

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EOPTOLINK TECHNOLOGY USA INC.
Petitioner,

v.

APPLIED OPTOELECTRONICS, INC.
Patent Owner.

IPR2026-00094
U.S. Patent No. 10,578,818

PETITIONER'S STIPULATION

Petitioner Eoptolink Technology USA Inc. hereby stipulates that if the Board institutes IPR based on the Petition in IPR2026-00094 (and neither the institution nor the final written decision resulting from this proceeding is later vacated, withdrawn, or reversed by the Board, the Director, or the USPTO), then Petitioner will not pursue in the parallel district court litigation (Case No. 5:24-cv-08165-NW (N.D. Cal.)), (i) the specific grounds raised in this Petition, or (ii) any other grounds that reasonably could have been raised under §§ 102 or 103 on the basis of prior art patents or printed publications, or (iii) any ground based on a combination of system prior art and the prior art references asserted in the Petition at Section II.A.

Notwithstanding the above and for the avoidance of doubt, this stipulation does not limit Petitioner's ability to rely on its own products and systems as anticipatory prior art in the litigation, including to demonstrate that the challenged claims are invalid based on Petitioner's own products and systems being in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention. In the IPR, Petitioner could not raise any grounds based on its own products or systems being in public use, on sale, or otherwise available to the public. *Ingenico Inc. v. IOENGINE, LLC*, 136 F.4th 1354, 1367 (Fed. Cir. 2025) (recognizing that assertions "that a claimed invention was known or used by others, on sale, or in public use...could not be raised during an IPR."). Therefore, there will

be no overlap between the issues raised in the Petition and in the district court, and the IPR will serve as a “true alternative” to the district court proceeding.

Petitioner further submits that in the parallel district court litigation (Case No. 5:24-cv-08165-NW (N.D. Cal.)), Petitioner and Patent Owner filed a stipulation to stay said parallel district court litigation pending institution decisions on Petitioner’s IPR petitions challenging patentability of four (out of six) asserted patents in said district court case. Petitioner’s stipulation to not pursue various invalidity grounds described in the above paragraphs of this document will apply if and when the stay is lifted in the district court case.

Dated: December 19, 2025

Respectfully submitted,

/Arpita Bhattacharyya/

Arpita Bhattacharyya, Reg. No. 63,681
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2025, true and correct copies of the foregoing **PETITIONER'S STIPULATION** were served via electronic mail upon the following counsel of record for Patent Owner:

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

Dated: December 19, 2025

Respectfully submitted,

/Arpita Bhattacharyya/
Arpita Bhattacharyya, Reg. No. 63,681
Counsel for Petitioner