UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner

v.

SITNET, LLC,
Patent Owner

Case IPR2026-00112
U.S. Patent No. 12,256,463

PETITIONER'S OPPOSITION TO PATENT OWNER'S DISCRETIONARY DENIAL BRIEF

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PETITIONER'S UPDATED EXHIBIT LIST

Exhibit No.	Description
1001	U.S. Patent No. 12,256,463 to Cona et al., issued March 18, 2025 ("the '463 patent")
1002	Prosecution History of U.S. Patent No. 12,256,463 ("'463 File History")
1003	Declaration of Dr. Jeremy Cooperstock
1004	*Curriculum Vitae* of Dr. Jeremy Cooperstock
1005	U.S. Patent No. 7,747,648 to Kraft et al. ("Kraft")
1006	U.S. Publication No. 2007/0281690 to Altman et al. ("Altman")
1007	U.S. Publication No. 2008/0103784 to Wong *et al.* ("Wong")
1008	U.S. Patent No. 8,103,300 to Gogic ("Gogic")
1009	U.S. Publication No. 2008/0139165 to Gage *et al.* ("Gage")
1010	*Meta Platforms, Inc. v. SitNet LLC*, IPR2024-00529, Paper 33 (Final Written Decision) (P.T.A.B. Sept. 8, 2025)
1011	Palen *et al*., *Online Forums Supporting Grassroots Participation in Emergency Preparedness and Response*, Communications of the ACM, Vol. 50, No. 3 (March 2007)
1012	U.S. Patent No. 7,730,216 to Issa et al. ("Issa")
1013	Boyd & Ellison, *Social Network Sites: Definition, History, and Scholarship*, Journal of Computer-Mediated Communication, 13 (2008) pp. 210-230.
1014	U.S. Patent No. 8,024,330 to Franco *et al*. ("Franco")
1015	November 26, 2006 Wikipedia page "Social network" (from web.archive.org) (accessed January 24, 2024)
1016	*Meta Platforms, Inc. v. SitNet, LLC*, IPR2024-00530, Final Written Decision, Paper 30 (P.T.A.B. Sept. 8, 2025)
1017	U.S. Patent No. 8,346,864 to Amidon *et al*. ("Amidon")
1018	U.S. Publication No. 2006/0272012 to Wu ("Wu")
1019	U.S. Patent No. 6,910,077 to Najork ("Najork")

Exhibit No.	Description
1020	Claim Construction Order in *SitNet LLC v. Meta Platforms, Inc.*, Case No. 1:23-cv06389-AS (SDNY) (Dkt. 79) filed July 26, 2024
1021-1036	*Intentionally Left Blank*
1037	*Meta Platforms, Inc. v. SitNet, LLC*, IPR2024-00528, Order Granting Request for Adverse Judgement, Paper 23 (PTAB Apr. 18, 2025)
1038	*Meta Platforms, Inc. v. SitNet, LLC*, IPR2024-00612, Final Written Decision, Paper 26 (PTAB Sept. 8, 2025)
1039	*Meta Platforms, Inc. v. SitNet, LLC*, IPR2024-00531, Final Written Decision, Paper 9 (PTAB Sept. 8, 2025)
1040	*Meta Platforms, Inc. v. SitNet, LLC*, IPR2024-00528, Preliminary Guidance, Paper 21 (PTAB Mar. 25, 2025)
1041	*Meta Platforms, Inc. v. SitNet, LLC*, IPR2024-00529, Preliminary Guidance, Paper 20 (PTAB Mar. 25, 2025)
1042	*Meta Platforms, Inc. v. SitNet, LLC*, IPR2024-00530, Preliminary Guidance, Paper 20 (PTAB Mar. 24, 2025)
1043	U.S. Patent No. 8,332,454 to Cona et al.
1044	*Intentionally Left Blank*
1045	*Meta Platforms, Inc. v. SitNet, LLC*, IPR2024-00528, Motion for Adverse Judgement, Paper 22 (PTAB Apr. 9, 2025)
1046	*Meta Platforms, Inc. v. SitNet, LLC*, IPR2024-00529, Motion for Adverse Judgement, Paper 22 (PTAB Apr. 9, 2025)
1047	*Intentionally Left Blank*
1048	Assignment Records of Provisional Application No. 60/887,843
1049	Docket Navigator Search for "Parties: begins Resource Consortium Limited," accessed at https://search.docketnavigator.com/patent/binder/0/0?print=true
1050	Docket Navigator Search for "Parties: begins SitNet," accessed at https://search.docketnavigator.com/patent/binder/0/0?print=true

