

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CAPITAL ONE, N.A. AND CAPITAL ONE SERVICES LLC,
Petitioners,

v.

WAPP TECH CORP.,
Patent Owner.

Case IPR2025-01325
Patent 8,924,192

**PATENT OWNER'S RESPONSE IN OPPOSITION TO
PETITIONERS' REQUEST FOR DIRECTOR REVIEW OF DECISION
DENYING INSTITUTION OF *INTER PARTES* REVIEW**

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EXHIBIT LIST

Exhibit	Description
EX2001	Complaint for Patent Infringement , Dkt. No. 1, <i>Wapp Tech. Ltd. P'ship v. Apple, Inc.</i> , Case No. 4:25-cv-230 (E.D. Tex. Filed March 6, 2025)
EX2002	Complaint for Patent Infringement , Dkt. No 1, <i>Wapp Tech. Ltd. v. Micro Focus Int'l PLC</i> , Case No. 4:18-cv-469 (E.D. Tex. Filed July 2, 2018)
EX2003	Complaint for Patent Infringement in first Wells Fargo suit, Dkt. No. 1, <i>Wapp Tech. Ltd. v. Wells Fargo & Co.</i> , Case No. 4:18-cv-501 (E.D. Tex., July 16, 2018)
EX2004	Complaint for Patent Infringement in first Bank of America suit, Dkt. No. 1, <i>Wapp Tech. Ltd. v. Bank of America Corp.</i> , Case No. 4:18-cv-519 (E.D. Tex., July 20, 2018)
EX2005	Markman Order , Dkt. No. 176, <i>Wapp Tech. Ltd. v. Micro Focus Int'l PLC</i> , Case No. 4:18-cv-469, (E.D. Tex., April 27, 2020)
EX2006	Motion to Stay by Defendant Wells Fargo , Dkt. No. 137, <i>Wapp Tech. Ltd. v. Wells Fargo & Co.</i> , Case No. 4:18-cv-501 (E.D. Tex., Oct. 30, 2020)
EX2007	Motion to Stay by Defendant Bank of America , Dkt. No. 12, <i>Wapp Tech. Ltd. v. Bank of America Corp.</i> , Case No. 4:18-cv-519 (E.D. Tex., Oct. 17, 2018)
EX2008	Trial Transcript Volume 5 of 5 , Dkt. No. 478, <i>Wapp Tech. Ltd. v. Micro Focus Int'l PLC</i> , Case No. 4:18-cv-469, (E.D. Tex., March 5, 2021)
EX2009	Order regarding Defendants' Opening Brief Opposing Enhancement of Damages , Dkt. No. 486, <i>Wapp Tech. Ltd. v. Micro Focus Int'l PLC</i> , Case No. 4:18-cv-469 (E.D. Tex. April 22, 2021)
EX2010	Final Judgement , Dkt. No. 487, <i>Wapp Tech. Ltd. v. Micro Focus Int'l PLC</i> , Case No. 4:18-cv-469 (E.D. Tex. April 22, 2021)
EX2011	Docket sheet for <i>Wapp Tech. Ltd. v. Micro Focus Int'l PLC</i> , Case No. 4:18-cv-469
EX2012	Docket sheet for <i>Wapp Tech. Ltd. v. Wells Fargo & Co.</i> , Case No. 4:18-cv-501
EX2013	Docket sheet for <i>Wapp Tech. Ltd. v. Bank of America Corp.</i> ,

	Case No. 4:18-cv-519
EX2014	Complaint for Patent Infringement in second Wells Fargo suit, Dkt. No. 1, <i>Wapp Tech. Ltd. v. Wells Fargo Bank, N.A.</i> , Case No. 4:21-cv-00671 (E.D. Tex., August 27, 2021)
EX2015	Complaint for Patent Infringement in second Bank of America suit, Dkt. No. 1, <i>Wapp Tech. Ltd. v. Bank of America Corp.</i> , Case No. 4:21-cv-00670 (E.D. Tex., August 27, 2021)
EX2016	Markman Order in second Wells Fargo suit, Dkt. No. 96, <i>Wapp Tech. Ltd. v. Wells Fargo Bank, N.A.</i> , Case No. 4:21-cv-00671 (E.D. Tex. July 6, 2022)
EX2017	Docket sheet for <i>Wapp Tech. Ltd. v. Bank of America Corp.</i> , Case No. 4:21-cv-00670
EX2018	Docket sheet for <i>Wapp Tech. Ltd. v. Wells Fargo Bank, N.A.</i> , Case No. 4:21-cv-00671
EX2019	Complaint for Patent Infringement , Dkt. No. 1, <i>WAPP Tech. Ltd. P'ship v. JPMorgan Chase Bank, N.A.</i> , Case No. 4:23-cv-01137 (E.D. Tex., December 22, 2023)
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EX2036	Order Governing Proceedings , Dkt. No. 25, <i>SB IP Holdings LLC v. Vivint, Inc.</i> , Case No. 4:20-cv-00886 (E.D. Tex. March 30, 2021)
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I. Introduction

