UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD. AND
SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioner

v.

TVNGO LTD.,
Patent Owner

IPR2026-00214
U.S. Patent No. RE50,399

PATENT OWNER TVNGO LTD.'S REQUEST FOR DISCRETIONARY DENIAL

TABLE OF CONTENTS

I. INTRODUCTION 1

II. FACTUAL BACKGROUND 1

A. TVnGO 1

B. LG Case And Reissue 2

C. Samsung Litigation 4

III. ARGUMENT 4

A. Settled Expectations 4

1. Reissuance Does Not Remove The Strong Settled Expectations Based On ’828 Patent’s Issue Date 6

2. The LG Case Does Not Remove Settled Expectations 9

3. Samsung Has Been Aware Of TVnGO’s Patents Since 2012 ..10

4. TVnGO’s Commercialization Efforts Support Discretionary Denial 11

B. Overreliance On Expert Testimony 12

C. Petitioner’s Rushed Attempt To Avoid *Fintiv* Denial Resulted In A Weak And Incomplete Petition That Further Supports Discretionary Denial. 16

IV. CONCLUSION 18

TABLE OF AUTHORITIES

Regulations

37 C.F.R. § 42.104 17

37 C.F.R. § 42.106(a)(1) 17

37 C.F.R. § 42.6(c) 17

Agency Decisions

All. Laundry Sys., LLC v. PayRange LLC,
IPR2025-00950, Paper 11 (Director Sept. 19, 2025) 5, 12

Be Smarter, LLC et al., v. Yonder, Inc.,
IPR2025-00970, Paper 14 (Director Sept. 26, 2025) 5

Dabico Airport Sols. Inc. v. AXA Power ApS,
IPR2025-00408, Paper 21 (Director June 18, 2025) 5

Ericsson v. Procomm Intl.,
IPR2024-01453, Paper 16 (Director June 25, 2025) 10

Hisense Electronica Mexico SA de CV et al. v. VideoLabs, Inc.,
IPR2025-00883, Paper 15 (Director Oct. 10, 2025) 12

Hs Hyosung Advanced Materials Corp. v. Kolon Indus., Inc.,
IPR2025-00662, Paper 12 (Director Aug. 14, 2025) 5

Intel Corp. v. Proxense LLC,
IPR2025-00327, Paper 12 (Director June 26, 2025) 11

iRhythm Techs., Inc. v. Welch Allyn, Inc.,
IPR2025-00363, Paper 10 (Director June 6, 2025) 5, 10

Nvidia Corp. v. Neural AI,
IPR2025-00608, Paper 16 (Director July 31, 2025) 6

Xerox Corp. v. Bytemark, Inc.,
IPR2022-00624, Paper 9 (PTAB Aug. 24, 2022) (precedential) 16

EXHIBIT LIST	
2001	Memorandum re: Interim Processes for PTAB Workload Management (Mar. 26, 2025)
2002	Memorandum re: Enforcement And Non-Waiver Of 37 C.F.R. § 42.104(b)(4) And Permissible Uses Of General Knowledge In Inter Partes Reviews (July 31, 2025)
2003	Complaint, *TVnGO Ltd., v. Samsung Elecs., Co., Ltd. et al.*, Case No. 7:25-cv-00549 (W.D. Tex. Nov. 26, 2025)
2004	Samsung's Motion for Extension of Time *TVnGO Ltd.*, *v. Samsung Elecs., Co., Ltd. et al.*, Case No. 7:25-cv-00549 (W.D. Tex. Feb. 26, 2026)
2005	*Markets in Brief*, Haaretz (Aug. 5, 2008) available at https://www.haaretz.com/2008-08-05/ty-article/markets-in-brief/0000017f-e984-dc91-a17f-fd8d18b90000.
2006	Shelah, Shmulik, *TVnGo wins contract with Chinese TV co BTTV*, Globes (Oct. 5, 2006). available at https://en.globes.co.il/en/article-1000139146
2007	*TVnGo Introduces: TV Broadcasting Overlaid by Internet Contents on TV Screen, Navigated by User Remote Control at CES, Las Vegas*, Business Wire (January 7, 2007). available at https://web.archive.org/web/20111118005006/HTTP://WWW.BUSINESSWIRE.COM/NEWS/HOME/20070107005003/EN/TVNGO-INTRODUCES-TV-BROADCASTING-OVERLAID-INTERNET-CONTENTS#.VB3F1RTVIKO
2008	U.S. Patent No. RE49,461
2009	U.S. Patent Application No. 12/118,041 File History

