UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMCAST CABLE COMMUNICATIONS, LLC,
Petitioner,

v.

ENTROPIC COMMUNICATIONS, LLC.,
Patent Owner.

Case IPR2025-00180
Patent 11,785,275

PATENT OWNER'S PRELIMINARY RESPONSE

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2002	Table of All Petitions Filed By Comcast (As Petitioner or RPI) (2016-2025) [All-Comcast-Petitions]
2003	PTAB Multiple Petitions Study [Multiple-Petitions-Study]
2004	PTAB Multiple Petitions Study Executive Summary [Executive-Summary]
2005	FreeWheel About Webpage (www.freewheel.com/about)
2006	Declaration of Kenneth K. Wang [Wang-Decl.]
2007	Director Vidal's June 21, 2022, Memorandum Regarding Discretionary Denial With Co-Pending District Court Litigation[Interim-Denial-Memo]
2008	Reserved
2009	Email Request For Director Review [PainTEQ-Email-Request]
2010	Formal Request For Director Review [PainTEQ-Rehearing-Request]

I. INTRODUCTION[1]

On December 6, 2024, Comcast filed six parallel petitions against just two patents owned by Patent Owner:

Comcast's Six IPR Petitions Against Just Two Entropic Patents			
Petition	**Patent**	**Challenged Claims**	**Primary Reference**
IPR2025-00180	11,785,275	1-20	Zhang
IPR2025-00181		1-20	Petrovic-Eidson
IPR2025-00182		1-20	Pugel-Crols
IPR2025-00183	9,866,438	1-18	Cooper
IPR2025-00184		1-18	Prodan
IPR2025-00185		1-18	Thibeault

This response addresses the three parallel petitions directed at the '275 patent, relying as their primary reference on Zhang, Petrovic-Eidson and Pugel-Crols, respectively. Less than a year before filing its current set of parallel petitions, Comcast had filed three sets of three parallel petitions each on February 16, 2024, based on the ***same*** primary references against three other patents owned by the Patent Owner and which share the same specification with the '275 patent:

[1] Given their common basis, this Patent Owner Preliminary Response is substantively identical to the ones filed in IPR2025-00181 and IPR2025-00182.

Comcast's Nine IPR Petitions Against Just Three Entropic Patents			
Petition	**Patent**	**Challenged Claims**	**Primary Reference**
IPR2024-00432	9,210,362	1-20	Zhang
IPR2024-00433		1-20	Petrovic-Eidson
IPR2024-00434		1-20	Pugel-Crols
IPR2024-00435	11,381,866	1-82	Zhang
IPR2024-00436		1-82	Petrovic-Eidson
IPR2024-00437		1-82	Pugel-Crols
IPR2024-00438	11,399,206	1-76	Zhang
IPR2024-00439		1-76	Petrovic-Eidson
IPR2024-00440		1-76	Pugel-Crols

In October 2024, the Board instituted only the first petition in each set, denying the second and third parallel petitions in each set, -00433, -00434, -00436, -00437, -00439, -00440. The Board held that the second and third petitions in each of the three sets, based on Petrovic-Eidson and Pugel-Crols primary references respectively, were not justified:

> In sum, in the words of our Practice Guide, Petitioner fails to show "why the Board should exercise its discretion to institute additional petitions if it identifies one petition that satisfies petitioner's burden under 35 U.S.C. § 314(a)." Practice Guide 60.

IPR2024-00433, Paper 13, 11 (denying petition based on Petrovic-Eidson); *see also* IPR2024-00436, Paper 13, 12 (similar); IPR2024-00439 (similar), Paper 14, 10 (similar); IPR2024-00434, Paper 13, 11 (denying petition based on Pugel-Crols); IPR2024-00437, Paper 13, 11 (similar); IPR2024-00440, Paper 13, 10 (similar).

Yet, Comcast proceeded to file its current set of three parallel petitions even though the Board just months earlier had found the same primary references do not justify filing parallel petitions in nine different cases. This is because it is Comcast's *modus operandi* to file coordinated parallel petitions against the same patent owner, usually in large numbers, to maximize the burden and harassment of patent owner, and to diminish patent owner's ability to challenge institution on the merits. The Board should deny all three petitions to deter Comcast from repeating its knowing, repeated and pervasive abuse of the IPR process.

Filing three IPR petitions against a single patent is contrary to Office policy. In July 2019, the Office made clear that one IPR per patent is sufficient in most instances, that "multiple petitions by a petitioner are not necessary in the vast majority of cases," that even two IPRs against a given patent should be "rare," and that ***three IPRs against a given patent are "unlikely" to <u>ever</u> be "appropriate."*** Trial Practice Guide (July 2019 Update) ("Guidance"), 26; *see also* Consolidated Trial Practice Guide (Nov. 2019) ("CTPG"), 59. And this policy is for good reason. "Two or more petitions filed against the same patent at or about the same time … may place a substantial and unnecessary burden on the Board and the patent owner and could raise fairness, timing, and efficiency concerns." *Id.*; *see also* Section II.A.

Ignoring the Guidance, Petitioner filed six IPR petitions against just two patents, the very thing the Office said was "unlikely" to ever be "appropriate." In fact, it did so despite the Board advising it months earlier that the same collection of primary references do not justify three parallel petitions. *See, e.g.*, *Comcast Corporation v. Entropic Communications, LLC*, IPR2024-00434 Paper 13, 10-11 (Oct. 8, 2024) ("[a]s our Practice Guide cautions, '[t]wo or more petitions filed against the same patent at or about the same time . . . may place a substantial and unnecessary burden on the Board and the patent owner and could raise fairness, timing, and efficiency concerns.'"). And, to increase the "substantial and unnecessary burden on … the patent owner" to the fullest extent possible, Comcast timed its filings so that it filed the six IPR petitions against Entropic's patents on the same day.

This IPR deluge is hardly the consequence of any feature unique to these two patents which, somehow, justified three parallel petitions against each. Nor was Comcast unaware of the Office's Guidance. In addition to the Board's recent October 2024 decisions (cited above) against Comcast itself based on the same primary references, it was Comcast's filing of six petitions challenging a single patent that gave rise to the Guidance in the first place. *See* Section II.B.1, *infra*; *see also* CTPG, 60 (n 4) (citing Comcast cases).

But even after the Guidance, Comcast remained undeterred. Since the Guidance issued, Comcast (either directly or as an RPI) filed 87 IPRs, 81 of which (93%) were parallel petitions. *See* Section II.B.2. As is evident from Comcast's years-long filing of overwhelmingly parallel petitions, Comcast's *modus operandi* is to file three (or more) parallel petitions against the same patent. *See* Ex. 2002 [All-Comcast-Petitions]. Comcast, moreover, stockpiles its petitions to file them concurrently in enormous waves in an effort to overload the Board and patent owners. Since the Guidance, in addition to the current six IPR wave, and an earlier 17 IPR wave months earlier in February 2024 (both against Patent Owner), Comcast has also filed additional waves of 21 and 23 IPRs against another patent owner in a very short period of time. *See* Section II.B.2.

In this regard, Comcast is an extreme outlier and by far the most egregious filer of parallel petitions. Among the top 10 filers of parallel petitions since the Guidance, 93% of Comcast's petitions have been parallel petitions, more than doubling the rate of the next highest filer (Intel at 46%). Moreover, 75% of Comcast's parallel petition sets involved 3 or more petitions against a single patent, more than tripling the rate of the next highest filer (Intel at 24%). *See* Section II.B.3.

The Board's denials, however, have not deterred Comcast from its abusive practices. Indeed, between December 2023-December 2024, Comcast (as a

petitioner or real party-in-interest) filed 35 more parallel petitions, including the 6 recently filed against two Entropic patents. Thus, Comcast's record speaks for itself: it is a singularly egregious abuser of the IPR process that routinely files enormous waves of parallel petitions (typically raising three or more IPR petitions against each patent) to unnecessarily burden and harass patent owners, without regard to the Board's resources, in violation of the Office's Guidance, and in defiance of the Board's regular, yet still resource-consuming, rejections of its improper filings.

Patent Owner respectfully submits that the Board should put an end to Comcast's abusive and harassing filings, which show no sign of abating. Certainly, issuing the Guidance (which Comcast's abusive filings prompted) and the Board's usual course of denying institution of parallel petitions have not deterred Comcast. Indeed, Comcast has refiled the instant set of parallel petitions relying on the same primary references that the Board just months earlier found do not justify filing parallel petitions. The only thing that would deter Comcast in the future is if the Board were to exercise its absolute discretion to deny institution of all three of Comcast's parallel petitions challenging the '275 patent. *See* Section II.C.

But even if the Board were inclined to consider and potentially institute any of Comcast's petitions, it should, at most, consider only one of the three. The

ranking paper Comcast provides here recycles the same shopworn justifications that it has deployed time and again to secure multiple petitions, and that the Board has repeatedly rejected. *See* Section II.D.1. These excuses fare no better here and confirm that Comcast has not remotely justified consideration and potential institution of more than one petition per set at most. Indeed, as noted, the Board has already denied parallel petitions by Comcast based on the same primary references. *See* Section II.D.2.

II. THE BOARD SHOULD DENY ALL THREE PETITIONS CHALLENGING THE '275 PATENT IN VIEW OF COMCAST'S EGREGIOUS AND HARASSING FILING OF PARALLEL PETITIONS AND TO DETER FURTHER MISCONDUCT.

Petitioner Comcast's persistent practice of filing three IPR petitions against a single patent has been contrary to the Office's expressly written policy since July 2019. *See* Section II.A. This is no surprise to Comcast, whose prior abusive filings instigated the rule in the first place. *See* Section II.B.1. That pointed guidance, however, has not deterred Comcast. Since the guidance was issued, Comcast (directly or as an RPI) has filed 87 IPRs, 81 of which were parallel petitions directed towards just 24 patents. *See* Section II.B.2. Though the Board has generally not instituted more than one Comcast IPR against a single patent since the Guidance, Comcast filed another 35 parallel petitions in the one year period between December 2023-December 2024. *See* Section II.B.3. Because

Comcast has egregiously abused the IPR process through mass waves of parallel petitions, and it has not been deterred by the Office's prior actions, the Board should deny institution of all three of the parallel petitions challenging the '275 patent. *See* Section II.C. But even if the Board were inclined to overlook Comcast's years-long misconduct, Comcast has not remotely justified more than a single IPR for it has trotted out the same old excuses the Board has repeatedly rejected. *See* Section II.D.

