

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD., and
SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioners,

v.

XIFI NETWORKS R&D, INC.,
Patent Owner.

Case IPR2025-01203 (Patent No. 11,849,337)
Case IPR2025-01204 (Patent No. 11,818,591)
Case IPR2025-01205 (Patent No. 12,003,976)
Case IPR2025-01206 (Patent No. 11,950,105)
Case IPR2025-01207 (Patent No. 12,015,933)
Case IPR2025-01208 (Patent No. 11,974,143)
Case IPR2025-01209 (Patent No. 11,856,414)
Case IPR2025-01270 (Patent No. 12,114,177)
Case PGR2025-00067 (Patent No. 12,190,198)
Case PGR2025-00068 (Patent No. 12,169,756)
Case PGR2025-00069 (Patent No. 12,250,564)

**PATENT OWNER'S MOTION TO STRIKE CERTAIN REPLY
ARGUMENTS AND EVIDENCE**

Table of Contents

	Page(s)
I. PETITIONERS' REPLIES EXCEED THE SCOPE OF THE PETITIONS.....	1
II. <i>AXONICS</i> DOES NOT JUSTIFY PETITIONERS' NEW THEORIES.....	3
III. CONCLUSION.....	5

Table of Authorities

	Page(s)
Cases	
<i>Ariosa Diagnostics v. Verinata Health, Inc.</i> , 805 F.3d 1359 (Fed. Cir. 2015).....	2
<i>Axonics, Inc. v. Medtronic, Inc.</i> , 75 F.4th 1374 (Fed. Cir. 2023).....	4, 5
<i>Cisco Sys., Inc. v. Lionra Techs. Ltd.</i> , IPR2024-01281, Paper 29 (July 15, 2026).....	4, 5
<i>Corephotonics, Ltd. v. Apple Inc.</i> , 84 F.4th 990 (Fed. Cir. 2023).....	1
<i>Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.</i> , IPR2025-00632, Paper 36 (Jan. 26, 2026).....	5
<i>Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.</i> , IPR2025-00632, Paper 20 (Nov. 3, 2025)	5
Statutes	
35 U.S.C. § 312(a)(3).....	1
Regulations	
37 C.F.R. § 42.104(b)	2, 5
37 C.F.R. § 42.23(b)	5

Pursuant to the Board’s Order of August 31, 2026, Patent Owner moves to strike portions of Petitioners’ Replies and paragraphs 37-50 & 65-68 of their supplemental expert declarations (EX1026).¹ These portions go beyond the arguments and evidence cited in the Petition and rely on new disclosures in an attempt to demonstrate that Petitioners’ cited prior art meets the claim constructions that Petitioners chose in the district court and now suggest here.

I. PETITIONERS’ REPLIES EXCEED THE SCOPE OF THE PETITIONS.

A Petition must identify “where each element of the claim is found in the prior art” including “the specific portions of the evidence that support the challenge.” 37 C.F.R. § 42.104(b)(4)-(5); *see also id.*, § 42.104(b)(3); 35 U.S.C. § 312(a)(3). “Given these ‘strict ... requirements,’ the Board is not permitted to entertain ‘[s]hifting arguments.’” *Corephotonics, Ltd. v. Apple Inc.*, 84 F.4th 990, 1001-1002 (Fed. Cir. 2023). Thus, the Board may reject “reliance, in [Petitioners’] Reply

¹ In all cases, Patent Owner seeks to strike five paragraphs of Petitioners’ Replies: those beginning “Second, the placement ...”; “Third, Chincholi’s OMMA ...” and “Fourth, PO’s claim ...” in Section III.A.1; and those beginning “[Indeed,] Chincholi teaches ...” and “Chincholi also identifies ...” in Section III.A.2. For completeness and consistency, Patent Owner has added “Fourth, PO’s claim ...” and EX1026, ¶68 to the material it originally requested that the Board strike.

submissions on previously unidentified portions of a prior-art reference to make a meaningfully distinct contention.” *Ariosa Diagnostics v. Verinata Health, Inc.*, 805 F.3d 1359, 1367 (Fed. Cir. 2015). Here, Petitioners shifted the evidence they rely on for two disputed limitations to address district court claim constructions that Petitioners themselves proposed.

For “virtual MAC interface,” the Petition argued that Chincholi’s OMMA “act[s] as” a virtual MAC interface because it “aggregates multiple MAC interfaces, as depicted in Figure 5,” and that modules in the OMMA of Figure 6 were the functional equivalent of blocks in the claimed virtual MAC interface. Pet. at 27-30 (citing EX1005, [0120], [0139], [0142]-[0143], [0192]); *see also* EX1002, ¶¶105-107 (same).² On Reply, Petitioners shifted claim construction positions from plain meaning to the district court construction, “a software- or logical-based interface that is separately addressable from the recited actual MAC interfaces and that obscures the recited actual MAC interfaces from higher protocol stack layers.” Reply at 4-7; EX1028 at 7. Attempting to satisfy the construction (not addressed by the Figure 5 and 6 embodiments), Petitioners cite to new portions of Chincholi. For “separately addressable,” they cite the Figure 31 embodiment and related description, not cited

² Representative citations are made to IPR2025-01206 (Patent No. 11,950,105) but apply equally to all proceedings, where identical evidence was cited.

in the Petition or initial expert declaration. *Compare* Pet.; EX1002 *with* Reply at 7 (citing EX1005, Fig. 31 & [0243]-[0245]); EX1026, ¶¶37-43 (same).³ For “obscures the recited actual MAC interfaces,” Petitioners now cite to Table 1 and its discussion of “MSDUs,” but the Petition does not mention MSDUs and does not cite Table 1 for the virtual MAC interface. *See* Reply at 6 (citing EX1005, [0128], [0138], [0172]-[0178] & Table 1); EX1026, ¶¶44-50 (citing EX1005, [0138] & Table 1).

