

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner

v.

CARDWARE INC.,
Patent Owner.

Case No. IPR2025-01513
U.S. Patent No. 10,339,520

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

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I. INTRODUCTION

Google's Petition should be instituted to review Patent No. 10,339,520 ("the '520 patent") because the Board previously determined in a now settled and dismissed IPR that a significant portion of the challenged claims are likely unpatentable due to prosecution errors. The '520 patent's examination was wholly deficient—the claims were never rejected based on prior art, Patent Owner CardWare violated 37 CFR § 1.145 by presenting new claims covering distinct inventions in response to a double patenting rejection, and it is apparent from the record that those claims were never adequately considered by the Examiner. As discussed further below, Google respectfully submits that, in these circumstances, particularly given the strength of Google's unpatentability grounds, it would be a good use of the Office's resources to institute review.

II. THE PETITION SHOULD BE INSTITUTED TO CORRECT A LACKLUSTER EXAMINATION THAT FAILED TO RESTRICT DISTINCT INVENTIONS OR APPLY THE PRIOR ART

A. THE FAILURE TO RESTRICT DISTINCT CLAIMED INVENTIONS DEMONSTRATES A CURSORY REVIEW

The prosecution history of the '520 patent reveals an examination marked by failure to enforce basic restriction requirements regarding distinct inventions.¹ The application was originally filed with 9 claims directed to a credit card device. EX1002 at 39–41. In the first and only Office action, the sole rejection against the filed claims was for statutory double patenting. EX1002 at 67–70. In response, CardWare amended all 9 previously presented claims (including effectively rewriting the independent claim) and added 15 new claims. EX1002 at 107–121.

CardWare violated Office procedure by shifting the claim scope to multiple distinct inventions that differed from the originally presented claims. Under 37 C.F.R. § 1.145, an applicant cannot present claims to a different invention after an office action, and the Examiner is required to restrict those claims to the invention

¹ Petitioner acknowledges that under 35 U.S.C. § 121, the validity of a patent cannot be questioned solely for failure to restrict. Petitioner cites this failure not as a ground for unpatentability, but as evidence of the Examiner's cursory review and failure to conduct an adequate search, which as a discretionary consideration weighs in favor of institution.

previously examined. Compared to the original Claims 1–9 directed to a credit card device that performs a single step of determining a “detected proximity” with another credit card device to “exchange...currency” with that device, the 24 claims presented to the Examiner were different inventions: Claims 1–9 directed to an electronic device that performs multiple steps to conduct payment transactions including by dynamically generating numbers to be used in place of issuer information;² new Claims 10–17 directed to a method of performing multiple steps including dynamically generating numbers to be used in place of issuer information; and new Claims 18–24 directed to a method for “facilitating and authorizing an automated teller machine (ATM) transaction.” EX1002 at 39–41, 109–121.

Rather than enforcing 37 C.F.R. § 1.145, the Examiner's next action was an allowance. EX1002 at 139–141. Without identifying which claims were being analyzed, the Notice of Allowance listed limitations found to be allowable. *Id.* The limitations appeared to be from Claim 10 (and Claim 1), such as “dynamically-generating a one-time limited-use number based on at least one of a set of information” and “using said static device account number and said dynamically generated one-time limited-use number together in the place of issuer provided payment information.” *Id.* The listing of limitations concluded with the following

² Claims 1–9 are not at issue in this IPR.

concluding phrase: “and using the electronic device for conducting transaction with an ATM.” *Id.* at 140. If this phrase was referring to Claim 18, then it demonstrates that the Examiner erroneously overlooked that Claim 18 does not recite the features from Claim 10 (and Claim 1) that the Examiner listed as allowable, such as how the dynamic numbers are generated and used “in place of” the issuer provided payment information. *See* EX1002 at 109–110, 116–117.

Given these issues, the Examiner's failure to explain the allowance was improper. *See* MPEP § 707.07(f) (“In order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application.”). This unexplained allowance, without a corresponding search record or restriction requirement, confirms that the claims were allowed without the substantive examination required by Office regulations.

