UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACCELIGHT TECHNOLOGIES, INC.
&
EOPTOLINK TECHNOLOGY USA INC.,
Petitioners,

v.

APPLIED OPTOELECTRONICS, INC.
Patent Owner.

IPR2026-00019
U.S. Patent No. 9,448,367

PETITIONERS' OPPOSITION TO PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL

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STATUTES

35 U.S.C. § 102 ..... 1, 3, 13, 18

35 U.S.C. § 103 ..... 1, 13, 18

PETITIONER'S UPDATED EXHIBIT LIST

Exhibit	Description
1001	U.S. Patent No. 9,448,367 to Ho et al. ("the '367 patent")
1002	Prosecution History of the '367 patent
1003	Declaration of Dr. Michael Lebby
1004	U.S. Patent Publication No. 2006/0215970 to Mizue et al., published September 28, 2006
1005	U.S. Patent No. 7,458,733 to Anderl et al., filed October 31, 2007 and issued December 2, 2008
1006	U.S. Patent No. 6,579,013 to Gaio et al., filed March 15, 2001 and issued June 17, 2003
1007	U.S. Patent Publication No. 2009/0010600 to Kim et al., filed Aug. 17, 2007 and published January 8, 2009
1008	Certified English translation of Japanese Patent Publication No. 2005-269474 to Ohki et al., published September 29, 2005
1009	The SFF Committee's INF-8074i Specification for SFP (Small Formfactor Pluggable) Transceiver, published May 12, 2001
1010	International Electrotechnical Commission's Standard (IEC 61754-20) on "Type LC connector family," published April 2012
1011	Japanese Patent Publication No. 2005-269474 to Ohki et al., published September 29, 2005 (certified translation provided as Exhibit 1008)
1012	Complaint for Patent Infringement, *Applied Optoelectronics, Inc. v. Accelight Technologies, Inc.*, Case No. 4:24-cv-09041-HSG (N.D. Cal.) ("Accelight Litigation"), filed Dec. 13, 2024

Exhibit	Description
1013	Complaint for Patent Infringement, *Applied Optoelectronics, Inc. v. Eoptolink Technology USA Inc.*, Case No. 5:24-cv-08165-NW (N.D. Cal.) ("Eoptolink Litigation"), filed November 19, 2024
1014	Information Disclosure Statement filed by Patent Owner Applied Optoelectronics, Inc. in Patent Application No. 13/709,195, which issued as U.S. 9,170,383, and serves as parent application of the '367 patent
1015	Joint Administrative Motion to Stay Pending IPR Institution Decisions, filed Oct. 3, 2025 in the Accelight Litigation
1016	Joint Administrative Motion to Stay Pending IPR Institution Decisions, filed Dec. 5, 2025 in the Eoptolink Litigation
1017	Order Granting Joint Administrative Motion to Stay in the Eoptolink Litigation, dated Jan. 13, 2026

I. INTRODUCTION

The Director should reject Patent Owner's request for discretionary denial (Paper 9, "DD Req."). Patent Owner's primary argument for discretionary denial is the purported "settled expectation" arising from the age of U.S. 9,448,367 ("the '367 patent"). However, patent age is just one discretionary factor and does not outweigh Petitioners' reasonable expectations that the '367 patent—which had not previously been asserted or licensed—would not be unexpectedly asserted against them in late 2024, **more than eight years** after the patent's issuance in September 2016. Moreover, Patent Owner has asserted the '367 patent against Petitioners in two concurrent district court actions. Evaluation of the '367 patent by the PTAB, rather than two separate district courts, would significantly enhance judicial efficiency and promote consistent outcomes. These considerations strongly support institution and substantially outweigh Patent Owner's arguments regarding "settled expectations."

Based on a holistic assessment of other factors—(a) the complexity and interrelated nature of the **eleven** patents asserted in two parallel district court actions, (b) the examiner errors during prosecution, (c) Petitioners' stipulations to not pursue any invalidity grounds under §§ 102 or 103 in the district court cases, and (d) the compelling merits of the Petition—the Director should deny the discretionary denial request. Additionally, there are no §325(d) concerns in this proceeding and the *Fintiv* factors, particularly the stay of the cases, strongly weigh against discretionary denial.

