

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

COBBLESTONE WIRELESS LLC,
Patent Owner

Case IPR2025-01496
U.S. Patent No. 8,891,347

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

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LIST OF EXHIBITS

APPLE-1001	U.S. Patent No. 8,891,347 (“’347 Patent”)
APPLE-1002	Excerpts from the Prosecution History of the ’347 Patent
APPLE-1003	Declaration of Dr. Zhi Ding
APPLE-1004	U.S. Patent Pub. 2010/0159855A1 (“Hardacker”)
APPLE-1005	U.S. Patent Pub. 2014/0010274A1 (“Medbo”)
APPLE-1006	U.S. Patent No. 6,473,467 (“Wallace”)
APPLE-1007	Stefania Sesia, et al., <i>LTE: The UMTS Long Term Evolution from Theory to Practice Second Edition</i> , 2011 (“Sesia”).
APPLE-1008	Rudolf F. Graf, <i>Modern Dictionary of Electronics Seventh Edition</i> , 1999.
APPLE-1009	Patent Trial and Appeal Board (PTAB) Boardside Chat: Interim Processes Relating to institution in AIA Proceedings (Apr. 17, 2025)
APPLE-1010	Coke Morgan Stewart, Interim Processes for PTAB Workload Management (Mar. 26, 2025)
APPLE-1011	Letter of Stipulation dated October 29, 2025
APPLE-1012-20	RESERVED
APPLE-1021	Apple Increases U.S. Investment
APPLE-1022	Late Payment of Second Maintenance fee for ’347 Patent
APPLE-1023	District Court Scheduling Order

I. INTRODUCTION

Petitioner Apple Inc. (“Apple”) opposes Patent Owner Cobblestone LLC’s (“Cobblestone”) Request for Discretionary Denial (Pap. 7, “Request”). Under all relevant considerations, denial of institution is simply inappropriate as the factors discussed below demonstrate why *inter partes* review would constitute an efficient and otherwise appropriate use of Office resources.

If the Asserted Patents are found unpatentable, early resolution avoids wasteful parallel litigation. And, even if found not unpatentable, by engaging in this validity investigation, the Board will provide certainty and guidance that informs U.S. manufacturers and investors. Additionally, the public interest strongly favors institution. The purpose of the AIA is to provide a more efficient, cost-effective alternative to litigation for weeding out invalid patents. Granting review here prevents an invalid patent from taxing the industry and diverting resources away from innovation and deployment of 5G technologies. Ensuring that only valid patents are enforced is essential for reducing economic friction and fostering a stable environment for investment in domestic technology sectors. *OpenSky Indus., LLC v. VLSI Tech. LLC*, IPR2021-01064, Paper 102, 46-47 (PTAB October 4, 2022) (precedential) (“Accordingly, ‘ensuring that invalid patents do not remain in force [is] one of the core missions of the PTAB’ [], and ‘AIA trials thus broadly aim to “protect the public’s paramount interest in seeing that patent [rights] are

kept within their legitimate scope””) (citations omitted).

A reasonable third party reviewing the public record would not view this patent as a stable, consistently enforced commercial asset. Instead, the record reflects sporadic maintenance, multiple transfers, prior challenges, and other disruptions that render any purported “settled expectations” illusory.

For instance, a Patent Owner’s claim of settled expectations is weakened when the patent has consistently been in litigation over the last year and a half with various invalidity proceedings both at the Patent Office and district court. In addition, a late maintenance fee payment, while corrected within the grace period, reflects an indication of administrative negligence and a lack of diligence inconsistent with a stable, highly valued commercial asset. No evidence presented by Cobblestone rebuts the assumption, nor is there any apparent public information about this patent to rebut this presumption.

Similarly, a prior third-party lawsuit that merely mentioned Apple’s products (without naming Apple as a party to the suit) does not constitute adequate notice and in fact suggests that Cobblestone deliberately chose not to assert claims against Apple, further negating a claim of settled expectations for Cobblestone and instead creating one for Apple—namely that Apple is not the target of Cobblestone’s assertion campaign. In addition, the mere existence of prior IPR filings in recent years, even if not fully adjudicated on the merits, puts the Patent

Owner on notice of ongoing validity challenges and undermines the notion of a long-standing, undisturbed expectation of validity. These factors, individually or combined, erode Cobblestone's argument for discretionary denial.

