

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON.COM SERVICES LLC
Petitioner,

v.

SMART SPEAKER LLC
Patent Owner.

Patent No. 12,401,721

Inter Partes Review No. IPR2026-00276

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

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. THIS IPR IS AN APPROPRIATE USE OF OFFICE RESOURCES	2
A. This IPR Will Promote Efficiency and Prevent Serial Litigation.....	2
B. Patent Owner Has No Settled Expectations	4
C. There Are Compelling Economic and Public Interest Reasons to Examine the Challenged Claims	5
1. The Director’s U.S Manufacturing Memorandum Favors Amazon, Not the Patent Owner	5
2. The Impact of the Challenged Claims on U.S. Economy and Amazon’s U.S. Presence and Commitment to U.S. Investments Support Institution	7
D. This IPR Will Allow the Office to Correct Material Errors During Prosecution.....	9
E. 35 U.S.C. § 325(d) Does Not Apply	11
III. THE <i>FINTIV</i> FACTORS WEIGH STRONGLY AGAINST DENIAL.....	12
A. Factor 1: Likelihood of Post-Institution Stay Is Neutral.....	12
B. Factor 2: Proximity of the District Court Trial Date Is Neutral or Weighs Against Denial	13
C. Factor 3: Weighs Against Denial - Investment in the District Court Is Not Substantial	14
D. Factor 4: Sotera Stipulation Weighs Against Denial	15
E. Factor 5: Identity of Parties Is Neutral.....	16

TABLE OF CONTENTS
(continued)

	Page
F. Factor 6: Other Considerations Weigh Strongly Against Discretionary Denial.....	17
1. The grounds are straightforward and compelling	17
2. Patent Owner fails to show “gap” filling	19
IV. CONCLUSION.....	20

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>3D Sys. Corp. v. Intrepid Automation, Inc.</i> , IPR2025-01241	20
<i>Advanced Micro Devices, Inc. v. Concurrent Ventures, LLC</i> , IPR2025-00478, Paper 10, 3 (PTAB July 31, 2025)	3
<i>Apple Inc. v. Seven Networks, LLC</i> , IPR2020-00285, Paper 10, 31. (PTAB Jul. 28, 2020)	11
<i>Apple Inc. v. Vampire Labs., LLC</i> , IPR2025-01215, Paper 2, 9 (Jun. 27, 2025)	19
<i>Apple v. Fintiv</i> , IPR2020-00019, Paper 11, 11-12 (PTAB Mar. 20, 2020)	passim
<i>Bio-Rad Lab’ys, Inc. v. Cal. Inst. of Tech.</i> , IPR2024-01451, Paper 11, 10 (PTAB Mar. 27, 2025)	15
<i>BOE Tech. Grp. Co., Ltd. v. Optronix Scis., LLC</i> , IPR2024-01133, Paper 16, 9 (PTAB January 27, 2025)	12
<i>BOE Tech. Grp. Co. v. Optronix Scis. LLC</i> , IPR2024-01130, Paper 16, 10 (PTAB Jan. 27, 2025)	14
<i>Broadphone LLC v. Samsung Elecs. Co.</i> , No. 2:23- CV-00001, 2024 WL 3524022 (E.D. Tex. July 24, 2024)	12
<i>Cambridge Indus. USA, Inc., v. Applied Optoelectronics, Inc.</i> , IPR2025-00434, Paper 11, 2 (PTAB June 26, 2025)	19
<i>Cisco Sys., Inc. v. WSOU Invs.</i> , IPR2025-00188, Paper 10, 17, 23 (PTAB June 13, 2025)	17
<i>CLO Virtual Fashion Inc. v. Zhejiang Lingdi Digital Tech. Co., Ltd.</i> , No. 2:23-cv-00274 (E.D. Tex. June 14, 2023)	13

IPR2026-00276

Patent No. 12,401,721

<i>Embodry, Inc. v. LifeNet Health,</i> IPR2025-00248, Paper 13 (PTAB June 6, 2025)	3
<i>Foras Techs. Ltd. v. Aptiv PLC,</i> No. 2:23-CV-00314, 2024 WL 5348631 (E.D. Tex. July 25, 2024).....	12
<i>Ford Motor Co. v. AutoConnect Holdings LLC,</i> IPR2025-01524	20
<i>Google LLC v. Sandpiper CDN, LLC,</i> IPR2025-00969, Paper 8, 2 (Sep. 18, 2025)	16
<i>Hanwha Sols. Corp., v. Maxeon Solar Pte. Ltd.,</i> IPR2024-01203, Paper 17, 12–13 (PTAB February 26, 2025)	12
<i>Headwater Rsch. LLC v. AT&T Inc.,</i> No. 2:23-cv-00397 (E.D. Tex. Sep. 1, 2023).....	13
<i>Hisense USA Corp. v. Light Guide Innovations LLC,</i> IPR2025-01526	19
<i>Hisense USA Corp. v. Light Guide Innovations LLC,</i> IPR2025-01537	19
<i>Home Depot USA Inc., v. H2 Intellect LLC,</i> IPR2025-00480, Paper 11, 2–3 (PTAB Sept. 4, 2025)	4
<i>Intel Corp. v. Advanced Cluster Sys., Inc.,</i> IPR-2025-00913, Paper 13, 2 (PTAB Sept. 19, 2025)	4
<i>Liberty Energy Servs. LLC v. U.S. Well Servs., LLC,</i> IPR2025-00139, Paper 14, 13–14 (Jun. 11, 2025)	16
<i>MIM Software Inc. v. Progenics Pharms., Inc.,</i> IPR2025-00630, Paper 13, 2 (PTAB July 24, 2025)	5, 8
<i>Padagis US LLC, v. Neurelis, Inc.,</i> IPR2025-00464, Paper 12, 3-4 (PTAB July 16, 2025).....	3
<i>PLR Worldwide Sales Ltd. v. Flip Phone Games, Inc.,</i> IPR2024-00171, Paper 9, 6 (PTAB May 10, 2024)	12

