

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ATRIUS DEVELOPMENT GROUP CORP.,

Petitioners

v.

ABC IP LLC,
Patent Owner.

IPR2025-01473
U.S. Patent No. 12,038,247

**PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL
37 C.F.R. § 42.20(d)**

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. THE PETITION SHOULD BE DISCRETIONARILY DENIED	2
A. Patent Owner’s Settled Expectations Warrant Denial	2
1. Patent Owner’s Investment in Securing a Lawful Market for RBT’s FRTs	3
2. These Investments Created Settled Expectations	5
B. 35 U.S.C. § 325(d) Favors Discretionary Denial	7
1. Blakley ’723 Was Presented to the Office Previously.....	8
2. Strbac ’003 Was Presented to the Office Previously.....	8
3. Strbac ’003 Describes the Same Device as PP_FRT-15- 3MD	8
4. The Examiner Did Not Commit Material Error	12
C. The Petition’s Reliance on Expert Testimony Is Improper.....	16
III. CONCLUSION.....	20

TABLE OF AUTHORITIES

Page(s)

Cases

<i>Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH,</i> IPR2019-01469, Paper 6 (PTAB Feb. 13, 2020) (precedential)	7, 12, 13
<i>Amgen Inc. v. Bristol-Myers Squibb Co.,</i> IPR2025-00603, Paper 8 (Dir. July 24, 2025)	2
<i>Apple Inc. v. Apex Beam Techs. LLC,</i> IPR2025-00896, Paper 9 (Dir. Sept. 3, 2025)	2
<i>Cartessa Aesthetics, LLC v. Serenia, LLC,</i> IPR2022-00594, Paper 9 (PTAB Aug. 12, 2022)	18
<i>eBay Inc. v. Global Equity Mgmt. (SA) Pty. Ltd.,</i> IPR2016-01829, Paper 63 (PTAB Apr. 19, 2018)	19
<i>Fujirebio Diagnostics, Inc. v. Quanterix Corp.,</i> IPR2025-01060, Paper 13 (Dir. Oct. 17, 2025)	13
<i>Oticon Med. AB v. Cochlear Ltd.,</i> IPR2019-00975, Paper 15 (PTAB Oct. 16, 2019) (precedential)	11, 12
<i>Xerox Corp. v. Bytemark, Inc.,</i> IPR2022-00624, Paper 9 (PTAB Aug. 24, 2022) (precedential)	20

Statutes

35 U.S.C. § 102(b)(2)(C)	9, 10
35 U.S.C. § 325(d)	7

Other Authorities

37 C.F.R. § 42.65(a)	19
Interim Director Discretionary Process, https://www.uspto.gov/patents/ptab/interim-director-discretionary- process	1

TABLE OF EXHIBITS

Ex. #	Description
2001	Settlement Agreement between United States and Named Claimants (May 13, 2025)
2002	U.S. Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives Cease and Desist Letter (July 26, 2021)
2003	<i>Rare Breed Triggers, LLC et al. v. Garland et al.</i> , 6:21-cv-01245 (M.D. Fla.) – Docket 2, Plaintiff’s Emergency Motion for Preliminary Injunction and Supporting Memorandum of Law
2004	<i>Rare Breed Triggers, LLC et al. v. Garland et al.</i> , 6:21-cv-01245 (M.D. Fla.) – Docket Report
2005	<i>Rare Breed Triggers, LLC v. Garland et al.</i> , 3:22-cv-00085 (D. N.D.) – Docket 1, Complaint for Vacatur of Unlawful Agency Rule and Related Alleged Final Agency Action, and Declaratory Relief
2006	<i>Rare Breed Triggers, LLC v. Garland</i> , 3:22-cv-00085 (D. N.D.) – Docket Report
2007	<i>U.S. v. Rare Breed Triggers, LLC et al.</i> , 1:23-cv-00369 (E.D.N.Y.) – Docket 1, Complaint
2008	<i>U.S. v. Rare Breed Triggers, LLC et al.</i> , 1:23-cv-00369 (E.D.N.Y.) – Docket Report
2009	<i>U.S. v. Miscellaneous Firearms and Related Parts and Equipment Listed in Ex. A</i> , 1:23-cv-00017 (D. Utah) – Docket 2, Verified Complaint for Forfeiture <i>In Rem</i>
2010	<i>U.S. v. Miscellaneous Firearms and Related Parts and Equipment Listed in Ex. A</i> , 1:23-cv-00017 (D. Utah) – Docket Report
2011	<i>National Association for Gun Rights, Inc. et al. v. Garland et al.</i> , 4:23-cv-00830 (N.D. Tex.) – Docket 1, Complaint for Declaratory and Injunctive Relief
2012	<i>National Association for Gun Rights, Inc. et al. v. Garland et al.</i> , 4:23-cv-00830 (N.D. Tex.) – Docket Report
2013	<i>National Association for Gun Rights, Inc. et al. v. Garland et al.</i> , 4:23-cv-00830 (N.D. Tex.) – Docket 100, Memorandum Opinion and Order
2014	90 Fed. Reg. 9503, Executive Order 14206 (Feb. 7, 2025)
2015	U.S. Patent No. 11,724,003

