

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

REGIONS BANK
Petitioner,

v.

UNITED SERVICES AUTOMOBILE ASSOCIATION
Patent Owner.

Case No. IPR2025-01356
U.S. Patent No. 12,211,095

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

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I. INTRODUCTION

Discretionary denial is not appropriate. The challenged claims of U.S. Patent No. 12,211,095 (“’095 patent”) recite the same subject matter that the Board previously held unpatentable in multiple other IPRs, including for two patents in the same family. The examiner materially erred by failing to address that invalidating art—which was buried among 1500 other cited documents—and the decision to allow the challenged claims cannot be reconciled with the Board’s final written decisions, which the examiner also failed to address. Patent Owner has no settled expectations for the ’095 patent, which issued within the last year and only after the final written decisions holding Patent Owner’s related patents unpatentable. There is no inefficiency with the parallel district court litigation in view of Petitioner’s *Sotera* stipulation and the possibility of a stay following institution given the early stage of those proceedings.

As the Office has previously held, the strong interest in consistency outweighs the other factors. Petitioner respectfully requests that the Director decline to discretionarily deny institution.

II. THE PETITION SHOULD BE INSTITUTED TO CORRECT THE OFFICE’S MATERIAL ERROR.

Patent Owner correctly notes that “the same or substantially the same prior art was presented to the Office during prosecution.” Paper 9 at 13. But that is only

half of the inquiry under § 325(d) and *Advanced Bionics*, and Patent Owner omits that the Office held Patent Owner's claims reciting the same subject matter unpatentable when it addressed that art in prior IPRs. The examiner materially erred by failing to engage with that art or the final written decisions during prosecution and, as a result, reached the opposite conclusion on patentability from the Board. The Petition should be instituted to correct that material error.

A. The Board Held Patent Owner's Related Patents Claiming the Same Subject Matter Unpatentable Over the Same Art Presented in the Petition.

The Board has already extensively considered the prior art underlying the Petition through five different IPRs and held the claims of Patent Owner's patents unpatentable each time. The Federal Circuit subsequently confirmed the invalidity of all challenged claims of Patent Owner's patents over that art. *See United Servs. Auto. Ass'n v. PNC Bank N.A.*, Nos. 23-2124, -2125, 2025 WL 370141 (Fed. Cir. Feb. 3, 2025) (affirming IPR2021-01073 and IPR2021-01070); *United Servs. Auto. Ass'n v. PNC Bank N.A.*, No. 23-1920, 2025 WL 341868 (Fed. Cir. Jan. 30, 2025) (affirming IPR2021-01077); *United Servs. Auto. Ass'n v. PNC Bank N.A.*, Nos. 23-2171, -2172, 2025 WL 339662 (Fed. Cir. Jan. 30, 2025) (affirming in part IPR2022-00076 and reversing not unpatentable finding for dependent claims); *United Servs. Auto. Ass'n v. PNC Bank N.A.*, No. 23-2244, 2025 WL 706080 (Fed. Cir. Mar. 5, 2025) (affirming IPR2022-00075).

Those prior decisions overlap significantly with the grounds presented in the Petition. As the table below shows, those IPRs—which included IPRs of U.S. Patent Nos. 8,977,571 (“’571 patent”) and 8,699,779 (“’779 patent”) in the same family as the ’095 patent—addressed the Garcia, Luo, Yoon, and Randle references as the Petition and the Byrne reference that Patent Owner alleges is similar to Meier and Goyal references from the Petition (Paper 9 at 1-2, 14-16):

IPR (Patent)	Overlapping/Similar Prior Art
IPR2021-01073 (U.S. 8,977,571)	Chinese Patent Application Publication No. CN 1897644A (“Luo”) U.S. Patent Application Publication No. 2007/0262148 (“Yoon”)
IPR2021-01070 (U.S. 8,699,779)	Luo
IPR2021-01077 (U.S. 10,621,559)	International Patent Application Publication No. WO 2005/043857 (“Garcia”) U.S. Patent Publication No. 2006/0106717 (“Randle”) U.S. Patent Publication No. 2006/0249567 (“Byrne”)
IPR2022-00076 (U.S. 10,769,598)	Garcia Byrne
IPR2022-00075 (U.S. 9,224,136)	Garcia

The challenged claims in those prior IPRs also recited many of the same elements as the claims of the ’095 patent:

Patent (Claim)	Limitation	'095 Limitation
8,977,571 (Claim 1)	monitor an image of the check in a field of view of a camera of a mobile device with respect to a monitoring criterion ...	1[g] monitoring the live video of the check in the field of view of the camera with respect to at least one monitoring criterion ;
8,977,571 (Claim 1)	capture the image of the check with the camera when the image of the check passes the monitoring criterion	1[h] determining that a video frame of the live video of the check satisfies the at least one monitoring criterion and then automatically capturing the video frame;
8,699,779 (Claim 1)	project an alignment guide in the display of the mobile device, the display of the mobile device displaying a field of view of the camera;	1[f] overlaying an alignment guide on the live video of the check in the field of view of the camera;
8,977,571 (Claim 9)	transmit the image of the check from the mobile device to a deposit system configured to clear the check and deposit funds of the check into a deposit account of the user.	1[j] using a wireless network, transmitting a digital image of the check from the user's mobile device and submitting the check for mobile check deposit in the bank ...
10,769,598 (Claim 1)	providing a remote deposit application for download to a customer device, wherein the remote deposit application comprises computer-executable instructions that, when executed by a processor, provide a user-interface and control a camera associated with the customer device to facilitate capturing at	1[b] a software abstraction layer for controlling the camera , the software abstraction layer comprising Instructions that, when executed by the processor, control the camera; and 1[c] a downloaded app , the downloaded app associated with a bank to control check deposit by controlling the camera

	least one electronic image of a check;	through the software abstraction layer ...:
9,224,136 (Claim 1)	apply optical character recognition to the digital image; determine an amount for the remote deposit of the check based on the optical character recognition applied to the digital image; ... optically read a magnetic ink character recognition (MICR) line depicted in the digital image;	1[k]... optical character recognition is performed on the check in the digital image, a magnetic ink character recognition (MICR) line on the check in the digital image is recognized , and an amount payable on the check in the digital image is validated; 1[n] processing the digital image of the check including performing optical character recognition on the check in the digital image and verifying that the digital image of the check is acceptable for mobile check deposit...

The Board also made numerous findings concerning the disclosure of the prior art that bear directly on the patentability of the '095 patent, including that Garcia discloses capturing check images and submitting check images from a mobile phone and processing those check images for deposit. EX1041-559-FWD, 43-44, 48-51; EX1010-598-FWD, 44, 48-52; EX1047-136-FWD, 28-30. The Board also found that it would have been obvious to add automatically capturing check images to mobile check deposit systems, including based on the Luo/Yoon references relied on here. *See* EX1009-571-FWD, 23-72, 73-74; EX1060-PNC2, *3-*7 (Federal Circuit affirming the Board's obviousness findings).

The Garcia, Luo, Yoon, and Randle references and the PTAB and Federal Circuit decisions addressing them are therefore indisputably relevant to the '095 patent claims. And Patent Owner concedes that the additional references underlying the Petition (Meier and Goyal) are similar to Byrne, which the Board already held renders the use of a downloaded application for mobile check deposit obvious. EX1010-598-FWD, 20-31, 69. The Petition relies on Meier and Goyal for the same teaching. *See, e.g.*, Pet., 26-27. There is therefore a high degree of overlap between the prior IPRs that invalidated Patent Owner's related patents and the issues presented in the Petition here.

B. The Office Materially Erred by Failing to Address the Invalidating Art from the Prior IPRs.

Despite the clear relevance of the invalidating art from the IPRs invalidating Patent Owner's related patents, that material received no attention during prosecution of the '095 patent. Patent Owner filed the application that issued as the '095 patent on March 1, 2024—over ten months after the Board's final written decisions holding all challenged claims of the related '571 and '779 patents unpatentable. The application, which was filed with no priority claim, was subject to a single rejection over the already-invalidated '571 patent. EX1033-FH095, 84-93. After adding a priority claim to the '571 patent (*id.*, 96-98), Patent Owner provided portions of the IPR records spread across 13 IDSs among more than 1500

documents. *Id.*, 103-225, 234-324. None of the expert declarations or Replies to the Patent Owner's Response from those prior IPRs were ever cited or considered during prosecution of the '095 patent.

Having buried the invalidating art among 1500 other documents, Patent Owner avoided the examiner ever addressing those references and the Board's prior IPR decisions applying them. The examiner instead allowed the claims citing other art in the Reasons for Allowance. *Id.*, 555-56.

