

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOOGLE LLC,  
Petitioner,

v.

ACCUSEARCH TECHNOLOGIES LLC,  
Patent Owner.

IPR2026-00289  
U.S. Patent No. 11,971,937

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**PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL OF  
INSTITUTION OF PETITION FOR *INTER PARTES* REVIEW OF  
UNITED STATES PATENT NO. 11,971,937**

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**PATENT OWNER'S EXHIBIT LIST**

| <b>Exhibit No.</b> | <b>Description</b>                                                                                                                                                           |
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| 2001               | Scheduling Order in <i>AccuSearch Technologies LLC v. Google LLC</i> , C.A. No. 25-514-GBW, Dkt. No. 34 (D. Del. Sept. 4, 2025)                                              |
| 2002               | Joint Claim Construction Chart in <i>AccuSearch Technologies LLC v. Google LLC</i> , C.A. No. 25-514-GBW (D. Del. April 23, 2026) (without Exhibits B-H)                     |
| 2003               | U.S. Patent No. 9,104,765                                                                                                                                                    |
| 2004               | June 27, 2017 email from <a href="mailto:noreply@google.com">noreply@google.com</a> to <a href="mailto:gustavo@rzv-ip.com">gustavo@rzv-ip.com</a> [Sealed]                   |
| 2005               | U.S. Patent No. 10,083,237                                                                                                                                                   |
| 2006               | November 2, 2017 Notice of References Cited for U.S. Pat. Appl. No. 14/841,078                                                                                               |
| 2007               | June 20, 2025 Motion to Dismiss in <i>AccuSearch Technologies LLC v. Google LLC</i> , C.A. No. 25-514-GBW, Dkt. No. 14 (D. Del. June 20, 2025)                               |
| 2008               | August 8, 2025 Motion to Dismiss in <i>AccuSearch Technologies LLC v. Google LLC</i> , C.A. No. 25-514-GBW, Dkt. No. 27 (D. Del. August 8, 2025)                             |
| 2009               | September 5, 2025 Opposition to Motion to Dismiss in <i>AccuSearch Technologies LLC v. Google LLC</i> , C.A. No. 25-514-GBW, Dkt. No. 37 (D. Del. September 5, 2025)         |
| 2010               | September 19, 2025 Reply in Support of Motion to Dismiss in <i>AccuSearch Technologies LLC v. Google LLC</i> , C.A. No. 25-514-GBW, Dkt. No. 44 (D. Del. September 19, 2025) |
| 2011               | Petitioner's Invalidity Contentions in <i>AccuSearch Technologies LLC v. Google LLC</i> , C.A. No. 25-514-GBW, (D. Del.)                                                     |
| 2012               | Declaration of Steven J. Reynolds                                                                                                                                            |

|      |                                                                                                                                                                 |
|------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2013 | September 25, 2017 email from <a href="mailto:noreply@google.com">noreply@google.com</a> to <a href="mailto:gustavo@rzv-ip.com">gustavo@rzv-ip.com</a> [Sealed] |
| 2014 | PTAB Default Protective Order                                                                                                                                   |
| 2015 | April 30, 2026 email from David Silber to Steve Reynolds <i>et al.</i>                                                                                          |

Patent Owner AccuSearch Technologies LLC, (“AccuSearch” or “Patent Owner”) respectfully requests the Director deny institution of the Petition for *Inter Partes* Review (“Petition”) filed by Google LLC (“Google” or “Petitioner”) challenging claims 1-39 of U.S. Patent No. 11,971,937 (“the ’937 patent”).

## **I. INTRODUCTION**

The Director should exercise his discretion and deny institution of this IPR for several reasons. First, the Petitioner filed 11th-hour IPRs as a strategic vehicle to leverage its financial ability to multiply litigation expense.

Second, Petitioner proposed claim constructions and advances indefiniteness arguments in district court that contradict its positions here. The Petition provides no explanation for the differences.

