

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAGEMCOM BROADBAND SAS,
Petitioner,

v.

ENTROPIC COMMUNICATIONS, LLC,
Patent Owner.

Case IPR2026-00263
Patent 11,785,275

PATENT OWNER'S DISCRETIONARY DENIAL BRIEF

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2001	Joint Motion To Terminate Inter Partes Review, <i>Comcast Cable Commc'ns, LLC v. Entropic Commc'ns, LLC</i> , IPR2025-00180, Paper 41 [Comcast IPR Joint Motion to Terminate]
2002	Termination Due to Settlement After Institution of Trial, <i>Comcast Cable Commc'ns, LLC v. Entropic Commc'ns, LLC</i> , IPR2025-00180, Paper 42 [Comcast IPR Termination]
2003	Complaint For Patent Infringement, <i>Entropic Commc'ns, LLC v. Sagemcom Broadband SAS</i> , No. 2:25-cv-00379, Dkt. No. 1 (E.D. Tex. filed Apr. 10, 2025) [Complaint]
2004	Sagemcom, About Us, https://www.sagemcom.com/en/about-us?language_content_entity=en (last visited Apr. 2, 2026) [Sagemcom About Us]
2005	SAGEMCOM GROUP Company Profile, Dun & Bradstreet Bus. Directory, https://www.dnb.com/business-directory/company-profiles.sagemcom_group.4bac7ec06895cd28e76072ad8c3dda9f.html (last visited Apr. 14, 2026) [Dun & Bradstreet]
2006	Sagemcom Broadband SAS, France – Company Profile, Volza, https://www.volza.com/company-profile/sagemcom-broadband-sas-373389/ (last visited Apr. 14, 2026) [Volza]
2007	Sagemcom, Sagemcom's Response to TTNC Watch Report On Taiwanese Businesses In Indonesia, Bus. & Hum. Rts. Res. Ctr. (Jan. 10, 2025), https://www.business-humanrights.org/en/latest-news/sagemcoms-response-to-ttnc-watch-report-on-taiwanese-businesses-in-indonesia/ [Business Human Rights]
2008	Import Bill of Lading for Sagemcom Broadband SAS, Volza, https://www.volza.com/company-profile/sagemcom-broadband-sas/import-bill-of-lading-55143-0-60427082/ (last visited Apr. 14, 2026) [Import Bill of Lading]

2009	Sagemcom Broadband SAS's 582 Import Shipments From 17 Global Suppliers, Volza, https://www.volza.com/company-profile/sagemcom-broadband-sas-373389/import/ (last visited Apr. 14, 2026) [Sagemcom Imports]
2010-2012	Reserved
2013	Comcast Corp., Energy Usage of Your Internet Equipment, https://www.xfinity.com/support/articles/internet-equipment-energy-usage (last visited Apr. 13, 2026) [Xfinity Energy Usage of Your Internet Equipment]
2014	Reserved
2015	John A. Squires, Memorandum Regarding Additional Discretionary Institution Considerations – U.S. Manufacturing and Small Business Use of AIA Proceedings (Mar. 11, 2026) [3/11/2026 Memorandum]
2016	Reserved

I. INTRODUCTION

This Petition arises in the wake of a prior *inter partes* review involving the same patent, the same prior art, and the same invalidity theories. In that earlier proceeding, Comcast Cable Communications, LLC challenged U.S. Patent No. 11,785,275 in IPR2025-00180. The parties litigated the case through the filing of a sur-reply and demonstratives before termination following settlement.

Despite having ample opportunity, Petitioner Sagemcom elected not to participate in IPR2025-00180. Petitioner has long been aware of the '275 patent, including when it was notified by its customers of an indemnity obligation. The complaint alleging that Sagemcom itself infringed the '275 patent was filed on April 10, 2025, more than two weeks before the Comcast IPR was instituted on April 29, 2025. Nonetheless, Sagemcom did not seek joinder or file its own petition while that proceeding was pending. And it did not otherwise attempt to participate in IPR2025-00180. Instead, only after the prior proceeding was terminated did Sagemcom file its Petition, conceding that its “patentability analysis ... is substantively equivalent” to IPR2025-00180 and requesting that the Board adopt the prior record and proceed directly to oral argument. The result is a second, duplicative challenge brought by a different petitioner that chose not to participate in the prior proceeding despite having full knowledge and opportunity to do so.