The Office materially erred by failing to address the invalidating art from the prior IPRs, as well as the Board's prior analysis of those references. As discussed above, the '095 patent overlaps significantly with the claims invalidated in those prior proceedings. While the examiner was aware of the '571 patent in the first rejection, there is no indication the examiner appreciated the prior invalidity finding. Moreover, the examiner overlooked the most relevant evidence and art by citing *other* references in the Reasons for Allowance. *Id.*, 555-56. As Patent Owner has recognized, this limited nature of original examination supports a finding of material error. *United Servs. Auto. Ass'n v. Auto Telematics Ltd.*, IPR2025-00812, Paper 11 at 9 (Oct. 28, 2025) (Patent Owner arguing examination based solely on one Office Action and a single reference different from those relied on by the Board to invalidate similar patents "calls the examination quality into question, reinforcing that discretionary denial is not appropriate."). Importantly,

neither the examiner nor Patent Owner identified any patentable distinctions over the '571 patent or Patent Owner's other invalidated patents. Nor could they—the Petition showed any differences would have been obvious. The Office's consideration of the invalidating references from those prior IPRs and the Board's prior decisions applying those references was wholly inadequate.

The conflict between the Board's prior IPR decisions and the examiner's allowance of the challenged claims here demonstrates material error that makes discretionary denial inappropriate. *See e.g., Padagis US LLC v. Neurelis, Inc.*, IPR2025-00464, -00465, -00466, Paper 12 (P.T.A.B. July 16, 2025) (declining discretionary denial where “proceedings raise similar issues to those previously adjudicated in” prior IPRs); *ClearCorrect Operating, LLC v. Align Tech., Inc.*, IPR2025-00814, -00815, -00816, -00817, -00818, -00819, -00820, -00821, Paper 14 at 2 (P.T.A.B. Aug. 29, 2025) (finding material error where “the Office erred by allowing the claims after the Board determined that substantially similar claims are unpatentable”); *Western Digit. Techs., Inc. v. Godo Kaisha IP Bridge 1*, IPR2025-00701, Paper 9 at 2 (Aug. 14, 2025) (finding that “the Office erred in a manner material to the patentability during patent examination, and, accordingly, discretionary denial under 35 U.S.C. § 325(d) is not appropriate”).

III. PATENT OWNER HAS NO SETTLED EXPECTATIONS FOR THE '095 PATENT.

The '095 patent issued less than a year ago and *after* the Board already invalidated Patent Owner's related patents, including the '571 and '779 patents to which the '095 patent claims priority. Petitioner filed the Petition on the same day that the patent became eligible for IPR. *See* Paper 1 at 2 (explaining that the Petition was filed on the day that the Office issued a certificate of correction addressing the '095 patent's priority claim, which made the patent IPR-eligible). In these circumstances, Patent Owner can have no settled expectations in the '095 patent. *See MIM Software Inc. v. Exini Diagnostics AB, Inc.*, IPR2025-00827, Paper 12 at 2 (Director Aug. 22, 2025) (finding no settled expectations warranting discretionary denial where challenged patent, issued in 2024, "ha[d] not been in force for a significant period of time"). Indeed, the fact that the Board found Patent Owner's related patents claiming the same subject matter unpatentable even before the '095 patent issued defeats any purported settled expectations. *See Nintendo Co., Ltd. et al v. Resonant Sys., Inc. d/b/a RevelHMI*, IPR2025-00680, Paper 18 at 3 (Director Aug. 14, 2025) (stating that "the Board has determined claims that are substantially similar to the challenged claims to be unpatentable").

Patent Owner's arguments concerning settled expectations are not based on the '095 patent specifically and instead rest on Patent Owner's licensing and

enforcement efforts for its broader portfolio of patents. Paper 9 at 19-20. Those arguments fail for at least two reasons.

First, settled expectations are assessed on a patent-by-patent basis. *See, e.g., Embody, Inc. v. LifeNet Health*, IPR2025-00248, -00249, Paper 13 at 2-3 (Director June 26, 2025) (declining to exercise discretion to deny where “one of the challenged patents has not been in force for a significant period of time (issued in 2022) and the other patent is a parent of the first” because “Patent Owner has not developed strong settled expectations that favor discretionary denial as to the first patent, and it is an efficient use of Board resources to address the related patent”); *Padagis US LLC v. Neurelis, Inc.*, IPR2025-00464, -00465, -00466, Paper 12 at 3-4 (Director July 16, 2025) (treating settled expectations on a per-patent basis). Patent Owner’s alleged settled expectations with respect to other patents do not demonstrate settled expectations for the recently-issued ’095 patent.