IPR2026-00276

Patent No. 12,401,721

<i>Samsung Elecs. Co., Ltd. v. Resonant Sys., Inc.,</i> IPR2023-00993, Paper 17, 24 (PTAB Jan. 10, 2024)	18
<i>SAP Am., Inc. v. Cyandia, Inc.,</i> IPR2024-01433, Paper 13, 9 (PTAB April 7, 2025)	12
<i>Shenzhen Root Tech. Co., Ltd. v. Chiaro Tech. Ltd.,</i> IPR2024-01296, Paper 9, 19-20 (PTAB Feb. 25, 2025)	16
<i>Snap, Inc. v. SRK Tech. LLC,</i> IPR2020-00820, Paper 15, 16 (PTAB Oct. 21, 2020)	16
<i>SoftView LLC v. Apple Inc.,</i> 108 F.4th 1366 (Fed. Cir. 2024)	4
<i>Sotera Wireless, Inc. v. Masimo Corp.,</i> IPR2020-01019, Paper 12, 18–19 (Dec. 1, 2020)	15, 16
<i>Stingray Grp. Inc. v. Hernandez-Mondragon,</i> IPR2025-00349, Paper 19, 7-8 (Jun. 13, 2025)	16

Statutes

35 U.S.C. § 325(d)	11
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Petitioner's Updated Exhibit List

Exhibit Description	Exhibit #
U.S. Patent No. 12,401,721 to Binder <i>et al.</i>	1001
Expert Declaration of Dr. Henry Houh	1002
File History of U.S. Patent No. 12,401,721	1003
File History of U.S. Patent No. 11,128,710	1004
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Declaration of Catherine Vassikova on the scanned copies of pages of Jacob Benesty <i>et al.</i> , “Springer Handbook of Speech Processing” (Springer-Verlag Berlin Heidelberg, 2008).	1039

Exhibit Description	Exhibit #
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Declaration of Tony Corsini on the scanned copies of pages of Ian Sinclair <i>et al.</i> , “Electronic and Electrical Servicing” (Elsevier Limited, 2 nd Edition, 2007).	1045
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Declaration of Tony Corsini on the scanned copies of pages of Jacob Fraden, “Handbook of Modern Sensors” (Springer Science+Business Media, LLC, 2010)	1049
Declaration of Tony Corsini on the scanned copies of pages of David Chen <i>et al.</i> , “Low-Cost Asset Tracking using Location-Aware Camera Phones” (Applications of Digital Image Processing XXXIII, Proceedings Volume 7798, 2010)	1050
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File History of U.S. Patent No. 12,010,174	1052
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Adam O’Camb, “Amazon Echo Show Teardown,” https://www.ifixit.com/Teardown/Amazon+Echo+Show+Teardown/94625 , ifixit	1066 [NEW]
Lex Machina, Judge James Rodney Gilstrap, Case Filings Summary and Case Status	1067 [NEW]
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<i>Honeywell Int’l Inc. v. EPS – Ehrhardt + Partner Sols., Inc.</i> , No. 2:25-cv-00918, (E.D. Tex. Dec. 10, 2025), ECF 35	1070 [NEW]
<i>Nucurrent, Inc., v. Hong Kong Ugreen Limited and Ugreen Grp. Ltd.</i> , No. 2:25-cv-00779, (E.D. Tex. Jan. 5, 2026), ECF 38	1071 [NEW]
<i>Lubricote, LLC v. Lumenis Be Ltd.</i> , No. 2:25-cv-00650, (E.D. Tex. Dec. 10, 2025), ECF 21	1072 [NEW]
<i>Gumipod Grp. Ltd v. Altria Grp., Inc.</i> , No. 2:25-cv-00850-JRG-RSP, (E.D. Tex. Jan. 6, 2026), ECF 41	1073 [NEW]

