

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FEDEX CORPORATION and
FEDEX OFFICE AND PRINT SERVICES, INC.,
Petitioners,

v.

VALTRUS INNOVATIONS LTD.,
Patent Owner.

Case IPR2026-00039
Patent 7,640,332

**PETITIONERS' OPPOSITION TO PATENT OWNER'S REQUEST FOR
DISCRETIONARY DENIAL OF INSTITUTION**

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EX1009	BEAWebLogic Server, Developing Applications with WebLogic Server (Version 9.0) (October 6, 2006)
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EX1012	The JBoss Extensible Server, Proceedings International Middleware Conference, Fleury et al. (2003)
EX1013	George Thomas, “Introduction to the Internet Protocol,” <i>Auomation.com</i> (February 7, 2003)
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- EX1103 Defendant FedEx Office and Print Services, Inc.’s Objections and Responses to Plaintiffs’ First Set of Interrogatories, *Valtrus Innovations Ltd. et al. v. FedEx Corp. et al.*, Case No. 2:25-cv-00516 (E.D. Tex. July 28, 2025)
- EX1104 Declaration of Michael A. Bittner in Support of SAP America, Inc.’s Answering Brief in Opposition to Defendants’ Motion to Dismiss, *SAP America, Inc. v. Valtrus Innovations Ltd. et al.*, Case No. 24-cv-00756 (D. Del. October 2, 2024) (public version)
- EX1105 Valtrus Innovations Ltd. Home Page. Retrieved from <https://www.valtrusinnovations.ie/>
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- EX1213 U.S. Patent Publication No. 2006/0195688
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- EX1215 Hewlett-Packard Development Company, L.P., HP
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- EX1216 Hewlett-Packard Development Company, L.P., Application
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- EX1217 IBM Corp., WebSphere Application Server V6.1: System
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- EX1220 Kubernetes / Documentation / Concepts /Overview, Retrieved
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**All emphasis is added in this brief.*

I. INTRODUCTION

Referral and institution are guaranteed to maximize efficiency and conserve judicial resources. Why? Because Petitioners now proffer an expansive stipulation to forgo, not just §§ 102/103 grounds, but ***all invalidity grounds*** in the Parallel FedEx Litigation. This proceeding is a true alternative to the parallel district court litigation, presenting no risk of duplicative efforts or inconsistent outcomes. All that remains is the prospect of mooted at least one jury trial, and likely more.

Referral and institution are likewise warranted because Petitioners FedEx Corporation and FedEx Office, premier American companies in the logistics and print services industries, had firm expectations that they would not be sued over a far-afield patent about “hot deploying” applications in a grid computing environment. The Acting Director refused to grant a discretionary denial based on similar facts in the *Home Depot* case that the Director recently designated as informative of Board norms. This case deserves the same result.

Referral and institution are also necessary to correct severe examination errors. The Examiner allowed the ’332 patent to issue without a single rejection or even a scintilla of written reasoning. Worse, the Examiner’s lackluster search failed to explore an entire category of prior art and completely bypassed the crux of the ’332 patent’s purported “hot deployment” invention. The ’332 patent’s asserted claims have yet to be vetted thoroughly: It should happen for the first time now.

II. ARGUMENT

A. Referral Will Maximize Efficiency and Resource Conservation

1. Petitioners' Expanded Stipulation to Forgo All District Court Invalidity Grounds Will Eliminate Duplicative Efforts

Petitioners have already proffered a *Sotera+* stipulation that rules out the vast majority of prior art. *See* EX1022. And although Valtrus's claim that this stipulation somehow "leaves the door open" for duplicative litigation lacks merit, Petitioners are nevertheless willing to do more. Br. at 15–16. Contingent upon institution, Petitioners will agree to forgo *all invalidity grounds* in the Parallel FedEx Litigation, not just those relating to prior art:

If *inter partes* review is instituted in IPR2026-00039, unless institution is later vacated, reversed or otherwise withdrawn by rehearing, Director Review, or any other de-institution mechanism, Petitioners FedEx Corporation and FedEx Office and Print Services, Inc. stipulate that they will not pursue in Civil Action No. 2:25-cv-00516 (E.D. Tex.), against the '332 patent, any grounds of invalidity under §§ 101, 102, 103, and/or 112.