2016	U.S. Patent Application No. 18/325,225, Patent Assignment History
2017	U.S. Provisional Patent Application No. 63/297,884
2018	<i>Rare Breed Triggers et al. v. Big Daddy Enterprises et al.</i> , 1:25cv181 (N.D. Fl.) – Docket 100-1, Declaration of Malcolm Brown and Atrius Development Group ISO Defendants’ Rule 12 Motion to Dismiss
2019	Declaration of Lawrence DeMonico
2020	Declaration of Hannah Hill

I. INTRODUCTION

Patent Owner submits this Request for Discretionary Denial of the Petition filed by Atrius Development Group Corp. (“Petitioner”) according to U.S. Patent and Trademark Office (“Office”) guidance. Interim Director Discretionary Process, <https://www.uspto.gov/patents/ptab/interim-director-discretionary-process> (“Guidance”); Paper 1 (“Petition” or “Pet.”).

ABC IP, LLC (“ABC”) owns challenged U.S. Patent No. 12,038,247 (“the ’247 patent”), which is exclusively licensed to Rare Breed Triggers, Inc. (“RBT”), a real party-in-interest. Paper 4, 1. Collectively, ABC and RBT are referred to as “Patent Owner” herein, given their common interest in the ’247 patent.

Patent Owner respectfully requests that the Director deny institution for three reasons. First, regardless of the ’247 patent’s 2024 issue date, Patent Owner developed strong settled expectations through extensive investment, time, and resources spent engaging the government to recognize a lawful market for RBT’s patent-protected products. Those expectations were confirmed in May 2025 when the United States entered a settlement agreement with RBT that recognized a lawful market for its products and *required* patent enforcement related to them. Second, the Office already considered the same prior art as in the Petition and did not err. Third, Petitioner’s extensive reliance on self-interested testimony from its own founder and President warrants denial, especially because it is entirely unsupported.

II. THE PETITION SHOULD BE DISCRETIONARILY DENIED

A. Patent Owner's Settled Expectations Warrant Denial

Settled expectations may justify discretionary denial, even for recently issued patents. “[T]here may be good reasons why a patent owner has strong settled expectations in a patent,” shown by “an explanation of how an extraordinary amount of investment, time, and resources dedicated to research, development, trials, and regulatory approval correlates to settled expectations.” *Amgen Inc. v. Bristol-Myers Squibb Co.*, IPR2025-00603, Paper 8 (Dir. July 24, 2025) at 2; *Apple Inc. v. Apex Beam Techs. LLC*, IPR2025-00896, Paper 9 (Dir. Sept. 3, 2025). As is here.

Patent Owner invested extraordinary resources in obtaining government approval of a lawful market for RBT's forced reset triggers (“FRT”).¹ Ex. 2019 ¶¶ 6-14. Those efforts, undertaken over many years and at exceptional expense, *id.* ¶ 7 (over \$3.25 million), culminated in reliance interests that are far stronger than those ordinarily associated with a recently issued patent. They should not be disturbed.

¹ “An FRT is a device that forcibly returns the trigger to its reset state.” Ex. 2013, 3. In RBT's previously litigated commercialized design and in prior art discussed below (Strbac '003 and PP_FRT-15-3MD), “the trigger is forcibly reset by the hammer when the bolt carrier cycles to the rear.” Ex. 2013, 3; Ex. 2001 ¶ 11.a. In the claimed FRT, the trigger is forcibly returned *with a cam*. Ex. 1001, 10:43-11:11.

1. Patent Owner’s Investment Securing a Lawful Market for RBT’s FRTs

Patent Owner invested extraordinary resources developing FRTs and ABC secured patents to safeguard those investments. Ex. 2019 ¶ 4. ABC’s patent portfolio, including the ’247 patent, is the linchpin of Patent Owner’s industry strategy. This portfolio was developed through prosecution and acquisition of patents dating back to 2008. Ex. 2019 ¶ 4; *e.g.*, Ex. 1009. The challenged ’247 patent, for example, covers a novel FRT with a three-position selector that transitions between safe, standard semi-automatic, and forced reset semi-automatic modes and where movement of a cam—not a hammer—controls trigger reset. Ex. 1001, (45), (57).

Over many years, Patent Owner poured resources into establishing a lawful market for RBT’s patented FRT technology. Ex. 2019 ¶¶ 5-14. This was not an ordinary or predictable effort. In July 2021, the Department of Justice’s (“DOJ”) Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) classified RBT’s FRT-15 product as an illegal “machinegun” and issued a cease-and-desist letter. *Id.* ¶ 5. Ex. 2002. In response, Patent Owner engaged in a multi-jurisdictional, multi-year litigation, lobbying, and public messaging battle to establish that RBT’s FRTs are *not* illegal machineguns. Ex. 2019 ¶¶ 6-14. This was a costly and high stakes endeavor that ultimately succeeded in establishing the legality of RBT’s FRTs and a legal market therefor, as summarized below. Ex. 2001 ¶ 11; Ex. 2019 ¶¶ 11, 13.