II. BACKGROUND ON PATENT OWNER'S PENDING LITIGATIONS AGAINST PETITIONERS ACCELIGHT AND EOPTOLINK

Patent Owner AOI has launched a series of litigations against perceived competitors to monetize Patent Owner's patents—years after they were issued—by alleging infringement by products that have been in the U.S. market for almost as long as the life of most of the asserted patents. To date, Patent Owner has filed actions against Molex, LLC; Cambridge Industries USA, Inc. ("CIG"); Accelight Technologies, Inc. ("Accelight"); and Eoptolink Technology USA Inc. ("Eoptolink"). Patent Owner has no intention of engaging in the merits of their lawsuits; instead, they have been harassing competitors by pressing for quick settlements before the cases reach any significant milestone in district court and before IPR petition(s) are filed or instituted. The undersigned counsel knows about Patent Owner's litigation conduct because she is representing Petitioner Accelight in Case No. 4:24-cv-09041-HSG (N.D. Cal.) ("Accelight Litigation"), which is currently stayed in view of pending IPR institution decisions. Same counsel also represents Eoptolink in Case No. 5:24- cv-08165-NW (N.D. Cal.) ("Eoptolink Litigation"), which is also stayed pending IPR institution decisions. Same counsel also previously represented Molex, LLC against Patent Owner in Case No. 4:23-cv-04787-JST (N.D. Cal.), which settled and has been dismissed.

In each case, Patent Owner has asserted a different set of patents, with some

overlap among the asserted patents across the various suits. All asserted patents in the various lawsuits, however, relate to optical transceivers. In the Accelight Litigation, Patent Owner has asserted six patents (identified in the table on pages 10-12, below), each directed to technologies and components of optical transceiver modules. Of those six patents, the '367 patent is also asserted in the Eoptolink Litigation. Patent Owner has asserted five other patents directed to optical transceivers (along with the '367 patent) against Petitioner Eoptolink. *See* pp. 10-12, below. Altogether, Patent Owner has asserted **eleven** distinct patents against Petitioners Accelight and Eoptolink in the two separate district court actions, with the '367 patent being the overlapping patent between the two cases. *Id.*

Significantly, **the '367 patent had not been previously asserted against any party**. As such, there has been no prior challenge to the validity or patentability of the '367 patent. The '367 patent remained unasserted from its issuance in September 2016 until November 2024, when it was asserted for the first time against Petitioner Eoptolink on November 19, 2024, and subsequently against Petitioner Accelight on December 13, 2024. Exs. 1012 and 1013.

III. JUDICIAL EFFICIENCY AND CONSISTENCY RESULTING FROM A SINGLE IPR PROCEEDING, AS OPPOSED TO TWO PARALLEL DISTRICT COURT CASES, STRONGLY FAVOR INSTITUTION

As discussed above, the '367 patent is asserted in separate district court actions before two different judges, the Hon. Judge Gilliam and the Hon. Judge Wise.

The two parallel litigations create a significant risk of inconsistent and inefficient determinations regarding the validity of the ’367 patent claims. Addressing the validity of the ’367 patent in this IPR proceeding will substantially mitigate the risk of conflicting decisions and promote judicial efficiency. Petitioners’ broad stipulations (papers 7 and 8) further ensure that a single IPR proceeding will eliminate the need for two separate jury trials on prior art-based invalidity challenges. This approach will benefit the district courts as well as the parties by conserving resources and avoiding unnecessary duplication of efforts in the parallel district court actions. This strongly supports institution and outweighs Patent Owner’s claim of “settled expectation” based on the age of the patent alone.