A. Since July 2019, The Board Has Made Clear That Filing Three Parallel Petitions Against A Patent Is "Unlikely" To Ever Be Appropriate.

Since at least July 2019, the Office has made clear that parallel petitions are disfavored. As the Office has explained, one "petition should be sufficient to challenge the claims of a patent in most situations," "multiple petitions by a petitioner are not necessary in the vast majority of cases," institution on even two parallel petitions should be "rare," and three petitions from a petitioner is "unlikely" to ever be "appropriate." Trial Practice Guide Update (July 2019), 26; *see also* Consolidated Trial Practice Guide (Nov. 2019), 59 (same).

As the Guidance explained, filing multiple petitions against the same patent "at or about the same time … may place a substantial burden on the Board and the patent owner and could raise fairness, timing, and efficiency concerns." *Id.* Even more recently, the Office reiterated "the Office's goal of reducing duplicative

challenges to a patent and … preventing undue harassment of patent owners through the filing of multiple challenges to a patent …" in a Notice of Proposed Rulemaking relating to, *inter alia*, parallel petitions.[2]

The Office yet again reaffirmed this policy in July 2023, stating in its Multiple Petitions Study (FY 2021-FY 2022 Update) that "most patents are challenged by only one petition" and that "institution of AIA trials based on multiple petitions are" and "should be" "rare." *See* Ex. 2004 [Executive-Summary[3]]. A majority of the time when parallel petitions have been permitted, moreover, it has been because the patent owner did not contest the filing of multiple petitions. Ex. 2003 [Multiple-Petitions-Study[4]] 14 (finding that 70% of

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[2] Patent Trial and Appeal Board Rules of Practice for Briefing Discretionary Denial Issues, and Rules for 325(d) Considerations, Instituting Parallel and Serial Petitions, and Termination Due to Settlement Agreement. Federal Register, Vol. 89, No. 77, 28,693 at 28,699 (April 19, 2024).

[3] Also available at: https://www.uspto.gov/sites/default/files/documents/executive_summary_ptab_multiple_petitions_study_fy2021-2022_update.pdf

[4] Also available at: https://www.uspto.gov/sites/default/files/documents/ptab_multiple_petitions_study_fy20212022_update.pdf?utm_campaign=

allowed parallel petitions in 2021 and 54% in 2022 were allowed because "Patent Owner did not contest" those parallel petitions).

B. Comcast Is By Far The Most Egregious Filer Of Parallel Petitions.

1. It Was Comcast's Filings That Prompted The Office To Presumptively Bar Parallel Petitions In July 2019.

Notably, it was Comcast's filing of six petitions against a single patent that led to the Office's issuance of its July 2019 guidance on parallel petitions, which expressly cited Comcast's improper actions. On November 10, 2018, Comcast filed six IPR petitions challenging U.S. Patent No. 7,827,585. *See Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-00224, -00225, -00226, -00227, -00228, -00229 (Nov. 10, 2018); *see also* CTPG, 60, n.4. As the panel recognized, "[m]aintaining multiple, concurrent proceedings per patent represents a significant burden for the Board" and "when there are other related patents also challenged by multiple petitions at the same time, as is the case here, this can undermine the Office's ability to complete proceedings in a timely manner and may place an unfair burden on the Patent Owner." IPR2019-00224, Paper 10, 3 (April 3, 2019); *id.*, ("We agree with Patent Owner … that the number of Petitions

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here challenging each patent may place a substantial and unnecessary burden on the Board and Patent Owner."). In response, the panel ordered Comcast to rank its six petitions and provide a succinct explanation of the differences between petitions and why those differences were material. *Id.*, 4. Following the parties' submissions in that case, the Board instituted Comcast's first ranked petition and denied institution of the other five petitions. *Id.*, Paper 14, 7-8 (June 3, 2019) (instituting review in lead petition while explaining review was denied in the other five cases).

Just a few months later, that panel's approach was expressly adopted as Office policy in the July 2019 Update to the Trial Practice Guide. Trial Practice Guide (July 2019 Update), 27, n.4; *see also* CTPG, 60, n.4 (same). Further confirming that Comcast's filing of six petitions challenging a single patent was what precipitated the Office's policy disfavoring parallel petitions, in an Office study released in July 2023, the Board's graphics repeatedly referenced the *Comcast v. Rovi* case as a hinge point:

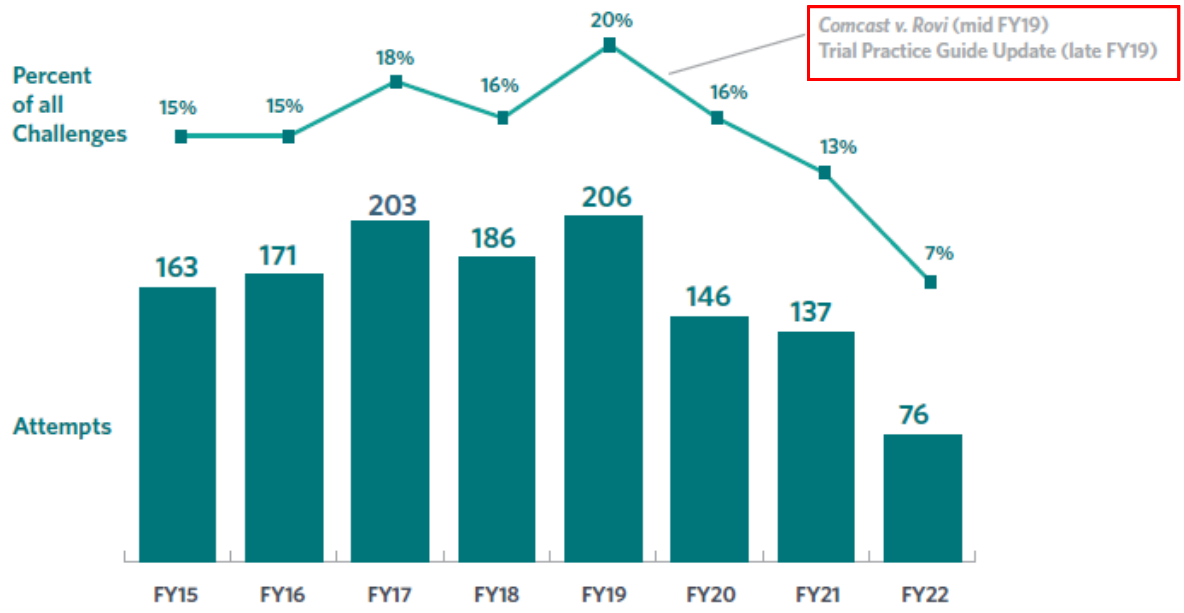

Figure 3. Parallel petitions: attempts per fiscal year (FY15 to FY22: October 1, 2014, to September 30, 2022).

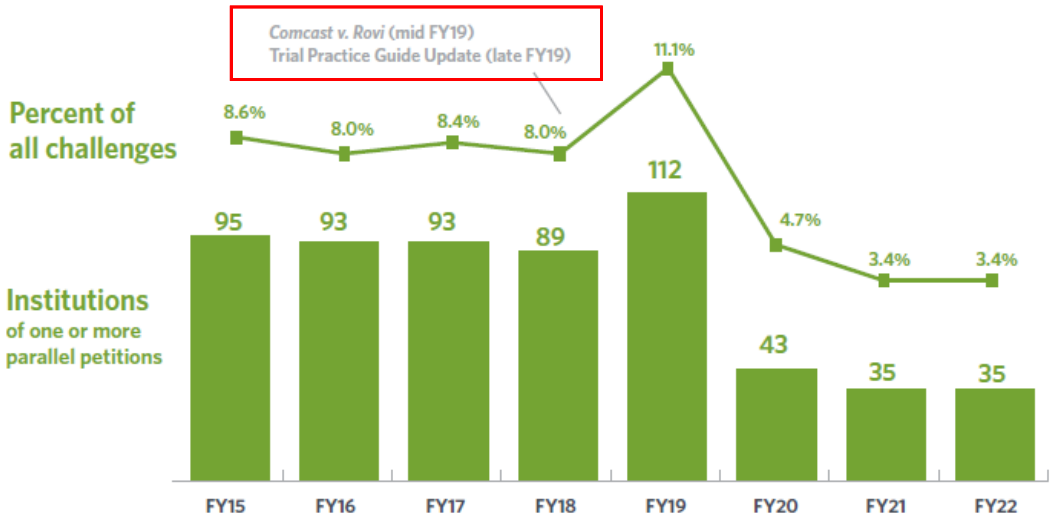

Figure 4. Parallel petitions: multiple instituted trials on parallel petitions per fiscal year (FY15 to FY22: October 1, 2014, to September 30, 2022).

Ex. 2004 [Executive-Summary] 6 (red box added, text within the red box in original).