In every material way, Petitioners are willing to assume, upon institution of the two obviousness grounds in this IPR, the far broader scope of estoppel that typically applies to a PGR proceeding. Here, as much as any other case the Director has previously instituted, this IPR can serve as a true alternative to the Parallel FedEx Litigation, entirely negating the risk of duplicative efforts and inconsistent outcomes. This factor heavily favors referral and institution, outweighing all others.

2. Although the Relative Timing Is No Longer Relevant, a Final Written Decision by the Board Will Most Likely Precede Any Jury Trial

Petitioners' expanded stipulation will remove all invalidity grounds from the Parallel FedEx Litigation, rendering the jury trial date irrelevant because there is no chance of overlapping or inconsistent decisions. And even if the jury trial mattered here, it likely would not take place before the Board's final written decision.

The District Court's Docket Control Order sets jury selection for March 1, 2027, less than two months ahead of the Board's projected final written decision date of April 21, 2027. EX2007 at 1. But trial schedules rarely hold up these days in Texas's Eastern District. This venue is the busiest patent court in the nation, and Judge Gilstrap's docket is jam-packed with overlapping trial schedules. To start, the Docket Control Order that applies to Valtrus's lawsuit against FedEx Office also applies to the separate lawsuit Valtrus filed against NetApp. The cases have been consolidated for pretrial activities, but the "[i]ndividual cases remain active for trial." EX1117. Both trials cannot start on March 1, 2027. And even assuming the case against FedEx Office goes first, there are still other lawsuits on Judge Gilstrap's docket with jury trials scheduled to begin that same day. *E.g.*, EX1118.

The reality is that the scheduled trial date will be delayed in the Parallel FedEx Litigation, a fact Valtrus knows better than most. Valtrus's recent lawsuit against SAP America experienced three separate trial date delays before the parties finally

gave up and settled their dispute. EX1119 at 41–42. Rather than the Docket Control Order, it is more accurate to predict the trial date based on Judge Gilstrap’s average time to a jury trial in patent cases, which is about 24 or 27 months.¹ EX1120; EX1121. Applying this statistic to the filing date of May 9, 2025 suggests any jury trial will occur between May and August 2027, *after* the Board’s final written decision deadline in this IPR. As a result, institution presents an opportunity to significantly narrow the number of patents presented to the jury at trial.

3. Other Litigations, Including the Home Depot Litigation, Do Not Support Denial

The Home Depot Litigation is irrelevant to the Director’s discretionary decision in this IPR for three reasons. First, Petitioners are not a party to it. *See Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 13–14 (March 20, 2020) (precedential) (“If a petitioner is unrelated to a defendant in an earlier court proceeding, the Board has weighed this fact against exercising discretion to deny

¹ Valtrus cites statistics from a cherry-picked timeframe that excludes many years’ worth of trials from the sample. *See* Br. at 11 (citing EX2013). Valtrus also focuses on the median time-to-trial statistic, which is less relevant. For one, using the median of 21 months yields a date in February 2027, which is *before* the scheduled trial date and thus not predictive. As discussed, Judge Gilstrap’s current docket is incredibly congested and the recent trend has been to delay trials, not move them up.

institution[.]”). Second, invalidity in the Home Depot Litigation case will not overlap with this IPR because Home Depot is not pursuing the same or substantially similar prior art. The Henseler (EX1004), Thyagarajan (EX1006), and Kautzleben (EX1007) references asserted in Petitioners’ petition are not raised against the ’332 patent in Home Depot’s invalidity contentions, nor are any substantially similar printed publications. *See* EX2015 at 14–16.

