

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

COBBLESTONE WIRELESS LLC,
Patent Owner

Case IPR2025-01497
U.S. Patent No. 7,924,802

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

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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 facts 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/guidance that informs U.S. manufacturers/investors. These findings would serve the public interest and favor institution because the purpose of the AIA is to provide a more efficient, cost-effective alternative to litigation for weeding out invalid patents. Ensuring that only valid patents are enforced is essential for reducing economic friction and fostering a stable environment for investment in domestic technology sectors.

For reasons discussed below, a holistic assessment of the discretionary factors shows that exercising discretion to deny institution is not appropriate.

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, 4-5.

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, 16-17. 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 disproving the same.

Third, Cobblestone mischaracterized Apple's stipulation claiming that it "does little to address the concerns of efficiency." Request, 2. But as 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.* Thus, the stipulation eliminates inefficiencies across proceedings.

Fourth, Cobblestone mischaracterizes the numerous prior instances in which the Patent Office determined that the '802 Patent is likely unpatentable. Request, 14-15. 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's Alleged Expectations Lack Evidentiary Support and Are Belied by the Office's Records of the Patent's History

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 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 owners of the patent were 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 two different owners of the patent paid the maintenance fees 6 months late, both requiring the use of the six-month grace period and surcharges, signaled a lack of commitment to maintaining the patent’s continuous, valid force. EX1022, 1-2. A third party would 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 fees for the ’802 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 just days after the last late payment was made in 2023 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 '802 Patent throughout its life. The '802 Patent was initially held by Wilinx Corp. from issuance until February 27, 2015, when it was assigned to Navand Tech Co. EX1024. Navand Tech Co. held the patent from February 27, 2015 to April 19, 2023, when it was assigned to Cobblestone. Cobblestone fails to demonstrate, and there is no evidence suggesting, utilization of the '802 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 '802 Patent not involving Apple has resulted in the challenger taking a license.” Request, 16-17. But the citation of recent alleged licensing is not a sign of commercialization, assertion, marking, or otherwise applying the patent in Petitioner’s technology space, particularly during the first thirteen years after the patent issued and before Cobblestone acquired the patent for the purpose of litigation. *See* IPR2025-00327, -00329, Paper 12 (Jun. 25, 2025). Any “expectations” associated with the '802 Patent began at best in 2023, after the late maintenance payment was paid when the patent’s new assignee Cobblestone asserted the patent against multiple defendants.

b) Every Prior Ground of Unpatentability Brought Against the '802 Patent Has Been Granted by the Office and Only Dodged Through Settlement

In just the last two years, the Office has recognized on numerous occasions

that many claims of the '802 Patent should never have been allowed to issue. Since February 2024, the '802 Patent's patentability has been challenged in *five* other proceedings, and each ground of unpatentability raised in these proceedings has been endorsed as either establishing a reasonable likelihood of unpatentability or a substantial new question of patentability. IPR2024-00606; IPR2024-00707; IPR2024-00946; IPR2024-01336; EPRx 90/019,458.

Proceeding No.	Grounds Raised	Status
IPR2024-00606	(1) Rick; (2) Suzuki-based combinations; and (3) Fernandez-based combinations	Instituted and settled
IPR2024-00707	(1) IEEE 802-based combinations; (2) Shearer	Instituted and settled
IPR2024-00946	Same as IPR2024-00606	Settled prior to institution
IPR2024-01336	Same as IPR2024-00606	Instituted
90/019,458	(1) Shearer-based combinations; (2) Rao-based combinations; and (3) Rofougaran-based combinations	Granted and stayed pending IPRs

Time and again, the Office has recognized that the claims of the '802 Patent are likely unpatentable, and the only way Cobblestone has been able to dodge cancellation of the claims is through timely settlement. Yet, despite this history of meritorious patentability challenges, Cobblestone continued to assert the '802 Patent in district court. Indeed, Cobblestone brought suit based on the '802 Patent against Petitioner ten days *after* the Board instituted the now-settled IPR2024-00606, highlighting its willingness to assert dubious patents in order to extract

settlements from legitimate manufacturers and retailers.

Cobblestone alleges that the continued pendency of the IPR2024-01336¹ and 90/019,458 proceedings supports discretionary denial. However, the presence of multiple prior patentability challenges is a direct result of Cobblestone's own litigation strategy. Over the course of three months in mid-2024, Cobblestone filed suit in seven different cases against companies Cobblestone now asserts represent "most of the industry." *See* Request, 16. Yet, without providing any explanation to justify its long delay, Cobblestone waited another year to file suit against Petitioner. Each of the above-identified challenges against the '802 Patent were brought *before* Cobblestone filed its complaint against Petitioner, depriving

¹ Qualcomm Inc. filed IPR2024-01336. Cobblestone alleges, without any evidence of funding or control, that Petitioner and Qualcomm Inc. are RPIs because "infringement is based in part on Qualcomm components." Request, 14-15. This is not true. Yet, Cobblestone states that it will address this issue in its POPR, depriving Petitioner opportunity to rebut the allegation in this Opposition. Request, 15 n. 1. Petitioner will seek to address these allegations once they are made on the record, but because Cobblestone waited to argue them until after the discretionary denial briefing is complete, Cobblestone has forfeited its right to have them considered for these purposes.

