UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KRISP TECHNOLOGIES, INC.,
Petitioner,

v.

SANAS.AI INC.,
Patent Owner.

Case No. IPR2026-00274
Patent No. 12,131,745

PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION

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EXHIBIT LIST

EXHIBIT NO.	DESCRIPTION
Ex2001	Complaint filed in *Sanas.AI Inc. v. Krisp Technologies, Inc.*, No. 3:25-cv-05666 (N.D. Cal. Jul. 7, 2025) (D.I. 1) ("Complaint")
Ex2002	Answer filed in *Sanas.AI Inc. v. Krisp Technologies, Inc.*, No. 3:25-cv-05666 (N.D. Cal. Sep. 8, 2025) (D.I. 28) ("Answer and Counterclaims")
Ex2003	Amended Complaint filed in *Sanas.AI Inc. v. Krisp Technologies, Inc.*, No. 3:25-cv-05666 (N.D. Cal. Sep. 22, 2025) (D.I. 35) ("Amended Complaint")
Ex2004	Order on First Motion to Dismiss filed in *Sanas.AI Inc. v. Krisp Technologies, Inc.*, No. 3:25-cv-05666 (N.D. Cal. Sep. 29, 2025) (D.I. 37) ("Order on First Motion to Dismiss")
Ex2005	Order Denying Krisp Motion to Dismiss First Amended Complaint and Granting in Part and Denying in Part Motion to Dismiss Defendant Krisp's Counterclaims filed in *Sanas.AI Inc. v. Krisp Technologies, Inc.*, No. 3:25-cv-05666 (N.D. Cal. Dec. 1, 2025) (D.I. 58) ("Order Denying Krisp Motion to Dismiss First Amended Complaint")
Ex2006	Answer to Amended Complaint filed in *Sanas.AI Inc. v. Krisp Technologies, Inc.*, No. 3:25-cv-05666 (N.D. Cal. Dec. 15, 2025) (D.I. 60) ("Answer to Amended Complaint")

EXHIBIT NO.	**DESCRIPTION**
Ex2007	Order Denying Motion to Dismiss filed in *Sanas.AI Inc. v. Krisp Technologies, Inc.*, No. 3:25-cv-05666 (N.D. Cal. Dec. 19, 2025) (D.I. 63) ("Order Denying Motion to Dismiss")
Ex2008	Order Denying [Renewed] Motion for Judgment on Pleadings filed in *Sanas.AI Inc. v. Krisp Technologies, Inc.*, No. 3:25-cv-05666 (N.D. Cal. Feb. 23, 2026) (D.I. 72) ("Order Denying [Renewed] Motion for Judgment on Pleadings")
Ex2009	Joint Case Management Statement filed in *Sanas.AI Inc. v. Krisp Technologies, Inc.*, No. 3:25-cv-05666 (N.D. Cal. Mar. 19, 2026) (D.I. 83) ("Joint Case Management Statement")
Ex2010	Case Management Scheduling Order filed in *Sanas.AI Inc. v. Krisp Technologies, Inc.*, No. 3:25-cv-05666 (N.D. Cal. Mar. 26, 2026) (D.I. 92) ("Case Management Scheduling Order")
Ex2011	Docket Sheet in *Sanas.AI Inc. v. Krisp Technologies, Inc.*, No. 3:25-cv-05666 (N.D. Cal.) ("Docket Sheet")
Ex2012	Coke Morgan Stewart, *Memorandum re Interim Processes for PTAB Workload Management* (Mar. 26, 2025), https://www.uspto.gov/sites/default/files/documents/InterimProcesses-PTABWorkloadMgmt-20250326.pdf. ("2025 Memo.")