IV. PATENT OWNER’S “SETTLED EXPECTATION” CLAIM IS FURTHER OUTWEIGHED BY PETITIONERS’ SETTLED EXPECTATIONS OF NO ASSERTION OF INFRINGEMENT

Patent Owner argues that because the ’367 patent issued in September 2016 and has been in force for over nine years, it has “settled expectations” in the validity of the patent. DD Req., 9. But Patent Owner’s unsupported claim of “settled expectation” carries little weight, given that **Patent Owner waited <u>over eight years</u> after the patent issued to assert it**. Aside from conclusory attorney arguments, Patent Owner has presented no evidence of reliance on the claimed validity of the ’367 patent. **Nor has Patent Owner advanced any evidence of licensing or interest in the ’367 patent**. Although Patent Owner asserted multiple patents related

to optical transceivers against Molex in September 2023 and CIG in February 2024, the ’367 patent was not previously asserted against either party. Patent Owner should not have any expectation in the validity of a patent that was never asserted, and as such, never challenged in either the Patent Office or a district court. Nor should Patent Owner have developed expectations in the validity of a patent that faced only a single office action during prosecution and was never thoroughly searched and examined by the Office. Paper 3 (“Pet.”), 10-14; *see infra* Section V.A.

Patent Owner’s purported “settled expectation” is further outweighed by Petitioners’ reasonable expectations that they would not face sudden and baseless infringement claims. With no prior communication between Patent Owner and Petitioners regarding the ’367 patent (or any other patent) or alleged infringement, neither Petitioner Eoptolink nor Petitioner Accelight had any reason to anticipate an infringement action in November 2024 and December 2024, respectively, asserting a patent that had been around for over eight years but was never previously asserted.

V. SEVERAL OTHER DISCRETIONARY FACTORS STRONGLY FAVOR INSTITUTION RATHER THAN DENIAL

A holistic assessment of the factors outlined in Acting Director Stewart’s Memorandum of March 26, 2025 confirms that discretionary denial is not warranted.

A. Examination and Searching Errors During Prosecution Weigh Against Discretionary Denial

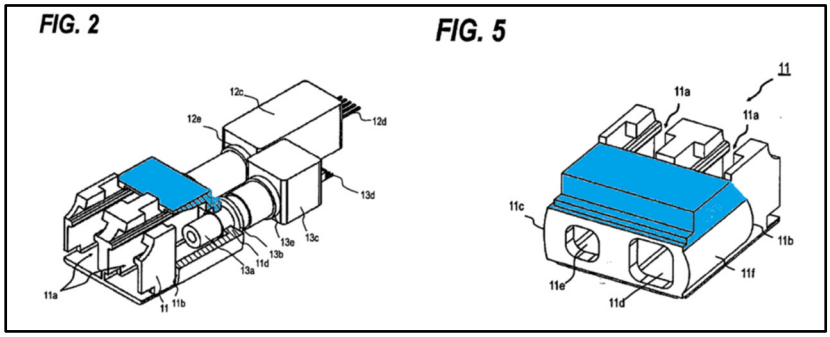
The ’367 patent discloses and claims an adapter for coupling fiber optic

connectors (such as LC connectors) with internal components of an optical transceiver module, such as the transceiver's internal light source (for transmitting) and the photodetectors (for receiving). Pet., 1; Ex. 1003, ¶¶41, 43. But LC connectors have been a popular standard since the turn of the 21st century, and therefore adapters for connecting transceiver components with LC connectors were common long before the purported invention of the '367 patent. Ex. 1003, ¶48. Yet, the examiner granted the '367 patent after just **one office action**, and without thoroughly assessing the prior art cited in that single office action or conducting an adequate search.