Exhibit No.	Description
1051	Docket Navigator Search for SDNY Motion Success Stay Pending IPR, accessed at https://search.docketnavigator.com/patent/binder/0/0?print=true
1052	*Meta Platforms, Inc. v. SitNet, LLC*, IPR2024-00528, Patent Owner's Motion to Amend and Request for Preliminary Guidance, Paper 14 (PTAB Dec. 4, 2024)
1053	*Meta Platforms, Inc. v. SitNet, LLC*, IPR2024-00529, Patent Owner's Motion to Amend and Request for Preliminary Guidance, Paper 13 (PTAB Dec. 4, 2024)
1054	*Meta Platforms, Inc. v. SitNet, LLC*, IPR2024-00530, Patent Owner's Motion to Amend and Request for Preliminary Guidance, Paper 13 (PTAB Dec. 3, 2024)
1055	*SitNet LLC v. Meta Platforms, Inc.*, Case No. 1:25-cv-06185, Scheduling Order (S.D.N.Y. Nov. 4, 2025)
1056	Time to Trial Statistics
1057	*Meta Platforms, Inc. v. SitNet, LLC*, IPR2024-00529, Motion to Withdraw Motion to Amend, Paper 21 (PTAB Apr. 9, 2025)
1058	*Meta Platforms, Inc. v. SitNet, LLC*, IPR2024-00528, Opposition to Motion to Amend, Paper 19 (PTAB Feb. 26, 2025)

I. INTRODUCTION

The Director should institute this IPR because discretionary and non-discretionary considerations strongly favor review. *First*, the '463 patent issued in March 2025, and SitNet has not developed settled expectations. Instead, the PTAB's invalidation of related patents indicates that the '463 patent claims are "highly vulnerable to invalidation based on prior art," and SitNet had every reason to expect a meritorious challenge before the PTAB. *POSCO Co. Ltd. v. ArcelorMittal*, IPR2025-00370, Paper 10 at 2-3 (PTAB June 25, 2025). Further, there is no evidence of licensing or commercialization, nor is there a history of enforcement of the '463 patent or other patents in the family prior to SitNet's campaign against Meta. The settled expectations of the parties thus favor institution.

Second, review is needed to correct material Office error. The Board determined all challenged claims of four related patents were unpatentable over much of the same art asserted here, yet the examiner issued the '463 patent claims without a single prior-art rejection, and without any discussion of the prior IPRs. It was material error for the Office to do so. And this material error dooms SitNet's arguments under 35 U.S.C. § 325(d).

Third, the *Fintiv* factors—which SitNet does not even address—favor consideration of the merits of Meta's Petition. Trial in the co-pending district court

litigation is likely to occur more than a year after the Final Written Decision (FWD), there has been minimal investment in that proceeding, Meta's *Sotera* stipulation will prevent duplicate efforts and inconsistent results, and the merits of the Petition are particularly strong.

For each of the foregoing reasons, the Director should institute review.

