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' AUTHORIZED SUPPLEMENTAL BRIEF OPPOSING DISCRETIONARY DENIAL OF INSTITUTION

Just days after arguing that any talk of settlement was mere "speculation," Valtrus has now moved to stay—pending settlement—the only parallel litigation that was likely to reach trial before the Board's final written decision. *See* EX3103 (citing Reply (Paper 11) at 4). There remain just two litigations where the '332 patent's validity is presently at issue. Neither of them is likely to produce a jury trial before May of 2027, leaving ample time for the Board to adjudicate the merits in this IPR by April 21, 2027. *See* DD Opp. at 3–4.

Trial timing aside, the Parallel FedEx Litigation is moot in the *Fintiv* analysis due to Petitioners' all-invalidity stipulation. *See* DD Opp. at 2; Sur-Reply at 1–3. The stipulation also counteracts the NetApp Litigation under *Fintiv* by safeguarding against two different juries hearing the same invalidity case. *See* Sur-Reply at 3–4. Moreover, the unforeseeable nature of this assertion against Petitioners overrides any residual efficiency concerns presented by the NetApp Litigation. *See* DD Opp. at 12–15 (citing the informative *Home Depot* decision).

All that remains of Valtrus's case for denial is the recent reexamination, which Valtrus obstructed by failing to cite highly material prior art, and the '332 patent's age, which is outweighed by material examination errors and Valtrus's abusive assertion tactics. *See* DD Opp. at 6–12, 16–18; Sur-Reply at 5. Indeed, the timing of Valtrus's recent settlement is yet another sign of gamesmanship. Occurring just days after the close of discretionary denial briefing in this case, the conveniently timed settlement allowed Valtrus to argue for denial based on a trial date it must have known (or heavily suspected) would never happen.

Respectfully submitted,

Dated: February 10, 2026

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR §42.6(e)(4), the undersigned certifies that on February 10, 2026, a complete and entire copy of this Petitioners' Authorized Supplemental Brief was provided via email, to the Patent Owner by serving the email correspondence addresses of record as follows:

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