As to *Fintiv*, contrary to Patent Owner's misleading assertions, the trial in counterpart district court litigation is likely to occur after the Board's deadline to issue a FWD when based on median time-to-trial statistics for WDTX, which point to a trial date around three months after the FWD deadline. EX-2004, 1. Further, Apple eliminated the potential for inefficiencies and duplication by stipulating not to advance references asserted in IPR grounds within invalidity grounds advanced in litigation (including in combination with system art) if, and immediately upon, grant of institution. Notably, in this regard, Apple's stipulation is consistent in scope with those endorsed for similar purposes. *See, e.g., Shenzhen Touzhu Technology Co. LTD v. Stratasys, Inc.*, IPR2025-00438, Pap. 10, at 3 (PTAB Jul. 17, 2025) ("*Shenzhen*"); *Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00217 ("*Tesla*"), Pap. 9 (PTAB Jun. 13, 2025). Thus, if instituted, this proceeding would provide a true substitute for litigation.

Based on a holistic assessment discussed below, exercising discretion to deny institution is not appropriate in this proceeding.

II. COBBLESTONE'S GAMESMANSHIP

As an initial matter, Cobblestone's request for discretionary denial grossly

misleads the Board as to the patent's history, value, and enforceability.

First, in an apparent attempt to artificially inflate the “time to trial” metric and skew data in their favor, Cobblestone averaged the last *six years* of median time to trial figures, thereby masking the increasingly delayed trial dates that have characterized WDTX in recent years. Request, 5. Furthermore, they inaccurately represented the patent's period of enforceability by using the initial filing date rather than the actual issue date. *Id.*, 16.

Second, their claims of prolific licensing by “most of the industry” also appear similarly inflated, relying solely on a list of recent legal settlements without providing concrete evidence that the opposing parties actually entered into license agreements. Request, 16. The five companies sued by Cobblestone hardly represent “most of the industry” and even if considered significant leaves confusion on what “industry” Cobblestone refers to since early suits appeared to focus on the telecommunications industry. *Id.*, 16 (suits against T-Mobile, AT&T, Verizon, Nokia, and Ericsson). Moreover, this does not account for current suits which have not yet settled or been determined. This leaves Cobblestone with an apparent cherry-picked list of recent suits and conclusory statements—such attorney arguments provide no weighable factors in regard to determining whether an IPR should be discretionarily denied. Cobblestone's argument rests on a fundamental logical fallacy: *Cum hoc ergo propter hoc* (correlation does not imply

causation). The argument assumes that because a settlement occurred, the motivating factor was a belief in the patent's validity. This ignores the vast number of other concerns driving settlements (e.g., costs). Furthermore, the argument relies on a generalization by declaring an “industry consensus” while simultaneously ignoring active litigation that disproves that very consensus.

Third, Cobblestone mischaracterized Apple’s stipulation claiming that it “does little to address the concerns of efficiency.” Request, 2. But as discussed and shown later in this reply, the stipulation goes beyond a typical *Sotera* stipulation, and is clear, complete, and equivalent to other stipulations found to be sufficient by the PTAB. *Id.*, 12. Thus, the stipulation eliminates inefficiencies across proceedings.

Fourth, Cobblestone mischaracterized prior IPR decisions, representing that they were favorable rulings on the merits when, in fact, those cases were decided on either *Fintiv* factors or procedural grounds due to technicalities relating to claim construction rather than substantive validity issues. Request, 14. The Board’s previous denials were explicitly grounded in those petitioners’ failure to provide sufficient basis for their claim constructions, not on a finding that the prior art was deficient. Apple has cured those pleading defects, and the Board should not conflate a prior failure of advocacy with the actual scope of the prior art. IPR2024-00319, Paper 18, 28 (“ . . . Petitioner has not provided a sufficient basis to support

its constructions ... upon which it relies”); IPR2024-00136, Paper 18, 23 (“Petitioner bases its case upon a claim construction that it ascribes to Patent Owner, and then expressly criticizes as being inconsistent with the plain and ordinary meaning of the claim language”)(emphasis added). The patent’s history is thus in no way “settled” as Cobblestone contends.