EXHIBIT NO.	**DESCRIPTION**
Ex2013	John A. Squires, *Memorandum re Additional Discretionary Institution Considerations—U.S. Manufacturing and Small Business Use of AIA Proceedings* (Mar. 11, 2026), https://www.uspto.gov/sites/default/files/documents/Additional_Discretionary_Institution_Considerations_US_Manufacturing_and_Small_Business_Use_of_AIA_Proceedings.pdf. ("2026 Memo.")
Ex2014	*Magnolia Med. Techs., Inc. v. Kurin, Inc.*, No. IPR2026-00097, Paper 17 (PTAB May 14, 2026) (precedential) ("*Magnolia*")
Ex2015	Scott R. Boalick, *Guidance on USPTO's Rescission of "Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation"* (Mar. 24, 2025)
Ex2016	[Intentionally Left Blank]
Ex2017	Sanas, LinkedIn, https://www.linkedin.com/company/sanastech/about/ (last visited May 13, 2026)
Ex2018	U.S. Patent No. 12,205,609 B1 (issued Jan. 21, 2025)
Ex2019	U.S. Patent No. 12,223,979 B1 (issued Feb. 11, 2025)
Ex2020	U.S. Publication No. 2022/0358903 A1 (published Nov. 10, 2022)
Ex2021	U.S. Publication No. 2024/0347070 A1 (published Oct. 17, 2024)

EXHIBIT NO.	DESCRIPTION
Ex2022	U.S. Publication No. 2024/0363135 A1 (published Oct. 31, 2024)
Ex2023	U.S. Patent No. 12,125,496 (issued Oct. 22, 2024)
Ex2024	*About Sanas*, Sanas, https://www.sanas.ai/about-us (last visited May 16, 2026).
Ex2025	Krisp, LinkedIn, https://www.linkedin.com/company/krisphq (last visited May 13, 2026)
Ex2026	Krisp Team, *What's It Like to Work at Krisp?* (Sep. 20, 2021), https://krisp.ai/blog/working-at-krisp/ (last visited May 13, 2026) ("What's it like to work at Krisp")
Ex2027	Arto Minasyan, *Krisp Voice AI Lab: Revolutionizing Voice Technology*, *LinkedIn* (posted Mar. 2026), https://www.linkedin.com/posts/artominasyan_eight-years-ago-we-started-with-a-simple-activity-7430219416912629760-8l6t (last visited May 13, 2026).
Ex2028	Krisp, *Introducing Accent Conversion for the Listener*, https://krisp.ai/blog/introducing-accent-conversion-for-the-listener/ (last visited May 20, 2026)
Ex2029	Arka Telecom, *YSU–Krisp AI Lab Opens at Yerevan State University*, https://arkatelecom.am/en/news/development/ysu_krisp_ai_lab_opens_at_yerevan_state_university/ (last visited May 20, 2026).

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Ex2030	Careers at Krisp, Krisp, https://krisp.ai/careers/ (last visited May 14, 2026)
Ex2031	Krisp, Google Maps, https://www.google.com/maps (last visited May 13, 2026)

I. INTRODUCTION

Patent Owner Sanas.AI Inc. ("Sanas") respectfully requests that the Director exercise discretion under 35 U.S.C. § 314(a) to deny institution of this inter partes review ("IPR") petition (Case No. IPR2026-00274) filed by Petitioner Krisp Technologies, Inc. ("Krisp") against U.S. Patent No. 12,131,745 ("the '745 Patent", Ex1001). The '745 Patent claims a technological solution using a trained neural network to transform phonetic embeddings and align source and target accents for real-time accent conversion that preserves intelligibility. Ex1001.

This Petition is not an isolated challenge to a single patent. It is one component of a broader, advanced litigation— *Sanas.AI Inc. v. Krisp Technologies, Inc.*, No. 3:25-cv-05666 (N.D. Cal.)—involving not only the '745 Patent, but also five additional Sanas patents, three additional Krisp patents, and a series of non-patent claims, including trade secret misappropriation, false advertising, and unfair competition. *See* Ex2003 (Amended Complaint) at ¶¶ 225-243, 268-288; Ex2002 (Answer and Counterclaims) at ¶¶ 46-82. ***Critically, those non-patent claims, and the core factual disputes surrounding Krisp's conduct, will proceed regardless of whether this IPR is instituted.***

Thus, institution would not simplify this dispute. Rather, it would only create duplicative proceedings layered on top of a case that must move forward in district court in any event. Institution would only serve to undermine the very

factors the Office has identified as relevant, including "the economy, efficient administration of the Office, the ability of the Office to timely complete its AIA reviews, and the integrity of the patent system." Ex2014 (*Magnolia*) at 6. Against that backdrop, the traditional *Fintiv* factors (*see Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 5-6 (PTAB Mar. 20, 2020) (precedential) ("*Fintiv* I"))—and the USPTO's more recent guidance (Ex2012 (2025 Memo.) and Ex2013 (2026 Memo.))—as clarified in *Magnolia* favor denial.