Third, Valtrus should not be permitted to leverage its licensing and litigation attacks to shield the ’332 patent from review. The only reason a trial involving the ’332 patent looks like it *may* occur before a final written decision from the Board is that the first target Valtrus sued—Home Depot—did not petition for *inter partes* review. *See* Br. at 10–11 (touting Home Depot Litigation trial date). If this circumstance alone were enough to warrant denial, the potential for abusive defendant-shopping tactics by high-volume foreign patent assertion entities like Valtrus would be extraordinary. In truth, the Home Depot Litigation is hardly relevant to the *Fintiv* analysis vis-à-vis Petitioners because there is no reason to believe it will ever reach a jury trial.²

² The Home Depot Litigation may not survive the pending motion to dismiss for improper venue. Nor is there any guarantee that Valtrus would maintain its assertion of the ’332 patent, one of five patents in the Home Depot Litigation.

Home Depot entities have been sued in the Eastern District of Texas many times. Of the approximately sixty patent cases that have reached a resolution, Home Depot has not taken any of them to trial. EX1123.³ If past is prologue, Home Depot will bow out long before the '332 patent's validity is ever tested before a jury.

As for the remaining parallel litigations, all were filed contemporaneously with or after the lawsuit involving Petitioners, and none will likely reach trial before the Board's projected final written decision in this IPR (which Valtrus does not deny). Br. at 12; *see also* at 5–6. A finding by the Board that the '332 patent's claims are unpatentable would narrow these other litigations just as it would for the Parallel FedEx Litigation. This opportunity to conserve resources in multiple lawsuits with a single IPR is a strong justification for institution.

4. The Parallel Reexamination Does Not Outweigh the Strong Reasons for Referral and Institution

Petitioners appreciate that concurrent post-grant proceedings at the Office addressing the same patent are ordinarily disfavored. Br. at 19–20. But this case is exceptional. Again, Petitioners have taken the extreme step of stipulating to eliminate invalidity from the Parallel FedEx Litigation if this IPR is instituted.

³ Note that the “1” trial indicated in the Lex Machina data is 2:13-cv-01113 (lead), a case with which Home Depot was at one point consolidated. But Home Depot, as is its custom, seems to have settled with the plaintiff before the jury trial. EX1124.

Institution would therefore drastically narrow the scope of the district court case on the '332 patent, cutting judicial and party resources in half and preventing inconsistent decisions.

The parallel *ex parte* reexamination (“EPR”) against the '332 patent does not have the same effect standing alone. It carries no stipulation, preclusion, or statutory estoppel. What’s more, unlike a final written decision in this IPR, any rejection from the EPR will not be upheld by the Board in time to narrow or moot the ongoing litigations involving the '332 patent. Although Valtrus says “the average pendency of an EPR is only approximately 15 months,” that statistic conceals the time consumed by an appeal to the Board. Br. at 19 (citing EX2018). According to Valtrus’s source, the “Avg. pendency if appealed” for EPR is “32.35 months.” EX2018 at 7. If the '332 patent’s claims are unpatentable—and they are—a Board decision saying so in 2028 will not affect jury trials in 2027. *See infra*, § II.A.2–3. The Board should speak sooner rather than later. Accordingly, if the Director exercises his discretion under § 315(d) to stay or terminate one of the two concurrent proceedings, it is this IPR that should be prioritized.

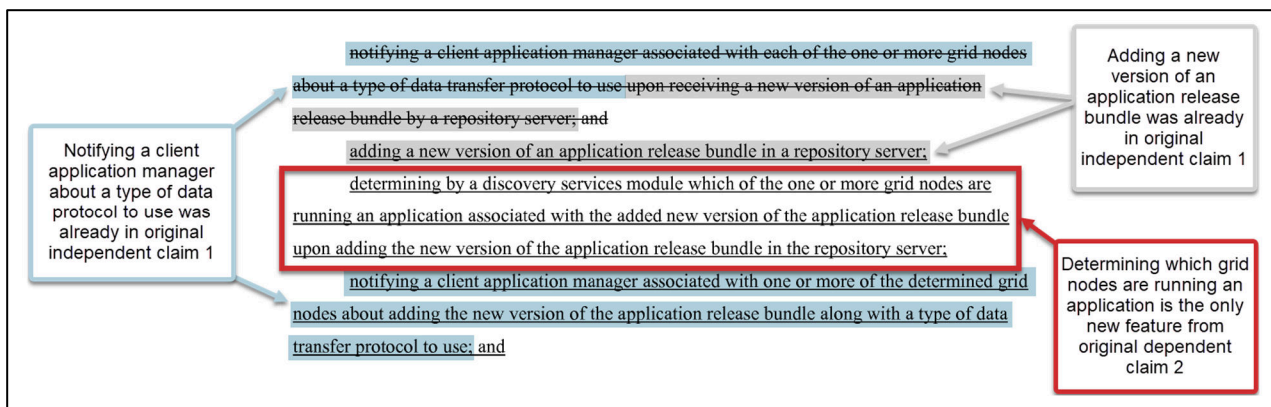
B. Institution Will Correct Material Examination Errors