Second, Patent Owner’s purported settled expectations cannot be reconciled with the fact that the other patents in its portfolio have been invalidated. Indeed, the Federal Circuit has confirmed the invalidity of every challenged claim of every mobile check deposit patent in Patent Owner’s portfolio that it has had the opportunity to address on the merits. *See United Servs. Auto. Ass’n v. PNC Bank N.A.*, Nos. 23-2124, -2125, 2025 WL 370141 (Fed. Cir. Feb. 3, 2025) (affirming IPR2021-01073 and IPR2021-01070); *United Servs. Auto. Ass’n v. PNC Bank*

N.A., No. 23-1920, 2025 WL 341868 (Fed. Cir. Jan. 30, 2025) (affirming IPR2021-01077); *United Servs. Auto. Ass'n v. PNC Bank N.A.*, Nos. 23-2171, -2172, 2025 WL 339662 (Fed. Cir. Jan. 30, 2025) (affirming in part IPR2022-00076 and reversing not unpatentable finding for dependent claims); *United Servs. Auto. Ass'n v. PNC Bank N.A.*, No. 23-2244, 2025 WL 706080 (Fed. Cir. Mar. 5, 2025) (affirming IPR2022-00075); *United Servs. Auto. Ass'n v. PNC Bank N.A.*, Nos. 23-1778, 25-1277, 2025 WL 1662737 (Fed. Cir. June 12, 2025) (finding U.S. Patent Nos. 10,013,605, 10,013,681, and 10,482,432 invalid under 35 U.S.C. § 101). Patent Owner cannot credibly claim any settled expectations when none of its patents have survived review by the Federal Circuit.

IV. DENIAL UNDER *FINTIV* IS UNWARRANTED.

Patent Owner's argument that *Fintiv* favors discretionary denial is based on a misapplication of the relevant factors. Paper 9 at 13. While trial in the parallel district court litigation is currently scheduled for October 2026, the need to correct material error outweighs any concern that a final written decision will not issue before trial. *See e.g., Padagis US LLC v. Neurelis, Inc.*, IPR2025-00464, -00465, -00466, Paper 12 at 2-3 (P.T.A.B. July 16, 2025) (finding material error where the examiner reached a different conclusion on priority date than the Board in the IPR, which found the related patent unpatentable). A holistic review of all relevant *Fintiv* factors alleviates any concerns about the trial date and favors institution.

A. Factor 3 – Minimal Investment in District Court Case

Patent Owner overstates the parties' minimal investment in the parallel district court proceedings, citing to early case developments like motions to dismiss and initial fact discovery. Paper 9 at 8-9. But the parties have not (and will not have by institution) submitted claim construction briefs, argued *Markman*, completed fact discovery, exchanged expert reports, submitted dispositive and pretrial motions, or completed trial. *See generally* EX2002. The parties also have not taken (or even scheduled) any depositions, and the Court has not yet ruled on Regions' motion to dismiss. This factor weighs strongly in favor of institution. Indeed, in other proceedings, Patent Owner itself has advocated that this factor favors institution when presented with a parallel district court litigation in a similar posture. *See United Servs. Auto. Ass'n Fed. Savs. Bank v. PACid Techs., LLC*, IPR2025-00752, Paper 8 at 9-12 (P.T.A.B. June 26, 2025) (collecting case).

B. Factor 4 – Minimal Overlap With District Court Case

Petitioner has entered a *Sotera* stipulation, and there will not be any overlap in invalidity theories with the district court litigation if this IPR is instituted. Patent Owner's attempt to concoct substantial overlap between this IPR and parallel litigation (Paper 9 at 5-7) are incorrect for multiple reasons.

First, Patent Owner misrepresents the degree of overlap in invalidity theories with the district court case. Petitioner's district court invalidity

contentions rely the following **six prior art products** (EX2004, 13-18), none of which are duplicative of prior art in the Petition:

- The ScanZoom Mobile Phone Application and The Occipital RedLaser Mobile Phone App mobile barcode readers. *See generally* EX1082-ScanZoom; EX1083-RedLaser.
- The CAM Mobile Document Processing System, which was a system for digitizing paper documents. *See generally* EX1084-CAM.
- The Motorola Rokr E6 mobile phone, which included a built-in business card reader application with no relation to the Luo reference. *See generally* EX1085-MotoRokr.
- West Virginia United Federal Credit Union Mobile Phone Application, which was a mobile remote deposit application with no relation to the Garcia reference. *See generally* EX1086-WVUFCU.
- The ImageNet Mobile Deposit System, which was a mobile remote deposit application with no relation to the Garcia reference. *See generally* EX1087-ImageNet.

