

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Wybotics, Co. Ltd. f/k/a Tianjin Wangyuan
Environmental Protection and Technology Co., Ltd.
Petitioner

v.

Zodiac Pool Systems LLC
Patent Owner

Case No. IPR2026-00159
Patent No. 11,262,766

**PATENT OWNER'S BRIEF REQUESTING THAT INSTITUTION OF THE
PETITION BE DENIED ON DISCRETIONARY GROUNDS**

Table of Contents

I. INTRODUCTION	1
II. LEGAL STANDARDS	2
III. THE RELATED LITIGATIONS	3
IV. THE BOARD SHOULD NOT INSTITUTE IPR	4
A. The Director Should Exercise His Discretion to Deny Institution Because the <i>Fintiv</i> Factors Weigh Against Institution	4
1. <i>Fintiv</i> Factor 1: There is No Stay in the Texas Litigation and a Stay is Highly Unlikely	4
2. <i>Fintiv</i> Factor 2: A District Court Trial is Scheduled Months Before a Potential Final Written Decision.....	7
3. <i>Fintiv</i> Factor 3: The Parties and the Court Have Already Invested Significant Resources in Parallel Proceedings.....	8
4. <i>Fintiv</i> Factor 4: Petitioners Have Not Filed Any Stipulation to Prevent Duplicative Invalidity Adjudication in Parallel Proceedings.....	9
5. <i>Fintiv</i> Factor 5: The Identities of the Parties Overlap	10
6. <i>Fintiv</i> Factor 6: The Merits of the Petition are Weak and Rely on Art that is the Same or Cumulative of Art Addressed and Overcame During Prosecution.....	10
B. The Director Should Exercise His Discretion to Deny Institution Because the Interim Processes Memo Factors Weigh Against Institution.....	15
1. Petitioner’s Unpatentability Challenge is Weak and Relies on Prior Art Cited on the Face of the ’766 Patent	15
2. Heavy Reliance on Expert Testimony Favors Denial	16
3. Settled Expectations and Compelling Economic Interests Strongly Favor Denial.....	18
V. CONCLUSION	20

Table of Authorities

Cases

<i>10x Genomics</i> , IPR2023-01299, Paper 15 (PTAB Mar. 7, 2024).....	7
<i>Advanced Integrated Cir. Process LLC v. United Microelectronics Corp.</i> , No. 2:24-cv-00730, Dkt. 127 (E.D. Tex. Aug. 28, 2025).....	4, 5, 6
<i>AGIS Software Dev.</i> , No. 2:19-cv-361-JRG, 2021 WL 465424 (E.D. Tex. Feb. 9, 2021)	6
<i>Apple Inc. v. Fintiv, Inc.</i> , No. IPR2020-00019, Paper 11 (PTAB Mar. 20, 2020)...	1, 2, 8
<i>Cisco Sys., Inc. v. WSOU Invs. LLC d/b/a Brazos Licensing & Dev.</i> , IPR2025-00188, Paper 14 (PTAB Aug. 22, 2025)	7
<i>Content Square SAS v. Medallia Inc.</i> , IPR2022-00316, Paper (PTAB July 14, 2022)..	17
<i>Dell Inc. v. Universal Connectivity Techs, Inc.</i> , IPR2024-01480, Paper 12 (PTAB Apr. 24, 2025).....	7
<i>DigitalDoors, Inc. v. Int’l Bus. Machs. Corp.</i> , No. 2:22-cv-457-JRG, Dkt. 41 (E.D. Tex. July 23, 2023)	4, 5
<i>Ecto World, LLC v. RAI Strategic Holdings, Inc.</i> , IPR2024-01280, Paper 13 (PTAB May 19, 2025).....	16
<i>Force MOS Tech., Co. v. ASUSTek Comput., Inc.</i> , No. 2:22-CV-00460-JRG, 2024 WL 1586266 (E.D. Tex. Apr. 10, 2024).....	5
<i>Green Revolution Cooling, Inc. v. Midas Green Techs., LLC</i> , IPR2025-00196, Paper 15 (PTAB July 25, 2025).....	9
<i>Int’l Bus. Machs. Corp. v. Digital Doors, Inc</i> , IPR2023-00970, Paper 8 (PTAB Jan. 12, 2024)	10
<i>LG Elecs. Inc. v. Jawbone Innovations, LLC</i> , IPR2023-01111, Paper 10 (PTAB Jan. 9, 2024)	17

