

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SNAP INC. and HISENSE USA CORPORATION,
Petitioners

v.

NOKIA TECHNOLOGIES OY,
Patent Owner.

IPR2025-01345

U.S. Patent No. 9,036,701

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

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35 U.S.C. § 102(6)	3
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Other Authorities

157 Cong. Rec. S1352 (Mar. 8, 2011)	9
S. Rep. No. 110-259 (2008)	9

EXHIBIT LIST

Exhibit	Reference	New
1001	U.S. Patent No. 9,036,701 (“the ’701 Patent”)	
1002	File History of the ’701 Patent (“’701FH”)	
1003	Declaration of Dr. Eli Saber (“Saber”)	
1004	Curriculum Vitae of Dr. Eli Saber	
1005	Detlev Marpe, <i>Content-Based Adaptive Binary Arithmetic Coding in the H.264/AVC Video Compression Standard</i> , 13 IEEE TRANSACTIONS ON CIRCUITS & SYSTEMS FOR VIDEO TECH. 620 (July 2003) (“CABAC”)	
1006	U.S. Patent Publication No. US 2005/0253740 A1 (“Marpe”)	
1007	U.S. Patent No. 5,650,783 (“Murashita”)	
1008	File History of EP2599315	
1009	Iain E. Richardson, THE H.264 ADVANCED VIDEO COMPRESSION STANDARD (2nd ed. 2010)	
1010	Steven M. Kaplan, WILEY ELECTRICAL AND ELECTRONICS ENGINEERING DICTIONARY (2004)	
1011	A & C Black, DICTIONARY OF COMPUTING, (6th ed. 2010)	
1012	Rafael C. Gonzales and Richard E. Woods, DIGITAL IMAGE PROCESSING (Prentice Hall pub., 2nd ed. 2001)	
1013	A. Murat Tekalp, DIGITAL VIDEO PROCESSING (Prentice Hall pub., 1st ed. 1995)	
1014	ISO/IEC 11172-2 (1st ed.) Information technology – Coding of moving pictures and associated audio for digital storage media at up to about 1,5 Mbit/s – Part 2: Video (August 1, 1993) (“MPEG-1”)	

1015	ITU-T Recommendation H.262 (July 1995) (“H.262”)	
1016	ITU-T Recommendation H.263 (February 1998) (“H.263”)	
1017	ITU-T Recommendation H.264 (March 2010) (“H.264”)	
1018	Wei Yu & Yun He, <i>A High Performance CABAC Decoding Architecture</i> , 51 IEEE 1352 (Nov. 2005) (“Yu”)	
1019	Declaration of Sylvia Hall-Ellis (“Hall-Ellis”)	
1020	U.S. Patent Publ. No. 2010/0150226 A1	
1021	Exhibit 20 to ITC Preliminary Infringement Contentions for alleged infringement of U.S. Patent No. 9,036,701 by Hisense Accused Products, Inv. No. 337-TA-1448	
1022	Intentionally Left Blank	
1023	Complaint Under Section 337 of The Tariff Act of 1930, As Amended, Inv. No. 337-TA-1448 (Apr. 11, 2025)	X
1024	Intentionally Left Blank	
1025	US 2009/0141806 A1 (“Marpe ’806”)	X
1026	Intentionally Left Blank	
1027	ITC web page regarding cease of regular operations, https://www.usitc.gov/press_room/2025_lapse_of_appropriations (last visited Oct. 7, 2025)	X
1028	Order on Defendants’ Unopposed Motion for a Stay Pending ITC Proceeding and Extension of Time to Respond to Complaint, <i>Nokia Techs. Oy, v. Hisense Co. Ltd. et al.</i> , No. 1:25-cv-01871-TWT, Dkt. 26 (N.D. Ga. June 5, 2025)	X
1029	DocketNavigator.com, Time-to-Trial report for Northern District of Georgia (exported Oct. 6, 2025)	X
1030	Intentionally Left Blank	

