IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIVINT LLC
Petitioner,

v.

DUKE W. ZINSER,
Patent Owner,

U.S. Patent No. 7,583,191
Issue Date: September 1, 2009
Title: SECURITY SYSTEM AND METHOD FOR USE OF SAME

Inter Partes Review No.: IPR2026-00300

PETITIONER'S OPPOSITION TO PATENT OWNER DUKE W. ZINSER'S REQUEST FOR DISCRETIONARY DENIAL

***Mail Stop* "*PATENT BOARD*"**
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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PETITIONER'S EXHIBIT LIST

Exhibit #	***Description***
1001	U.S. Patent No. 7,583,191 ("'191 Patent")
1002	Prosecution History of the '191 Patent ("File History")
1003	IPR2026-00300 Declaration of Petitioner's Expert James Parker
1004	U.S. Patent Publication 2004/0086093 ("Schranz")
1005	Re-Exam Prosecution History of the '191 Patent
1006	U.S. Pat. No. 6,429,893
1007	U.S. Pat. No. 6,778,084
1008	U.S. Patent Publication 2002/0147982
1009	*Curriculum Vitae* of James Parker
1010	James Parker Patent Summary
1011	*Intentionally Left Blank*
1012	Excerpts of Plaintiff's Disclosure of Asserted Claims and Infringement Contentions (2026-04-16)
1013	*Intentionally Left Blank*
1014	*Intentionally Left Blank*
1015	*Intentionally Left Blank*
1016	Letter from B. Greene to G. Sorden dated May 20, 2026
1017	*Intentionally Left Blank*
1018	Email from B. Green to G. Sorden dated June 18, 2026 (*Sotera* Plus Stipulation)

I. INTRODUCTION

Vivint, LLC ("Petitioner") opposes the request by Duke W. Zinser ("Patent Owner" or "PO") for Discretionary Denial of Institution (Paper 6, "Request"). The '191 Patent never should have issued, as demonstrated by the prosecution of the original claims, the reexamination proceeding, and strong, new evidence of invalidity in the Petition.

The Petition is based on prior art that was not before the Patent Office during examination, but would have been if the examiner had spent more time searching and used search criteria tied to the features asserted to distinguish over the prior art. The IPR prior art, U.S. Patent Publication 2004/0086093 ("Schranz") (EX-1005), is nearly identical to the subject matter of the '191 Patent and discloses the very limitations that were thought to be missing from the prior art as a result of the examiners' erroneous searches. The resources of the Office should be used to correct these errors.

First, underscoring the importance of this Petition to the validity of the '191 Patent and the integrity of the patent system, PO does not even request denial under 35 U.S.C. § 325(d).

Second, there is no basis to give the invalidity of the '191 Patent a pass under *Fintiv*, given the strong evidence of apparent examiner error here. Further, no trial date has been set and the Petitioner has issued a *Sotera* Plus stipulation so

there will be no overlap in validity issues between the District Court and the PTAB.

Third, there is no basis to shield the ’191 Patent’s invalidity using the “settled expectations” doctrine. This doctrine does not apply because the Challenged Claims of the ’191 Patent issued **only six months** before the Petition was filed.

Finally, relevant to the public interest, Petitioner’s accused product in the litigation is a system that is designed/installed and hosted in the United States provided through Petitioner’s U.S. investments and represents a substantial investment in U.S. jobs and infrastructure.

II. STIPULATIONS

Petitioner stipulates that if the Board grants the Petition and institutes an *inter partes* review, unless institution is later vacated, reversed or otherwise withdrawn by rehearing or Director Review, Petitioner will not pursue in the Litigation the specific grounds that it raised in the Petition, nor any other ground that Petitioner could have reasonably raised in an IPR against the challenged claims of the ’191 Patent, nor any invalidity ground based on system prior art corresponding to the printed publication asserted in the specific invalidity ground that it raised in the IPR petition. *See Sotera Wireless, Inc. v. Masimo Corp.*, Case IPR2020-01019, Paper 12 (Dec. 1, 2020) (precedential); *Magnolia Medical*