As detailed herein, institution of this IPR would not promote efficiency under Factors 1 and 4: the district court is already adjudicating validity challenges involving the same patent claims and must address overlapping issues related to those claims, along with additional patents and non-patent claims that will proceed in any event, leaving no realistic prospect of streamlining. Overlap is substantial, and Petitioner's limited *Sotera*-style stipulation does not eliminate duplicative challenges. Timing (Factor 2), substantial investment (Factor 3), the absence of a likely stay (Factor 1), and Petitioner's dual-forum litigation posture (Factor 5) all reinforce inefficiency, while policy considerations (Factor 6)—including settled expectations, U.S. innovation, and heavy expert reliance—further support denial.

This IPR would not simplify the main litigation; it would merely provide additional invalidity arguments in a satellite forum. *See* Ex2014 at 3.

Considering all factors holistically, institution would not promote efficiency or system integrity. Discretionary denial is therefore warranted.

II. DENIAL OF INSTITUTION UNDER § 314 IS WARRANTED

Section 314(a) gives the Director discretion to deny institution of IPR due to the advanced state of parallel district court litigation regarding the same issues (*see NHK Spring Co. v. Intri-Plex Techs., Inc.*, IPR2018-00752, Paper 8 at 19-21 (PTAB Sep. 12, 2018) (precedential)). The Office's concern in *Magnolia* with respect to using AIA review "as a means by which the petitioner presents additional invalidity arguments under sections 102 and 103" applies equally here. Ex2014 at 3.

The Board has set forth six factors for determining whether discretionary denial in light of parallel litigation is appropriate. *Fintiv* I at 5-6. In evaluating these factors, the Board "takes a holistic view of whether efficiency and integrity of the system are best served by denying or instituting review." *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 15 at 7-17 (PTAB May 13, 2020) (informative) ("*Fintiv* II").

A. *Magnolia* Efficiency: The Board Should Deny Institution of Resource-Intensive Petitions that Undermine Administrative Economy

Magnolia confirmed that AIA reviews must serve as a true "alternative to district court patent litigation", not simply a vehicle to obtain a "second bite" at a

validity challenge. Ex2014 at 2, 9. Congress designed AIA proceedings, including IPR proceedings, as targeted, **efficient alternatives** to district court patent litigation. *Id.* at 2. Further, the public-interest framework governing the Director's exercise of discretion—a framework equally applicable to IPR under § 314(a)—relies on the principle that AIA proceedings must serve "the economy, efficient administration of the Office, the ability of the Office to timely complete its AIA reviews, and the integrity of the patent system." *Id.* at 3-4. The legislative purpose is not so much about merely resolving "a private dispute", but rather to correct a possible error in the original grant. Ex2014 at 6.

Here, institution would only serve to harm the very factors the Office has identified as relevant, and it would impose significant burdens on finite Board resources without commensurate adjudicative value. The district court, with its broader procedural tools, live testimony, and consolidated adjudication of patent and non-patent claims, is uniquely equipped to resolve the complex dispute presented here. Moreover, because the district court case involves **additional patent and non-patent claims** that go **beyond** this IPR (*see* Ex2003), as well as the other petitions filed by Petitioner, this IPR and the other petitions are particularly poor choices for utilizing the Office's resources. The AIA design put in place by Congress presupposes petitions that efficiently test patentability, not sprawling combinations that replicate the scope and complexity of district court

adjudication. Efficient administration here therefore demands the resources afforded in the district court: the criteria set forth in *Magnolia* weigh toward discretionary denial of the instant proceeding.

B. *Fintiv* Factors Weigh in Favor of Discretionary Denial

1. Factor 3: The Parties' Substantial Investment in the District Court Case Weighs in Favor of Discretionary Denial

Factor 3 weighs in favor of discretionary denial based on the substantial resources already and continuing to be invested in the district court proceeding. Factor 3 looks to the "amount and type of work already completed in the parallel litigation by the court and the parties at the time of the institution decision." *Fintiv I* at 9. For example, "if, at the time of the institution decision, the district court has issued substantive orders related to the patent at issue in the petition," this factor favors denial. *Id.* at 9-10. "Likewise, district court claim construction orders may indicate that the court and parties have invested sufficient time in the parallel proceeding to favor denial." *Id.* at 10.