1. The Examiner Erroneously Allowed the '332 Patent to Issue Without a Single Rejection or Any Stated Reasoning

The Examiner passed the '332 patent to issuance without a single rejection and with no supporting written analysis. All one can glean from the Notice of

Allowance is that the Examiner apparently received authorization to amend the claims via “a telephone interview” with the Applicant on October 23, 2009. EX1002 at 260. Contrary to Office procedures, the Examiner submitted the Notice without an interview summary and without reasons for allowance. *Id.* at 258–266; EX1211 (MPEP Ch. 700) at 231–233 (“Examiners must complete an Interview Summary form PTOL-413,” including “an identification of the specific prior art discussed.”); EX1212 (MPEP Ch. 1300) at 12–13 (“[T]he examiner should make reasons [for allowance] of record” when “the record is not [otherwise] explicit[.]”).

Procedural impropriety aside, the unexplained amendment in the Notice is also substantively suspect: It merely incorporates language from certain original dependent claims into the parent independent claims. *Compare* EX1002 at 260–261 (amended claim 1), *with id.* at 290 (original claims 1–2). As illustrated below, the only feature from original dependent claim 2 that was not previously in original independent claim 1 is determining which grid nodes are running an application. *See* EX1002 at 260. But this dependent-claim feature was nowhere near inventive.



Indeed, despite his misguided search efforts (*infra*, §II.B.2), the Examiner still identified prior art that renders obvious the rudimentary feature of determining which nodes are running a particular application. For example, the “Drissi et al.” reference (US 2006/0195688), assigned to IBM, discloses “registering each instance” of an application deployed in a grid computing environment, such that “multiple applications...can be individually tracked and managed.”⁴ EX1213 at [0039]; *see also id.* at [0029]–[0032], Figure 3; EX1002 at 267 (citing Drissi et al.).

There was no legitimate reason to allow the subject matter of an original dependent claim that is only marginally narrower than the original independent claim that the Examiner apparently deemed unpatentable. Thus, the Examiner erred materially by failing to issue a rejection, and he made matters worse by not documenting his rationale for allowance.

2. The Examiner’s Constrained Search Efforts Missed Critical Prior Art, and the Applicant Withheld Material Information

Although the Examiner stumbled upon sufficient prior art for a *prima facie* obviousness rejection of the claims he erroneously allowed, he left even better art undiscovered by failing to conduct a “comprehensive” and “thorough” search.

⁴ Ironically, Valtrus’s infringement contentions point to similar functionality in the Kubernetes platform. EX1219 at 10 (“Once the application instances are created, a Kubernetes Deployment controller continuously monitors those instances.”).

EX1214 (MPEP Ch. 900) at 51, 48; 37 C.F.R. 1.104 (“the examiner shall... make a thorough investigation of the available prior art”).

For one, the Examiner never “obtained a thorough understanding of the invention disclosed and claimed.” EX1214 at 47. As reflected throughout its title, abstract, claims, and description, the ’332 patent is about “hot deployment” in a grid computing environment. But that popularized term of art—hot deployment—is not present in any of the Examiner’s twenty-nine search queries. *See* EX1002 at 271–274. The root word “deploy” only appears once, in a query that returned an unwieldy 4,627 references. *Id.* at 272 (query “S2”). Had the Examiner better understood the ’332 patent and directed his search accordingly, as Petitioners did, he would have discovered the invalidating references advanced in this IPR. *See* EX1023 (detailing Petitioners’ comprehensive search strategy).