This is not a proper use of the *inter partes* review process. The statutory

framework provides a clear mechanism—joinder—for parties who wish to participate in an instituted proceeding. Sagemcom declined to seek joinder. It now seeks to obtain the benefit of IPR2025-00180 without the corresponding burdens that would have applied had it timely participated. Discretionary denial exists to prevent precisely this type of gamesmanship. Allowing this Petition to proceed would effectively permit a non-participant to wait out an instituted IPR, avoid estoppel, and then relitigate the same challenge using the prior record.

First, discretionary denial is warranted under *General Plastic*, as extended by *Valve*, because Sagemcom’s Petition is a strategically delayed, duplicative follow-on challenge that seeks to take over a previously litigated IPR it chose not to join. Sagemcom had a direct stake in the earlier Comcast IPR—its products formed the basis of the asserted infringement—and could have participated through timely joinder. It declined to do so. Instead, Sagemcom waited while the proceeding was significantly developed and then terminated, and only then filed a substantively identical Petition based on the same art and arguments. It further delayed disclosing all RPis. Its request that the Board “accept the record” and proceed directly to oral hearing underscores the tactic: an attempt to convert a concluded IPR into a reusable vehicle for an aligned party. That is precisely the type of follow-on, duplicative attack that the *General Plastic* framework is designed to prevent. *See* Section III.A.

Second, the Petition independently warrants discretionary denial under

§ 325(d). Petitioner’s challenge to the independent claims rests principally on Zhang. But the patent that issued from Zhang—with substantially identical disclosure—was expressly presented to and considered by the Examiner during prosecution. Petitioner nevertheless identifies no material error in that determination; indeed, it misleadingly asserts that there was “no discussion of Zhang” while acknowledging that Zhang’s patent was before the Examiner.

Third, institution would be inconsistent with the Director’s guidance regarding the role of AIA proceedings in relation to U.S. manufacturing. Petitioner is a foreign corporation headquartered in France, with research, development, and manufacturing operations centered outside the United States. Under the Director’s memorandum, the Board may consider whether institution would provide a tactical advantage to entities that neither manufacture in the United States nor are making meaningful investments in domestic production. That concern is directly implicated here and further supports discretionary denial. *See* Section III.C.

For these reasons, the Board should deny institution under 35 U.S.C. § 314(a).

II. FACTUAL BACKGROUND

Sagemcom had knowledge of the ’275 patent and the related litigations well before filing its Petition. Sagemcom “learned from one or more of [its] customers that Entropic had brought lawsuits involving each of the Patents-in-Suit against such customers” and further “learned of the Patents-in-Suit because one or more of its

customers requested assistance and/or satisfaction of an indemnity obligation” in connection with those allegations. Ex. 2003 [Complaint] ¶¶ 62-64.

Sagemcom’s knowledge was not merely indirect. Patent Owner filed a complaint asserting the ’275 patent against Sagemcom on April 10, 2025, more than two weeks before the Board instituted trial in *Comcast Cable Communications, LLC v. Entropic Communications, LLC*, IPR2025-00180 (the “Comcast IPR”) on April 29, 2025. Thus, when the Comcast IPR was instituted, Sagemcom was accused of infringing the ’275 patent and had every reason to participate in that proceeding.

Indeed, the deadline to request joinder was May 29, 2025—one month after institution and 49 days after the complaint was filed against Sagemcom.¹ 37 C.F.R. § 42.122(b). Sagemcom did not seek joinder, did not file its own petition, and did

¹ Petitioner may contend that formal service of the complaint occurred after the May 29, 2025 joinder deadline. The timing of formal service, however, does not reflect the timing of Petitioner’s knowledge. Sagemcom had actual knowledge of the ’275 patent and related litigations through customer notifications and indemnity obligations. Ex. 2003 [Complaint] ¶¶ 62-64. In addition, as a sophisticated supplier of the accused products to major U.S. service providers, Sagemcom would have been aware of publicly filed litigation concerning those products. Sagemcom’s awareness of the relevant disputes thus long predated the joinder deadline.

not otherwise participate in the Comcast IPR. By electing not to join, Sagemcom sought to avoid estoppel. *See* 35 U.S.C. § 315(e).