Wapp Tech Corp. (“Wapp”) respectfully requests that Capital One, N.A. and Capital One Services LLC’s (collectively, “Capital One” or “Petitioner”) Request for Director Review of the Decision Denying Institution be denied. *See* Paper 13 (the “Request”); Paper 12 (the “Decision”). The Request fails to identify any abuse of discretion, important issues of law or policy, erroneous findings of material fact, erroneous conclusions of law, or any other topic for which Director Review would be appropriate.¹ The Request repeatedly misrepresents the factual record, conflates discretionary denial and non-discretionary institution decisions, and would ultimately require the Director to rewrite statutes and regulations that otherwise have no bearing on the Decision. As discussed in detail below, the Request should be denied.

II. Argument

A. Petitioner Failed to Show Non-Compliance with Any Applicable Statutes, Rules, or Office Policy

The Request ignores the extensive case law regarding the Director’s broad discretion to deny institution of IPRs that supports the Decision. Instead of engaging with that case law, the Request repeatedly conflates (1) decisions to institute a

¹ *See* <https://www.uspto.gov/patents/ptab/decisions/director-review-process> at 2.B, accessed on January 1, 2026 (limiting the scope of Director Review).

proceeding with discretionary denial decisions, and (2) Director decisions with delegated panel decisions, quoting inapplicable portions of statutes and rules out of context along the way. Furthermore, Petitioner resorted to blatant misrepresentations of the factual record just to manufacture the supposed basis for its flawed first argument. In short, the foundation upon which Petitioner's arguments are built is faulty, and the Request should be denied.

1. Petitioner Failed to Show Non-Compliance with 35 U.S.C. § 314(a) and 37 C.F.R. § 42.108(c) or Misapprehension of Issues of Fact and Law

Petitioner's first argument falls flat for two reasons. First, Petitioner relies on cropped portions of the cited statutes and regulations, which govern factors that must be satisfied *for institution* of IPR, to argue that those same factors must be considered for discretionary denial. Second, Petitioner relies on serial misrepresentations of fact to arrive at the false conclusion that Wapp has taken "diametrically-opposed" claim construction positions in the parallel proceedings.

Petitioner relies on 35 U.S.C. § 314(a) and 37 C.F.R. § 42.108(c) to show what is required for the Director to discretionarily deny IPR. *See* Request at 2. However, § 314 establishes the requirements that must be satisfied to institute IPR and that the determination *whether* to institute "shall be final and nonappealable." 35 U.S.C. § 314(a), (d). Section 314 confers broad discretion on the Director regarding whether to institute review and imposes no constraints on decisions not to

institute review. *See generally Cuozzo Speed Technologies, LLC v. Lee*, 579 U.S. 261 (2016).

Petitioner quotes parts of § 314(a) out of context, asserting that “35 U.S.C. § 314(a) [] requires that an institution decision be based on ‘the information presented in the petition filed under section 311 and any response filed under section 313.’” Request at 2 (quoting part of § 314(a)). However, § 314(a) actually identifies precursors that must occur for institution to be **granted**, requiring that the “Director may not authorize an inter partes review to be instituted unless the Director determines that the information presented in the petition...and any response...shows that there is a reasonable likelihood that the petitioner would prevail...” 35 U.S.C. § 314(a). Section 314(a) does not apply to the Decision because the Director did not authorize an IPR to be instituted.