I. INTRODUCTION

Institution should be denied as the patent-at-issue, U.S. Patent RE50,399 (the "'399 Patent"), is entitled to strong settled expectations. The '399 Patent's reissued claims are substantially the same as the claims of the original 2012 patent. Indeed, patent owner TVnGO Ltd. ("TVnGO" or "Patent Owner") did not file the reissue application to broaden or change the claimed subject matter. Instead, the reissue was filed to clarify an alleged ambiguity in one of the claimed terms—something that petitioners Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively "Samsung" or "Petitioner") admit is no longer an issue. These settled expectations are further supported by Samsung's longstanding knowledge of TVnGO's patents and TVnGO's significant efforts to commercialize its technology.

Other factors further support discretionary denial. For example, the Petition relies heavily on expert testimony, and improperly uses this testimony to try to fill gaps in the prior art. Additionally, Samsung's rushed attempt to avoid *Fintiv* discretionary denial resulted in an incomplete petition with weak grounds.

II. FACTUAL BACKGROUND

A. TVnGO

TVnGO was founded in 2005 in Ra'anana, Israel to develop groundbreaking technology to integrate television and internet content. The company committed significant resources to ensure its technology was protected in key markets all over

the world, including the United States. This investment in intellectual property resulted in a significant patent portfolio, including the '399 Patent at issue here and U.S. Patent No. RE50,328 (the "'328 Patent") at issue in a co-pending IPR.

By the mid-to-late 2000s, TVnGO had become well-known in the industry, meeting with electronics industry leaders, attending tradeshows, developing multiple business models, and manufacturing products. Ex. 2003 ¶3; Ex. 2007 at 1. These commercialization efforts proved fruitful as TVnGO entered into agreements with numerous market participants, including Icon TV Media Ltd., which signed a license agreement for the Israeli market. Ex. 2005 at 3; Ex. 2007 at 1. TVnGO also signed a deal with Chinese cable TV company BTTV to deploy TVnGO's technology in China, and partnered with computer manufacturer Shuttle Inc. to integrate its technology into Shuttle's mobile and home PC systems. Ex. 2006 at 1; Ex. 2007 at 1.

B. LG Case And Reissue

TVnGO was previously involved in district court litigation against LG Electronics, Inc. (the "LG Case"), which included TVnGO's U.S. Patent No. 8,132,220 (the "'220 Patent") and its continuation, U.S. Patent No. 9,407,969 (the "'969 Patent"). Ex. 1010 at 1-3. After a Markman hearing, the district court in that case found the claims in the '220 and '969 Patents were indefinite under 35 U.S.C. § 112, paragraph 2. *Id*. at 3.

The Federal Circuit affirmed the ruling on appeal, finding an "inconsistency between the independent and dependent claims regarding whether an 'overlay activation criterion' comes from the internet or from a user's premises." *Id*. at 7. The Court held that while the independent claims "indicate that an 'overlay activation criterion' … is provided 'over the internet,'" the patents each had two dependent claims—claims 9 and 20—that indicated "that an 'overlay activation criterion' can come from a user's premises via the remote control." *Id*. TVnGO explained that the claimed "overlay activation criterion 'comes from the Internet,'" even in those specific dependent claims, and argued "in the alternative" that the dispute was really whether dependent claims 9 and 20 were "invalid for sweeping more broadly than the independent claims," not whether the other claims were indefinite. The Federal Circuit, however, still found the claims indefinite. *Id*.