Petitioner an opportunity to contribute to or participate in these Office-endorsed challenges. And Cobblestone has, time and again, undermined the Office's ability to consider the compelling grounds advanced in these earlier challenges through settlement—an outcome they do not foreclose with respect to the pending challenges. Cobblestone should not be rewarded for such gamesmanship, particularly where it has demonstrated a willingness to undermine the credibility of the U.S. patent system through further assertion of a likely invalid patent.

c) Cobblestone Overstates The Importance of Actual Notice

Cobblestone further argues that Apple had actual notice of the '802 Patent since May 2024. Request, 17. Cobblestone bases these arguments on a prior suit with Verizon where Cobblestone named Apple products in the suit. However, the fact that Apple's products were mentioned in a prior lawsuit against entirely different entities 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 Apple's products, reasonably led Apple to the settled expectation that 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 ’802 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 ’802 Patent is younger than the patents at-issue in *Anthony*, and thus, any material error is a much more “appropriate use of Office resources to review the potential error.” *Id.*

Like *Anthony*, the material error in examination of the ’802 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 ’802 Patent, the Examiner issued a

first-action allowance without even an Examiner's Amendment, despite there having been no prior prosecution of any patent applications in the same family². Yet, even in this incredibly abbreviated prosecution, the file history indicates that the Examiner was aware of the Rofougaran reference (EX1004) on which the Petition's grounds are primarily based.

Rofougaran was previously published as U.S. Pub. No. 2007/0127590 on June 7, 2007 (EX1017). *See* EX1004, p. 1. As a result, the Rofougaran Publication would have been available in the Examiner's searching, which appears to have largely been conducted on a single afternoon in December 2010. *See* EX1002, 172-179. And it appears the Examiner likely found the Rofougaran Publication, but failed to appreciate its importance. As illustrated in the following diagram, the Examiner's search history indicates that the Rofougaran Publication appeared in at least one of the Examiner's limited number of searches. *See* EX1002, 174-175; EX1017, [0017], [0031], [0035], claim 9.

L9	56138	((communication adj systems) same (wireless or cellular))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2010/12/05 16:07		[0017] FIG. 1 is a diagram showing a portion of a first non-limiting exemplary communication system 100 , in accordance with various aspects of the present invention. The communication system (or device) may comprise characteristics of any of a variety of communication systems/devices (e.g., multimode wireless communication devices).
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² U.S. Appl. No. 12/018,370, which issued as the '802 Patent, is the sole application in the family, having no parent or child applications.

L12	181	9 and (upconverting and (digital adj signal))	US-PGRUB; USPAT; USOOR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2010/12/05 16:08
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[0031] The exemplary communication system 100 may also comprise an upconverter 140 adapted to upconvert a signal (e.g., the composite signal from the signal combiner 130) for transmission. As a non-limiting example, the upconverter 140 may receive a composite signal from the signal combiner 130, where the composite signal comprises at least one component of a baseband signal. In such an example, the upconverter 140 may comprise upconverting (e.g., mixing) hardware adapted to convert the received composite signal to RF frequencies for subsequent transmission. Such conversion may, for example, comprise per-

9. The multimode communication system of claim 2, wherein the first baseband signal, second baseband signal and composite signal are digital signals.

L14	49	12 and DAC	US-PGRUB; USPAT; USOOR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2010/12/05 16:09
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[0035] Various components of the exemplary communication system 100 (and other communication systems illustrated and discussed herein) may be implemented in analog and/or digital circuitry. To illustrate this, the exemplary communication system 100 is not shown with analog-to-digital converters (ADCs) or digital-to-analog converters (DACs). FIGS. 4-6, to be discussed later, show various non-limiting exemplary configurations including such converters.

As shown, the Rofougaran Publication includes all of the terms used in a search that ultimately returned just 49 prior art references. *Id.* Had the Examiner simply reviewed the figures of those 49 prior art references, the Examiner would have seen that the system illustrated in the Rofougaran Publication is remarkably similar and clearly material to the system in the '802 Patent. *Compare* EX1001, FIG. 2 (reproduced below) *with* EX1017, FIG. 5 (reproduced below).