<i>Man Wah Holdings Ltd. v. Rafeel Sys., LLC</i> , IPR2019-00616, Paper 7 (PTAB Aug. 21, 2019).....	17
<i>MarkForged Inc. v. Continuous Composites, Inc.</i> , IPR2022-01431, Paper 7 (PTAB Jan. 18, 2023).....	17
<i>Robotic Pool Cleaners and Components Thereof</i> , Inv. No. 337-TA-1326 (USITC)	19
<i>Roku, Inc. v. Ioengine, LLC</i> , IPR2022-01553, Paper 11 (PTAB May 5, 2023).....	7
<i>Saint Lawrence Commc 'ns v. ZTE</i> , No. 2:15-CV-349-JRG, 2017 WL 3396399 (E.D.Tex. Jan. 1, 2017).....	6
<i>Samsung Elecs. Co. Ltd., v. Headwater Rsch. LLC</i> , IPR2024-01396/-01407, Paper 21 (PTAB, July 22, 2025).....	9
<i>Samsung Elecs. Co., Ltd. v Sionyx, LLC</i> , IPR2025-00161, Paper 14 (PTAB May 21, 2025).....	7
<i>Samsung Elecs. Co., Ltd. v. Mullen Indus. LLC</i> , IPR2024-01472/ IPR2025-00018/-00019/-00021/-00124, Paper 19 (PTAB July 17, 2025)	9
<i>Unified Pats. Inc. v. Berman</i> , IPR2016-01571, Paper 10 (PTAB Dec. 14, 2016).....	16
<i>Viavi Sols. Inc. v. Zhejiang Crystal-Optech Co.</i> , No. 2:21-CV-00378-JRG, 2022 WL 16856099 (E.D. Tex. Nov. 10, 2022).....	4
<i>Xerox Corp. v. Bytemark, Inc.</i> , IPR2022-00624, Paper 9 (PTAB Aug. 24, 2022)	17
<i>Zodiac Pool Sys. LLC v. Tianjin Wangyuan Env't Prot. & Tech. Co., Ltd.</i> , Case No. 2:20-cv-09085 (CDCA).....	18
<i>Zodiac Pool Sys. LLC v. Wybotics Co. Ltd.</i> , Case No. 2:25-cv-00582 (EDTX).....	19

Table of Exhibits

No.	Description
2001	Memorandum: “Interim Processes for PTAB Workload Management,” March 26, 2025 (the “Interim Processes Memo”)
2002	Complaint in <i>Zodiac Pool Systems LLC v. Wybotics, Co. Ltd. f/k/a Tianjin Wangyuan Environmental Protection and Technology Co.</i> , 2:25-cv-582-JRG-RSP (E.D. Tex. Filed May 23, 2025) (the “Texas Litigation”)
2003	First Amended Scheduling Order in the Texas Litigation (Dkt. 53)
2004	First Amended Complaint in <i>Wybotics Inc. v. Zodiac Pool Systems LLC</i> , 2:25-cv-08526 CAS (AGRx) (C.D. Cal. Filed Sept. 24, 2025) (the “Petitioner DJ”)
2005	Complaint in <i>Beatbot Technology (USA) Co. Ltd. et al v. Zodiac Pool Systems LLC f/k/a Zodiac Pool Systems, Inc.</i> , No. 3:25-cv-01946 (S.D. Cal. July 31, 2025) (“Beatbot DJ”)
2006	Case Management Order in the Beatbot DJ (Dkt. 18)
2007	IPR2026-00200, Paper 2, Petition for <i>Inter Partes</i> Review of U.S. Patent 11,262,766 (“Beatbot Petition”)
2008	Statistics for Time to Trial – Eastern District of Texas
2009	Proposed Rule by the Patent and Trademark Office on October 17, 2025, 37 CFR 42 (“Proposed Rule”)
2010	U.S. Patent No. 5,613,261 (“Kawakami”)
2011	EP 0687964 A1 (“Giordano”)
2012	Chart Comparing the Petition to the Declaration
2013	FAQs for Interim Processes for PTAB Workload Management (“FAQs”)
2014	June 4, 2024, Letter from Zodiac to Wybotics
2015	Application Proof of Wybotics Co., LTD

I. INTRODUCTION

Zodiac Pool Systems LLC (“Zodiac” or “Patent Owner”) respectfully submits this brief requesting that the Director exercise discretion to deny institution of the Petition for *inter partes* review (“Petition”). The Petition seeks *inter partes* review (“IPR”) of claims 1–5 (the “Challenged Claims”) of U.S. Patent No. 11,262,766 (the “Challenged Patent”). The Challenged Patent is the subject of multiple co-pending litigations, including litigations filed by and against the Petitioner in this proceeding. There are many reasons to deny institution, as both the *Fintiv*¹ factors and Interim Processes Memo factors weigh in favor of denying institution or are at best, neutral.

At its core, this case presents a textbook illustration of why discretionary denial under 35 U.S.C. § 314(a) is not only warranted but essential to furthering the objectives of the *Inter Partes* Review process. The Petitioner seeks to relitigate matters that were considered during prosecution and are already being adjudicated in multiple District Court proceedings involving the same parties and issues without filing any stipulation that it will not rely on similar invalidity challenges in the District Court. And the Texas Litigation, which is unlikely to be stayed, is set for trial months before the deadline for a Final Written Decision. The Director’s discretion is designed to prevent precisely this sort of parallel litigation.

