

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.
Petitioner,

v.

VUSURA TECHNOLOGY LLC,
Patent Owner.

Case No. IPR2026-00255
Patent No. 11,227,303

**PETITIONER'S OPPOSITION TO PATENT OWNER'S REQUEST
FOR DISCRETIONARY DENIAL OF INSTITUTION**

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*Petitioner's Opposition to Patent Owner's Request for
Discretionary Denial of Institution (IPR2026-00255)*

PETITIONER'S EXHIBIT LIST

<i>Exhibit #</i>	<i>Description</i>
1001	U.S. Patent No. 11,227,303 (“the ’303 Patent”).
1002	Prosecution History of the ’303 Patent (“File History”)
1003	Declaration of Petitioner’s Expert Thomas F. La Porta, Ph.D.
1004	U.S. Pat. Publication No. 2007/0173237 (“Roundtree”).
1005	WIPO International Publication No. WO 2006/130783
1006	U.S. Pat. Publication No. 2007/0116227 A1
1007	Excerpts of J. Thorner, “Intelligent Networks”, Artech House, Inc. 1994.
1008	Excerpts of L. Goleniewski, “Telecommunications Essentials”, Pearson Education, Inc., 2003.
1009	June 2, 2026 Email from Petitioner’s Counsel to Patent Owner’s Counsel in the Litigation Containing the <i>Sotera Plus</i> Stipulation, the <i>No Indefiniteness</i> Stipulation, and Withdrawal of Indefiniteness Positions for the ’303 Patent.
1010	USPTO Patent Public Search – Advanced Search Overview, Quick Reference Guide, 2021, accessible via the Internet Archive Wayback Machine at https://web.archive.org/web/20220113114920/https://ppubs.uspto.gov/pubwebapp/static/assets/files/Search%20overview%20QRG%20-%20Patent%20Public%20Search.pdf .
1011	Screenshots of Prior Art Searches Run Using the USPTO’s Patent Public Search Tool, accessible at https://ppubs.uspto.gov/pubwebapp/ , in May and June 2026.
1012	U.S. Patent Family Tree for U.S. Provisional Patent Application Ser. No. 61/167,105, generated using the PatBase tool.
1013	Comparison of specification (including claims) of U.S. Patent No. 8,577,000 (the “Parent ’000 Patent”) with specification (including claims) of U.S. Patent No. 8,977,242, generated using the Litera Compare tool.
1014	Printout of 11 Unique Hits (including EX1004 <i>Roundtree</i>) from Prior Art Search Run Using the USPTO’s Patent Public Search Tool at EX1011, 3.

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<i>Exhibit #</i>	<i>Description</i>
1015	Printout of 23 Unique Hits (including EX1004 <i>Roundtree</i>) from Prior Art Search Run Using the USPTO's Patent Public Search Tool at EX1011, 4.
1016	Printout of 42 Unique Hits (including EX1004 <i>Roundtree</i> and the Parent '000 Patent) from Prior Art Search Run Using the USPTO's Patent Public Search Tool at EX1011, 5-6.
1017	Printout of 19 Unique Hits (including EX1004 <i>Roundtree</i>) from Prior Art Search Run Using the USPTO's Patent Public Search Tool at EX1011, 7-8.
1018	Comparison of specification (including claims) of U.S. Patent No. 10,198,741 (the "'741 Patent") with specification (including claims) of U.S. Patent No. 11,227,303 ("the '303 Patent"), generated using the Litera Compare tool.
1019	Judge Gilstrap's (E.D. Texas) Calendar for July 12, 2027.
1020	Federal District Court Caseload Management Statistics – December 2025.
1021	Patent Owner's November 10, 2025 Disclosure of Asserted Claims and Preliminary Infringement Contentions Pursuant to P.R. 3-1, in Case No. 2:25-cv-00871-JRG, captioned as <i>Vusura Technology LLC v. Cisco Systems, Inc.</i> (E.D. Texas) (the "Litigation").
1022	Prosecution History of U.S. Patent No. 8,577,000 (the "Parent '000 Patent").
1023	Printout from Nevada Business Portal (showing Patent Owner's formation date as December 29, 2023).
1024	Inventor Assignment to Patent Owner, dated January 30, 2024, of Thirty Patent Properties (including the '303 Patent and the '741 Patent).
1025	Assignment from Alto Ventures, Inc. to Patent Owner, dated June 22, 2025, of U.S. Patent No. 7,418,092.
1026	Comparison of specification (including claims) of U.S. Patent No. 7,418,092 (the "'092 Patent") with specification (including claims) of U.S. Patent No. 11,227,303 ("the '303 Patent"), generated using the Litera Compare tool.
1027	U.S. Patent Family Tree for U.S. Patent No. 7,418,092 (the "'092 Patent"), generated using the PatBase tool.