Petitioner applies a similar misinterpretation to 37 C.F.R. § 42.108, the regulations governing institution of IPR. Petitioner states that it “confirms that the ‘information presented in the petition’ and ‘a patent owner preliminary response’ will be considered, and that ‘a reply to the preliminary response’ may be authorized and considered.” Request at 2-3 (quoting parts of § 42.108(c)). But yet again, the actual text of § 42.108(c) is addressing precursors that must occur for an IPR to be instituted, not discretionarily denied. *See id.* (“Inter partes review shall not be instituted **unless** the Board decides that the information presented in the petition

demonstrates that there is a reasonable likelihood that at least one of the claims challenged in the petition is unpatentable.” (emphasis added)). Thus, Petitioner’s attempt to rewrite the statutes and regulations should be rejected.

Not only has Petitioner misapplied the law to justify its Request, it has also misrepresented the factual record of this and the related proceeding concerning claim construction. Specifically, Petitioner argues that Director erred in denying review before hearing the whole story regarding Petitioner’s factually incorrect argument that Wapp is taking a different position in the District Court regarding whether ’192 Patent Claim 60 should be construed as a product-by-process claim. *See* Request at 4-5. Amazingly, Petitioner complains that the Director failed to wait for *Wapp’s* sur-reply brief on *merits* issues as opposed to *discretionary denial* issues (which are briefed separately). This is not a situation where Petitioner was denied a voice—it had already filed its reply brief. *See* Paper 11.

Even so, Petitioner’s characterization of claim construction issues raised in this and the related proceeding is wrong. First, Petitioner states that Wapp “*tacitly* conceded that claim 60 was subject to a product-by-process interpretation” based on Wapp’s description of how Capital One’s mobile application infringed claim 60. Request at 4-5 (original emphasis removed, new emphasis added). However, Wapp has never taken the position in district court litigation that claim 60 should be interpreted as a product-by-process claim. In fact, once Capital One argued for a

product-by-process interpretation in a motion to dismiss filed in the District Court proceeding, Wapp promptly amended its Complaint on August 15, 2025 (*i.e.*, before any briefing in this matter) to emphasize product-by-process is inapplicable:

217. Claim 60 of the '192 Patent provides: A system comprising: an application configured to enable a user to modify a photo on the mobile device, wherein the application is developed using a software authoring platform configured to simultaneously visually emulate, via one or more profile display windows, a plurality of hardware characteristics indicative of performance of the mobile device when executing the application.

218. As the claim language provides, claim 60 is a “system” claim reciting structure, not a product-by-process claim reciting the steps of a process by which an end product is made.

Wapp Tech Corp. et al. v. Capital One, N.A., et al., Case No. 4:25-cv-00230, Plaintiffs’ First Amended Complaint, Dkt. No. 55 ¶¶ 217-18, filed August 15, 2025 (E.D. Tex.);² *see also id.* ¶¶ 217-228 (further detailing Wapp’s explanations on the correct interpretation). Claim 60 was at issue in the previous district court litigation

² Wapp requests that the Director take Official Notice of the Amended Complaint from the District Court proceeding given Capital One’s extensive reliance on misrepresentations of that proceeding. *See* 37 C.F.R. § 42.62(c). If the Director prefers, Wapp can submit the Amended Complaint as an exhibit to this proceeding.

involving JPMorgan Chase Bank, and the Court issued a claim construction order addressing several terms of claim 60, none of which resulted in it being interpreted as product-by-process. *See* EX2020 at 7-8, 15-16, 19, 29-31. Wapp never took the position that claim 60 should be construed as a product-by-process claim. And Wapp expressly and unequivocally stated in this proceeding that claim 60 should not be interpreted as a product-by-process claim. *See* POPR, Paper 7 at 23-27. Despite this clear record, Petitioner relies on a purported tacit admission derived from Wapp's infringement allegations to then state that Wapp's claim construction positions regarding claim 60 in the parallel proceedings are "diametrically-opposed." Request at 4-5. The record explicitly (not tacitly) refutes Petitioner's arguments.

Under a proper (and reasonable) interpretation of the law and facts raised by Petitioner, its proposed first argument should be rejected as both misleading and frivolous. *See* 37 C.F.R. §§ 42.11, 11.18.

