UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,

Petitioner,

v.

WECREVENTION, INC.,

Patent Owner.

Patent No. 11,894,098
Filing Date: March 25, 2021
Issue Date: February 6, 2024

Inventors: Der-Min Yuan, Yen-An Chang, and Wei-Ming Huang
Title: DYNAMIC RANDOM ACCESS MEMORY APPLIED TO AN EMBEDDED DISPLAY PORT

PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION

Case No. IPR2026-00242

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LIST OF EXHIBITS

Exhibit No.	Description of Document
2001	Plaintiff's Disclosure of Asserted Claims and Infringement Contentions in *WeCrevention, Inc. v. Apple Inc.*, Case No. 7:25-cv-00458-ADA (W.D. Tex.), dated January 20, 2026
2002	Defendant's Invalidity and Subject Matter Eligibility Contentions in *WeCrevention Inc. v. Apple Inc.*, Case No. 7:25-cv-00458-ADA (W.D. Tex.), dated March 17, 2026
2003	Federal Register, Vol. 90, No. 199, dated Friday, October 17, 2025
2004	Scheduling Order (Dkt. 32) in *WeCrevention, Inc. v. Apple Inc.*, Case No. 7:25-cv-00458-ADA (W.D. Tex.), dated January 21, 2026
2005	https://marketrealist.com/2019/12/will-china-still-be-second-home-apple/
2006	Appeal Statistics, Patent Trial and Appeal Board, dated October 31, 2025
2007	Patent Trial and Appeals Board (PTAB) data at a glance December 2025
2008	March 24, 2025 guidance memorandum from Chief Administrative Patent Judge Boalick
2009	Director Squires Memorandum, Additional Discretionary Institution Considerations — U.S. Manufacturing and Small Business Use of AIA Proceedings (Mar. 11, 2026)
2010	MacRumors / Financial Times, Apple Plans to Source All U.S.-Bound iPhones from India by End of 2026, Apr. 25, 2025
2011	Korea Economic Daily / MacRumors, Samsung Becomes Apple's Primary LPDDR5X Supplier for iPhone 17, Providing 60–70% of Memory, Dec. 22, 2025
2012	SK hynix Newsroom, *Semiconductor 101: SK hynix on Where Chips Are Made & Used* (Apr. 3, 2025)
2013	Apple Newsroom, Apple Increases U.S. Commitment to $600 Billion, Announces American Manufacturing Program, Aug. 6, 2025, https://www.apple.com/newsroom/2025/08/apple-increases-us-commitment-to-600-billion-usd-announces-ambitious-program/
2014	Samsung Semiconductor Newsroom, *Samsung Begins Mass Production of 16Gb LPDDR5 DRAM at World's Largest*

Exhibit No.	Description of Document
	Semiconductor Line (Sept. 9, 2020)
2015	SK hynix Inc., *SK hynix Signs Investment Agreement of Advanced Chip Packaging with Indiana* (Apr. 3, 2024)

I. INTRODUCTION

Pursuant to the Director's March 26, 2025, Memorandum Regarding Interim Processes for PTAB Workload Management ("Process Memorandum"), WeCrevention, Inc. ("Patent Owner") files this Request for Discretionary Denial of Institution.

On February 13, 2026, Apple Inc. ("Petitioner") submitted a Petition (Paper 2, "Petition," or "Pet.") requesting *inter partes* review ("IPR") of U.S. Patent No. 11,894,098 (Ex. 1001, the "'098 Patent"), challenging Claims 1-9 (the "Challenged Claims"). The Petition identifies co-pending district court litigation *WeCrevention, Inc. v. Apple Inc.*, 7:25-cv-00458-ADA (W.D. Tex.) (the "District Court Litigation"). Pet. at 94-95.

The Director should exercise discretion to deny the Petition under 35 U.S.C. § 314(a) for at least the following reasons: (i) the proximity of the District Court's trial date to any Final Written Decision; (ii) the parallel District Court Litigation and the Petition involve the same parties; (iii) the Accused Products and LPDDR5 are not manufactured in the United States; (iv) the District Court Litigation involves the same patent and the same claims; (v) a motion to stay the District Court Litigation has not been filed and would not likely be granted; (vi) the Petition is weak and overly reliant on expert testimony; (vii) the '098 Patent has been in force for about 2 years and settled expectations have been created; (viii) the PTAB's resources are

better spent on *ex parte* appeals; and (ix) no changes in the law support reconsideration of patentability.

