UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CYTEK BIOSCIENCES, INC.,
Petitioner,

v.

BECKMAN COULTER, INC.,
Patent Owner.

U.S. Patent No. 11,703,443
Case No. IPR2025-01319

PATENT OWNER'S REPLY TO PETITIONER'S OPPOSITION OF DISCRETIONARY DENIAL

EXHIBIT LIST

Exhibit	Description
EX2001	About Beckman Coulter (https://www.beckmancoulter.com/about-beckman-coulter/history-and-innovation)
EX2002	CytoFLEX Flow Cytometer (https://www.beckman.com/flow-cytometry/research-flow-cytometers/cytoflex)
EX2003	Beckman Coulter Patents (https://www.beckman.com/patents)
EX2004	Cytek Form S-1 Registration Statement (2021)
EX2005	Information Disclosure Statement for Application No. 15/817,237 to U.S. Patent No. 10,436,697 (May 7, 2019)
EX2006	Information Disclosure Statement for Application No. 15/942,430 to U.S. Patent No. 11,333,597 (June 17, 2021)
EX2007	Defendant Cytek Biosciences, Inc.'s Answer to the Complaint and Counterclaims, *Beckman Coulter, Inc. v. Cytek Biosciences, Inc.*, C.A. No. 24-945, D.I. 16 (D. Del. Oct. 7, 2024)
EX2008	Transcript of Scheduling Conference, *Beckman Coulter, Inc. v. Cytek Biosciences, Inc.*, C.A. No. 24-945, D.I. 23 (D. Del. Nov. 12, 2024)
EX2009	Defendant Cytek Biosciences, Inc.'s Revised Invalidity Contentions, *Beckman Coulter, Inc. v. Cytek Biosciences, Inc.*, C.A. No. 24-945 (D. Del. July 11, 2025)
EX2010	Defendant's Opening Brief in Support of Its Motion to Stay Pending *Inter Partes* Review and Post Grant Review of the Asserted Patent

	Claims, *Beckman Coulter, Inc. v. Cytek Biosciences, Inc.*, C.A. No. 24-945, D.I. 107 (D. Del. July 22, 2025)
EX2011	Order, *Beckman Coulter, Inc. v. Cytek Biosciences, Inc.*, C.A. No. 24-945, D.I. 124 (D. Del. July 30, 2025)
EX2012	Transcript of *Markman* Hearing of August 21, 2025, *Beckman Coulter, Inc. v. Cytek Biosciences, Inc.*, C.A. No. 24-945, D.I. 151 (D. Del. Aug. 21, 2025)
EX2013	Transcript of *Markman* Hearing of September 17, 2025, *Beckman Coulter, Inc. v. Cytek Biosciences, Inc.*, C.A. No. 24-945, D.I. 173 (D. Del. Sept. 17, 2025)
EX2014	U.S. Patent Pub. No. 2004/0165828 ("Capewell")
EX2015	File History for U.S. Patent No. 9,746,412
EX2016	File History for U.S. Patent No. 10,330,582
EX2017	DocketNavigator, Time-to-Trial Statistics for District of Delaware (Sept. 2025)
EX2018	EP2861956B1
EX2019	EP3206010B1
EX2020	EP2861956 Search Opinion (Mar. 18, 2016)
EX2021	Assignment for U.S. Patent No. 8,922,778
EX2022	Assignment for U.S. Patent No. 8,605,283
EX2023	BD LSRFortessa Cell Analyzer User's Guide

EX2024	Request for *Ex Parte* Reexamination of U.S. Patent No. 10,330,582 B2 Under 35 U.S.C. §§ 302-307 and 37 C.F.R. § 1.510 *et seq.*
EX2025	Petition for Post-Grant Review of US Patent No. 12,174,106, PGR2025-00084
EX2026	Petition for Post-Grant Review of US Patent No. 12,174,107, PGR2025-00088
EX2027	Amended Scheduling Order, *Beckman Coulter, Inc. v. Cytek Biosciences, Inc.*, C.A. No. 24-945, D.I. 178 (D. Del. Sept. 29, 2025)
EX2028	Declaration of David Schaafsma, Ph.D.
EX2029	Shapiro, Practical Flow Cytometry (2003), Chapter 7
EX2030	U.S. Patent No. 10,330,582
EX2031	Marcus Nebeling, CWDM: Lower Cost for More Capacity in the Short-Haul, Fiber Network Engineering (July 3, 2002)
EX2032	Telecommunication Standardization Sector of ITU, Recommendation G.694.2, Spectral Grids for WDM Applications: CWDM Wavelength Grid (Dec. 2003)
EX2033	Telecommunication Standardization Sector of ITU, Recommendation G.694.1, Spectral Grids for WDM Applications: DWDM Frequency Grid (Dec. 2003)
EX2034	Order Denying Request for *Ex Parte* Reexamination, Application/Control Number: 90/015,441 (Oct. 6, 2025)
EX2035	M. Arumugam, *Optical Fiber Communication—An Overview*, 57 Pramana J. Physics 849 (2001)