Nor was it just a mere coincidence that Comcast's six petitions just happened to be the proverbial straw that broke the camel's back and led the Board to promulgate its clarified guidance disfavoring parallel petitions. Rather, Comcast had an extensive history of filing parallel petitions prior to the Guidance. Between September 26, 2016 and June 27, 2019, Comcast directly filed 100 petitions, 90 of which (90%) were what would later be referred to as "parallel petitions." *See* Ex. 2002 [All-Comcast-Petitions]. These 90 petitions comprised 27 sets of petitions challenging an individual patent, an average of 3.3 IPRs per patent. *Id.* Even prior to the Guidance, the Board exercised its discretion to deny a majority of these parallel petitions filed by Comcast.[5]

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[5] *See, e.g., Comcast Cable Communications, LLC v. Rovi Guides, Inc.,* IPR2019-00279, Paper 10, 6 (July 1, 2019) ("In considering a balanced assessment of all relevant circumstances in these proceedings, we are not persuaded by Petitioner that institution of additional, concurrent proceedings would promote the efficient administration of the Office or the integrity of the system."); *Comcast Cable Communications, LLC v. Rovi Guides, Inc*., IPR2019-00285, Paper 15, 6-7 (June 10, 2019) ("On the other hand, we do not find the asserted differences between the petition in that proceeding and the Petitions addressed here are

2. Since The Guidance Issued, 81 Of Comcast's 87 IPR Petitions Have Been Parallel Petitions.

Again, it was Comcast's abusive filings that caused the Office to adopt a policy indicating that institution of even two parallel petitions challenging a single patent should be "rare" and that three would be "unlikely" to ever be "appropriate." This sequence of events, and the guidance on its own, should have ended Comcast's indiscriminate filing of parallel petitions.

But it didn't. Instead, Comcast has continued to file an extraordinary number of parallel petitions after the Office's guidance on parallel petitions was issued on July 15, 2019. Indeed, since July 15, 2019, Comcast (either as a named petitioner or as a named real-party-in-interest) has filed 87 IPR petitions, 81 of which (93.1%) were parallel petitions. Ex. 2002 [All-Comcast-Petitions]. Thus,

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sufficiently material and in dispute to support the inefficiencies and costs associated with instituting an additional five inter partes reviews."); *Comcast Cable Communications, LLC v. Rovi Guides, Inc*., IPR2019-00232, Paper 14, 9 (May 20, 2019) (same); *Comcast Cable Communications, LLC v. Rovi Guides, Inc*., IPR2019-00300, Paper 13, 8 (July 1, 2019) (same); *Comcast Cable Communications, LLC v. Veveo, Inc.,* IPR2019-00291, Paper 16, 6 (July 5, 2018) (same).

since the Guidance took effect, an even higher percentage of Comcast's IPR filings have been parallel petitions (93.1%) as compared to its filings prior to the Guidance (90%).

Indeed, Comcast did not even take a moment to pause in view of the Office's Guidance. Rather, Comcast filed 46 IPR petitions between July 19, 2019 and April 24, 2020, ***every single one of which was a parallel petition***. Of the 46, 44 challenged just 14 Rovi patents, an average of 3.14 IPR petitions per patent.[6] In all 44 of these IPR proceedings, and in nearly all its parallel petition filings since the Guidance, Comcast was represented by the same law firm and lead counsel, including in the present proceeding. *Compare* Ex. 2002 [All-Comcast-Petitions] *with* Pet., ix (listing counsel).

More precisely, as shown in the table below, 13 of the 14 Rovi patents were challenged with three or more IPRs each, including two patents against which Comcast brought four and five IPRs respectively. The 44 post-Guidance IPRs filed against Rovi patents came in two waves of 23 IPR petitions filed between July 19 and August 20, 2019, and another wave of 21 IPR petitions filed between

[6] Comcast, using different counsel, filed two other parallel petitions challenging a non-Rovi patent. *See Comcast Cable Communications, LLC v. WhereverTV, Inc.*, IPR2019-01483, -01484 (August 20, 2019).

April 17 and April 24, 2020. As is apparent, Comcast timed its filings to cause as much burden and expense for Rovi as possible.

Between July 19, 2019 and April 24, 2020, Comcast Filed 44 Parallel Petitions Challenging Just 14 Rovi Patents				
Set	**Filing Dates**	**Patent**	**#IPRs Filed**	**IPR #s**
Wave 1: 23 parallel petition IPRs between July 19-August 19, 2019				
1	7/19-8/1/2019	8,448,215	3	IPR2019-01353 IPR2019-01354 IPR2019-01355
2	7/26-8/1/2019	9,055,319	3	IPR2019-01375 IPR2019-01376 IPR2019-01377
3	7/30-8/2/2019	7,735,107	2	IPR2019-01416 IPR2019-01417
4	7/31-8/2/2019	8,973,069	3	IPR2019-01434 IPR2019-01435 IPR2019-01436
5	7/31-8/2/2019	9,232,254	3	IPR2019-01413 IPR2019-01414 IPR2019-01415
6	7/31 – 8/5/2019	7,873,978	3	IPR2019-01418 IPR2019-01419 IPR2019-01420
7	7/31 – 8/5/2019	8,272,019	3	IPR2019-01431 IPR2019-01432 IPR2019-01433
8	7/31 – 8/19/2019	9,118,948	3	IPR2019-01421 IPR2019-01422 IPR2019-01423
Wave 2: 21 parallel petition IPRs between April 17-22, 2020				
9	4/17/2020	7,779,445	3	IPR2020-00800 IPR2020-00801 IPR2020-00802

Between July 19, 2019 and April 24, 2020, Comcast Filed 44 Parallel Petitions Challenging Just 14 Rovi Patents				
Set	**Filing Dates**	**Patent**	**#IPRs Filed**	**IPR #s**
10	4/17/2020	8,001,564	3	IPR2020-00806 IPR2020-00807 IPR2020-00808
11	4/22 - 4/24/2020	7,200,855	3	IPR2020-00787 IPR2020-00788 IPR2020-00789
12	4/22/2020	7,301,900	4	IPR2020-00790 IPR2020-00791 IPR2020-00792 IPR2020-00793
13	4/22/2020	7,386,871	5	IPR2020-00796 IPR2020-00797 IPR2020-00798 IPR2020-00799 IPR2020-00812
14	4/22/2020	8,156,528	3	IPR2020-00809 IPR2020-00810 IPR2020-00811

Ex. 2002 [All-Comcast-Petitions].

This is the opposite of what the Office's Guidance indicated was appropriate. Though the Guidance indicates that one IPR is sufficient the "vast majority" of the time, ***all*** of the 46 IPR petitions Comcast filed in this period were parallel petitions. Though the Office made clear that three IPRs challenging a single patent were "unlikely" to ever be "acceptable," that became Comcast's default; Comcast filed three or more IPR petitions against 13 different patents between July 19, 2019 and April 22, 2020.

While Comcast filed no parallel petitions between April 24, 2020 and December 26, 2023, this was simply a consequence of the fact that Comcast filed no IPR petitions at all in this period. Once Comcast began filing IPR petitions again, Comcast picked up right where it left off. In the one-year period between December 2023-December 2024, it filed 35 more parallel petitions challenging just 13 patents (2.69 IPRs per patent), including 17 parallel petitions (and 23 petitions total) against Entropic:

Between December 27, 2023 and January 31, 2025, Comcast[7] Filed 35 Parallel Petitions Challenging 13 Patents					
Set	**Filing Date**	**Patent**	**Patent Owner**	**#IPRs Filed**	**IPR #s**
1	12/27/2023	8,356,251	Touchstream Technologies	2	IPR2024-00321 IPR2024-00322
2		11,048,751		2	IPR2024-00323 IPR2024-00324
3		11,086,934		2	IPR2024-00325 IPR2024-00326

[7] The 12 IPRs corresponding to sets 8-11 (i.e., the IPRs filed against Intent IQ and Almond Net) list Freewheel Media as the Petitioner but also list three Comcast entities as real parties-in-interest. *See, e.g.*, IPR2024-00421, Paper 2, viii (March 1, 2024). The email service list for petitioner is ComcastIPRService@bannerwitcoff.com, the same email service list used in the present Petition. *Compare id.*, xv *with* Pet., ix. Freewheel Media identifies itself as a "Comcast company." Ex. 2005 [https://www.freewheel.com/about].

4	2/15/2024 – 2/16/2024	10,135,682	Entropic Communications	2	IPR2024-00444 IPR2024-00445
5		9,210,362		3	IPR2024-00432 IPR2024-00433 IPR2024-00434
6		11,381,866		3	IPR2024-00435 IPR2024-00436 IPR2024-00437
7		11,399,206		3	IPR2024-00438 IPR2024-00439 IPR2024-00440
8	3/1/2024	7,861,260	Intent IQ	4	IPR2024-00421 IPR2024-00422 IPR2024-00423 IPR2024-00424
9		11,564,015		2	IPR2024-00419 IPR2024-00420
10	3/1/2024	7,979,307	Almond Net	3	IPR2024-00413 IPR2024-00414 IPR2024-00415
11		8,775,249		3	IPR2024-00416 IPR2024-00417 IPR2024-00418
12	12/6/2024	11,785,275	Entropic Communications	3	IPR2025-00180 IPR2025-00181 IPR2025-00182
13	12/6/2024	9,866,438	Entropic Communications	3	IPR2025-00183 IPR2025-00184 IPR2025-00185

Ex. 2002 [All-Comcast-Petitions].

As shown in the table above, Comcast files its parallel petitions in waves and at the same time. Eleven parallel petitions against Entropic were filed on February 15-16, 2024, and then an additional six petitions were filed on December

6, 2024. Comcast's goal, of course, was to increase the burden and expense for Entropic to the fullest extent possible.

3. Amongst High Volume Parallel Petition Filers, Comcast Files By Far The Highest Rate Of Parallel Petitions And Parallel Petitions Of Three Or More Petitions Against One Patent.

As shown in the previous sections, Comcast nearly exclusively files parallel petitions, and even then, routinely files three or more IPRs against a single patent. This is not typical behavior. Indeed, even amongst high volume filers of parallel petitions, Comcast files both parallel petitions overall and parallel petition sets of three or more petitions at a far higher rate than anyone else.

As explained above, since the Guidance took effect (and before it, for that matter) nearly all (93%) of Comcast's IPR petitions have been parallel petitions. This is extraordinary and far outside the norm. Even looking at the top 10 filers of parallel petitions since July 2019, Comcast has by far the highest rate of parallel petition filings, doubling the next most prolific (as a percentage) filer of parallel petitions. While Samsung, Apple, and Google filed more parallel petitions, that is because they filed far more petitions overall. Their percentage of parallel petitions filed (28%, 27%, and 33%, respectively) pales in comparison to Comcast's 93% parallel petition rate.