For the reasons set forth herein, the Director should exercise discretion to deny the Petition.

II. THE PETITION SHOULD BE DENIED IN THE DISCRETION OF THE DIRECTOR UNDER 35 U.S.C. § 314(a)

The circumstances of the parallel District Court Litigation necessitate denial of the Petition under the Board's precedent, as every factor considered in relation to efficiency, fairness, and the merits supports denial. *See Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 6 (P.T.A.B. Mar. 20, 2020) (precedential) (considering (a) "whether the petitioner and the defendant in the parallel proceeding are the same party"; (b) "overlap between issues raised in the petition and in the parallel proceeding"; (c) "proximity of the court's trial date to the Board's projected statutory deadline for a final written decision"; (d) "investment in the parallel proceeding by the court and the parties"; (e) "whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted"; and (f) "other circumstances that impact the Board's exercise of discretion, including the merits.").

As set forth below, these factors along with the Process Memorandum collectively demonstrate that efficiency and integrity of the AIA are best served by denying review. *NHK Spring Co. v. Intri-Plex Techs., Inc.*, IPR2018-00752, Paper

8, at 20 (P.T.A.B. Sept. 12, 2018) (quoting *Gen. Plastic Indus. Co. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19, at 16–17 (P.T.A.B. Sept. 6, 2098) (precedential)) (denying Petition because institution would not be consistent with the objective of the AIA to "provide an effective and efficient alternative to district court litigation.").

A. Proximity of the District Court's Trial Date

The proximity of the District Court Litigation's trial date to the Board's projected statutory deadline for a Final Written Decision also strongly weighs in favor of discretionary denial. The parties' trial is scheduled for June 14, 2027. Ex. 2004. Pursuant to 35 U.S.C. §§ 314(b)(1) and 316(a)(11), the projected statutory deadline for a Final Written Decision of this Petition is August 20, 2027.[1] As the District Court's trial will be ***nearly two months before*** the projected statutory deadline, this factor strongly weighs in favor of denying institution. *See*, *e.g.*,

[1] Patent Owner will file a timely preliminary response on May 20, 2026. The statutory deadline for institution is August 20, 2026, "three months after receiving a preliminary response to the petition under section 313." *See* 35 U.S.C. § 314(b)(1). If instituted, the statutory deadline for a Final Written Decision is August 20, 2027, "not later than 1 year after the date on which the Director notices the institution of a review." *Id*.

Shenzen Tuozhu Tech. Co. v. Stratasys Inc., IPR2025-00354, Paper 11 at 2-3 (P.T.A.B. June 12, 2025) (granting discretionary denial when the district court's trial was one month before the projected final written decision due date). The two-month differential between the June 2027 trial date and the August 2027 Final Written Decision justifies discretionary denial.

Accordingly, this factor strongly weighs in favor of discretionary denial.

B. The Parallel District Court Litigation and the Petition Involve the Same Parties

As Petitioner notes, there exists a parallel District Court Litigation between the same parties regarding the same subject patent (the '098 Patent). Pet. at 94-95. The District Court Litigation involves causes of action asserting the '098 Patent against Petitioner's products, which include, *inter alia*, Apple products that include LPDDR5 DRAM or LPDDR5x DRAM sold since September of 2019, including various models of the iPhone 14 or later (*e.g.*, iPhone 14; iPhone 14 Pro; iPhone 15 Max; iPhone 15; iPhone 15 Plus; iPhone 15 Pro; iPhone 15 Pro Max; iPhone 16; iPhone 16 Plus; iPhone 16 Pro; and iPhone 16 Pro Max; iPhone Air; iPhone 17 Pro; and iPhone 17 Pro Max), the MacBook (*e.g.*, MacBook Air (M2, 2022)); MacBook Air (M3, 2024); 13-inch MacBook Pro (M2, 2022); MacBook Pro (14-inch, M3 Pro or M3 Max, Nov 2023); and MacBook Pro (16-inch, M3 Max, late 2023), and the iPad (*e.g.*, iPad (11th generation)); iPad Air; and iPad Pro. *See* Ex. 2001 at 2-3. *Apple*

Inc. v. Fintiv, Inc., IPR2020-00019, Paper 15 at 15 (P.T.A.B. May 13, 2020) (when "the petitioner and the defendant in the parallel proceeding are the same party," that fact weighs in favor of discretionary denial).