On February 3, 2026, Comcast filed a Joint Motion To Terminate the Comcast IPR because “[t]he Parties have entered into a settlement agreement that resolves all underlying disputes between Petitioner and Patent Owner with respect to the ’275 patent.” Ex. 2001 [Comcast IPR Joint Motion to Terminate] 1. The Board granted that motion and terminated the Comcast IPR on February 6, 2026. Ex. 2002 [Comcast IPR Termination] 2.

Only after the Comcast IPR was terminated did Sagemcom act. On February 20, 2026—nearly 9 months after the joinder deadline passed—Sagemcom filed its copycat Petition and a motion requesting that the Board adopt the prior record and proceed directly to oral argument.

Sagemcom is a French *société par actions simplifiée* (simplified corporation). Ex. 2004 [Sagemcom About Us]; Ex. 2005 [Dun & Bradstreet]; Ex. 2003 [Complaint] ¶ 19. Sagemcom’s principal research & development operations are based in its headquarters in France. Ex. 2004 [Sagemcom About Us]. In addition to research & development outside of the U.S., the publicly available evidence indicates that Sagemcom manufactures its products outside the U.S. Trade records identify Indonesia, China, Malaysia, Vietnam, Singapore, and India as sources for products shipped to Sagemcom. Ex. 2006 [Volza]; Ex. 2007 [Business Human

Rights] 1. Public import records further identify Indonesian entities as suppliers. Ex. 2008 [Import Bill of Lading]; *see also* Ex. 2009 [Sagemcom Imports].

Sagemcom has a longstanding commercial relationship with Comcast and supplies the accused cable-modem and set-top-box products used in Comcast's network. *See* Ex. 2003 [Complaint] ¶¶ 24, 27-28, 54-55, 62-64. Sagemcom sells and provides the accused products to multiple-system operators including Comcast. *Id.* Comcast's public materials confirm that Comcast deploys Sagemcom equipment. Comcast publishes a list of internet equipment "purchased or sold through to customers by Comcast" and "deployed in Comcast's network, running Comcast software." That list includes multiple Sagemcom devices. Ex. 2013 [Xfinity Energy usage of your equipment] 2.

III. THE PETITION SHOULD BE DISCRETIONARILY DENIED

A. Discretionary Denial Is Warranted Under *General Plastic And Valve* Because Sagemcom Repeats Comcast's Earlier Petition And Should Have Sought Joinder Instead.

Sagemcom's Petition should be denied because it is an attempt to take over and continue a previously litigated IPR that Sagemcom chose not to join when it had the chance. Sagemcom admits that its Petition is substantively identical to Comcast's earlier petition, seeks to adopt the record developed in that proceeding, and asks to skip directly to oral argument. It thus presents no new challenge, only a second attempt to litigate the same one after the original proceeding was terminated.

This is precisely the type of follow-on, duplicative attack the *General Plastic* framework is designed to prevent, and *Valve* makes clear that those principles apply even where the later petition is brought by a different but aligned party. But this case presents an even more compelling basis for denial. Sagemcom is not a stranger to the earlier IPR. It supplied the accused products to Comcast and faced indemnity exposure arising from those products. Yet Sagemcom did not participate in the Comcast IPR when it had the opportunity.

Instead, Sagemcom waited until the Comcast IPR had been fully developed and then terminated, and only then filed this Petition seeking to reuse that work product and relitigate the same issues. Allowing such a petition would permit a party to sit out an instituted IPR, avoid timely joinder, and then revive the same challenge after the fact. This Petition is precisely the kind of “harass[ing]” and “repeated attack[] on [a] patent” that *General Plastic* stated “frustrate[s] the purpose of the [AIA] as providing quick and cost effective alternatives to litigation.” *Gen. Plastic Indus. Co., Ltd. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19, 17 (Sept. 6, 2017) (precedential) (“*General Plastic*”). The *General Plastic* factors confirm that Sagemcom’s duplicative, strategically delayed Petition warrants denial.

1. *General Plastic* Factor #1: Sagemcom Has A “Significant Relationship” With Comcast And Challenges The Same Claims.