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<i>Exhibit #</i>	<i>Description</i>
1028	Printout of PostNet webpages, accessible at https://locations.postnet.com/nv/henderson/2654-w-horizon-ridge-pkwy ; https://www.postnet.com/etc/private-mailbox-rental/ , showing that Vusura's principal place of business address identified in EX2004, 2 (¶5) is for a private mailbox (229) at a PostNet center located at 2654 W Horizon Ridge Pkwy Ste B5 Henderson, NV 89052.
1029	Cisco Webex Contact Center Service Offer Disclosure, accessible at https://trustportal.cisco.com/c/r/ctp/trust-portal.html?search_keyword=Webex%20Contact%20Center#/1552559092864152 .
1030	Patent Owner's Exhibit C claim chart for the '303 Patent, which accompanied its November 10, 2025 Infringement Contentions (EX1021).
1031	"Cisco Announces Agreement to Acquire BroadSoft, a Leader in Cloud Calling and Contact Center Solutions", October 23, 2017, accessible at https://newsroom.cisco.com/c/r/newsroom/en/us/a/y2017/m10/cisco-announces-abcd.html .
1032	"Cisco Completes Acquisition of BroadSoft", February 2, 2018, accessible at https://newsroom.cisco.com/c/r/newsroom/en/us/a/y2018/m02/cisco-completes-acquisition-of-BroadSoft.html .
1033	"Cisco Build America, Buy America (BABA) Certification for US BEAD Program", accessible at https://www.cisco.com/c/en/us/solutions/service-provider/baba.html .
1034	"Cisco Supplier List", accessible at https://www.cisco.com/c/dam/en_us/about/supply-chain/cisco-supplier-list.pdf .
1035	"Flex Honored by Cisco with 2023 EMS Partner of the Year Award", November 9, 2023, accessible at https://flextronics2022rd.q4web.com/news/news-details/2023/Flex-Honored-by-Cisco-with-2023-EMS-Partner-of-the-Year-Award/default.aspx .

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<i>Exhibit #</i>	<i>Description</i>
1036	“Flex Further Boosts U.S. Manufacturing Capacity to Meet Growing Demand for Data Center Critical Power Solutions”, April 28, 2025, accessible at https://investors.flex.com/news/news-details/2025/Flex-Further-Boosts-U-S--Manufacturing-Capacity-to-Meet-Growing-Demand-for-Data-Center-Critical-Power-Solutions/default.aspx .
1037	Cisco's Form 10-K for the fiscal year ending July 26, 2025
1038	Cisco Networking Academy Global Impact Infographic, accessible at https://www.cisco.com/c/en/us/about/csr/impact/education/networking-academy/global-impact-infographic.html .

I. INTRODUCTION

Cisco Systems, Inc. (“Petitioner”) opposes the request by Vusura Technology LLC (“PO” or “Patent Owner”) for Discretionary Denial of Institution (Paper 6, “Request”). The ’303 Patent never should have issued, as demonstrated by the strong, new evidence of invalidity in the Petition, and the strong evidence of apparent examiner error. The Petition is based on prior art that was not before the Patent Office during examination, but would have been if the Examiner had used slightly broader search criteria, instead of criteria requiring words from the ’303 Patent claims that were not even used in the ’303 Patent specification, to conduct his search. The IPR prior art (*Roundtree*) discloses the very limitations that were thought to be missing from the prior art as a result of the Examiner’s erroneous search, and the Petition demonstrates that *Roundtree* does so in the same way (and using the same examples) as the ’303 Patent by consistently reading the Challenged Claims onto *Roundtree* and the ’303 Patent’s disclosure.