TVnGO filed reissue applications for the '220 and '969 Patents in 2022. Ex. 1005 at 1; Ex. 1031 at 47. During prosecution, TVnGO cancelled dependent claims 9 and 20 in both patents to remove any doubt about where the "overlay activation criterion" comes from. Ex. 1005 at 104-116; Ex. 1031 at 247-264. The reissue claims were rejected twice as being indefinite under 35 U.S.C. § 112 second paragraph, and an improper broadening reissue application under 35 U.S.C. § 251, but were eventually found allowable. Ex. 1005 at 42-55, 85-96; Ex. 1031 at 222-234, 278-289. In the reasons for allowance, the Examiner explained that each of the

independent claims "recites substantially identical subject matter found allowable by the previous examiner during prosecution of" the applications leading to the '220 and '969 Patents. Ex. 1005 at 223; Ex. 1031 at 508. The Examiner added that he had "performed an updated search of the claimed subject matter, but [did] not discover[] any prior art better than the art previously made of record" and therefore "agree[d] with the previous examiner's indication of allowability." *Id*.

The '220 and '969 Patents then reissued as the '399 and '328 Patents, respectively. Ex. 1005 at 249-265; Ex. 1031 at 532-548.

C. Samsung Litigation

On November 26, 2025, TVnGO filed a complaint for infringement of the '399 and '328 Patents against Samsung in the Western District of Texas (the "Related Litigation"). Ex. 2003 at 1, 11. A few months later, Samsung contacted TVnGO seeking a 90-day extension to respond to the complaint (pushing the deadline to June 1, 2026) and offered to waive foreign service requirements in exchange for TVnGO's agreement to the extension. Ex. 2004 at 1. On March 2, 2026, the Court granted Samsung's request for an extension.

III. ARGUMENT

A. Settled Expectations

A patent with strong settled expectations weighs heavily in favor of discretionary denial, even when co-pending litigation is at an early stage. *See, e.g.,*

iRhythm Techs., Inc. v. Welch Allyn, Inc., IPR2025-00363, Paper 10 at 2-3 (Director June 6, 2025) (finding "settled expectations favor denial of institution" even though there was "little investment" in the district court proceeding, a "high likelihood of a stay," and a trial date 7 months after the expected final written decision date). The Office has explained that while settled expectations generally increase the longer a patent has been in force, "there is no bright-line rule on when expectations become settled." *Dabico Airport Sols. Inc. v. AXA Power ApS*, IPR2025-00408, Paper 21 at 2–3 (Director June 18, 2025). Indeed, the Office has found that recently issued patents can have settled expectations warranting denial of institution under the right circumstances. *See, e.g.*, *All. Laundry Sys., LLC v. PayRange LLC*, IPR2025-00950, Paper 11 at 3 (Director Sept. 19, 2025) (finding 2021 patent that had been licensed had "some settled expectations favoring Patent Owner").

The '399 Patent originally issued as the '828 Patent on Mar. 6, 2012—over fourteen years ago. *See* Ex. 1001 at (64). Patents over fourteen years old are generally entitled to strong settled expectations. *See, e.g., Hs Hyosung Advanced Materials Corp. v. Kolon Indus., Inc.*, IPR2025-00662, Paper 12 at 2-3 (Director Aug. 14, 2025) (denying institution despite stay in parallel litigation where "the challenged patents have been in force for more than seven, six, and nine years, respectively, creating strong settled expectations for Patent Owner"); *Be Smarter, LLC et al., v. Yonder, Inc.*, IPR2025-00970, Paper 14 at 2 (Director Sept. 26, 2025)

(denying institution where eight-year-old patent "create[ed] settled expectations for Patent Owner").

As explained below, the fact that the '399 Patent reissued in 2025 should not disturb its settled expectations as the reissued claims remained substantially the same as the original '828 Patent. The Patent Owner's previous litigation against LG also does not remove Patent Owner's settled expectations as the issue there was indefiniteness—not anticipation or obviousness—and that issue has since been resolved. Patent Owner's settled expectations are also supported by Samsung's longstanding awareness of TVnGO's patents, and by TVnGO's significant commercialization efforts.

1. Reissuance Does Not Remove The Strong Settled Expectations Based On '828 Patent's Issue Date

As the '399 Patent reissued with substantially the same claims as the original 2012 patent, it should still be entitled to strong settled expectations.