Factor #1 favors denial because Comcast and Sagemcom have a “significant relationship” and the follow-on petition challenges the same claims. *Valve Corp. v. Elec. Scripting Prods., Inc.*, IPR2019-00062, Paper 11, 9-10 (Apr. 2, 2019) (precedential) (“*Valve*”). Here, Sagemcom supplied the accused cable-modem and set-top-box products to Comcast. Ex. 2003 [Complaint] ¶¶ 24, 27-28. Comcast’s own public materials confirm that it deploys Sagemcom equipment in its network, identifying multiple Sagemcom devices as “deployed in Comcast’s network, running Comcast software.” Ex. 2013 [Xfinity Energy usage of your internet equipment]. And Sagemcom learned of Entropic’s patent litigation through its customers, including through requests for assistance or satisfaction of indemnity obligations. Ex. 2003 [Complaint] ¶¶ 61-65. That Sagemcom USA may not sell its cable set-top box and DOCSIS gateway products to Comcast does not demonstrate that Petitioner Sagemcom Broadband SAS does not do so.

In *Valve*, a significant relationship arose because petitioners “were accused of infringing the ’934 patent based on HTC’s VIVE devices that incorporate technology licensed from Valve.” *Valve*, 10. The commercial and litigation-related relationship here too supports applying *Valve*.

2. General Plastic Factors #2, 4: Sagemcom Was Aware Of The Art Long Before Its Petition.

Factors #2 and #4 consider whether the petitioner knew or should have known

of the asserted art and the time between learning of that art and filing the second petition. *General Plastic*, 16-17. Both favor denial. Sagemcom had actual awareness of the underlying dispute and a direct stake in the Comcast IPR. Sagemcom supplied the accused products at issue in the Comcast litigation. The '275 patent was asserted against Comcast in December 2023, and Comcast filed its IPR on December 6, 2024 based on the same art and arguments raised here. Sagemcom thus was or should have been aware of that art by December 2024, when Comcast filed its petition, six months before its deadline to seek joinder.² *Am. Honda Motor Co., Inc. v. Intellectual Ventures II LLC*, IPR2018-00349, Paper 9, 16 (June 27, 2018) (petitioner on notice where “monitoring litigation activity” “would have apprised” it of references).

Despite that knowledge and opportunity, Sagemcom did nothing and chose to wait while that proceeding progressed through institution, full merits briefing, and preparation for oral hearing, and only after termination did it file the present Petition. The delay is substantial. Comcast filed its petition on December 6, 2024, and the Board instituted review on April 29, 2025. Sagemcom’s Petition was accorded a

² As the Complaint explains, Sagemcom was aware of the '275 patent prior to this action through lawsuits Entropic brought against its customers alleging infringement by Sagemcom’s products. Ex. 2003 [Complaint] ¶¶ 61-65 & n.7

filing date of June 15, 2026—more than 1.5 years after Comcast’s filing and over a year after institution. Sagemcom offers no meaningful explanation for this delay. Nor could it: the Petition is substantively identical to Comcast’s and relies on the same prior art and arguments. Here, an aligned party with full knowledge and a direct stake in the earlier IPR declined to participate and then filed a duplicative petition after that proceeding concluded. Factors #2 and #4 strongly favor denial.

3. General Plastic Factor #3: Sagemcom Filed Its Petition After The Comcast IPR Was Fully Developed.

Factor #3—“whether at the time of filing of the second petition the petitioner already received the patent owner’s preliminary response to the first petition or received the Board’s decision on whether to institute review in the first petition”—strongly favors denial. *General Plastic*, 16. Here, by the time Sagemcom filed its Petition, it had the Patent Owner Response, Reply, Sur-Reply, expert depositions, and demonstratives. Identical copycat petitions are not automatically favored simply because they eliminate road-mapping. *See Elong Int’l USA Inc. v. Feit Elec. Co.*, IPR2025-00258, Paper 16, 3 (June 25, 2025) (precedential). The absence of classic road-mapping does not eliminate the broader concern presented by a serial challenge filed after the first proceeding has been litigated nearly to completion. Factor #3 favors denial.

4. General Plastic Factor #5: Sagemcom Fails To Provide An Adequate Explanation For The Time Elapsed Before Its Petition.