¹ *Apple Inc. v. Fintiv, Inc.*, No. IPR2020-00019, Paper 11 (PTAB Mar. 20, 2020) (precedential) (“*Fintiv*”).

Instituting IPR under these circumstances would undermine judicial efficiency, create unnecessary duplication of effort, and risk conflicting outcomes, all while rewarding tactical maneuvering that is at odds with both the settled expectations of U.S. innovators and the public interest in protecting domestic economic investment. Indeed, Patent Owner has a vested economic interest in the Challenged Patent—Patent Owner has hundreds of employees in the United States. In contrast, Petitioner is a Chinese entity that has expressly represented to the Hong Kong Stock Exchange that it is “a company incorporated under the PRC laws, and the vast majority of our assets and subsidiaries are currently located in China [and thus] recognition and enforcement of court judgments from other jurisdictions may be difficult or impossible.” Simply put, Petitioner seeks to avoid liability for infringement through locating “the vast majority of [its] assets and subsidiaries” in China, while still relying on this forum to challenge validity. These are compelling economic interests weighing against institution. Accordingly, for all the reasons discussed herein, the Director should exercise discretion to deny institution

II. LEGAL STANDARDS

In addition to the underlying failures of the Petition, which will be addressed separately in the Patent Owner’s Preliminary Response, the Director should deny institution pursuant to discretionary factors under 35 U.S.C. § 314(a), including the *Fintiv* factors and the Interim Processes Memo factors. *Fintiv* at 6. Further, the

Interim Processes Memo identified a non-exhaustive number of factors that may be considered when evaluating how to apply discretion under 35 U.S.C. § 314(a) (hereafter, the “Memo Factors”) Ex. 2001 at 2–3.

III. THE RELATED LITIGATIONS

The Challenged Patent is subject to three litigations, including two declaratory judgment actions and an infringement action. Zodiac brought the infringement action on May 23, 2025, against Petitioner in the Texas Litigation, which has a trial date set for April 19, 2027. *See* Ex. 2002; Ex. 2003. By contrast, the statutory deadline for a final written decision is months later—June 2027.

The Challenged Patent is also the subject of two separate co-pending declaratory judgment actions. First, a declaratory judgment action (“DJ”) filed by Petitioner on September 24, 2025, seeking a finding of no infringement. *See* Ex. 2004. Second, a declaratory judgment action filed by Beatbot on July 31, 2025, seeking a finding of no infringement. *See* Ex. 2005. The Beatbot DJ is scheduled for a pretrial conference on March 19, 2027 (Ex. 2006) again suggesting that trial will occur before the statutory deadline to issue a Final Written Decision.

Furthermore, the Challenged Patent is the subject of a second Petition for IPR filed by Beatbot on January 26, 2026. *See* Ex. 2007. This Petition and the Beatbot Petition are serial petitions that increase the burden on and result in a waste of the Board’s resources, further weighing in favor of discretionary denial.

IV. THE BOARD SHOULD NOT INSTITUTE IPR

A. The Director Should Exercise His Discretion to Deny Institution Because the *Fintiv* Factors Weigh Against Institution

1. *Fintiv* Factor 1: There is No Stay in the Texas Litigation and a Stay is Highly Unlikely

Factor 1 weighs in favor of denial. Petitioner has not sought a stay of the Texas Litigation, and even if Petitioner were to seek a stay, the Eastern District of Texas is unlikely to grant one. The Eastern District of Texas has an established practice of not staying litigation prior to institution of the petition for IPR. *See, e.g., Viavi Sols. Inc. v. Zhejiang Crystal-Optech Co.*, No. 2:21-CV-00378-JRG, 2022 WL 16856099, at *5 (E.D. Tex. Nov. 10, 2022) (“It is the Court’s established practice to consider that motions to stay pending IPR proceedings which have not been instituted are inherently premature and should be denied as such.”); *DigitalDoors, Inc. v. Int’l Bus. Machs. Corp.*, No. 2:22-cv-457-JRG, Dkt. 41 at 4–5 (E.D. Tex. July 23, 2023). Petitioner presents no authority that this proceeding will be treated differently.

Even if the IPR is instituted the Eastern District of Texas is unlikely to grant a stay. *See Advanced Integrated Cir. Process LLC v. United Microelectronics Corp.*, No. 2:24-cv-00730, Dkt. 127, 1–2 (E.D. Tex. Aug. 28, 2025). Judge Gilstrap applies a three-factor test in evaluating stays: “(1) whether the stay will unduly prejudice the nonmoving party, (2) whether the proceedings before the court have reached an advanced stage, including whether discovery is complete and a trial date has been set, and (3) whether the stay will likely result in simplifying the case before the

court.” *Force MOS Tech., Co. v. ASUSTek Comput., Inc.*, No. 2:22-CV-00460-JRG, 2024 WL 1586266, *1 (E.D. Tex. Apr. 10, 2024) (Gilstrap, J.) (citation omitted).