Underscoring the importance of this Petition to the validity of the ’303 Patent and the integrity of the patent system, PO does not even request denial under 35 U.S.C. § 325(d), makes misleading statements to the Director in its Request, and advances infringement arguments with the district court that are inconsistent with how the Challenged Claims read onto the ’303 Patent’s disclosure. It is this unreasonable (and inconsistent) reading of the ’303 Patent

claims by PO in its infringement contentions in the parallel district court litigation (the “Litigation”) that caused Cisco’s litigation counsel to preliminarily propose indefiniteness arguments for such claims in the litigation. However, given the Director’s new guidance in decisions designated informative on May 13, 2026, Cisco has withdrawn these indefiniteness positions, and stipulated that it will not pursue any indefiniteness ground against any ’303 Patent claim, in the Litigation.

There is also no basis to give the invalidity of the ’303 Patent a pass under *Fintiv*, especially given the strong evidence of apparent examiner error here. The Litigation is in its early stages, and the district court has not made any meaningful investment in the case. *Markman* briefing does not start until months after institution, summary judgment motions are not due until many months later, and this case is unlikely to proceed to trial on its currently scheduled date, which is two months before the statutory deadline for the IPR final written decision, because there are seven other cases scheduled for trial on that same date.

There is also no basis to shield the ’303 Patent’s invalidity using the “settled expectations” doctrine. This doctrine does not apply because the ’303 Patent is **just four years old**, and the PO is even younger, having been formed in December 2023 and acquiring the ’303 Patent in January 2024. PO’s arguments are meritless as they are based on PO’s mischaracterization of the ’303 Patent as being “highly related” to two other patents asserted in the Litigation when, in fact, these patents

have significantly different disclosures and no ownership by PO until January 2024 and June 2025, respectively.

Finally, relevant to the public interest, Petitioner's accused product in the litigation is provided through Petitioner's U.S. manufacturing investments and represents a substantial investment to U.S. manufacturing, jobs and infrastructure. By contrast, the PO provides zero contributions to U.S. manufacturing.

II. STIPULATIONS

Petitioner stipulates that if the Board grants the Petition and institutes an *inter partes* review, unless institution is later vacated, reversed or otherwise withdrawn by rehearing or Director Review, Petitioner will not pursue in the Litigation the specific grounds that it raised in the Petition, nor any other ground that Petitioner could have reasonably raised in an IPR against the asserted claims of the '303 Patent, nor any invalidity ground based on system prior art corresponding to the printed publication asserted in the specific invalidity ground that it raised in the IPR petition. *See Sotera Wireless, Inc. v. Masimo Corp.*, Case IPR2020-01019, Paper 12 (Dec. 1, 2020) (precedential); *Magnolia Medical Technologies, Inc. v. Kurin, Inc.*, IPR2026-00097, Paper 17 at 3 (Director, May 14, 2026) (precedential); EX1009. Moreover, given the Director's new guidance in decisions designated informative on May 13, 2026, Petitioner stipulates that it will not pursue in the Litigation any indefiniteness

ground under 35 U.S.C. §112 against any claim of the '303 Patent.¹

III. INSTITUTION IS WARRANTED TO CORRECT THE ERRONEOUS ISSUANCE OF THE '303 PATENT

A. The '303 Patent Should Never Have Been Issued

As explained in the Petition, the '303 Patent issued based on the Examiner's mistaken belief that, while the prior art disclosed transmitting multimedia content to a calling party and/or a called party during the two time periods relative to a telephone call that are recited in claim elements [1.0]-[1.3], the prior art did **not** disclose the particular types of content recited in claim elements [1.4]-[1.6], *i.e.*, (i) "selected content compris[ing] information regarding a previous transaction between" the calling party and the called party, and (ii) "additional content compris[ing] information regarding a new transaction conducted between" the caller and called party "during the communication connection." Pet. 9-10, 14-15. But, *Roundtree* discloses these very features – transmitting the particular types of content recited in claim elements [1.4]-[1.6] during the two time periods relative to

¹ By email sent to PO's counsel on June 2, 2026, Petitioner entered the above (i) "*Sotera Plus*" stipulation, *i.e.*, a conventional Sotera stipulation with additional assurances regarding certain system prior art, which the Board has found favorable to institution, and (ii) "*No Indefiniteness*" stipulation. *See* EX1009.

a telephone call that are recited in claim elements [1.0]-[1.3]. The Petition, by consistently reading the Challenged Claims onto *Roundtree's* disclosure and the '303 Patent's disclosure, puts forth compelling evidence that *Roundtree* discloses these very features (and all limitations of the claims) in the same way (and using the same examples) as the '303 Patent. *See, e.g.,* Petition, 8-13 ('303 Patent Pizza and Customer Service Call Center examples), 25-32 (*Roundtree* Pizza and Customer Service Call Center examples); *see also id.* at 33-49.