Third, Patent Owner has settled expectations in the ’937 Patent. Petitioner was aware of the ’937 Patent family well before the application that issued as the ’937 Patent was filed on May 10, 2023. The ’937 Patent is the eighth patent in a series of continuations dating back to 2011. [REDACTED]

[REDACTED] And one of Petitioner’s patents from the same time period cites the original parent application as prior art.

Fourth, five of six *Fintiv* factors favor denial. Petitioner chose to litigate substantive issues in the district court, a dispositive ruling could be provided any

day, and discovery and claim construction proceedings are well underway.

Fifth, every ground in the Petition involves crucial factual issues that will require district court intervention. The '937 Patent demonstrates objective indicia of nonobviousness, including long-felt need and commercial success. Proving this will require extensive discovery of technical and financial information going back to the early 2000s from Petitioner, Microsoft, and possibly others. This will include depositions, third party discovery, and potentially motions to compel. It would be an inefficient use of the PTAB's resources to address these detailed factual issues.

Sixth, the Petition's overreliance on expert testimony supports discretionary denial. Petitioners' expert declaration is 214 pages. This extensive reliance on (and incorporation by reference of) expert testimony suggests that the validity question would be better resolved in district court.

Finally, the merits of the Petition are weak. Even relying on 3-, 4-, and 5-way combinations, limitations from the independent claims appear to be missing and/or impermissibly supplied by general knowledge of a POSITA. Accordingly, the Director should exercise his discretion to deny institution.

## **II. PARALLEL AND OTHER PROCEEDINGS**

On April 29, 2025, Patent Owner asserted the '937 Patent, along with several related patents, in *AccuSearch Technologies LLC v. Google LLC*, Civil Action No. 1:25-cv-00514 (D. Del.). That case is currently pending in Delaware and scheduled

for trial starting April 17, 2028. Ex. 2001 [Scheduling Order], 22.

Eleven months after the litigation was filed, on March 13, 2026, Petitioner Google LLC filed this IPR, along with IPR2026-00286, IPR2026-00287, and IPR2026-00288 challenging related U.S. Patent Nos. 10,585,959, 10,867,001, and 11,100,184, respectively. All the IPRs are in the pre-institution phase.

### **III. LEGAL STANDARDS**

The Director recently provided guidance on the discretionary denial framework. *Magnolia Medical Techs., Inc. v. Kurin, Inc.*, IPR2026-00097, Paper 17, at 2-4 (Director, May 14, 2026) (precedential); *see also* Interim Director Discretionary Process, October 3, 2025; Interim Processes for PTAB Workload Management, March 26, 2025 (“Memorandum”).

### **IV. THE DIRECTOR SHOULD EXERCISE HIS DISCRETION TO DENY INSTITUTION**

#### **A. Petitioner Seeks to Use IPR Review for Strategic Purposes**

Petitioner seeks to use IPR as a strategic tool. It chose to litigate substantive issues, including those addressing claim scope (*Alice* and claim construction), in district court. It only began filing IPRs at the 11th month, *after* waiting as long as possible for the district court to rule on other substantive issues it raised. Petitioner did so to leverage its unlimited litigation war chest against Patent Owner. IPR here will “expand” (indeed, multiply) costs and litigation efforts by forcing the parties to litigate “*additional*” positions in an additional venue. *Magnolia*, IPR2026-

00097, Paper 17, at 2-4. That is a “tell-tale sign that” this IPR will operate as the opposite of a cost-effective alternative. *Id.*, at 3. If Petitioner had truly sought an alternative to district court, it would have filed IPRs before seeking dispositive rulings at the district court.

On the other side of the balance, Patent Owner is a small business, and the inventor is an individual. As discussed below, the inventor filed his patent application first and Google cornered the market using his invention second—blocking him from bringing it to market. Facilitating Google’s approach of disregarding overtures from the inventor, profiting from his invention, and then leveraging its financial might in litigation harms small businesses. Cf. *id.*, at 7.