First, the stay will unduly prejudice Zodiac because Petitioner has not filed any stipulation under *Fintiv* and the IPRs challenge just three of the five patents asserted in the Texas litigation. This necessarily results in a duplication of efforts for an invalidity adjudication, wasting party and Board resources, and a delay in Zodiac’s ability to vindicate its patent rights. *Advanced Integrated Cir. Process*, No. 2:24-cv-00730, Dkt. 127, 1–2 (“It has been this Court’s consistent and long established practice to deny motions to stay pending IPR . . . when the PTAB or PTO have instituted review on less than all asserted claims of all asserted patents . . .”) (quoting *AGIS Software Dev. LLC v. Google LLC*, No. 2:19-cv-361-JRG, 2021 WL 465424, at *2 (E.D. Tex. Feb. 9, 2021)).

Second, the Texas Litigation has advanced and a trial date has been set. The parties have already exchanged infringement and invalidity contentions, written discovery has already been served by both parties, extensive briefing has already occurred with respect to multiple motions by Petitioner—a Motion to Dismiss under FRCP 12(b)(5) and a Motion to Transfer Venue under § 1404(a)—and trial is set to begin on April 19, 2027. *DigitalDoors*, Dkt. 41 at 4–5.

Third, a stay will not result in simplifying the Texas Litigation because Petitioner has not filed any stipulation and Petitioner’s IPRs address only three of

the five asserted patents. *Saint Lawrence Commc'ns v. ZTE*, No. 2:15-CV-349-JRG, 2017 WL 3396399, at *2 (E.D.Tex. Jan. 1, 2017); *Advanced Integrated Cir. Process*, No. 2:24-cv-00730, Dkt. 127, 1–2; *AGIS Software Dev.*, 2021 WL 465424, at *2 (E.D. Tex. Feb. 9, 2021). To the extent Petitioner argues that this factor is neutral because the present stay in the Petitioner DJ Litigation balances out the fact that the Texas Litigation is unlikely to be stayed, Petitioner is wrong. The Petitioner DJ Litigation is “stayed pending resolution of proceedings in” the Texas Litigation under the first-to-file rule. Petitioner DJ, Dkt. 34, 6. Moreover, Petitioner has moved for transfer of the Texas Litigation to the Central District of California, arguing that Judge Scarsi’s standing procedure in the Central District of California weighs in favor of transferring the case because trial would be scheduled within 18 months after filing of the Complaint. Texas Litigation, Dkt. 47, 8. To the extent such a deadline is accurate, trial would be March 9, 2027—months before the projected statutory deadline for a final written decision—militating against institution.

Additionally, it is unlikely the Beatbot DJ will be stayed. The Beatbot DJ is an affirmative case brought by third parties actively seeking judgments regarding the challenged patents, including the Challenged Patent. And the plaintiffs in the Beatbot DJ are competitors of Zodiac. A stay is highly unlikely in either of the parallel District Court litigations. Therefore, factor 1 weighs heavily against institution.

2. *Fintiv* Factor 2: A District Court Trial is Scheduled Months Before a Potential Final Written Decision

Factor 2 strongly weighs in favor of denial. *10x Genomics*, IPR2023-01299, Paper 15, at 16 (PTAB Mar. 7, 2024) (“the district court’s trial date is before the projected deadline for the final written decision, the Board has generally weighed this fact in favor of exercising discretion” to deny institution). The Texas Litigation is set for trial to begin on April 19, 2027, which is fully consistent with the median time-to-trial for patent cases before the presiding judge, Judge Gilstrap. Ex. 2008 (for cases pending during the 12-month period including September 30, 2025, the median time from filing to trial is 24.5 months). The projected statutory deadline for a final written decision is not until June 2027. This timeline results in trial occurring before the projected statutory deadline for a final written decision, thereby strongly favoring denial. *See, e.g., Samsung Elecs. Co., Ltd. v Sionyx, LLC*, IPR2025-00161, Paper 14, 7 (PTAB May 21, 2025) (Acting Director); *Dell Inc. v. Universal Connectivity Techs, Inc.*, IPR2024-01480, Paper 12, 9–10 (PTAB Apr. 24, 2025); *Roku, Inc. v. Ioengine, LLC*, IPR2022-01553, Paper 11, 10–11 (PTAB May 5, 2023); *Cisco Sys., Inc. v. WSOU Invs. LLC d/b/a Brazos Licensing & Dev.*, IPR2025-00188, Paper 14 at 3 (PTAB Aug. 22, 2025) (Acting Director). Moreover, the court in the Texas Litigation has already denied Petitioner’s attempt to delay the schedule of the case. Texas Litigation, Dkt. 33 (“Defendant requests an indefinite continuance of the November 24, 2025 scheduling conference in this case because it has filed a Rule 12

motion to dismiss . . . the Court hereby DENIES the Motion.”). Thus, the Texas Litigation alone places this IPR squarely among those that are routinely denied based on the trial date. Further, as discussed, neither the Petitioner DJ nor the Beatbot DJ suggest a different outcome. This factor weighs strongly against institution.