Factor #5—“whether the petitioner provides adequate explanation for the time elapsed between the filings of multiple petitions directed to the same claims of the same patent”—strongly favors denial. *General Plastic*, 16-17. Sagemcom argues that “by the time Sagemcom was served, the time for seeking to join the Comcast IPR had already passed.” Paper 4, 3. But formal service does not explain its failure to act. The Complaint was publicly filed on April 10, 2025, before institution, and Sagemcom already knew of Entropic’s assertions concerning its products through its customers. Ex. 2003 [Complaint] ¶¶ 61-65. Nor does 37 C.F.R. § 42.122(b) condition joinder upon prior service of a complaint.

Any reliance on *Qualcomm Inc. v. Cobblestone Wireless, Inc.*, IPR2024-01336, Paper 15 (Mar. 7, 2025), does not alter that conclusion. *Qualcomm* predates the March 26, 2025 discretionary-denial framework and subsequent precedential guidance emphasizing Congress’s concern with repeated challenges. The Director has since stressed that AIA proceedings should not become a vehicle for “repeated litigation and administrative attacks,” including multiple challenges without sound reason. *Magnolia Med. Techs., Inc. v. Kurin, Inc.*, IPR2026-00097, Paper 17, 2-4 (May 14, 2026) (precedential). And *Elong*—a precedential post-*Qualcomm* decision—confirms that an identical copycat petition is not automatically favored merely because it avoids road-mapping. *Elong*, 3.

Sagemcom offers no adequate explanation for declining to participate while

Comcast's proceeding was pending and then seeking to revive the same challenge after termination. Factor #5 strongly favors denial.

5. General Plastic Factors #6, 7: This Petition Would Waste The Board's Resources.

Factors #6 and #7 consider the Board's finite resources and the statutory requirement to issue a final written decision within one year of institution. *General Plastic*, 16-17. These considerations favor denial where a petition would duplicate prior proceedings rather than present a new dispute. Here, Sagemcom seeks to re-litigate issues that the Board has already spent substantial time and resources considering. Comcast's IPR advanced almost through oral argument before terminating. Institution here would require the Board to expend additional resources to revisit that same record and issues, rather than resolve a genuinely new dispute. These factors favor denial.

B. The Petition Should Be Rejected Under § 325(d) Because Substantially The Same Art Was Previously Presented And Rejected In Prosecution.

The Petition should also be denied institution because "the same or substantially the same prior art or arguments previously were presented to the Office." 35 U.S.C. § 325(d). Petitioner's challenge against the independent claims

(1 and 11) is based on anticipation or obviousness based on Zhang alone.³ See Pet., 17-18. But a substantially identical Zhang reference (U.S. Patent No. 6,704,372 (“Zhang-Patent”)), which is the patent that issued from Petitioner’s Zhang reference, was considered and rejected during prosecution. As Petitioner’s grounds in this proceeding are based on the Zhang reference, and because Petitioner shows no material error on the part of the Office, the *Advanced Bionics* test is clearly met.

1. First *Advanced Bionics* Prong: The Petition Presents Substantially The Same Art Previously Considered And Rejected By The Office.

The first *Advanced Bionics* prong considers “whether the same or substantially the same art previously was presented to the Office.” *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6, 8 (Feb. 13, 2020) (precedential). That prong is undeniably met here because the patent that issued from Petitioner’s Zhang reference was presented to the examiner in an IDS containing only four references. Ex. 1118 [IDS] 1. The Zhang

³ Petitioner also challenges independent claim 11 based on the combination of Zhang and Mirabbasi “[i]f ‘radio front end’ and/or ‘digital front end’ in claims 11-13 are construed as means-plus-function terms.” Pet., 68. Patent Owner has not alleged that those terms are means-plus-function and, in any event, addition of Mirabbasi for structure of these terms does not affect the analysis in this section.

patent is the patent that issued from the same application that published as the Petition's Zhang reference. Ex. 1049 [Zhang] 1 (Appl. No.: 09/956,479); Ex. 1117 [Zhang-Patent] 1 (Appl. No.: 09/956,479). Both the Zhang patent and Zhang have substantially identical disclosures. *Compare generally* Ex. 1049 [Zhang] *with* Ex. 1117 [Zhang-Patent].