**B. The Petition Should Be Denied Because Petitioner Advances Inconsistent Claim Construction Positions**

The Petition does not seek to construe any claim terms. Instead, it asserts that “[c]laim terms are given their ordinary meaning in light of the specification and prosecution history,” citing 37 C.F.R. §42.100(b). Pet., 7. But in the district court, Petitioner proposed constructions for the terms “a filtering option, wherein the search engine user’s selection of the filtering option causes an updated Internet search user interface to be generated and provided for display on the personal computing device” (claims 1, 15, and 29) as “[a]n [option/function] that, when selected by the user, causes the system to display a narrowed set of search results

by removing, from the original search results, references to webpages that are missing one or more terms from the user's query" and "descendant webpage[s]" as "[a] webpage in the same domain as the referenced webpage and that is reachable by clicking an outbound link on the referenced webpage" and "descendant webpage[s]" (claims 5, 9, 19, 23, and 33). Ex. 2002 [Joint CC Chart], 1-3.

Moreover, in its invalidity contentions, Petitioner argues that six different terms from the '937 Patent are indefinite:

**'937 patent:**

- "a font representing the text has been altered" / "a font representing the first text or second text has been altered" (claims 3, 17, 31);
- "the text is shown with one or more lines merged with the text" / "the first or second text is shown with one or more lines merged with the text" (claim 3, 17, 31);
- "the text is shown with one or more lines superimposed thereupon" / "the first or second text is shown with one or more lines superimposed thereupon" (claim 3, 17, 31);
- "the text is shown within a shaded area" / "the first or second text is shown within a shaded area" (claim 3, 17, 31);
- "the text is shown with a reversed format" / "the first or second text is shown with a reversed format" (claim 3, 17, 31);
- "wherein the personal computing device is a smartphone with a smaller display screen than a laptop, desktop, or tablet computer's display screen, and wherein the updated Internet search user interface enables the smaller display screen to display an increased number of Internet search results that each reference a webpage containing the first search term element compared with the Internet search user interface prior to the selection of the filtering option, without being scrolled by the search engine user, thereby further speeding the search engine user's operation of Internet search" / "wherein the personal computing device is a smartphone with a smaller display screen than a laptop, desktop, notebook, or tablet computer's display screen, and wherein the first and second updated Internet search user interfaces enable the smaller display screen to display an increased number of Internet search results that each reference a webpage containing the first or second search term elements, respectively, compared with the Internet search user interface prior to the selection of the first or second filtering option, respectively, without being scrolled by the search engine user, thereby further speeding the search engine user's operation of Internet search" (claims 6, 8, 10, 20, 22, 24, 34, 36)

Ex. 2011 [Invalidity Contentions], 73.

The Petition should be denied because these inconsistent positions are a “Misuse of [IPR].” *Magnolia*, IPR2026-00097, Paper 17, at 4. It “suggest[s] that [Google is] misleading one tribunal or the other or pursuing alternative theories under a ‘wait and see’ approach presumably to gain a litigation advantage and/or settlement leverage.” *See, e.g., id. (citing Infineon Techs. Am. Corp. v. MOSAID Techs. Inc.*, IPR2025-01171, Paper 27 (Director Feb. 19, 2026)); *see also Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00340, Paper 18 at 3 (Director, Nov. 5, 2025) (Informative); *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025- 00632, Paper 20 at 4 (Director Nov. 3, 2025) (precedential) (improper to allow a party to pursue broader and narrower constructions for strategic benefit); *Ford Motor Company v. AutoConnect Holding LLC*, IPR2025-01342, Paper 27 (Director, May 12, 2026) (denying institution where Petitioner advanced inconsistent indefiniteness arguments in invalidity contentions). Petitioners have not identified why its inconsistent positions on claim construction are warranted. Pet., 7. Accordingly, institution should be denied under *Tesla* and *Revvo*.