Here, the parties and the district court have already devoted substantial resources to the district court proceedings. *See* Ex2011. In addition to the resources already devoted by the parties and the district court to the patent claims, the case also involves non-patent claims—including misappropriation of trade secrets, false advertising, and unfair competition—that will independently require substantial time and effort to litigate regardless of the outcome of the instant proceeding. *See*

Ex2003 (Amended Complaint) ¶¶ 225–243, 268–288. The district court has ruled on three motions to dismiss—including a substantive ruling addressing patent eligibility under 35 U.S.C. § 101—a motion for judgment on the pleadings, and additional motions. Ex2004; Ex2005; Ex2007; Ex2008. The district court also resolved discovery disputes concerning patent-related discovery and expert access to confidential material. *See* Ex2011 (D.I. 68-70, 73-106).

At the same time, the parties have exchanged multiple document productions, served numerous discovery requests, and proceeded with infringement contentions. *See* Ex2011. Invalidity contentions will be exchanged on May 26, 2026. Additionally, the district court also has scheduled a claim construction hearing on Oct 22, 2026. *See* Ex2010 at 2. Prior to any decision by the Office on institution, the parties will be required to set forth their respective claim construction positions. *Id.* The current schedule provides for the Exchange of Proposed Claim Terms for Construction on Jun. 9, 2026, followed by the Exchange of Preliminary Claim Constructions and Extrinsic Evidence on Jun. 30, 2026. *Id.* Patent Owner and Petitioner's investment will continue to deepen before any institution decision is reached, further reducing any efficiency gains. Factor 3 weighs in favor of discretionary denial.

2. Factor 4: Significant Overlap Between This IPR and the District Court Proceeding Weighs in Favor of Discretionary Denial

Factor 4 favors denial because of the substantial overlap of issues between this IPR petition and district court case. This factor looks to "whether all or some of the claims challenged in the petition are also at issue in district court" and whether the "petition includes the same or substantially the same claims, grounds, arguments, and evidence" as the parallel district court case. *Fintiv I* at 12-13. Factor 4 is directed to "concerns of inefficiency and the possibility of conflicting decisions" when materially the same prior art is relied upon in both the district court litigation and the IPR proceeding. *Id.* at 12.

Magnolia explains that AIA reviews are undermined when they mirror district court litigation by relying on overlapping prior art or arguments. Ex2014 at 3. *Magnolia* further notes that the same concern arises when such reviews are used merely to introduce additional invalidity theories under §§ 102 and 103, increasing—rather than reducing—the time and resources spent on validity disputes. *Id.* As expressed in the decision, "the purpose of AIA reviews was, and is, to provide a quick and cost-effective *alternative* to district court patent litigation for resolving disputes over patent validity". *Id.*

Here, this proceeding is a subset of the district court litigation. All six of the Sanas patents asserted in the district court litigation are being challenged in four IPR petitions and two PGR petitions. The same Claims 1-20 of the '745 Patent at issue here are asserted by Patent Owner in the district court action. The district

court will necessarily resolve claim construction and other validity challenges of the same claims regardless of any PTAB proceeding. This overlap creates a substantial risk of duplicative proceedings and inconsistent determinations on validity and claim scope. Institution would not simplify the dispute. This scenario favors denial.

Petitioner offers a delayed *Sotera*-style stipulation (Ex1041).[1] But it is materially insufficient to satisfy the core *Sotera* requirements because it does not include a commitment to forgo any ground that could have reasonably been raised with respect to combinations of system art in this proceeding; failing to include all system art in a stipulation can defeat the effectiveness of a *Sotera* stipulation and sustain *Fintiv* overlap. *See Motorola Sols., Inc. v. Stellar, LLC,* IPR2024-01205, Paper 19 at 3-4 (PTAB Mar. 28, 2025). Instead, the stipulation is narrowly limited to only certain validity grounds in the current district court action and does ***not*** extend to "other proceedings or potential future challenges" for the combination of system art. *Magnolia* acknowledges that "all too often the co-pending litigation

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[1] It was submitted more than a month after the Petition was filed—and only after Krisp had already invoked the district court's jurisdiction to rule on its three motions to dismiss and judgment on the pleadings. Ex2004; Ex2005; Ex2007; Ex2008.

involves either the same arguments as the AIA review, or a petitioner asserts system art in the litigation that overlaps with the patents or printed publications asserted in the AIA review—a tell-tale sign that the AIA review is not functioning as a litigation alternative." Ex2014 at 3. Here, this belated and incomplete stipulation does not eliminate duplicative validity disputes or meaningfully mitigate the inefficiencies that *Fintiv* is intended to prevent. As long as Petitioner is reserving the right to pursue additional invalidity defenses at the district court, even if this IPR proceeds, it will not act as a substitute for litigation, as the AIA intended. Ex2014 at 3.