3. *Fintiv* Factor 3: The Parties and the Court Have Already Invested Significant Resources in Parallel Proceedings

Factor 3 weighs in favor of denial because the Parties have already invested significant effort and resources in the parallel District Court Proceedings. *Fintiv*, IPR2020-00019, Paper 11, 9 (the Director should “consider[] the amount and type of work already completed in the parallel litigation by the court and the parties at the time of the institution decision”).

In the Texas Litigation, infringement and invalidity contentions have already been exchanged, other written discovery has been served and responded to, and extensive briefing has already occurred with respect to multiple motions by Petitioner, including Wybotics’ Motion to Dismiss under FRCP 12(b)(5) and Wybotics’ Motion to Transfer Venue under § 1404(a). Similarly, in the Beatbot DJ, infringement contentions have been served, invalidity contentions are scheduled to be served on February 9, 2026, and other written discovery has been served.

By the time of any institution decision, months of additional discovery will have occurred in both the Texas Litigation and the Beatbot DJ. And in the Beatbot DJ, the parties will have already filed Opening and Responsive Claim Construction

Briefs. Ex. 2006, Dkt. 18, 3. Moreover, the Claim Construction hearing in the Beatbot DJ is scheduled for June 5, 2026—three days after the expected date of an institution decision. *Id.* The Office has frequently found this factor to favor denial under similar circumstances. *See, e.g., Samsung Elecs. Co. Ltd., v. Headwater Rsch. LLC*, IPR2024-01396/-01407, Paper 21 (PTAB, July 22, 2025) (Director Review Executive); *Green Revolution Cooling, Inc. v. Midas Green Techs., LLC*, IPR2025-00196, Paper 15 (PTAB July 25, 2025) (Acting Director); *Samsung Elecs. Co., Ltd. v. Mullen Indus. LLC*, IPR2024-01472/ IPR2025-00018/-00019/-00021/-00124, Paper 19 (PTAB July 17, 2025) (Director Review Executive).

4. *Fintiv* Factor 4: Petitioners Have Not Filed Any Stipulation to Prevent Duplicative Invalidity Adjudication in Parallel Proceedings

Factor 4 strongly weighs in favor of denial. First, none of the parties to the parallel District Court proceedings have entered into stipulations under *Fintiv*. Ex. 2009, Proposed Rule at 12 (“Under the proposed revisions . . . the Office will not institute an IPR when a petitioner intends to pursue invalidity challenges under §§ 102 or 103 in other venues.”). Second, the overlap between issues raised in the petition and those in the parallel proceeding would result in duplicative invalidity adjudications and waste party and Board resources.

This IPR will not serve as an alternative to invalidity adjudication in parallel proceedings. In the Texas Litigation, Petitioner has not entered into any stipulation.

And in the Beatbot DJ, the Plaintiff is not subject to any stipulation or any estoppel if this IPR were instituted. If this IPR were to proceed it would be retreading substantially the same invalidity grounds that the district courts in the EDTX and SDCA addressed months prior. This alone counsels heavily in favor of denial. Ex. 2009, Proposed Rule, at 3–4 (“When IPR proceedings cover the same ground as district court litigation, they cease to be an ‘alternative’ and can substantially increase litigation costs. That is the opposite of what Congress intended.”).

5. *Fintiv* Factor 5: The Identities of the Parties Overlap

Factor 5 weighs in favor of denial. Both Petitioner and Patent Owner are parties in the Texas Litigation. *See Int’l Bus. Machs. Corp. v. Digital Doors, Inc.*, IPR2023-00970, Paper 8, 13 (PTAB Jan. 12, 2024) (“Because Petitioner here is a defendant in the parallel district court litigation, this factor favors denial of institution....”).

6. *Fintiv* Factor 6: The Merits of the Petition are Weak and Rely on Art that is the Same or Cumulative of Art Addressed and Overcame During Prosecution.

Factor 6 weighs in favor of denial due to the weak merits of the Petition and because the art is the same or cumulative of art cited during prosecution. Although each of the numerous flaws in the Petition will be discussed in further detail in the forthcoming Patent Owner’s Preliminary Response, a brief summary of just a few of the key shortcomings is provided here. *See* Process Guide at § II.C.i.