Middle District of Florida. In August 2021, RBT filed suit seeking a ruling

that ATF’s “machinegun” classification was arbitrary and capricious and seeking a preliminary injunction. *RBT et al. v. Garland et al.*, 6:21-cv-01245 (M.D. Fla.); Ex. 2003. The motion was denied in October 2021 and the case was dismissed without prejudice. Ex. 2004 at Dkt. 68, 75.

District of North Dakota. In May 2022, RBT filed suit seeking to vacate the cease-and-desist letter. *RBT v. Garland*, 3:22-cv-00085 (D. N.D.); Ex. 2005. The DOJ and ATF moved to dismiss for improper venue, which was granted in November 2022. Ex. 2006 at Dkt. 20, 45.

Eastern District of New York and Second Circuit. In January 2023, the United States sued RBT seeking a temporary restraining order and injunction against the sale of the FRT-15 and “other machinegun conversion device[s].” *U.S. v. RBT et al.*, 1:23-cv-00369 (E.D.N.Y.); Ex. 2007, 37. The court entered a restraining order and enjoined RBT. Ex. 2008 at Dkt. 11, 139. RBT appealed. *Id.* at Dkt. 141.

District of Utah. In February 2023, the United States filed an *in rem* action against firearms and parts, some owned by RBT. *U.S. v. Misc. Firearms & Related Parts & Equip. Listed in Ex. A*, 1:23-cv-00017 (D. Utah); Ex. 2009. RBT filed for summary judgment, but the case was dismissed. Ex. 2010 at Dkt. 30, 46.

Northern District of Texas and Fifth Circuit. In August 2023, the National Association for Gun Rights, Inc. (“NAGR”) sued ATF seeking declaratory and injunctive relief. *NAGR et al. v. Garland et al.*, 4:23-cv-00830 (N.D. Tex.) (the

“Texas litigation”); Ex. 2011. Patent Owner organized, strategized, funded, and directed the Texas litigation. Ex. 2019 ¶¶ 9-10 (“spending over \$950,000”; developing strategy and filings); Ex. 2020 ¶¶ 6-9 (RBT’s essential role).

In October 2023, the Texas court granted a preliminary injunction, and the government appealed. Ex. 2012 at Dkt. 53, 63. In July 2024, the court granted NAGR’s motion for summary judgment, vacated ATF’s “unlawful classification of FRTs as ‘machine guns,’” and enjoined ATF from “interfering in the possession, sale, manufacturing, transfer, or exchange of FRTs based on the claim that FRTs are machineguns.” Ex. 2013, 62. The government appealed. Ex. 2012 at Dkt. 103.

2. These Investments Created Settled Expectations

Patent Owner’s settled expectations were solidified earlier this year. In February 2025, President Trump issued Executive Order 14206, and directed agencies to reassess prior actions that may infringe Second Amendment rights. Ex. 2014. Just months later, after extensive negotiations with RBT, the United States and ATF entered a landmark Settlement Agreement that terminated the remaining litigations noted above and confirmed Patent Owner’s right to lawfully sell RBT’s patent-protected products. Ex. 2001 ¶¶ 1, 11; Ex. 2019 ¶¶ 13-14 (negotiation and settlement). Specifically, the government exempted from the meaning of “machinegun” RBT’s FRTs that operate as defined above, and which are not used in handguns. Ex. 2001 ¶ 11; *supra* n.1.

The Settlement Agreement also requires RBT to “take all reasonable efforts to engage in patent enforcement seeking prohibitory injunctions” against those who “distribute[] any FRT during the life of U.S. Patent No. 10,514,223,” also owned by ABC. Ex. 2001 ¶ 9. The government committed to support Patent Owner’s enforcement and “to consider filing statements in support of RBT’s civil actions for injunctions against patent violators detailing the public interest to be served by the injunctions.” *Id.* ¶ 14. The government’s identified public interest in enjoining FRTs applies equally to the ‘247 patent, which covers FRTs as defined above.²

Patent Owner’s extraordinary investment to secure a legal market for RBT’s FRTs created strong settled expectations. The scale of this investment—millions of dollars in legal fees, years of contested litigation in multiple jurisdictions, and broad public and government engagement—established expectations that well exceed those ordinarily associated with a newly issued patent. Ex. 2019 ¶¶ 7 (over \$3.25 million in fees and expenses), 8 (thousands of hours of messaging, lobbying, fundraising). To institute review of the ‘247 patent would undermine not only Patent Owner’s reliance interests, but also the United States’ express policy and public interest reflected in the Executive Order and Settlement Agreement. Accordingly,

² The ongoing government shutdown interfered with Patent Owner’s ability to request such a statement here.

discretionary denial is warranted.