Specifically, the patent examiner initially found that U.S. Patent Publication No. 2006/0215970 to Mizue et al. ("Mizue," Ex. 1004) in view of U.S. Patent Publication No. 2006/0204200 to Lampert et al. ("Lampert") disclosed the claimed invention. Ex. 1002, 79-85. Among other things, Patent Owner argued in its Response that (1) "[w]ith respect to the claimed adapter cover configured to cover the slots for retaining the direct link connector assemblies, the Office Action refers to the cover 120 of Lampert" but "covers 120 are part of a dust shutter 100 to cover a corresponding *optical connector port* 210"; and (2) Lampert's dust cover would not have been used to cover the slots of Mizue's receptacle member 11 that receive sleeves 12a and 13a. *Id.*, 71-72 (emphasis in original). **The examiner then allowed the '367 patent claims without further search or examination, relying solely on Patent Owner's representation that the cited prior art did not disclose "covers"**

for the slots that retain the direct link connector assemblies. *Id.*, 50 (Notice of Allowability stating that "the prior art of record, taken alone or in combination, fails to disclose or render obvious a dual fiber type direct link LC adapter that comprises an adapter cover portion configured to cover the first and second slots for retaining the direct link connector assemblies in the respective slots."); *see also id.*, 52-61 (the examiner's Search Notes/East Search History shows that the only search done at the time of the notice of allowance was of the '376 patent publication itself (S76)).

But Patent Owner incorrectly claimed that the prior art did not disclose "covers" for the slots, and the examiner did not evaluate the applied prior art closely enough to recognize this error. This is because Mizue's receptacle member 11 (the "dual fiber type direct link adapter") already included a cover for the first and second slots that is configured to retain sleeves 12a and 13a (the "direct link connector assemblies"). Ex. 1004, Figs. 2, 5; Ex. 1003, ¶50. The examiner failed to notice and apply the cover of Mizue's receptacle member 11 as the claimed "adapter cover portion," and credited Patent Owner's incorrect representation. Ex. 1003, ¶50.



Ex. 1004, Figs. 2 and 5 (showing **cover portion** of Mizue's receptacle member 11

that covers the slots for receiving sleeves 12a and 13a); Ex. 1002, ¶50

Thus, the examiner allowed the ’367 patent claims based on a material error, i.e., by overlooking that Mizue indeed disclosed the claimed “cover portion” of the adapter. *Ecto World, LLC v. RAI Strategic Holdings, Inc*., IPR2024-01280, Paper 13 at 5-6 (Director May 19, 2025) (precedential as to § A) (examiner materially errs when failing to consider prior art teachings material to patentability). Notably, the Petition highlighted this prosecution error, but Patent Owner does not address this in its discretionary denial request. *See* Pet., 13-14. Patent Owner’s silence concedes the errors made by Patent Owner and the examiner during prosecution.

Additionally, Patent Owner did not submit any IDS during prosecution of the ’367 patent and submitted only a single IDS with three listed references during prosecution of the priority application, which issued as US 9,170,383. Ex. 1014. Patent Owner’s failure to submit an IDS is compounded by the examiner’s inadequate search that failed to identify material prior art. The examiner primarily searched the G02B6/38 and G02B6/42 classifications, but the ’367 patent is also assigned the international classification G02B6/36 (“Mechanical coupling means”), which the examiner did not search. Ex. 1001, cover page; Ex. 1002, 88-96. The prior art in this IPR (Anderl and Kim) are classified under G02B6/36, which indicates that a search of the G02B6/36 classification could have identified relevant prior art, but the examiner did not conduct such a search. This illustrates the material search errors

(in addition to the examination errors) during prosecution of the ’367 patent.

The examiner’s material errors provide a compelling basis for institution. *Taiwan Semiconductor Mfg. Co. v. Marlin Semiconductor Ltd*., IPR2025-00847, Paper 11 (Director Sept. 3, 2025) (referring a 15-year-old patent to merits panel due to examiner’s error in applying prior art cited during prosecution); *Carbyne, Inc. v. TriTech Software Sys*., IPR2025-00959, Paper 11 (Director Oct. 3, 2025) (similar).

B. The Complex and Diverse District Court Litigations Weigh Against Discretionary Denial

A “complex and diverse” district court litigation “tip[s] the balance against discretionary denial.” *Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00217, Paper 9 at 2 (Director Jun. 13, 2025); *see also Shenzhen Tuozhu Tech. Co. v. Stratasys, Inc*., IPR2025-00438, Paper 10 at 3 (Director July 17, 2025) (same). As the Director explained in *Tesla* and *Tuozhu*, “[t]he large number and vast scope of the patents asserted in the district court litigation … weighs against discretionary denial, as the Board is better suited to review a large number of patents involving diverse subject matter.” *Tesla*, Paper 9 at 3; *Tuozhu*, Paper 10 at 3.