Petitioner's Ground 1, is split into five alternative sub-grounds 1.a., 1.b., 1.c., 1.d., and 1.e., with 1.b. being a clear fallback position to 1.a., 1.c. being clear fallback positions to 1.b, and 1.e. being a clear fallback position to 1.d. The presence of these fallback positions is particularly telling, as Petitioner's lack of confidence in its primary grounds is revealed by the reliance on alternate arguments. Petitioner contends that in ground 1.a. claims 1–4 of the Challenged Patent are anticipated by Fu. In ground 1.b., Petitioner contends that claims 1–4 are rendered obvious by Fu in view of a person of ordinary skill in the art—attempting to use an expert to fill in one of the clear shortcomings of Fu. In ground 1.c., Petitioner contends that claims 1–4 are rendered obvious by Fu in view of Benzler—this time relying on another reference, Benzler, to attempt to fill on of the clear shortcomings of Fu.² In ground 1.d., Petitioner contends that claim 5 is rendered obvious by Fu in view of Hui—this time relying on yet another reference, Hui, to attempt to fill on of the clear shortcomings of Fu.³ In ground 1.e., Petitioner contends that claim 5 is obvious over Fu in view of Benzler and Hui—this time relying on two references, Benzler and Hui, to attempt to remedy of the clear shortcomings of Fu.

Fu alone or in combination with either the knowledge of a person of ordinary skill in the art or with Benzler and/or Hui fails to disclose or render obvious each

² Both Fu and Benzler were cited during prosecution of the '766 Patent.

³ Both Fu and Hui were cited during prosecution of the '766 Patent.

and every element of claims 1–5. Petitioner contends that Fu discloses claim element 1c: “a filter configured to retain debris collected from the submerged surface.” Petition at 14. However, Petitioner does not identify the purported filter in Fu as meeting this limitation as Fu merely describes a “screen” that does not retain any debris collected from a submerged surface. Ex. 1007 at [0024]. Instead, Petitioner identifies the “drainage mechanism” as meeting this claim element. Petition at 15. In fact, Petitioner recognizes that the filter of Fu is not configured to retain debris, but rather debris may be contained separately in a water flow channel. Petition at 15 (“[D]ebris is retained within the water flow channel 24.”). Accordingly, Fu does not disclose claim element 1c of the ’776 Patent because it does not disclose “a *filter* configured to retain debris collected from the submerged surface.”

Petitioner’s Ground 2, is split into three alternative sub-grounds 2a, 2b, and 2c. Petitioner contends that in ground 2a claims 1, 2, and 4 of the Challenged Patent are rendered obvious by Schnittman in view Benzler—attempting to use another reference to fill in the gaps in Schnittman. In ground 2b, Petitioner contends that the Challenged Claims are rendered obvious by Schnittman in view of Benzler, in further view of Bailey—attempting to use Bailey to fill in the clear shortcomings of Schnittman and Benzler. In ground 2c, Petitioner contends that the challenged claims are rendered obvious by Schnittman in view of Benzler, in further view of Hui—this time relying on yet another reference, Hui, to attempt to fill the clear shortcomings.

Petitioner relies on Schnittman in combination with Benzler as part of its Ground 2a. However, this ground is weak—Schnittman is cumulative of art already cited during prosecution of the '776 Patent, and Benzler was cited during prosecution of the '776 Patent. Petitioner alleges Schnittman discloses embodiments that include cameras that could be combined with Benzler. Petition at 56. However, a person of ordinary skill in the art would not have been motivated to combine this teaching with an underwater robot system like the one purportedly disclosed in Benzler. Ex. 1018, 3:37–39. It was well known in the art that above ground cameras do not function in underwater environments due to the behavior of light, including diffraction and attenuation. Accordingly, the use of cameras underwater presents challenges not found in above-ground use. There would be no reasonable expectation of success when combining Schnittman and Benzler.

Second, art similar to Schnittman was already considered during the prosecution of the '766 Patent. Schnittman is generally related to an autonomous robot with a debris sensor that detects debris entering the robot's bin, and that adjusts the cleaning behavior based on sensor input. Ex. 1008, ¶ 0044. Similarly, Kawakami is also related to an autonomous cleaner that detects the degree of dirt on a surface using sensors and dynamically controls the robot's cleaning mode in response to the sensor input. Ex. 2010, 1:40-45. Kawakami is cited on the face of the '766 Patent.

Petitioner also relies on Schnittman in combination with Benzler and Bailey as part of its Ground 2b. But Bailey is cumulative of art cited during prosecution of the '766 Patent. Petitioner alleges that Bailey teaches “‘a portable electronic device’ ‘in electronic communication with’ the controller.” Petition at 65. Bailey describes that a possible data communication may be accomplished via a “wireless network interface card (NIC), an Ethernet-based NIC, a Bluetooth interface.” A person of ordinary skill in the art would not have been motivated to combine this teaching with an underwater robot system. Ex. 1018, 3:37–39. It was well known in the art that Bluetooth and WiFi do not function in underwater environments and thus underwater robots require specialized communication systems. There would be no reasonable expectation of success when combining Bailey with Schnittman and Benzler.