Moreover, even if it were fixed, strong *Fintiv* considerations otherwise discussed herein would outweigh a proper *Sotera* stipulation. *Samsung Elecs. Co. v. Mullen Inds. LLC,* IPR2024-01472, Paper 19 at 3 (PTAB Director Review Jul. 17, 2025) ("the merits of the Petition and Petitioner's *Sotera* stipulation do not outweigh *Fintiv* factors 2 and 3"); *see* Ex2015.

Here, institution would result in parallel adjudication, without simplifying the dispute. Institution would instead allow for the presence of duplicative arguments, additional invalidity theories under §§ 102 and 103, and overlapping system art combinations, thereby precluding the proceeding from acting as a quick and cost-effective alternative to district court litigation. Factor 4 weighs in favor of denial.

3. Factor 1: Lack of a Stay or Stay Request, Along with Evidence Indicating Denial of a Stay if Sought, Favors Discretionary Denial

Factor 1 weighs toward discretionary denial: no stay has been sought and there is no indication one will be sought. This factor looks to "whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted." *Fintiv I* at 5-6. Although "[i]n the absence of specific evidence, [the Board] will not attempt to predict" whether a district court will grant a stay (*see Sand Revolution II, LLC v. Continental Intermodal Group-Trucking LLC*, IPR2019-01393, Paper 24 at 7 (PTAB Jun. 16, 2020) (informative)), the present facts weigh against the grant of a stay.

Here, no stay exists, Petitioner has not sought one, nor is there any record evidence suggesting that a stay is likely. Should a stay be requested in the future, then like in *Int'l Test Solutions*—a case before Judge Seeborg involving similar procedural posture—a stay should be denied because dispositive motion practice has already occurred. *Int'l Test Sols v. MIPOX Int'l Corp. et al.*, 2017 WL 1316549, at *2-3 (N.D. Cal. Apr. 10, 2017). As noted, the district court already resolved a § 101 challenge to the asserted patents, confirming their eligibility, and the case is progressing through discovery and claim construction. Thus, the district court will likely decline to halt proceedings under these circumstances.

Further, district courts disfavor stays, where, as here, the "parties are direct competitors [because] the likelihood of undue prejudice to the non-moving party is heightened." *Robert Bosch Healthcare Sys., Inc. v. Cardiocom, LLC*, 2014 WL 3107447, at *6 (N.D. Cal. Jul. 3, 2014).

In the parallel proceeding, there are additional patent claims not before this Office, and more importantly additional **non-patent claims** of misappropriation of trade secrets, false advertising, and unfair competition. Ex2003 (Amended Complaint) at ¶¶ 225-243, 268-288. Such **other claims** make a stay unlikely.[2]

Consistent with USPTO's guidance, since parallel proceedings will continue irrespective of whether Petitioner is successful in this proceeding, Factor 1 favors discretionary denial.

4. Factor 5: Petitioner's Role as the Defendant in the District Court Litigation Likely Favors, or at Minimum Is Neutral Toward, Discretionary Denial

Factor 5 looks to "whether the petitioner and the defendant in the parallel proceeding are the same party." *Fintiv I* at 5-6. Here, since "the petitioner and the defendant in the parallel proceeding are the same party, this factor weighs in favor of discretionary denial." *Fintiv II* at 15.

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[2] While Judge Seeborg has granted a stay where the parties stipulated, and where there were no non-patent claims also being litigated, those are not the facts here.

Petitioner's failure to completely disclaim all validity challenges in the parallel proceeding (or other proceedings) should this IPR be instituted, enables Petitioner to pursue the invalidity challenges in two forums in parallel and/or serially. That overlap heightens the risk of inconsistent outcomes and weighs against institution. Accordingly, Factor 5 likely favors, or at minimum is neutral toward, discretionary denial.