1031	Order No. 17, Initial Determination Granting Complainants' Unopposed Motion for Partial Termination of This Investigation as to Certain Asserted Claims, 337-TA-1448 (Sept. 5, 2025)	X
1032	Order No. 22, Initial Determination Granting Complainants' Unopposed Motion for Partial Termination of This Investigation as to Certain Asserted Claims, 337-TA-1448 (Sept. 22, 2025)	X
1033	Intentionally Left Blank	
1034	Intentionally Left Blank	
1035	Intentionally Left Blank	
1036	Order No. 18, Initial Determination Revising the Target Date Due to Government Shutdown, Inv. No. 337-TA-1118	X
1037	Order No. 26, Initial Determination Revising the Target Date for Issuance of the Initial Determination on Violation, and Revising the Target Date Because of the Government Shutdown, Inv. No. 337-TA1124	X
1038	Intentionally Left Blank	
1039	Intentionally Left Blank	
1040	Intentionally Left Blank	
1041	Joint Unopposed Motion by the Private Parties to Modify the Procedural Schedule Due to Government Shutdown, 337-TA-1448 (Nov. 21, 2025)	X

TABLE OF ABBREVIATIONS

Abbreviation	Definition
'701 Patent	U.S. Patent 9,036,701 (EX-1001)
Challenged Claims	Claims 1–20
DCT	Discrete Cosine Transform
IPR	<i>inter partes</i> review
POSITA	Person of Ordinary Skill in the Art
Snap	Snap Inc.
Hisense	Hisense USA Corporation
Nokia or PO	Nokia Technologies OY
DD Request	Nokia's request for discretionary denial (Paper No. 9)
ITC	International Trade Commission
CABAC	Context Adaptive Binary Arithmetic Coding
FWD	Final Written Decision

I. INTRODUCTION

Petitioners Snap and Hisense request that the Director deny Nokia's request for discretionary denial (Paper No. 9) and, instead, institute trial in this proceeding.

A holistic analysis of the facts particular to this proceeding show that the Office is the appropriate and most efficient forum to review the unpatentability of the '701 Patent. As will be explained *infra*, clear Examiner error existed when analyzing key prior art. The Examiner overlooked invalidating sections of the prior art that a similarly situated European Examiner recognized and cited to reject similar claims. Accordingly, the Deputy Director should decline to discretionarily deny institution of this IPR.

Moreover, the Board will be the first tribunal with binding authority to rule on the '701 Patent, long before the issue will be taken up in any of the district court litigations. The DD Request ignores that ***all three*** related district court actions are ***stayed*** pending an ITC investigation¹ on the same patents. Assuming the ITC even reaches invalidity, the ITC lacks authority to invalidate a patent and its rulings are not binding on either the Office or district courts. *Tex. Instruments Inc. v. Cypress*

¹ *Certain Video-Capable Laptop, Desktop Computers, Handheld Computers, Tablets, Televisions, Projectors, and Components and Modules Thereof*, Inv. No. 337-TA-1448 (ITC Apr. 11, 2025) (hereinafter "1448 Inv.").

Semiconductor Corp., 90 F.3d 1558, 1568–69 (Fed. Cir. 1996). Thus, the Board would rule on patentability long before any other jurisdiction with binding authority.

Critically, Petitioner Snap is not a party to the 1448 Inv. or any other litigation involving the '701 Patent, which strongly counsels against discretionary denial. *See Google LLC et al. v. Mullen Indus. LLC*, IPR2025-00124, Paper No. 14 at 11 (PTAB Nov. 1, 2024) (granting institution despite parallel litigation where one of the petitioners “is a party in this case but not in the district court litigation”); *see also Azurity Pharms. v. Helsinn Healthcare*, IPR2025-00945, Paper No. 11 at 2 (PTAB Sept. 19, 2025); *Mercedes-Benz Group AG v. The Phelan Group*, IPR2025-00413, Paper No. 13 at 2 (PTAB Jun. 25, 2025). Although Petitioner Hisense is a party to the 1448 Inv., Petitioner Snap should not be penalized for jointly filing with Hisense, which avoided a separate petition and reduced the burden on the Director and Nokia.

Finally, whereas the IPR addresses all 20 claims of the '701 Patent, Nokia is presently asserting only four claims in the 1448 Inv. There is nothing efficient about denying institution of all 20 claims to allow the ITC to issue a ***non-binding*** decision on ***fewer than a quarter*** of the claims. The Board is clearly best situated to address the invalidity of ***all claims*** of the '701 Patent, potentially eliminating the need for piecemeal litigation of invalidity of the same patent in ***three different district courts***.

