IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

RADIAN MEMORY SYSTEMS, LLC,
Patent Owner.

_____

Case No. IPR2025-01350

U.S. Patent No. 11,740,801

_____

PETITIONER'S OPPOSITION TO PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION

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TABLE OF EXHIBITS

Exhibit	Description
1001-1019	*Previously presented.*
1020-1099	[Intentionally Omitted]
1100	May 15, 2025 Deposition Transcript of Mike Jadon
1101	Declaration of Junseok Park, *Radian Memory Systems LLC v. Samsung Electronics Co., Ltd. et al.*, 2-24-cv-01073 (E.D. Tex. May 20, 2025), Dkt. 46-20
1102	Motion for Preliminary Injunction, *Radian Memory Systems LLC v. Samsung Electronics Co., Ltd. et al.*, 2-24-cv-01073 (E.D. Tex. Apr. 19, 2025), Dkt. 39
1103	"NVMe Spec Ratification and New ZNS Milestones", Western Digital (Jun. 17, 2020), https://blog.westerndigital.com/nvme-spec-ratification-zns-ssd/
1104	Motion to Dismiss, *Radian Memory Systems LLC v. Samsung Electronics Co., Ltd. et al.*, 2-24-cv-01073 (E.D. Tex. Sep. 11, 2025), Dkt. 68
1105	Docket Control Order, *Radian Memory Systems LLC v. Samsung Electronics Co., Ltd. et al.*, 2-24-cv-01073 (E.D. Tex. Mar. 27, 2025), Dkt. 20
1106	Motion to Amend/Correct Docket Control Order, *Radian Memory Systems LLC v. Samsung Electronics Co., Ltd. et al.*, 2-24-cv-01073 (E.D. Tex. May 6, 2025), Dkt. 72
1107	United States District Courts National Caseload Profile (Jun. 30, 2025)
1108	George Quinlin, "*PTAB Average Time-To-Decision in IPRs May Surprise You*", JD Supra (July 28, 2015), https://www.jdsupra.com/legalnews/ptab-average-time-to-decision-in-iprs-71645/
1109	Judge Rodney Gilstrap List of Trials for August 31, 2026
1110	2022 Median and Average Time To Trial for Judge Rodney Gilstrap, E.D. Tex., Docket Navigator
1111	Table Showing Trial Delays for Cases Presided by Judge Rodney Gilstrap (E.D. Tex.)

Exhibit	Description
1112	U.S. Patent No. 9,652,376

I. INTRODUCTION

The Director should deny Patent Owner's ("PO") Request for Discretionary Denial (Paper 11) ("DD Br."). PO moved to dismiss its own lawsuit, *Radian Memory Systems LLC v. Samsung Electronics Co., Ltd.*, Case No. 2:24-cv-01073 (E.D. Tex.) (the "District Court Action"), where it asserted that Petitioner infringed U.S. Patent Nos. 11,307,995; 11,347,656; 22,347,657; 11,544,183; 11,681,614; 11,709,772; and 11,740,801 the (collectively, the "Asserted Patents"). At the same time, PO telegraphed it may file future lawsuits asserting the ***same Asserted Patents***.[1]

This IPR concerns one of the Asserted Patents: the '801 Patent. If the District Court Action is dismissed, there can be no basis for discretionary denial under the traditional *Fintiv* factors because the absence of parallel litigation eliminates any risk of inconsistent outcomes or duplicative efforts. Even if the District Court Action is not dismissed, each of the *Fintiv* factors weigh in favor of institution or is neutral.

Denial of PO's request is also appropriate because there are no settled expectations. The '801 Patent issued just 2 years ago. An early challenge is particularly important because Radian has (recently and wrongly) alleged that the '801 Patent covers NVMe's Zoned Namespaces ("ZNS") standard, and that a second standard called Flexible Data Placement ("FDP") "incorporated Radian's

[1] The motion to dismiss remains pending before the Court.

patented technology." DD Br. at 5. Guidance on validity is critical for the NVMe-dependent industry.