Contrary to previous discretionary denial decisions considering settled expectations for reissue patents, the '399 Patent has substantially the same claims as the originally issued patent. For example, in *Nvidia Corp. v. Neural AI*, the Office explained that a patent recently reissuing "with ***different*** claims from the original patent" would "ordinarily … counsel against discretionary denial." IPR2025-00608, Paper 16 at 2-3 (Director July 31, 2025); *id*. (still finding settled expectations based

on petitioner's "actual notice" of the patents).[1] In that case, the patent-at-issue was the result of a "broadening reissue application" that replaced the patent's previous claims with 21 new claims. *See* Ex. 2008 at 1:14-17, 14:43-18:52.

Unlike the patent in *Neural AI*, however, the claims in TVnGO's reissued patent remained largely the same. For example, independent claim 1 only has a few minor corrections and clarifications, as illustrated below:

RE 50,328 Claim 1

Additions in *italics*, removals in **[**brackets**]**

1. A method for generating at a user's premises an overlay using video signals… comprising:

(a) providing a combiner circuit at the user's premises, wherein:

the combiner circuit is coupled to a TV set and connected to a separate TV tuner box or TV tuner in the TV set, at the user's premises, and

the combiner circuit is also connected through distinct networks to each of a video signal input providing video signals through the *separate* TV tuner box or *the* TV tuner in the TV set, and an Internet data source providing overlay-enabling digital data over the Internet, wherein

said video signals and said overlay-enabling digital data originate from…

said overlay-enabling digital data includes …

[1] All emphasis herein is added unless otherwise noted.

> (b) processing at the user's premises said overlay-enabling digital data and generating at the user's premises a corresponding overlay only if said *overlay* activation criterion is met, wherein generating **[**an**]** *the* overlay includes:
>
> generating at the user's premises …
>
> associating the Web link with said second portion …

Ex. 1001 at 9:2-44 (claim 1) (brackets and italics in original); *see also id*. at 10:50-11:23 (minor edits to independent claim 13); *see also* Ex. 1005 at 223 (reissue examiner noting independent claims "recite[] substantially identical subject matter" to the previous patent). The '399 Patent's reissued dependent claims are also largely unchanged—most of which remained exactly the same as the original '828 Patent. *See, e.g.,* Ex. 1001 at 9:45-12:33 (dependent claims 2, 4, 6-7, 10-12, 14, 16-18, 21).

In fact, the only substantial change to the claims in the '328 Patent was the deletion of dependent claims 9 and 20. *See* Ex. 1001 at 10:11-14 (former claim 9), 12:24-28 (former claim 20). As the Petition acknowledges, TVnGO explained during prosecution that these claims were being cancelled "to remove any possible interpretation of the 'overlay activation criterion' as coming from the user's premises (*i.e.*, <u>not</u> from the internet)." Pet. at 6-7 (quoting Ex. 1031 at 497). Thus, even this change did not broaden the '399 Patent's claim scope, but instead narrowed it by, according to Petitioner, "exclud[ing] any 'overlay activation criterion' originating from the user's premises or otherwise not coming from the Internet." Pet. at 7.

As the claims in the ’399 Patent are substantially the same—if not narrower—than the claims that issued in 2012 in the original ’828 Patent, they should be entitled to strong settled expectations. Accordingly, the Director should exercise his discretion to deny this Petition.

2. The LG Case Does Not Remove Settled Expectations

Petitioner may contend that the ’399 Patent should not have settled expectations because the LG Case resulted in the ’828 Patent being found indefinite. But this argument fails for at least two reasons.

First, the decisions in the LG Case were based on indefiniteness—not anticipation or obviousness. In particular, the Federal Circuit agreed with the district court that the claims were indefinite under 35 U.S.C. § 112 based on “an inconsistency between the independent and dependent claims regarding whether an ‘overlay activation criterion’ comes from the internet or from a user’s premises.” Ex. 1010 at 7. There was no finding that TVnGO’s claimed invention was disclosed or rendered obvious by prior art. *See generally* Ex. 1010. Accordingly, the LG Case should not disturb TVnGO’s settled expectations that its invention was novel and nonobvious.

Second, the indefiniteness issue has already been resolved at the Patent Office. As the Petition acknowledges, TVnGO filed a reissue application cancelling dependent claims 9 and 20 “to remove any possible interpretation of the ‘overlay

activation criterion' as coming from the user's premises (*i.e.*, not from the internet)." Pet. at 6-7 (citing Ex. 1031 at 497). Because of this, the PTAB, and even Petitioner, acknowledge that the remaining claims in the '399 Patent are not indefinite. *See* Pet. at 6-7.