B. 35 U.S.C. § 325(d) Favors Discretionary Denial

35 U.S.C. § 325(d) permits the Director to deny institution where “the same or substantially the same prior art or arguments previously were presented to the Office.” The Office applies a “two-part framework” in doing so, considering (1) whether the “same or substantially the same prior art or arguments previously were presented” and, (2) if so, “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) (precedential). If “the petitioner fails to make a showing of material error, the Director generally will exercise discretion not to institute *inter partes* review.” *Id.* at 9. Section 325(d) supports denial here.

The Petition’s asserted grounds turn on five alleged printed publications: one patent (Ex. 1009, “Blakley ’723”); three YouTube videos (Ex. 1005, “Bingly_1”; Ex. 1006, “Bingly_2”; and Ex. 1007, “Bingly_3”); and a district court complaint (Ex. 1008, “Complaint”). Pet. 14. Petitioner refers to the videos and Complaint collectively as “PP_FRT-15-3MD” and alleges they depict the FRT-15-3MD device manufactured by Tommy Triggers. *Id.* at 12-14, 62.³

³ Elsewhere, Petitioner refers to this as “PP_FRT-15-3MR.” *E.g.*, Pet. 65.

1. Blakley '723 Was Presented to the Office Previously

The Petition's primary reference, Blakley '723, was presented to the Office previously. Blakley '723 is listed on an Information Disclosure Statement ("IDS"), which the Examiner considered, and the Examiner discussed Blakley '723 in the Notice of Allowance. Ex. 1002, 43, 23-26; Ex. 1001, (56).

2. Strbac '003 Was Presented to the Office Previously

The FRT-15-3MD device manufactured by Tommy Triggers that the Petition contends is depicted in "PP_FRT-15-3MD," i.e., in the Bingly videos and Complaint, is disclosed by U.S. Patent No. 11,724,003, issued to Mladen Thomas Strbac,⁴ which was presented to the Office previously. Pet. 12-13; Ex. 2015 ("Strbac '003"). Strbac '003 is listed on an IDS, which the Examiner considered. Ex. 1002, 43. Strbac '003 appears twice in the Examiner's search report. *Id.* at 33, 37. And the application that led to Strbac '003, U.S. Application No. 18/048,572, is cited and incorporated by reference in the '247 patent itself. Ex. 1001, (56), 1:66-2:1.

3. Strbac '003 Describes the Same Device as PP_FRT-15-3MD

The Petition itself demonstrates that PP_FRT-15-3MD and Strbac '003 are cumulative: "Tommy [Triggers] had been selling FRT's with three-position selector

⁴ Mladen Thomas Strbac is the named inventor on Strbac '003 and the previous owner of Tommy Triggers. Ex. 2015, (72); Pet. 12; Ex. 1008 ¶¶ 43-45.

switches... [Tommy Triggers'] owner, Mr. Strbac, had filed a provisional application on January 10, 2022, for an FRT with a 3-position selector switch,” which ultimately issued as Strbac ’003. Pet. 12; Ex. 2015, (60). Indeed, the only reason Petitioner appears to rely on PP_FRT-15-3MD rather than Strbac ’003 itself is due to its incorrect assertion that Strbac ’003 is not prior art to Blakely ’247, but that the Strbac *products* are. Specifically, Petitioner argues that, due to common ownership with the ’247 patent, “under § 102(b)(2)(C), it would seem that Strbac ’003 is not prior art to Blakely ’247. However, *Strbac’s products sold by Tommy Trigger would still be prior art* to Blakely ’247.” Pet. 12-13 (emphasis added).

Petitioner is wrong regarding § 102(b)(2)(C). That exception applies only if Strbac ’003 and the ’247 patent were commonly owned as of the effective filing date of the ’247 patent, September 8, 2022. They were not. Ex. 2016 (assigning to ABC on May 20, 2023). Accordingly, Strbac ’003 is prior art and, as noted above, it was considered by the Examiner. *Supra* § II.B.2.

Petitioner’s priority date argument regarding claims 14-23, is a red herring. Pet. 42-43. First, there is no dispute that the ’247 provisional filing date applies to claims 1-13 such that Strbac ’003 is prior art to those claims. *Id.* Moreover, the ’247 provisional application clearly supports the movable cam recited in claims 14-23 and discloses pivoting as one non-limiting embodiment of such movement. *E.g.*, Ex. 1003, 23 (“various embodiments can be practiced ... with other methods,