Radian's narrative of "unfair dealings" is also incorrect. None of the allegedly improper conduct relates to Samsung. The conduct that Radian attributes to NVMe was done by ***different companies***. And Radian's business surrounding the technology never got off the ground, independently of Radian's dealings with NVMe. Even the ZNS specification never harmed Radian, because it did not release until after Radian's business was already collapsing. Samsung has never acted unfairly towards Radian.

Finally, discretionary denial under § 325(d) is not warranted. The Petition includes grounds and references that were not before the Examiner. The sole reference that was identified during prosecution (EX1004, Sinclair) was buried within an IDS containing hundreds of references. It was never discussed by the Examiner, and the Examiner materially erred by overlooking relevant disclosures.

II. FACTUAL BACKGROUND

The '801 Patent was filed on January 5, 2022 and issued on August 29, 2023. The '801 Patent claims the benefit of a provisional application filed on January 28, 2013 through a long-chain of applications.

Between 2010 and 2019, Radian supposedly created "symphonic" cooperative flash-management technology, leading to product lines embodying this technology.

EX1100 at 48:15-49:16. In fact, the concept of "Cooperative Flash Management," DD Br. at 3, pre-dates Radian's patents and is disclosed by the prior art in the Petition, including Petitioner's own U.S. Pat. Pub. 2008/0189485A1 (EX1010) filed in 2007. EX1010, Abstract. Radian also claims to have evangelized its cooperative flash management technology and provided sample products to several companies. In fact, [redacted]. EX1100 at 102:19-103:3, 108:2-6.

In 2017, Microsoft supposedly encouraged the industry to adopt technology similar to Radian's. EX2005 ¶21. In response, the standard-setting body NVMe purportedly began to develop a technical specification. *Id.* In 2019, an NVMe representative purportedly asked Radian to join the organization. EX1100 at 96:23-97:12. Radian refused because it did not wish to comply with NVMe's rule that its members offer royalty-free licenses to one another. EX2005 ¶23. Radian's customer engagement [redacted] EX1100 at 105:21-22; *see also id.* at 139:2-141:6. Samsung had nothing to do with Radian's business failures. Radian's CEO has acknowledged that NVMe's alleged threats came from ***different companies***, not Samsung. *See id*. at 81:12-83:12.

Radian sought acquirers but [redacted]. *Id*. at 24:1-6, 27:3-10. Only later, in June 2020, did NVMe release ZNS. *Id.* at 65:12-17. By the end of October 2020, Radian had [redacted], *see id.* at 24:22-24, and [redacted]

[redacted] *id.* at 22:13-14. Radian obtained the '801 Patent over one year after that. *See id.* at 105:20-22, 139:2-141:6 ([redacted]).

Consistent with this timeline, ZNS is not based on Radian's patents, whose specifications do not mention "zones." *Cf.* EX1100 125:13-15 ([redacted]). ZNS is based on preexisting technologies, including work on shingled magnetic recording in 2010-2011 and Small Computer System Interface's (SCSI) Zoned Block Commands in 2013-2014. Radian added the term "zone" to its Asserted Patents only after NVMe ratified and published the ZNS specification in June of 2020. EX1103. ZNS proved to be a commercial failure in any event. Samsung itself made few sales and discontinued its ZNS-compliant SSDs after finding little interest from customers. *See* EX1101 ¶¶5-12.

Nevertheless, Radian sued Samsung, alleging past and ongoing infringement and moving for a preliminary injunction. Radian ultimately withdrew its preliminary-injunction motion just days before the hearing, based on deposition testimony that merely confirmed that ZNS had never been successful and that both Samsung and the market were moving on. EX2010. After two months of further litigation, Radian attempted to unwind the controversy it had started and moved to dismiss the entire case without prejudice. EX2011.

In refusing to dismiss with prejudice, Radian keeps its options open for future litigation against Samsung with the same patents. Notably, Radian has indicated that a different NVMe specification, FDP, may lead Radian to file a substantially similar suit. *See* EX1102 at 4 n.2; EX2005 ¶21.