5. Factor 2: Trial is Expected to Occur Near or Before the Final Written Decision and Weighs in Favor of Discretionary Denial

Factor 2 weighs in favor of discretionary denial because the anticipated district court trial date is expected to occur near or before a final written decision here. Factor 2 looks to the "proximity of the court's trial date to the Board's projected statutory deadline for a final written decision." *Fintiv* I at 5-6. "If the court's trial date is earlier than the projected statutory deadline, the Board generally has weighed this fact in favor of exercising authority to deny institution under *NHK*." *Id.* at 9.

Even without a set trial date, objective scheduling metrics indicate that trial before the district court in the instant case will occur near or before the Board's final written decision. Here, the deadline for a final written decision is Sep. 2027, based on the Jun. 25, 2026 Patent Owner Preliminary Response date, 37 C.F.R. § 42.107(b), and 37 C.F.R. § 42.100(c). In the Joint Case Management Statement,

the parties proposed a trial date of July 2027 (Sanas) and November 2027 (Krisp) (Ex2009 at 14), and at the pre-trial conference, Judge Seeborg indicated that trial is expected in 2027. Thus, it is likely the trial will be either around or prior to the final written decision in this IPR. Accordingly, Factor 2 is neutral to favoring discretionary denial.

6. Factor 6: Three Additional Considerations Weigh in Favor of Discretionary Denial

Factor 6 considers "other circumstances that impact the Board's exercise of discretion, including the merits." *Fintiv I* at 5-6. In accordance with this factor, at least three additional considerations called out by the Office reinforce discretionary denial: (i) Krisp's delay and prior access (Ex2012 (2025 Memo.) Consid. 5), (ii) U.S. innovation by Sanas versus foreign-centered conduct by Krisp (Ex2013 (2026 Memo.) Consid. 1 and 2), and (iii) the Petition's heavy reliance on expert-driven gap filling which is more appropriate for jury trials than a PTAB hearing (Ex2012 (2025 Memo.) Consid. 4).

(i) Ex2012 (2025 Memo.) Consid. 5: Krisp's Delay in Challenging the '745 Patent and Prior Access Weighs in Favor of Discretionary Denial

Consideration 5 of the 2025 Memo. (Ex2012) weighs in favor of discretionary denial because Petitioner's delay in filing this Petition—despite prior access to Patent Owner's technology—undermines any claim to efficient PTAB review. This consideration looks to the "[s]ettled expectations" of the parties,

including timing of any challenge relative to the patent's development and use. Ex2012 (2025 Memo.) at 2. Devoting resources to review a patent is unwarranted where a petitioner fails to offer a compelling justification, particularly when a patent owner has reasonably come to rely on the patent's settled expectations. *Dabico Airport Sols. Inc. v. AXA Power ApS*, IPR2025-00408, Paper 24 at 3-4 (PTAB Director Jun. 18, 2025) (informative); *see also* Ex2014 at 9.

The '745 Patent issued in Oct. 2024 (about 1.5 years prior to the current petition). As the PTAB has recognized, settled expectations can arise even over a relatively short period where, as here, substantial investments in research, development, and commercialization have been made. *Amgen Inc. v. Bristol-Myers Squibb Co.*, IPR2025-00601, -00602, -00603, Paper 9 at 2 (PTAB Director Jul. 24, 2025).

The facts here fit this framework and support denial. Settled expectations arise where a challenged patent, even if not long in force, is part of a portfolio that has been established or known to the Petitioner. *See, e.g., NKT Photonics Inc. v. Omni Continuum LLC*, IPR2025-00839, Paper 10 (PTAB Director Sep. 4, 2025) (finding settled expectations based on petitioner's awareness of the broader patent portfolio); *iRhythm Technologies, Inc. v. Welch Allyn, Inc.*, IPR2025-00363, Paper 10 at 3 (PTAB Director Jun. 6, 2025) (petitioner's citation to a related application and failure to seek early review favored denial).