CardWare's post-issuance terminal disclaimers confirm the flawed prosecution. After the Examiner rejected the original Claims 1–9 for double patenting over the '083 patent (EX1002 at 69), CardWare declined to file a terminal disclaimer and instead argued that “[t]he amendments to Claims 1–9 overcome this rejection.” EX1002 at 107. However, CardWare's post-issuance conduct demonstrates this was false. After the '520 patent issued, CardWare filed terminal

disclaimers linking the '520 patent to that same '083 patent, as well as four other patents. *Id.* at 210–226.

B. THE OFFICE OVERLOOKED THE PRIOR ART

Consistent with the failure to restrict or issue double patenting rejections, the Examiner never rejected any claim based on prior art during the entire prosecution. The sole rejection issued was for statutory double patenting. EX1002 at 67–70. In the Notice of Allowance, the Examiner simply stated that “none of the prior art teaches” the claimed combination of features. *Id.* at 139.

The insufficient examination of the '520 patent is not an isolated incident; it is part of a systemic failure to examine the entire patent family. The same Examiner was responsible for all six of the related patents. In five of those patents, the Examiner failed to raise any prior art rejections. In the sixth, the Examiner allowed all but 4 claims in the first Office action before withdrawing the rejection without a reasoned explanation. *See* EX1079 (patent family listing); EX1072 at 69–72, 112–117; EX1073 at 1024–1031; EX1075 at 136–143; EX1076 at 78–83, 108–114; EX1077 at 58–65; EX1078 at 79–86. This pattern demonstrates a cursory rubber-stamp approach to examination, confirming that the '520 patent issued without sufficient examination.

Google's Petition should be instituted because it corrects these oversights by leveraging the Board's prior findings. Although the Examiner found no prior art,

the Board subsequently instituted Samsung's petition challenging Claims 18–24 of the '520 patent in IPR2023-00211 based on the Gill, Smith, Kay, and Gomez references. While Samsung's petition was terminated due to settlement, Google has raised the same instituted ground against Claims 18–24. *Compare* Pet. at 4, *with* EX1065 at 5. By reasserting a ground that the Board has previously instituted—with the same prior art that the Examiner failed to locate—Google provides the Board with the opportunity to efficiently complete its review. Instituting this Petition is necessary to maintain consistency with the Board's own prior determination and to continue review of claims that the Office has already flagged as potentially unpatentable.

Samsung also filed IPR2023-00210 challenging Claims 1 and 4–17, which the Board denied. Samsung's petition included grounds based on Gomez and Carlson, and the Board denied review after disagreeing with the obviousness rationale for combining Gomez and Carlson. EX1064 at 5, 15. However, Google's Petition presents new grounds based on Law, Gomez, and Spodak. *See* Pet. 4 (Ground 1A challenging Claims 10–13 based on Law and Gomez; Ground 1B challenging Claims 14–17 based on Law, Gomez, and Spodak). As explained above, Gomez was also in the instituted ground of IPR2023-00211, which Google's Petition asserts as Ground 2A challenging Claims 18–24. *Id.* Additionally, neither the Examiner nor Samsung considered the Law and Spodak references. As for Spodak, it is telling

that during prosecution of related patent 10,810,579, CardWare buried Spodak from the Office by citing it in an IDS filed a few days *after* the patent issued so that it was not actually considered by the Office. EX1072 at 1 (issued on October 20, 2020), 33-41 (IDS filed on October 26, 2020); EX1009 (Patent Application No. US 2012/0123937); EX1058 (U.S. Patent No. 9,195,926 issued from US 2012/0123937). As for Law, Google is asserting a Law publication that is different from a Law publication asserted by Samsung in a petition challenging a related patent. *Compare* Pet. at 4–5, with EX1066 at 6. Because Google's Petition presents prior art that the Examiner missed and previous petitioners failed to apply, institution is warranted to provide the first true examination of these claims.

