

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

WEB3AI TECHNOLOGIES, LLC,

Plaintiff,

v.

STRATEGY INC,

Defendant.

Civil Action No.: 2:25-cv-260-AWA-DEM

**DEFENDANT STRATEGY INC’S RESPONSE TO
WEB3AI’S SUPPLEMENTAL BRIEF OPPOSING THE MOTION TO DISMISS**

Strategy Inc filed a corrected brief in support of its motion to dismiss on January 8, 2026, which made only two changes: (1) updated the brief to reflect its recent corporate name change, and (2) *removed* five lines of text to clarify its position related to its Section 112(f) argument. (Dkt. No. 29). Just over a week ago, almost *two months* after the corrected brief, Web3AI moved for leave to supplement its original opposition brief and argued that Strategy has taken inconsistent positions in its opening brief, its corrected brief, and in a petition for *inter partes* review (IPR) submitted to the Patent Office. (Dkt. No. 30). Strategy does not oppose the motion for leave; however, it rejects—as legally and factually wrong—Web3AI’s arguments in the supplemental brief (Dkt. No. 31 at 1) that Strategy has taken “three materially different positions” and (*id.* at 3) that this is “relevant to the Court’s analysis” of the Section 112(f) issue. The Court should reject these arguments, too.

The gravamen of Web3AI’s argument is that Strategy’s IPR petition allegedly recounts sufficient structure for the claimed modules, where the original district court brief says none exists. This argument is based on a false equivalency related to the legal standards at play in these two

venues. Strategy’s motion to dismiss in this Court argues that the asserted ’574 patent is invalid on two grounds: the first is that the patent is *ineligible* for patent protection under 35 U.S.C. § 101 because its claims recite an abstract idea; the second is that certain claims are invalid because they are governed by 35 U.S.C. § 112(f), yet do not recite sufficient structure, as the law requires. Dkt. No. 23 (original); Dkt. No. 29 (corrected). In contrast, Strategy’s IPR does not raise either Section 101 or Section 112(f) arguments because it cannot: by statute, neither argument can be raised in an IPR. 35 U.S.C. § 311(b) (“A petitioner in an inter partes review may request to cancel as unpatentable 1 or more claims of a patent only on a ground that could be raised under section 102 or 103”). Instead, Strategy’s IPR argues that the patent claims are invalid as obvious under 35 U.S.C. § 103, which is not at issue in the motion to dismiss. Web3AI’s assertion that Strategy has taken *materially* different positions is thus legally unsound because the issues before the Court and the Patent Office, and the standards that govern them, are entirely different. *E.g.*, *Kroy IP Holdings, LLC v. Groupon, Inc.*, 127 F.4th 1376, 1380 (Fed. Cir. 2025) (“We recognize[] that in an IPR proceeding, the petitioner has a burden to prove unpatentability by a preponderance of the evidence, whereas the district court requires the higher burden of clear and convincing evidence for invalidity.”).

Even if the legal issues and the standards were the same, Web3AI is factually wrong that Strategy has taken materially different positions. In support of the motion to dismiss, the original brief *nowhere* says structure is “absent,” as Web3AI contends. To the contrary, both the original brief and the corrected brief identify and list (in footnotes 8-12 of the original brief and identically in footnotes 9-13 of the corrected brief) over 50 specification citations to disclosures of structure, then argue (emphasis added here) that the problem is the lack of “sufficient” structure to satisfy the statutory requirements under Section 112(f):

- “The patent does not recite any *sufficient corresponding structure* for these modules in either the specification or the claims” Dkt. No. 23 (original) at 26; Dkt. No. 29 (corrected) at 26.
- “Moreover, examining the claims in light of the specification *fails to yield any sufficient structure.*” Dkt. No. 23 (original) at 27; Dkt. No. 29 (corrected) at 27.

The five lines from the original brief that were removed in the corrected brief do not say structure is absent, either. Referring to the *Fintiv* Federal Circuit case, it said no module or algorithm were ever described “beyond the results they were designed to achieve” or how they perform their functions “with any specificity.” Dkt. No. 23 (original) at 29. Here again, the contention is a lack of sufficiency in structure, not an absence of structure altogether. Thus, the original brief and the corrected brief were and are consistent.

The IPR petition is also consistent with those two briefs. Indeed, it says as much, pointing to the same 50-odd exemplary specification disclosures which were identified above in support of the Section 112 argument: “In the district court, Petitioner submitted a motion to dismiss that argued that *corresponding structure* for means-plus-function elements of claims 1-15 and 21-25 was insufficient *under § 112*. Consistent with the instant Petition, Petitioner does not maintain in the district court that corresponding structure is entirely absent. ***Rather, in the district court motion to dismiss, Petitioner identified examples of structure corresponding to the claim terminology in question.*** In this way, the positions advanced by Petitioner are consistent.” Exhibit A (IPR Pet.) at 3-4 (emphases added). That the IPR petition then proceeds in its Section 103 *obviousness* analysis to identify corresponding structure—without addressing whether it is *sufficient* for purposes of Section 112(f)—is not at all inconsistent. In fact, on the petition’s face, Strategy expressly took *no position* in the IPR on the sufficiency of the disclosure for Section 112(f) purposes, which is both proper and unsurprising, given the different legal issues that can be raised. This is akin to the well-established legal practice of arguing in the alternative.

Web3AI is wrong that there is a judicial estoppel issue here. Strategy's motion to dismiss should be granted because the '574 patent is ineligible under Section 101 and separately fails the requirements of Section 112(f).

Respectfully submitted,

FISH & RICHARDSON P.C.

Dated: March 16, 2026

By: /s/ Ahmed J. Davis

Ahmed J. Davis (Va. Bar No. 43982)

adavis@fr.com

Daniel R. Gopenko (Va. Bar No. 83932)

gopenko@fr.com

FISH & RICHARDSON P.C.

1000 Maine Avenue, SW, Suite 1000

Washington, DC 20024

Telephone: (202) 783-5070

Facsimile: (202) 783-2331

Counsel for Defendant
STRATEGY INC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been electronically filed with the Clerk of the Court on March 16, 2026 using the CM/ECF system which does send notification of such filing to all counsel of record.

/s/ Ahmed J. Davis

Ahmed J. Davis (Va. Bar No. 43982)

adavis@fr.com

FISH & RICHARDSON P.C.

1000 Maine Avenue, SW, Suite 1000

Washington, DC 20024

Telephone: (202) 783-5070

Facsimile: (202) 783-2331