Top 10 Parallel Petitioners (July 2019 - January 2025) Rate Of Parallel Petitions Per Overall Petition Filings				
Rank (Total Parallel Petitions)	**Petitioner**	**Total Parallel Petitions Filed**	**Total Petitions Filed**	**% Of Petitions That Are Parallel Petitions**
4	**Comcast***	**81**	**87**	**93%**
5	Intel	49	115	43%
9	Micron	24	64	38%
3	Google	105	320	33%
7	Roku, Inc	25	77	32%
8	Amazon	28	96	29%
6	Microsoft	30	105	29%
1	Samsung	170	605	28%
2	Apple	112	415	27%
10	Meta Platforms, Inc	16	73	22%

Exhibit 2006 [Wang-Decl.] ¶ 17.

Since the Guidance, Comcast has also filed 18 sets of parallel petitions of three or more petitions against a given patent—what the Office said was "unlikely" to ever be "appropriate"—more than any other entity. Moreover, 3+ parallel petition sets constituted 75% of Comcast's parallel petition sets, a 3x higher rate than Intel (who comes in second at 24%):

Top 10 Parallel Petitioners (July 2019 - January 2025) Percentage Of Sets With 3+ Petitions				
Rank (Total Parallel Petitions)	**Petitioner**	**Sets of 3 Or More Petitions**	**Total Sets Of Parallel Petitions**	**% Of Sets With 3 Or More Petitions**
4	**Comcast***	**18**	**24**	**75%**
5	Intel	5	21	24%
6	Microsoft	2	12	17%
1	Samsung	10	76	13%
3	Google	6	45	13%
7	Roku, Inc	1	11	9%
2	Apple	3	51	6%
9	Micron	0	12	0%
10	Meta Platforms, Inc.	0	8	0%
8	Amazon	0	12	0%

Exhibit 2006 [Wang-Decl.] ¶ 18.

4. The Consistent Denial Of Comcast's Parallel Petitions Has Not Deterred Comcast's Parallel Petitioning.

Quite rightly, the Board has not generally been persuaded by Comcast's parallel petition efforts to institute more than a single IPR against a given patent. Even prior to the Guidance, the Board had rejected 22 Comcast petitions as improper multiple petitions.[8] As discussed in the previous section, Comcast filed

[8] *See, e.g.*, *Comcast Cable Communications, LLC et al v. Rovi Guides, Inc.*, IPR2019-00225, -00226, -00227, -00228, -00229, Paper 14 (June 3, 2019);

46 parallel petitions between July 19, 2019 and April 22, 2020. Of these, only 10 were instituted, and even then, the ***Board never instituted more than one petition per patent***, and 26 were denied institution, including ***21 that were denied as improper parallel petitions***.[9]

Comcast Cable Communications, LLC et al v. Veveo, Inc. et al, IPR2019-00238, Paper 15 (July 5, 2019); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.,* IPR2019-00291, -00293, Paper 16 (July 5, 2018); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.,* IPR2019-00300, -00303, -00304, -00305, Paper 13 (July 1, 2019); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.,* IPR2019-00232, Paper 14 (May 20, 2019); IPR2019-00285, -00286, -00287, -00288, -00289, Paper 15 (June 10, 2019); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.,* IPR2019-00279, -00280, -00282, -00283, Paper 10 (July 1, 2019).

[9] *See, e.g.*, *Comcast Cable Communications, LLC et al v. Rovi Guides, Inc.,* IPR2019-01354, -01355, Paper 10 (Jan. 27, 2020); *Comcast Cable Communications, LLC et al v. Rovi Guides, Inc.,* IPR2019-01377, -01376, Paper 9 (Feb. 10, 2020); *Comcast Cable Communications, LLC et al v. Rovi Guides, Inc.,* IPR2019-01416, Paper 11 (Feb. 25, 2020); *Comcast Cable Communications, LLC*

Similarly, as discussed in the previous section, Comcast filed another 29 parallel petitions challenging just 11 patents between December 27, 2023 and March 11, 2024. *See* Ex. 2002 [All-Comcast-Petitions]. Of those, the Board never instituted more than one petition per patent except in one instance. *Id*. The one instance that the Board has instituted two petitions against the same patent involved the unique situation where the patent had 152 claims spanning 10 columns, and both instituted petitions relied on the same primary references.

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et al v. Rovi Guides, Inc., IPR2019-01435, -01436, Paper 10 (Feb. 14, 2020); *Comcast Cable Communications, LLC et al v. Rovi Guides, Inc.,* IPR2019-01415, 01414, Paper 10 (Jan. 31, 2020); *Comcast Cable Communications, LLC et al v. Rovi Guides, Inc.,* IPR2019-01418, -01419, Paper 9 (Feb. 11, 2020); *Comcast Cable Communications, LLC et al v. Rovi Guides, Inc.,* IPR2019-01432, -01433, Paper 10 (Jan. 23, 2020); *Comcast Cable Communications, LLC et al v. Rovi Guides, Inc.,* IPR2019-01422, -01423, Paper 10, (Jan. 30, 2020); *Comcast Cable Communications, LLC et al v. Rovi Guides, Inc.,* IPR2020-00807, -00808; IPR-00797, -00796, -00799, -00812, Paper 8 (Oct. 21, 2020). Another 10 IPR petitions settled prior to reaching an institution decision. *See* Ex. 2002 [All-Comcast-Petitions].

Freewheel Media Inc. v. Intent IQ LLC, IPR2024-00422, Paper 10, 14 (Oct. 2, 2024).

Though Comcast parallel petitions have been consistently denied institution, this has not deterred Comcast in the slightest. Indeed, as discussed, the instant petition is one of six parallel petitions filed by Comcast against just two patents on December 6, 2024. *See* Section II.B.2, *supra*. Even worse, the instant set of parallel petitions are based on the same primary references that the Board had already found just months earlier as failing to justify parallel petitions. Specifically, the instant set of parallel petitions rely upon primary references Zhang, Petrovic-Eidson and Pugel-Crols. On February 15-16, 2024, Petitioner had filed three sets of three parallel petitions each, based on the same primary references, against three other patents owned by Entropic and that share the same specification with the ’275 patent at issue here. IPR2024-00432 thru –440. In October 2024, the Board denied the parallel petitions -00433, -00434, -00436, -00437, -00439, -00440, holding that Petitioner had not justified instituting parallel petitions based on Petrovic-Eidson and Pugel-Crols in view of the first instituted petition based on Zhang:

> In sum, in the words of our Practice Guide, Petitioner fails to show “why the Board should exercise its discretion to institute

> additional petitions if it identifies one petition that satisfies petitioner's burden under 35 U.S.C. § 314(a)." Practice Guide 60.

IPR2024-00433, Paper 13, 11 (denying petition based on Petrovic-Eidson); *see also* IPR2024-00436, Paper 13, 12 (similar); IPR2024-00439 (similar), Paper 14, 10 (similar); IPR2024-00434, Paper 13, 11 (denying petition based on Pugel-Crols); IPR2024-00437, Paper 13, 11 (similar); IPR2024-00440, Paper 13, 10 (similar).

But the Board's finding in October 2024 that parallel petitions based on Petrovic-Eidson and Pugel-Crols were not justified did not stop Comcast from filing its current set of parallel petitions in December 2024 based on the same primary references.

C. The Board Should Deny All Three Petitions Challenging The '275 Patent As The Only Remedy That Might Curb Comcast's Deliberate Abuse Of The IPR Process.

The Board should put an end to Comcast's abusive and harassing parallel petition filings. As discussed in the preceding sections, Comcast is, and has been for years, a uniquely egregious filer of parallel petitions. It is clear that instituting one IPR while denying the rest has not curbed Comcast's abusive tactics. The only thing that will deter Comcast is for the Board to deny institution of ***all*** of ***Comcast*** parallel petitions, at least in instances where it is filing three or more petitions against a given patent, or at the very least in the present petitions against the '275

patent, where Comcast has persisted in parallel filing the same primary references, utilizing materially similar arguments after they have already been rejected by the Board. To do otherwise would encourage Comcast to continue harassing patent owners in defiance of Office policy without any consequence and, moreover, would prompt other petitioners to follow Comcast's tactics.

To be sure, Patent Owner does ***not*** contend that typical petitioners should be barred from filing three petitions against a given patent when, in good faith, the petitioner believes three IPR petitions are necessary for good reason. But Comcast's multi-year record of abuse confirms that it is not acting in good faith. Moreover, Comcast's conduct should not be viewed on a case-by-case, parallel-petition-set by parallel-petition-set fashion. To look at each of Comcast's parallel petition sets in isolation would miss the forest for the trees and the obvious, unmistakable pattern of conduct that appears when Comcast's filings are viewed as a whole.

Congress did not require the Board to act with blinders. The AIA provides that the Director "may"—but is not required to—institute review if the threshold of 35 U.S.C. § 314(a) is met. "In making this decision, the Director has complete discretion to decide not to institute review." *St. Regis Mohawk Tribe v. Mylan Pharms., Inc.*, 896 F.3d 1322, 1327 (Fed. Cir. 2018) (citation omitted); *see also Cuozzo Speed Technologies, LLC v. Lee*, 136 S. Ct. 2131, 2140 (2016) ("agency's

decision to deny a petition is a matter committed to the Patent Office's discretion."); *Oil States Energy Servs., LLC v. Greene's Energy Grp., LLC*, 138 S. Ct. 1365, 1371 (2018) (similar).