For these reasons, and as explained fully herein, the Director should deny PO's request for discretionary denial and institute trial in this proceeding.

II. THE EXAMINATION OF THE '701 PATENT WAS FLAWED

The '701 Patent never should have issued. The Examiner initially rejected all pending claims of the patent in an Office Action dated October 31, 2013, under 35 U.S.C. § 102(6) as being anticipated by US 2009/0141806 A1 (“Marpe '806”) which discusses the well-known CABAC (Context Adaptive Binary Arithmetic Coding) technique (EX-1025). EX-1002 ('701FH) at 191–94. In response, Applicant did not amend any claims but instead argued that Marpe '806 does not teach “categorizing a plurality of syntax elements of video content into first and second categories based on a frequency of occurrence of the syntax elements in the video content.” *Id.* at 232–34. The Examiner did not find this persuasive and again rejected the claims. *Id.* at 243–45. In response, Applicant added the underlined language below.

1. (Currently Amended) A method comprising:
determining a frequency of occurrence threshold based on an expected frequency of occurrence of syntax elements in a bit stream;
categorizing a plurality of syntax elements of video content into first and second categories based on the frequency of occurrence threshold, wherein of the syntax elements in the video content which occur greater than the frequency of occurrence threshold are categorized into the first category and syntax elements which occur less than the frequency of occurrence are categorized into the second category;
entropy coding symbols that correspond to the first category of syntax elements and that have been subjected to a context update; and
entropy coding symbols that correspond to the second category of syntax elements and that have bypassed context updating.

Id. at 260. Even though these limitations are also disclosed in CABAC, the Examiner allowed all pending claims following this amendment, without specifying reasons for the allowance. *Id.* at 274–78. This constituted Examiner error as CABAC (among

other art) clearly taught these elements. As explained in greater detail in this Petition (Paper No. 1), substantially similar claims disclosing these elements were *rejected* on May 23, 2018 by a European Examiner based on the CABAC technique. *See* Petition at 8–10, disclosing the added limitations:

'701 Patent, Claim 1 (EX-1001)	EP Prosecution History, July 4, 2014 Claims as Amended (EX-1008)
1. A method comprising: ... categorizing a plurality of syntax elements of video content into first and second categories based on the frequency of occurrence threshold... ;	1. A method comprising: ... categorizing a plurality of syntax elements of video content into first and second categories based on whether the syntax elements occur in the video content more or less frequently than the threshold frequency ;
entropy coding symbols that correspond to the first category of syntax elements and that have been subjected to a context update; and	entropy coding symbols that correspond to the first category of syntax elements and that have been subjected to a context update...; and
entropy coding symbols that correspond to the second category of syntax elements and that have bypassed context updating.	entropy coding symbols that correspond to the second category of syntax elements and that have bypassed context updating using a second entropy coding mechanism.

Compare EX-1001 at claim 1 (left), *with* EX-1008 at 173 (right).

In response, the Examiner stated that it “is well known in the art that **CABAC can be used to code syntax elements in image and video coding.**” EX-1008 at 96 (emphasis added). The European Examiner found the “CABAC coder of figure 1 in [CABAC] discloses a *first coding mode* comprising context updating and a *second*

coding mode that ‘bypass[es] context updating.’ *Id.* The European Examiner went on to explain that CABAC disclosed the following:

D1 [Context-Based Adaptive Binary Arithmetic Coding in the H.264/AVC Video Compression Standard, attached as EX-1005] does not directly disclose that the selection of the 2 coding modes is based on a threshold of occurrences of syntax elements, but ***it discloses that for the most frequently observed bins the context modeling updating is used***, while the the [sic] bypass can be used for the less frequently observed bins (bins are related to frequency of occurrences): see the passage . . . “Finally, as the most important advantage, binarization enables context modeling on a subsymbol level. For specific bins which, in general, are represented by the most frequently observed bins, conditional probability can be used . . . whereas other usually less frequently observed bins can be treated using a join, typically zero-order, probability model” (de facto bypass of context modeling in figure 1).