The Examiner stamped the IDS, confirming consideration of the Zhang patent. Ex. 1118 [IDS] 1-2. The Examiner's notice of allowance confirmed that he had considered the references identified in the IDS, including Zhang:

Claims 19-38 are allowed. *The prior art comprising Information Disclosure Statements filed 16 August 2023 and 18 August 2023 was considered by the Examiner in view of the instant application.* ... [T]he prior art was related to a cable modem system and architecture but not as claimed in the instant application.

Ex. 1119 [NOA] 6.

The Examiner then explained that the considered prior art, including Zhang, did not disclose the claimed invention:

The following is a statement of reasons for the indication of allowable subject matter: ... *The prior art made of record do not teach selecting, by a digital frontend (DFE) coupled to the ADC, a plurality of desired channels from the digitized signal and outputting by the DFE, the selected plurality of desired channels to at least one demodulator as a digital datastream.*

Ex. 1119 [NOA] 7.

When a reference was previously identified in an IDS, “the same or substantially the same prior art or argument previously was presented to the Office.” *Ecto World, LLC v. RAI Strategic Holdings, Inc.*, IPR2024-01280, Paper 13, 3-4 (May 19, 2025) (precedential as to § A) (“*Ecto World*”); *see also Advanced Bionics*, 7-8 (“[p]reviously presented art includes art made of record by the Examiner, and art provided to the Office by an applicant, such as on an Information Disclosure Statement (IDS), in the prosecution history of the challenged patent”); *Google LLC v. Valtrus Innovations Ltd.*, IPR2022-01197, Paper 18, 15 (June 13, 2023) (similar). The first prong of *Advanced Bionics* is thus clearly satisfied as substantially identical prior art was presented to the Office.

2. Second *Advanced Bionics* Prong: Petitioner Fails To Show Any Material Error By The Office.

The Director has explained that when challenging claims using prior art previously considered, even if only on an IDS, a petitioner must “explain, with reference to *Becton Dickinson* factors (c), (e), and (f), how the Examiner erred in overlooking the prior art.” *Ecto World*, 5. Here, Petitioner does not allege any error by the Examiner, and its characterization of the Patent’s prosecution is misleading.

Petitioner characterizes the Patent’s prosecution history, as follows:

After an RCE and two IDSs to cite litigation documents and references (including *the patent of the Zhang reference relied on*

herein), another notice of allowance was sent and the '275 patent was issued. Ex. 1004, 3415-4831, 4857. ***There was no discussion of Zhang (in the notice of allowance or elsewhere)***, and none of Pandey, Zhang '933, Mirabbasi, and Dong were even considered during prosecution. Ex. 1004, 4824-4831; Ex. 1001, 1-3; Ex. 1002, ¶47.

Pet., 9. But the Zhang Patent identified to the Examiner during prosecution is the patent that issued from Petitioner's application publication and has substantially identical disclosures to it. *Compare* Ex. 1049 [Zhang] *with* Ex. 1117 [Zhang-Patent]. Moreover, the Examiner also emphasized in the Notice of Allowance that he had considered the IDS where the Zhang Patent was one of only four references identified. Ex. 1119 [NOA] 6 ("The prior art comprising Information Disclosure Statements filed 16 August 2023 and 18 August 2023 was considered by the Examiner in view of the instant application.").

Furthermore, the Examiner explained that architectures similar to Zhang do not disclose the claimed invention. The Examiner explained that prior art of record digitized the input signal and then separated the digitized signal into its constituent channels, which are then processed in the normal manner:

The following is a statement of reasons for the indication of allowable subject matter: the prior art made of record teach a receiver for a wireless telecommunication system teach all of the adjacent frequency bands in the IF signal passed by a band pass filter in the radio frontend are ***converted to a digital signal by an ADC and then***

separated into their respective frequency bands by a channelizer where the separated frequency bands are processed in the normal manner by subsequent DSP devices, see Claxton et al. US 6,735,421.

Ex. 1119 [NOA] 7.