III. DISCRETIONARY DENIAL IS UNWARRANTED

PO moved to dismiss the District Court Action ***without prejudice***. If dismissed, there will be no basis for discretionary denial whatsoever. And if *not* dismissed, then *Fintiv* factors will still favor referral.

A. Dismissal Without Prejudice Supports Institution

PO urges the Director to deny institution if the District Court Action is dismissed. DD Br. at 8-9. But PO specifically intends to preserve its ability to sue Samsung in the future when, in PO's view, it is a better time to do so. The parties' dispute still exists. This IPR is thus an efficient use of the Board's resources.

Specifically, even as PO seeks to dismiss its lawsuit accusing Petitioner of infringing through the ZNS standard, *see* EX1102 at 4 n.2, PO forecasts a different theory of infringement based on an entirely different specification: FDP. *See* DD Br. at 5. And if PO waits to reassert the '801 Patent, that would unfairly deprive Petitioner of its IPR rights due to the one-year bar.

The Director's decision in *ARM Ltd. v. Daedalus Prime LLC*, IPR2025-00207, Paper 14 (Director Aug. 6, 2025), is informative. The dismissal of the parallel

litigation caused "*inter partes* review [to be] an appropriate use of Board resources," not an inefficient use of Board resources, because the petitioner still had an interest in invalidating the challenged patent. *Id.* at 2. So, too, does Petitioner here when PO wants to preserve its ability to sue and a dispute still exists. PO's argument also conflicts with the Director's guidance regarding early patent challenges. *Resmed Corp. v. Cleveland Medical Devices, Inc.*, IPR2025-00246, Paper 10 at 2. With issuance just over two years ago on August 29, 2023, an early challenge to the '801 Patent will be lost if the Petition is discretionarily denied. *Intas Pharms. LTD v. Atossa Therapeutics, Inc.*, IPR2025-00799, Paper 12 at 2-3; *CSPC Megalith Biopharmaceutical Co. v. Shanghai Miracogen Inc.*, IPR2025-00685, Paper 9 at 2. The Director should deny PO's argument because it would undermine the Director's goal of promoting "early challenges."

PO misplaces reliance on *Google LLC v. Mullen Industries LLC*, IPR2025-00227, Paper 13 and *SportRadar AG v. Sportscastr Inc.*, IPR2025-00313, Paper 19. DD Br. at 9. The petitions in *Google* and *SportRadar* were denied for numerous reasons beyond a simple lack of ongoing district litigation. IPR2025-00227, Paper 13 at 4; IPR2025-00313, Paper 19 at 2. The '801 Patent, here, issued in 2023 and was not the subject of any earlier proceeding. Moreover, final written decisions are likely to issue before trial occurs, *see infra* § III.B.2, and according to PO, "[t]his case is in its ***infancy***." EX1104 at 6; *see also infra* § III.B.3. Moreover, *Google* and

SportRadar did discuss the likelihood of follow-up suits over the same patents, a consideration that is highly relevant here. *See* EX1102 at 4 n.2; EX2005 ¶21.

B. No Dismissal Supports Institution Under *Fintiv*

If the case is not dismissed, the Director should still refer the Petition to the Board because *Fintiv* Factors 2, 3, 4, and 6 collectively weigh heavily against denying institution; and *Fintiv* Factors 1 and 5 are, at worst, neutral.

1. Factor 1: The District Court Is Likely To Grant A Stay If The IPR Is Instituted

PO speculates about whether the district court will grant a stay, but the far more reasonable prediction would be that a stay would be granted. Petitioner intends to move to stay after institution, which is likely to be granted for a case in its early stages even after the institution decision. *See, e.g., Dynamic, LLC v. Samsung Elecs. Co.*, No 2:24-cv-00140-JRG-RSP, Dkt. No. 81, at 1 (E.D. Tex. May 19, 2025); *see also* EX1105 at 3-4; *infra* § III.B.2. Further, PO also (1) withdrew a motion for preliminary injunction, (2) has moved to dismiss the case, (3) has pursued only limited discovery, and (4) has sought to extend existing claims construction deadlines. EX1104; EX1106; EX2010; *see also Uniloc USA, Inc. v. Avaya Inc.*, 2017 WL 2882725 (E.D. Tex. Apr. 19, 2017) (discussing stay factors).