Accordingly, this factor weighs strongly in favor of discretionary denial.

C. The Accused Products and LPDDR5 Are Not Manufactured in the United States

On March 11, 2026, Director Squires issued a memorandum identifying three additional discretionary institution considerations tied to domestic manufacturing and small-business status. Ex. 2009. The memorandum applies to all proceedings "in which the due date for a patent owner discretionary brief has not yet elapsed." *Id.* at 3. The first factor asks whether "any products accused of infringement in a parallel proceeding are manufactured in the United States or are related to investments in American manufacturing operations." *Id.* at 2. They are not and do not. The second and third factors are neutral and strongly outweighed by the first factor favoring discretionary denial.

As discussed, the Accused Products are iPhones, MacBooks, and iPads containing LPDDR5 or LPDDR5x DRAM and are assembled overwhelmingly overseas—the vast majority in China, with Apple accelerating a shift to India as a tariff-avoidance strategy. Ex. 2010 (reporting Apple plans to source all U.S.-bound iPhones from India by the end of 2026 in response to tariffs, a move that would

"require Apple to double its current iPhone production" from India). Even under Apple's most aggressive diversification plans, iPhone assembly would shift from China to India—not to the United States. *Id.* Based on public information, no iPhone has ever been assembled on American soil. *See*, *e.g.*, *id*. Indeed, Apple has proudly displayed this fact for many years on many of its products.

Ex. 2005.

Equally critical, based on public information, the key patented component—the LPDDR5 and LPDDR5x DRAM integral to the accused Apple products—is manufactured entirely overseas. Ex. 2011. Based on public information, the Accused Products' LPDDR5 memory is supplied primarily by Samsung Electronics (South Korea) and SK Hynix (South Korea and China). *Id.* (industry reporting that Samsung has secured an estimated 60–70% of Apple's mobile DRAM supply for the iPhone

17, with SK Hynix and Micron supplying the remainder); Ex. 2014; and Ex. 2012. Neither Samsung nor SK Hynix manufactures LPDDR5 for Apple in the United States, and neither company has publicly announced plans to do so.[2]

Further, while Apple may have recently announced an intent to eventually develop a manufacturing footprint in the U.S., Apple concedes that those aspirations are "forward-looking statements" and cautions that "***actual results may differ materially from any future results expressed or implied***." Ex. 2013 (emphasis added). The Squires memorandum asks whether accused products "are manufactured" in the United States—present tense. Ex. 2009. As of today, they are not. Regardless, Apple's purported, future domestic manufacturing goals appear limited to peripheral components unrelated to the patented technology at issue—they do not encompass the assembly of the accused iPhone, MacBook, or iPad products in the U.S., nor do they address LPDDR5 DRAM supply at all. Ex. 2013. Thus, Apple's aspirational manufacturing goals, directed at future investments in components unrelated to the patented technology as practiced by the Accused Products, do not constitute present domestic manufacturing activities.

[2] Based on public information, SK Hynix has announced plans to open a U.S. facility in Indiana to be used exclusively for the manufacture of High Bandwidth Memory (HBM) for AI accelerators—not LPDDR5 for Apple products. Ex. 2015.

Regarding the second factor, the Patent Owner has not manufactured any products in the U.S., and thus the factor is neutral. Ex. 2009 at 2. Regarding the third factor, Apple is not a small entity, and thus the factor is neutral. *Id.* Apple is, however, precisely the type of "large company" that has for years used "AIA proceedings [to gain] a tactical advantage" in defending patent lawsuits, despite manufacturing its products abroad.

Accordingly, the additional considerations in the March 11, 2026, Squires memorandum weigh strongly in favor of discretionary denial.

D. The District Court Litigation Involves Substantially the Same Claims and Petitioner's Stipulation Does Not Mitigate These Concerns

There is substantial overlap between the claims and grounds at issue in this Petition and the District Court Litigation because the Petition challenges the same claims asserted in the District Court Litigation under the same grounds. *See* Ex. 2001 at 1; Pet. at 1-2. For example, each of the six Grounds raised in the Petition are also raised as invalidity defenses in Petitioner's invalidity contentions served in the District Court Litigation. *See* Ex. 2002 at 41-51 (citing Exhibits B-01-B-30). "In at least these ways, the parallel proceedings would duplicate effort. This is an inefficient use of Board, party, and judicial resources and raises the possibility of conflicting decisions." *Cisco Sys., Inc. v. Ramot at Tel Aviv Univ. Ltd.*, IPR2020-00122, Paper 15 at 10 (P.T.A.B. May 15, 2020).