II. BACKGROUND

Meta has already successfully challenged the patentability of four patents in the '463 patent's family. SitNet asserted the four related patents in a prior case, *SitNet LLC v. Meta Platforms, Inc.*, Case No. 1:23-cv-06389 (S.D.N.Y.) ("*SitNet I*"), filed July 24, 2023. Meta filed IPR petitions, Pet., 76, and in each proceeding the Board canceled all challenged claims.[1] EX1010; EX1016; EX1037; EX1038; EX1039. SitNet filed Motions to Amend (MTA) in three of the proceedings; the Board provided Preliminary Guidance that there was a reasonable likelihood the proposed amended claims were unpatentable. EX1040; EX1041; EX1042. SitNet then withdrew two of the MTAs and requested adverse judgement as to the claims

[1] IPR2024-00528, IPR2024-00529, IPR2024-00530, IPR2024-00531, IPR2024-00612 ("*SitNet I* IPRs"). The FWDs in the -529IPR, the -530IPR, and the -612IPR are on appeal to the Federal Circuit (case numbers 26-1157, 26-1158, and 26-1159).

sought to be amended in those proceedings, which the PTAB granted. EX1037, 3; EX1010, 41-42; EX1045; EX1046; EX1057. The Board denied SitNet's remaining MTA. EX1016 49-82 (finding the proposed substitute claims unpatentable under §§ 101, 103).

While the *SitNet I* IPRs were ongoing, SitNet continued to prosecute additional patents in the family, including the '463 patent, which issued on March 18, 2025, after the *SitNet I* IPRs were instituted. SitNet subsequently asserted the '463 patent against Meta, along with five additional patents in the same family, in *SitNet LLC v. Meta Platforms, Inc.*, Case No. 1:25-cv-06185 (S.D.N.Y.) ("*SitNet II*"), filed July 28, 2025. Pet., 75; Paper 4. Meta has filed petitions for *inter partes* review of the other five patents asserted in *SitNet II*.[2] *See* Pet., 75.

III. SETTLED EXPECTATIONS OF THE PARTIES WEIGH AGAINST DISCRETIONARY DENIAL

SitNet does not have settled expectations regarding the '463 patent, which issued less than eight months before Meta filed this Petition. Instead, Meta has settled expectations in the unpatentability of the '463 patent, given Meta's entirely successful prior challenges of four of the '463 patent's family members. Moreover, despite SitNet's claim to have diligently obtained and maintained patent protection

[2] SitNet has since amended the complaint in the SDNY *SitNet II* proceeding to remove the '290 patent. *See* DD Br., 3.

for "almost two decades," DD Br., 10, SitNet *never asserted* any patent in the family prior to SitNet's July 2023 complaint in *SitNet I*.

A. This Petition is an early challenge to the '463 patent.

"Early challenges to patents favor robust, predictable patent rights and weigh against discretionary denial." *Straumann USA, LLC v. Smart Denture Conversions, LLC*, IPR2025-00956, Paper 11 at 2 (PTAB Sept. 19, 2025). Challenges to patents that have been in force for less than six years are considered "early challenges" because patent owners typically have not developed settled expectations within this timeframe. *See, e.g.*, *OnePlus Tech. (Shenzhen) Co. v. Pantech Corp.*, IPR2025-00756, Paper 11 at 2 (PTAB Oct. 3, 2025); *Berkshire Hathaway Energy Co. v. Birchtech Corp.*, IPR2025-00274 et al., Paper 23 at 3 (PTAB July 2, 2025); *Shenzen Tuozhu Tech. Co. v. Stratasys, Inc.*, IPR2025-00438 et al., Paper 10 at 2 (PTAB July 17, 2025). The '463 patent issued on March 18, 2025, and was in force for less than eight months at the time Meta filed its Petition on November 10, 2025. Accordingly, Meta's early challenge favors consideration of the merits by the Director.

B. SitNet could not have settled expectations given the history of invalidity in the family.

The Board's previous FWDs in the *SitNet I* IPRs held that all challenged claims of four related patents were unpatentable, indicating that the claims of the '463 patent are "highly vulnerable to invalidation based on prior art." *POSCO*,