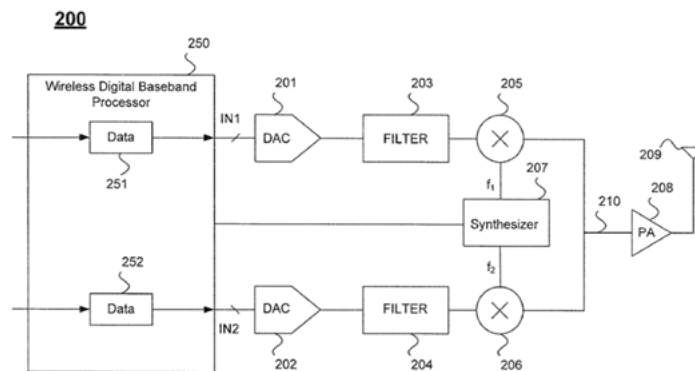


Fig. 2

'802 Patent (EX1001), FIG. 2

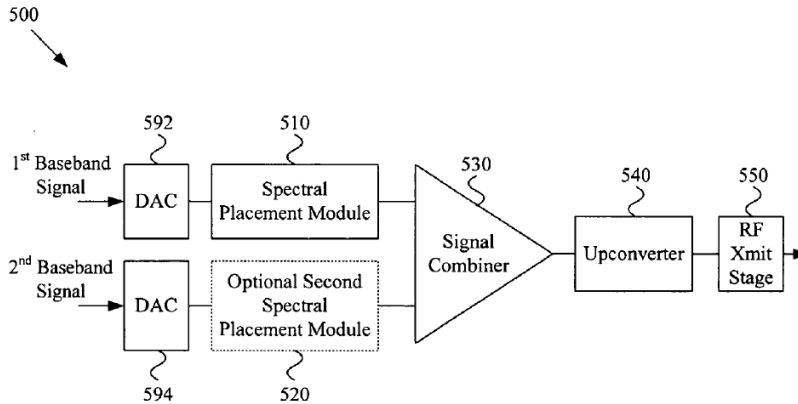


Figure 5

Rofougaran Publication (EX1017), FIG. 5

Moreover, the Rofougaran Publication was classified in one of the subclasses that the Examiner claims to have reviewed. *See* EX1017, p. 1 (classifying the Rofougaran Publication in subclass 375/285); EX1002, 170 (indicating that the Examiner searched this subclass).

Despite this clear evidence that the Examiner either knew or should have known of the Rofougaran Publication, it was not included in the list of references cited. *See* EX1002, 164. The Petition explains how Rofougaran teaches or renders obvious each of the limitations of independent claims 1, 10, and 17 that the Examiner determined were missing from the prior art. *See* EX1002, 161-162 (identifying limitations [1.b] and [10.e] are reasons for allowance); Pet. 22-25 (addressing Limitation [1.b]), 45-50 (addressing Limitation [10.e]). This failure to account for the teachings of the Rofougaran Publication of which the Examiner was or should have been aware amounts to a substantial **material error**. This alone weighs strongly in favor of referring the Petition for consideration on the merits.

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. EX1023.

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 of Issues*

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.

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 are the same, 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 '802 Patent claims are plainly unpatentable over prior art. Indeed, the Office has already issued an Office Action against a subset of the Challenged Claims in the 90/019,458 *ex parte* reexamination proceeding based, in part, on the Rofougaran reference at the heart of this petition and the original Examiner's material error.

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 '802 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 confirmed in *Dabico Airport Solutions Inc. v. AXA Power APS*, IPR2025-00408, Pap. 21 (PTAB Jun. 18, 2025) (“*Dabico*”), the application of discretion turns in part on whether instituting review represents an appropriate use of Office resources. Here, various factors discussed make that showing clear.

As noted above, the ’802 Patent is already the subject of *ex parte* reexamination in 90/019,458. While in many circumstances this would weigh against institution of this IPR, the stayed reexamination here should weigh in favor of institution. Prior to its current stay, the Examiner granted reexamination and issued an Office Action rejecting claims 10, 11-15, and 17-22 based on Rofougaran and combinations therewith. EX1025. Rofougaran therefore raises a substantial new question of patentability, and further, the Office believes it renders many claims unpatentable. As a result, the Office is set to conduct further review of the ’802 Patent based on Rofougaran at a future time that the reexamination stay

is lifted and in a proceeding without the statutory time limits imposed for IPRs.

This will leave the patentability of many claims of the '802 Patent in question for the public for potentially years to come, while Cobblestone remains free to burden the federal court system with further litigation based on a likely invalid patent. By addressing the patentability of the '802 Patent claims based on Rofougaran through the efficient and fast IPR process, the Board will more quickly help settle the expectations of both Cobblestone and the public as to the status of the '802 Patent—a stated goal of the Director. *OpenSky Indus., LLC v. VLSI Tech. LLC*, IPR2021-01064, Paper 102, 46-47 (PTAB October 4, 2022) (precedential) (“‘[E]nsuring 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”’”). Ultimately, this promotes the AIA’s objectives of improving patent quality and reducing unwarranted litigation burdens on the public and industry.

Such centralized review is crucial because Cobblestone’s track record demonstrates a propensity to assert the patents against adopters of widely used standards-based technology. Cobblestone has already established a pattern of aggressive enforcement of the '802 Patent and other patents. The high likelihood of future assertions against entities supporting related wireless communication technologies and the underlying wireless communications standard reinforces the

importance of settling the public's expectations as to the patentability of the '802 Patent. Indeed, in enforcing the Asserted Patents, Cobblestone has already filed 10 distinct district court litigations. Further litigation is, therefore, more than reasonably likely, and more quickly addressing the grounds already endorsed by the Office would serve to resolve a key question that will otherwise need to be addressed multiple times over, in less efficient forums.

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 was provided via email to the Patent Owner by serving the correspondence email addresses of record as follows:

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