Id. at 96–97 (bold emphasis added). CABAC’s (EX-1005) Fig. 1, discussed by the European Examiner, is nearly identical to Marpe ’806’s (EX-1025) Fig. 2, which the U.S. Examiner failed to properly consider, and Marpe’s Fig. 2, Ground 2 of the Petition:

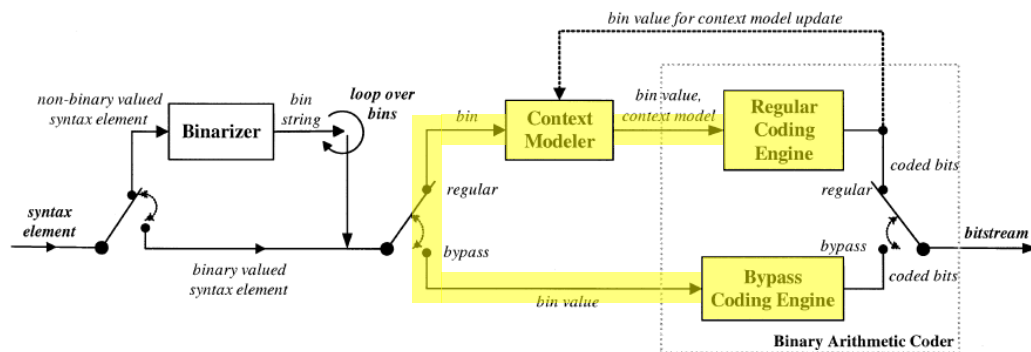


Fig. 1. CABAC encoder block diagram.

EX-1005 (CABAC, reviewed by EP Examiner) (highlight added)

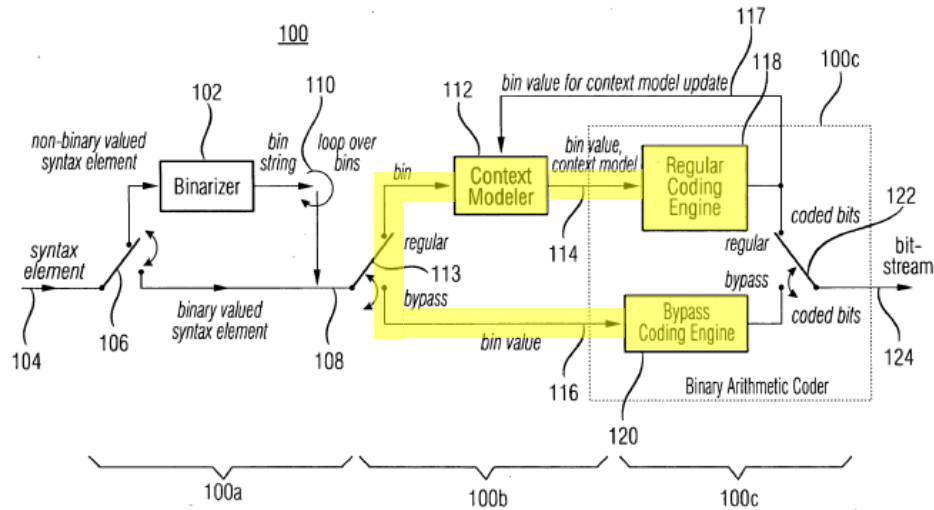


FIG 2

EX-1025 (Marpe '806, reviewed by US Examiner) (highlight added)