III. THE PETITION SHOULD BE INSTITUTED FOR THE BOARD TO EFFICIENTLY REVIEW THE '520 PATENT

The Petition should be instituted for the Board to adjudicate the '520 patent. The '520 patent is involved in two District Court cases, *CardWare Inc. v. Apple Inc.*, No. 1:25-cv-00446-ADA (W.D. Tex. Nov. 4, 2024) ("Apple district court case") and *CardWare Inc. v. Google LLC*, No. 7:24-cv-00278-DC (W.D. Tex. Nov. 4, 2024) ("Google district court case"). As both the Google and Apple district court cases involving the same patents were filed in the same District but ended up with different Judges, the Board's adjudication of these patents may allow the District Court to avoid duplicative invalidity efforts and inconsistent outcomes. Google had also filed

petitions against the other three asserted patents (U.S. Pat. Nos. 10,810,579, 11,176,538, 11,620,634) on similar grounds. *See* IPR2025-01361, IPR2025-01344, IPR2025-01514. While the Director exercised discretion to deny institution in two of those proceedings (EX1081 (IPR2025-01344 and IPR2025-01361)), institution is strongly warranted here. The '520 patent suffered from insufficient examination as evident by the failure to restrict the claims or issue rejections based on prior art or double patenting, which requires Board expertise to resolve. Instituting review here would still streamline the district court case by removing complex and insufficiently examined claims from the litigation. *See, e.g., Taiwan Semiconductor Mfg. Co. v. Marlin Semiconductor Ltd.*, IPR2025-00847, Paper 11 (Director Sept. 3, 2025) (referring only a subset of related IPRs).

The factors enumerated in *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 6 (P.T.A.B. Mar. 20, 2020) (precedential) further confirm that the Petition should be instituted.

***Fintiv* Factor 1 (stay)** weighs in favor of institution because the Google district court case may be stayed. Google would move to stay the Google district court case if the Board institutes review, and Judge Counts may be inclined to grant a stay. *See, e.g., Greenthread, LLC v. Cirrus Logic, Inc.*, WDTX-1-23-cv-00369-DC (Order Sep. 06, 2024) (granting post-institution stay). Furthermore, the parallel Apple and Google district court cases before two different Judges in the same

District create a unique risk of inconsistent outcomes within the District itself, which may be an additional reason for a stay pending the Board's review of the patentability issues.

***Fintiv* Factor 2 (trial)** weighs in favor of institution because time to trial statistics indicate that the Board's Final Written Decision ("FWD") is expected to occur at least 5 months before the trial in both the Apple and Google district court cases. The Board accorded a filing date on September 15, 2025, which means the Board is expected to issue a FWD by March 2027. *See* Paper 5. CardWare mentions that the Apple district court case is scheduled for trial in July 2026 and the Google district court case for September 2026 (DD Req. 3–5), but the current time-to-trial in the Western District of Texas is 32.8 months for civil cases generally (EX1084) or 43 months for patent cases specifically (EX1083), which is an increase from 41 months in the last two months (EX1050). The Apple and Google district court cases were both filed on November 4, 2024, which pushes the statistically expected trial dates to August 2027 or June 2028. CardWare's trial statistics are unpersuasive because they aggregate patent cases going back to 2008. *See* EX2017 ("2008"). Accordingly, *Fintiv* Factor 2 weighs in favor of institution.

***Fintiv* Factor 3 (investment)** weighs in favor of institution because the Board's review of the patentability of the '520 patent would absolve the Western District of Texas from duplicative effort and potentially inconsistent outcomes

between two different cases. Both the Apple and Google district court cases were filed on the same day in the Western District of Texas. The Apple case is with Judge Albright and the Google case is with Judge Counts. Each district court case has overlapping validity issues being considered on very similar schedules. Unless the Board resolves the patentability of the '520 patent, the resources of the Western District of Texas will be unnecessarily spent on the simultaneous consideration of overlapping issues. If both cases go to trial, there is a risk of inconsistent outcomes coming from the same District. Instituting the Petition to the Board may assist the Western District of Texas conserve judicial and party resources, and achieve the AIA's goal of efficient determination of patentability. Accordingly, *Fintiv* Factor 3 weighs in favor of institution.

***Fintiv* Factor 4 (overlap)** weighs in favor of institution because Google's *Sotera* stipulation (EX2014) eliminates any meaningful overlap between this proceeding and the Google district court case. CardWare speculates about system art (DD Req. 7–8), but system art cannot be raised before the Board.