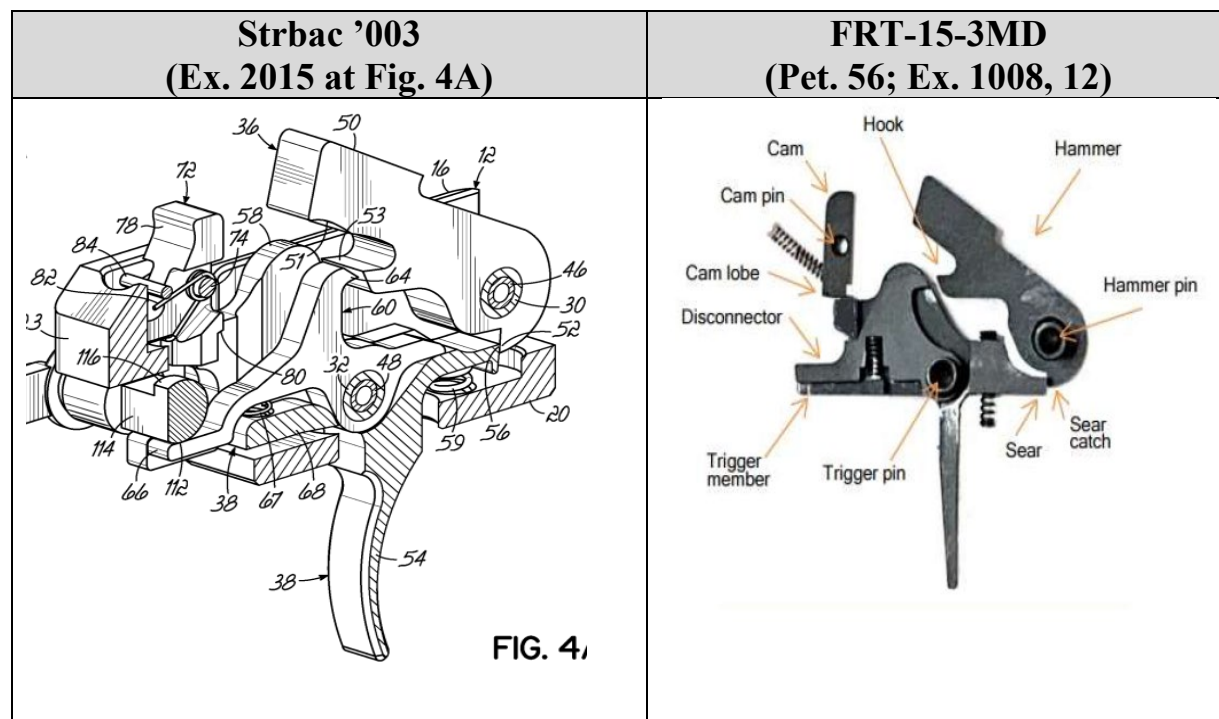
components, materials, or the like”), 24-25 (“a first embodiment” with “cam 72” that “is pivoted on a cam pin”), 26 (“bolt carrier assembly ... can [vary] depending on the design of the cam 72”), 29 (“numerous modifications and changes will readily occur to those skilled in the art, [the disclosure] is not intended to limit the invention to the exact construction and operation shown and described”).

Although Petitioner’s premise regarding § 102(b)(2)(C) is incorrect, the Petition nonetheless “relies upon a series of three videos pertaining to Tommy Triggers’ FRT to be used with a 3-position selector switch” (Exs. 1005-1007), as well as “ABC’s complaint against Tommy [Triggers]” (Ex. 1008), which “contains a detailed description of how these devices work.” Pet. 13-14. But the record confirms that the Tommy Triggers’ FRT-15-3MD product allegedly depicted in these videos and Complaint are cumulative to Strbac ’003, consistent with the Petition’s contentions. Pet. 12-13. Indeed, Strbac ’003 claims priority to provisional application 63/297,884, filed January 10, 2022 (Ex. 2015, (60)), which is titled “Improved Firearm Trigger Mechanism *FRT-15-3MD*.” Ex. 2017, 6 (emphasis added). It also refers to its disclosed embodiments as the “FRT-15-3MD.” *Id.* at 10.

Moreover, Strbac ’003 and the FRT-15-3MD depicted in PP_ FRT-15-3MD each disclose a “three position safety selector,” with safe, standard semi-automatic, and forced reset semi-automatic positions. Ex. 2015, 9:12-13; Pet. 71 (alleging PP_ FRT-15-3MR discloses a safety selector that “pivots between safe, semi-

automatic, and FRT positions”). And, as shown below, the figures of Strbac ’003 and images of the FRT-15-3MD device depicted in PP_FRT-15-3MD disclose the same structure that serves the same purpose. *Oticon Med. AB v. Cochlear Ltd.*, IPR2019-00975, Paper 15 at 15 (PTAB Oct. 16, 2019) (precedential).

In the comparison below, Figure 4A of Strbac ’003 is on the left and an image of the Tommy Triggers’ FRT-15-3MD device is on the right, where that image was taken from the Complaint (Ex. 1008, 12) and annotated by Petitioner (Pet. 56).



Both Strbac ’003 (left) and the FRT-15-3MD (right) include a trigger member (Strbac ’003 element 38; labelled in FRT-15-3MD above), a hammer (36; labelled above), a hammer pin (30; labelled above), a sear (56; labelled above), a sear catch (52; labelled above), a trigger pin (32; labelled above), a disconnecter (60; labelled

above), and a hammer hook (53; labelled above). Ex. 2015, 7:44-8:21; Pet. 56 (labelling Ex. 1008, 12). Both Strbac '003 and FRT-15-3MD also disclose a locking member (Strbac '003 element 72) that Petitioner falsely and deceptively labels as a “cam” above. *Compare* Pet. 56 (labeling the locking member as a “cam”), *with id.* at 67 (yet acknowledging this structure “functions only to keep the hammer from following the bolt when in FRT mode, it does not also function to reset the trigger.”).