IPR2025-00370, Paper 10 at 2-3. As in *Arm Ltd. v. Deadalus Prime LLC*, where the Acting Director determined circumstances favored merits consideration, here also "the Board already has determined that 'substantially identical claims' in a related patent to the challenged patent are unpatentable based on one [or more] of the prior art references asserted in this proceeding." IPR2025-00207, Paper 14 at 3 (PTAB Aug. 6, 2025); *see also Mercedes-Benz Group AG v. The Phelan Group, LLC*, IPR2025-00919, Paper 8 at 2 (PTAB Sept. 12, 2025) (favoring merits consideration where "challenged patent in [earlier instituted IPR] has similar claims to those challenged in these proceedings and the [earlier IPR] petition relies on prior art similar to the prior art raised in these Petitions"); *Nintendo Co., Ltd. v. Resonant Systems, Inc.*, IPR2025-00680, Paper 18 at 3 (PTAB Aug. 14, 2025) (favoring merits consideration where "in an *inter partes* review of a [related] patent … , the Board has determined claims that are substantially similar to the challenged claims to be unpatentable").

The '463 patent claims are substantively similar to those that the Board, in the *SitNet I* IPRs, already found to be unpatentable in view of many of the same references that Meta relies upon here. For example, independent claim 1 of the '463 patent recites "establishing an event node corresponding to the situation." EX1001, 34:35-36. U.S. Patent No. 8,332,454 ("'454 patent") (challenged in the -529IPR) similarly recites "creating, by an event node server, an **event node** …

corresponding to a situation." EX1043, 33:21-23. In the -529IPR, the Board found that it would have been obvious to include a new node, i.e., an "event node" in Wong, based on the asserted references' (Wong and Gogic) "collective[] suggest[ion of] a node to provide certain users with information related to an event, … notwithstanding that the references do not individually use the same terminology as the challenged claims, i.e., 'event node.'" EX1010, 39; *see id.*, 37-41. Here, Ground 2 relies on the same combination of Wong and Gogic to likewise teach this and related elements. *See* Pet., 56-59.

As another example, independent claim 1 of the '463 patent recites "creating a first **subset of the plurality of user nodes** based on a determination that the first subset of the plurality of user nodes is associated with devices that **are in geographic proximity to the situation**." EX1001, 34:42-45 (emphasis added). The '454 patent similarly recites "forming a **projection of nodes** of the situational network **using geographic locations** of a plurality of devices corresponding to nodes in the multi-dimensional personal information network." EX1043, 33:24-27 (emphasis added). In the -529IPR, the Board again found that the Wong-Gogic combination taught these limitations. EX1010, 33-41. Here, in Ground 2, the Petition makes the same showing. *See* Pet., 44-48, 59-60.

SitNet argues that it has settled expectations with respect to the '463 patent because Meta "has known, or should have known, about SitNet's patents,

including the '463 Patent for quite some time." DD Br., 9-10. This argument makes no sense. Meta could not have known about the '463 patent prior to its existence. Indeed, the application resulting in the '463 patent was not even filed until September 12, 2024.[3] Once the patent did issue, Meta had every reason to expect it is unpatentable in light of the results of the *SitNet I* IPRs. The similarity of the claims at issue here to those found unpatentable in prior IPRs, in view of the same references asserted here, favors institution of the Petition.

C. There is no evidence of licensing or commercialization, nor is there a history of enforcement of the patent family prior to SitNet's litigation against Meta.

Institution is also warranted in light of the absence of any other circumstances that give rise to settled expectations. Unlike in the cases SitNet cites, there is no evidence that its patents have been licensed or otherwise commercialized. *See, e.g.*, DD Br., 10 (citing *Alliance Laundry Sys., LLC v.*

[3] SitNet's citation to *Aquestive* is inapposite. DD Br., 10. In *Aquestive*, the petitioner's prior knowledge was of the publication of the PCT patent application that matured into the challenged patent. *Aquestive Therapeutics, Inc. v. Iono Pharma, LLC*, IPR2025-00874, Paper 11 at 2 (PTAB Oct. 3, 2025). Further, additional factors (not present here) favored denial, including that the petitioner had sought to purchase the challenged patent three years before the IPR. *Id.*

PayRange LLC, IPR2025-00950, Paper 11 at 3 (PTAB Sept. 19, 2025)). Nor does SitNet assert or offer evidence that the '463 patent has been "'commercialized, asserted, marked, licensed, or otherwise applied.'"[4] *Shenzen*, IPR2025-00438, Paper 10 at 3 (quoting *Intel Corp. v. Proxense LLC*, IPR2025-00327, Paper 12 at 2–3 (PTAB June 26, 2025)).