**C. The Petition Should Be Denied Because Patent Owner Has Settled Expectations In The '937 Patent**

Petitioner has been aware of, and failed to challenge, patents in the '937 Patent's family. The '937 Patent is part of a line of continuations stretching back to

U.S. Pat. Appl. No. 13/163,614 (now U.S. Pat. No. 9,104,765). Ex. 1001 [’937 Patent], (63). The relevant family relationships are shown below, with the ’937 Patent highlighted:

| Patent     | Application | Filing Date | Issue Date |
|------------|-------------|-------------|------------|
| 9,104,765  | 13/163,614  | 6/17/2011   | 8/11/2015  |
| 9,529,920  | 14/820,433  | 8/6/2015    | 12/27/2016 |
| 10,140,374 | 15/383,907  | 12/19/2016  | 11/17/2018 |
| 10,437,900 | 16/199,192  | 11/25/2018  | 10/8/2019  |
| 10,585,959 | 16/553,900  | 8/28/2019   | 3/10/2020  |
| 10,867,001 | 16/790,057  | 2/13/2020   | 12/15/2020 |
| 11,100,184 | 17/114,305  | 12/7/2020   | 4/24/2021  |
| n/a        | 17/395,078  | 12/07/2020  | Abandoned  |
| 11,971,937 | 18/195,882  | 5/10/2023   | 4/30/2024  |

Each of the continuations in this family shares a common specification with the parent ’765 Patent. *Compare* Ex. 1001 [’937 Patent] *with* Ex. 2003 [’765 Patent]. *See also* Ex. 2001 [Joint CC chart], 5, n. 3 (“the ’959, ’001, ’184, and ’937 patents are members of a common patent family sharing a common specification...”).

Petitioner has long been aware of patents in this family. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The application that issued as the '937 Patent was not filed until May 10, 2023. Ex. 1001 ['937 Patent], (22). [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Patent Owner has settled expectations that the patents in the family are patentable.

Further, one of Petitioner's patent applications cite patents from the '937 Patent family. On August 31, 2015, Petitioner filed U.S. App. No. 14/841,078, which issued on September 25, 2018 as U.S. Pat. No. 10,083,237. Ex. 2005 ['237 Patent]. The '237 Patent, titled "Protecting Users From Inappropriate Sensitive Or Offensive Search Results," cites on its face to U.S. Pat. Publ. No 2012/0323888. *Id.*, (56). The '888 Publication is the Prior Publication of the application that would

become the '765 Patent. Ex. 2003 ['765 Patent], (65). The '888 Publication first appears on a list of references cited by the examiner dated November 2, 2017. Ex. 2006 [list of references cited for '237 Patent]. Thus, for this additional reason, Petitioner was independently aware of the '937 Patent family no later than November 2, 2017.

**D. *Fintiv* Supports Discretionary Denial**

Five of the six *Fintiv* factors support discretionary denial. Accordingly, the Director should exercise his discretion and deny institution.

*Fintiv* Factor 1 considers stays of the district court litigation. The district court has not stayed the case. And, under Delaware precedent, a stay is almost never granted before a decision on institution. *See Omni MedSci., Inc. v. Whoop, Inc.*, No. 25-140, 2025 U.S. Dist. LEXIS 264946, \*6-7 (D. Del. Dec. 23, 2025) (“The general rule. . . is . . . that stays are almost never granted before [IPR] review is instituted.”) (citation omitted); *Ddrops Co. v. MOM Enterprises, LLC*, C.A. No. 22-332-GBW, D.I. 108 (D. Del. Aug. 25, 2023) (oral order) (“[b]ecause no institution decision has yet been issued, the Court will decline to stay the case until it hears from the PTAB”). Even post-institution, it is unlikely a stay will be entered given Google’s inconsistent claim construction positions and that it is relying on invalidity positions in the district court that are unavailable in IPRs, including extensive system art. Ex. 2011 [invalidity contentions], 8-9 (listing 11 different

systems as prior art). Indeed, Google even provided charts for four different systems. *Id.*, 13-16. Thus, Fintiv Factor 1 weighs in favor of discretionary denial.

Fintiv Factor 2 considers proximity of the court's trial date to the Board's projected statutory deadline for Final Written Decision. Based on the March 13, 2026 Notice of Filing Date Accorded, a Final Written Decision is expected around September 2027. Paper 3 at 1. The trial in the district court is currently scheduled to begin on April 17, 2028. Ex. 2001 [Scheduling Order]. Thus, this factor weighs against discretionary denial.