These same structures serve the same purposes. *Oticon*, IPR2019-00975, Paper 15 at 15. As detailed below, *infra* § II.B.4, in standard semi-automatic mode, Strbac’s hammer 36 forces trigger member 38 towards the set position. Ex. 2015, 9:47-52. Locking member 72 blocks trigger 38 from moving out of that set position. *Id.* at 10:27-29. PP_FRT-15-3MD operates the same way. Ex. 1008 ¶¶ 50 (“using the hammer to forcibly reset the trigger and to prevent the trigger from being pulled again by virtue of the locking bar”). In forced reset mode, locking member 72 moves out of the blocking position to allow firing. Ex. 2015, 9:63-10:26; Ex. 1008 ¶ 50.

As Petitioner admits, newly cited PP_FRT-15-3MD (Exs. 1005-1008) depicts the same device that operates in the same way as Strbac '003. Pet. 12-13.

4. The Examiner Did Not Commit Material Error

Because the same or substantially the same prior art was presented to the Office previously, the Director must consider whether Petitioner meets its burden to show material error by the Office. *Advanced Bionics*, IPR2019-01469, Paper 6 at 9.

If reasonable minds can disagree, material error is not shown. *Id.*; *see, e.g., Fujirebio Diagnostics, Inc. v. Quanterix Corp.*, IPR2025-01060, Paper 13 (Dir. Oct. 17, 2025).

There was no error here. The Examiner considered Blakley '723 and determined that it lacked key claim elements. Ex. 1002, 23-26. Specifically, the Examiner stated that “the closest prior art is to Blakley (US 7,398,723),” but “Blakley does not show”:

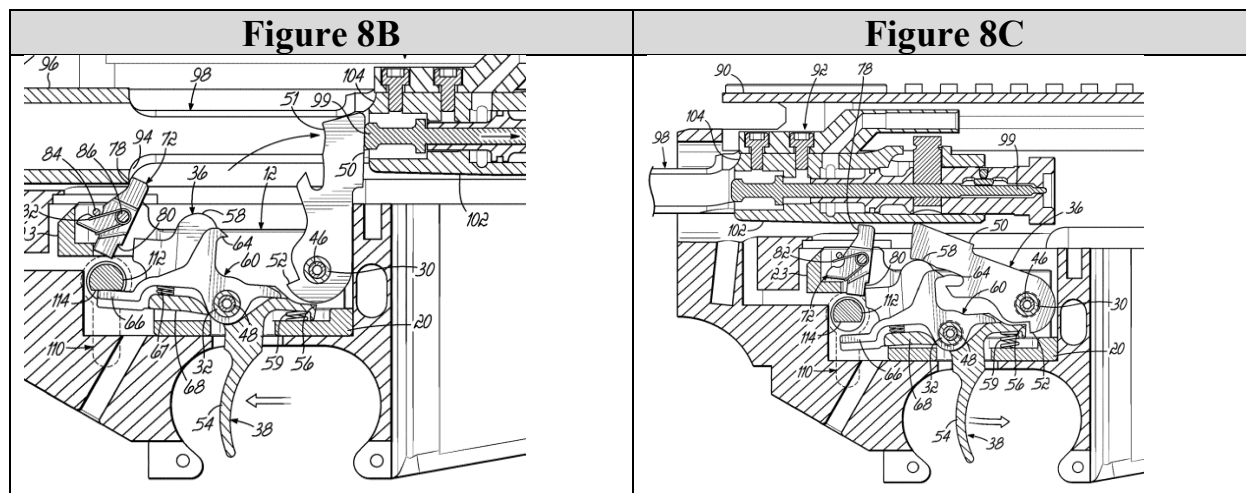
(1) operation “in said standard semi-automatic position” where “pivoting of said cam from said first position to said second position such that said cam lobe forces said trigger member towards said set position but prior to reaching said set position said disconnecter hook catches said hammer hook,” requiring “a user [to] manually release said trigger member to” fire, or

(2) operation “in said forced reset semi-automatic position” where “pivoting of said cam ... forces said trigger member to said set position[,] ... preventing said disconnecter hook from catching said hammer hook, and thereafter forward movement of the bolt carrier causes said cam to pivot to said first position, at which time the user can pull said trigger member.”

Id. at 23-25 (emphasis added). Petitioner agrees that Blakley '723 lacks these limitations. Pet. 72-74.

The Examiner did not discuss Strbac '003 because it *also* lacks these elements. Unlike the claimed *cam*-based trigger reset, Strbac '003 (and PP_FRT-15-3MD) disclose *hammer*-based trigger reset. Strbac '003 Figures 8B and 8C, shown below,

depict operation of the firing mechanism with the safety selector in the standard semi-automatic position. Ex. 2015, 9:35-36.