2. Petitioner Failed to Show Non-Compliance with 35 U.S.C. § 6 and 37 C.F.R. §§ 42.4 and 42.108

Next, Petitioner asserts that the Decision must be vacated because it was not "heard" by 3 members of the PTAB, and under Petitioner's theory "only the Board had the authority to determine whether to institute trials in all IPR and PGR proceedings." Request at 6-9 (internal quotes and citations omitted). However, Petitioner's theory ignores the actual text of the cited statutes/rules and would result in a nonsensical interpretation that deprives the Director of the very discretion that

the courts have repeatedly confirmed. *See Cuozzo*, 579 U.S. at 273; *SAS Institute Inc. v. Iancu*, 584 U.S. 357, 366 (2018) (“§314(a) invests the Director with discretion on the question whether to institute review” (emphasis omitted)); *Saint Regis Mohawk Tribe v. Mylan Pharm., Inc.*, 896 F.3d 1322, 1327 (Fed. Cir. 2018) (“If the Director decides to institute, review occurs. If the Director decides not to institute, for whatever reason, there is no review. In making this decision, the Director has complete discretion to decide not to institute review.”); *Mylan Labs. Ltd. v. Janssen Pharmaceutica, N.V.*, 989 F.3d 1375, 1382 (Fed. Cir. 2021) (“[T]he Director is free...to determine that for reasons of administrative efficiency an IPR will not be instituted, as agencies generally are free, for similar reasons, to choose not to initiate enforcement proceedings.”).

Petitioner first relies on 35 U.S.C. § 6(c), which recites that “inter partes review shall be heard by at least 3 members of the Patent Trial and Appeal Board, who shall be designated by the Director.” Notably, the statute does **not** state that an **institution decision** shall be heard by at least 3 members of the PTAB. The relevant statute for institution decisions instead states that the “Director shall determine whether to institute an inter partes review”—the very thing that happened in this proceeding. 35 U.S.C. § 314(b). Further confirming the distinction, the Federal Circuit has explained that an IPR “does not begin until it is instituted.” *See Cal. Inst. of Tech. v. Broadcom Ltd.*, 25 F.4th 976, 989 (Fed. Cir. 2022) (quoting *Shaw*

Industries Group, Inc. v. Automated Creel Systems, Inc., 817 F.3d 1293, 1300 (Fed. Cir. 2016), *overruled on other grounds*); *see also* 37 C.F.R. § 42.2 (explaining that an IPR is a “Trial” and “[a] trial begins with a written decision notifying the petitioner and patent owner of the institution of the trial”). 35 U.S.C. § 6(c) does not apply here at least because there was no IPR to be heard—the Petition seeking to institute an IPR was denied pursuant to the Director’s broad discretion.

Furthermore, contrary to Petitioner’s assertion otherwise (*see* Request at 8), the *Arthrex* Court rejected Petitioner’s theory that § 6(c) limits the power of the Director, also noting that the Director “may issue decisions himself on behalf of the Board.” *United States v. Arthrex, Inc.*, 594 U.S. 1, 25 (2021). Additionally, *Arthrex* dealt with a final written decision in an IPR proceeding—not a decision whether to institute. Again, Petitioners erroneously rely on statutes, regulations, and cases regarding the requirements for *instituting* IPR and/or *instituted IPRs*—not regarding *discretion to deny IPR review*.

Petitioner also asserts that 37 C.F.R. §§ 42.4 and 42.108 (again) deprive the Director of the very institution discretion that the courts have repeatedly confirmed that he has the power (and broad discretion) to exercise. Request at 7-9. Even if Petitioner’s argument was not already foreclosed by the cases confirming the Director’s continued institution discretion, “it is well established that the head of an agency retains the authority to make final decisions for the agency even if he or she

delegates the authority to make these decisions to his or her subordinates.”

Heggstad v. United States DOJ, 182 F. Supp. 2d 1, 9 (D.D.C. 2000) (citing *Knight v. United Land Ass’n*, 142 U.S. 161, 176-82, 35 L. Ed. 974, 12 S. Ct. 258 (1891)).

Thus, delegation would not deprive the Director of his ability to make decisions for the Office as Petitioner appears to assume.