Exhibit Description	Exhibit #
<i>Vkansee Tech. Inc. et al v. OnePlus Tech.. (Shenzhen) Co., Ltd.</i> , No. 2:25-cv-00634, (E.D. Tex. Dec. 10, 2025), ECF 22	1074 [NEW]
Search String on Google Patents yielding <i>Williams</i>	1075 [NEW]
Search String on Google Patents yielding <i>Lim</i>	1076 [NEW]
<i>Google LLC, v. Headwater Rsch., LLC</i> , IPR2026-00049 (PTAB Feb. 9, 2026), Paper 10, 6-8	1077 [NEW]
<i>Google LLC, v. Headwater Rsch., LLC</i> , IPR2026-00050 (PTAB Feb. 9, 2026), Paper 9, 6-7	1078 [NEW]
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Plaintiff's Responses and Objections to Defendant's First Set of Interrogatories (Nos. 1-16), <i>Smart Speaker LLC, v. Amazon.com Servs. LLC</i> , No. 2:25-cv-00707 (E.D. Tex. Jan. 28, 2026).	1080 [NEW]
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Amazon.com, Inc., “How Amazon helps data center communities thrive,” https://www.aboutamazon.com/news/aws/amazon-data-center-investment-community-impact , Amazon News	1090 [NEW]
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Exhibit Description	Exhibit #
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I. INTRODUCTION

The Petition should be referred for merits consideration for each of the following reasons. *First*, four related IPRs of parent patents to the '721 patent have already been instituted. This Petition presents essentially the same references, grounds, and examiner errors. Given these overlaps, instituting review here will lead to efficiency and consistency across the patent family.

Patent No.	Earliest Claimed Priority Date	Filing Date	Issue Date	Status
11,128,710	1/9/2012	7/23/2017	9/21/2021	Instituted
11,190,590	1/9/2012	5/30/2018	11/30/2021	Instituted
12,010,174	1/9/2012	8/23/2021	6/11/2024	Instituted
12,316,706	1/9/2012	5/28/2024	5/27/2025	Instituted
12,401,720	1/9/2012	5/28/2025	8/26/2025	Pending
12,401,721	1/9/2012	5/28/2025	8/26/2025	Pending

Second, there are no settled expectations because the '721 patent issued 9 months ago and had been in force for merely 6 months when the Petition was filed.

Third, Patent Owner largely recycled arguments the Director has already rejected, while the '721 patent carries forward the same deficient examination that warranted institution of the parent '710, '174, and '706 patents.

Fourth, Patent Owner's assertion of the challenged claims against America's billion-dollar Internet of Things (IoT) economy presents compelling economic and public interests that demand review. Over the last decade, Amazon invested

heavily in the development and commercialization of the accused Echo products through U.S.-based engineering, cloud infrastructure, investment, and creation of American jobs. By contrast, the applicant has never commercialized a product. It filed a kitchen-sink style provisional on January 9, 2012, and pursued applications only to abandon them after prolonged prosecution. It did not obtain the first issued family patent—the ’710 patent—until 2021, nearly a decade later. (EX1068, EX1054.) The ’721 patent issued over 13 years after the earliest provisional. In the meantime, U.S. companies, such as Amazon, invested millions to develop and patent IoT technologies (including primary reference *Williams*) while the applicant abstained from the market and tailored its claims to others’ technologies.

Fifth, the *Fintiv* factors strongly weigh against discretionary denial. The parallel litigation is in its early stages: claim construction briefing has not yet begun, no depositions have been taken, and the district court has not made any substantive rulings. Time-to-trial statistics and Judge Gilstrap’s caseload suggest that the trial date will likely be delayed.

II. THIS IPR IS AN APPROPRIATE USE OF OFFICE RESOURCES

A. This IPR Will Promote Efficiency and Prevent Serial Litigation

The Director has instituted review of four patents (IPR2026-00145, -00146, -00147, -00148) asserted by Patent Owner in district court.

The ’721 patent is part of the same family, claims the same home-

automation/IoT concepts with overlapping claim limitations, and shares nearly identical specifications. For example, like the instituted '710, '174, and '706 patents, the '721 patent claims “a microphone” for “capturing . . . human voice data,” “a server device,” “send[ing]” “the captured . . . human voice data” to the “server,” and “receiv[ing]” “messages” from the “server” in response, and nearly identical dependent claims. (EX1001; EX1084-86.) The patents also share similar prosecution histories. Indeed, the Examiner treated the '721 patent as patentably indistinct from the '710, '174, and '706 parent patents, allowing it 3 months from filing with only a double patenting rejection over these patents.

This Petition also presents the same or similar grounds and references (*e.g.*, Williams, Doherty, Wittenberg, Gruber, Benesty, Chatterjee, Rosenberger, Rossing) as the instituted '710, '174, and '706 petitions. It would be much more efficient for the Board to also review the patentability of the '721 patent at the same time. *See, e.g., Advanced Micro Devices, Inc. v. Concurrent Ventures, LLC*, IPR2025-00478, Paper 10, 3 (PTAB July 31, 2025) (“it is an efficient use of Board resources to address the challenged patent as well” where “the parallel district court proceeding between Petitioner and Patent Owner involves other patents that have been referred to the Board.”); *Embodiment, Inc. v. LifeNet Health*, IPR2025-00248, Paper 13 (same) (PTAB June 6, 2025); *Padagis US LLC, v. Neurelis, Inc.*, IPR2025-00464, Paper 12, 3-4 (PTAB July 16, 2025) (same).