III. DISCRETIONARY DENIAL IS NOT APPROPRIATE

A. Settled Expectations Should Not Lead To Discretionary Denial

1. Cobblestone Has No Settled Expectations

a) Cobblestone presents no evidence to contradict the evidenced record

Cobblestone presents no evidence to demonstrate the patent was being used, enforced, or otherwise asserted prior to legal action shortly after the patent’s acquisition. If the patent were being used, evidence would reasonably and predictably exist through at least an internet search of the patent or the patent owners’ websites. Instead, there is no indication that Cobblestone or the prior owner of the patent was using the asset—instead the record evidence suggests the opposite.

(1) Lapsed Payment of the Maintenance Fees

Cobblestone cannot credibly claim “settled expectations” when the patent in question was allowed to lapse, which among other factors reasonably led third parties, including the Petitioner, to believe the patent was not a priority for

enforcement or commercialization. The fact that the second maintenance fee payment occurred 6 months late, requiring the use of the six-month grace period and surcharges, signaled a lack of commitment to maintaining the patent's continuous, valid force. APPLE-1022. A third party could reasonably infer from this pattern that the patent was a neglected or de-prioritized asset, potentially available for public use or acquisition as an expired patent. *See, e.g., Globus Medical, INC v. Spinelogik, INC*, IPR2025-00225, -00226, Pap. 8, at 2 (PTAB Jun. 12, 2025). The fact that the patentee chose not to pay the maintenance fee for the '347 Patent signaled to the public, including Apple, that patentee did not intend to enforce its patent rights and/or considered the validity of the patent dubious.

The fact that Cobblestone acquired the patent a mere two months after the last late payment was made in 2022 undermines any notion of "settled expectations" of validity or consistent asset management dating back to the issue date of the patent. Instead, it created a reasonable expectation for the Petitioner that the patent's enforceability was questionable due to the patentee's own prior actions, weighing against discretionary denial of the IPR petition.

(2) *No commercialization, marking, or licensing prior to acquisition by Cobblestone*

There was a lack of consistent commercial reliance on the '347 Patent throughout its life. The '347 Patent was initially held by Empire Technology

Development LLC from issuance until acquisition by Cobblestone. Cobblestone fails to demonstrate, and there is no evidence suggesting, utilization of the '347 Patent during this time period. Instead, Cobblestone only points to recent litigation (2024-2025) stating that “every IPR and district court challenge to the validity of the '347 Patent not involving Apple has resulted in the challenger [allegedly] taking a license.” Request, 16. But the citation of recent alleged licensing is not a sign of commercialization, assertion, marking, or otherwise applying the patent in a petitioner’s particular technology space as mentioned by the then-Acting Director. IPR2025-00327, -00329, Paper 12 (Jun. 25, 2025). Any “expectations” associated with the '347 Patent began at best in 2023, after the late maintenance payment was paid and the patent’s new assignee Cobblestone asserted the patent against multiple defendants.

(3) *No resolution as to the validity of the patent*

Cobblestone incorrectly claims recent adjudication on the merits for previous IPR proceedings related to this patent. Request, 14 (citing IPR2024-00136, Paper 18; IPR2024-00319, Paper 16). The first case, IPR2024-00136, was denied due to the Petitioner’s unclear claim construction. IPR-2024-00136, Paper 18, 23.

The two IPRs filed against the patent, IPR2024-00319 and IPR2024-00136, suffered from the same technical defect regarding claim construction that led to a

denial of institution. IPR2024-00319, Paper 18, 28 (“ . . . Petitioner has not provided a sufficient basis to support its constructions of ‘path parameter information’ and ‘predistorting a second signal at the transmitter in a time domain, frequency domain, and a spatial domain’ upon which it relies”); IPR2024-00136, Paper 18, 23 (“Petitioner bases its case upon a claim construction that it ascribes to Patent Owner, and then expressly criticizes as being inconsistent with the plain and ordinary meaning of the claim language and the ’347 patent Specification.”) (emphasis added). Moreover, the grounds of the current petition are distinct from these grounds and put forth a clear claim construction. Thus, a conclusion of a prior IPR, -00319 through settlement and -00136 through denial based on claim construction, does not speak to the merits of the previous petitions, nor does it speak to the merits of this petition.