Those principles apply with full force here. The parties have maintained a documented relationship since at least 2021, during which Petitioner had direct exposure to Patent Owner's technology. Ex2003 at ¶¶31-88. Notwithstanding that relationship, and Petitioner's confidentiality obligations, Petitioner remained aware for years of Patent Owner's innovations and its developing patent portfolio. Indeed, Petitioner acknowledged Patent Owner's portfolio by citing Sanas' U.S. Publication No. US 2022/0358903 A1, U.S. Publication No. 2024/0347070 A1, U.S. Publication No. 2024/0363135 A1 and U.S. Patent No. 12,125,496 on the face of its own patents (U.S. Patent Nos. 12,205,609 and 12,223,979), and more importantly, Petitioner filed its own patents based upon information confidentially disclosed by the Patent Owner. Ex2003 at ¶¶217-224; Ex2018; Ex2019; Ex2020; Ex2021; Ex2022; Ex2023.

Despite this longstanding knowledge, Petitioner delayed until Mar. 2026 to seek PTAB review—years after the '745 Patent issued in Oct. 2024, and more importantly more than eight months after the district court litigation was commenced in Jul. 2025. By the petition filing date, the district court case had progressed with more than 90 docket entries (*see* Ex2011), and the parties and the district court spent substantial resources briefing, and rebriefing, Petitioner's unsuccessful motions to dismiss and motion for judgment on the pleadings. Ex2004; Ex2005; Ex2007; Ex2008. This timing does not reflect an effort to

promote efficiency. Instead, it indicates that Petitioner sought PTAB review only after its district court challenges proved unsuccessful.

Where, as here, the Patent Owner has invested significant time and resources in developing its technology and building its patent portfolio (*See* Ex2001 (Amended Complaint) at ¶¶15-30)—and the Petitioner proceeded with full knowledge of those efforts, settled expectations weigh strongly against institution. Accordingly, this consideration supports discretionary denial.

(ii) Ex2013 (2026 Memo.) Consid. 1 & 2: U.S. operations and development by Sanas versus foreign-centered conduct by Krisp favor discretionary denial

Considerations 1 and 2 of the 2026 Memo. weigh in favor of discretionary denial because this dispute implicates substantial U.S.-based operations and development by Patent Owner, in contrast to Petitioner's primarily foreign-centered development. Ex2013 (2026 Memo.) at 2. These considerations focus on whether the relevant products and technology are tied to U.S. manufacturing, investment, and innovation. *Magnolia* demonstrates that available data undermines the notion that AIA reviews have effectively safeguarded U.S.-based manufacturers, suggesting that such entities deserve appropriate protection. *See* Ex2014 at 4-5.

Here, Patent Owner's technology is firmly rooted in the U.S., and reflects a substantial domestic investment, workforce development, and research activity. Ex2001 (Amended Complaint) at ¶¶2, 15-30. Sanas was founded at Stanford

University in California where its core technology originated and where the company remains headquartered in Palo Alto. Ex2017; Ex2024 (About Sanas). From its origins as a small California startup with only a handful of employees, Sanas has grown into a global company serving customers across numerous countries, bringing its U.S.-developed technology to a worldwide market. Ex2003 (Amended Complaint) at ¶¶ 1-5, 15-23. That growth underscores the commercial significance and real-world impact of its innovation, while reinforcing that the underlying research, development, and technical leadership remain U.S.-based.

Sanas' innovation continues to be driven by U.S.-based personnel, including '745 Patent inventor and co-founder Shawn Zhang, who studied at Stanford University and is currently based in Palo Alto, California. *See* Ex1001; Ex2024. Furthermore, Sanas is supported by significant U.S. capital investment, including approximately $100 million raised through seed, Series A, and Series B financing. *See* Ex2024. These facts demonstrate not only that the claimed technology originated in the U.S. but that it has matured through sustained domestic investment into a globally deployed platform—precisely the type of U.S.-anchored innovation the 2026 Memo. seeks to foster. *See* Ex2013 (2026 Memo.) at 2-3; Ex2014 at 4-5.

By contrast, Petitioner's operations are substantially centered outside the U.S. Although Petitioner has a mailing address in California (Ex2025), it has

identified Armenia as both its base of operations and the location where its core technology was developed. *See* Ex2026; Ex2027; Ex2028. In promotion of Petitioner's investment in and creation of a laboratory at an Armenian government university (Yerevan State University) located in Yerevan, Armenia, an article recognizes that "[Krisp's] team is based in Yerevan". Ex2029. Available evidence further alludes to a significant portion of Petitioner's workforce and business activity remaining in Armenia, as the majority of its publicly listed job openings are located there. Ex2030. Petitioner provides only limited public information regarding the extent of these foreign operations. For example, while public records, including Google Maps, reflect an established office in Yerevan, Armenia (*see* Ex2031), Petitioner's LinkedIn profile identifies only a Berkeley, California location. *See* Ex2025. The available evidence indicates Petitioner's core operations and product development are based in Armenia, while its publicly declared connections to California appear comparatively limited.