Further, Patent Owner continues to prosecute continuation applications—fourteen pending when suit was filed and nine filed thereafter (EX1068)—and may file more. Patent Owner can thus pursue patentably indistinct claims and later assert them against Petitioner. These IPRs will efficiently resolve future disputes and prevent serial litigation. If the claims are held unpatentable, Patent Owner would be estopped from later obtaining patentably indistinct claims. 37 C.F.R. §42.73(d)(3)(i); *SoftView LLC v. Apple Inc.*, 108 F.4th 1366 (Fed. Cir. 2024).

B. Patent Owner Has No Settled Expectations

The '721 patent had been in force for only 9 months, and Patent Owner claims no settled expectations. (Paper 8, “Br.”) Indeed, there can be no settled expectations when the patent issued so recently. Patent Owner’s brief makes no claim to ever having made, commercialized, asserted, marketed, or otherwise licensed the alleged invention. (*See, e.g., Intel Corp. v. Advanced Cluster Sys., Inc.*, IPR-2025-00913, Paper 13, 2 (PTAB Sept. 19, 2025) (finding no settled expectations for patents issued in 2022, 2023, and 2025); *Home Depot USA Inc., v. H2 Intellect LLC*, IPR2025-00480, Paper 11, 2–3 (PTAB Sept. 4, 2025) (finding patents do not have settled expectations if they have not been commercialized, asserted, marketed, or licensed); EX1080, 13–15.) This petition is thus an “early challenge [that] favor[s] robust, predictable patent rights and weigh[s] against discretionary denial.” *MIM Software Inc. v. Progenics Pharms., Inc.*, IPR2025-

00630, Paper 13, 2 (PTAB July 24, 2025).

Further, the Petition relies on Amazon's own *Williams* patent, which covers technology Amazon invented, publicly disclosed, and patented. Petitioner had no reason to anticipate being sued when it practices what it patented years ago.

C. There Are Compelling Economic and Public Interest Reasons to Examine the Challenged Claims

1. The Director's U.S Manufacturing Memorandum Favors Amazon, Not the Patent Owner

First, Patent Owner ignores the U.S.-based components, infrastructure, and processing embodied in the accused Echo products. Patent Owner instead focuses narrowly on final assembly of the Amazon Echo devices in Asia. (Br., 4.)

However, final assembly is only one stage in a broader innovation and manufacturing ecosystem. For example, Petitioner's products are designed and engineered in the United States. (EX1087-88.) Many parts of the accused Echo products are manufactured through a network of manufacturing partners, many of which maintain substantial operations in the U.S. and are major domestic suppliers of semiconductors, printed circuit boards, connectors, and interconnect systems. These include, among others: Texas Instruments, Inc., Micron Technology, Inc., Diodes Incorporated, Intel Corp., and Qualcomm Incorporated. (EX1066, EX1089, EX1094.)

Further, Patent Owner cannot define the accused instrumentalities as the

integrated “Accused Amazon Echo System,” including Amazon’s Cloud-based voice-processing functionality in litigation, while disregarding that same cloud component for purposes of discretionary denial. The Echo system incorporates Petitioner’s own technologies located in the U.S., including Amazon’s AWS services. (EX1093.) The accused functionality (*e.g.*, cloud-based processing) is performed by the Amazon cloud infrastructure comprising servers and other AWS-related computing resources deployed in the United States, such as Oregon and N. Virginia. (*Id.*) Petitioner has invested over \$156 billion in U.S. data center infrastructures since 2011, supporting more than 37,000 jobs annually and generating more than \$51 billion to U.S. GDP. (EX1090.) Recently, Petitioner announced close to \$60 billion investments in Pennsylvania, Indiana, Georgia, North Carolina, and Mississippi in building AWS data centers, creating thousands of American jobs. (EX1095-98.) Moreover, Petitioner has substantial ties to the U.S. economy through its domestic design, development, marketing, sales, distribution, warehousing, and supply chain activities involving the accused products. (EX1087-88, EX1091.)

Second, the Director’s March 11 Memorandum requires a holistic analysis, which favors review here. Amazon is a U.S. operating company that designed, developed, marketed, and sold the accused Echo products and supports them with substantial U.S. operations, infrastructure, investment, suppliers, and jobs. Patent

Owner, by contrast, has no sales of any product, no domestic manufacturing, no meaningful investment in U.S. manufacturing, suppliers, jobs, or infrastructure, and does not rely on U.S. patent rights to sustain U.S. production capacity. Indeed, there is no evidence that “products made, sold, or licensed by the patent owner [] compete with the accused products.” (EX2001, 2.)

Patent Owner should not be shielded from validity challenges brought by U.S. operating companies. Exercising discretionary denial under these circumstances would invert the Memorandum’s policy objectives by protecting a foreign-controlled patent assertion entity at the expense of a domestic petitioner that supports domestic manufacturing, infrastructure, investment, and jobs.