Technologies, Inc. v. Kurin, Inc., IPR2026-00097, Paper 17 at 3 (Director, May 14, 2026) (precedential); EX-1018. Moreover, given the Director's new guidance in decisions designated informative on May 13, 2026, Petitioner stipulates that it will not pursue in the Litigation any indefiniteness ground under 35 U.S.C. §112 against any claim of the '191 Patent.[1]

III. INSTITUTION IS WARRANTED TO CORRECT THE ERRONEOUS ORIGINAL ISSUANCE OF THE '191 PATENT AND ITS SUBSEQUENT REEXAMINATION

A. The '191 Patent Should Never Have Been Issued

As explained in the Petition, the '191 Patent issued based on the examiner's mistaken belief that, while the prior art disclosed security systems that disclosed the same architecture including a video camera, an external speaker, and a control unit for relaying captured video and audio to a cellular telephone, the prior art did **not** disclose a doorbell in a doorway for indicating the presence of a visitor. However, Schranz discloses these very features. Like the '191 Patent claims, Schranz discloses that when a visitor approaches a doorway, an event is detected,

[1] By email sent to PO's counsel on June 18, 2026, Petitioner entered the above (i) "*Sotera* Plus" stipulation, *i.e.*, a conventional *Sotera* stipulation with additional assurances regarding certain system prior art, which the Board has found favorable to institution, and (ii) "*No Indefiniteness*" stipulation. *See* EX-1018.

e.g., by ringing of the doorbell. In turn, a video camera and external microphone capture visual and audio communications at the doorway. The captured doorway visual and audio communications are transmitted to a cellular telephone via a control unit that is in communication with the video camera and external microphone as well as a cellular network for communicating with the cellular telephone. *See Vivint LLC v. Zinser*, IPR2026-00300, Paper 2, p. 3-4 (Mar. 16, 2026).

In the first Office Action, the examiner rejected all claims as anticipated by Chang (U.S. Pat No. 6,778,084). EX-1002, 58. In response, Patent Owner amended all independent claims to recite that a doorbell provides a triggering event for capturing entry point visual and audio:

1. (Currently amended) A ~~security~~ doorbell monitoring system comprising:

~~an entry point~~ a doorway having an environment;

a doorbell located in the doorway, the ringing of the doorbell being a triggering event;

a video camera and an external microphone disposed in the entry point, the video camera and external microphone, responsive to the triggering event, for capturing entry point visual and audio communications at the entry point and transmitting the captured entry point visual and audio communications;

an external speaker disposed in the entry point, the external speaker for rendering received cellular audio communications;

a control unit disposed in communication with the video camera, the doorbell, and the external microphone, the control unit for communicating at least one portion of the entry point visual and audio communications received from the video camera and external microphone, and for communicating the received cellular audio communications to the external speaker; and

a cellular telephone disposed remotely to the ~~entry point~~ doorway and the control unit, the cellular telephone for capturing cellular audio communications at the cellular telephone, transmitting the cellular audio communications to the control unit, and rendering the at least one portion of entry point communications received from the control unit.

EX-1002, 80-81.

Patent Owner argued that the use of the doorbell allowed detection of a visitor to distinguish over Chang's detection of an intruder:

> Anticipation Analysis
>
> As amended, Applicant's independent claims recite a doorbell monitoring system or method that notifies an individual of a doorbell ringing triggered by the ringing of the doorbell. Applicant's claims monitor a doorbell for detecting the presence of visitors. As discussed, the cellular telephone audio and visual communicating to and from the cellular phone may include systems which utilize the Public Switched Telephone Network (PSTN), satellite telephone network (PSTN), satellite-based networks, the Internet, and other systems know in the art.
>
> Contrary to Applicant's claims, in each application disclosed by Chang, the presence of an intruder is detected by actuation of an intrusion device rather than the ringing of a doorbell. The result is Chang is different with respect to the claimed invention. Chang does not work in connection with an everyday, non-emergency event, triggered by a visitor ringing the doorbell. Chang only works with emergency, alarm events.

EX-1002, 92-93.