For “information regarding bandwidth availabilities,” the Petition relied on Chincholi’s Figures 28 and 29 and related description regarding “feedback statistics.” Pet. at 30-31, 34 (citing EX1005, [0139], [0161], [0205], Figs. 28 & 29); EX1002, ¶¶108-109, 113 (same). On Reply, Petitioners add new material to address the district court construction that Petitioners requested—including that bandwidth availability information be “current.” *See* Reply at 10-12 (citing EX1005, [0122], [0141], [0154], [0167], [0215]-[0216]); EX1026, ¶¶65-68 (same).

II. AXONICS DOES NOT JUSTIFY PETITIONERS’ NEW THEORIES.

As an exception to the strict rule against shifting arguments and evidence from

³ Petitioners’ expert attempts to connect reply testimony to initial testimony by citing back to analysis of a *different* embodiment (Fig. 28) in relation to a *different* limitation (information regarding bandwidth availability). EX1026, ¶37 (citing EX1002, ¶109). This does not make newly cited Figure 31 related to the Petition.

the Petition, the Federal Circuit has held that where Patent Owner or the Board proposes a post-institution claim construction, Petitioners may respond on reply based on APA fairness concerns. *Axonics, Inc. v. Medtronic, Inc.*, 75 F.4th 1374, 1383-1384 (Fed. Cir. 2023). However, *Petitioners* proposed the relevant claim constructions in the district court, which were then adopted. EX2031 at 10, 17; EX1027 at 16, 25; EX1028 at 7. In such circumstances, as the Director has recently explained, *Axonics* does not apply. *Cisco Sys., Inc. v. Lionra Techs. Ltd.*, IPR2024-01281, Paper 29 at 4-6 (July 15, 2026) (director review decision).

In *Lionra*, the Director reversed a final written decision relying on Petitioners' arguments advanced in Reply after the Patent Owner sought, via its Response, to "hold Petitioner to the constructions it proposed in the district court and the district court adopted." *Id.* at 4. The Director held that the notice concerns underlying *Axonics* did not apply: "Although Patent Owner introduced Petitioner's district court construction in its Response, Petitioner cannot now claim lack of notice or opportunity to respond to a claim construction that Petitioner itself proposed in the first instance." *Id.* at 5. Indeed, "[u]nlike in *Axonics*, it was *Petitioner*, not Patent Owner or the Board, who first proposed (in district court) a claim construction that differed from the construction it proposed in the Petition." *Id.*

The circumstances here are identical to those in *Lionra*, and Petitioners should not get a second bite at the apple when they should have proposed their district court

constructions in their Petition in the first place. *Revvo Techs., Inc. v. Cerebrum Sensor Techs, Inc.*, IPR2025-00632, Paper 20 at 4-5 (Nov. 3, 2025) (precedential) (a Petitioner may not maintain competing constructions before the district court and Board without sufficient explanation); *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 36 at 3 (Jan. 26, 2026) (petitioners may not “have it both ways”); *cf. Axonics*, 75 F.4th at 1384 (declining to adopt regime where party “sits on” strongest arguments until after institution).

Patent Owner respectfully requests that Board follow *Lionra*’s guidance and strike Petitioners’ “improper new obviousness theor[ies] that Petitioner[s] first presented in the Reply.” *Lionra*, Paper No. 29 at 6. Rule 42.104(b) does not allow a Petitioner to file a Petition identifying a handful of disclosures in a 155-page reference, develop different claim construction positions in district court, and then use the Reply to mine the reference for new disclosures to satisfy the Petitioner’s own constructions. Neither Rule 42.23(b) nor the APA allow this practice or excuse Rule 42.104(b)’s requirements. Rather, such gamesmanship confirms that the Petition itself does not demonstrate unpatentability over the prior art disclosures upon which it relies.

III. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that the Board strike the enumerated portions of Petitioners’ Reply submissions.

Dated: September 4, 2026

Respectfully Submitted,

/Cyrus A. Morton/

Cyrus A. Morton

(Reg. No. 44,954)

CMorton@RobinsKaplan.com

Lead Counsel

Jessica L. Gutierrez

(Reg. No. 75,094)

JGutierrez@RobinsKaplan.com

Back-Up Counsel

Aaron R. Fahrenkrog

(*Pro hac vice*)

afahrenkrog@RobinsKaplan.com

Back-Up Counsel

Robins Kaplan LLP

800 LaSalle Avenue, Suite 2800

Minneapolis, MN 55402

Phone: 612-349-8500

Fax: 612-339-4181

Attorneys for Patent Owner

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Patent Owner's Motion to Strike Certain Reply Arguments and Evidence was served on September 4, 2026, by electronic mail to Petitioners' counsel at the following addresses indicated in Petitioners' Mandatory Notices:

James M. Glass
jimglass@quinnemanuel.com

Patrick T. Schmidt
patrickschmidt@quinnemanuel.com

Benjamin Kleinman
benjaminkleinman@quinnemanuel.com

Quincy Lu
quincylu@quinnemanuel.com

qe-samsung-xifi-ipr@quinnemanuel.com

Dated: September 4, 2026

/Cyrus A. Morton/

Cyrus A. Morton
(Registration No. 44,954)
CMorton@RobinsKaplan.com
Robins Kaplan LLP
800 LaSalle Avenue, Suite 2800
Minneapolis, MN 55402
Phone: 612-349-8500
Fax: 612-339-4181

Attorney for Patent Owner