1. *Roundtree* Discloses the Limitations Added for Allowance

PO does not dispute that *Roundtree* discloses the very limitations that the Examiner thought were missing from the prior art, nor that *Roundtree* does so in the same way (using the same examples) as the '303 Patent. PO also does not make any §325(d) arguments, effectively conceding that the Petition's grounds present an important challenge never considered by the Office. Thus, as a threshold matter, IPR is particularly important here because the Office's pre-grant examination failed to uncover or consider the art and grounds of this Petition, which are neither cumulative nor redundant to the examination upon which the patent rests for its validity. *See Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6, p. 8 (Feb. 13, 2020).

In the Request, while PO does not dispute that *Roundtree* discloses the limitations added for allowance, PO argues that, because *Roundtree* does not use

the words “delaying” or “pausing” a telephone call but instead uses the word “intercepting”, *Roundtree*’s disclosure is limited to “mere ‘interception’ [of a call] for routine processing [which] is not the equivalent of ‘pausing’” recited in claim elements [1.2] and [1.3] of the Challenged Claims. Request 9. To the extent that PO’s arguments are even commensurate with the claim requirements, PO is incorrect and ignores the contrary evidence presented in the Petition.

For example, PO ignores that *Roundtree* discloses software routines which, upon receiving an indication of a telephone call (*e.g.*, dialed phone number), cause the caller’s mobile device to intercept the telephone call, determine locally if the number dialed (for the called party) matches a number supporting enhanced data capabilities and, if so, provide enhanced data services over a data connection before a voice connection is established between the caller and the called party, such as displaying locally stored content (*e.g.*, help screens) to the caller, launching a browser to a predetermined webpage to display content to the caller, re-directing the call to an application running on the mobile device, re-directing the call to an IVRS (Interactive Voice Recognition System), etc. Petition, 34-41.

PO also ignores that the ’303 Patent does not use the word “pausing” apart from the claims, and uses the word “delaying” to describe the identical delaying the voice connection of a telephone call concept as *Roundtree* (while also using many of the same examples): *e.g.*, upon receiving an indication of a telephone call

(e.g., dialed phone number), delaying establishment of a voice connection between the caller and called party to allow a data connection to be established between a controller (which may be local or remote to the caller's device) and the caller's device, such as to determine and present the called party's status, retrieve content to be presented to the caller, allow the caller to review content or choose an alternate course of action if the called party is not currently available. Petition, 34; *see also id.*, 3-6. Accordingly, PO's arguments lack merit.

PO also misleadingly relies on the file history of another patent asserted in the Litigation (the '741 Patent), and refers to it in the Request as being "highly related" to the '303 Patent, while neglecting to inform the Director that it: (i) is a **continuation-in-part of a continuation-in-part** of the common ancestor '930 Patent (of which the '303 Patent is a direct continuation), and (ii) has a significantly different specification than the '303 Patent. Request, 8-9, 11-12; EX2002, 1-2 (63); EX1001, 1-2 (63); EX1012; EX1018 (comparison of '741 Patent and '303 Patent). Accordingly, the prosecution history of the substantively different '741 Patent cannot change this fact demonstrated by the Petition: when the Challenged Claims are consistently read onto *Roundtree* and the '303 Patent, all of their limitations are disclosed in the same way (using the same examples).

2. *Roundtree* Was Not Uncovered Due to Examiner Error

As discussed above, the grounds in the Petition show that '303 Patent never

should have issued. The Examiner's failure to uncover *Roundtree* directly led to the mistaken issuance of invalid claims in the '303 Patent. That *Roundtree* was not before the Office until the IPR Petition is clearly the result of material Examiner error in the prosecution leading to the issuance of the '303 Patent; specifically, the result of erroneous, overly restrictive, prior art searching by the Examiner.

For example, the very limitations that the Examiner mistakenly thought were missing from the prior art – but the Petition resoundingly confirms are disclosed in *Roundtree* – recite several words that are **not** used in the '303 Patent apart from the claims, *e.g.*, “first party”, “second party”, “new transaction”, “additional content.” Petition, 9-10. Accordingly, if the Examiner's search criteria required **any** of these terms to appear **anywhere** in a reference, then the search would **not** even hit on the earlier-issued patents to which the '303 Patent is a direct continuation (*e.g.*, U.S. Pat. No. 8,577,000 (the “Parent '000 Patent”)). EX1001, 1-2 (block (63)).