As an initial matter, the examiner should not have accepted the Patent Owner's arguments that adding a doorbell to a prior art security system in order to identify a "visitor" instead of an "intruder" imparts patentability. There is nothing in the '191 Patent that describes anything other than commercial off-the-shelf security components, such as video cameras, speakers, and cellular phones, being

used together for their intended purpose. Thus, the addition of a doorbell to actuate the video camera in the doorway in response to a user should have indicated to the examiner that this is nothing more than an obviousness combination of components used for their intended purpose in a specific environment, *i.e.*, a doorway.

In response to these arguments, it appears that the examiner spent two minutes searching on April 24 (from 3:26 pm-3:28 pm).[2]

[2] The examiner began his search on April 24, 2009 at 15:26 and conducted the last search at 15:28 and printed out the search results for the record at 15:28.

EAST Search History

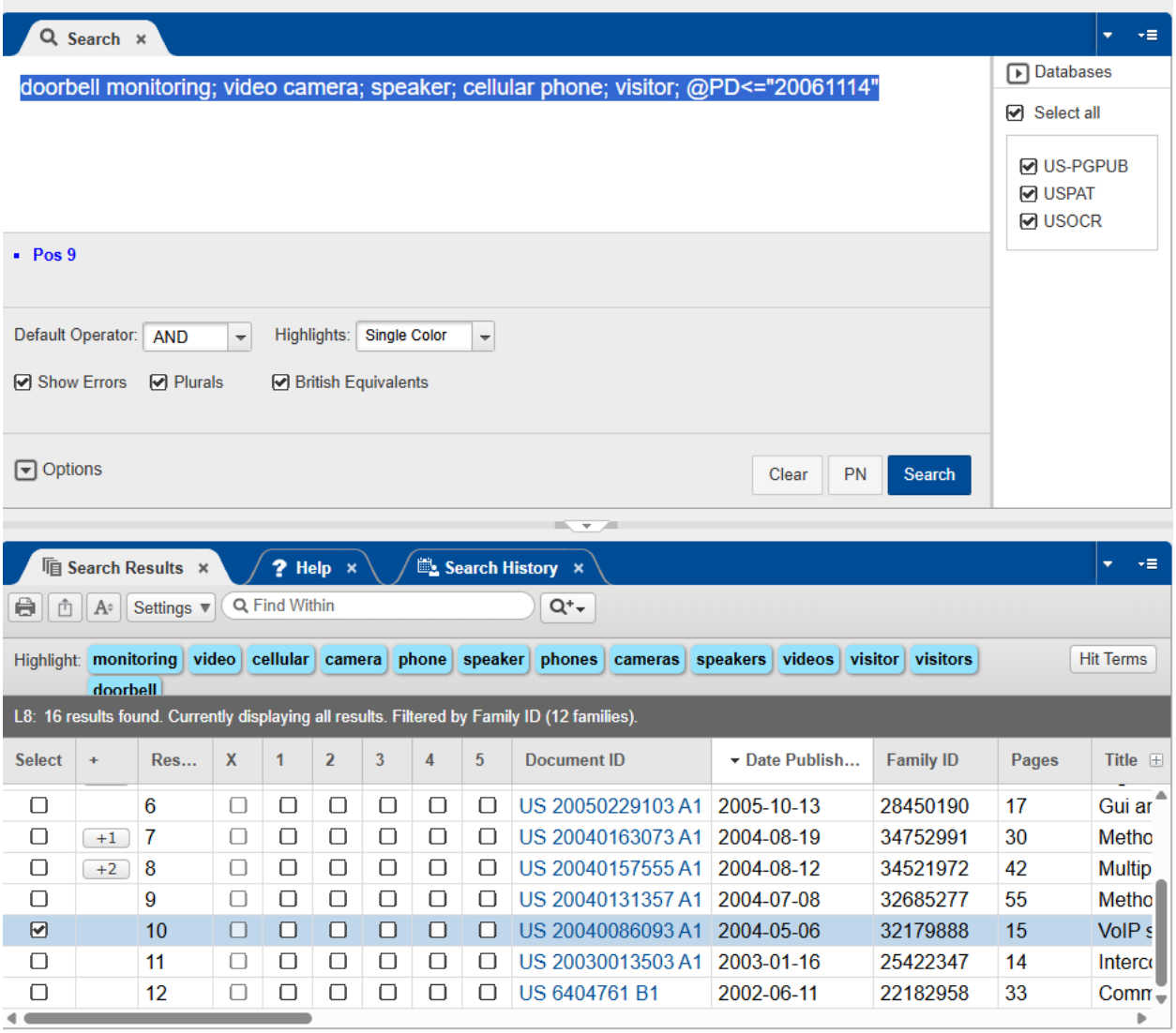
Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	0	security with system with doorway with (activate trigger) with video with audio	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	OFF	2009/04/24 15:26
L2	271	security and system and doorway and (activate trigger) and video and audio	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	OFF	2009/04/24 15:27
L3	10	2 and cellular and speaker and doorbell and entry	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	OFF	2009/04/24 15:27
L4	0	340/540. ccls. and cellular and speaker and doorbell and entry	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	OFF	2009/04/24 15:27
L5	3	340/541. ccls. and cellular and speaker and doorbell and entry	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	OFF	2009/04/24 15:28
S26	11	doorbell with activated with security	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	OFF	2009/04/13 09:36