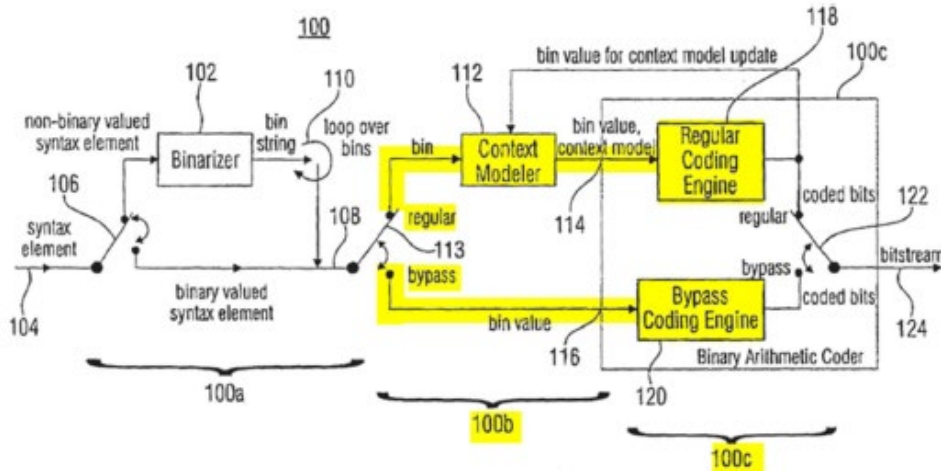


FIG. 2

EX-1006 (Marpe, Ground 2 of IPR) (highlight added)

As highlighted in Fig. 2 of EX-1006 above, Dr. Saber depicts the categorization techniques of CABAC based on the frequency of occurrence of syntax elements, much as the European Examiner found. *See* EX-1003 (Saber Decl.), ¶¶ 142–48, fn. 10. Notably, Marpe '806 also discusses CABAC in detail (*see*,

e.g., EX-1025 at 0010, 0013, 0014, 0127, 0145–150, 0158, 0165) and includes Fig. 2 (above) depicting the CABAC technique, which is identical to both Fig. 2 of Marpe and Fig. 1 of D1 (EX-1005). These figures, shown above, clearly disclose the determining and categorization limitations of the '701 Patent. *Compare* Marpe '806 (EX-1025), *with* Marpe (EX-1006, highlight added).

Moreover, Ground 3 (“Yu”) of the Petition *also* explains how CABAC invalidates the claims of the '701 Patent. *See, e.g.*, EX-1003, ¶¶ 241–70. Dr. Saber explains how the well-known CABAC technique determines the frequency of occurrence of syntax elements and categorizes those syntax elements consistent with the claims of the '701 Patent. *Id.* ¶¶ 246–66. Given that there were multiple patents and publications related to CABAC in front of the Examiner (EX-1001 at 2) and CABAC is referenced as prior art in the '701 Patent (*id.* at 4:23–42, 10:4–36, 11:5–22, 11:41–61), it constituted clear Examiner error to allow the claims over prior art referencing CABAC.

In short, the '701 Patent should have never been issued. The Examiner failed to properly consider the CABAC technique when presented with overwhelming evidence of invalidity as clearly articulated in Dr. Saber's declaration. *See, e.g.*, EX-1003, ¶¶ 142–48, 246–66. The well-known CABAC technique is invalidating prior art as demonstrated by the Marpe and Yu references. The Board is best suited to re-

address the CABAC prior art and undo the Examiner Error in failing to adequately consider this art.

III. NOKIA'S *FINTIV* ANALYSIS IGNORES PETITIONER SNAP IS NOT A PARTY TO ANY PARALLEL PROCEEDING.

PO fails to acknowledge, much less address, that Snap is not a party to any parallel proceeding. The PTAB has granted institution under similar circumstances. *See, e.g., Google v. Mullen*, IPR2025-00124, Paper No. 14 at 11, 41 (treating *Fintiv* factor 5 as neutral “[b]ecause of the involvement of a non-defendant” and granting institution); *see also, e.g., Charter Commc’ns, Inc. v. Adaptive Spectrum & Signal Alignment, Inc.*, IPR2025-00088, Paper No. 14 at 13 (PTAB Nov. 8, 2024) (reasoning that factor 5 weighed against discretionary denial where one of two petitioner parties was not a party to the parallel litigation).

The PTAB has relied on the absence of a petitioner from parallel litigation even where that petitioner had business relationships with named defendants in the parallel litigation. *See, e.g., Google v. Mullen*, IPR2025-00124, Paper No. 8 at 31–32 (PTAB Feb. 14, 2025); *Charter*, IPR2025-00088, Paper No. 11 at 9. That Snap is not a party to any of the parallel proceedings should be given more weight here where Snap has no substantial business relationship with Hisense or any of the other parties in the parallel proceedings.