The architecture identified and rejected by the Examiner is precisely the architecture also implemented by Zhang, as well as the Zhang Patent before the Examiner. Specifically, Zhang also digitizes the input signal with n channels and separates the input signal into its constituent channels C_1 - C_n . Ex. 1049 [Zhang] [0027]-[0028]. Petitioner's expert has testified at deposition that the number of channels " n " includes both desired and undesired channels in the signal band. Ex. 1113 [Lett-Depo.] 78:14-22 (agreeing that Zhang's "lower case letter n refers to both desired and undesired channels within the entire band").

Thus, *Becton Dickinson* factors (c), (e), and (f) each weigh in favor of denying institution. For factor (c), the Zhang Patent was one of only four references in an IDS expressly considered by the examiner, and the Examiner explained that architectures similar to Zhang do not disclose the claims. For factor (e), Petitioner makes no attempt to address how the Examiner erred, much less materially. The Petition fails to identify any specific teachings in Zhang that the Examiner overlooked or explain why no reasonable examiner could have found the claims patentable over these references. *Becton, Dickinson*, 18; *Ecto World*, 6. Instead, the

Petitioner misleadingly claims that there was no “discussion of” Zhang during prosecution, while ignoring that Zhang Patent was expressly considered and similar architectures were expressly distinguished. For factor (f), the Petition relies on the same Zhang reference considered and rejected during prosecution, with no modification or addition.

Furthermore, Petitioner’s generalized obviousness contentions regarding Zhang fall far short of the material error analysis required under *Ecto World*. The Director specifically rejected the notion that petitioners can “simply rely on [their] unpatentability contentions to imply that an error occurred,” requiring instead that petitioners provide a specific analysis identifying the Office’s alleged error and explaining why that error is material to patentability. *Ecto World*, 5-6. Petitioner’s failure to provide such analysis for Zhang constitutes a fundamental deficiency that warrants discretionary denial under § 325(d). As the Board has explained, there is no material error where Petitioner fails to address why the claims were allowed over the relevant reference(s). *Balt USA, LLC v. MicroVention, Inc.*, IPR2020-01259, Paper 10, 20 (Jan. 21, 2021) (“Most tellingly, Petitioner made no effort to address the Examiner’s statements in addressing why the challenged claims were allowed over Fitz, Ken, and other references considered ...”); *see also Edge Endo, LLC v. Scianamblo*, IPR2018-01322, Paper 15, 15-16 (Jan. 14, 2019) (similar); *Unified*

Patents Inc. v. Berman, IPR2016-01571, Paper 10, 12 (Dec. 14, 2016) (informative) (similar).

Accordingly, under *Advanced Bionics* prong 2, Petitioner has failed to demonstrate that the Office materially erred in evaluating the art and arguments that the Petition raises. The Board should deny institution under § 325(d).

C. Discretionary Denial Is Favored Because Sagemcom Is A Foreign Company That Manufactures Outside Of The United States.

The Director’s March 11, 2026 memorandum considers “the extent to which any products accused of infringement in a parallel proceeding are manufactured in the United States or are related to investments in American manufacturing operations.” Ex. 2015 [3/11/26 Memorandum] 2. The memorandum reflects concern that AIA proceedings not provide a “tactical advantage” to entities lacking meaningful investment in domestic production. *Id.*, 1-2.

Sagemcom is a French industrial group headquartered in Bois-Colombes, France, where its principal R&D operations are located. Ex. 2004 [Sagemcom About Us]; Ex. 2005 [Dun & Bradstreet]. And the available evidence indicates that Sagemcom relies on overseas manufacturing for its electronics products. Trade and import records identify suppliers and shipments from China and Indonesia, among other Asian countries. Exs. 2006-2009. Although Sagemcom may identify certain U.S. operations and domestic production, those domestically manufactured products

are not accused in the co-pending litigation. Nor does Sagemcom identify evidence that the accused cable-modem and set-top-box products are manufactured in the United States or are related to its asserted domestic manufacturing investments.

Accordingly, institution would provide the type of tactical advantage identified in the Director's memorandum without advancing the memorandum's interest in protecting investment in U.S. manufacturing. This consideration therefore favors discretionary denial.

IV. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that institution be denied under 35 U.S.C. § 314(a).

Respectfully submitted,

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Date: August 17, 2026

CERTIFICATE OF SERVICE

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

PATENT OWNER'S DISCRETIONARY DENIAL BRIEF

EXHIBITS 2003-2009, 2013, 2015

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