4/24/09 3:28:38 PM
C:\Documents and Settings\tpham2\My Documents\EAST\workspaces\security system cellular communication.wsp

EX-1002, 102.

However, the examiner was unable to locate any relevant art of a doorbell monitoring system that captures video and audio of a visitor and forwards the captured data to a cellular phone. The examiner's search for "security and system and doorway and (activate trigger) and video and audio" yielded 271 hits. This should have indicated to the examiner that this was a crowded field and warranted more searching than the two minutes he spent. For example, the search below uses

some of the basic features from Claim 1 ("doorbell monitoring", "video camera", "speaker", "cellular phone") and the term "visitor" to capture the distinguishing features alleged by the Patent Owner:



This search identifies 12 patent families, one of which is Schranz, the sole prior art reference used in IPR2026-00300. If the examiner had spent a little more time and used search terms directed to the argument and amendment presented by

the Patent Owner, the examiner would have easily located the Schranz reference because it discloses all the limitations of the claims as described in the Petition.

Thus, it was the examiner's error that erroneously allowed the original claims to issue.

B. Claims 21-47 Should Never Have Issued During Re-examination of the '191 Patent

On June 19, 2024, Patent Owner requested an *Ex Parte* Reexamination of the '191 Patent. In the Request for Reexamination filed June 19, 2024 ("Request"), the Patent Owner stated:

> In particular, pursuant to 37 U.S.C. § 1.510(b)(1), Patent Owner/Assignee submits the following statement pointing out the substantial new questions of patentability ("SNQP"):
>
> - SNQP 1: Claims 1-7 and 19-20 are obvious over *Von Bauer* in combination with *Menard*.
> - SNQP 2: Claims 8-18 are obvious over *Von Bauer* in combination with *Menard* and *Klein*.

EX-1005, 2.

On July 31, 2024, the USPTO vacated the filing date of Request because the Patent Owner failed to provide a detail explanation for why the dependent claims were invalid over the cited art and instead, just stated that the challenged depended claim "depend directly or indirectly" from the independent base claims and "inherit

all features and limitations" of the base claims and are therefore "invalid for the same reasons" as the base claims. EX-1005, 345-47.

On August 15, 2024, the Patent Owner filed a corrected Request, seeking only reexamination of independent Claims 1, 8, 14 and 19. EX-1005, 364.

On September 26, 2024, the PTO granted the Request. During reexamination, Patent Owner cancelled independent claims 1, 8, 14 and 19, and added claims 21-47. EX-1005, 1020-1029.