Petitioners, in the interest of efficiency, joined efforts in part to reduce the number of IPR petitions filed at the PTAB, thus using the IPR process as Congress

intended—as an efficient alternative to courtroom litigation. *See* 157 Cong. Rec. S1352 (Mar. 8, 2011) (statement of Sen. Udall) (“*Inter partes* . . . proceedings are intended to serve as a less-expensive alternative to courtroom litigation and provide additional access to the expertise of the Patent Office on questions of patentability.”); S. Rep. No. 110-259 at 20 (2008) (stating that the purpose of the IPR procedure is to provide “a quick, inexpensive, and reliable alternative to district court litigation to resolve questions of patent validity”).

IV. GIVEN THE ISSUE DATE AND PRIOR LITIGATION, PO HAS NO SETTLED EXPECTATIONS.

Nokia argues that because the “’701 Patent issued on May 9, 2015 . . . [b]y the time the Board issues an Institution Decision . . . almost 11 years will have passed since issuance, giving rise to settled expectations.” DD Request at 16. Nokia further argues that “Snap has been aware of Patent Owner’s patents in the same video coding technology space since at least the filing of the -1380 ITC Investigation in 2023.” *Id.* at 17. These arguments are misguided. Not only was the ’701 Patent *not* asserted in the 1380 ITC Investigation, but Snap was not a party to that Investigation. Additionally, Snap and Nokia voluntarily entered into an agreement that imposed contractual obligations on both parties, including a limitation against filing IPRs relating to patents of the other party, between May 15, 2023 and May 15, 2025.

**V. IT IS FAR MORE EFFICIENT FOR THE BOARD TO RESOLVE
INVALIDITY OF THE '701 PATENT.**

In addition to the 1448 Inv., PO is presently asserting the '701 Patent in three different district court cases: (1) in N.D. Ga. against Hisense (Case No. 25-cv-01871), (2) in C.D. Cal. against ASUSTek (Case No. 25-cv-03053), and (3) in W.D. Tx. against Acer Inc. (Case No. 25-cv-00523). EX-1025. All cases are stayed pending resolution of the 1448 Inv., but, as noted, any ITC conclusion on invalidity will not be binding on *any* of these courts. It would be far more efficient for the Board to address the present invalidity challenge than for the patent to be litigated in three different district courts.²

² See *Harbor Freight v. Champion Power Equip.*, IPR2025-00805, Paper No. 20 at 2 (PTAB Sept. 19, 2025) (“Because the litigation between the parties would proceed to several district court trials in different jurisdictions, resolving the dispute between the parties at the Office would be more efficient.”); *Berkshire Hathaway v. Birthtech*, IPR2025-00274, Paper No. 23 at 2 (PTAB July 2, 2025) (referring IPRs to the Board for efficiency reasons where the patent owner had “sued a large number of parties in a multitude of districts.”).

VI. TO THE EXTENT *FINTIV* DOES APPLY, INSTITUTION IS STILL FAVORED.

A. Factor 1: The ITC Was Closed and the *Hisense* Case Was Stayed

PO's discussion of this factor only considers the 1448 Inv., which, as discussed, will at most produce a non-binding invalidity determination as to four claims. Moreover, the 1448 Inv. was stayed because the Commission "ceased regular operations" due to the government shutdown. EX-1027.

PO also ignores the *Hisense* district court case that was stayed on June 5, 2025, and will remain stayed until the 1448 Inv. becomes final. EX-1028. Accordingly, this factor weighs strongly against discretionary denial. *Snap, Inc. v. SRK Tech. LLC*, IPR2020-00820, Paper No. 15 at 9 (PTAB Oct. 21, 2020) (precedential in relevant part).

B. Factor 2: A FWD Would Precede Any District Court Trial

Given the ITC was closed due to the government shutdown, it is unclear when the 1448 Inv. will reach any determination as to invalidity and whether that will happen before a FWD would be reached in this case. Notably, in past ITC investigations impacted by a government shutdown of 35 days, ALJ McNamara extended schedules by *three to four months*. EXs. 1036, 1037. The government was closed for over 40 days. A joint unopposed motion was filed by the parties on November 21, 2025, which would extend the Target Date to November 13, 2026. *See* EX-1041. As of the date of this brief, ALJ McNamara has not entered this

proposed schedule, and it is possible she will extend the Target Date beyond the January 7, 2027 deadline for the FWD in this IPR.