2. Factor 2: The Board Is Likely To Issue A Final Written Decision *Before* The District Court Trial

Factor 2 weighs against discretionary denial. Although the district court has scheduled a trial for August 31, 2026, (EX1105) such a date is unlikely to hold

because it is not consistent with median time-to-trial statistics for the Eastern District of Texas or for Judge Gilstrap. The most recent (and therefore most relevant) median time-to-trial for the district court is 25.1 months. E1107. Here, Radian filed its Complaint on December 24, 2024 (Ex. 2009), so the projected start of trial will be February 2, 2027 (i.e., the Monday after 25.1 months). That means trial will begin at approximately the ***same*** time as the Board's statutory FWD deadline for the '801 Patent (February 5). *See Intel Corp. v. Adv. Cluster Sys., Inc.*, IPR2025-00913, Paper 13 at 2; *Geotab Inc. v. Fractus S.A.*, IPR2025-01026, Paper 14 at 2-3.

PO spurns the U.S. Courts' time-to-trial statistics and relies on third-party statistics from Docket Navigator. DD Br. at 10-11 (citing EX2018). But using the same Docket Navigator statistics as PO, the median time-to-trial for patent cases before Judge Gilstrap filed after January 1, 2022 is about 24 months—notably higher than the 20 months that PO asserts. *Compare* EX2018 *with* EX1110. Moreover, when considering the Judge Gilstrap's recent time-to-trial statistics, trial in this case will be begin on February 8, 2027, after the FWD deadline. Thus, it is likely that the FWD in this IPR proceeding issues before trial begins. And even if the Director uses the 20-month (four month difference between trial and FWD) time-to-trial statistics that PO wrongly proposes, the timing of trial and the FWD would be consistent with *Zhuhai Cosmx Battery Co. v. Ningde Aperex Tech. Ltd.*, where the Director referred the IPR petitions to the Board even though trial will precede the FWD because the

challenged "patents have not been in force for a significant period of time (issued in 2024, 2023, and 2021)." IPR2025-00385, Paper 9 at 2-3.

3. Factor 3: Limited Investment In The District Court Litigation Has Occurred

Factor 3 weighs against discretionary denial. Just a day before filing its discretionary denial brief, PO argued to the district court that "[t]his case is in its ***infancy***." EX1104 at 6. And for good reason: little investment has occurred to date, and the underlying litigation has yet to produce any orders regarding the '801 Patent. Indeed, the Court will not issue any such orders until after the institution decision.

PO argues that the parties "will be engaged in the Markman process and fact discovery would be closing in … two months" by the "last institution decision on February 12, 2026." DD Br. at 11-12. But the claim construction hearing is currently scheduled for February 26, 2026 (*i.e.*, ***after*** the Board has issued all seven institution decisions). Moreover, PO has pursued only limited discovery to date, and fact discovery is set to close *after* all the Board issues institution decisions. EX1106. And if these IPRs are instituted, PO will not need to address any prior art basis that falls within the scope of Petitioner's broad stipulation. Thus, the limited investment in the District Court Action weighs against discretionary denial.

Relying on *Samsung Elecs. Co. v. Keyless Licensing LLC*, IPR2025-00527, Paper 12, 2 (Director Jul. 17, 2025), PO argues that the "case schedule is similar to those found … to [] 'strongly' favor denial under factor 3. But the case schedule here

is not similar to *Keyless Licensing*. There, the close of fact discovery was only one month after the institution decision. In this case, the close of fact discovery (on April 13, 2026) is two months after the institution decision (on February 5, 2026). Moreover, the parties in *Keyless Licensing* would have already completed claim construction briefing prior to the institution decision (*Keyless Licensing*, IPR2025-00527, Paper 8 at 5), but here the deadline for completing responsive and reply claim construction briefing (on January 29 and February 5, 2026) is the same as the statutory deadline for the institution decision (EX1105 at 3-4).