Moreover, Petitioner relies on fourteen patent and printed publication references not relied on in the Petition.¹ Petitioner's invalidity defenses in the district court differ from the grounds presented here.

Second, Petitioner's *Sotera* stipulation ensures that Petitioner will not, as Patent Owner insinuates (Paper 9 at 6), present at trial any ground it raised or could have reasonably raised here. Such a stipulation "mitigates any concerns of duplicative efforts between the district court and the Board, as well as concerns of potentially conflicting decisions," "ensur[ing] that an [IPR] is a 'true alternative' to the district court proceeding." *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 at 19 (P.T.A.B. Dec. 1, 2020) (precedential in relevant part). This factor thus strongly favors institution. *Liberty Energy Servs. LLC v. U.S. Well Servs., LLC*, IPR2025-00139, Paper 14 at 13-14 (P.T.A.B. June 11, 2025).

C. Factor 1 – Stay of Litigation is Still Possible

Petitioner has moved to stay the district court litigation based on its pending motion to dismiss, and Petitioner will separately move to stay if this IPR is

¹ Petitioner did not state that "every patent or printed publication ... is also system prior art." Paper 9 at 6. The cited passage in Petitioner's invalidity contentions simply states that product prior art can be established in part through publications, not that every cited publication is product art. EX2004, 6.

instituted, consistent with the district court’s preferred practice.

Patent Owner points to statistics to argue that a stay is unlikely here. But the district court has granted numerous contested motions to stay where IPRs were instituted on all asserted patents. *See, e.g., Foras Techs. LTD. v. Aptiv PLC*, No. 23-cv-00314, 2024 WL 5348631 (E.D. Tex. July 25, 2024); *Resonant Sys., Inc. v. Samsung Elecs. Co.*, No. 22-cv-00423, 2024 WL 1021023 (E.D. Tex. Mar. 8, 2024); *Netlist, Inc. v. Micron Tech. Inc.*, No. 22-cv-00203, 2024 WL 4381164 (E.D. Tex. Feb. 10, 2024); *Resonant Sys. Inc. v. Nintendo Co.*, 25-cv-00090, 2025 WL 2097883 (E.D. Tex. July 24, 2025); *Maxeon Solar Pte. Ltd. v. Canadian Solar Inc.*, No. 24-cv-00210, 2025 WL 1811321 (E.D. Tex. June 30, 2025). A stay would be particularly appropriate here given the relatively early stage of the district court litigation and the fact that this IPR would be fully dispositive of the ’095 patent. This factor therefore does not favor denial. *Cisco Sys., Inc. v. WSOU Inv., LLC*, IPR2025-00188, Paper 10 at 23 (P.T.A.B. June 13, 2025).

D. Factor 5 – The Same Parties in Both Proceedings

Though the parties are the same, this factor only “weighs *slightly* for discretionarily den[ial]....” *Kubota N. Am. Corp. v. Vermeer Mfg. Co.*, IPR2025-00170, Paper 15 at 15-16 (P.T.A.B. June 10, 2025).

E. Factor 6 – Additional Factors Favor Institution

Patent Owner presents several arguments under *Fintiv* Factor 6 and Acting Director Stewart's March 26 Memorandum. Paper 9 at 9-13. None of those additional arguments support denial.

1. The Petition's Strong Merits Favor Institution.

The merits of the petition are strong. As explained above, the Petition present grounds based on prior art that the Board relied upon to find Patent Owner's related patents unpatentable. Patent Owner attempts to distinguish those prior IPRs by arguing that they addressed different patents, inventors, and inventions (Paper 9 at 10), but neither Patent Owner nor the Office has identified any patentable difference between Patent Owner's invalidated patents and the challenged claims, as the Office now requires for IPR proceedings. *See* Acting Director Stewart's September 16, 2025 Memorandum regarding PTAB Consideration of Prior Findings of Fact and Conclusions of Law. Indeed, as shown above, there is significant overlap between Patent Owner's claims that were previously invalidated and those at issue here.

Patent Owner argues that the challenged claims of the '095 patent recite two

limitations allegedly missing from the prior art.² But Patent Owner’s cursory review of those references ignores clear teachings in the art.