2. The Impact of the Challenged Claims on U.S. Economy and Amazon’s U.S. Presence and Commitment to U.S. Investments Support Institution

The ’721 patent is directed to server-based control of devices, *i.e.*, the core functionality of widely deployed IoT systems. The breadth of the challenged claims affects a significant part of the U.S. economy, implicating millions of jobs and billions in economic activity. This IPR is an efficient use of Office resources to review claims implicating a critical segment of our economy.

Patent Owner was formed less than one and a half years ago for litigation. (EX1003; EX1081-82.) The ’721 patent was initially assigned to May Patents Ltd., a foreign entity operated by the named inventors. *Id.* One of those inventors

doubled as the patent agent prosecuting the patent. (EX1003; EX1082-83.)

The applicant delayed filing of the '721 application. In the 13 years between the filing of the earliest provisional and issuance, American companies invested over \$4 billion in IoT research and development. (EX1054; EX1055; EX1056.) Amazon alone invested hundreds of millions. (EX1057; EX1058.) By the end of 2017, venture capital funds invested nearly \$5 billion in IoT startups. (EX1059.) The federal government even invested \$200 million in smart and connected devices. (EX1060; EX1061.) By July 2017, “[a]lmost any device you use in the home [] has a connected smart version from light bulbs and thermostats to tea kettles, fridges, and ovens.” (EX1062, 3.) IoT technology extends to wearables, logistics, and fleet management. (*Id.*) The industry is estimated to generate \$2.8-\$6.3 trillion in economic value globally in 2025, and is expected to grow to \$5.5-\$12.6 trillion by 2030. (EX1063, 3, 6.) One billion smart devices are projected to be shipped in 2028. (EX1034, 1.)

Because Patent Owner asserts the patent against IoT consumer devices, the '721 patent's patentability affects a significant part of the U.S. consumer-electronics sector, implicating an estimated \$6.3 trillion global IoT industry. (EX1063, 6.) Moreover, Patent Owner has asserted the '721 patent and the above related patents against Petitioner Amazon Services, LLC. Petitioner is an American company responsible for \$1.8 trillion in investments in the U.S.

economy since 2010 and supports almost five million jobs across the country.

(EX1064, 3; EX1092, 1.) Petitioner actively develops technology in this space and patents its inventions. (*E.g.*, EX1006.) Patent Owner has never produced a product, yet it seeks to stifle innovation and encumber the consumer-electronics industry in America. As the Petition demonstrates, the challenged claims are unpatentable: they cover well-known technology readily disclosed in prior patents and publications and are obvious variations from Petitioner's own disclosed invention.

D. This IPR Will Allow the Office to Correct Material Errors During Prosecution

This Petition presents an opportunity to correct the same examiner errors that have already warranted institution across the family. The Examiner committed material errors: (1) using deficient search strategies, and (2) relying on deficient examination of the parent '710, '174 and '706 patents. The Examiner allowed the application within 3 months of filing, issued no prior art-based rejections, and raised only a double-patenting rejection over the parent '710, '174, and '706 patents. However, the '710 examination was deficient, the '174 and '706 patents carried forward that same deficient examination, and petitions challenging all three patents have been instituted.

First, the Examiner misunderstood the actual claim scope, and his search

strategy did not match it. The Examiner focused on the term “actuator,” without recognizing that the specification defined “actuator” to encompass commonplace devices not ordinarily described as actuators. (Paper 2, 2.) Not once did he search for “speaker,” “display,” or “buzzer”, despite the specification’s expansive definition of “actuator.” (EX1003, 182-188, 236-239.) Nor did he search for “home automation,” the stated purpose in the specification. (EX1001, 139:38.) Had he searched so, he would have found the primary references as the *first* results on Google Patents. (EX1075; EX1076.) The Examiner’s failure to understand and search for the actual claim scope supports instituting review. (*See* EX1077-79.)

Second, the Examiner compounded the error by relying on deficient prior examination of the parent patents that did not provide a reliable examination foundation. The ’710 parent application was allowed despite a previous Board decision finding substantially identical claims obvious. (EX1004, 389–421.) The applicant thereafter offered only minor amendments. (EX1004, 122–23, 345–46.) But instead of targeting the new concept, the ’710 Examiner used *identical* patent classification search strings that he used *before* the Board decision mostly related to *transportation and vehicles*. (*See, e.g.*, EX1004, 25–74, 675–676.) This was a critical error. The record also reflects a few cursory queries on Google Patents that were not tailored to the new limitations. (EX1004, 24.)

The ’710 Examiner also misunderstood the actual claim scope, just like the

'721 Examiner, focusing on the term “actuator.” (EX1004, 24-28.) Moreover, the applicant's last amendment in '710 merely incorporated subject matter of already rejected dependent claim 2 into the independent claim without presenting new arguments. (EX1004, 123-130, 224-228, 346.) The '710 Examiner's unexplained reversal was therefore unreasonable based on the record. (EX1004, 13-14.)