4. Factor 4: Petitioner's Stipulation Eliminates Overlap

Petitioner's broad stipulation outweighs every other *Fintiv* factor. Petitioner broadly stipulated that, if the Petition is instituted, Petitioner will not assert invalidity grounds in the underlying District Court Action including grounds that "could have reasonably been raised" in this IPR; any system art "based on the same evidence" in this IPR; and combinations of system art with prior art asserted in this IPR. EX1100. Not only does this stipulation include the standard *Sotera* stipulation, but it also addresses duplication between product art and IPR art. Thus, this "broad stipulation … reduces the concern of inconsistent outcomes or significant duplication of efforts." *Samsung Electronics Co., Ltd. v. Wilus Institute of Standards And Technology Inc.*, IPR2025-00933, Paper 11, at 3. This stipulation is also commensurate with the stipulation that would be required by the Director's proposed

rule changes to 37 C.F.R. § 42.108.

5. Factor 5: The Parties Are The Same

Petitioner is the defendant in District Court Action, so Factor 5 is, at worst, neutral.

6. Factor 6: Other Factors Strongly Favor Institution

Petitioner's "strong showing on the merits" weighs against denial. *Apple v. Seven Networks*, IPR2020-00156, Paper 10, 9, 9 n.8 (June 15, 2020). The Petition presented multiple primary grounds that render the challenged claims unpatentable And as discussed below, the prior art asserted in the Petition discloses the alleged distinction provided by the Applicant during prosecution. *See* § III.C.

PO also claims that IPR would provide Petitioner with a "second bite at the apple" because Petitioner has asserted invalidity counterclaims. DD Br. at 13. But Petitioner has broadly stipulated that it will not raise prior art grounds in the district court that could have been raised in these proceedings, and Petitioner has gone further to include other grounds as well. *See* § III.B.4. Moreover, Petitioner cannot even raise certain invalidity defenses, such as § 112 defenses, through IPR proceedings. Accordingly, there is no risk that Petitioner will duplicate arguments here that would or could have been raised in the district court.

Finally, PO claims that Factor 6 favors denial because of "Samsung's failure to challenge the Patents despite its long-standing knowledge and unfair dealings

should be reason alone to deny institution." DD Br. at 12. These arguments lack merit for the reason discussed in the sections that follow.

C. Material Error In Prosecution History Weighs Against Denial

The Examiner made a material error in the prosecution of the '801 Patent. And correcting this error is an appropriate use of Office resources. *E.g.*, *Xencor, Inc. v. Merus N.V.*, IPR2025-00604, Paper 12 at 2-3 (Director Jul. 17, 2025); *Anthony Inc. v. ControlTec, LLC*, IPR2025-00559, Paper 12 at 2 (Director July 16, 2025).

In the only office action, the Examiner rejected all claims based on U.S. Patent Publication No. 2004/0083335 ("Gonzalez") in view of U.S. Patent Publication No. 2011/0161560 ("Hutchinson"). To overcome this rejection, Applicant argued that the claims relate to a system in which "a memory controller identifies maintenance conditions" and then "permits a host to initial physical erasure operations." EX1002, 79; *see also id*., 80. Applicant wrongly alleged: "Gonzalez is effectively saying that one should not use a memory controller and/or should do *everything* at the host." *Id*. at 82. The Examiner thereafter allowed the claims without providing a reason for allowance. *Id*., 25. The Examiner materially erred in allowing the claims.