First, contrary to Patent Owner’s allegations (Paper 9 at 11-12, 12-13), both Meier and Goyal teach a downloaded application. As just one example, the Petition cites Meier at page 5, which discloses “[t]he Android Marketplace client for downloading theid[sic]-party Android applications” that are the subject of the entire book. Pet., 29. Regarding Goyal, Patent Owner ignores two independent teachings of downloadable apps. First, the sole, well-known way to obtain Goyal’s “MIDlet” is via download. Pet., 82-83. Second, Goyal’s disclosure of using an “over the air” or “OTA” interface also teaches downloading an app. *Id.*, 83.

Second, contrary to Patent Owner’s assertion (Paper 9 at 12-13), the prior art teaches capturing live video frames in limitations 1[e]-1[h]. Patent Owner focuses on Meier and Goyal alone, but the Petition also relied the teachings of Luo, which discloses a preview window with live video. Pet., 38, 43-47. Patent Owner cannot overcome obviousness by attacking the references individually. *See Bradium Techs. LLC v. Iancu*, 923 F.3d 1032, 1050 (Fed. Cir. 2019).

² Patent Owner also argues Meier is not prior art based on its copyright date (Paper 9 at 12 n.2), but Petitioner provided records showing pre-copyright acquisition and publication at 15 separate libraries. EX1062-Munford, ¶19.

Moreover, both Meier and Goyal each teach how to implement Luo—namely by capturing an image from live video. For example, Meier discloses displaying live video from a camera in a preview window, just like Luo, and capturing an image from that same camera output. Pet., 40, 44. Goyal discloses using a similar viewfinder before capturing an image from the same camera output. *Id.*, 84-85; *see also* EX1008-Goyal, 174 (“[T]he `getSnapshot()` method is a method of the `VideoControl` class, you can take an image of any video that is playing on a device screen, not just captured video.”). In each, the camera output is a live video feed from which the image is captured. Indeed, Meier and Goyal teach the same Android and Windows mobile operating system APIs that the ’095 patent relies on for camera access. EX1001-USP095, 11:26-41.

2. The Petition’s Use of Expert Testimony is Appropriate.

Contrary to Patent Owner’s assertion (Paper 9 at 10, 17-19), the Petition’s reliance on expert testimony is neither “excessive” nor improperly gap-filling. Rather, the Petition properly relies on Dr. Daniel Lopresti to disclose underlying facts or data and to establish the background knowledge of a POSITA. *See* 37 C.F.R. § 42.65(a); *see also* *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 (P.T.A.B. Aug. 24, 2022) (precedential); *GD Energy Prods., LLC v. Kerr Mach. Co.*, PGR2025-00031, Paper 11 at 2 (P.T.A.B. June 25, 2025). None of Patent Owner’s criticisms of Dr. Lopresti’s opinions has any merit.

First, Patent Owner is incorrect that Dr. Lopresti’s declaration improperly fills gaps in the prior art’s disclosure for limitation 1[n], which requires receiving an indication of a result of processing. Paper 9 at 17-18. Dr. Lopresti, a preeminent expert in the field of pattern and character recognition (including for checks) explains, and Patent Owner does not dispute, that Cohen displays processing results to a user. EX1002-Decl., ¶¶3-33, 171-72. As explained throughout his declaration, processing can occur locally on the mobile device or remotely on a server. EX1002-Decl., ¶¶175-79, 258-61. Based on these teachings, Dr. Lopresti concludes that the mobile device receives an indication of a result of that processing in order to display the result to the user, either from the mobile device itself or a remote server. EX1002-Decl., ¶¶262-63. That is proper testimony about the teachings of the art—not gap filling.

Second, Patent Owner is also incorrect that Dr. Lopresti’s discussion of MICR line detection for dependent claim 4 is impermissibly gap filling. Paper 9 at 18-19. Dr. Lopresti’s opinion is a classic obviousness analysis based on the combined teachings of the prior art, which disclose multiple monitoring criteria (EX1002-Decl., ¶293) and that the MICR line must be readable for deposit (*id.*, ¶¶294-96). This is consistent with the ’095 patent, which concedes “MICR line detection technique(s)” were “known” (*id.*, ¶297 (citing EX1001-USP095, 8:59-63)) and other available evidence (*id.*, ¶¶298-301). Petitioner thus properly relies

on Dr. Lopresti's testimony to apply a well-established obviousness analysis, based on the combined teachings of the prior art, the POSITA's knowledge and skill, and other available evidence demonstrating that MICR line detection would have been obvious, not to "gap-fill."