In this case, when the Examiner searched the prior art in September 2021, after the Applicant added these claim limitations and right before the Examiner issued a Notice of Allowance, the Examiner ran three searches with criteria requiring that **each** of the above four words, **and each** of the words “select\$3”, “content”, “additional”, “communication”, and “receipt”, appear **in the same paragraph**. EX1002, 29-30 (9/2/2021 searches L65, N1, N2); *Id.*, 8-15 (9/13/2021 NOA). Each of these searches was crafted so narrowly by the

Examiner that they not only missed the earlier-issued patents to which the '303 Patent is a direct continuation and *Roundtree*, they yielded **zero hits**. *Id.*

On the same morning that he ran the **zero hits** searches, the Examiner also ran another two prior art searches, with respective patent classification criteria, and with criteria requiring that the words “previous transaction” appear **in the same sentence** as (i) “information” or “data” or “content”, **and** (ii) “pick\$3”² or “choos\$3” or “select\$3” in a reference, which the Examiner identified as yielding thirty-eight and three hits respectively. EX1002, 29-30 (9/2/2021 searches L67 (L66 and L63), L68 (L66 and L64)). However, as shown in the results of Petitioner re-running the identical searches as the Examiner using the USPTO Patent Public Search tool, the Examiner again crafted his search criteria so narrowly that, in actuality, his searches only yielded one and four **unique** hits respectively, and again missed *Roundtree* and the earlier-issued patents to which the '303 Patent is a direct continuation.³ EX1011, 1-2. And, respectively, **zero**

² The \$3 criteria hits for chooses and selecting, but **not** selectively. EX1010, 4.

³ The only unique hit, and one of the four unique hits, in the classification-narrowed searches, was Pat. No. 8,977,242, which claims priority to the same provisional patent application as the '303 Patent, and for which differences

and two of the unique hits from the Examiner's searches **were actually prior art** to the '303 Patent. *Id.*; *see also* footnote 4 (*citing* EX1011, 1-2; EX1012).

Given that his September 2021 searches yielded a total of **only two unique prior art hits**, the Examiner materially erred in prosecuting the '303 Patent by issuing a Notice of Allowance instead of running additional prior art searches using slightly broader search criteria. As demonstrated by the results of Petitioner running the below-identified searches using the USPTO Patent Public Search tool (with changes from the Examiner's ineffective searches reflected in underline), *Roundtree* would have been before the Office during prosecution of the '303 Patent if the Examiner had not materially erred in his prior art searches.

For example, if the Examiner had used the same respective patent classification criteria, criteria requiring that either the words "previous transaction" or "previous call" (i) appear in the same sentence as "information" or "data" or "content", and (ii) in the same paragraph as "pick*" ⁴ or "choos*" or "select*" in a reference, and criteria requiring that the reference be prior art to the '303 Patent,

between their specifications (EX1013, 1) caused the Examiner's search to hit on the '242 Patent but **not** on the Parent '000 Patent. EX1011, 1-2; EX1012.

⁴ The "*" criteria hits for choosing, chooses, selecting, **and** selectively. EX1010, 4.

then his searches would have yielded only eleven and twenty-three unique hits respectively, and **Roundtree would have been among both sets** of unique hits. EX-1011, 3-4; EX1014; EX1015. *Roundtree* is also one of only three references that would have appeared in **both** sets of unique hits. *Id.*

And, for example, if the Examiner had used the same patent classification criteria, but slightly broader search criteria so that his search at least hit on the Parent '000 Patent (to which the '303 Patent is a direct continuation), *e.g.*, criteria requiring an application filed in 2009 or earlier, and criteria requiring that either the words “previous transaction” or “previous call” (i) appear in the same sentence as “information” or “data” or “content”, and (ii) in the same paragraph as “pick*” or “choos*” or “select*” or “identif*” in a reference, then his search would have yielded only nineteen and forty-two unique results respectively, of which the Parent '000 Patent would have been among the CCLS classification search unique hits, and **Roundtree would have been among both sets** of unique hits.⁵ EX1011, 5-6; EX1016; *see also* EX1011, 7-8; EX1017. *Roundtree* is also one of only four