Nor is there anything unusual about a court (or other adjudicative body) looking beyond the particular case in front of it to a litigant's conduct across cases where the litigant has exhibited a pattern and practice of harassment or of filing frivolous[10] cases. *See, e.g., Neptune Generics, LLC v. Aventis Generics S.A.,* IPR2019-00136, Paper 15, 35 (May 6, 2019) ("[w]e do not see how [AIA's goal of efficiency] is served by ignoring or declaring irrelevant the related and ongoing litigation history of the [challenged] patent"); *see also Mankaruse v. Raytheon Co.*, 855 F. App'x 728, 731 (Fed. Cir. 2021) (a court's determination whether a party is a vexatious litigant includes "the litigant's history of litigation and in particular whether it entailed vexatious, harassing, or duplicative lawsuits"); *Carroll v. Abide (In re Carroll)*, 850 F.3d 811 (5th Cir. 2017) (same). The Board is not limited to

[10] And Comcast's parallel petitions ***are*** frivolous because (1) parallel petitions based on the same primary references have already been rejected by the Board as unjustified, and (2) since the Guidance the Board has not allowed more than one of Comcast's petitions against a given patent in all but one materially distinct case. *See* Section II.B.4.

only considering the instant case or set of parallel petitions in front of it when assessing whether discretionary denial is appropriate.

The present set of parallel petitions is a perfect opportunity for the Board to exercise that discretion to deny institution of all three parallel petitions challenging the ’275 patent. There can be no denying that Comcast’s purpose in its egregious filing of parallel petitions is harassment. As discussed in the previous sections, Comcast does not just attack a single patent with multiple petitions, it clusters filings to cause maximal inconvenience, difficulty, and cost for the patent owner, without regard to its effect on the Board. For instance, Comcast did not just hit Entropic with three parallel petitions against the ’275 patent, adding on to the already pendent IPR matters between Comcast and Entropic. Rather, it coupled those three parallel petitions to three more, forcing Entropic to face six total new petitions filed. Moreover, the -0183,-0184, and -0185 petitions recite the same art and arguments that the Board just months earlier had rejected as failing to justify institution on more than one petition. Could anyone be so naïve to believe Comcast filed its petitions as expeditiously as possible and just happened to finish both sets of IPR petitions for filing on December 6, 2024? Earlier against Entropic, Comcast filed 17 petitions, 11 of them parallel, on February 15-16, 2024. Earlier against Rovi, it was more of the same. Comcast brought 44 IPRs against

just 14 Rovi patents in one wave of 23 IPRs between July 19 and August 20, 2019 and another 21 IPRs between April 17 and April 24, 2020.

This is pure, unmitigated gamesmanship. Comcast is plainly using mass, coordinated IPR filings, filing vast numbers of parallel petitions in an obvious attempt to overwhelm patent owners. It is extraordinarily difficult and costly to analyze and rebut the latest tranche of petitions filed at the same time, just as it was when Comcast practiced this strategy earlier in the year—and that is the point. When Comcast inundates patent owners in this fashion, it stretches the resources of patent owners such that they would not be able to fully oppose each of the many parallel petitions on the merits at institution. And filing three petitions per patent over and over again deters patent owners from substantively engaging with the merits because if the patent owner were to engage with three IPR petitions against a single patent, that may have the counterproductive effect of causing the Board to institute the one it believes is strongest in view of the patent owner's arguments. Thus, through its tactics, Comcast maximizes the probability of institution of at least one petition per parallel petition set while making it as difficult and counterproductive as possible for a patent owner to engage on the merits.

Importantly, Comcast does not actually expect multiple petitions against a given patent to be instituted. Indeed, in the 75 parallel petitions it brought since the Guidance that have reached the due date for a decision on institution, the Board

only found one surplus parallel petition sufficient to institute trial, and that was the unique situation where the patent contained 152 claims spanning 10 columns, and both instituted petitions relied on the same primary references. *See* Section II.B.4. Overall, Comcast's parallel petition IPRs were consistently denied for Comcast's filing practices, including 22 IPRs that were denied even before the Guidance. And yet, these denials have not stopped Comcast's abusive tactics.

The Office has made clear that filings such as these constitute harassment. As the Trial Practice Guide made clear, "[t]wo or more petitions filed against the same patent at or about the same time … may place a ***substantial and unnecessary burden on the Board and the patent owner*** and could raise fairness, timing and efficiency concerns." Trial Practice Guide (July 2019 Update), 26; CTPG, 59. In its recently issued notice of proposed rulemaking concerning parallel petitioning, the Office reiterated that, "the Office's goal" is to "reduc[e] duplicative challenges to a patent and balances the interests of parties ***by preventing undue harassment of patent owners through the filing of multiple challenges to a patent***, while allowing petitioners reasonable opportunities to seek review." Federal Register, Vol. 89, No. 77, 28,693 at 28,699 (April 19, 2024).

And avoiding harassment of patent owners through repeated attacks was a cornerstone of the AIA. Congress intended IPRs to provide "'quick and cost effective alternatives to litigation'" and to "'establish a more efficient and

streamlined patent system that will improve patent quality[.]'" *WesternGeco LLC v. ION Geophysical Corporation*, 889 F.3d 1308, 1317 (Fed. Cir. 2018) (quoting H. Rept. No. 112-98, 40, 48 (2011)). "Congress recognized the importance of protecting patent owners from patent challengers who could use the new administrative review procedures as 'tools for harassment'" via "'repeated litigation and administrative attacks on the validity of a patent.'" *Id.* (quoting H. Rept. No. 112-98, 40).

In accord, the statute required the Director to "prescribe regulations … prescribing sanctions for … any … improper use of the proceeding, such as to harass or to cause unnecessary delay or an unnecessary increase in the cost of the proceeding." 35 U.S.C. § 316(b)(6). The Board's rules follow suit and forbid petitioners from using IPR proceedings as a tool for harassment. For instance, the "board may impose a sanction against a party for misconduct …" including "[a]ny other improper use of the proceeding, including actions that harass or cause unnecessary delay or an unnecessary increase in the cost of the proceeding." 37 C.F.R. § 42.12(a)(7). Additionally, in presenting any paper to the Office, the presenting party is certifying that "[t]he paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of any proceeding before the Office." 37 C.F.R. §

11.18(b)(2)(i); *see also* 37 C.F.R. § 42.11(c) (clarifying that § 11.18(b)(2) applies to petitions).[11]

Protecting patent owners from "repeated" and "harassing" attacks is also the impetus behind numerous Board precedents. *See, e.g.*, *Gen. Plastic Indus. Co., Ltd. v. Canon Kabushiki Kaisha,* IPR2016-01357*,* Paper 19, 16-17 (Sept. 6, 2017) ("*Gen. Plastic*") (precedential) (recognizing "the potential for abuse of the review process by repeated attacks on patents"); *Valve Corporation v. Elec. Scripting Prods. Inc.*, IPR2019-00062, Paper 11, 15 (Apr. 2, 2019) (precedential) (similar); *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (Mar. 20, 2020) (precedential) (allowing for denial of institution of petitions that would be duplicative of validity attacks in a co-pending district court action).

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In sum, Congress and the Office, through its regulations, guidance, and precedential decisions, have both sought to prevent IPRs from being used as tools of harassment through repeated administrative attacks. The Office has repeatedly

[11] While Patent Owner believes Comcast's mass filing of parallel petitions is harassing and, therefore, sanctionable, the Board need not sanction Comcast to deny institution. The Board has absolute discretion to deny institution and it should exercise that discretion here.

recognized that parallel petitions may be used for purposes of harassment. And harassment is unquestionably Comcast's goal and purpose in filing mass wave after mass wave of parallel petitions, utterly disregarding the Office's Guidance. While the Board has generally since the July 2019 Update prevented Comcast from having more than one petition challenging a single patent instituted, that has not been sufficient to deter Comcast. The Board should exercise its discretion to deny institution of all three petitions challenging the U.S. Patent No. 11,785,275. That is the only way to deter Comcast's continued misconduct.

Conversely, if the Board does not deny institution across the board, it will send a clear message to Comcast and all other would-be harassers that a petitioner can file as many coordinated, parallel petitions that it wants to harass a patent owner, and still have a petition instituted. The Board should put an end to this noxious practice and deny institution of all three parallel petitions.

D. If The Board Is Inclined To Consider Comcast's Parallel Petitions On The Merits, It Should Consider, At Most, One Of The Three Petitions Challenging The '275 Patent.

Even if the Board were to disregard Comcast's years-long pattern of deliberately abusing the IPR process, it should substantively consider, at most, one of the three petitions challenging the '275 patent. As should be evident from Comcast's filing practices, Comcast is not making a good faith case-by-case determination of which patents are the "rare" patents that might require more than

one petition. Rather, Comcast indiscriminately files three or more petitions against patents by default.

This undifferentiated approach of mass parallel petitioning is reflected in Comcast's generic, boilerplate ranking papers. Essentially, Comcast employs a template where it recycles the same justifications for multiple petitions, often in nearly identical terms. Indeed, the template justifications proffered here have been repeatedly offered by Comcast and have been repeatedly rejected by the Board in other cases. *See* Section II.D.1, *infra*. Comcast's recycled excuses fare no better here. *See* Section II.D.2.

1. Comcast's Excuses For Its Parallel Petitions Have Been Repeatedly Rejected.

In the instant case, Comcast presents four arguments intended to justify its filing of three petitions against the '275 patent. As discussed below, however, at least three of these are the same recycled arguments that Comcast raises in case-after-case and that the Board has rejected time-after-time. As discussed in the following subsection, the fourth "justification" facially lacks merits and relies on inapplicable and incorrect law.

Comcast first contends that multiple IPRs are necessary because Patent Owner might attempt to antedate one of its references, stating:

> ***Different Prior Art Date of References***: Certain of the primary references relied on in the petitions qualify as prior art under 35 U.S.C.

> § 102(e), including claiming the benefit of provisional filings. It is, therefore, possible that the Patent Owner could attempt to antedate these references and/or remove them as prior art.