As in *Tesla* and *Tuozhu*, the Accelight Litigation and the Eoptolink Litigation are complex and diverse. Together, they involve **eleven patents in eleven unique patent families covering interrelated technologies and components of optical transceivers**, as the table below shows.

Patent No.	**Title**	**Technology**	**District Court Case**	**IPR filed?**
10,042,116	Techniques for direct optical coupling of photodetectors to optical demultiplexer outputs and an optical transceiver using the same	**Direct coupling** of photodetectors to demultiplexed optical signals from **arrayed waveguide grating (AWG) demultiplexer**	Accelight Litigation	Yes (IPR2025-01566)
10,379,301	Multi-channel parallel optical receiving device	**Direct coupling** of photodetectors to demultiplexed optical signals from **AWG demultiplexer**	Accelight Litigation	Yes (IPR2025-01567)
10,788,690	Optical isolator array for use in an optical subassembly module	**Optical isolator array** with a magnetic base for mounting multiple optical isolators within an optical subassembly	Accelight Litigation	Yes (IPR2025-01570)
9,523,826	Pluggable optical transceiver module	Optical transceiver configured for easy **plugging and unplugging** from a host device socket	Accelight Litigation	Yes (IPR2026-00093)
9,448,367	Multi-channel optical transceiver module including dual fiber type direct link adapter for optically coupling optical subassemblies in the transceiver module	**Adapter** for coupling external fiber optic connectors (such as LC connectors) with TOSA and ROSA of an optical transceiver	Accelight Litigation Eoptolink Litigation	Yes (IPR2026-00019)

Patent No.	**Title**	**Technology**	**District Court Case**	**IPR filed?**
10,578,818	Optical transceiver	Optical transceiver configured for easy **plugging and unplugging** from a host device socket	Eoptolink Litigation	Yes (IPR2026-00094)
10,714,890	Transmitter optical subassembly arrangement with vertically-mounted monitor photodiodes	**TOSA** arrangement for an optical transceiver, the TOSA having **vertically-mounted monitor photodiodes**	Eoptolink Litigation	Yes (IPR2026-00122)
11,177,887	Substrate with stepped profile for mounting transmitter optical subassemblies and an optical transmitter or transceiver implementing same	Optical transceiver **substrate having a stepped profile** to improve mounting and alignment of **TOSA** modules on the substrate	Eoptolink Litigation	Yes (IPR2026-00123)
10,313,024	Transmitter optical subassembly with trace routing to provide electrical isolation between power and RF traces	**Transmitter optical subassembly (TOSA)** having a feedthrough device that electrically isolates RF and power traces	Accelight Litigation	No[1]

[1] Accelight has not filed an IPR petition against the ’024 patent because the Accelight product accused of infringing the ’024 patent has never been sold in the U.S. and

Patent No.	**Title**	**Technology**	**District Court Case**	**IPR filed?**
9,509,433	Aligning and directly optically coupling photodetectors to optical demultiplexer outputs in a multichannel receiver optical subassembly	**Direct coupling** of photodetectors to demultiplexed optical signals from an **AWG demultiplexer** in a receiver optical subassembly (ROSA)	Eoptolink Litigation	No[2]
10,230,470	Multilayered flexible printed circuit with both radio frequency (RF) and DC transmission lines electrically isolated from each other and an optical transceiver using same	Multilayered **flexible printed circuit (FPC)** of an optical transceiver, featuring insulating layers that electrically isolate RF and DC (power) traces on the FPC	Eoptolink Litigation	No[2]

Accelight has no intention of introducing it in the U.S., and therefore there are no damages associated with the alleged infringement of the ’024 patent.