First, because the Applicant submitted hundreds of references with its IDS, the Examiner, not surprisingly, erred by failing to consider relevant prior art references and teachings buried within the IDS disclosures. For example, the Sinclair reference (EX1004) that is asserted in the Petition was included in the IDS, but not

otherwise discussed or applied during prosecution. *Ecto World, LLC v. RAI Strategic Holdings, Inc.*, IPR2024-01280, Paper 13, 5 (May 19, 2025). Sinclair discloses the ability for a host to initiate physical operations based on maintenance conditions identified by the memory controller. For instance, Sinclair teaches that a memory controller maintains a list of pink (partially full) and white (empty) blocks (Pet. at 22) and that when the memory controller detects that the "amount of valid data" in a pink block is below a "threshold" (condition) it signals to the host that a host-initiated flush operation (maintenance) should be performed to transform pink blocks into white blocks (Pet. at 25-28). Thus, Sinclair discloses what the Applicant argued distinguished the claims from the Gonzalez reference that was applied in prosecution. The Examiner erred by overlooking these teachings in Sinclair.

Second, the Examiner also erred because the prior art is replete with references that disclose Applicant's alleged point of novelty. Pet. at 30-31 (describing references that disclose "cooperative memory management"). For instance, Petitioner combines Sinclair with Yamada. Pet. at 9. Yamada discloses cooperate memory management in which a "maintenance request unit" within a memory controller can detect the need for maintenance and a "maintenance determination unit" within an "access module" of the host can then issue maintenance requests in response to detecting the condition. Pet. at 28-30; EX1005, ¶99, Fig. 2. Thus, by overlooking repeated disclosures across the prior art, the Examiner materially erred

by granting claims based on the faulty premise that the prior art teaches "do *everything* at the host." The Board should correct this error. *Xencor*, Paper 12 at 2-3; *Anthony*, Paper 12 at 2.

D. Settled Expectations Further Weigh Against Denial

1. This IPR Constitutes An Early Challenge

The '801 Patent lacks settled expectations. The '801 Patent issued on August 29, 2023. EX1001. This IPR thus constitutes an early challenge to the '801 Patent, which the Director has repeatedly held "weigh[s] against discretionary denial." *Resmed Corp.*, Paper 10 at 2; *Cambridge Industries USA, Inc. v. Applied Optoelectronics, Inc.*, IPR2025-00433, Paper 11 at 2 (Director June 27, 2025).

Citing *Amgen Inc. v. Bristol-Myers Squibb Co.*, IPR2025-00603, Paper 8 (July 24, 2025), Radian argues that the '801 Patent has settled expectations because Radian purportedly invested "tens of millions of dollars" between "2010-2015" developing "Symphonic Cooperative Flash Management." Pet. at 16-17; EX2005, ¶ 12. But the Director in *Amgen* ***rejected*** discretionary denial where the PO argued that it had "invested billions of dollars" and developed "groundbreaking methods of treatment for cancer." *Amgen*, Paper 6, at 3-5, 12. It then held that there were no settled expectations because the patent "has not been in force for a significant amount of time (issued in 2022)." *Amgen*, Paper 8, at 2. Here, the '801 Patent issued after the patent in *Amgen*, and is not groundbreaking or the product of billions of

dollars of investment. There are no settled expectations.

2. Radian Improperly Relies On Non-Asserted Claims

Unable to show settled expectations in the ’801 Patent, PO points to “related” patents and applications cited during “prosecutions of Samsung’s own patents.” DD Br. at 14-15. But PO has not articulated how these different patents and applications create settled expectations for the ’801 Patent, especially given that these “related” patents and applications were filed prior to the existence of the ’801 Patent and have different claims than the ’801 Patent. For instance, PO refers to U.S. Patent No. 9,652,376 as purportedly creating settled expectations for the ’801 Patent. DD Br. at 14 (citing Ex. 2009). But the claims of the two patents are very different. *Compare* Ex. 1001 *with* EX1112. And PO does not show that Samsung cited the ’801 patent during prosecution of its patents.