Paper 3 (Ranking Paper), 1-2. Comcast, however, trots out precisely this same justification, using essentially identical language in all 35 of the parallel petitions filed this past year.[12]

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[12] *Compare* block quote above *with Comcast Corporation v. Entropic Communications, LLC*, IPR2025-00183, -00184, -00185, Paper 3, 1-2 (Dec. 6, 2024) (challenging ’438 patent); *Comcast Corporation v. Entropic Communications, LLC*, IPR2024-00434, -00433, -00432, Paper 3, 1 (Feb. 16, 2024) (challenging ’362 patent); *Comcast Corporation v. Entropic Communications, LLC*, IPR2024-00435, -00436, -00437, Paper 3, 1 (Feb. 16, 2024) (challenging ’866 patent); *Comcast Corporation v. Entropic Communications, LLC*, IPR2024-00438, -00439, -00440, Paper 3 (Ranking Paper), 1 (Feb. 16, 2024) (challenging ’206 patent); *Comcast Corporation v. Entropic Communications, LLC*, IPR2024-00444, -00445, Paper 3 (Ranking Paper), 1 (Feb. 16, 2024) (challenging ’682 patent); *Comcast Cable Communications, LLC v. Touchstream Technologies, Inc.*, IPR2024-00325, -00326, Paper 3 (Ranking Paper), 1 (December 27, 2023) (challenging U.S. Patent No. 11,086,934); *Comcast*

Comcast has repeatedly raised this excuse—the supposed concern that the patent owner might antedate one of its references—and the Board has repeatedly found that this argument does not justify multiple IPRs.[13]

Cable Communications, LLC v. Touchstream Technologies, Inc. d/b/a Shodogg IPR2024-00324, -00323, Paper 3 (Ranking Paper), 1 (Dec. 27, 2023) (challenging U.S. Patent No. 11,048,751); *Comcast Cable Communications, LLC v. Touchstream Technologies, Inc. d/b/a Shodogg* IPR2024-00322, -00321, Paper 3 (Ranking Paper), 1 (Dec. 27, 2023) (challenging U.S. Patent No. 8,356,251); *Freewheel Media, Inc. v. AlmondNet, Inc.*, IPR2024-00413, -00414, -00415, Paper 3 (Ranking Paper), 1 (Mar. 1, 2024) (challenging U.S. Patent No. 7,979,307); *Freewheel Media, Inc. v. AlmondNet, Inc.*, IPR2024-00416, -00417, -00418, Paper 3 (Ranking Paper), 1 (Mar. 1, 2024) (challenging U.S. Patent No. 8,775,249); *Freewheel Media, Inc. v. Intent IQ, LLC*, IPR2024-00419, -00420, Paper 3 (Ranking Paper), 1 (Mar. 1, 2024) (challenging U.S. Patent No. 11,564,015); *Freewheel Media, Inc. v. Intent IQ, LLC*, IPR2024-00421, -00422, -00423. -00424, Paper 3 (Ranking Paper), 1 (Mar. 1, 2024) (challenging U.S. Patent No. 7,861,260).

[13] *See, e.g.*, *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*,

IPR2020-00807, Paper 8, 8-9 (Oct. 6, 2020) ("Petitioner argues we should institute multiple inter partes reviews of the challenged claims because Patent Owner may attempt to antedate the asserted references in these cases. Petitioner's argument is not persuasive."); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-01422, Paper 10, 7 (Jan. 30, 2020) ("the possibility of Patent Owner antedating the asserted references does not warrant instituting multiple inter partes reviews of the '948 patent."); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-01433, Paper 10, 7-8 (Jan. 23, 2020) (possibility of antedating did not justify instituting multiple petitions); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-01416, Paper 11, 7 (Feb. 25, 2020) (same); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-01377, Paper 9, 9-10 (Feb. 10, 2020) (same); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-00279, Paper 10, 5-6 (July 1, 2019) ("Petitioner contends additional proceedings are necessary due to its concerns relating to potential arguments Patent Owner may raise regarding, among other things, priority date … We determine the integrity of the system is sufficiently served here by our institution of [one petition]."); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-00285, Paper 15, 6 (June 10,

Second, Comcast relies on "different approaches to the claim limitations":

> ***Different Approaches to the Claim Limitations:*** Each of the primary references describes receivers that are strikingly similar to the receiver disclosed in the specification and drawings of the '275 Patent, yet each reference has different strengths with respect to various different claims.

Paper 3 (Ranking Paper), 2. Like the first argument, Comcast, again recites precisely the same justification, using essentially identical language repeatedly in all 35 Comcast parallel petitions filed in 2024.[14]

2019) (similar); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-00300, Paper 13, 6 (July 1, 2019) ("the different priority dates of the asserted references across the five petitions do not warrant multiple inter partes reviews of the '799 Patent.").

[14] *Compare* block quote above *with Comcast Corporation v. Entropic Communications, LLC*, IPR2025-00183, -00184, -00185, Paper 3, 2 (Dec. 6, 2024) (challenging '438 patent); *Comcast Corporation v. Entropic Communications, LLC*, IPR2024-00434, -00433, -00432, Paper 3, 2 (Feb. 16, 2024) (challenging '362 patent); *Comcast Corporation v. Entropic Communications, LLC*, IPR2024-00435, -00436, -00437, Paper 3 (Ranking Paper), 1-2 (Feb. 16,

2024) (challenging ’866 patent); *Comcast Corporation v. Entropic Communications, LLC*, IPR2024-00438, -00439, -00440, Paper 3 (Ranking Paper), 1-2 (Feb. 16, 2024) (challenging ’206 patent); *Comcast Corporation v. Entropic Communications, LLC*, IPR2024-00444, -00445, Paper 3 (Ranking Paper), 1-2 (Feb. 15, 2024) (challenging ’682 patent); *Comcast Cable Communications, LLC v. Touchstream Technologies, Inc.*, IPR2024-00325, -00326, Paper 3 (Ranking Paper), 2-3 (Dec. 27, 2023) (challenging U.S. Patent No. 11,086,934); *Comcast Cable Communications, LLC v. Touchstream Technologies, Inc.*, IPR2024-00325, -00326, Paper 3 (Ranking Paper), 1 (December 27, 2023) (challenging U.S. Patent No. 11,086,934); *Comcast Cable Communications, LLC v. Touchstream Technologies, Inc. d/b/a Shodogg* IPR2024-00324, -00323, Paper 3 (Ranking Paper), 1 (Dec. 27, 2023) (challenging U.S. Patent No. 11,048,751); *Comcast Cable Communications, LLC v. Touchstream Technologies, Inc. d/b/a Shodogg* IPR2024-00322, -00321, Paper 3 (Ranking Paper), 1 (Dec. 27, 2023) (challenging U.S. Patent No. 8,356,251); *Freewheel Media, Inc. v. AlmondNet, Inc.*, IPR2024-00413, -00414, -00415, Paper 3 (Ranking Paper), 1-3 (Mar. 1, 2024) (challenging U.S. Patent No. 7,979,307); *Freewheel Media, Inc. v. AlmondNet, Inc.*, IPR2024-00416, -00417, -00418, Paper 3 (Ranking Paper), 3 (Mar. 1, 2024) (challenging

Again, Comcast's generic justification—different approaches to claim limitations—has been repeatedly found unpersuasive by the Board as a basis to institute multiple petitions against a given patent. *See, e.g., Comcast Cable Communications, LLC v. Veveo, Inc.,* IPR2019-00291, Paper 16, 7-8 (July 5, 2018) ("Petitioner contends additional proceedings are necessary due to its concerns relating to potential arguments Patent Owner may raise regarding … specific claim limitations… [W]e do not find the asserted differences … are sufficiently material … to support … an additional two inter partes reviews."); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.,* IPR2019-01433, Paper 10, 7-8 (Jan. 23, 2020) ("We also do not find that the alleged second distinction [relating to claim limitations] is persuasive."); *Comcast Cable Communications, LLC v. Veveo, Inc.,* IPR2019-00238, Paper 15, 6-7 (July 5, 2019) (same); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.,* IPR2019-00225, Paper 14, 5-6 (June 3,

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U.S. Patent No. 8,775,249); *Freewheel Media, Inc. v. Intent IQ, LLC*, IPR2024-00419, -00420, Paper 3 (Ranking Paper), 3-4 (Mar. 1, 2024) (challenging U.S. Patent No. 11,564,015); *Freewheel Media, Inc. v. Intent IQ, LLC*, IPR2024-00421, -00422, -00423. -00424, Paper 3 (Ranking Paper), 4 (Mar. 1, 2024) (challenging U.S. Patent No. 7,861,260).

2019) ("Petitioner contends additional proceedings are necessary due to… specific claim limitations… [W]e do not find these differences sufficiently material and in dispute to support the inefficiencies and costs associated with instituting an additional five inter partes reviews."); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.,* IPR2019-01415, Paper 10, 8 (Jan. 31, 2020) (similar); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.,* IPR2019-01377, Paper 9, 11 (February 10, 2020) ("Comcast contends "[t]he prior art combinations used in the three petitions teach various claim limitations in different ways.… This argument is not persuasive"); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.,* IPR2019-00556, Paper 11, 5-6 (July 24, 2019) (similar); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-00279, Paper 10, 5-6 (July 1, 2019) (similar); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-00285, Paper 15, 6 (June 10, 2019) (similar); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-00232, Paper 14, 12-13 (May 20, 2019) (similar); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-00300, Paper 13, 6-7 (July 1, 2019) ("[W]e find Petitioner's reliance on alleged teachings of [an alternative claim limitation] in the prior art to be a substantial weakness of the petition.").

Third, Comcast relies on "different uses in prosecution history and reexamination," reasoning that "application of the references may have material differences in view of the prosecution history and/or issues related to § 325(d)":

> ***Different Uses in Prosecution History and Reexamination:*** The extent to which the base references in Petitions 1-3 were part of the record also differs…[t]hus, application of the references may have material differences in view of the prosecution history and/or issues related to § 325(d).

Paper 3 (Ranking Paper), 3-4. Like other rationales, Comcast has repeatedly raised, and the Board has repeatedly rejected, this justification. *See Comcast Cable Communications, LLC v. Rovi Guides, Inc.,* IPR2019-01422, Paper 10, 7 (Jan. 30, 2020) (Petitioner's ranking argument fails despite raising the fact the asserted references in these cases were either not considered or not applied by the Examiner during prosecution); *Comcast Cable Communications, LLC v. Rovi Guides, Inc*., IPR2020-00807, Paper 8, 8-9 (Oct. 6, 2020) (similar); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-01417, Paper 11, 7 (Feb. 25, 2020) ("Petitioner sets forth the material differences between the two petitions as including: (1) differences in the nature of the combination and use of secondary references; ***(2) differences in the use of prior art during prosecution***; and (3) differences in the priority date and basis as prior art. Id. at 2–4... As to differences in the use of prior art… Petitioner fails to explain how these differences are

material, or could favor inter partes review grounded on Geer in addition to an inter partes review grounded on Lawler") (emphasis added).