⁵ The Parent '000 Patent is only among the CCLS classification search results (EX1011, 5; EX1016), while *Roundtree* appears in both the CPC and CCLS classification search results (*id.*; EX1011, 6, 8; EX1016; EX1017).

references that would have appeared in **both** sets of unique hits. *Id.*

Accordingly, the fact that the Examiner's keyword-based searches in September 2021 would not have even hit on the specification of the '303 Patent (which it shares with the Parent '000 Patent), and the above-identified results of exemplary searches using slightly broader search criteria (which identify *Roundtree* in every exemplary search), confirm that it was a material error for the Examiner to issue a Notice of Allowance after his September 2021 searches had yielded a total of **only two unique prior art hits**. This substantial showing of apparent examiner error, especially here where the very basis upon which grant of the '303 Patent is eviscerated by the Petition and where PO makes misleading statements to the Director in its Request, should overcome other factors that suggest discretionary denial. *Magnolia*, 8 (citing *Padagis US LLC v. Neurelis, Inc.*, IPR2025-00464, Paper 12 (Director July 16, 2025) (informative)).

IV. THE *FINTIV* FACTORS WARRANT INSTITUTION

As explained above, instituting this IPR to correct the Examiner's material error "serves the interest of overall system efficiency and integrity." *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 15 (PTAB Mar. 20, 2020) (precedential). The other *Fintiv* factors also warrant consideration of the merits and institution because, as explained below, they either favor institution or are neutral.

A. Factor 1: Likelihood of a Stay

No party has requested a stay, and the district court has not indicated whether a stay would be granted. Therefore, this factor is neutral. See *Hulu, LLC v. SITO Mobile, Ltd.*, IPR2021-00298, Paper 11, 10-11 (PTAB May 19, 2021).

B. Factor 2: Timing of Trials

Factor 2 is neutral. Petitioner acknowledges that trial is currently scheduled in the Litigation for July 12, 2027, which is just short of two months before the projected Final Written Decision due date (September 6, 2027). EX2007, 1. However, given that there are seven other cases currently scheduled for trial before the same judge on this same date, it is unlikely that this case will proceed to trial that day. EX1019. The Office has recognized that scheduled trial dates are not immutable. See *Boe Tech. Grp. Co. v. Optronix Sci. LLC*, IPR2024-01130, Paper 16 at 10 (Jan. 27, 2025). The median time-to-trial in E.D. Texas is currently 24 months (a figure that has been steadily climbing over the past several years), which predicts a trial date around the last week of August 2027. EX1020, 35. The realistic prospect of further delay suggests that trial would likely happen around the same time or after the Board issues a FWD in the IPR.

C. Factor 3: Investment in Parallel Proceedings

Factor 3 favors institution. As held by the Board in *Fintiv*, “[i]f, at the time of the institution decision, the district court has not issued orders related to the patent

at issue in the petition, this fact weighs against exercising discretion to deny institution.” *Fintiv*, 10. Here, the district court has not issued any orders, and will not issue a *Markman* order, or any prior art invalidity orders, until long after the institution decision is set to occur. EX2007, 2-4.

PO misleads the Director as to the amount of investment that will be made by the district court in the Litigation at the time of the expected institution date, September 6, 2026. Although the parties have exchanged contentions and commenced fact discovery, there will be no claim construction briefing or hearing until well after institution. EX2007, 5. Preliminary claim constructions are not due to be exchanged until after institution (September 22, 2026), claim construction briefing commences two months later (November 24, 2026) and the *Markman* hearing is scheduled for four months after the institution date (January 5, 2027). *Id.*

Moreover, Petitioner diligently prepared and filed the Petition less than four months after receiving PO's infringement contentions and nine months before claim construction briefing is scheduled to commence. *See Samsung Elecs. Co. v. Mullen Indus. LLC*, IPR2024-01472, Paper 9 at 10 (Mar. 31, 2025).

D. Factor 4: Overlap of Issues

Factor 4 favors institution. In view of Petitioner's *Sotera Plus* stipulation (*see* §II), there currently is, and there will be, no overlap between the issues raised in the Petition and issues to be adjudicated in the Litigation.