Petitioner cites *Ethicon Endo-Surgery, Inc. v. Covidien LP*, but the case does not support Petitioner’s theory that the Director’s institution authority is limited. On the contrary, it notes that the “Director [] has the inherent authority to delegate institution decisions to the Board.” *Ethicon Endo-Surgery, Inc. v. Covidien LP*, 812 F.3d 1023, 1033 (Fed. Cir. 2016). If the Director has inherent authority to delegate an institution decision, then the Director also has authority **not** to delegate such a decision. Even if *Ethicon* could be read to support Petitioner’s interpretation (it cannot), such an interpretation would have been overruled by *Arthrex*. See *Arthrex*, 594 U.S. at 8-9 (“Congress has committed the decision to institute *inter partes* review to the Director’s unreviewable discretion.”); *id.* at 14 (“The Director...controls the decision whether to institute *inter partes* review.”); *id.* at 24 (“Congress [] provided the Director means of control over the institution and conduct of *inter partes* review.”).

Furthermore, the text of both 37 C.F.R. §§ 42.4 and 42.108 forecloses Petitioner’s arguments. Sections 42.4 and 42.108(a) specifically address what

happens when a trial is *instituted*, not what happens when institution is denied (the situation here). Relatedly, § 42.108(c) addresses what findings must be made for institution to occur, and no institution occurred here. Finally, § 42.108(b) says that “the Board may deny all grounds” (emphasis added), but not that such denials are committed solely to the Board’s discretion. Yet again, there is no support in statute, rule, or case law for Petitioner’s arguments.

3. Petitioner Failed to Show Non-Compliance with Office Rules

Petitioner’s next argument is merely an extension of its prior arguments, continuing to allege the Decision fails to comply with rules related to instituted proceedings (rather than discretionary denials). The frivolity of Petitioner’s arguments is captured through its exaggerated characterization of the Decision as “contraven[ing] *countless* other regulations in Parts 42 and 43 of 37 C.F.R.” Request at 9 (emphasis added). Petitioner purportedly identified the strongest violations for its brief; however, as detailed herein, Petitioner’s arguments are simply not supported by the authorities on which it relies. Though these arguments are frivolous on their face, Wapp addresses them below.

First, Petitioner conditionally argues that “to the extent that the Decision itself qualifies as a Director Review decision under 37 C.F.R. § 42.75, it fails to comply with this regulation” because it fails to provide “reasons” for the Decision. Request at 9. Petitioner provides no explanation why the Decision would qualify as a Director

Review decision and ultimately agrees that it “**cannot** qualify as a Director Review decision.” *Id.* Even accepting Petitioner’s conditional argument, the requirements of § 42.75 were satisfied. The Decision states that it was based on application of discretionary considerations discussed in “Memorandum entitled ‘Director Institution of AIA Trial Proceedings,’” and that Memorandum explains that the Director handled discretionary denial based on, *e.g.*, guidance from the “more than 580 decisions [issued] under the Interim Process.” Decision at 1; Memorandum at 2.

Petitioner next alleges that the Decision fails to follow 37 CFR § 43.3(a), which is titled “Limits on Director’s and other individuals’ involvement in panel decisions.”³ By its own title, the regulation relates to panel decisions—not Director decisions. Even the portion of § 43.3(a) that Petitioner quotes completely undercuts its position: “**Prior to issuance of a decision by a panel**, the Director ... shall not communicate, directly or through intermediaries, with any member of the panel regarding the decision.” Request at 10 (emphasis added). A delegated panel did not issue the Decision—the Director did. Section 43.3(a) is not relevant.

³ Petitioner prefaces this argument by purportedly explaining the origin of Part 43 of 37 C.F.R. and referencing a non-binding, non-precedential, and largely irrelevant GAO Report. *See* Request at 9-10.

Finally, Petitioner alleges that the Decision conflicts with 37 C.F.R. § 43.6 because it “suggest[s] the existence of unwritten Office Policies.” Request at 10. The only purported example of such an “unwritten” policy is Petitioner’s assertion that “the Director’s Institution Memo does not provide the public with written policies on how the Director selected the consulting judges.” *Id.* at 11. Even assuming for the sake of argument that minutiae such as how the Director decides who to consult with (on topics on which he already has full discretion) could rise to the level of a “policy,” the rule Petitioner relies on does not apply to the Decision. By its own text, § 43.6 is addressing policies which are binding on a “panel of the Board.” Petitioner *again* conflates Director decisions with Board panel decisions to support its Request. Petitioner cannot rewrite the Regulations and Board policies in this manner, and Petitioner’s arguments must be rejected.