After the '710 application, the '174, '706, and '721 applications sailed through without any prior art-based office actions. The allowance of the '721 patent is thus due to accumulation of material errors across multiple patents and reliance on parent examinations that have already been shown through institution of the related '710, '174, and '706 petitions to warrant further review.

E. 35 U.S.C. § 325(d) Does Not Apply

It is undisputed that none of Petitioner's art or arguments were previously presented or considered by the Office. (Br., 10-12.) The first part of the *Advanced Bionics* framework is thus not met. *Apple Inc. v. Seven Networks, LLC*, IPR2020-00285, Paper 10, 31. (PTAB Jul. 28, 2020).

Patent Owner nevertheless contends the Petition “relies on the same types of ideas,” but cannot pinpoint any concrete similarity other than they “fit within that same technical space.” (Br., 11-12.) That is true for all analogous art. *See PLR Worldwide Sales Ltd. v. Flip Phone Games, Inc.*, IPR2024-00171, Paper 9, 6 (PTAB May 10, 2024) (“It is no surprise that Petitioner would rely on art” that

discloses the subject matter recited in the claims).

III. THE *FINTIV* FACTORS WEIGH STRONGLY AGAINST DENIAL

The parallel litigation is in its early stages, *Markman* is set for the end of the year, and there have been no substantive rulings. Importantly, the merits are strong; Patent Owner does not (and cannot) identify *any* substantive deficiencies in the Petition or declaration.

A. Factor 1: Likelihood of Post-Institution Stay Is Neutral

The Board has previously refused to speculate whether Judge Gilstrap will enter a stay after institution. *See SAP Am., Inc. v. Cyandia, Inc.*, IPR2024-01433, Paper 13, 9 (PTAB April 7, 2025); *BOE Tech. Grp. Co., Ltd. v. Optronix Scis., LLC*, IPR2024-01133, Paper 16, 9 (PTAB January 27, 2025); *Hanwha Sols. Corp., v. Maxeon Solar Pte. Ltd.*, IPR2024-01203, Paper 17, 12–13 (PTAB February 26, 2025). Accordingly, this factor is at best neutral.

Patent Owner argues that a stay is “unlikely.” (Br., 13–14.) But stays are frequently granted if the court has not yet held a *Markman* hearing. *See, e.g., Broadphone LLC v. Samsung Elecs. Co.*, No. 2:23- CV-00001, 2024 WL 3524022, at *2–3 (E.D. Tex. July 24, 2024); *Foras Techs. Ltd. v. Aptiv PLC*, No. 2:23-CV-00314, 2024 WL 5348631, at *2 (E.D. Tex. July 25, 2024). The litigation is in its early stages, and the *Markman* is scheduled well after the Board’s institution deadline of September 5, 2026. Although it claims that a stay motion would not be

resolved before the *Markman*, Patent Owner provides no support. (Br., 13–14.) Further, Judge Gilstrap resolves motions to stay pending *inter partes* review motions quickly, typically less than 40 days. (EX1065.) Thus, the court is likely to consider a motion to stay pre-*Markman* and decide it expeditiously.

B. Factor 2: Proximity of the District Court Trial Date Is Neutral or Weighs Against Denial

Patent Owner asserts that “this factor strongly weighs in favor of discretionary denial.” (Br., 8.) That is incorrect. The scheduled trial date of June 7, 2027 is likely to be delayed. Judge Gilstrap’s increasing caseload also shows that trial will likely be delayed. Judge Gilstrap has been assigned over 1,015 patent cases in 2025, more than half of which remain open. (EX1067.) Trial conflicts often cause delays in his heavy caseload. *See, e.g., Headwater Rsch. LLC v. AT&T Inc.*, No. 2:23-cv-00397 (E.D. Tex. Sep. 1, 2023) (resetting trial from June 2, 2025 (ECF 41) to November 17, 2025); *CLO Virtual Fashion Inc. v. Zhejiang Lingdi Digital Tech. Co., Ltd.*, No. 2:23-cv-00274 (resetting trial, for the ninth time, from April 7, 2025 (ECF 32) to October 27, 2025).

Judge Gilstrap regularly double- or triple-tracks trial dates. The Board has held that *Fintiv* factor 2 is “neutral or weighs slightly in favor of not exercising [] discretion” where Judge Gilstrap “set 10 cases for jury selection on the same day,” because of “uncertainty whether the trial in that proceeding would actually begin

on that date.” *BOE Tech. Grp. Co. v. Optronix Scis. LLC*, IPR2024-01130, Paper 16, 10 (PTAB Jan. 27, 2025). This trial date is shared by *six* others. (EX1069-74.)