b) Cobblestone Overstates The Importance of Actual Notice

Cobblestone further argues that Apple had actual notice of the ’347 Patent since July 2023. Request, 17. Cobblestone bases these arguments on a prior suit with T-Mobile where Apple was only subpoenaed to provide information about products relevant to the suits. However, the fact that Apple’s products were listed as accused products in a prior lawsuit against different entities (T-Mobile and others) and that Apple itself was never named as a defendant does not provide the type of “notice” that creates settled expectations against Apple. Instead, this

situation suggests the opposite: Cobblestone made a deliberate choice *not* to pursue an infringement claim against Apple. Cobblestone’s decision to sue several other companies while explicitly omitting Apple, despite being aware of the Apple’s product, reasonably led Apple to the settled expectation that its products were not considered infringing, or at least that the Cobblestone had no intention of enforcing the patent against it. Holding the mere mention of a product in an unrelated complaint as constructive notice sufficient to create an adverse “settled expectation” would promote gamesmanship by patent owner’s by incentivizing them to hide references to potential defendants’ products in other court filings to deprive the Office of reviewing bad patents.

2. *Regardless Of Settled Expectations, Discretionary Denial Would Still Be Inappropriate Due To Material Error By The Office*

Even assuming, *arguendo*, Cobblestone had a legitimate claim to settled expectations, those expectations are offset and overcome by material error in the examination of the ’347 patent. In *Anthony Inc. v. ControlTec LLC* (“*Anthony*”), “challenged patents have been in force for approximately eighteen and seventeen years” did not support discretionary denial because “Petitioner appears to show a material error by the Office.” IPR2025-00559, Pap. 12, at 2 (PTAB Jul. 16, 2025). Here, the ’347 Patent is younger than the patents at-issue in *Anthony*, and thus, any material error in the examination of the ’347 Patent is a much more “appropriate

use of Office resources to review the potential error.” *Id.*

Like *Anthony*, the material error in examination of the ’347 Patent results from premature allowance reflecting the Examiner’s lack of appreciation for relevant prior art. *Anthony*, at 2 (noting that “the patent examiner erred by overlooking the teachings of Carter” in “issu[ing] a notice of allowance of both patent applications as the first office action”).

More specifically, in examination of the ’347 Patent, allowance turned on whether predistortion was performed in “the time domain, frequency domain, and spatial domain.” APPLE-1002, 109 (emphasis added). In the office action rejection, the examiner had rejected the claims under §102 using Joham teaching spatial-domain predistortion. APPLE-1002, 139. But the other reference before the examiner, Phan Huy (US 2011/0103457A1), teaches the other types of predistortion. For example, Phan Huy teaches dynamic selection of the carrier frequency (“frequency domain”) and a latency delay (“time domain”) is performed to adapt to movement and maintain focus quality. Phan Huy, ¶31 (“a selection of a value for at least one parameter, for the next instant, chosen from a carrier frequency [(“frequency domain”)] and a latency delay [(“time domain”)]”).

Modifying the carrier frequency (f) directly influences the transmission characteristics and is a function performed in the frequency domain. Adjusting this latency delay constitutes a mechanism for predistortion control within the time

domain.

The Examiner erred by granting the allowance based on the alleged absence of teaching predistortion in a time, frequency, and spatial domain, when the combination of the very references in front of the examiner, Joham (spatial predistortion) and Phan Huy (time domain pre-equalization and frequency parameter selection), clearly teaches all three components of the claimed method.