CardWare's additional arguments about other types of challenges are irrelevant. First, CardWare conflates the use of references in obviousness grounds and the use of references to explain background knowledge in a § 101 contention. *See* DD Req. 8–9. Google's stipulation prevents overlapping grounds because courts have recognized that patent eligibility and obviousness are statutorily separated and

different inquiries. *See, e.g.*, MPEP § 2106 (collecting cases). Second, CardWare speculates about whether Google will file *ex parte* reexaminations (DD Req. 9), but Google has not challenged the '520 patent in such proceedings nor can Google do so because such proceedings are stayed while there is a pending IPR. Third, as for the Apple district court case (DD Req. 9), Google is not involved and CardWare recognized that “Apple, [is] a competitor of Petitioner” (DD Req. 5). CardWare’s decision to file suit against both Apple and Google on the same day is a litigation decision for which CardWare should not be rewarded with an ability to evade review. Accordingly, *Fintiv* Factor 4 weighs in favor of institution.

***Fintiv* Factor 5 (parties)** weighs in favor of institution because the Board’s FWD will issue before the statistically projected trial dates in the Apple and Google district court cases. In the Apple district court case, Google is not a party. In the Google district court case, the *Sotera* stipulation in this proceeding will effectively subject Google to estoppel before trial. *See NeuMoDx Molecular, Inc. v. HandyLab, Inc.*, IPR2020-01133, Paper 23 at 13–14 (P.T.A.B. Aug. 6, 2021) (“The parties in this proceeding are identical to the parties in the parallel litigation. Because the final written decision in this case will issue before trial in the parallel litigation, this factor weighs against exercising discretion to deny institution.”). Accordingly, *Fintiv* Factor 5 weighs in favor of institution.

***Fintiv* Factor 6 (merits)** weighs in favor of institution because, as explained

above, the Examiner only engaged in a cursory review of the claims. For Claims 18–24, the Petition presents a ground that the Board in IPR2023-00211 determined establishes a reasonable likelihood of unpatentability. For Claims 10–17, the Petition presents grounds that incorporate the Law and Spodak references that the Office and other petitioners failed to apply. Additionally, the '520 patent was never rejected with prior art during prosecution, and the Board has previously instituted multiple petitions against the related patents. EX1053; EX1059; EX1065; EX1067–EX1069; EX1087. Institution would remedy the Office's lackluster review and preserve the integrity of the patent system by allowing the Board to use its expertise—with the patent family, the prior art, and examination practices—to review the '520 patent so that two different District Court Judges can avoid duplication or inconsistency. Accordingly, *Fintiv* Factor 6 weighs in favor of institution.

IV. THE PETITION SHOULD BE INSTITUTED BECAUSE THE SETTLED EXPECTATIONS ARE THAT THE '520 PATENT IS UNPATENTABLE

To the extent settled expectations are considered,³ the Petition should be

³ Settled expectations should not be considered in IPRs. *See Celgene Corp. v. Peter*, 931 F.3d 1342, 1361-62 (Fed. Cir. 2019); *see also* 5 U.S.C. § 706(2)(A). But if they are considered, settled expectations favor Petitioner here.

instituted because the '520 patent has not developed any settled expectations. As explained above, there are numerous indicators of the '520 patent's susceptibility to unpatentability that prevent the development of settled expectations: the previous institution of the petition challenging the '520 patent, institutions against the related patents, and the Examiner's cursory examination.

CardWare's arguments about settled expectations arising from notice are misguided. CardWare's February 2023 subpoena for information about Google's products for a district court case against Samsung (DD Req. 11) is irrelevant because Samsung, not Google, was accused of infringement. Google was otherwise not involved in Samsung's case, and CardWare recognized that "Samsung, [is] a competitor of Petitioner." DD Req. 11. CardWare purportedly "provided specific notice" of the '520 patent to Google in October 2023 (DD Req. 11), but CardWare merely sent a letter that listed its patents (EX2019; EX2020).