Accordingly, Considerations 1 and 2 weigh in favor of discretionary denial.

(iii) Ex2012 (2025 Memo.) Consid. 4: The Petition's heavy reliance on expert-driven gap filling confirms this dispute is better suited for a district court

Consideration 4 of the 2025 Memo. favors discretionary denial because the Petition depends heavily on expert testimony to supply missing elements of its invalidity theories with at least six different motivations to combine set out in the Petition. This consideration examines "the extent of the petition's reliance on

expert testimony." Ex2012 at 2-3. While expert testimony may properly explain prior art, heavy reliance—particularly where, as here, it fills critical gaps or creates material disputes—indicates that the issues are better suited for an Article III court. *Id.*; *see also iRhythm Techs.*, Paper 10 at 2-3 (recognizing that expert-driven gap-filling supports discretionary denial).

That is the case here. The Petition's reliance on expert testimony is evident not merely by the submission of a 152-paragraph expert declaration (Ex1003), but by the fact that it was cited 66 times in the Petition, and the term PHOSITA (indicative of an analysis relying upon expert testimony) was used 37 times in the Petition.

The five grounds advanced, each of which relies upon **between three and four separate references**, call out in the Table of Contents at least **six different motivations to combine**. *See* Pet. 21 ("Motivation to Combine *Keshet* and *King*"), 24 ("Motivation to Modify *Keshet-King* to Utilize *Cuturi*'s Differentiable Alignment"), 34 ("Motivation to Combine *Kameoka*"), 37 ("Motivation to Combine *Fan*"), 39 ("Motivation to Combine *Chen*"), and 41 ("Motivation to Combine *Vyas*").

Without having to address the merits (or lack of merits) of these arguments, this is a case which will likely turn on credibility (or lack of credibility) of expert

testimony, which the Office recognizes is more appropriately handled in an Article III venue. *See* Ex2012 at 2-3; *see also iRhythm Techs.*, Paper 10 at 2-3.

III. CONCLUSION

The holistic balance of the *Fintiv* factors favors discretionary denial here, as instituting review would fail to promote the efficiency and integrity of the system. Accordingly, Patent Owner respectfully requests that the Director exercise discretion under 35 U.S.C. § 314(a) to deny institution.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Patent Owner
405 Lexington Avenue, 48th Floor
New York, NY 10174
(212)336-8000

Dated: May 26, 2026
New York, New York

By: /Charles R. Macedo/
Charles R. Macedo (Reg. No. 32,781)

Of counsel:
Gary J. Gershik (Reg. No. 39,992)
Lewis Derenzis III (Reg. No. 84,132)

CERTIFICATE OF COMPLIANCE

I certify that there are fewer than 20 pages in this request for discretionary denial, in accordance with the current interim director discretionary process, available at https://www.uspto.gov/patents/ptab/interim-director-discretionary-process.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Patent Owner
405 Lexington Avenue, 48th Floor
New York, NY 10174
(212)336-8000

Dated: May 26, 2026
New York, New York

By: /Charles R. Macedo/
Charles R. Macedo (Reg. No. 32,781)

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e)(1), the undersigned hereby certifies that the above document was caused to be served on May 26, 2026, by filing this document through the P-TACTS system as well as delivering a copy via electronic mail upon the following attorneys of record for the Petitioner:

Eric A. Bruesh (Reg. No. 50,394)
Chris R. Schmidt (Reg. No. 63,982)
Nick R. Apel (Reg. No. 84,017)
Adam M. Sandwell (Reg. No. 72,484)
Erise IP, P.A.
7015 College Blvd., Suite 700
Overland Park, Kansas 66211
Telephone: (913) 777-5600
Fax: (913) 777-5601
chris.schmidt@eriseip.com
nick.apel@eriseip.com
adam.sandwell@eriseip.com
PTAB@eriseip.com

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Patent Owner
405 Lexington Avenue, 48th Floor
New York, NY 10174
(212) 336-8000

Dated: May 26, 2026
New York, New York

By: /Charles R. Macedo/
Charles R. Macedo (Reg. No. 32,781)