On September 18, 2025, an *Ex Parte* Reexamination Certificate issued for the '191 Patent stating that Independent Claims 1, 8, 14 and 19 are cancelled, dependent claims 2-7, 9-13, 15-18 and 20 were not reexamined, and new claims 21-47 were added. Prior to allowing new Claims 21-47, the examiner spent an hour conducting a final search on June 5, 2026 and 2 minutes on June 6, 2026. In the examiner's reason for allowance, the examiner stated the following about Claim 21 as issued (claim 55 in the application):

7. The following is an examiner's statement of reasons for patentability and/or confirmation of the claims found patentable in this reexamination proceeding:

Regarding **claim 55** (including dependent claims 57, 58, 61, 62, 63, and 66-72) and **claim 90** (including dependent claims 90, 92, 93, 96-98, 100, and 102-108), the Examiner finds these claims allowable over the relied upon prior art combinations.

The Examiner notes that claim 55 is directed to a doorbell monitoring system which in response to activation of a doorbell, visual and audio communications at an entry point are captured and transmitted. The claim further recites a cellular telephone for rendering at least one portion of the entry point visual and audio communications received from a control unit.

With respect to Menard, Klein and Von Bauer, the Examiner finds that Menard discloses the transmission of a signal in response to the actuation of a doorbell. Menard does not specifically disclose of a control panel being configured to allow an individual to manage a security system or where a video camera is configured to collect the entry point visual communications captured by the single communication unit before the triggering event or where the doorbell monitoring system is configured to authenticate a user of the doorbell monitoring system in combination with the rest of the limitation of the claim.

In addition, neither Von Bauer nor Klein disclose a control panel being configured to allow an individual to manage a security system or where a video camera is configured to collect the entry point visual communications captured by the single communication unit before the triggering event or where the doorbell monitoring system is configured to authenticate a user of the doorbell monitoring system in combination with the rest of the limitations of the claim. The Examiner finds that although Menard, Klein and von Bauer discloses of actuation of a doorbell and transmission of signals responsive to the actuation of the doorbell, neither Menard nor von

EX-1005, 1051.

Based on the examiner's reason for allowance highlighting that the claim included a control unit and controlled access to authenticate a user, the examiner should have specifically searched for these concepts. Instead, the only search

conducted by the examiner that was not tied to specific patents or applications included a search for prior art with a priority date before November 11, 2006 and include the terms “motion” and “proximity” in the same paragraph “doorbell” in the same paragraph with (“video” or “image” or “visual”) and (“authentica$” or “password”).

L110	7	(@rlad<="20061114" OR @ad<="20061114") AND motion SAME proximity AND (doorbell OR door ADJ bell) SAME (video OR image OR visual) AND (authentica$ OR password)	(US-PGPUB; USPAT)	OR	ON	ON	2025/06/05 08:55 AM

EX-1004, 1016.

Unsurprisingly, this search did not result in any relevant prior art. However, had the examiner updated the search using some of the basic features from Claim 21 (“doorbell monitoring”, “video camera”, “speaker”, “cellular phone”, “control unit”) and the term “visitor” and “control access” to capture the distinguishing features identified by the Patent Owner and examiner, the search result would have yielded 12 families, included Schranz:

Search

doorbell monitoring; video camera; speaker; cellular phone; visitor; access control; control unit
@PD<="20061114"

Databases
Select all
US-PGPUB
USPAT
USOCR

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Default Operator: AND
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Highlight: control unit access units controls monitoring video cellular camera phone speaker phones cameras
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L3: 16 results found. Currently displaying all results. Filtered by Family ID (12 families).

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	+1	5							US 20050248443 A1	2005-11-10	35238957	10	Digital
		6							US 20050229103 A1	2005-10-13	28450190	17	Gui ar
	+1	7							US 20040163073 A1	2004-08-19	34752991	30	Metho
	+2	8							US 20040157555 A1	2004-08-12	34521972	42	Multip
		9							US 20040131357 A1	2004-07-08	32685277	55	Metho
☑		10							US 20040086093 A1	2004-05-06	32179888	15	VoIP s
		11							US 20030013503 A1	2003-01-16	25422347	14	Interc
		12							US 6404761 B1	2002-06-11	22182958	33	Comm

This search identifies the same 12 patent families that should have been identified in the original prosecution, one of which is Schranz, the sole prior art reference used in IPR2026-00300. If the examiner had used search terms directed to the argument and amendment presented by the Patent Owner, the examiner would have easily located the Schranz reference because it discloses all the limitations of the claims, as described in the Petition. Thus, it was the examiner's error that erroneously allowed the newly added claims.