US008891347B2

(12) United States Patent		(10) Patent No.:	US 8,891,347 B2
Yin		(45) Date of Patent:	Nov. 18, 2014
(54)	USER-FOCUSING TECHNIQUE FOR WIRELESS COMMUNICATION SYSTEMS		
(75)	Inventor: Xuefeng Yin , Shanghai (CN)		
(73)	Assignee: Empire Technology Development LLC , Wilmington, DE (US)		
(*)	Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 178 days.		
(21)	Appl. No.: 13/522,422		
(22)	DOCKETED: Nov. 18, 2014		
(58)	Field of Classification Search CPC ... H04L 5/0001; H04L 5/0003; H04L 5/0014; H04L 5/0026; H04L 5/0028; H04L 5/0021; H04L 5/0016 USPC 455/114.3, 114.2, 63.1; 370/203, 338 See application file for complete search history.		
(56)	References Cited U.S. PATENT DOCUMENTS 2007/0177551 A1* 8/2007 Joham et al. 370/332 2010/0177746 A1* 7/2010 Gorokhov et al. 370/336 2011/0103457 A1 5/2011 Phan Huy et al. FOREIGN PATENT DOCUMENTS		

APPLE-1001, Cover.

Although the petition uses different references to teach such limitations, this does not diminish the error, but only emphasizes the well-known nature of such pre-emphasis/pre-distortion techniques used in the field of art at the time of filing.

Additionally, the examination of the claims as whole appears deficient. For example, the examiner cited allowable subject matter in dependent claims like dependent claim 4, which recites a list of estimation techniques and requires “at

least one of” these estimation techniques. Among this list are well-known techniques such as “a maximum-likelihood estimation algorithm, ..., correlatorgram, ...Kalman filter” among others. These techniques were well known prior to the filing date, for example, classified in the same CPC family (H04L – “Transmission of Digital Information”), U.S. Patent 6,295,326—filed in 2000—titled “Kalman Filter Based Equalization for Digital Multicarrier Communication Systems” can be found. In addition, U.S. Patent 7,421,013—filed in 2004—titled “Maximum likelihood estimation of time and frequency offset for OFDM systems” demonstrates use of such channel estimation methods in the relevant art. An indication that this claim among others was allowable also suggests improper application of the references at hand as well as improper searching.

B. Discretionary Denial Under *Fintiv* Is Inappropriate

1. The Fintiv Factors Do Not Support Discretionary Denial

a) Factor 1—Neutral—No Stay Has Been Requested In the Litigation

Because no motion to stay has been filed, the outcome of a motion to stay cannot be inferred, nor the existence of stay known.

b) Factor 2—Neutral—The Final Written Decision is Likely To Issue Before the Median Time to Trial Date

Cobblestone misrepresents the timing and statistics surrounding trial and the FWD. Cobblestone’s calculated “median time to trial” (MTT) of 27.73 months is

the result of averaging the last six years of data, a method that artificially lowers the figure by including older, non-representative data. By contrast, the most recent, relevant statistics from WDTX demonstrate a consistently longer MTT of 32.8 months, which reliably places the FWD (which should issue around mid-March, 2027) approximately three months before the average trial date of mid-June, 2027. Thus, the IPR proceeding is an efficient vehicle to resolve the validity of the patent prior to the District Court's investment of resources in a trial, supporting the argument against discretionary denial. At most, these trial and post-trial expectations render Factor 2 as neutral. *Geotab Inc. et al v. Fractus, SA*, IPR2025-01027, Paper 15 (“ . . . it is unclear whether a final written decision in these proceedings will issue after the district court trial occurs. . . . As such, these considerations neither favor nor counsel against discretionary denial.”).

c) Factor 3— Favors Referral—Minimal Relevant Investment By The Parties And Expeditious IPR Filing

Investment in the district court proceeding remains low because discovery only opened in July, 2025 and does not close until February, 2026. APPLE-1023. Further, expert reports are also not due until February. *Id.* This weighs against discretionary denial as IPRs can inform ongoing litigation. *See, e.g., CrowdStrike Inc. v. Webroot, Inc.*, IPR2023-00126, Pap. 9, at 10 (PTAB May 5, 2023) (early-stage investment weighs against denial).