Fintiv Factor 3 considers the investment in the parallel proceeding by the court and the parties. The district court litigation was filed on April 29, 2025. Petitioner waited nearly 11 months to file this IPR on March 13, 2026. Paper 2 (Petition). Because of this delay, any institution decision would issue on or before September 13, 2026. Paper 3.

By September 2026, the parties and court will have expended substantial resources on this litigation. Initial disclosures, infringement contentions, and invalidity contentions have already been served. Ex. 2001 [Scheduling Order], 21. Substantial completion of document production is scheduled for May 30, 2026. Ex. 2001 [Scheduling Order], 21. All claim construction briefing will be complete and the *Markman* hearing will occur shortly afterwards, on October 21, 2026. *Id.*, 21-

22. Thus, by the date for a decision on institution, a large majority of discovery and claim construction will be complete.

Moreover, Petitioner has prioritized early resolution of fact-laden motions to dismiss before the district court. Petitioner has filed two motions to dismiss under 35 U.S.C. § 101. Petitioner filed an initial motion to dismiss under § 101 on June 20, 2025. Ex. 2007. Patent Owner filed an Amended Complaint to bolster the factual record on July 11, 2025. Petitioner filed a second motion to dismiss on August 8, 2025. Ex. 2008. The current motion was fully briefed in September 2025 and a decision is imminent. Exs. 2008-2010. Because the parties and court have made, and will continue to make, a substantial investment of time and resources in litigating the district court case, Factor 3 favors discretionary denial.

Fintiv Factor 4 is the overlap between the issues raised in the Petition and in the parallel proceeding. The asserted references—Bates, Bhagat, Brinson, Mehta, Naick, Wang, and Mills—are each disclosed in Petitioner’s invalidity contentions as “item[s] of prior art that invalidates each Asserted Claim of the Asserted Patents.” Ex. 2011 [Invalidity Contentions], 3, 5. Petitioner even charted each reference against the ’959 Patent. *Id.*, 14 (Bates and Bhagat), 15 (Brinson), 16 (Mehta and Mills), 17 (Naick and Wang). Thus, the issues raised in the Petition are a subset of the validity issues that Petitioner has raised in the related district court

litigation. Because the same issues will be addressed in the litigation as in this IPR, this factor favors discretionary denial.

Fintiv Factor 5 is whether the petitioner and the defendant in the parallel proceeding are the same party. This factor favors discretionary denial because the Petitioner is the defendant in the district court litigation.

Fintiv Factor 6 is other circumstances that impact the Board's exercise of discretion, including the merits. As discussed below, the merits here are weak. *Infra*, § IV.F. In addition, as a matter of efficiency, the factual issues raised by PO's objective indicia arguments and Petitioner's overreliance on expert testimony also favor discretionary denial. *Infra*, §§ IV.D, E. Accordingly, this factor favors discretionary denial.

Because five of the six *Fintiv* factors favor discretionary denial, the Director should exercise his discretion to deny institution.

**E. The Petition Should Be Denied Because Obviousness Issues Will Require Discovery That Can Be Performed More Efficiently In District Court**

Every ground of the Petition relies on asserting obviousness. Pet., 4. Obviousness in this IPR involves crucial factual issues that the district court is best suited to address. As one example, the obviousness issues will require extensive expert testimony, given that the solutions the '937 Patent claims are unique and stand out in a crowded field of Internet Search Interface technology. As another