CardWare's argument that Google could have joined Samsung or Apple in challenging patents (DD Req. 11–14) is nonsensical, and if anything illustrates CardWare's gamesmanship. Samsung's petition against the '520 patent was instituted in June 2023 (EX1065). CardWare then waited until October 2023 to send Google a letter (EX2019), thus strategically waiting until *after* the deadline for Google to seek joinder. *See* 37 CFR § 42.122 (b). And even if Google had sought joinder, the Board was asked to terminate Samsung's proceeding due to settlement

that same month of October 2023, and thus there would not have been any proceeding to which Google could have joined. EX1082 (requesting termination); EX1059 (granting termination). In view of all these developments, it would have been a waste of resources for Google to challenge the '520 patent before CardWare filed its complaint in November 2024, after which Google timely filed this Petition in September 2025. As for Apple's petitions, those were filed only a few months before Google, by which point Google was about to file its own petitions.

CardWare argues that its "settlement and license agreement" with Samsung "counsels towards Patent Owner's settled expectations." DD Req. 12 n.2. But it is quite the opposite, where, as here, the settlement and license agreement was prompted by institution of Samsung's petition, which demonstrates the '520 patent's vulnerability. A license granted to avoid a Final Written Decision is not evidence of the patent's value or validity; it is evidence of CardWare's desire to avoid a final ruling of unpatentability. Indeed, CardWare has not pointed to any evidence that the purported settlement and license agreement has any value, which distinguishes *Alliance Laundry Sys., LLC v. PayRange LLC*, IPR2025-00950, Paper 11 at 3 (Director Sept. 19, 2025) (DD Req. 12 n.2, 16–17), cited by CardWare. *See also Alliance*, Paper 6 at 3–4.

CardWare's road mapping arguments are meritless. DD Req. 13–14. CardWare is improperly conflating Google with unrelated third parties Samsung and

Apple. Indeed, even CardWare recognized they are Google's competitors (DD Req. 5, 11); Google has never previously challenged the '520 patent or been a co-defendant with Apple or Samsung against CardWare. *Cf. Valve Corp. v. Elec. Scripting Prods., Inc.*, IPR2019-00062, Paper 11 at 9–10 (P.T.A.B. Apr. 2, 2019) (precedential) (considering previous petitions by other petitioners if the petitioners have a “significant relationship”).

As CardWare recognized, Google's Petition raises the same ground against Claims 18–24 as Samsung's instituted petition against Claims 18–24, which is the most efficient path forward for both the Board and the public's interest to finalize the Board's preliminary determination that was effectively silenced by the prior settlement. As for Claims 10–17, Google does not attempt to fix Samsung's denied ground, but rather presents new grounds based on the Gomez reference in combination with the unasserted Spodak and Law references. Presenting new grounds does not implicate “road mapping” concerns because the Board has not previously evaluated these specific theories of unpatentability, and Google has provided an adequate explanation for the new Spodak and Law references. *See also General Plastic Industries Co. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19 at 16 (P.T.A.B. Sept. 6, 2017) (precedential) (delineating factors). Google's approach enables the Board to leverage its familiarity with the prior art to efficiently

review grounds that were previously instituted while also curing the Examiner's oversights with new grounds.

As for CardWare's argument about repeat challenges (DD Req. 12–14), they overlook the landscape involving the '520 patent. CardWare lists Samsung's and Apple's petitions against the related patents (DD Req. 14), but these petitions arose from CardWare's own litigation activity. CardWare strategically settled with Samsung to terminate the instituted Samsung petitions, and then CardWare filed suit against both Apple and Google, who responded with their own petitions. CardWare's citation of *Intel Corp. v. Advanced Cluster Sys., Inc.*, IPR2025-00794, Paper 13 (Director Aug. 14, 2025), where the Board previously denied two petitions against the challenged patent, is inapposite. First, here the Board previously instituted Samsung's petition against Claims 18–24 (followed by termination only due to settlement). Second, Samsung's denied petition challenging Claims 1 and 4–17 did not assert the Spodak nor Law references. Third, Apple's petitions were denied in a summary notice for discretionary reasons rather than on the merits. EX1080. Moreover, previous challengers required two separate petitions each to address the lengthy claims of the '520 patent, but Google efficiently presented one Petition. Accordingly, CardWare's concerns over repeat challenges should be dismissed.