SitNet claims its purported "diligence and expenditure of resources in obtaining, and maintaining, patent protection for almost two decades" gave it settled expectations in the validity of its new patents. DD Br., 9. Not so. When petitioners have challenged both more recent and older related patents, *all have been referred*, confirming patent owners do not have settled expectations in recently issued patents based solely on the existence of older patents in the family. *See, e.g.*, *Padagis US LLC v. Neurelis, Inc.*, IPR2025-00464, Paper 12 at 3-4 (PTAB July 16, 2025) (informative); *Embody, Inc. v. LifeNet Health*, IPR2025-00248, Paper 13 at 3 (PTAB June 26, 2025).

[4] Indeed, as SitNet notes, many patents have issued in the family since the first patent in the family issued on May 4, 2010. *See* DD Br., 9 (citing EX2004, (45); EX2005). But neither SitNet, nor the prior assignee, Resource Consortium Limited, asserted *any* of these patents before the *SitNet I* district court proceeding. *See* EX1048; EX1049; EX1050.

For these reasons, the settled expectations of the parties weigh in favor of merits consideration here.

IV. REVIEW IS NEEDED TO CORRECT MATERIAL OFFICE ERROR.

Where a "Petitioner appears to show a material error by the Office, … it is an appropriate use of Office resources to review the potential error." *Ascentcare Dental Products, Inc. v. Solmetex, LLC*, IPR2025-01104, Paper 11 at 3 (PTAB Oct. 17, 2025). Here, it was material error for the Office to issue the '463 patent over the art asserted in the *SitNet I* IPRs.[5] The '463 patent claims are substantively similar to the claims held unpatentable in the *SitNet I* IPRs, *see* Section III.B, and the examiner thus erred by allowing the '463 patent in view of the prior art asserted here.

A. The Office erred in issuing the '463 patent claims in view of the *SitNet I* IPRs and the art asserted therein.

The examiner's only rejections during prosecution were nonstatutory

[5] Contrary to SitNet's implications otherwise, DD Br., 1, 7-8, Meta had no obligation to present examiner error arguments in the Petition. Indeed, the Office's guidance instructs otherwise. *See* Interim Process I.C ("The petitioner and the patent owner should not present discretionary considerations in the petition or the Patent Owner Preliminary Response (POPR), respectively."); III.A ("The petition should *not* address discretionary issues.") (emphasis added).

double-patenting rejections over other patents and applications in the '463 patent family, including the '454 patent. EX1002, 261-267. Prior to issuing these rejections, the applicant submitted an extensive IDS listing, *inter alia*, the respective Petitions "& Exhibits" of the *SitNet I* IPRs. EX1002, 141-193. The Examiner crossed out many of the cited documents, including the *SitNet I* petitions and associated exhibits. *See* EX1002, 213, 221, 249-253.

While the examiner marked as "considered" Wong, Gogic, and Gage, *see id.*, "the patent examiner did not apply any art or reference during prosecution, despite the existence of PTAB proceedings of related patents that could impact the challenged claims." *Alliance Laundry Systems, LLC v. PayRange LLC*, IPR2025-00573, Paper 9 at 2 (PTAB July 17, 2025) (referring for merits consideration). The examiner's failure to do so was clear error given the similarity between the subject matter of the *SitNet I* and *SitNet II* patents—evidenced at least by the examiner's double-patenting rejection of the '463 patent claims in view of the '454 patent asserted in *SitNet I*, and Patent Owner's subsequent filing of a terminal disclaimer. EX1002, 265, 273-275. The notice of allowance does not explain the examiner's decision not to apply the prior art from the *SitNet I* IPRs, as it includes no statement of reasons for allowance. EX1002, 291-295. Reviewing this material error is an appropriate use of Office resources. *Ascentcare*, IPR2025-01104, Paper 11 at 3. And to the extent the Examiner did not consider the *SitNet I* IPRs, it was

error not to do so. *See* MPEP § 904.04 ("[T]he examiner is required to review specific papers of PTAB post-grant proceedings in related applications" including, e.g., the Petition, Preliminary Response, Decision on Institution, Patent Owner Response).