EX2036	B.E.A. Saleh and M.C. Teich, *Fundamentals of Photonics*, 2d. Ed. 2007, Chapters 1, 24 ("Saleh")
EX2037	Warren J. Smith, *Modern Optical Engineering* (3d ed. 2000, Chapter 9 ("Smith")
EX2038	W.T. Welford, *Optics* (3d ed. 1990), Chapter 8 ("Welford")
EX2039	Mohammad Azadeh, *Fiber Optics Engineering* (2009), Chapters 1, 2, 6 ("Azadeh")
EX2040	Reserved
EX2041	Cytek's Election of Asserted Prior Art Grounds, C.A. No. 24-0945-CFC-EGT (D. Del. Oct. 22, 2025)

Petitioner's Opposition to Patent Owner's request for discretionary denial (Paper 9 ("Opposition")), for the first time, raises: (1) a deficient stipulation regarding certain prior art Petitioner would not pursue in the litigation in view of this IPR (Opposition at 14); and (2) a baseless argument alleging "prosecution gamesmanship" (*id.* at 17-20). These efforts do not justify the USPTO wasting its resources on this IPR.

I. Petitioner's Stipulation Does Not Address Efficiency Concerns

Petitioner stipulated in its Opposition that it would not pursue "(i) the specific grounds of invalidity that were raised or that reasonably could have been raised under 35 U.S.C. §§ 102 or 103 on the basis of prior art patents or printed publications in this IPR, and (ii) grounds of invalidity under 35 U.S.C. § 103 on the basis of any other prior art that could not have been raised in the IPR (e.g., system art) in combination with any of those prior art references relied on listed in the grounds for this IPR with respect to any challenged claim." Opposition at 14.

Petitioner's stipulation should be ignored because Petitioner failed to follow the USPTO's guidance to offer stipulations "as soon as practicable." *See* USPTO, Interim Director Discretionary Process § I.D Stipulations (last updated October 3, 2025). Nonetheless, the stipulation is not particularly meaningful given the sheer number of §§ 102 and 103 arguments that will still be presented to the district court.

Petitioner did ***not*** stipulate that it would not raise ***any*** §§ 102 or 103 arguments in the parallel litigation. Rather, even with this stipulation, Petitioner is able to raise ***five out of its six*** invalidity combinations against claims of the '443 patent. On October 22, 2025, Petitioner served its "Election of Prior Art Grounds" that identified the prior art grounds Petitioner intends to present in the parallel litigation. This election incorporates three different product prior art systems and an optical communications reference, which are cumulative of references in Petitioner's sole IPR ground. EX2041 at 1-2. For example, Petitioner relies (*see id.*) on product prior art in combination with an optical communications printed publication (EX1012) that, according to Petitioner's expert, discloses similar features as Goodman (EX1002, ¶¶43-44). As explained previously, these validity grounds will be addressed by the district court well before any final written decision is issued in this proceeding. Paper 7 at 10-14. Petitioner's stipulation thus provides no efficiency.

II. Petitioner's Gamesmanship Arguments Are Incorrect and Irrelevant

Petitioner contends that filing the '443 patent as a continuation of a divisional patent constitutes "prosecution gamesmanship." *See* Opposition at 17-18. Petitioner's argument is misplaced. A patent is ***not*** invalid simply based on the type of application from which it depends. *See* MPEP §§ 201.06, 201.07 (continuation applications may be filed from any prior nonprovisional application (including a

divisional), provided the disclosure remains the same and the parent is co-pending). There was nothing improper about the prosecution of the '443 patent, which had the same supervising examiner, same art unit, and overlapping classifications as the '412 patent. *Compare* EX1003 *with* EX1029.

Petitioner's cited cases (Opposition at 18, 20) do not hold otherwise. Rather, these cases concern whether a patent maintains consonance to get the benefit of 35 U.S.C. § 121's safe harbor to protect the patent from obviousness type double-patenting ("OTDP"). *See Symbol Techs., Inc. v. Opticon, Inc.*, 935 F.2d 1569, 1579 (Fed. Cir. 1991) (continuation of a divisional application entitled to benefit of the safe harbor provision because consonance was maintained); *Gerber Garment Tech., Inc. v. Lectra Sys., Inc.*, 916 F.2d 683, 688 (Fed. Cir. 1990) (continuation invalid for OTDP because the claims were not consonant); *St. Jude Med., Inc. v. Access Closure, Inc.*, 729 F.3d 1369, 1380 (Fed. Cir. 2013) (safe harbor provision did not apply).

Petitioner does not (because it cannot) raise obviousness-type double patenting arguments in this IPR. *See* 35 U.S.C. § 311(b). Tellingly, Petitioner did not preserve an ODP validity challenge in the district court either. Thus, the IPR should still be discretionarily denied.

Respectfully submitted,

Dated: November 18, 2025

/Alexis R. Cohen/
Alexis R. Cohen (Reg. No. 76,998)

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2025, I caused a true and correct copy of the following materials:

- Patent Owner's Discretionary Denial Reply
- Exhibit List
- Exhibits for Patent Owner's Preliminary Response (EX2041)

to be served on Petitioner via electronic mail to:

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