4. Petitioner Failed to Show Non-Compliance with Office Policies

Furthermore, Petitioner’s assertion that the Decision is “contrary to written Office policies” fails for many of the same reasons as its assertions regarding Office rules. Request at 11-12. Petitioner again conflates the Director issuing an institution decision himself with the assignment of PTAB judges to a panel to make such a decision. For example, Petitioner quotes the following from SOP 1: “The Director will not be involved in directing or otherwise influencing the paneling or repaneling of any specific proceeding before the PTAB prior to the issuance of the panel

decision.” Request at 11 (emphasis added). Petitioner again ignores the fact that the Decision did not issue from a panel to which the proceeding was delegated, but rather from the Director himself. Thus, Petitioner’s arguments again fail.

B. Petitioner Failed to Show Non-Compliance with the Administrative Procedure Act

Petitioner has also failed to demonstrate that its Administrative Procedure Act (“APA”) arguments merit Director Review. *See* Request at 12-15.

First, Petitioner failed to demonstrate that the Decision does not satisfy 5 U.S.C. § 555(e). As an initial matter, the Federal Circuit has already rejected similar arguments in *In re Power Integrations, Inc.*, 899 F.3d 1316, 1319 (Fed. Cir. 2018). In that case, the Federal Circuit held that § 555(e) could not support review of an institution decision, in part because “[t]he purpose of facilitating review [based on § 555(e)] does not apply...because [the] court has no reviewing authority over the agency’s non-institution decision.” *Id.* at 1319.

Furthermore, the court explained that “[t]he notice required of an agency under the APA is modest. All that is required is that the agency explain why it decided to act as it did.” *Id.* at 1320 (internal quotes and citations omitted). Even if § 555(e) does apply, that “modest” notice was met here. The Decision itself was both self-explanatory and accompanied by a statement of the grounds for denial—discretionary denial considerations, the application of which has been described repeatedly in the more than 580 decisions issued under the Interim Process.

Next, Petitioner’s argument that “the Director must make the merits determination required by § 314(a) and must communicate that determination in writing” is flawed. Request at 13-14. Petitioner’s analysis ignores the plain language of the statute as well as Supreme Court precedent interpreting the statute.

Section 314(a) states what the Director **may not** do (rather than what the Director **must** do as Petitioner asserts):

The Director **may not** authorize an inter partes review to be instituted unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition. § 314(a) (emphasis added).

As the Supreme Court has explained, this statute is discretionary—there is “no mandate to institute review” and “the agency’s decision to deny a petition is a matter committed to the Patent Office’s discretion.” *Cuozzo*, 579 U.S. at 273. Section 314(c) instructs that **if** the Director makes a determination on the information presented in the Petition, then the Director shall notify the parties of that determination. It does not alter the discretionary nature of § 314(a).

Petitioner asserts that unless a discretionary denial decision “include[s] the Director’s assessment of the merits, it is impossible for this request to satisfy the requirement to identify additional potential matters the agency ‘misapprehended or

overlooked.” Request at 14. This again demonstrates that the Petitioner is confusing a discretionary denial decision with a non-discretionary institution decision on the merits. To the extent that the merits are considered as part of *Fintiv* analysis, they are only one factor among many, and even “compelling merits” (which were certainly not present in the Petition in this proceeding) are “not dispositive in making the assessment.” *See, e.g.,* March 24, 2025 Guidance on USPTO’s recission of Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation.⁴ There can be no dispute that even compelling merits could not possibly have overcome the overwhelming settled expectations of Wapp in this case, especially when combined with the fact that Petitioner challenged only a tiny subset of the claims asserted in the District Court proceeding, ensuring that the challenge could amount to no more than a duplication of efforts already underway in the parallel District Court proceeding. *See, e.g.,* Paper 6 at 1-5, 18.

III. Conclusion

Patent Owner respectfully requests that the USPTO refuse to grant Director Review of the Decision for the foregoing reasons.

⁴ Available from https://www.uspto.gov/sites/default/files/documents/guidance_memo_on_interim_procedure_recission_20250324.pdf (accessed Dec. 29, 2025).

Dated: January 2, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that pursuant to 37 C.F.R. § 42.6(e), a copy of the foregoing was served via email to counsel of record for Petitioners as follows:

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