3. The Petition Was Timely.

Patent Owner's assertion that Petitioner was not diligent in filing the Petition is baseless. Paper 9 at 9. Petitioner filed the petition within six months of being sued by Patent Owner and seven months after the patent issued. Preparing a petition challenging four independent claims in that time frame is reasonable and diligent. *See, e.g., Illumina, Inc. v. Natera, Inc.*, IPR2019-01201, Paper 19 at 8 (P.T.A.B. Dec. 18, 2019) (finding "Petitioner was diligent in filing the present Petition ... several months before the statutory deadline...."). Indeed, Petitioner filed the Petition on the first day that the '095 patent became eligible for IPR through issuance of a certificate of correction. Pet., 2.

V. CONCLUSION

For the reasons above, Petitioner respectfully requests that the Director should deny Patent Owner's request for discretionary denial and allow institution of an *inter partes* review to cancel claims 1-30 of the '095 patent.

Respectfully submitted,

/David L. Cavanaugh/

David L. Cavanaugh, Registration No. 36,476

TABLE OF EXHIBITS

Exhibit Number	Description
1001	U.S. Patent No. 12,211,095 (“USP095”)
1002	Declaration of Dr. Daniel Lopresti (“Decl.”)
1003	International Patent Application Publication No. WO 2005/043857 and Declaration of Translation (“Garcia”)
1004	Chinese Patent Application Publication No. CN 1897644A and Declaration of Translation (“Luo”)
1005	Meier, Reto, Professional Android™ Application Development, June 25, 2008 (“Meier”)
1006	U.S. Patent Application Publication No. 2007/0194102 (“Cohen”)
1007	U.S. Patent Application Publication No. 2007/0262148 (“Yoon”)
1008	Selected Pages from Goyal, Vikram, Pro Java ME MMAPi: Mobile Media API for Java Micro Edition, June 14, 2006 (“Goyal”)
1009	PTAB-IPR2021-01073 Final Written Decision (“571-FWD”)
1010	PTAB-IPR2022-00076 Final Written Decision (“598-FWD”)
1011	U.S. Patent No. 7,590,275 (“Clarke”)
1012	US Patent Publication No. 2006/0186194 (“Richardson”)
1013	“FDIC: Check Clearing for the 21st Century Act (Check 21),” FED. DEPOSIT INS. CORP., Apr. 25, 2016 (retrieved from https://web.archive.org/web/20161005124304/https://www.fdic.gov/consumers/assistance/protection/check21.html) (“FDIC”)
1014	EP Patent Publication No. 0984410 (“Slater”)
1015	Whitney et al., <i>Reserve Banks to Adopt DSTU X9.37-2003 Format for Check 21 Image Services</i> (May 18, 2004) (retrieved from https://web.archive.org/web/20040609221704/http://www.frb-services.org/Retail/pdf/PRFormatForCheck21ImageSvcs.pdf) (“DSTU”)
1016	Excerpts from Motomanual MotoRokr™ E6 GSM, 2006, https://motorola.manymanuals.com/mobile-phones/e6/user-manual-8407 (“MotoRokr-Manual”)
1017	U.S. Patent No. 8,768,836 (“Acharya”)
1018	U.S. Patent No. 8,290,237 (“Burks”)
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1021	Mitek Systems, “ImageNet Mobile Deposit,” presented at “FSTC’s 2008 Annual Conference” (June 2008), available at https://slideplayer.com/slide/9438811/ (“Mitek”)
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1023	Edwards, Benj, <i>The Golden Age of PDAs</i> , PC MAG (Nov. 20, 2018), https://www.pcmag.com/news/the-golden-age-of-pdas (“Edwards”)
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1025	Slocombe, Mike, <i>O2 Xda Exec Mobile PDA With 3G Launched</i> (Sept. 13, 2005), available at https://digital-lifestyles.info/2005/09/13/o2-xda-exec-mobile-pda-with-3g-launched/ (“Slocombe”)
1026	Press Release, <i>Apple Reinvents the Phone with iPhone</i> (Jan. 9, 2007), https://www.apple.com/newsroom/2007/01/09Apple-Reinvents-the-Phone-with-iPhone/ (“Apple”)