Radian’s reliance on *iRhythm Techs., Inc. v. Welch Allyn, Inc.*, IPR2025-00363, Paper 10, 3 (June 6, 2025), and *NVIDIA Corp. v. Neural AI, LLC*, IPR2025-00608, Paper 18, 2-3 (July 31, 2025), is also misplaced. In *iRhythm*, the at-issue asserted patent was cited in the prosecution of one of Petitioner’s patents. Similarly, in *NVIDIA Corp.*, the PO sent a presentation to Petitioner that listed the asserted patents. Here, the ’801 Patent was not cited in the prosecution of Samsung patents.

Radian also alleges Samsung’s knowledge of the ’801 Patent through “discussions about Radian’s technology [in] 2015” and “pre-suit awareness that ‘PO

was involved in the same technology space.'" DD Br. at 15-16 (citing *Murata Mfg. v. Georgia Tech. Research Corp.*, IPR2025-00383, Paper 14, 2-3 (Director Jul. 29, 2025)). But Radian did not even file the application that issued as the '801 Patent until years after any alleged discussions or pre-suit awareness. And *Murata* does not support Radian. The '801 Patent was filed ***after*** the 2015 discussions, and has a claimed invention different than the parent applications. The '801 Patent was not cited in Samsung prosecution histories, and the "related" Radian patents have different claim scope.

E. Radian's Accusations Of "Unfair Dealings" Are Factually Baseless

Radian incorrectly asserts that supposed "unfair dealings" by Samsung favor discretionary denial. Even if Radian's factual premises were true, the most they could reveal is untoward conduct by certain members of NVMe ***other than Samsung***. While Radian blames NVMe and "certain members" (DD Br. at 17-18) for supposedly ruining its business, Radian conspicuously does not say that Samsung was one of those "certain members." Likewise, Radian does not say that Samsung somehow caused the alleged pressure campaign and alleged threats against Radian's business. *See* EX1100 at 81:12-83:12; 125:13-15. Samsung has always acted fairly and above board, and Radian is improperly accusing Samsung of guilt by association. This cannot be grounds for denial.

Further, Radian's factual narrative contains multiple erroneous assertions.

First, Radian asserts that its business failed because of NVMe (not Samsung). But Radian's business was [redacted] even before NVMe ever released the ZNS specification, EX1100 at 65:12-17, 105:21-22, 139:2-141:6, and Radian never even [redacted], EX1100 at 102:19-103:3, 108:2-6. Radian simply asserts that its business failed because of NVMe, but its business was already in a downward spiral. Second, Radian contends that, because it could not see any working drafts, it could not assess "the standards for patent infringement until it was too late." DD Br. at 18. But this is illogical. Radian's patents were not granted until ***after*** the standards were released.

Finally, Radian claims that the United States supported its motion for a preliminary injunction and endorsed its theory of unfair dealings. Neither is true. The United States ***rejected*** Radian's principal argument and used the opportunity presented by a Radian's motion to set forth its own views about the appropriate legal standards for equitable relief. The United States also did not support Radian's theory of unfair dealings vis-à-vis Samsung. It merely noted that standard-setting organizations have a "serious potential for anticompetitive harm." EX2014 at 1.

Radian's citation to *Tessell, Inc. v. Nutanix, Inc.*, IPR2025-00322, Paper 14, 2-3 (June 12, 2025) is inapposite. In *Tessell*, the founders of petitioner were inventors on the challenged patent. *Id*. at 2. The Director thus concluded that "[i]t is not an appropriate use of Office resources where the inventors applied for and were

issued a patent, but, as is the case here, now advocate for its unpatentability." *Id*. at 2. Here, Samsung and its employees are not inventors on the '801 Patent.