Further, Patent Owner contributed to the proximity of the projected deadline for the Final Written Decision to the trial date. Patent Owner added the ’721 patent to the district court litigation in October 2025, two months after the issuance of the scheduling order setting the trial date, and two months after the issuance of the patent. Amazon acted expeditiously by filing the Petition four months after receipt of Patent Owner’s disclosure of the asserted ’721 claims. The Board “recognizes [] that it is often reasonable for a petitioner to wait to file its petition until it learns which claims are being asserted . . . [and i]f [] the evidence shows that the petitioner did not file the petition expeditiously, . . . , this fact . . . weigh[s] against . . . deny[ing] institution.” *Apple v. Fintiv*, IPR2020-00019, Paper 11, 11-12 (PTAB Mar. 20, 2020).

C. Factor 3: Weighs Against Denial - Investment in the District Court Is Not Substantial

The parties’ investment in the district court proceeding is far from substantial. Fact discovery just began, and the parties have yet to take any depositions. Claim construction briefing will not begin until November 2026. (EX2004, 4.) The district court has not issued any substantive rulings and has not considered the patentability arguments in this Petition. That will still be true when

an institution decision comes in September.

The only motions pending in the district court are a partial motion to dismiss and a motion to transfer, which does not overlap with the Petition’s prior art challenges. Other than that, the Court is not likely to issue any rulings before the institution decision on September 5, 2026. “If, at the time of the institution decision, the district court has not issued orders related to the patent at issue in the petition, this fact weighs against exercising discretion.” *Apple Inc. v Fintiv, Inc.*, IPR2020-00019, Paper 11, 9–10 (PTAB Mar. 20, 2020); *see also Bio-Rad Lab’s, Inc. v. Cal. Inst. of Tech.*, IPR2024-01451, Paper 11, 10 (PTAB Mar. 27, 2025) (weighing against exercising discretion because “expert reports, expert discovery, expert depositions, and pretrial motions and disclosures” had yet to occur).

D. Factor 4: Stipulation Weighs Against Denial

Consistent with Patent Office precedent, Amazon committed to a full *Sotera* stipulation. Amazon’s *Sotera* stipulation requires that if the Board institutes *inter partes* review, it will not advance in the parallel district court proceeding “any ground that the petitioner raised or reasonably could have raised during that *inter partes* review.” (Paper 7, 1.) A *Sotera* stipulation “weighs strongly in favor of not exercising discretion to deny institution” because it “obviate[s] much, if not all, of any potential overlap between the issues in the [related] proceeding[s.]” *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12, 18–19 (Dec. 1, 2020);

Liberty Energy Servs. LLC v. U.S. Well Servs., LLC, IPR2025-00139, Paper 14, 13–14 (Jun. 11, 2025); *see also Stingray Grp. Inc. v. Hernandez-Mondragon*, IPR2025-00349, Paper 19, 7-8 (Jun. 13, 2025) (same); *Google LLC v. Sandpiper CDN, LLC*, IPR2025-00969, Paper 8, 2 (Sep. 18, 2025) (referencing *Sotera* stipulation), Paper 13, 2 (Oct. 10, 2025) (referring for merits review), Paper 14, 17 (Nov. 28, 2025) (granting institution), Paper 19, 2 (Jan. 12, 2026) (denying director review). Patent Owner contended that the stipulation “does not mitigate [] concerns,” but gave no reasoning or support for that assertion. (Br., 9.)

Contrary to Patent Owner’s assertion, the Petition does not merely “challenge[] the same claims asserted in the district court litigation.” (Br., 9.) It additionally challenges unasserted claims 15, 20, 23, and 30. (Pet., 7.) Petitioner’s *Sotera* stipulation and additional challenged claims weigh against denial.

E. Factor 5: Identity of Parties Is Neutral

The parties are the same parties in the parallel district court litigation and this IPR. Where the parties are identical between two parallel proceedings, the Board has held that this factor is “neutral or, at most, weighing slightly in favor of exercising discretion to deny institution.” *Snap, Inc. v. SRK Tech. LLC*, IPR2020-00820, Paper 15, 16 (PTAB Oct. 21, 2020); *see also Shenzhen Root Tech. Co., Ltd. v. Chiaro Tech. Ltd.*, IPR2024-01296, Paper 9, 19-20 (PTAB Feb. 25, 2025) (finding this factor neutral where parties are the same in both proceedings).

Even if it weighs in favor of discretionary denial, this factor is not dispositive, and it should not outweigh the other factors favoring institution. *See, e.g., Cisco Sys., Inc. v. WSOU Invs.*, IPR2025-00188, Paper 10, 17, 23 (PTAB June 13, 2025) (instituting *inter partes* review even though the same parties were involved in the proceedings before the Board and the district court).

F. Factor 6: Other Considerations Weigh Strongly Against Discretionary Denial

The strength of the petition weighs against discretionary denial. There are compelling economic and public interests to examine the challenged claims (*see supra* Section II.C) and this IPR will allow the Office to correct material errors during prosecution (*see supra* Section II.D). And, the Petition is strong on merits.