Further, although this Petition formally concerns only the ’098 Patent, it does not arise in isolation: the ’098 Patent is one of five related Asserted Patents being litigated together against Petitioner in the District Court Litigation, and Petitioner has filed parallel Petitions challenging the other four Asserted Patents.[3] The District Court will manage invalidity, infringement, fact and expert discovery, and trial preparation across all the Asserted Patents on an integrated schedule. Instituting parallel PTAB proceedings while the District Court Litigation proceeds on similar timelines in district court invites duplicative briefing on issues such as claim construction, duplicative expert disputes, inconsistent outcomes, and layered estoppel disputes that do not meaningfully simplify the District Court Litigation. These are precisely the inefficiencies that *Fintiv* and the Process Memorandum aim to prevent. *Fintiv,* at 12-13; Process Memorandum at 2-3. Further, as confirmed in the March 24, 2025 guidance memorandum from Chief Administrative Patent Judge Boalick, a *Sotera* stipulation such as Apple has filed in this case is not “dispositive by itself.” Ex. 2008 at 3. As the USPTO has emphasized, such parallel challenges “can add significant expense and delay compared with standalone district court

[3] *See Apple Inc. v. WeCrevention, Inc.*, IPR2026-00239; *Apple Inc. v. WeCrevention, Inc.*, IPR2026-00240; *Apple Inc. v. WeCrevention, Inc.* IPR2026-00241; and *Apple Inc. v. WeCrevention, Inc.* IPR2026-00243

litigation" and undermine the AIA's goal of making IPRs an "alternative" rather than a duplicate. Ex. 2003, at 2.

Accordingly, this factor weighs strongly in favor of discretionary denial.

E. A Motion to Stay Has Not Been Filed and Is Unlikely to Be Granted

Apple has not sought a stay of the District Court Litigation pending IPR proceeding, and a stay is unlikely to be granted.

The timing of any future stay request ensures that the motion would not be resolved until after the parties have invested substantial additional resources, and not before the *Markman* hearing, which is currently scheduled for June 15, 2026. Ex. 2004. In this posture, a stay is unlikely.

At best, the likelihood of a stay would require serial speculation that: the Director would assume institution, the Petitioner files a stay motion, and the District Court grants that motion, despite having already held a *Markman* hearing, opened fact discovery, and set a firm trial date. That stack of contingencies is the opposite of the straightforward, schedule-based assessment called for by *Fintiv*. *See Samsung Elecs. Co. v. Vasu Holdings, LLC*, IPR2025-00446, Paper 12, 2 (P.T.A.B. July 10, 2025) (granting discretionary denial where, *inter alia*, "there is insufficient evidence that the district court is likely to stay its proceeding even if the Board were to institute trial").

Accordingly, this factor weighs strongly in favor of discretionary denial.

F. The Petition Is Weak and Overly Reliant on Expert Testimony

Separately, the Petition's unpatentability challenge is weak, supporting denial. For example, Apple's primary reference, *Takahashi*, was considered heavily by the Examiner during the prosecution process. Ex. 1002, 10-17, 74-91, 130-138, 162-172. This strongly weighs in favor of discretionary denial. *See Ascentcare Dental Prods., Inc. v. Solmetex, LLC,* IPR2025-01065, Paper 11 at 2 (P.T.A.B. October 17, 2025) (discretionarily denying institution where Petitioner relied on references that were considered by the patent examiner during prosecution of the challenged patents or cited by the Patent Owner during prosecution). The Petition's unpatentability challenge is weak, supporting denial. For example, the Petition asserts a patchwork of ***six*** obviousness grounds combining ***seven*** different references. Some of these grounds contain ***four*** different references. This strongly weighs favor of discretionary denial. Pet. at 1-2. Further, the Petitioner relies on an expert declaration, spanning ***161 pages*** and ***295 paragraphs***, in an effort to backfill the many gaps in those references. Discretionary denial is routinely granted where a similar number of grounds and references are offered in a Petition. *See*, *e.g.*, *Hisense USA Corp. v. Light Guide Innovations LLC*, IPR2025-01537, Paper 7 at 3 (P.T.A.B. Nov. 21, 2025) (granting discretionary denial where petition relied on seven

combinations of six references), Paper 10 (P.T.A.B. Jan. 16, 2025); *Hisense USA Corp. v. Light Guide Innovations LLC*, IPR2025-01526, Paper 7 at 2-3 (P.T.A.B. Nov. 21, 2025) (granting discretionary denial where petition relied on four combinations of five references), Paper 10 (P.T.A.B. Jan. 16, 2025).