3. Samsung Has Been Aware Of TVnGO's Patents Since 2012

Samsung's longstanding awareness of TVnGO's patents further supports discretionary denial. Indeed, Samsung has been aware of the '399 Patent's family since 2012 when the original '220 Patent was brought to Petitioner's attention in a Notice of References Cited during the prosecution of one of Samsung's patents.

The Director has discretionarily denied institution when a petitioner's own patent prosecution history demonstrates its awareness of the patent-at-issue. For example, in *Ericsson v. Procomm Intl.*, the Director denied institution where "Petitioner was aware" of the challenged patent "as early as 2013" as it had "been brought to Petitioner's attention in a Notice of References Cited during the prosecution of one of its own patents." IPR2024-01453, Paper 16 at 2-3 (Director June 25, 2025). Petitioner's awareness of a patent-at-issue can warrant discretionary denial even when other "arguments weigh against discretionary denial." *See iRhythm*, IPR2025-00363, Paper 10 at 2-3 (Director June 6, 2025) (discretionarily denying institution where "one of the [challenged] patents has been in force since as early as 2012 and Petitioner was aware of it as early as 2013—having cited the then-

pending application that issued as the challenged patent in an Information Disclosure Statement Petitioner filed in its own patent application").

Samsung filed a U.S. patent application on a "broadcast-receiving apparatus" in 2008—three years after TVnGO's first patent application. Ex. 2009 at 1. Similar to TVnGO's invention, Samsung attempted to claim a "broadcast-receiving apparatus" involving a "merging unit" to merge "real time broadcasting content" with recorded "media content" received from "a network or stored in a storage medium." *See id*. at 280 (pending claims 1-2). But in December 2012, the Examiner rejected Samsung's claims as anticipated or obvious, listing TVnGO's '220 Patent in a Notice of References Cited. *Id*. at 292-299 (listing "Merlin US Patent No. 8,132,220" as "prior art made of record and not relied upon [that] is considered pertinent to applicant's disclosure."). After that, Samsung immediately abandoned its patent application. *Id*. at 309.

Thus, Samsung's knowledge of TVnGO's patents since at least 2012 also supports discretionary denial.

4. TVnGO's Commercialization Efforts Support Discretionary Denial

The Office has explained that a patent owner's commercialization efforts involving the patented technology are relevant to settled expectations. *See Intel Corp. v. Proxense LLC*, IPR2025-00327, Paper 12 at 2-3 (Director June 26, 2025).

As explained above, TVnGO undertook significant efforts to commercialize its breakthrough technology. *See supra* § II.A. This resulted in licenses and other commercial agreements with industry partners such as Shuttle Inc., Icon TV Media Ltd., and Chinese cable TV company BTTV. *See* Ex. 2005 at 3; Ex. 2006 at 1; Ex. 2007 at 1. These commercialization efforts further support Patent Owner's settled expectations. *Cf. All. Laundry*, IPR2025-00950, Paper 11 at 2-3 (Director Sept. 19, 2025) (denying institution, noting "although the challenged patent has not been in force for a significant period of time (issued in 2021), Patent Owner presents evidence that it has licensed the challenged patent, which creates some settled expectations favoring Patent Owner"); *Hisense Electronica Mexico SA de CV et al. v. VideoLabs, Inc.*, IPR2025-00883, Paper 15 at 2-3 (Director Oct. 10, 2025) (finding patent owner's "evidence that the challenged patents have been licensed to over twenty companies" supported discretionary denial).

B. Overreliance On Expert Testimony

Petitioner's overreliance on the testimony of its expert, Dr. Bove, is yet another reason for the Director to exercise his discretion to deny the Petition.

The Office has been crystal clear that an IPR petition should not overly rely on expert testimony in order to meet its burden. The Office listed the "extent of the petition's reliance on expert testimony" as a discretionary denial factor in its March 2025 Workload Management memo. Ex. 2001 at 2. In July 2025, the Office

followed up with another memo, explaining that "expert testimony" and other "general knowledge … may not be used to supply a missing claim limitation." Ex. 2003 at 1. Yet despite this clear guidance from the Office, the Petition improperly relies on Dr. Bove's testimony to fill gaps in the asserted prior art.