1. The grounds are straightforward and compelling

Patent Owner's sole complaint about the Petition has nothing to do with the merits. Patent Owner fixates on the number of asserted grounds and references. (Br., 9.) But the Board evaluates a petition's substantive limitation-by-limitation showing, not merely the number of references cited or the number of grounds. *Samsung Elecs. Co., Ltd. v. Resonant Sys., Inc.*, IPR2023-00993, Paper 17, 24 (PTAB Jan. 10, 2024) ("The Board's concern in *Adaptics* was not the number of grounds, references, or asserted claims, but that 'the Petition suffers from a lack of particularity that *results* in voluminous and excessive grounds.'"). The Petition

provides clear limitation-by-limitation analysis, and each of the grounds is straightforward. There are only *two* grounds against the sole independent claim: a *single-reference* ground and a *two-reference* combination, and each dependent ground adds only *one reference*. (Pet., 7.)

Patent Owner complains that the Petition has nine references and sixteen grounds. (Br., 9.) But this is because it chose to include dependent claims reciting nothing more than details of how conventional components work. They span everything from generic sensors (*e.g.*, claim 3, 4), to generic actuators (*e.g.*, claims 5, 6), to conventional microphone types (*e.g.*, claims 7–9), to standard networking protocols (*e.g.*, claims 10–16), to various home appliances (*e.g.*, claims 17–24), to routine lighting and audio components (*e.g.*, claims 26–30, 33). These features were so trivial (*e.g.*, that a “sounder” is for “converting an electrical energy to . . . sound waves” in claim 33) that they are not normally described in patent filings. Thus, the total number of references and grounds reflects the lack of focus and lack of real innovation by the Patent Owner and counsels against discretionary denial.

Petitioner’s secondary references underscore how unremarkable the claimed inventions are. The references include a layman *manual* (*Wireless Home Networking Simplified*) and *textbooks* on speech processing (*Springer Handbook of Speech Processing*), networking (*Wireless Communications*), and acoustics (*Springer Handbook of Acoustics*). These are basic materials, not frontier research,

and they demonstrate non-inventiveness of the challenged claims.

Nor is the Petition “weak” because it “does not assert any anticipation.” (Br., 9.) The Office routinely institutes *inter partes* reviews for obviousness. *See, e.g., Apple Inc. v. Vampire Labs., LLC*, IPR2025-01215, Paper 2, 9 (Jun. 27, 2025) (presenting obviousness grounds); *id.*, Paper 10, 2 (granting institution). Finally, Patent Owner’s reliance on *Hisense USA Corp. v. Light Guide Innovations LLC*, IPR2025-01537 and *Hisense USA Corp. v. Light Guide Innovations LLC*, IPR2025-01526 is misplaced. (Br., 9-10.) These summary decisions offer no indication that the outcomes hinged on the number of references or grounds.

2. Patent Owner fails to show “gap” filling

Patent Owner identifies *no* substantive deficiencies in the expert declaration. Instead, it baldly asserts that the declaration “fill[s] in holes in the prior art,” but provides no example (nor could it) of a single “gap.” (Br., 12.); *see Cambridge Indus. USA, Inc., v. Applied Optoelectronics, Inc.*, IPR2025-00434, Paper 11, 2 (PTAB June 26, 2025) (denying request for discretionary denial and finding that “Patent Owner does not identify any portions of the expert testimony that suggest Petitioner is using its expert to fill gaps in the prior art.”).

Unable to find faults in the merits, Patent Owner resorts to attacking the length of the declaration. (Br., 9-10, 12–13.) But this is beside the point. Longer declarations are not grounds for discretionary denial. Patent Owner cites recent

summary decisions denying institution on discretionary grounds to conclude that long declarations in those proceedings were the reasons for denial. (*Id.*) This is unsupportable and ignores proceedings that were referred for merits considerations with similar or longer accompanying expert declarations. *See, e.g., Ford Motor Co. v. AutoConnect Holdings LLC*, IPR2025-01524, Ex. 1003 (258 pages on 21 claims), IPR2025-01342, Ex. 1003 (313 pages on 21 claims), IPR2025-01383, Ex. 1003 (416 pages on 21 claims); *3D Sys. Corp. v. Intrepid Automation, Inc.*, IPR2025-01241, Ex. 1003 (286 pages on 20 claims).

In fact, the Declaration's length reflects Amazon's compliance with USPTO requirements. (*See* July 31, 2025, Memorandum on Permissible Uses of General Knowledge in Inter Partes Reviews.) As an initial matter, it is readily apparent—even from a cursory review—that most of the declaration consists of verbatim quotations from references and claims for readability. The remaining portions do not supply missing elements and Patent Owner did not point to any. They provide technical background and context, as well as scientific principles underlying the Petition's arguments. (*E.g.*, EX1002, 97-104, 169-173.) Petitioner's compliance with the Office procedure is not grounds to deny.

IV. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that Patent Owner's request be denied and the Petition be referred for merits consideration.

IPR2026-00276
Patent No. 12,401,721

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Certificate of Service (37 C.F.R. § 42.6(e)(4))

I hereby certify that the attached PETITIONER'S OPPOSITION TO
PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL OF
INSTITUTION and supporting materials were served on the below date via email
(by agreement) to the following counsel of record for Patent Owner:

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