PO does not dispute that Schranz discloses the very limitations that the examiner thought were missing from the prior art, nor that Schranz does so in the same way using similar architecture as the '191 Patent. PO also does not make any §325(d) arguments, effectively conceding that the Petition's grounds present an important challenge never considered by the Office. Thus, as a threshold matter, IPR2026-00300 is particularly important here because the Office's original prosecution and reexamination failed to uncover or consider the art and grounds of this Petition, which are neither cumulative nor redundant to the examination upon which the patent rests for its validity. *See Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6, p. 8 (Feb. 13, 2020).

IV. THE *FINTIV* FACTORS WARRANT INSTITUTION

As explained above, instituting this IPR to correct the Examiner's material error "serves the interest of overall system efficiency and integrity." *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 15 (PTAB Mar. 20, 2020) (precedential). Additionally, as demonstrated below, the absence of a trial date along with petitioner's broad stipulation "reduces the concern of inconsistent outcomes or significant duplication of efforts" and thus counsels against discretionary denial." *Tesla, Inc. v Bulletproof Property Management, LLC*, IPR2026-00204, Paper 14 at 3 (PTAB June 15, 2026)(informative). The *Fintiv* factors warrant consideration of the merits and institution because, as explained below, they either favor institution

or are neutral.

A. Factor 1: Likelihood of a Stay

No party has requested a stay, and the district court has not indicated whether a stay would be granted. Therefore, this factor is neutral. *See Hulu, LLC v. SITO Mobile, Ltd.*, IPR2021-00298, Paper 11, 10-11 (PTAB May 19, 2021).

B. Factor 2: Timing of Trials

Factor 2 Favors institution. Petitioner acknowledges that the trial date has not been scheduled. The lack of a trial date favors institution.

C. Factor 3: Investment in Parallel Proceedings

Factor 3 favors institution. As held by the Board in *Fintiv*, "[i]f, 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 to deny institution." *Fintiv*, 10. Here, the district court will not issue its Markman order until after the Markman hearing scheduled for September 28, 2026, which will occur after the institution decision.

D. Factor 4: Overlap of Issues

Factor 4 favors institution. In view of Petitioner's *Sotera* Plus stipulatio*n* (*see* §II), there will be, no overlap between the issues raised in the Petition and issues to be adjudicated in the Litigation.

E. Factor 5: Overlap of Parties

Factor 5 is neutral. The Board has long recognized that it is commonplace for

petitioners to be defendants and does **not** weigh in favor of denial. *See, e.g.*, *HP Inc. v. Slingshot Printing LLC*, IPR2020- 01084, Paper 13 at 9 (Jan. 14, 2021).

F. Factor 6: The Petition's Merits, and Demonstration of Apparent Examiner Error, Strongly Favor Institution

As explained above, §III, the evidence of invalidity in the Petition is overwhelming, presents prior art unlike any considered by the examiner when deciding to issue the Challenged Claims, and demonstrates apparent examiner error **twice** as being the reason that Schranz was not previously before the Office. Integrity of the patent system compels that the Director should not exercise discretion to prevent correcting this error in the original patent grant and reexamination proceeding by considering the merits of the critical evidence of invalidity presented in the Petition. *Magnolia*, 6-8; *Fintiv*, 14-15.

V. THE SETTLED EXPECTATIONS DOCTRINE DOES NOT WARRANT SHIELDING THE '191 PATENT FROM REVIEW

The Challenged Claims issued on September 18, 2025, just six months before the Petition was filed. EX-1001. That is too young under the new settled expectations doctrine. *Shenzen Tuozhu Technology Co., LTD v. Stratasys, Inc.*, IPR2025-00611, Paper 10 (Jul. 17, 2025). The Challenged Claims are likewise too young as compared to the six-year period that the Director has referenced in support of the settled expectations doctrine. *Dabico Airport Solutions Inc. v. AXA Powers APS*, No. IPR2025-00408, Paper 21 (June 18, 2025). Thus, even to the

extent that the settled expectations doctrine is valid, here the challenged claims are too young for the Petition to be denied on that basis.