For example, the Petition's first set of grounds, based on the "Marler" reference, uses Dr. Bove's testimony to try to fill the gaps in Marler's teaching of limitations [1b] and [13a]—a "combiner circuit" connected ([1b]) or coupled ([13a]) to "a separate TV tuner box or TV tuner in the TV set." In particular, the Petition argues that Marler renders these limitations obvious because:

> a POSITA would also find it obvious that Marler's receiver 16 could receive TV content via cable or satellite, and therefore that Marler's RCVR 114 would connect to a set-top box the cable or satellite system operator provides.

Pet. at 18; *see also id*. at 17 ("The requirement in limitation [13a] for the combiner circuit to be 'coupled to a separate TV tuner box or TV tuner' is addressed in limitation [1b] below.").

The Petition does not cite any prior art or other references to support its modification of Marler. Instead, the Petition appears to solely rely on the testimony of Dr. Bove which is incorporated by reference at the beginning of the argument. *See* Pet. at 17 (citing Ex. 1003 ¶¶94-95). But Dr. Bove's testimony simply contains more unsupported argument, contending, without evidence, that the Petition's

proposed modification would have been obvious "because those systems were typically pay television systems with encrypted or scrambled broadcasts that required customers to have proprietary set-top boxes including a tuner and a decrypter/descrambler at the customer's premises to decrypt and/or descramble the received broadcast transmissions." Ex. 1003 ¶95.

The Petition's second set of grounds, based on the "Zigmond" reference, similarly rely on Dr. Bove to fill gaps. For example, limitation [1g] requires "overlay-enabling digital data … transmitted to the user's premises" by a "mutually distinct and independent input[]" that includes "an image indicative of the content associated with said overlay-enabling digital data." Ex. 1001 at 9:17-27; Pet. at vi. The Petition contends that Zigmond's "icon 700" is the claimed "image indicative of the content," but admits that "Zigmond does not explicitly disclose how the icon is delivered to STB 10 and the CPU 21/ASIC 20 in this embodiment." Pet. at 66. To fill this gap, the Petition argues that "a POSITA would have found it obvious to include the icon 700 with the program code" downloaded from the Internet. *Id*. at 66-67; *see also id*. at 67 ("Thus, in embodiments where only one or two icons are used, it would have been obvious to a POSITA that these icons would be received via the Internet as part of a program code update.").

Like the Marler grounds, the Petition does not point to any "prior art consisting of patents or printed publications" for this missing limitation. Pet. at 66-

67; Ex. 2002 at 1. Instead, the Petition again seems to rely on Dr. Bove's testimony, which is incorporated by reference at the beginning of the section. *See* Pet. at 66 (citing Ex. 1003 ¶¶193-198). But Dr. Bove does not cite prior art showing this missing limitation, and instead merely parrots the Petition's conclusory arguments nearly *verbatim*.

Petition	**Ex. 1033 Declaration of Dr. Bove**
"Zigmond does not explicitly disclose how the icon is delivered to STB 10 and the CPU 21/ASIC 20 in this embodiment. However, given that a single icon 700 is used in this embodiment, a POSITA would have found it obvious to include the icon 700 with the program code executed by the CPU 21 and/or ASIC 20, *e.g.*, as an image file that is retrieved from memory when the icon 700 is to be displayed." …	"Zigmond does not explicitly disclose how the icon is delivered to the set top box 10 and the CPU 21/ASIC 20 in this embodiment. However, given that a single icon 700 is used in this embodiment, a POSITA would have found it obvious to include the icon 700 with the program code executed by the CPU 21 and/or ASIC 20, e.g., as an image file that is retrieved from memory when the icon 700 is to be displayed." …

"Thus, in embodiments where only one or two icons are used, it would have been obvious to a POSITA that these icons would be received via the Internet as part of a program code update."	"Thus, in embodiments in which only one or two icons are used, it would have been obvious to a POSITA that these icons would be received via the Internet as part of a program code update."