E. Factor 5: Overlap of Parties

Factor 5 is neutral. The Board has long recognized that it is commonplace for petitioners to be defendants and does **not** weigh in favor of denial. *See, e.g., HP Inc. v. Slingshot Printing LLC*, IPR2020- 01084, Paper 13 at 9 (Jan. 14, 2021).

F. Factor 6: Other Circumstances

1. Petitioner's *No Indefiniteness* Stipulation Favors Institution

PO arguments regarding Petitioner's preliminary indefiniteness arguments in its invalidity contentions are moot in view of Petitioner withdrawing these indefiniteness positions and entering the *No Indefiniteness* stipulation (*see* §II) following the Director's issuance of new guidance in decisions designated informative in May 2026. EX1009; *TikTok, Inc. v. Shopsee, Inc.*, IPR2025-01485, Paper 13, 2-3 (Director, Jan. 16, 2026) (designated May 13, 2026); *Magnolia*, 8.

2. The Petition's Merits, and Demonstration of Apparent Examiner Error, Strongly Favor Institution

As explained above, §III, the evidence of invalidity in the Petition is overwhelming, presents prior art unlike any of the art that the Examiner considered when deciding to issue the Challenged Claims, and apparent Examiner error is the reason that *Roundtree* was not previously before the Office. Integrity of the patent system counsels that the Director should not exercise discretion to prevent correcting this error in the original patent grant by considering the merits of the critical evidence of invalidity presented in the Petition. *Magnolia*, 6-8; *Fintiv*, 14-15.

**V. THE SETTLED EXPECTATIONS DOCTRINE DOES NOT
WARRANT SHIELDING THE '303 PATENT FROM REVIEW**

The '303 Patent issued on January 18, 2022, just four years before the Petition was filed. EX1001. That is too young under the new settled expectations doctrine. *Shenzen Tuozhu Technology Co., LTD v. Stratasys, Inc.*, IPR2025-00611, Paper 10 (Jul. 17, 2025) (rejecting settled expectations argument for denial because patents issued in 2020 had “not been in force for a significant period of time”). The '303 Patent is likewise too young as compared to the six-year period that the Director has referenced in support of the settled expectations doctrine. *Dabico Airport Solutions Inc. v. AXA Powers APS*, No. IPR2025-00408, Paper 21 (June 18, 2025). Thus, even to the extent that the settled expectations doctrine is valid, here the patent is too young for the Petition to be denied on that basis.

Moreover, PO was not even formed as a company until recently (December 29, 2023), only recently acquired the '303 Patent (January 30, 2024), and filed the Litigation against Petitioner nineteen months later (August 25, 2025). EX1023; EX1024, 5; EX2004. In these circumstances, **PO** could not have begun developing any expectations as to the '303 Patent until ***January 2024 at the earliest***. PO has not asserted that PO (nor the inventor Mr. Brown) commercialized, asserted, marked, licensed, or otherwise applied the '303 Patent. Thus, PO can have no settled expectations as to the non-invalidity of the '303 Patent.

*Petitioner's Opposition to Patent Owner's Request for
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PO's arguments are meritless as they are based on PO's mischaracterization of the '303 Patent as being "highly related" and "highly intertwined" to two other patents asserted in the Litigation when, in fact, these patents have significantly different specifications and materially different claims to those of the '303 Patent. Request, 11-13. For example, the '092 Patent has **no** familial relationship with, shares **no** common ancestor with, and has an entirely different specification and materially different claims than, the '303 Patent. EX2003, 1; EX1001, 1-2 (63); EX1027; EX1026 (comparison of '092 Patent and '303 Patent specifications and claims). Additionally, for example, the '741 Patent (i) is **a continuation-in-part of a continuation-in-part** of the common ancestor '930 Patent (of which the '303 Patent is a direct continuation), and (ii) has a significantly different specification and materially different claims than the '303 Patent. EX2002, 1-2 (63); EX1001, 1-2 (63); EX1012; EX1018 (comparison of '741 Patent and '303 Patent specifications and claims). The recently formed PO also did not acquire the '092 Patent and '741 Patent until June 22, 2025 and January 30, 2024 respectively; therefore, **PO** could not have begun developing any expectations as to these other patents until ***January 2024 at the earliest***. EX1025; EX1024, 6.