Second, art similar to Bailey was already considered during the prosecution of the '766 Patent. Bailey is generally directed to a user remote-controlled programmable robot operating within a defined space. Ex. 1018, Abstract; 5:31–39. Likewise, Giordano discloses a user-programmable remote-control system for mobile robots, adaptable to the characteristics of different defined spaces. Ex. 2011, 1:32-36. Giordano is cited on the face of the '766 Patent. Accordingly, Bailey is cumulative of the art already cited during prosecution of the '766 Patent.

B. The Director Should Exercise His Discretion to Deny Institution Because the Interim Processes Memo Factors Weigh Against Institution

As explained above, institution should be denied because Petitioner's unpatentability challenge is weak. As further evidence of this weakness, the Petition relies extensively on expert testimony to fill gaps in the cited references. Patent Owner is an operating U.S.-based company that sells actual products and thus has settled expectations as to the validity of its patent portfolio. By contrast, Petitioner is a foreign entity seeking to copy Patent Owner's technology. Thus, compelling economic interests weigh against institution.

1. Petitioner's Unpatentability Challenge is Weak and Relies on Prior Art Cited on the Face of the '766 Patent

As discussed above with respect to *Fintiv* factor 6, Petitioner's unpatentability challenge is weak. Again, this is not surprising considering Petitioner relies *heavily* on prior art that was already cited during prosecution of the Challenged Patent. The fact that Petitioner does not even acknowledge that these references were already before the Patent Office, let alone present any analysis as to any error during prosecution of the Challenged Patent, is reason enough to deny institution. Indeed, Section 325(d) explicitly authorizes denial of institution based on prior consideration of art or arguments by the USPTO. Thus, the Director has discretion to refuse to institute *Inter Partes* Review where the "the same or substantially the same prior art or arguments were previously presented to the Office" during prosecution. *Unified*

Pats. Inc. v. Berman, IPR2016-01571, Paper 10 at 9 (PTAB Dec. 14, 2016) (designated informative Oct. 24, 2017); *Ecto World, LLC v. RAI Strategic Holdings, Inc.*, IPR2024-01280, Paper 13 (PTAB May 19, 2025). Because Fu, Benzler, and Hui were cited during prosecution, the Director should deny institution.

2. Heavy Reliance on Expert Testimony Favors Denial

Large swaths of the Petition are identical copy-and-paste from Dr. Reinholz’s declaration. Specifically, Sections II.A., IV.A.1., IV.A.2, IV.A.3, IV.A.5, IV.C.1., IV.C.2., IV.D.1., IV.D.2., IV.E., IV.F.1., IV.F.2., IV.F.3., IV.F.4., IV.F.5., IV.F.6., IV.G.1., IV.G.2, and IV.H.1. of the Petition are nearly copied verbatim either from or to Dr. Reinholz’s declaration with very few exceptions. *See* Ex. 2012.

The “extent of the petition’s reliance on expert testimony” is one factor considered by the Director. Ex. 2001 at 2–3. The FAQs further explain:

extensive reliance on expert testimony and/or reasonable disputes between experts on dispositive issues may suggest that the questions are better resolved in an Article III court. The statute and our reviewing court require that petitions be based on prior art patents and printed publications. As the judges have technical and legal expertise, it is not necessary for an expert to explain every aspect of the prior art. It is most helpful if an expert is providing focused testimony, for example to provide helpful context or to explain terms of art. The failure to provide focused expert testimony may weigh against institution.

Ex. 2013 (FAQs), at Q.22. As the Board has consistently recognized, a declaration that repeats the petition verbatim “is conclusory and unsupported, adds little to the conclusory assertion for which it is offered to support, and is entitled to little

weight.” *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9, at 15 (PTAB Aug. 24, 2022) (precedential) (denying institution where Petitioner’s expert “offers only a verbatim restatement of the assertion being supported, without any supporting evidence or technical reasoning.”) (listing cases).

Simply put, an expert declaration that “merely parrots the Petition” is entitled to “little to no weight.” *E.g., MarkForged Inc. v. Continuous Composites, Inc.*, IPR2022-01431, Paper 7, at 14 (PTAB Jan. 18, 2023) (“[Expert’s] declaration testimony on this point is entitled to little to no weight as it merely parrots the Petition.”); *LG Elecs. Inc. v. Jawbone Innovations, LLC*, IPR2023-01111, Paper 10, at 15 (PTAB Jan. 9, 2024) (“Petitioner’s expert merely parrots the Petition. . . .Thus, Petitioner’s conclusory assertion is unpersuasive.”); *see Content Square SAS v. Medallia Inc.*, IPR2022-00316, Paper, at 38 (PTAB July 14, 2022); *Man Wah Holdings Ltd. v. Rafeel Sys., LLC*, IPR2019-00616, Paper 7, at 15–16 (PTAB Aug. 21, 2019).