Comcast also raises a fourth argument that "each petition presents compelling unpatentability arguments" (Paper 3 (Ranking Paper) 4), but, as explained in the following section, this argument facially lacks merit and relies on inapplicable and incorrect law.

2. Comcast's Generic Excuses Fare No Better Here.

Comcast's recycled arguments fare no better here than they have in previous cases. As in its other cases, Comcast fails to substantively justify that even two IPR petitions against the '275 patent are worthy of consideration.

a. *Comcast's Rationale Based On Priority Date Is Already Rejected By The Board, Logically Flawed And Rendered Moot By Patent Owner's Stipulation.*

With regards to the first rationale proffered based on different priority dates, Comcast argues that Patent Owner may be able to swear behind the Petrovic and Eidson references, but cannot swear behind the Zhang, Pugel and Crols references:

> In particular, the Petrovic reference is prior art under 102(e) but only predates the '275 patent's earliest possible priority date by a few weeks. Petrovic claims the benefit of a provisional application, though Patent Owner may attempt to antedate Petrovic's provisional date and/or challenge its prior art status as failing the *Dynamic Drinkware* analysis.

> The Eidson reference is also 102(e) prior art but predates the '275 Patent's earliest possible priority date by more than two years.
>
> The Zhang, Pugel, and Crols references are 102(b) prior art and as such cannot be antedated by Patent Owner.

Paper 3 (Ranking Paper) 2.

Comcast's rationale is backwards and in fact supports the position that only the first ranked petition, at most, should be considered. Specifically, all of the priority concerns that Comcast raises relate to the Petrovic and Eidson references that are in the second ranked petition, IPR2025-00181. Paper 3 (Ranking Paper), 1. Comcast admits that Zhang, the reference that forms the basis of the first ranked petition, is "102(b) prior art and as such cannot be antedated by Patent Owner." Paper 3 (Ranking Paper), 2. Thus, Comcast's rationale is an argument ***against*** instituting the second petition, not a reason to institute the second petition.

The Board has previously rejected the same flawed rationale when proffered by Comcast in past proceedings:

> Lastly, Petitioner argues we should institute multiple *inter partes* reviews of the challenged claims because Patent Owner may attempt to antedate the asserted references in these cases. *Id.* Petitioner's argument is not persuasive. As discussed above, we institute an *inter partes* review of the challenged claims in IPR2020-00806. Petitioner acknowledges that the "base references" in that case "cannot be antedated." *Id.* Petitioner, though, does not explain specifically why

> we should also institute additional *inter partes* reviews of the same claims based on references that Patent Owner could attempt to antedate. *See id.*

Comcast Cable Communications, LLC v. Rovi Guides, Inc., IPR2020-00807, Paper 8, 8-9 (Oct. 6, 2020); *see also Dexcom, Inc. v. Abbott Diabetes Care, Inc*., IPR2023-01252, Paper 9, 13-14 (Feb. 5, 2024) (finding that where a priority dispute exists in the second ranked petition, the second petition is "unnecessary"); *Life Spine Inc. v. Globus Medical Inc*., IPR2023-00041, Paper 10, 11 (Apr. 20, 2023) ("Because there is no dispute that the references asserted in the '599 Petition are prior art, there is no dispute about priority date that might give rise to a need for a second petition.").

In any event, any force that Comcast's priority dispute rationale may have otherwise had is mooted by Patent Owner's stipulation: Patent Owner stipulates that if the Board were to institute only Comcast's second ranked petition (IPR2025-00181), and deny IPR2025-00180 and IPR2025-00182 as improper parallel petitions, then, in the IPR2025-00181 proceeding, Patent Owner will not challenge the status of Petrovic and Eidson as prior art.

The Board has relied on an identical stipulation between the same parties to deny a parallel petition based on the same primary references, Petrovic and Eidson. *See, e.g., Comcast Cable Communications, LLC v. Entropic Communications*,

IPR2024-00433, Paper 13, 10 (Oct. 8, 2024); *Comcast Cable Communications, LLC v. Entropic Communications*, IPR2024-00436, Paper 13, 11 (Oct. 1, 2024); *Comcast Cable Communications, v. Entropic Communications*, IPR2024-00439, Paper 14, 9 (Oct. 4, 2024). In accord, the CTPG provides that such a stipulation about priority by Patent Owner is sufficient to eliminate this basis for instituting two petitions:

> If stating that issues are not material or in dispute, the patent owner should clearly proffer any necessary stipulations. For example, the ***patent owner may seek to avoid additional petitions by proffering a stipulation*** that certain claim limitations are not disputed or ***that certain references qualify as prior art***.

CTPG, 61.

The Board routinely rejects a second petition where patent owner stipulates not to dispute priority of a reference in the first petition and has, in fact, rejected multiple Comcast petitions on precisely this basis. *See, e.g.*, *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-01377, Paper 9, 9-10 (Feb. 10, 2020) (denying parallel petition where patent owner agreed "that it will not attempt to swear behind" reference" and "[t]hus, the possibility that Rovi might seek to antedate references is not available as a rationale to justify the inefficiencies and costs associated with instituting a parallel inter partes review."); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-01417, Paper

11, 37 (Feb. 25, 2020) (declining to institute a second petition where "Patent Owner has stipulated that it will not attempt to antedate either [reference]."); *see also Tennant Co. v. Oxygenator Water Technologies, Inc.*, IPR2021-00602, Paper 10, 8-9 (Aug. 20, 2021) ("Patent Owner does not dispute whether Tremblay is prior art for the '415 patent. Thus, there is no dispute about priority date that would require arguments under multiple prior art references that would justify two petitions.").

For the foregoing reasons, Comcast's lead rationale based on potentially antedating references in Comcast's second ranked petition is logically flawed and, in any event, moot.

b. *Comcast's Second Rationale Based On "Different Approaches" Has Been Rejected By The Board.*

With regards to its second rationale for instituting three petitions, Comcast states that "[e]ach of the primary references describes receivers that are strikingly similar to the receiver disclosed in the '275 Patent, yet each reference has different strengths with respect to various different claims." Paper 3 (Ranking Paper) 2. Comcast fails to show why any difference between the primary references would justify instituting more than one petition.

Comcast first argues that the second petition based on Petrovic "may provide for more compelling grounds in Petrovic as compared to Zhang depending on the

nature of the challenges that Respondent may raise (e.g., by asserting a means-plus-function construction of 'radio front end' and/or 'digital frontend (DFE)')." Paper 3 (Ranking Paper), 3. As discussed below, this rationale fails to support instituting on even two petitions, let alone three. But in any event, it is rendered moot by Patent Owner's stipulation. Patent Owner hereby stipulates that if the Board were to institute only on one of either IPR2025-00180 or IPR2025-00182 and deny the other and IPR2025-00181 as improper parallel petitions, then, in the instituted IPR proceeding, Patent Owner will not argue that "digital front end" or "radio front end" are means-plus-function limitations.

But Comcast's argument fails even without this stipulation. As the Board already found when rejecting the earlier parallel petitions filed by Petitioner against Entropic, Petitioner's second justification does not warrant institution the Petrovic-Eidson or Pugel-Crols:

> As our Practice Guide cautions, "[t]wo or more petitions filed against the same patent at or about the same time . . . may place a substantial and unnecessary burden on the Board and the patent owner and could raise fairness, timing, and efficiency concerns." CTPG 59. This is especially concerning here, where the instituted trial in IPR2024-00438 will involve four references and eight challenges to patentability. Adding an additional seventeen grounds and seven references from this Petition to the mix would create an "unnecessary burden."

Comcast Cable Communications, v. Entropic Communications, IPR2024-00439, Paper 14, 9-10 (Oct. 4, 2024) (denying institution based on the Petrovic-Eidson petition); *see also Comcast Cable Communications, v. Entropic Communications*, IPR2024-00440, Paper 13, 9 (Oct. 4, 2024) (denying institution based on the Pugel-Crols petition based on similar reasoning). The same reasons for denying institution apply here.

First, Comcast's first ranked petition based on Zhang already devotes more than five pages expressly to the "Alternate Arguments and Grounds based on Means-Plus-Function Construction of 'digital circuitry.'" Pet., 65-68. There, Comcast provides detailed analysis of why it believes the first ranked petition discloses or renders obvious the claims even if "radio front end" and "digital front end" are means-plus-function limitations. *Id*. Comcast provides no explanation as to why the first ranked petition is not sufficient or why, if Petrovic is stronger for means-plus-function limitations, it could not have included Petrovic as the "alternative" ground in the first ranked petition in the event those limitations are means-plus-function.

In fact, like Comcast's other boilerplate rationales, this rationale too has been rejected:

> We also do not find that the alleged second distinction is persuasive because, contrary to Petitioner's argument, the "user desire" limitation

> has been afforded weight in all the petitions. That is, like the Petition in this proceeding, the Petition in IPR2019-01431 also gives weight to the limitation involving what a user "desires" and attempts to account for it in the prior art. IPR2019-01431, Pet. 46–48. The alleged distinction is non- existent. Thus, this issue urges in favor of instituting review in IPR2019- 01431, corresponding to Petitioner's highest ranked and most preferred petition for consideration by the Board, and not instituting review in this proceeding, which corresponds to Petitioner's least preferred petition in terms of preference for consideration by the Board.

Comcast Cable Communications, LLC v. Rovi Guides Inc., IPR2019-01433, Paper 10, 8 (Jan. 23, 2020); *see also Intex Recreation Corporation v. Bestway Inflatables & Materials Corporation*, IPR2023-00489, Paper 12, 16-17 (Sept. 20, 2023) (denying a parallel petition where petitioner's rationale "fail[ed] to take into account the full scope of arguments" in the first ranked petition).