[2] Eoptolink has not filed IPR petitions against the ’433 and ’470 patents because the Eoptolink products accused of infringing those patents have limited sales in the U.S., and therefore damages, if any, associated with the alleged infringement of the ’433 and the ’470 patents would be minimal compared to the alleged infringement of the other patents asserted in the Eoptolink litigation.

Given the significant number of interrelated patents in two parallel district court actions, the PTAB is particularly well-positioned to efficiently and consistently adjudicate the patentability of the ’367 patent (and the other patents challenged through IPRs). More specifically, because the challenged patents pertain to closely related optical transceiver technologies with substantial overlaps in concepts and subject matters, the PTAB is in a better position than two separate district courts to conduct a unified review of the interrelated technical issues presented by the patents. This approach will advance judicial efficiency, save the parties’ resources, and foster “consistency and predictability to the public.” *POSCO Co., Ltd. v. ArcelorMittal*, IPR2025-00370, Paper 10 at 3 (Director June 25, 2025). The complexity and interrelated nature of the patents asserted in the two parallel district court actions tips the balance against discretionary denial.

C. Petitioners’ Stipulations to Not Pursue Any Invalidity Challenges Under Sections 102 or 103 in the District Courts Weigh Against Discretionary Denial

In view of the United States Patent and Trademark Office’s (USPTO) Notice of Proposed Rulemaking, dated October 17, 2025, both **Petitioner Accelight and Petitioner Eoptolink have stipulated to not pursue any invalidity challenges against the ’367 patent under 35 U.S.C. §§ 102 or 103 in the parallel district court actions** (i.e., the Accelight Litigation and the Eoptolink Litigation) if IPR is instituted (and not later terminated). *See* Papers 7 and 8 (filed December 3, 2025).

Petitioners' broad stipulations guarantee that the IPR proceeding will be a true alternative to the two district court litigations for prior art-based invalidity challenges. Petitioners' stipulations thus favor institution.

Patent Owner's concern about "significant overlap between the issues" asserted in the Petition and the district court litigations is disingenuous because it fails to address (or even acknowledge) Petitioners' broad stipulations to not pursue any prior-art based invalidity challenges in the district court. *See* DD Req., 7-8. Petitioners' stipulations ensure that there will be minimal (if any) overlap in the issues before the PTAB and the district courts, thereby promoting judicial efficiency and reducing the risk of inconsistent decisions. Patent Owner's concerns regarding issue overlap are therefore moot and should not influence the institution decision.

D. The Merits of the Petition are Compelling and Support Institution

Contrary to Patent Owner's assertion, the merits are strong and well-reasoned.

Ground 1 (Andrel in view of Gaio): Patent Owner incorrectly argues that limitation 1[d] ("an adapter cover portion configured to cover the first and second slots for retaining the direct link connector assemblies in the respective slots") is not disclosed by Anderl. DD Req., 12-15. But Anderl explicitly discloses that retaining unit 34 (direct link LC adapter) includes **a "cover portion" defined by retainer cover member 92, which includes a hood portion 112**. Pet. 38-39 (citing Ex. 1005, 6:50-53, Fig. 3). As the Petition explains, retainer cover member 92 not only

"encloses" optical couplers 82 (the direct link connector assemblies) but also reduces EMI and improves heat dissipation. *Id.* (citing Ex. 1005, Fig. 4, 7:46-49; Ex. 1003, ¶83). As stated in claim 1, a POSITA would have understood that retainer cover member 92 would retain the direct link connector assemblies in their respective slots by covering/enclosing them. *Id.*; Ex. 1001, 9:18-20 (claim 1 recites that the cover portion retains the direct link connector assemblies simply by covering the slots).