The weakness of the Petition's merits is confirmed by its heavy reliance on expert testimony. Petitioner submits more than ***161 pages*** and ***295 paragraphs*** of expert declaration to supply motivations to combine, map disparate disclosures onto the claim language, and bridge gaps that the references do not and cannot fill. *See* Ex. 1003. Discretionary denial is also routinely granted in this circumstance, where a Petitioner overly relies on expert testimony to fill in holes in the prior art. *See*, *e.g.*, *CrowdStrike, Inc. v. Skysong Innovations, LLC*, IPR2025-01399, Ex. 2010 at 17-18 (P.T.A.B. Dec. 6, 2025) (discretionary denial request granted where Petition relied on 150-paragraph, 20,000-word expert declaration), Paper 12 (P.T.A.B. Jan. 16, 2026); *BOE Tech. Grp. Co. v. Paneltouch Techs. LLC*, IPR2025-01483, Paper 7 at 8 (P.T.A.B. Nov. 24, 2025) (discretionary denial request granted where Petition relied on 201 pages of expert testimony), Paper 10 (P.T.A.B. Jan. 16, 2026). Indeed, that level of expert reconstruction is a sign that the prior art does not speak for itself and that the obviousness case is, at best, a close and highly fact intensive dispute. The USPTO's own Interim Processes recognize that such expert-driven contests, particularly when built on cumulative art already considered in substance, are better

resolved in the advancing District Court Litigation rather than through a duplicative PTAB proceeding. *See* FAQs for Interim Processes for PTAB Workload Management, #22.

G. Settled Expectations of the Parties

The ’098 Patent was granted February 6, 2024, about two years before Petitioner brought this action. *See* ’098 Patent. The ’098 Patent also claims priority to an application from 2012, which is fourteen years before Petitioner filed its Petition—as such, the Patent Owner has settled expectations as to validity of the ’098 Patent. *Id*. As the PTAB has observed, “the longer the patent has been in force, the more settled expectations should be.” *Dabico Airport Sols. Inc. v. AXA Powers Aps*, IPR2025-00408, Paper 21 at 3 (P.T.A.B. June 18, 2025).

Accordingly, this factor strongly weighs in favor of discretionary denial.

H. PTAB Resources Are Better Spent on *Ex Parte* Appeals

The Director should also deny institution because its limited resources are better spent on the backlog of *ex parte* appeals. In 35 U.S.C. § 6(b)(1), the PTAB is tasked with “review[ing] adverse decisions of examiners upon applications for patents pursuant to section 134(a).” Congress also tasked the PTAB with reviewing appeals of reexaminations, derivation proceedings, IPRs, and PGRs. 35 U.S.C. § 6(b)(2)-(4). Current Office policy is to focus on *ex parte* appeals “[t]o ensure that the PTAB continues to meet its statutory obligations as to *ex parte* appeals, while

continuing to maintain its capacity to conduct AIA proceedings, the Director will exercise her discretion on institution of AIA proceedings . . . ." Process Memorandum. The Board should exercise that discretion here because the pendency of *ex parte* appeals has increased over the last year and year-over-year since Fiscal Year 2022. *See* Ex. 2006, 7 and Ex. 2007, 2. The PTAB should focus its efforts on the pending *ex parte* appeals–not this IPR.

I. No Changes in the Law Support Reconsideration of Patentability

No change in law justifies reconsidering the '098 Patent claims' validity.

When viewing all of these factors collectively together, the Petition should be denied in the Director's discretion under 35 U.S.C. § 314(a).

III. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that the Director exercise discretion to deny institution of the Petition in its entirety.

Respectfully submitted,

Dated: April 20, 2026

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CERTIFICATE OF WORD COUNT

The undersigned hereby certifies that the portions of the above-captioned PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION has 2,983 words in compliance with the 14,000 word limit set forth in 37 C.F.R. § 42.24. This word count was prepared using Microsoft Word for Office 365.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing Patent Owner's Request for Discretionary Denial of Institution and Exhibits 2001 through 2015 have been served on Petitioner's counsel of record as follows:

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