F. § 325(d) Does Not Warrant Discretionary Denial

PO briefly argues that § 325(d) favors denial. DD Br. at 20. Not so. *Advanced Bionics* provides a two-part framework for evaluating whether denial under § 325(d) is warranted: (1) whether the same or substantially the same prior art or argument previously was presented to the Office; and (2) if the first part is satisfied, whether the petitioner has demonstrated that the Office erred in a manner material to the patentability of challenged claims. *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH,* IPR2019-01469, Paper 6, at 8 (PTAB Feb. 13, 2020). The factors set forth in the Board's *Becton* decision provide useful insight into how to apply the framework. *Becton, Dickinson & Co. v. B. Braun Melsungen AG*, IPR2017-01586, Paper 8 (PTAB Dec. 15, 2017).

Part 1. The first part of the *Advanced Bionics* framework does not favor discretionary denial. While PO claims that Samsung has "recycled references" (plural), PO alleges only a single reference (EX1004, "Sinclair") was before the Examiner. DD Br. at 20. Sinclair was never relied upon or cited in any rejection, and was identified in an IDS that listed 216 references. EX1002, 147-167. PO does not allege any other reference in the Petition was before the Examiner, and cannot dispute that the Petition advances grounds ***that do not rely upon Sinclair whatsoever***.

Pet. at 9 (Ground II, Terasaki and Yamada).

Moreover, the Petition does not rely upon Sinclair alone. Rather, the Petition grounds are based on the combination of Sinclair and Yamada. *See* Pet. at 9. Petitioner shows that Yamada renders obvious cooperative host management, whereby the host can perform maintenance operations based on information exchanged with the flash memory. *See* Pet. at 29-33 ("in the combined Sinclair-Yamada system, it would be obvious for a POSITA to combine these techniques, *e.g.*, allowing the host to send a maintenance command to which the controller responds with the number of valid blocks moved by the maintenance command"), 36-37. There is no dispute that Yamada was not before the Examiner and that the Petition does not rely upon any ground that was before the Examiner. Thus, the same or substantially the same prior art or argument was not presented to the Office.

Part 2. Because the first part of the *Advanced Bionics* framework is not satisfied, the Director need not advance to the second part of the analysis. Nevertheless, Petitioner has shown that the Examiner materially erred in a manner material to the patentability of challenged claims. *See* § III.C. This provides yet another independent basis for denying PO's § 325(d) argument.

Further, the Director has explained that "even if a petitioner fails to make a persuasive argument that the Examiner erred by overlooking particular teachings in the prior art provided on an IDS, a petitioner may be able to demonstrate that

discretionary denial is inappropriate under Becton Dickinson factor (f)" based on "the volume of references submitted to the Office during examination and any applicant information or assistance regarding the relevance of the references." *Ecto World,* Paper 13, 6. In this case, the Applicant submitted an IDS with hundreds of references and thousands of thousands of pages. This is many time more than the typical number of references in an IDS. *Id*. ("Most IDS submissions contain fewer than 25 references") (citing Setting and Adjusting Patent Fees During Fiscal Year 2025, 89 FR 91898 at 91924 (Nov. 20, 2024)). Applicant did not provide any assistance or explanation as to the relevance of each reference, such that it is unsurprising that the Examiner overlooked material teachings in Sinclair and other prior art references. Discretionary denial under § 325(d) is not warranted.

PO's reliance on *Ecto World* is inapposite. In *Ecto World*, the "Petition relie[d] exclusively on prior art references that were submitted to the Office in an information disclosure statement" (*id*. at 2) and did not make any showing that the Examiner erred (*id*. at 5). In contrast, here Petitioner relies upon grounds and prior art that were not before the Examiner and Petitioner has also shown that the Examiner erred in not applying Sinclair.

DATED: November 5, 2025

Respectfully submitted,

By */s/ James Glass*

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CERTIFICATE OF SERVICE

In accordance with 37 C.F.R. §§ 42.6(e) and 42.105, I hereby certify that true and correct copies of Petitioner's Opposition to PO's Request for Discretionary Denial of Institution and Exhibits were served on November 5, 2025 to the following people via electronic mail at Radian_IPRs@lowensteinweatherwax.com.

Parham Hendifar

Kenneth J. Weatherwax

Xu Zhou

DATED: November 5, 2025 Respectfully submitted,

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