Notably, this is not even a case where Comcast has presented different petitions, each covering only one alternative construction. Rather, this is a situation where these petitions address ***all claims*** based on the limitations both being construed as means-plus-function and not. But, even if that were not the case, and even if the first ranked petition did not assert that its grounds render obvious the claims even if construed as a means-plus-function construction limitation, that would still not justify instituting both the first and second-ranked

petitions. Instead, it would justify instituting just one petition based on the correct construction:

> According to Petitioner, instituting on multiple petitions would therefore institute review on alternative constructions concerning which implementations the claims cover. Petitioner appears to misunderstand the purpose of an institution decision. We institute an IPR based on whether Petitioner has demonstrated a reasonable likelihood it will prevail at trial in that proceeding. Although either or both parties may dispute the proper claim interpretation during the trial, ultimately we will adopt only one construction and apply that construction in the Final Written Decision. Thus, we did not misapprehend Petitioner's arguments in declining to render decisions under alternative claim constructions.

Solaredge Technologies Ltd. v. Koolbridge Solar Inc., IPR2022-00011, Paper 14, 7 (Nov. 28, 2022) (denying request for rehearing).

Thus, since all petitions address the same claims under both alternative theories of "digital circuitry" being, and not being, a means-plus-function limitation, only the first ranked petition, at most, should be considered. In any event, this rationale is rendered moot by Patent Owner's stipulation above.

Additionally, Comcast argues that multiple petitions should be instituted because "the petitions generally use different secondary references for certain features or for back-up arguments to the primary references." Paper 3 (Ranking

Paper) 3. This argument too has been raised by Comcast and rejected by the Board:

> Finally, we are not persuaded that relying on new "secondary" prior-art references justifies multiple petitions. *See id.* at 5. This is especially true where, as here, every claim challenged in IPR1435 and IPR1436 (i.e., claims 1–20) is already subject to an *inter partes* review in IPR1434. The inefficiencies and costs associated with instituting two additional *inter partes* review proceedings for the same claims counsel against multiple proceedings. *Cf. Gen. Plastic*, Paper 19 at 16–17 (recognizing the "potential for abuse of the review process by repeated attacks on patents").

Comcast Cable Communications, LLC v. Rovi Guides Inc., IPR2019-01435, Paper 10, 12 (Feb. 14, 2020); *see also Comcast Cable Communications, LLC v. Rovi Guides Inc*., IPR2019-01417, Paper 11, 6 (Feb. 25, 2020) ("As to the contended differences between the combination and use of secondary references, Petitioner offers no cogent argument why a focus on Lawler in the 1416 IPR for remote recording and secondary references for local recording and a focus on Geer in the instant petition for local recording and secondary references for remote recording rise to a radical difference between the two petitions such that they are not cumulative. Ranking 2–3.")

The Board, moreover, routinely denies parallel petitions even though they rely on completely different and non-overlapping sets of references. *See, e.g.,*

PayPal, Inc. v. IOENGINE, LLC, IPR2019-00885, Paper 21 (Oct. 3, 2019) (denying second, parallel petition even though it relied on a completely different and non-overlapping set of references); *Solaredge Technologies. Ltd. v. Koolbridge Solar, Inc*., IPR2022-00012, Paper 10 (Apr. 19, 2022) (same); *Splunk Inc. v. Sable Networks, Inc*., IPR2022-00003, Paper 10 (Apr. 14, 2022) (same); *Samsung Elecs. Co., Ltd. v. Acorn Semi, LLC*, IPR2020-01241, Paper 21 (Jan. 13, 2021) (same); *Samsung Elecs. Co., Ltd. v. Acorn Semi, LLC*, IPR2020-01264, Paper 20 (Jan. 13, 2021) (same).

c. *Comcast's Third Rationale Based On Prosecution History Is Inapplicable.*

Third, Comcast attempts to raise different use of the alleged prior art throughout prosecution, reasoning that "application of the references may have material differences in view of the prosecution history and/or issues related to § 325(d)." Paper 3 (Ranking Paper), 4.

This argument is inapplicable here since Patent Owner has not raised any discretionary denial argument based on § 325(d). Furthermore, this argument too has been previously raised by Comcast and rejected by the Board:

> Petitioner further asserts that multiple proceedings are warranted because each petition cites new prior art, i.e., references that were either not cited or not applied by the Examiner during prosecution. Id. at 3–4. We are unpersuaded, though, that simply relying on prior art that was

> not considered during examination justifies instituting multiple inter partes reviews of the same claims of the ’948 patent.

See Comcast Cable Communications, LLC v. Rovi Guides, Inc., IPR2019-01422, Paper 10, 7 (Jan. 30, 2020); *see also Comcast Cable Communications, LLC v. Rovi Guides, Inc*., IPR2020-00807, Paper 8, 8-9 (Oct. 6, 2020) (“Petitioner argues that we should institute additional inter partes reviews of the challenged claims because the asserted references in these cases were either not considered or not applied by the Examiner during prosecution. *Id*. at 4. Petitioner’s argument is not persuasive”); *Comcast Cable Communications, LLC v. Rovi Guides, Inc.*, IPR2019-01417, Paper 11, 7 (Feb. 25, 2020) (“Petitioner sets forth the material differences between the two petitions as including: … (2) differences in the use of prior art during prosecution ….”).

d. *Comcast’s Fourth Rationale Based On Compelling Merits Is Inapplicable.*

Fourth, Comcast states that multiple petitions are justified because “each petition presents compelling unpatentability arguments.” Paper 3 (Ranking Paper), 4. However, there is no legal basis for a “compelling merits” factor in instituting parallel petitions. As authority, Petitioner states:

> As the Director explains, “[t]he patent system and the public good benefit from instituting compelling unpatentability challenges.” Director Vidal, *Interim Procedure for Discretionary Denials in AIA*

Post-Grant Proceedings With Parallel District Court Litigation (June 21, 2022).

Paper 3 (Ranking Paper), 4. Petitioner's reliance on the Director's memorandum fails for multiple reasons.

First, the memorandum relied upon by Petitioner has been rescinded in its entirety by the Office effective February 28, 2025. USPTO Website, USPTO rescinds memorandum addressing discretionary denial procedures[15]; *see also Toyota Motor Corporation v. Emerging Automotive LLC*, IPR2024-00785, Paper 13, 11 (Mar. 11, 2025) ("This Guidance Memo was rescinded by the United States Patent and Trademark Office on February, 28, 2025.").

Second, even were the guidance not rescinded, it did not address the issue of multiple parallel petitions before the Office. Rather, it addressed the *NHK/Fintiv* factors insofar as to "minimize potential conflict between the Patent Trial and Appeal Board (PTAB) ***and district court proceedings***" and avoid counterproductive efforts "given the existence of parallel proceedings between the Office ***and district courts***." Ex. 2007 [Interim-Denial-Memo] 1 (emphases added). In fact, the Director has made clear that the "compelling merits" analysis does not

[15] Available at: www.uspto.gov/about-us/news-updates/uspto-rescinds-memorandum-addressing-discretionary-denial-procedures

apply to parallel petitioning analysis before the Board by denying a Director Review request on the same issue. *See PainTEQ, LLC v. Orthocision, Inc.,* IPR2023-00477, Paper 10, 2 (Oct. 6, 2023) (denying Director Review and citing to [Ex. 2009] where petitioner explicitly requests whether the "compelling merits" test applies in the context of parallel IPR petitions); *see also* Ex. 2009 [PainTEQ-Email-Request] (email request for Director Review with attachment Ex. 2010); *see also* Ex. 2010 [PainTEQ-Rehearing-Request] (requesting the Director answer whether "the compelling merits test set forth in the [Director's June 21 2022 Interim Memorandum] ***applies in the context of parallel IPR petitions***.") (emphasis added).

e. *Comcast's Counter-Argument Misses The Mark.*

Comcast's attempt to address Entropic's argument that Comcast abuses the IPR process by repeatedly filing frivolous parallel petitions argues that:

> Instead of addressing the merits, Patent Owner's preliminary responses to the petitions for the related patents complained about a supposed burden on Patent Owner from parallel petitions. To the extent Patent Owner maintains that stance in connection with Petitions 1-3, it ignores the larger context of the dispute. Patent Owner chose to file suit against Comcast on twenty patents and seeks to add the '275 patent and the unrelated U.S. Patent 9,866,438 to that dispute.

Paper 3 (Ranking Paper), 5. Comcast attacks a strawman. The issue here is not that Comcast filed petitions; rather, the issue is that Comcast knowingly files multiple ***parallel*** petitions, often three or more, knowing that its parallel petitioning filings are frivolous, unjustified, and against Board rules. Yet despite this knowledge, Comcast chooses to continue *en masse* parallel filings in order to maximize the burden on Patent Owner and strain the resources of the Board, conspicuously aware that Patent Owner's finite resources must be diverted to all of the simultaneously filed parallel petitions on the merits.

Thus, for the foregoing reasons, if the Board is inclined to consider any of Comcast's three petitions directed towards the '275 patent, it should only consider a single petition at most.

III. CONCLUSION

For all of the foregoing reasons, the Board should exercise its discretion under § 314(a) to deny institution in each of IPR2025-00180, IPR2025-00181 and IPR2025-00182. Even if the Board is inclined to consider institution, it should, at most consider whether to institute just one of these IPRs.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITS

This Patent Owner Preliminary Response (the "POPR") consists of 11,845 words, excluding table of contents, table of authorities, certificate of service, this certificate, or table of exhibits. The POPR complies with the type-volume limitation of 14,000 words as mandated in 37 C.F.R. § 42.24. In preparing this certificate, counsel has relied on the word count of the word-processing system used to prepare the paper (Microsoft Word).

Respectfully submitted,

/ Kenneth Wang /

Date: March 18, 2025

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the following documents were served by electronic service, by agreement between the parties, on the date below:

PATENT OWNER'S PRELIMINARY RESPONSE

EXHIBITS 2001-2007, 2009-2010

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Respectfully submitted,

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