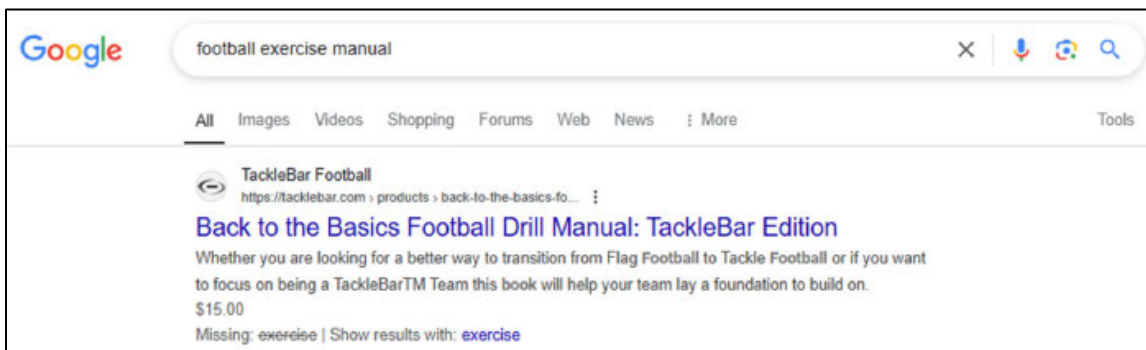
example, as will be discussed in more detail in the Preliminary Response, the '937 Patent demonstrates objective indicia of nonobviousness, including long-felt need and commercial success. Objective indicia is a highly fact dependent analysis.

The '937 Patent claims “provid[e] an enhanced interactive graphical user interface for Internet search.” Ex. 1001, cls. 1, 15, 29. At the time of the invention, conventional Internet search technologies had several deficiencies. For example, searches often returned irrelevant results without providing the user any way to determine whether a particular result was relevant or not. This was a common complaint at the time.

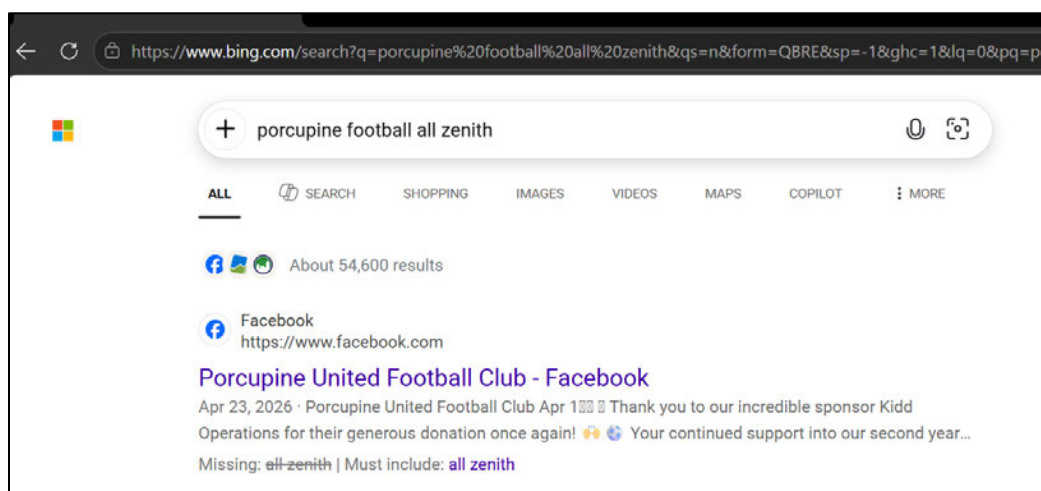
The '937 Patent solved this problem by disclosing and claiming inventions that annotate results to show when some, or all, of the search terms entered by a user are missing from the webpage located at a URL returned by the Internet search and presented on the search results page. *See, e.g.*, Ex. 1001, cl. 1 (“wherein the Internet search user interface comprises the first Internet search result and a first warning to the search engine user that the first webpage is missing the first search term element”). That is, the '937 Patent claims and discloses that each search result would display which search terms are missing in the webpage returned by the result.

The '937 Patent also solved a problem related to the ability of search engines to refine user's searches (e.g., by removing search terms) that led to unprecedented

commercial success. Petitioner was an early adopter of the technology disclosed in the patent:



Microsoft Bing followed:



Despite months of discovery, Petitioner claims to only have been able to locate approximately 13 documents related to its decision to implement the patented technology. Ex. 2012 [Reynolds Decl.], ¶¶ 1-2. Petitioner has produced no documents related to the Hummingbird project that implemented the claimed invention. Court intervention may be necessary to compel Petitioner's cooperation. Deposition discovery of Petitioner will also be necessary to fill in holes where

documents no longer exist. And, Petitioner has taken the position that using documents produced in the litigation for this IPR “would violate the Protective Order” in the litigation, creating another discovery hurdle for pursuing objective indicia in this IPR. Ex. 2015.