The issuance of a *Markman* order is not a “point of no return.” The parties have yet to complete the heavy lifting of expert discovery, summary judgment briefing, and trial preparation—stages that consume the vast majority of litigation budgets. The Board has consistently held that even where claim construction is complete, institution is appropriate if it can save the parties from the remaining, substantial costs of an invalid trial. *Google LLC v. Hammond Dev. Int’l, Inc.*, IPR2020-01007, Paper 15 at 16 (PTAB Dec. 7, 2020) (“Although the Texas court might issue a claim construction order shortly after our institution of trial, Patent Owner has not explained how it might impact questions of patentability.”); *see also Samsung Electronics Co., LTD v. Harbor Island Dynamic, LLC.*, IPR2024-01405, Paper 9, at 35-36 (PTAB Mar. 24, 2025) (“Although the parties and district court have invested some minimal time in the District Court Litigation, substantial work remains to be done including the completion of fact and expert discovery, claim construction briefing, pretrial motions, and preparation of a joint pretrial order.”) In Apple’s case, Fact Discovery closes on February 6, 2026, and opening Expert Reports are due February 27, 2026. Moreover, the asserted claims are not yet narrowed and are only planned to be finalized on April 24, 2026. *Laboratory Corporation of America Holdings v. Ravgen, Inc.*, IPR2021-01054, Paper 11, at 18-19 (PTAB Nov. 5, 2021) (“... as of this institution decision, fact discovery opened on September 16, 2021, and will not close until January 27, 2022. . . .

Expert discovery will not open until February 2022 and will close in March 31, 2022, at the earliest. . . . Although a *Markman* hearing has taken place, and preliminary invalidity contentions have been exchanged, most of the investment from the court and the parties ... especially on invalidity issues, still lies ahead.”).

Apple’s Petition was also timely under § 315(b), and Cobblestone fails to demonstrate any evidence of gamesmanship in any perceived delay of filing. Multiple IPRs also promote efficiency by addressing related patents cohesively.

d) Factor 4—Favors Referral—Apple’s Broad Stipulation Eliminates Overlap

Apple filed a broad stipulation mitigating concerns about duplicative efforts. APPLE-1011. This stipulation extends beyond *Sotera* to include “combinations of the prior art references asserted in this proceeding,” thereby avoiding duplication of effort and inefficiencies by ensuring minimal overlap. *Tesla*, at 2-3 (filing a similar stipulation).

Apple also stipulates that, if the PTAB institutes review in this proceeding, and said institution is not later vacated, reversed, or otherwise withdrawn by rehearing or Director Review, Apple will not pursue in the Texas Litigation combinations of the prior art asserted in this proceeding (as reproduced in the Appendix below) with any other type of prior art, including unpublished system prior art, nor will it pursue any unpublished system art corresponding to the prior art asserted in this proceeding. *See Motorola Solutions, Inc. v. Stellar, LLC*, IPR2024-01205, IPR2024-01206, IPR2024-01207 & IPR2024-01208, Paper 19 (PTAB Mar. 28, 2025).

APPLE-1011, 2-3.

That is, the stipulation also addresses combinations of the prior art references asserted as part of a ground in this proceeding with system prior art,

thereby addressing the efficiency concerns raised in *Motorola Solutions, Inc. v. Stellar, LLC*, IPR2024-01205, Pap. 19, at 4 (PTAB Mar. 28, 2025) (“*Motorola*”).

Additionally, this stipulation is substantively the same as the language used in recent stipulations before the PTAB. In each of these decisions, discretion was not warranted and no discretionary denial referral discussed or mentioned the inefficiency of the stipulation. IPR2025-00894, -00895, -00896, -00897, -00898, -00900, -00901, -00903, -00904, -00905, -00906, -00907, -00908, -00909, -00910, -00911, -00921, -00922, -00923 (collectively the “Apex Beam Cases”).

Wireless, Inc. v. Masimo Corporation, IPR2020-01019, Paper 12 (PTAB Dec. 1, 2020). Apple also stipulates that, if the PTAB institutes and maintains institution of IPR2025-00909, Apple will not pursue in the above-captioned District Court litigation as invalidity grounds combinations of the prior art references asserted as part of a ground in this proceeding with unpublished system prior art or any other type of prior art. *Motorola Solutions, Inc. v. Stellar, LLC*, IPR2024-01205, IPR2024-01206, IPR2024-01207 & IPR2024-01208, Paper 19 (PTAB Mar. 28, 2025).

