am., Inc. v. Cyandia, Inc.*, IPR2024-01495, Paper 13, 7 (PTAB Apr. 7, 2025) (finding that *Fintiv* **factor 3 weighs against discretionary denial** where, as is the case here, the *Markman* hearing is scheduled two weeks **after** the decision on institution is due).

Key deadlines—expert discovery and dispositive motions—remain months away. See WILUS-2001, 4. Most substantive work in the district court is yet to come, and Wilus’s attempt to portray the case as advanced is incorrect.

Given the limited progress and speculative nature of Wilus’s claims, Factor 3 favors institution or, at worst, is neutral.

D. Factor 4: No Overlap Between This IPR and the District Court Proceeding Exists

Fintiv factor 4 strongly favors institution. Samsung has filed a broad stipulation (SAMSUNG-1030) that goes beyond *Sotera*, agreeing not to pursue in district court:

- “the specific grounds asserted in *inter partes* review in this proceeding, or any other ground that could have been reasonably raised in this proceeding (i.e., any ground that could have been raised under

- §§ 102 or 103 on the basis of prior art patents or printed publications). *See Sotera Wireless, Inc. v. Masimo Corporation*, IPR2020-01019, Paper 12 (PTAB Dec. 1, 2020)”; and
- “combinations of the prior art asserted in this proceeding with unpublished system prior art (or any other type of prior art). *See Motorola Solutions, Inc. v. Stellar, LLC*, IPR2024-01205, IPR2024-01206, IPR2024-01207 & IPR2024-01208, Paper 19 (PTAB Mar. 28, 2025).”

Wilus’s claim that the stipulation is “limited” misrepresents its scope. Paper 6, 13. Samsung’s stipulation precludes use of the Petition’s prior art—even in combination with unpublished system art—ensuring no overlap between proceedings. Samsung’s stipulation is voluntary, expansive, and binding. Wilus also argues Samsung should control co-defendants’ actions or waive all invalidity defenses, which is unreasonable and unsupported by PTAB precedent. *See* Paper 6, 13; *Luminex*, IPR2024-00101, Paper 20, 29-30.

In sum, Samsung’s stipulation eliminates overlap and aligns with PTAB precedent favoring institution. *See Apple, Inc. v. SEVEN Networks, LLC*, IPR2020-00156, Paper 10 at 19 (PTAB June 15, 2020); *Sand Revolution II*, Paper 24, 12; *Google LLC v. Flypsi, Inc.*, IPR2023-00360, Paper 9, 36-39 (PTAB Aug. 2, 2023). Factor 4 strongly supports institution.

E. Factor 5: The Same Parties are in the Co-Pending Litigation

The parties are the same in this IPR and co-pending Texas litigation.

F. Factor 6: Wilus's Unsupported Conclusion Lacks Merit

Wilus was unable to identify, let alone allege, even a single deficiency in the Petition's analysis of the prior art grounds or their relevance to '926 patent's claims. Paper 6, 15. The Petition's merits are strong, presenting straightforward obviousness grounds based on (1) the combination of (i) Chu and IEEE-D1 or (ii) Chu and IEEE-D2 or (2) IEEE-D3 that render obvious all features of the independent claims.

VI. Additional Considerations

A. The Lack of Settled Expectations And *Fintiv* Factors Strongly Weigh Against Discretionary Denial

Consistent with the Board's earlier decisions under a similar fact pattern (i.e., median-time-to trial indicating a trial date after the FWD, scheduled trial date currently before the FWD, and little to no settled expectations), the Director should refer this IPR petition for merits consideration and decline to discretionarily deny this petition.

For instance, in related IPRs between Samsung and Wilus, the Director determined that Wilus did not have sufficient settled expectations and the breadth of patents involved in this dispute between the parties, merited Board referral. SAM-SUNG-1132. In *Intel* and *Straumann*, the scheduled trial date was prior to the projected FWD date, but time-to-trial statistics suggested that the trial could begin at

approximately the same time as the projected FWD or as late as eight months after. *Intel Corp.*, IPR2025-00913, Paper 12, 2; *Straumann USA, LLC*, IPR2025-00956, Paper 11, 2. The Director credited the statistics and found that “these considerations neither favor nor counsel against discretionary denial.” *Id.* Instead, the Director turned to whether “the challenged patents ha[d] ... been in force for a significant period of time,” and declined to exercise discretionary denial after finding that the challenged patents had only been in force approximately **three** years or less in *Intel* and approximately **one** year in *Straumann*. *Id.*; see also *Samsung Elecs. Co., Ltd. v. VB Assets, LLC*, IPR2025-00867, Paper 13, 2-3 (turning to settled expectations after determining that *Fintiv* factor 2 “neither favor[s] nor counsel[s] against discretionary denial” when the scheduled trial date preceded the FWD date by over four months but median-time-to-trial statistics suggested a trial date a month after the FWD date).

Here, as in *Intel* and *Straumann*, the time-to-trial statistics suggest that the trial will begin after the FWD date, and the '926 patent has been in force less than **three** years, and thus does not entitle Wilus to any settled expectations. Accordingly, the Director should similarly decline to exercise discretionary denial and refer the petition to the Board.

VII. Conclusion

For the foregoing reasons, Petitioner respectfully requests that this case proceed to an institution determination on the merits.

Respectfully submitted,

Dated October 14, 2025

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(4) and 42.205(b), the undersigned certifies that on October 14, 2025, a complete and entire copy of this Petitioner's Opposition to Patent Owner's Request for Discretionary Denial and Accompanying Exhibits were provided by email to the Patent Owner by serving the correspondence email address of record as follows:

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