Contrary to Patent Owner's assertion, a reference to what a POSITA would have understood from the teachings of a prior art reference does not constitute improper gap-filling based on the "general knowledge" of a POSITA because there is no missing claim element in Andrel. *Contra* DD Req., 15. In fact, Anderl expressly discloses a "cover portion," defined by retainer cover member 92. Pet., 38-39. Patent Owner's contrary assertions reflect a misunderstanding of the '367 patent and incorrectly imply that the prior art must disclose a specialized feature within the cover portion to "retain" the direct link connector assemblies in their respective slots. *See* DD Req., 12-13. However, neither the claims nor the specification of the '367 patent imposes such a requirement. The '367 patent merely states that "[a]n adapter cover portion 261 covers the slots 266, 268 and retains the direct link connector assemblies [270, 271]," without describing any specialized retaining feature or characteristic of cover portion 261. Ex. 1001, 6:56-58, Figs. 5-7 (showing that cover portion 261 retains the direct link connector assemblies 270, 271 simply by covering

them). Claim 1 recites the same. *Id.*, 9:18-20. Just as in the '367 patent, Andrel's retainer cover member 92 covers the slots defined by optical ferrule coupler retainer 90[3] and thereby retains the direct link connector assemblies (optical couplers 82) in their respective slots. Ex. 1003, ¶83. Anderl therefore discloses limitation 1[d].

Ground 2 (Kim in view of Gaio): Patent Owner's incorrect and unsubstantiated criticisms of Ground 2 further underscore the strength of the Petition. Patent Owner incorrectly argues that Kim does not disclose limitation 1[d] because "receptacle holders 134, are not covers. Indeed, Petitioners point to the *bottom surface* of the receptacle holder 134." DD Req., 16 (emphasis in original). Patent Owner misunderstands the Petition and the Kim reference. Nowhere does the Petition refer to the receptacle holders 134 as "covers" or the "cover portion"; rather, the Petition explicitly states that receptacle holders 134, which define the direct link LC adapter, include a separate cover portion that covers the first and second slots for receiving direct link connector assemblies 118, 120. Pet., 70-71 (cover portion shown by light yellow coloring in annotated Figure 2 of Kim).

Contrary to Patent Owner's assertion, Kim's Figure 2 does not show the

[3]Anderl's optical ferrule coupler retainers 90 include two slots for receiving direct link connector assemblies (optical couplers 82) at a "direct link end" and two LC connector receiving regions at a "pluggable connector end." Pet., 29-32.

bottom side of receptacle holders 134; rather, both Figures 1 and 2 of Kim show the top side of receptacle holders 134, with Figure 1 showing connection assembly 130 without a cover and Figure 2 showing connection assembly 130 with a cover affixed by screws 204. *See* Ex. 1007, Figs. 1 and 2. As the Petition further explains, Kim additionally discloses with respect to Figure 6 that connection assembly 130 includes a cover 604 that may cover the direct link connector assemblies and a "connector such as a screw may be used to secure the cover 604 to the connection assembly [130] and to the housing and/or to the PCB board." Pet. 71-72 (citing Ex. 1007, ¶[0065], Fig. 6; Ex. 1003, ¶¶116, 117). As in the '367 patent, Kim's cover 604 covers the slots for receiving direct link connector assemblies 118, 120 and thereby retains connector assemblies 118, 120 in their respective slots. *Id*. Patent Owner's contrary assertions are incorrect and unsupported, and they improperly conflate reliance on general knowledge for "gap-filling" with what a POSITA would have understood from the express disclosures of Kim. Kim indeed discloses claim limitation 1[d].

VI. THE *FINTIV* FACTORS WEIGH STRONGLY AGAINST DENIAL

Factor 1 (Stay): Both the Accelight Litigation and the Eoptolink Litigation are stayed pending IPR institution decisions, and the stays are highly likely to continue if one or more IPRs are instituted. Ex. 2005; Ex. 1017. Therefore, this factor weighs strongly against discretionary denial.

Factor 2 (Trial Date): There is no trial date set for the Accelight Litigation.

Because the case is stayed, a trial date before the PTAB's projected statutory deadline for the final written decision is highly unlikely. Similarly, all dates in the Eoptolink Litigation have been vacated in view of the stay, and therefore trial in the Eoptolink Litigation is unlikely before the projected final written decision date. Ex. 1017. Therefore, this factor weighs strongly against discretionary denial.