APPLE Stipulation in the Apex Beam Cases.

e) Factor 5—Neutral—The Parties Are The Same In The IPR And The Litigation

While the parties in the Litigation are the same as here, this factor alone does not favor denial.

f) Factor 6—Favors Referral—The Merits Of The Petition Are Strong

As set forth in the Petition, the ’347 Patent claims are plainly unpatentable over prior art. This is also evidenced by the above demonstrated material error

during examination. Because the petition presents a strong, clear, and concise path to unpatentability, institution serves the interests of judicial economy by efficiently disposing of invalid claims at the USPTO.

2. *Regardless Of The Fintiv Factors, Discretionary Denial Would Still Be Inappropriate Due To Material Error By The Office*

Even if there are any inefficiencies resulting from parallel litigation, those inefficiencies are offset and overcome by material error in the examination of the '347 Patent. In *Microsoft Corp. v. Partec Cluster* (“*Microsoft II*”), “the scheduled district court trial [being] set to precede the expected final written decision due date by a month” did not warrant discretionary denial “because of Petitioner’s showing of material error during patent examination.” IPR2025-00318, Pap. 9, at 3 (PTAB Jun. 12, 2025). Indeed, it is an “appropriate use of Office resources to review the potential error.” *Id.*; *see also Padagis US LLC v. Neurelis Inc.*, IPR2025-00464, Paper 12, 3 (PTAB Jul. 16, 2025) (“Petitioner appears to show a material error by the Office, and it is an appropriate use of Office” despite “a scheduled district court trial date that precedes the date projected for a Board final written decision”).

IV. *INTER PARTES* REVIEW IS AN APPROPRIATE USE OF OFFICE RESOURCES

Referral of institution is further appropriate because, as *Dabico* confirms, the application of discretion turns in part on whether instituting review represents an

appropriate use of Office resources. These factors confirm that this proceeding is not only appropriate for PTAB review, but also a prudent use of the Office's resources.

A. Substantive *Inter Partes* Review, Available Only Upon Referral, Would Yield Significant Efficiencies

The PTAB is uniquely situated to provide efficient review of the '347 Patent given the validity issues raised over the various actions in district court. *Inter partes* review thereby serves the public interest by centrally settling patent validity, rather than forcing numerous distinct validity challenges before the district court. This promotes the AIA's objectives of improving patent quality and reducing unwarranted litigation burdens on the public and industry participants. *See* 35 U.S.C. § 311; H.R. Rep. No. 112-98, pt. 1, at 48 (2011) (noting role of IPR in providing "a quick and cost effective alternative[] to litigation").

Such centralized review is crucial because Cobblestone's track record demonstrates . a pattern of aggressive enforcement of the '347 Patent and related patents. Indeed, in enforcing the Asserted Patents, Cobblestone has already filed 10 distinct district court litigations. Further litigation is, therefore, more than reasonably likely, and addressing validity at the PTAB would serve to resolve a key question that will otherwise need to be addressed multiple times over, in less efficient forums.

Institution of this proceeding thereby resolves validity, and in doing so, helps create greater predictability for players within this technology domain. It further creates significant downstream efficiencies for the Patent Office, the courts, and the public by resolving validity once and for all at a single time in a single forum.

Finally, *inter partes* review of this proceeding is also consistent with recent discretionary guidance regarding counterpart litigation that “would proceed to several district court trials in different jurisdictions...” *Berkshire*, at 2-3. There, such litigation resulted in *inter partes* review being deemed to represent an efficient use of Office resources. Cobblestone’s serial litigation activity suggests Apple will not be the last defendant accused of infringement. Under these circumstances, “resolving the dispute between the parties at the Office would be more efficient.” *Berkshire*, at 2.

V. CONCLUSION

For the reasons set forth above, Apple requests denial of Patent Owner’s Request for Discretionary Denial.

Respectfully submitted,

Date: December 10, 2025

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e)(4), the undersigned certifies that on December 10, 2025, a complete and entire copy of this Petitioner's Opposition to Patent Owner's Request for Discretionary Denial and all supporting exhibits were provided via email to the Patent Owner by serving the correspondence email addresses of record as follows:

Qi (Peter) Tong, Reg. No. 74,292
Reza Mirzaie, Reg. No. 69,138
Neil Rubin, Reg. No. 67,030
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