Specifically, in Strbac '003, once hammer 36 hits firing pin 99 (Figure 8B), the discharge of the ammunition cartridge causes the action to cycle by moving bolt carrier assembly 92 rearward (Figure 8C). Ex. 2015, 9:40-43. Then, “[r]earward travel of the bolt carrier assembly 92 frees the locking member 72 to pivot such that surface 80 is moved into a blocking position.” *Id.* at 9:44-47. “Rearward travel of the bolt carrier assembly 92 also causes the lower surface 102 to contact the face of the hammer head 50 and pivot the hammer 36 counter-clockwise. During pivoting travel of the hammer 36[,] surface 51 contacts surface 58 of trigger member 38 forcing trigger member 38 to pivot counter-clockwise” towards the set position. *Id.* at 9:47-52 (emphasis added). In other words, it is contact by surface 51 of the hammer 36 of Strbac '003 that forces trigger member 38 towards the set position; this is not achieved by a cam, as claimed. *Id.*; Ex. 1001, 10:54-60. The same

deficiency exists in newly cited PP_FRT-15-3MD, which depicts the same Tommy Triggers' product disclosed in Strbac '003. Pet. 67 (acknowledging that, in "PP_FRT-15-MR ... the hammer strikes the top of the trigger causing it to reset").

As noted above, Petitioner falsely equates the locking member to the claimed "cam."⁵ Pet. 56. But the locking member of Strbac '003 and PP_FRT-15-3MD does not perform the cam's claimed function. As described in Strbac '003, the locking member 72 does *not* cause the trigger member to move towards a set position in either standard or forced reset semi-automatic mode as required by the '247 patent claims; the hammer performs that function. Instead, locking member 72 simply blocks the trigger from moving out of its set position in standard mode while the bolt carrier assembly returns forward. Ex. 2015, 10:27-29. The same is true in newly cited PP_FRT-15-3MD. Ex. 1008, 19-20 (describing the same operation of the locking bar in PP_FRT-15-3MD); Pet. 67 (acknowledging this falsely labelled "cam ... does not also function to reset the trigger"). Thus, even accepting Petitioner's misguided attempt to equate the locking member with the claimed "cam," that

⁵ The structure and function of a locking member was established in the Texas litigation and incorporated in the Settlement Agreement: it "mechanically locks the trigger in its reset state" but it does not reset the trigger. Ex. 2013, 3 (describing RBT's previously litigated commercialized design); Ex. 2001 ¶ 11.a.

structure *also* does not “force[] said trigger member towards said set position” as claimed and as Petitioner admits.

The Examiner did not err when considering Strbac ’003. Quite simply, there is no cam in Strbac ’003 (or PP_FRT-15-3MD) that resets the trigger as claimed. Instead, in Strbac ’003 (and PP_FRT-15-3MD), that action is achieved by an entirely different and separate structure – the hammer. The Petition’s argument that it would have been obvious to combine Blakley ’723 with PP_FRT-15-3MD and then further modify PP_FRT-15-3MD to, *inter alia*, allow cam-based trigger reset is nothing more than unsupported hindsight. Pet. 67-68 (citing no evidence other than the unsupported and conclusory testimony of Petitioner’s *founder and president*); *see also id.* at 64-74 (proposing other further modifications); *see infra* § II.C. This is nothing more than the same combination of prior art teachings that the Examiner already considered. Accordingly, the Director should deny institution.

C. The Petition’s Reliance on Expert Testimony Is Improper

As will be argued in the Preliminary Response, the Petition fails on the merits. *See* Guidance § II.C.i. Relevant to both discretionary denial and the merits, however, is the Petition’s extensive reliance on self-interested, unsupported declarant testimony. *Id.* § I.B.

As discussed above, the Petition lumps together three YouTube videos and a district court Complaint under the moniker “PP_FRT-15-3MD,” where each

allegedly describes the Tommy Triggers' FRT product. Pet. 12-14 ("Petitioner relies upon ... three videos pertaining to Tommy Triggers' FRT" product), 54 (stating the Complaint discloses "the inner workings of the Tommy product"), 62 (defining PP_FRT-15-3MD to refer to Exs. 1005-1008 individually).

Petitioner relies upon that PP_FRT-15-3MD amalgamation in its contentions. *Id.* at 69-86. In fact, Petitioner does not identify *any specific disclosures* of the videos or Complaint themselves. *Id.* (lacking any citation to Exs. 1005-1008). Instead, Petitioner relies upon unsupported and self-interested testimony of Mr. Malcolm Brown to explain how the PP_FRT-15-3MD *products* allegedly operate.⁶ This exceeds the proper role of expert testimony.

Take limitation [1g] as a mere example. The Petition states:

It is well-known to a POSITA and inherent in PP_FRT-15-3M[D] that in semiautomatic mode, after a round is fired, the bolt carrier moves rearward, striking the hammer and causing it to pivot back and latch on the disconnecter hook. As the bolt carrier continues rearward, it strikes the cam, which is rotated rearward, however, because the disconnecter is engaged, the trigger cannot reset. As the bolt carrier reverses direction and moves forward it again strikes the cam resetting it back to its original position. The bolt carrier moves into battery. The shooter must release the trigger to free the hammer

⁶ The Petition miscites the Brown Declaration as Ex. 1003; it is Ex. 1004.

from the disconnecter, but before the hammer can fall, it resets itself when the hammer sear catch mates with the sear on the trigger.