CardWare's final argument about its commercial efforts only cites its own Complaint. DD Req. 15 (citing EX2004 ¶¶13–17). Just like CardWare's filings to the Patent Examiner omitted the petitions before the Board, CardWare's Complaint says its "innovations include its SmartTokenization™ technology" (EX2004 ¶15) but CardWare omits that its trademark filings indicated nonuse of SmartTokenization (EX1054 ("Filed Use: No...Currently Use: No")). The Petition should be instituted given Cardware's pattern of omissions and the lack of settled expectations.⁴

V. OTHER PROCEEDINGS DO NOT WARRANT DISCRETIONARY DENIAL

CardWare argues that the existence of parallel district court litigations against Google and Apple favors denial to avoid "duplicative efforts" and "inconsistent outcomes." DD Req. 17. This argument is meritless and ignores the facts of this proceeding. First, Google has provided a *Sotera* stipulation. EX2014. Second, Google is not a party to the Apple litigation. Denying institution based on unrelated

⁴ Petitioner reserves the right to challenge the March 26, 2025 Interim Processes for PTAB Workload Management, including that document's list of "relevant factors," at least because that document is legally invalid as (1) exceeding the Director's authority, (2) arbitrary and capricious, and (3) adopted without notice-and-comment rulemaking.

litigation would effectively allow a patent owner to immunize a patent from IPR simply by suing multiple defendants, thereby creating “parallel proceedings” that block access to the Board.

Third, far from creating inefficiency, instituting review is the most efficient course of action. A Final Written Decision from the Board adjudicating the challenged claims would resolve the validity issue for both the Google and Apple district court cases. This is particularly true for Claims 18–24, which the Board has already found to be likely unpatentable in IPR2023-00211. CardWare warns of “inconsistent outcomes” between the Board and the District Courts, but the most significant risk of inconsistency lies within the Office itself. It would be the height of inefficiency and inconsistency to have two separate District Courts expend judicial resources to adjudicate claims that the Office has already preliminarily determined are unpatentable. To ensure administrative consistency and protect the integrity of the patent system, the Board should institute review and finalize the determination it began in 2023.

VI. THE PETITION SHOULD BE INSTITUTED GIVEN THERE IS NO INCONSISTENCY BETWEEN GOOGLE’S POSITIONS

The Petition should be instituted because there is no inconsistency between Google’s positions in district court and this Petition. By asserting that Google’s positions are “inconsistent” (DD Req. 18–20), CardWare misapprehends the

distinction between indefiniteness challenges and obviousness challenges. The Director has appreciated this distinction by declaring that a “Petitioner’s explanation may have risen to a sufficient level, for example, if Petitioner had shown that, notwithstanding the alleged indefiniteness of the claim term, an ordinarily skilled artisan would understand that the asserted art satisfies the claim limitation.” *Tesla, Inc., v. Intellectual Ventures II LLC*, IPR2025-00340, Paper 18 at 3–4 (Director, Nov. 5, 2025) (informative). The Federal Circuit has similarly explained that because the Board cannot find claims indefinite, the Board should construe the claims under *Phillips* and evaluate their patentability in view of the prior art. *Samsung Elecs. Am., Inc. v. Prisia Eng’g Corp.*, 948 F.3d 1342 (Fed. Cir. 2020).

Here, Google’s Petition explained that “given the correlation between the prior art references and the challenged claims of the ’520 patent...any reasonable construction reads on the prior art.” Pet. 7. The lack of any specific constructions distinguishes Google’s Petition from CardWare’s cite to *Arthrex, Inc. v. Medshape, Inc.*, IPR2025-00053, Paper 11 at 14–15 (P.T.A.B. Apr. 25, 2025) (DD Req. 20), where a petitioner affirmatively imported patent owner’s constructions from district court. *Arthrex* at 14 (“Petitioner asserts that, for purposes of its Petition, it will apply ‘Patent Owner’s apparent interpretation’ from the Parallel Proceeding.”). Moreover, none of the challenged claims were found indefinite in either the Apple or Google district court cases, and the parties agreed on the meaning of the typo in the claims

(e.g., “rendered the display” means “rendered on the display”). *See* EX1046; EX1052. Accordingly, Google’s petition should be instituted.

VII. CONCLUSION

Google respectfully requests institution.

Respectfully submitted,

Dated: December 15, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2025, I caused a true and correct copy of the foregoing Petitioner's Opposition to Patent Owner's Request For Discretionary Denial and supporting exhibits to be served by electronic means on the counsel identified below:

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