Factor 3 (Parallel Proceeding): Contrary to Patent Owner's assertion, both the Accelight Litigation and the Eoptolink Litigation are in early stages. Ex. 1015, 2; Ex. 1016, 3. No interrogatories or document requests have been propounded by either party in either litigation; thus, fact discovery has barely started in either of the two cases. Ex. 1015, 2; Ex. 1016, 3. In the Accelight Litigation, the parties have completed claim construction briefing, but the *Markman* hearing was canceled because the case was stayed. In the Eoptolink Litigation, the claim construction process has not started and will remain paused in view of the stay. Because the parties have invested very little in either the Accelight Litigation or the Eoptolink Litigation, this factor weighs strongly against discretionary denial.

Factor 4 (Issue Overlap): Both Petitioners have submitted very broad stipulations in this IPR to not pursue any invalidity ground under §§ 102 or 103 in their respective district court actions if this IPR proceeding is instituted. Papers 7 and 8. Petitioners' stipulations go beyond any *Sotera* plus stipulation to meaningfully reduce overlap between the PTAB and the district courts, and ensure that this **IPR**

will be a true alternative to the Accelight Litigation and the Eoptolink Litigation for prior-art based invalidity defenses. This factor therefore weighs strongly against discretionary denial.

Factor 5 (Same Party): Because Petitioners and Patent Owner are the same parties as in the two parallel litigations, and because the Board will likely issue a final written decision prior to any trial in the district court, this factor weighs against discretionary denial. *Samsung Elecs. Co. v. Staton Techiya, LLC*, IPR2022-00302, Paper 13 at 18-19 (P.T.A.B. July 11, 2022) (factor five weighs against denial when statutory deadline for final written decision is before trial date in parallel litigation).

Factor 6 (Other Considerations): The merits of the Petition are strong, well-supported and the invalidity positions are straightforward. Patent Owner's criticisms of the Petition's merits are unsupported, unjustified, and predicated on incorrect interpretation of the "cover portion" limitation of claim 1. *Supra* Section V.D. This factor therefore also weighs against discretionary denial.

In sum, none of the *Fintiv* factors favors discretionary denial, and several factors weigh strongly against discretionary denial.

VII. PATENT OWNER'S MISPLACED AND UNFOUNDED CRITICISMS UNDERSCORE THE PETITION'S MERITS

Patent Owner disregards Petitioners' broad stipulations, which substantially resolve any potential overlap of issues between the PTAB and the district courts.

Patent Owner also fails to acknowledge the stay of the parallel district court litigations—a factor that strongly favors institution of IPR. Rather than engaging with the substantive facts and evidence that support institution, Patent Owner instead raises irrelevant arguments, such as referencing a Search Disclosure Declaration ("SDD") that was never filed by either Petitioner. *See* DD Req., 18-20. These tactics only serve to distract from the central issues before the PTAB.

Specifically, Patent Owner repeats the arguments regarding SDDs that appear in Patent Owner's requests for discretionary denial in IPR2025-01566 and -01567, where Petitioner Accelight indeed submitted SDDs pursuant to Director Squires's Memorandum of November 17, 2025. But no SDD was submitted in the present IPR by either Petitioner. Patent Owner's criticisms of a non-existent SDD are irrelevant and underscore the weakness of Patent Owner's request for discretionary denial.

VIII. CONCLUSION

Patent Owner has not articulated any legitimate ground for discretionary denial, aside from referencing the "age" of the patent, which alone does not outweigh the numerous other factors and circumstances that strongly support institution. Petitioners respectfully request institution of IPR based on the merits of the Petition.

Dated: January 16, 2026

Respectfully submitted,

/*Arpita Bhattacharyya*/
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Counsel for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on January 16, 2026, a copy of **PETITIONERS' OPPOSITION TO PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL** and **EXHIBITS 1012-1017** were served upon the below-listed counsel by electronic mail:

Jo Dale Carothers - jcarothers@weintraub.com
Eric Caligiuri - ecaligiuri@weintraub.com

Dated: January 16, 2026

By: */ Kate Rose /*
Kate Rose