PO also posits briefly that the '092 Patent had been asserted by a different owner (Alto Ventures, Inc.) against "five telecommunication companies... in 2011", but, outside of its mischaracterization of the '092 Patent and '303 Patent as

being “highly related” (when they clearly are not), PO fails to justify why that should expand the new settled expectations doctrine to a different, recently-formed PO, and to a different, recently-issued patent, here. Request, 13; EX2004, 1. It is telling what PO does not say. PO does not assert that Petitioner, who was **not** one of the “five telecommunication companies”, had any knowledge whatsoever of the ’092 Patent (nor the ’741 Patent, nor ’303 Patent), until PO filed the Litigation in August 2025. In the Litigation, PO concedes that Cisco’s knowledge is only as of “the filing and service of the Complaint on August 25, 2025.” EX1021, 4.

In short, PO has **not** shown that there are any facts that would be probative of PO’s “settled expectations” of the ’303 Patent, as is its burden in the Request.

VI. PETITIONER’S U.S. MANUFACTURING FAVORS INSTITUTION

The Director’s March 11, 2026 Memorandum entitled “Additional Discretionary Institution Considerations—U.S. Manufacturing and Small Business Use of AIA Proceedings” (the “Memorandum”) recognizes that “the availability of IPRs...is important to protect American manufacturers.” As discussed below, discretionary denial here would frustrate—not further—the Memorandum’s stated purpose because it would deprive Petitioner Cisco—an American technology company whose products are built in America and advance U.S. manufacturing operations—of access to PTAB review. Memorandum, 2; *Magnolia*, 4, 7.

First, the accused product in the Litigation – WebEx Contact Center – is

provided by Cisco's own domestic data center facilities for which Cisco invested heavily in U.S. manufacturing to build. *See* Memorandum, 2-3; EX1029, 4-5 (Cisco's WebEx Contact Center-supporting data centers in New York, California and Texas and noting that, "[w]hen [a customer] purchases a [WebEx Contact Center] subscription, **Cisco creates, processes, and stores your information in the United States** regardless of the subsequent provisioning of your accounts in a chosen regional cloud."). PO's Complaint, and infringement contentions, in the Litigation acknowledge that Cisco's U.S. data centers and servers are central to the computer-readable media, apparatus, and to carrying out the methods, mapped to the Webex Contact Center service. EX2004, 4-5; EX1030, 10-11, 128-136, 139-144.

Second, Cisco's efforts to develop and release its WebEx Contact Center product in 2019 included another major "investment[] in American manufacturing operations", namely its 2018 acquisition of BroadSoft, a U.S. headquartered, cloud calling and contact-center solution company. Memorandum, 2; EX1031; EX1032.

Third, Cisco contributes to building up U.S. manufacturing and the U.S. workforce in many other ways. Cisco is an American technology company that designs, manufactures, and sells networking equipment throughout the U.S. and worldwide. Cisco has demonstrated its commitment to U.S. manufacturing through its Build America, Buy America ("BABA")-certified products for the BEAD Program, including the manufacture of various products in Carrollton, Texas.

EX1033. Cisco's products are manufactured through a network of manufacturing partners, several of which maintain substantial operations in the U.S. Many of Cisco's preferred component suppliers are U.S.-headquartered companies with domestic manufacturing operations. EX1034; EX1035; EX1036. Cisco employs almost 41,000 workers in the U.S., and has trained millions for U.S. employment through initiatives like the Cisco Networking Academy. EX1037, 17; EX1038.

By contrast, PO is a patent holding and assertion company that has no manufacturing operations, makes no manufacturing investments, does not even appear to have a website, and whose business address appears to be a private mailbox at a PostNet center. EX2004, 2 (¶5), 6 (¶¶21-22); EX1028, 1-2, 8, 10-11. Cisco's meritorious challenge to the validity of the '303 Patent is a legitimate effort to clear an invalid patent that seeks to impede—or to tax—Cisco's services to U.S. customers and support for America's tech and manufacturing sectors.

VII. CONCLUSION

PO has identified no legitimate basis for the Director to deny institution on any discretionary factors. Institution should be granted.

*Petitioner's Opposition to Patent Owner's Request for
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Respectfully submitted,

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Dated: June 5, 2026

CERTIFICATION OF SERVICE ON PATENT OWNER

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on June 5, 2026, a copy of Petitioner's Opposition to Patent Owner's Request for Discretionary Denial was filed by filing this document through the PTACT's System as well as delivering a copy via electronic mail upon lead and backup counsel for the Patent Owner as follows:

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