Compare Pet. at 66-67 *with* Ex. 1033 ¶¶193-198. Even before the Office's March and July 2025 Memos, the Board often rejected such expert testimony that "merely repeats, *verbatim*, the conclusory assertion for which it is offered to support." *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9, at 15 (PTAB Aug. 24, 2022) (precedential) (emphasis in original).

Thus, the Petition's improper reliance on Dr. Bove's testimony to fill gaps in the asserted art provides another reason for the Director to deny institution.

C. Petitioner's Rushed Attempt To Avoid *Fintiv* Denial Resulted In A Weak And Incomplete Petition That Further Supports Discretionary Denial.

Petitioner hurried to throw together an IPR petition while simultaneously delaying the co-pending litigation in the Western District of Texas in an apparent attempt to avoid *Fintiv* discretionary denial. Unsurprisingly, this resulted in an incomplete petition with numerous flaws that warrant discretionary denial.

Samsung filed its Petition for IPR two and a half months after the complaint was filed in the Western District of Texas. Pet. at 92; Ex. 2003 at 11. It then bargained with TVnGO to delay the district court case—waiving foreign service requirements in order to get a 90-day extension to file its answer to the complaint. Ex. 2004 at 1. Petitioner may argue that these actions should shield it from discretionary denial under the Board's *Fintiv* precedential decision. But the real result of Petitioner's machinations is a flawed and incomplete petition that does not deserve the Board's limited resources.

Each of the Petition's grounds is fatally flawed and does not demonstrate a reasonable likelihood of success, as will be discussed in detail in Patent Owner's forthcoming preliminary response.

Furthermore, the Petition, as it stands today, is incomplete under 37 C.F.R. § 42.106 and cannot be considered. *See* 37 C.F.R. §§ 42.106(a)(1), 42.104, 42.6(c). In particular, Petitioner did not file a copy of the "Marler" reference ("U.S. Patent Application Publication No. 2001/003212") which forms the basis of the Petition's Grounds 1-5. *See* Pet. at 1, 4. The Petition refers to "EX1007" as the Marler reference, but this exhibit appears to be a different patent publication by a different inventor ("Monica A. Marics"). Pet. at 4; Ex. 1007 at (10), (76). Petitioner's lack of diligence in not submitting Marler with its Petition—as required—and not even attempting to correct this error for months weighs against institution.

The Petition also contains other errors evident of Samsung's focus on speed over substance. For example, the Petition references the "LG Litigation (***as defined in the Mandatory Notices*** section below)." Pet. at 6. But Petitioner's mandatory notices make no mention of any "LG Litigation." *See* Pet. at 88-89. The Petition also appears to have filed the same document as two separate exhibits, listing both Exhibits 1009 and 1030 as "TVnGO's Opening Claim Construction Brief from [the] LG Litigation." *See* Pet. at iv-v; Exs. 1009, 1030.

These deficiencies demonstrate Samsung's lack of care in preparing this petition, further supporting discretionary denial.

IV. CONCLUSION

For at least these reasons Patent Owner requests that the Director exercise his discretion to deny institution.

Date: April 23, 2026

Respectfully submitted,

/s/ David L. Hecht
David L. Hecht (Lead Counsel)
(Reg. No. 61,618)
dhecht@hechtpartners.com
HECHT PARTNERS LLP
125 Park Avenue, 25th Floor
New York, NY 10017
P: (212) 851-6821

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

The undersigned hereby certifies that the following documents were served by electronic service on the date signed below:

PATENT OWNER TVNGO LTD.'S
REQUEST FOR DISCRETIONARY DENIAL

EXHIBITS 2001-2009

The names and addresses of the parties being served are as follows:

James M. Heintz	jim.heintz@us.dlapiper.com
Michael Saulnier	michael.Saulnier@us.dlapiper.com
Peter D. VandeVort	peter.vandevort@us.dlapiper.com
Sangwon Sung	sangwon.sung@us.dlapiper.com
	DLA-SamsungIPR-TVnGO@us.dlapiper.com

Date: April 23, 2026

/s/ David L. Hecht
David L. Hecht (Lead Counsel)
(Reg. No. 61,618)
dhecht@hechtpartners.com
HECHT PARTNERS LLP
125 Park Avenue, 25th Floor
New York, NY 10017
P: (212) 851-6821