Similar discovery will be necessary in connection with Microsoft Bing and other adopters. Further, “[t]he breadth of a court’s scrutiny over patent validity is greater than the Office’s in an [IPR].” *Magnolia*, IPR2026-00097, Paper 17 at 6. The standard for third-party discovery is high before the PTAB. *Garmin International, Inc. et al. v Cuozzo Speed Technologies LLC*, IPR2012-00001, Paper 26 at 5 (PTAB March 5, 2013) (discovery “limited as compared to that available in district court litigation.”). And it may be difficult to complete in the limited statutory time frame.

In sum, extensive discovery will be necessary in connection with objective indicia of non-obviousness (e.g., long-felt need and commercial success). This discovery will likely include confidential financial information of Petitioner and third-party Microsoft dating back over a decade. Petitioner and Microsoft may need to be compelled to cooperate. The finite resources of the PTAB would be better allocated on IPRs that lack the fact-intensive objective indicia issues present in this IPR. Thus, the Director should decline institution because these fact-intensive issues would be better resolved by a district court.

**F. The Petition’s Overreliance on Expert Testimony Supports Discretionary Denial**

The Memorandum instructs parties “to address all relevant considerations” bearing on discretionary denial, including “[t]he extent of the petition’s reliance on expert testimony.” Memorandum, 2. “[A]s a matter of efficiency, extensive reliance on expert testimony ... may suggest that the questions are better resolved in an Article III court.”<sup>1</sup> The PTAB explains as follows:

While the Board may consider expert testimony, as a matter of efficiency, extensive reliance on expert testimony and/or reasonable disputes between experts on dispositive issues may suggest that the questions are better resolved in an Article III court. The statute and our reviewing court require that petitions be based on prior art patents and printed publications. As the judges have technical and legal expertise, it is not necessary for an expert to explain every aspect of the prior art. It is most helpful if an expert is providing focused testimony, for example to provide helpful context or to explain terms of art. The failure to provide focused expert testimony may weigh against institution.

*Id.*

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<sup>1</sup>Available at <https://www.uspto.gov/patents/ptab/faqs/interim-processes-workload-management> (“Interim Processes FAQs”) at 22.

Dr. Bederson's Declaration is 214 pages long. Ex. 1003 [Bederson Decl.]. This is twice the length of the already-lengthy 107-page Petition. And the Petition relies on the Bederson declaration extensively. A word search of the Petition for "Bederson-Decl." returned 198 citations to the declaration, exclusive of shorthand citations using *id.* In many places, multiple paragraphs are cited without explaining why they are relevant. *See, e.g.,* Pet., 2, 3.

In many places, the Petition relies exclusively on the Bederson Declaration to incorporate arguments by reference. For example, the Petition's entire section on level of ordinary skill is one sentence that states "POSAs would have had a bachelor's degree in computer science or a related field, plus at least two years of industry or graduate-level experience with designing user interfaces for Internet search engines. Bederson-Decl., ¶¶33-37." Pet., 7. To support this sentence, the Petition incorporates five paragraphs from Dr. Bederson's declaration containing analysis and argument regarding level of ordinary skill. Ex. 1003 [Bederson-Decl.] ¶¶33-37. In doing so, the Petition incorporates Dr. Bederson's testimony by reference in violation of 37 C.F.R. § 42.6(a)(3). ("Arguments must not be incorporated by reference from one document into another document. ... .").