The Examiner also completely, and without “justif[ication],” neglected the corpus of “nonpatent literature.” EX1002 at 48. Doing so was a severe mistake. “[H]igh technology” fields like grid computing are precisely where “examiners must take special care to ensure that their searches include consideration of NPL [or ‘nonpatent literature’].” *Id.* By disregarding NPL altogether, the Examiner left hundreds—if not thousands—of relevant commercial white papers, technical research papers, and product literature untapped. Petitioners, by contrast, conducted an extensive NPL search that unearthed several documents describing real-world

grid computing platforms with the very same hot-deployment capability at the crux of the '332 patent. *E.g.*, EX1009 at 88 (“WebLogic Server allows you to deploy newer versions of application modules...while the server is running. This process is known as hot-deploy[.]”); EX1012 at 13 (“Deployable components can be conveniently deployed into JBoss simply by dropping deployment units into a well-known directory. This feature is called hot deployment.”).

Had the Examiner simply perused the Internet with a search engine,⁵ he would have found immediately that the Applicant, Hewlett-Packard Development Company, L.P., was associated with numerous prior art NPL documents describing its own products and third-party integrations designed to facilitate hot deployment in grid computing environments. *E.g.*, EX1215 at 4, 17 (a “technical guide” for “configuring the JBoss Application Server in an architecture based on components of HP BladeSystem,” where “JBoss provides a built-in clustering mechanism” and provides “distributed cluster-wide hot-deployment”); EX1216 at 1–2 (showing HP OpenView Application Management Solutions with BEA WebLogic and IBM WebSphere platforms, both of which facilitate hot deployment); EX1009 at 88 (explaining that BEA WebLogic Server implements a “hot-deploy” process);

⁵ Office procedures permit Internet searching once an application has published, as was the case here. *See* EX1214 at 51.

EX1217 at 147–149 (explaining that IBM WebSphere platform provides “[h]ot deployment and dynamic reloading”).

Whether the Examiner should have used Google or whether the Applicant should have furnished known prior art, the result is the same. The ’332 patent’s claims were not sufficiently vetted during prosecution. They should be in this IPR.

C. Here, Like the Informative *Home Depot* Case, the Balance of Settled Expectations Strongly Favors Institution

In the *Home Depot* case recently designated informative and representative of Board norms, the Acting Director referred a petition to the merits review process despite finding it was “unlikely that a final written decision...[would] issue before [the] district court trial” and further despite the patent owner’s “strong settled expectations.” *Home Depot U.S.A., Inc. v. H2 Intellect LLC*, IPR2025-00480, Paper 11 at 1–2 (Director Sept. 4, 2025) (informative). Outweighing these factors, the Acting Director explained, was the countervailing consideration that the petitioner “did not have reason to anticipate assertion of the patent against it.” *Id.* at 3. Petitioners FedEx Corp. and FedEx Office likewise had firm expectations against assertion of the ’332 patent. And as in the *Home Depot* case, Petitioners’ expectations “outweigh the considerations favoring discretionary denial.” *Id.*

1. Petitioners FedEx Corp. and FedEx Office Held Firm Expectations Against Assertion of the '332 Patent

Patent Owner Valtrus sued Petitioners FedEx Corp. and FedEx Office in the Eastern District of Texas on May 9, 2025 (“the Parallel FedEx Litigation”). EX2010 at 1, 74. Valtrus’s complaint accuses FedEx Corp. and FedEx Office of making or using an open-source platform for managing distributed systems called “Kubernetes,” which purportedly infringes the ’332 patent.⁶ *Id.* at 1–7, 32–44. But Petitioners never should have been sued in the first place. In fact, as explained below, they each held firm expectations against a baseless patent infringement assertion like Valtrus’s.