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1031	Raento, Mika et al., <i>ContextPhone: A Prototyping Platform for Context-Aware Mobile Applications</i> , 4 IEEE PERVASIVE COMPUTING 51 (2005) (“Raento”)
1032	Patrick, Beau, Dylan Austin, & Charles O. Connor, <i>The Effect of Smartphone on the Society</i> , 4 IDOSR J. COMP. & APPLIED SCI, at 2 (2019) (“Patrick”)
1033	U.S. Patent No. 12,211,095 File History (“FH095”)
1034	Excerpts from Yuan, Michael Juntao & Kevin Sharp, <i>Developing Scalable Series 40 Applications: A Guide For Java Developers</i> (Dec. 2004) (“Yuan”)
1035	Siegemund, Frank, and Muhammad Haroon, <i>Using Digital Cameras for Text Input on Mobile Devices</i> , in Fifth Annual IEEE Int’l Conference on Pervasive Computing and Communications (PerCom’07) 1-8 (2007) doi: 10.1109/PERCOM.2007.38 (“Siegemund”)
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1042	USAA v. PNC Bank N.A., No. 23-2171 (Fed. Cir. Jan. 30, 2025) (nonprecedential) (“PNC”)
1043	U.S. Patent No. 7,156,311 (“Attia”)
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1045	Chinese Patent Application Publication No. CN 1967565A and Declaration of Translation (“Zhu”)
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1068	ForumNokia, “S60 Platform: Camera Example with AutoFocus Support,” Apr. 12, 2008, available at https://web.archive.org/web/20080412151729/http://forum.nokia.com/info/sw.nokia.com/id/9fd0e9a7-bb4b-489d-84ac-b19b4ae93369/S60_Platform_Camera_Example_with_AutoFocus_Support.html (“Symbian”)
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1070	Palm OS® Platform Developer Guide Software and Hardware, Nov. 22, 2006, http://apitechwriter.com/Samples/Palm/PalmOS_Developer_Guide.pdf (“PalmOne”)
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1078	Liu, Xu & David Doermann, <i>Mobile Retriever – Finding Document with a Snapshot</i> , <i>PROCS. OF THE SECOND INT’L WORKSHOP ON CAMERA-BASED DOCUMENT ANALYSIS AND RECOGNITION</i> 29-34 (Koichi Kise & David S. Doermann eds., Sept. 22, 2007) (“Liu”)
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1080	CNN.com, “First Mobile Videophone Introduced,” May 18, 1999, available at https://web.archive.org/web/20080614223224/https://www.cnn.com/TECH/ptech/9905/18/japan.phonetv/ (“Kyocera”)
1081	Notice of Petitioner’s <i>Sotera</i> Stipulation (“Stipulation”)
1082	Petitioner’s Invalidity Contentions Exhibit B24 in <i>United Servs. Auto. Ass’n v. Regions Bank</i> , No. 2:25-cv-00082-JRG (E.D. Tex.) served July 9, 2025 (“ScanZoom”)
1083	Petitioner’s Invalidity Contentions Exhibit B22 in <i>United Servs. Auto. Ass’n v. Regions Bank</i> , No. 2:25-cv-00082-JRG (E.D. Tex.) served July 9, 2025 (“RedLaser”)
1084	Petitioner’s Invalidity Contentions Exhibit B19 in <i>United Servs. Auto.</i>

	<i>Ass’n v. Regions Bank</i> , No. 2:25-cv-00082-JRG (E.D. Tex.) served July 9, 2025 (“CAM”)
1085	Peitioner’s Invalidity Contentions Exhibit B21 in <i>United Servs. Auto. Ass’n v. Regions Bank</i> , No. 2:25-cv-00082-JRG (E.D. Tex.) served July 9, 2025 (“MotoRokr”)
1086	Peitioner’s Invalidity Contentions Exhibit B23 in <i>United Servs. Auto. Ass’n v. Regions Bank</i> , No. 2:25-cv-00082-JRG (E.D. Tex.) served July 9, 2025 (“WVUFCU”)
1087	Peitioner’s Invalidity Contentions Exhibit B20 in <i>United Servs. Auto. Ass’n v. Regions Bank</i> , No. 2:25-cv-00082-JRG (E.D. Tex.) served July 9, 2025 (“ImageNet”)

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2025, a true and correct copy of the foregoing materials:

- Petitioner's Opposition to Patent Owner's Discretionary Denial Brief
- Updated Exhibit List
- Exhibits for Petitioner's Brief in Opposition to Discretionary Denial (EX1082-EX1087)

to be served on Patent Owner via electronic mail to:

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