In other places, the Petition incorporates Dr. Bederson's testimony to explain the background knowledge of a POSA. *See, e.g.,* Pet., 20 ("POSAs knew that in user interface design there are benefits to reducing users' mental-processing load,

including by eliminating even small mental tasks elicited by the interface design. Bederson-Decl., ¶¶102-103 (citing EX1066, 73-75, 80).” But the Petition provides no explanation of the contents of Dr. Bederson’s opinions or Ex. 1066 cited therein. Similar examples exist throughout the Petition. *See, e.g.*, Pet., 21, 23, 45. Thus, Petitioner is over-relying on Dr. Bederson.

Dr. Bederson’s 214-page expert report does not “provid[e] focused testimony” such as “to provide helpful context or to explain terms of art.” Interim Processes FAQs at 22. Instead, it serves to expand the arguments in the Petition by incorporating new arguments and evidence throughout the Petition. Petitioner’s “failure to provide focused expert testimony” thus weighs against institution. *Id.*

**G. The Weakness of the Petition’s Merits Further Supports Discretionary Denial**

As will be explained in further detail in the preliminary response, the merits of the Petition are particularly weak. First, each of the six grounds is an obviousness ground relying on 3-, 4-, or 5-way combinations of seven different references. Pet., 4. This further underscores that the claims are significantly different than any of the asserted references individually.

While Ground 1A alleges that “Bates in Combination with Brinson, or with Bhagat and Brinson, ... Renders Obvious Claims 1, 15, 29, [and] 39” (Pet., 7), Petitioner’s allegation supplies the missing-term warning text from the alleged

general knowledge of a POSITA. *See, e.g.,* Pet., 19 (“another obvious implementation would have simply used the color-coded search terms themselves as correlation indicators.”). That is, Petitioner does not identify any disclosure in Bates of “a first warning to the search engine user that the first webpage is missing the first search term element, wherein the first warning comprises a text representing the first search term element.” *See* Ex. 1001, cl. 1. Rather, the Petition alleges it would be obvious to a POSITA to supply this completely missing limitation. General knowledge of a POSITA may not be used to supply missing limitations under 37 C.F.R. § 42.104(b)(4). *See* Memorandum on Enforcement and Non-Waiver of 37 C.F.R. § 42.104(b)(4). Nor does the Petition identify any disclosure in Brinson of the warning-text limitation [1D]. *See* Pet., 39-40 (discussing [1D] with no citation to Brinson).

Bhagat does not fill this gap. Pet., 39. Bhagat’s strikethrough appears in a suggested alternate query generated *after* the user’s original query returned no results. *See* Pet., 14. In other words, Bhagat tells the user how the query could be relaxed, not which search terms are absent from each referenced webpage as required by the claims. *See* Ex. 1011 at 8:16–34, Fig. 2. Google therefore is taking Bhagat’s disclosure of queries that “remove a search term from the [ ] search query” (*id.*, 8:29-34) and assigning it the different meaning “the first webpage is missing the first search term element” to allegedly disclose the claim requirement.

Ground 2A suffers from the same defect. The Petition does not show that Wang warns of missing search terms. Pet., 89, demonstrating that the warning is not present in the unaltered Figure 5 from Wang. Nor does the petition explain how Mills supplies limitation [1D]. Pet., 89. Rather, the Petition relies on Mills' display of an "altered search string" as the heading for a "group" of results, with the strikethrough labeling the term Mills removed from the query used to generate that group. *See* Pet., 74 (citing Ex. 1006 at 6:43–46). *See also* Ex. 1006 at 6:33–43, Fig. 2. Thus, the weakness of the unpatentability challenge further supports discretionary denial.

## **V. CONCLUSION**

For the foregoing reasons, Patent Owner respectfully requests the Director to exercise discretion and deny the Petition.

Dated: May 18, 2026

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE**

Pursuant to 37 C.F.R. § 42.24(d) and the Interim Director Discretionary Process § II.C.iii, the undersigned certifies that this Brief in Support of Discretionary Denial complies with the type-volume limitations of those sections because it contains no more than 20 pages.

Dated: May 18, 2026

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION OF PETITION FOR *INTER PARTES* REVIEW OF UNITED STATES PATENT NO. 11,971,937 was served electronically via email on May 18, 2026, on the following counsel of record for Petitioners:

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