PO's arguments to the contrary are meritless and PO has cited no legal authority that a PO can have a settled expectation that a claim is valid **before** it issued, *e.g.*, in this case on September 18, 2025.

The Patent Owner's reliance on the Nvidia case is misplaced and, in fact, supports Petitioner's position. Patent Owner attempts to distinguish *Nvidia* by arguing that *Nvidia* involved a broadening reissue while this case involves a narrowing reexamination. But this distinction cuts against the Patent Owner, not in its favor. In *Nvidia*, the Interim Director found that newly issued claims counseled against discretionary denial. The same reasoning applies here, the claims challenged in this IPR (claims 21-47) are new claims that issued on September 18, 2025, just months before this Petition was filed. The Patent Owner cannot have had "settled expectations" in claims that did not exist until recently.

Moreover, the Patent Owner's argument that "narrower" reexamination claims somehow reinforce settled expectations is contrary to logic and precedent. The fact that claims are narrower than cancelled claims provides no indicia of patentability whatsoever. Claims that are narrower than admittedly unpatentable claims are not presumptively valid, they are merely different claims that survived a first examination, and certainly not been tested against the specific prior art

asserted in this Petition. The original independent claims were cancelled precisely because they could not survive examination. The Patent Owner's asserted "settled expectations" in those original claims were demonstrably incorrect, and it is improper to transfer any purported settled expectation to the replacement claims.

The Patent Owner's argument regarding Petitioner's prior knowledge of the '191 Patent also fails. While Vivint cited the '191 Patent in IDS submissions and invalidity contentions, such citations relate to the original claims of the patent—not the new claims 21-47 at issue here. There can be no settled expectation regarding claims that did not exist at the time of Vivint's prior citations. The original claims that Vivint was aware of were subsequently cancelled in the reexamination, confirming that any challenge to those claims would have been well-founded. The newly issued claims present different claim scope and different invalidity considerations.

Unlike a reissue filed with narrower claims—where a patent owner voluntarily chooses to narrow its coverage for strategic reasons—here the patent owner requested reexamination because it admitted the original claims were obvious. The independent claims were then cancelled. This is the opposite of a situation warranting deference to "settled expectations." The Patent Owner did not have settled expectations regarding its original claims. Accordingly, the new claims issued from reexamination should be evaluated on their own merits without

any presumption of settled expectation.

Finally, the *iRhythm* case cited by Patent Owner is distinguishable. In *iRhythm*, the petition challenged the same claims that had been in force for over a decade. Here, by contrast, the Petition challenges claims 21-47 that issued only in September 2025—six months before the Petition was filed. Those claims did not exist during the decade that Patent Owner claims Vivint was aware of the patent. Accordingly, the settled expectations analysis in i*Rhythm* has no application here.

VI. PETITIONER'S U.S. INVESTMENT IN THE DESIGN AND INSTALLATION OF THE ACCUSED SYSTEMS FAVORS INSTITUTION

As admitted in the Request, Petitioner's accused product in the litigation is a system that is designed/installed and hosted in the United States provided through Petitioner's U.S. investments and represents a substantial investment in U.S. jobs and infrastructure, including 10,000 jobs and hosted two data centers in the U.S. By contrast, the PO is an individual that provides zero investment in U.S. design/manufacturing/installation.

VII. CONCLUSION

PO has identified no legitimate basis for the Director to deny institution on any discretionary factors. Institution should be granted.

Respectfully submitted,

DUANE MORRIS LLP

Dated: June 19, 2026

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CERTIFICATION OF SERVICE ON PATENT OWNER

Pursuant to 37 C.F.R. §§ 42.6(e), 42.8(b)(4) and 42.105, the undersigned certifies that on the 19th of June, 2026, a complete and entire copy of this Petitioner's Opposition to Patent Owner's Request for Discretionary Denial and supporting exhibit were served via email and/or electronic download by agreement of Patent Owner, to the Patent Owner's counsel of record in this manner.

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