As for the *Hisense* district court case, DocketNavigator reports the median time to trial in the Northern District of Georgia is 43 months. EX-1029. Given that timing, a FWD in this case would be reached well in advance of any district court trial. Additionally, there is no parallel proceeding involving Snap. This factor thus also strongly weighs against discretionary denial. *See, e.g., Amazon.com v. NL Giken*, IPR2025-00250, Paper No. 14 at 2 (PTAB May 16, 2025).

C. Factor 3: There Has Been No Investment in the District Court Proceeding, and Petitioner Was Diligent in Filing this IPR

There is no parallel proceeding involving Snap. The ITC closed before the claim construction hearing in the 1448 Inv. and nothing has happened in the *Hisense* district court case that was stayed before Hisense responded to the complaint. Further, Petitioners were diligent in filing this IPR fewer than four months after Nokia sued Hisense. Accordingly, this factor should weigh strongly against discretionary denial. *See Savant Techs LLC v. Feit Elec. Co.*, IPR2025-00260, Paper No. 16 at 3 (PTAB June 12, 2025) (declining to discretionarily deny petition where “[p]etitioners acted diligently in filing this Petition less than three months after Patent Owner asserted claims 11 and 12 in district court”); *All. Laundry Sys., LLC, v. Payrange LLC*, PGR2025-00027, Paper No. 11 at 2 (PTAB July 17, 2025)

(declining discretionary denial and noting that “relatively little investment in that proceeding” favors institution).

D. Factor 4: There Is Limited Overlap Between This IPR and the Parallel Proceedings

PO has already withdrawn 10 claims in the 1448 Inv., more than half of the originally asserted claims. EX-1023 at 2 (asserting claims 1, 3–4, 6–7, 8, 10–11, 13–14, 15, 17–18, 20); EX-1031 (dropping claims 4, 7, 11, 14, 15, 17, 18, and 20); EX-1032 (dropping claims 3 and 10). In contrast, the Petition challenges all 20 claims of the patent. In *Samsung Display v. Pictiva Displays*, the Board reasoned that the petitioner’s challenge to “additional . . . claims not at issue in the district court” weighed against discretionary denial. IPR2024-01222, Paper No. 12 at 8 (PTAB Mar. 6, 2025). Further, there is *not* complete overlap as Nokia argues because the 1448 Inv. only relates to claims 1, 6, 8, and 13, and this challenge provides a more complete record for adjudication, which will obviate the need for future challenges.

Nokia argues Hisense’s *Sotera* stipulation is ineffective because the ITC Staff could assert the references in the 1448 Inv. However, this is mere speculation. Nokia has provided no evidence that Staff has asserted those references or plans to bring them to trial. Nokia further claims that “Hisense has not agreed to forego the assertion of system art.” Again, Nokia provided no evidence that Hisense is relying on unpublished system art in the 1448 Inv. Strawman attorney argument is insufficient to support discretionary denial.

As to the *Hisense* district court case, the case was stayed before PO served infringement contentions so it is unclear which claims will be litigated. But given the stay, there is no overlap at this time. Further, Hisense has stipulated not to advance the same prior art from the IPR in either parallel proceeding. EX-1020.

Because there is minimal overlap between the IPR and either parallel proceeding, this factor also weighs strongly against discretionary denial.

E. Factor 5: Snap Is Not a Defendant in the Parallel Proceedings

That Petitioner Snap is not a party to any parallel proceeding weighs against discretionary denial. *See Azurity v. Helsinn*, IPR2025-00945, Paper No. 11 at 2 (referring petitions where “the parties [we]re not engaged in any parallel proceeding involving the challenged patents”). As to Hisense, as discussed, this IPR would reach a FWD well before any trial in the district court case. Where a final written decision (FWD) “is likely to issue before the district court trial,” the Board has “weigh[ed] this factor against exercising discretion.” *BMW of N. Am., LLC v. Mich. Motor Techs. LLC*, IPR2023-01234, Paper No. 11 at 14–15 (PTAB Jan. 26, 2024) (collecting cases).