To start, it is common knowledge that FedEx Corp. is a holding company and “does not offer products or services at all.” EX1100 at 6; *see also id.* at 2; EX1101 at 1. FedEx Corp. does not use the open-source Kubernetes software that Valtrus accuses, nor was it reasonable for Valtrus to assume so.

FedEx Office had similarly strong expectations that it would not be sued on any patent that purportedly covers the accused open-source Kubernetes software. It is beyond debate that FedEx Office did not develop the accused software. That is not FedEx Office’s business. FedEx Office provides copying, digital printing, professional finishing, signs, corporate print solutions, packing services, and

⁶ “Google open sourced the Kubernetes project in 2014.” *See* EX1220 at 1.

shipping services to its customers. EX1102 at 10. Moreover, in providing these services, FedEx Office “does not itself employ any of the third-party software packages set forth in [Valtrus’s] complaint.” EX1103 at 16.

Even setting aside that neither entity uses the accused software, the ’332 patent has never been “commercialized, asserted, marked, licensed, or otherwise applied” in Petitioners’ “technology space.” *Home Depot*, IPR2025-00480, Paper 11 at 1–2; *see also Shenzen Tuozy Tech. Co. v. Stratasys, Inc.*, IPR2025-00438, Paper 10 at 3 (Director Jul. 17, 2025). Indeed, the original owner—Hewlett-Packard—never asserted the ’332 patent in litigation. The ’332 patent lay dormant for more than a decade, until Valtrus, a shell entity created for patent assertions, began to execute its acquire-and-assert scheme. EX1104 at 83–86 (financial statements), 94–95; *see also id.* at 19, 42, 71–79.

Valtrus does not commercialize the ’332 patent in the traditional sense because Valtrus is a patent assertion entity that does not make products or offer services. EX1105. For this same reason, Valtrus has no products to mark. Although Valtrus is presently asserting (or likely to assert) the ’332 patent in multiple lawsuits, none of the defendants (or likely defendants) compete or collaborate with FedEx Corp. or FedEx Office in the marketplace. *E.g.*, EX2005 (*Home Depot*); EX2012 (*Starbucks*); EX2008 (*NetApp*); EX1218 (*Google*). In addition, to the extent the ’332 patent is licensed, Valtrus merely contends that it is part of much broader

licenses to the entire portfolio of patents obtained from a Hewlett-Packard entity in 2021. *See* EX2017 ¶¶ 3–4. None of Valtrus’s assertion activities undermine Petitioners’ settled expectations that they would not be the target of a baseless infringement suit involving the ’332 patent and an open-source software package that neither entity developed or even used.

2. Valtrus, a Foreign Patent Assertion Entity Waging Licensing and Litigation Campaigns Against American Companies, Should Not Have Settled Expectations of Discretionary Denial

Valtrus cannot reasonably expect that the United States Patent Office will refuse to review patents wielded by a foreign entity against American companies like Petitioners, who power the domestic economy. *See* EX1107 at 9 (indicating “\$47.4 billion” in supply chain spending by FedEx Corp.’s operating companies within the United States and explaining how such spending supports “the small business sector and makes significant contributions to local economies”), 12 (explaining that FedEx Corp.’s operating companies in the shipping and logistics space “play a particularly large role in the U.S. Transportation and Warehousing sector,” directly contributing “an estimated 6.6% of the sector’s total net economic output in FY2025”), 13 (explaining that FedEx Corp’s operating companies employ “approximately 275,000 team members around the country”).

Valtrus is a patent assertion entity based in Ireland. EX1016 at 1–2; EX2017 ¶¶ 1–2. Valtrus has no known connection to the United States beyond sending

generic cookie-cutter licensing demand letters to companies operating in the United States and filing lawsuits against those who don't submit. *Compare* EX1106 (FedEx), *with* EX1108 (Starbucks), *and with* EX1109 (SAP).