B. The Petition should not be denied under § 325(d).

SitNet argues that "[i]nstitution should be denied due to the Petition's recycling of art that was before the Examiner." DD Br., 4. But § 325(d) and the *Advanced Bionics* framework do not mandate denial where the same art or arguments are presented. Instead, *Advanced Bionics* explicitly instructs that if the same art or arguments were previously presented to the Office, then the Board considers "whether the petitioner has demonstrated that the Office erred in a manner material to the patentability of challenged claims." *Advanced Bionics LLC v. Med-El Elektromedizinische Gerate GMBH*, IPR2019-01469, Paper 6 at 8-9 (PTAB Feb. 13, 2020) (precedential)

Although SitNet argues that Wong, Gogic, Gage, and a reference similar to Altman "were identified in an IDS initialed by the Examiner and appear on the face of the '463 Patent," DD Br., 5, it was clear error for the examiner to allow the claims over these references. *See* Sections III.B, IV.A. The best evidence of this error is the *SitNet I* FWDs. The Board found all challenged claims unpatentable in those proceedings, yet the examiner did not discuss the *SitNet I* IPRs or explain

why the '463 patent claims are allowable over the asserted art. Where "the record of the Office's previous consideration of the art is not well developed or silent, then a petitioner may show the Office erred by overlooking something persuasive under [*Becton Dickinson*] factors (e) and (f)."). *Advanced Bionics*, IPR2019-01469, Paper 6 at 10. As explained in the Petition, the Wong-Gogic-Gage combination renders obvious all claims of the '463 patent. *See* Pet. 40-76. The examiner's lack of fulsome consideration of these references, particularly in view of the *SitNet I* IPRs, is material error that must be corrected.

Moreover, the primary reference of Ground 1 (Kraft) was *not* previously presented to the Office during prosecution of the '463 patent.[6] Indeed, SitNet acknowledges that Kraft was only "considered by the same Examiner during prosecution of a *related* patent," DD Br., 6, a continuation application prosecuted *after* allowance of the '463 patent claims.[7] *See* EX2009, 212 ('052 patent IDS filed

[6] Significantly, the '463 patent did not issue until March 18, 2025, but SitNet was made aware of Kraft at least by February 26, 2025, upon receiving Meta's Opposition to SitNet's Motion to Amend in IPR2024-00528. *See* EX1058, 19-25. Yet, SitNet did not provide Kraft to the Office for consideration.

[7] Allowance of the '052 patent in view of Kraft was also in error. *See* IPR2026-00113 Pet. (Paper 1), 7-37.

Mar. 25, 2025); EX1001, (45) ('463 patent issued on Feb. 25, 2025).

Further, even had Kraft been presented to the Office, the examiner erred in allowing the '463 patent claims over the Kraft-Altman combination. *See* Pet., 7-40. As further evidence of the strength of the Petition's merits in Ground 1, in the *SitNet I* IPRs, SitNet filed Motions to Amend that added an "event node" to claims which did not already recite such a feature. *See*, EX1052; EX1053; EX1054. In its Preliminary Guidance, the panel agreed with Meta that Kraft taught the claimed "event node." EX1040, 11-13; EX1041, 9-14; EX1042, 12-13. The examiner's failure to consider Kraft, particularly in view of the *SitNet I* IPRs, is material error that must be corrected.

Review of the '463 patent is warranted, and necessary, in view of the examiner's material error in allowing the claims, without any explanation, over the same prior art the Board previously determined to render unpatentable similar claims issuing from the '463 patent's priority applications.

V. *FINTIV* FAVORS CONSIDERATION OF THE MERITS

All of the *Fintiv* discretionary factors strongly weigh in favor of consideration of the merits. *See Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 5-6 (PTAB Mar. 20, 2020) (precedential) ("*Fintiv*"). SitNet provides no evidence or argument to the contrary. In fact, SitNet does not even address *Fintiv*.