Such is the case here with respect to the Reinholtz declaration. There are numerous instances where the Reinholtz declaration is a near exact copy of the Petition, and the Petition purports to rely on those conclusory arguments (presented in the guise of expert opinion) to give the mindset of a POSITA. Examples of those are provided in Exhibit 2012 showing side by side the Petition to the Reinholtz declaration. Copied sections account for nearly 65 pages of the Petition out of its

total of 74 pages. The remaining 9 pages that are not shared between the Petition and Dr. Reinholz's declaration simply consist of the Petition's introduction, discussion of the '766 Patent's file history, claim construction and the level of ordinary skill in the art, requirements under 37 C.F.R. § 42.104, conclusion, and mandatory notices under 37 C.F.R. § 42.8. Petitioner's over-reliance on Dr. Reinholtz and clear copying of his declaration wholesale into the petition weighs in favor of denying institution.

3. Settled Expectations and Compelling Economic Interests Strongly Favor Denial

Zodiac, a Delaware LLC, is an industry leader in robotic pool cleaners and swimming pool equipment, investing significant resources and employing large teams of professionals for researching and developing new and highly innovative products here in the U.S. Zodiac employs approximately 623 engineering, marketing, sales, supply chain, warranty and customer support, and other professionals in the U.S. who all contribute to Zodiac's success in delivering safe and high-quality products.

In order to protect the hard work of its innovators, Zodiac also invests significant resources in developing a high-quality patent portfolio. This portfolio that includes patents which have been the subject of several litigations between Zodiac and Wybotics both in District Court and at the International Trade Commission. *See Zodiac Pool Sys. LLC v. Tianjin Wangyuan Env't Prot. & Tech. Co., Ltd.*, Case No. 2:20-cv-09085 (CDCA); *Robotic Pool Cleaners and Components Thereof*, Inv. No.

337-TA-1326 (USITC); *Zodiac Pool Sys. LLC v. Wybotics Co. Ltd.*, Case No. 2:25-cv-00582 (EDTX). With respect to the '766 Patent, Zodiac made Petitioner aware of its infringement in a letter dated June 4, 2024. Ex. 2014. And now, nearly a year and a half after having notice of its infringement, over six months after Zodiac filed its Complaint in the Texas Litigation, over two months after Petitioner filed its declaratory judgment Complaint in the Petitioner DJ, and despite the United States Patent and Trademark Office having reviewed during prosecution nearly all of the art that Petitioner cites, Petitioner seeks IPR of the Challenged Patent. There are clear settled expectations favoring discretionary denial.

Moreover, in contrast to Zodiac, Petitioner is a foreign entity with a very limited U.S. presence and has made public statements that heavily favor discretionary denial under the economic interests factor. For example, Petitioner has represented that enforcements of judgments in U.S. District Court litigation against it may be impossible, and that despite the ongoing Texas Litigation it still plans to sell its products in the U.S. Specifically, Wybotics Co. Ltd. stated in an application to be listed on the Hong Kong Stock Exchange that:

You may experience difficulties in effecting service of legal process, enforcing foreign judgments or bringing original actions in China against us and our Directors and management. We are a company incorporated under the PRC laws, and the vast majority of our assets and subsidiaries are currently located in China. The majority of our Directors and senior management reside within China. The assets of these Directors and senior management also may be located within China. As a result, it may not be possible to effect service of process

upon most of our Directors and senior management outside China. Moreover, China does not have treaties providing for reciprocal recognition and enforcement of court judgments in the United States or most other countries. In addition, Hong Kong has no arrangement for the reciprocal enforcement of judgments with the United States. As a result, in the PRC or Hong Kong, recognition and enforcement of court judgments from other jurisdictions may be difficult or impossible.

Ex. 2015 at 70. Additionally, in referencing the Texas Litigation, Petitioner stated that it “expect[s] to be able to continue to sell our products in Europe and the United States notwithstanding ... the US Complaint, our Directors are of the view that neither ... nor the US Proceeding will have any material adverse effect on our business, results of operations and financial condition.” Ex. 2015 at 259–60.

The recalcitrant statements made in Petitioner’s public document signify a clear and compelling economic interest in favor of denying Petitioner’s request for IPR. Granting the Petition for IPR would effectively reward Petitioner for publicly boasting its ability to skirt enforcement of the intellectual property rights of American companies by being located within China and menially piecing together a Petition based on art already considered, or cumulative of art already considered, during prosecution of the Challenged Patent, while penalizing Zodiac for investing heavily in its innovation and protection of its intellectual property in the U.S.

V. CONCLUSION

For all of the reasons above, Zodiac respectfully requests that the Director exercise discretion to deny institution of the Petition.

Dated: February 2, 2026

By: /Michael Morlock/
Michael Morlock
Reg. No. 62,245
Lead Counsel for Patent Owner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Patent Owner's Mandatory Notice Pursuant to 37 C.F.R. §42.8 has been served electronically via email upon the following:

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Dated: February 2, 2026

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