F. Factor 6: Other Factors Favor Referral of this IPR to the Board

Other circumstances favoring referral of this IPR were discussed above. The Petition’s compelling merits and Examiner error warrant referral to the Board. Petitioner Snap is not a party to any parallel proceeding but nevertheless chose to

proactively challenge the '701 Patent rather than wait to be sued by PO. Additionally, it would be highly inefficient to deny institution, particularly based on an ITC investigation that at best will issue a non-binding decision on only 20% of the claims of the '701 Patent and leave it to at least three different district courts to address invalidity of the patent down the road.

VII. PETITIONERS APPROPRIATELY RELY ON EXPERT TESTIMONY THAT IS ENTITLED TO WEIGHT.

PO argues that Petitioners' reliance on expert testimony supports discretionary denial. PO argues two areas where Dr. Saber "fill[s] the gaps of the prior art"; that (1) he "equate[s] syntax elements with symbol values" and (2) he "equate[s] the distinction between LPS and MPS to a threshold frequency of occurrence in Yu." DD Request at 18. Yet this is simply attorney argument. The '701 Patent relates to video coding technology, which is a highly specialized technical field requiring expert testimony, and despite having retained several experts in the "video coding technology space" (DD Request at 17) for previous and on-going litigation, PO provides no evidence to demonstrate that Dr. Saber fills in a gap left in the prior art. *Cambridge Indus. USA, Inc. v. Applied Optoelectronics, Inc.*, IPR2025-00434, -436, -437, Paper No. 11 at 2 (PTAB June 26, 2025) ("Although Patent Owner argues that . . . Petitioner is over-reliant on expert testimony, Patent Owner does not identify any portions of the expert testimony that suggest Petitioner is using its expert to fill gaps in the prior art."). This is not surprising; as discussed,

the prior art directly reads on the claims of the '701 Patent. Petitioners' citations to Dr. Saber were appropriate given the complex technology discussed. Thus, this factor weighs against discretionary denial.

VIII. POLICY CONSIDERATIONS DO NOT SUPPORT DISCRETIONARY DENIAL.

As PO admits, the cited rule changes found in the October 17, 2025 PTO Notice of Proposed Rulemaking ("NPRM") are not currently in effect. DD Request at 19–20. Moreover, PO argues that policy considerations related to "fairness, cost, [and] efficiency" warrant denial. *Id.* at 20. However, Snap is not a party to any litigation with Nokia and thus it would be unfair to discretionarily deny institution here, where Snap cannot raise invalidity arguments in an ITC investigation it is not part of. Nor would it be efficient to force Snap to raise serial invalidity arguments if Nokia sues it, rather than decide invalidity now.

IX. CONCLUSION

On balance, the Director should deny PO's request for discretionary denial and institute trial in this proceeding.

Dated: November 26, 2025

/s/ Brian E. Ferguson
Brian E. Ferguson
Reg. No. 36,801
WINSTON & STRAWN LLP
1901 L Street, NW

U.S. Patent 9,036,701

IPR2025-01345

Washington, D.C. 20036

Tel.: 202-282-5276

beferguson@winston.com

CERTIFICATION OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24 and the Interim Process for PTAB Workload Management, the undersigned hereby certifies that the word count for the foregoing PETITIONER'S OPPOSITION TO PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL totals 20 pages. Accordingly, this Opposition meets the Boards limitation of 20 pages.

Dated: November 26, 2025

/s/ Brian E. Ferguson
Brian E. Ferguson

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing PETITIONERS' OPPOSITION TO PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL and Exhibits 1023–1041 were served via electronic mail upon the following counsel of record for PO:

Nicholas T. Tsui - Nick.tsui@alston.com

Christopher TL Douglas - christopher.douglas@alston.com

John Haynes - john.haynes@alston.com

Caleb J. Bean - caleb.bean@alston.com

Scott W. Hejny - shejny@McKoolSmith.com

Eric S. Hansen - ehansen@mckoolsmith.com

R. Mitch Verboncoeur - mverboncoeur@mckoolsmith.com

Nokia-Snap-IPR@mckoolsmith.com

Dated: November 26, 2025

/s/ Brian E. Ferguson
Brian E. Ferguson