A. Factor 1 weighs against denial because there is evidence the district court will enter a stay if this IPR is instituted.

Factor 1 weighs in favor of considering the merits of Meta's Petition because the district court is highly likely to grant a stay. The United States District Court for the Southern District of New York grants almost 85% of requests to stay pending IPR or PGR. EX1051.

B. Factor 2 strongly weighs against denial because the Board will enter a final FWD more than a year before the district court trial.

Factor 2 strongly weighs in favor of consideration of the merits. The projected statutory deadline for issuing a FWD in this IPR is May 25, 2027. Although a trial date has not yet been set in the parallel district court litigation, it will certainly occur well after May 25, 2027; the last deadline in the Scheduling Order, for the filing of the joint pretrial order in advance of the pretrial conference, is almost a month later. EX1055. Further, assuming the 36.4-month median time-to-trial statistics in the SDNY holds here, trial would not be expected until mid-August 2028. EX1056, 11. Thus, the Board will likely issue its FWD more than *a year before* any district court trial.

C. Factor 3 strongly weighs against denial because Meta was diligent in filing this IPR and there has been little investment in the district court litigation.

Factor 3 favors consideration of the merits because the parties and the court have not made significant investment in the SDNY litigation and Meta was diligent in filing this IPR. The district court is in the very early stages. The deadline for the

completion of fact discovery is a year away, and the expert discovery cut-off 15 months away. EX1055. Claim-construction disclosures and briefing have not begun. *cf. Fintiv*, IPR2020-00019, Paper 11 at 9-10 (explaining that the issuance of "district court claim construction orders may indicate that the court and parties have invested sufficient time in the parallel proceeding to favor denial"). Investment in the case has thus far been minimal.

Further, Meta filed this IPR expeditiously—less than four months after SitNet filed its complaint on July 28, 2025. The minimal investment and Meta's diligence weigh in favor of consideration of the merits. *Fintiv*, 10-12.

D. Factor 4 weighs against denial because Meta submitted a *Sotera* stipulation.

Factor 4 favors consideration of the merits. Meta timely filed a *Sotera* stipulation (Paper 6), which "mitigates any concerns of duplicative efforts between the district court and the Board, as well as concerns of potentially conflicting decisions." *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 at 19 (PTAB Dec. 1, 2020) (precedential as to § II.A).

The circumstances here are distinguishable from cases where a *Sotera* stipulation was found insufficient to ensure the IPR would be a true alternative to district court. For example, in *Motorola*, there was significant investment in the parallel proceeding and a trial date eleven months *prior* to the projected FWD date. *Motorola Sols., Inc. v. Stellar, LLC*, IPR2024-01205, Paper 19 at 3-4 (PTAB Mar.

28, 2025) (Stewart). Likewise, in *Cisco*, the district court had not granted a stay, and the likely trial date was three months before the Board's projected FWD date. *Cisco Sys., Inc v. WSOU Invs. LLC*, IPR2025-00188, Paper 14 at 3 (PTAB Aug. 22, 2025). Here, the FWD will issue *more than a year before* the projected trial date, the district court is likely to grant a stay, and the case just began. Thus, this factor weighs against denial.

E. Factor 5 weighs against denial where, as here, the Board will enter a FWD before trial in the district court.

This factor weighs in favor of consideration of the merits because the parties in the parallel litigation are the same and the Board will reach its determination before the district court. *See BOE Tech. Grp. Co., Ltd. v. Optronic Scis. LLC*, IPR2024-01130, Paper 16 at 13 (PTAB Jan. 27, 2025) (noting weight of factor 5 depends on which tribunal is likely to reach a decision first); *NVIDIA Corp. v. Invensas Corp.*, IPR2020-00603, Paper 11 at 23 (PTAB Sept. 3, 2020) (factor 5 weighs against denial where Board is likely to reach a FWD first).