Pet. 73 (citing Ex. 1003 ¶¶ 122-123). The Petition neither alleges nor shows that this conclusory description of the operation of the Tommy Triggers’ product is disclosed in the videos or Complaint upon which these grounds nominally rely. *Id.*⁷

In other words, Petitioner’s theory of unpatentability turns entirely on Mr. Brown’s conclusory testimony regarding the well-known or inherent nature of FRT-15-3MD’s operation. Pet. 71-72. “In assessing the probative value of an expert opinion, we must consider three factors: 1) the interest of the expert in the outcome of the case, 2) the presence or absence of factual support for the expert’s opinion,

⁷ Moreover, *even if* the FRT-15-3MD’s operation was well-known or inherent, the operation of a *product* is beyond the scope of IPR. *Cartessa Aesthetics, LLC v. Serenia, LLC*, IPR2022-00594, Paper 9 at 38 (PTAB Aug. 12, 2022) (“[E]ven if the INTRAcel Device satisfies this limitation ... the issue is whether the *prior art discloses or suggests* the limitation, not whether the *device discloses or suggests* the limitation.”); PTAB Consolidated Trial Practice Guide (“CTPG”) (Nov. 2019) at 36 (“[B]ecause [IPR] may only be requested ‘on the basis of prior art consisting of patents or printed publications’ ... expert testimony cannot take the place of disclosure from patents or printed publications.”).

and 3) the strength of any opposing evidence.” *eBay Inc. v. Global Equity Mgmt. (SA) Pty. Ltd.*, IPR2016-01829, Paper 63 at 6 (PTAB Apr. 19, 2018) (citations omitted). These factors demonstrate that Mr. Brown’s testimony deserves no weight.⁸

First, Mr. Brown is a facially self-interested declarant. Indeed, he is the *founder and current President of Petitioner*. Ex. 2018 ¶¶ 10, 14, 16 (Mr. Brown “set up a number of companies with the name ‘Atrius’ in them” and “served as an officer in all of the[m],” including “Atrius Development Group Corp.”); Paper 2, 2 (signing as President). He is the utmost interested party.

Second, Mr. Brown’s declaration is unsupported. Regarding this limitation, for example, it presents a 100% verbatim reproduction of conclusory attorney argument from the Petition, without *any* supporting evidence or technical reasoning. *Compare* Ex. 1004 ¶¶ 122-123, *with* Pet. 71-72. There is no supporting documentation or articulated factual basis upon which to determine whether components operate as alleged or are “well-known” or “inherent.” Mr. Brown simply concludes that they are. Unsupported expert testimony violates the Board’s rules and is entitled to no weight. 37 C.F.R. § 42.65(a); CTPG 36 (“[C]onclusory

⁸ The third factor, “strength of any opposing evidence” is premature pre-institution but, even in its absence, the first two factors demonstrate the lack of probative value.

assertions from a third party about general knowledge in the art cannot, without supporting evidence of record, supply a limitation.”); *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 at 15 (PTAB Aug. 24, 2022) (precedential).

The Petition relies extensively upon Mr. Brown’s testimony throughout, including as its entire support for limitation [1g]. Pet. 72-73. “The extent of the petition’s reliance on expert testimony,” especially of the type presented here—self-interested, conclusory, and wholly unsupported—bears on the Director’s discretion to institute trial. Guidance § I.B. Patent Owner submits that denial is appropriate.

III. CONCLUSION

For these reasons, Patent Owner respectfully requests denial of institution.

Dated: November 11, 2025

Respectfully submitted,

/ Amanda F. Wieker /

Amanda F. Wieker

Reg. No. 59, 285

MCGUIREWOODS LLP

Gateway Plaza

800 East Canal Street

Richmond, VA 23219

Telephone: (804) 775-1000

Facsimile: (804) 775-2016

Email: awieker@mcguirewoods.com

Counsel for Patent Owner ABC IP, LLC

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, the undersigned certifies that on November 11, 2025 a copy of the foregoing document was served by e-mail on the following:

Adam V. Floyd
USPTO Reg. No. 39,192
Floyd IP
3203 Bluffs Lane
Parker, Texas 75002
512.497.7500
AFloyd@FloydIP.com

Backup Counsel
Michael J. Smith
USPTO Reg. No. 51,381
The Fowler Law Firm PC
3301 Northland Suite 101
Austin, TX 78731
512.203.3176
MSmith@TheFowlerLawFirm.com

Dated: November 11, 2025

Respectfully submitted,

Electronic signature: /Amanda F. Wieker /
Amanda F. Wieker
Reg. No. 59, 285
MCGUIREWOODS LLP
Gateway Plaza
800 East Canal Street
Richmond, VA 23219
Telephone: (804) 775-1000
Facsimile: (804) 775-2016
Email: awieker@mcguirewoods.com

Counsel for Patent Owner ABC IP, LLC