Despite its Irish roots, Valtrus's patent assertion business model is focused narrowly on the United States. Because all (or virtually all) of its active patent portfolio seemingly consists of United States patents, Valtrus conducts its patent assertion activities on U.S. soil, backed by the strong United States court system and financially sheltered by an international tax treaty. EX1110; EX1111 at 16–18 (Article 12 Royalties). Thanks to its extensive United States patent portfolio, Valtrus has extracted tax-sheltered royalty payments from “more than fifty entities.” EX2017 ¶ 3. Those funds all flow across the Atlantic from here to Ireland with no benefit at all to the United States Government, economy, or citizens.

Although existing laws do not preclude foreign entities like Valtrus from asserting United States patents against American companies like FedEx Corp. and FedEx Office, such a foreign entity ought not harbor an expectation that the United States Government would categorically decline a merits review of the foundational rights underpinning such a strategy.

3. Valtrus's Abusive Licensing and Litigation Tactics Further Undercut Its Alleged Settled Expectations

Valtrus's licensing and litigation tactics further erode any would-be settled expectations based on the '332 patent's age.

Valtrus's unfair tactics date back to October 16, 2024, when Valtrus first accused FedEx Corp. of infringing a list of patents attached to a short two-page letter. EX1106 at 1–3. The letter failed to identify any specific products or services purportedly offered by FedEx Corp. and lacked even a single perfunctory claim chart for any of the asserted patents.⁷ *Id.* When FedEx Corp. explained the letter's clear deficiencies, Valtrus reiterated its licensing demand without supplementing its allegations and later filed suit. *See* EX1112 (FedEx Corp. email dated March 12, 2025, explaining that “Valtrus’s letter provides absolutely no basis to conclude that FedEx uses the various software packages listed” and that “[a] list of patent numbers devoid of any explanation is simply not a sufficient basis for FedEx to conduct a reasonable investigation”); EX1113 (Valtrus email dated March 14, 2025); EX2010 (complaint dated May 9, 2025).

Valtrus's lawsuit was yet another act in bad faith. The complaint accuses FedEx Corp. and FedEx Office of infringement, but with no factual allegations connecting either entity to the accused software. It is a matter of public record, discoverable by any sensible investigation, that FedEx Corp. is a holding company and does not offer products or services to consumers. *Supra*, § II.C.1. Valtrus tacitly

⁷ Valtrus is defending claims of bad-faith patent assertion for sending a carbon copy demand letter to Starbucks. *See* EX2012 at 7–16; EX1108.

conceded its misstep by dismissing FedEx Corp. from the Parallel FedEx Litigation. EX1114. As for FedEx Office, Valtrus's complaint cites personal LinkedIn profiles as purported proof of use, but none list FedEx *Office* as an employer. EX1100 at 16–17; EX2010 at 8–14.

Valtrus's expectation that it can harass American companies with unfair patent licensing and litigation campaigns launched from the other side of the Atlantic absent oversight from the United States Government is unreasonable and does not support discretionary denial.

III. CONCLUSION

With Petitioners' expansive contingent stipulation to completely excise invalidity from the Parallel FedEx Litigation, institution would both maximize efficiency and prevent inconsistent decisions. The opportunity for this IPR to serve as a true alternative to district court litigation is an overwhelming reason to reject Valtrus's request for discretionary denial. Yet another reason to do so is that Petitioners could not have foreseen Valtrus's baseless infringement suit, and allowing foreign entities to launch legal attacks against unsuspecting American companies to extract tax-sheltered royalties without oversight would erode confidence in the U.S. patent system and invite further abusive litigation. Equally important, the '332 patent only issued because the Examiner did not sufficiently

scrutinize the prior art or apply clear Office examination guidelines. Petitioners' IPR is the most timely, efficient, and fair opportunity to fix that mistake.

For all these reasons, we respectfully ask the Director to institute.

Respectfully submitted,

Dated: January 21, 2026

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR §42.6(e)(4), the undersigned certifies that on January 21, 2026, a complete and entire copy of this Petitioners' Opposition and its supporting exhibits were provided via email, to the Patent Owner by serving the email correspondence addresses of record as follows:

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