F. Factor 6 weighs against denial because the merits of the challenge are strong.

The Office made a material error in issuing the '463 patent. *See* Section IV. The Petition presents strong challenges that clearly establish the claims at issue are unpatentable. Indeed, the Board determined claims substantially similar to the '463 patent claims were unpatentable over some of the same art presented in the

Petition. *See* Section III.B. Accordingly, this factor weighs in favor of consideration of the merits.

G. Considered as a whole, the *Fintiv* factors strongly weigh against denial of institution.

In sum, all six of the *Fintiv* factors weigh against discretionary denial and, thus, in favor of the Director considering the Petition's merits.

VI. THE PTAB IS THE MOST EFFICIENT FORUM TO DETERMINE VALIDITY OF THE '463 PATENT AND RELATED IPRS.

Meta has filed IPR challenges for all six of the patents. Five of the patents issued less than two years ago:

Patent (IPR)	Patent Issue Date
10,117,290 (IPR2026-00100)	October 30, 2018
12,120,769 (IPR2026-00110)	October 15, 2024
12,238,815 (IPR2026-00111)	February 25, 2025
12,245,325 (IPR2026-00101)	March 4, 2025
12,256,463 (IPR2026-00112)	March 18, 2025
12,336,052 (IPR2026-00113)	June 17, 2025

Thus, a significant majority of Meta's challenges are "early challenges," which weighs against discretionary denial. *See, e.g.*, *OnePlus Tech.*, IPR2025-00756, Paper 11 at 2. Further, the PTAB is the most efficient, and fastest, forum to resolve the parties' dispute: the six patents are related and have similar claims, at least some of the prior art overlaps across all six IPRs, and the projected date for the PTAB to issue its FWDs is more than a year before the district court trial date. This also weighs against discretionary denial.

Although SitNet dropped the '290 patent from its district court complaint a day after Meta filed its IPR challenging that patent (DD Br., 3), the Director should consider this related patent because of the overlap in technology and prior art. Review would be warranted even if SitNet had developed settled expectations in this patent (it has not): where a patent owner has no settled expectations in five of six challenged patents, the PTAB is still the more efficient forum to address the validity of all six related patents. *See Padagis*, IPR2025-00464, Paper 12 (where two patents were challenged early, and the third patent was part of same family, it was an efficient use of Board resources to address the related patent); *Embody*, IPR2025-00248, Paper 13 at 3 (it would be "an efficient use of Board resources" to review the older parent patent along with the child (issued in 2022)). Efficiency weighs in favor of the Director considering the merits of all six of the related challenges.

VII. SITNET'S OTHER ARGUMENTS DO NOT FAVOR DENIAL.

SitNet's remaining arguments are conclusory and do not support discretionary denial. *See* DD Br., 10-12. *First*, the Petition's merits are strong. *Second*, a change in law is not required to justify review; instead, this is just one factor that ***may*** support review, typically for older patents for which the patent owner's expectations might otherwise be settled. *See, e.g.*, *Top Glory Trading Group Inc. v. Cole Haan LLC*, IPR2025-01395, Paper 18 (PTAB Jan. 12, 2026)

(declining to discretionarily deny a patent issued in 2016 because of a change in the obviousness standard for design patents). Here, Meta's early challenge favors merits consideration regardless of whether the law has changed. *See* Section III.A. *Third*, SitNet argues that allowing a challenge to the '463 patent "would be detrimental to the nation's public health and security interests." DD Br., 12-13. But such generic arguments are insufficient. *See Intel Corp. v. Advanced Cluster Sys., Inc.*, IPR2025-00794, Paper 13 at 3 (PTAB Aug. 14, 2025) (denying institution where the petitioner did not "explain in sufficient detail why review of the challenged patents is in the interest of national security").

VIII. CONCLUSION

The Director should deny SitNet's request to discretionarily deny this IPR and should institute review of the challenged claims.

Respectfully submitted,

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PETITIONER'S OPPOSITION TO PATENT OWNER'S DISCRETIONARY DENIAL BRIEF** and associated Exhibits 1037-1043, 1045-1046, 1048-1058 were served in their entireties on February 20, 2026, upon the following parties via electronic mail:

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