

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioners,

v.

TOPWIRE LLC,
Patent Owner.

Case No. IPR2026-00303
Patent 9,859,202

**PATENT OWNER'S REPLY IN SUPPORT OF ITS REQUEST FOR
DISCRETIONARY DENIAL**

PATENT OWNER’S EXHIBIT LIST

Exhibit No.	Description
1023	Apple’s Preliminary Invalidity Contentions Cover Pleading
2022	Guidance on USPTO's recission of “Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation”

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I. BRIEF BACKGROUND

On March 16, 2026, Petitioner Apple Inc. filed a Petition for *Inter Partes* Review (“Pet.”) against U.S. Patent No. 9,859,202 (the “’202 Patent”) assigned to Patent Owner TopWire LLC. The Petition did not include a *Sotera* stipulation. On May 19, 2026, Petitioner timely filed its request for discretionary denial. *See* Paper 6. Nine days later, Petitioner filed its *Sotera* stipulation. Accordingly, Patent Owner never had an opportunity to address the timing and substance of Petitioner’s *Sotera* stipulation in its discretionary denial brief.

II. ARGUMENT

A. Petitioner’s *Sotera* Stipulation is Untimely

Sotera stipulations are improper if they are untimely. The Interim Director Discretionary Process Guidelines explain that “[i]f a petitioner chooses to file a stipulation, such as a *Sotera* stipulation, they should file it as soon as practicable, so that the patent owner may address the impact of the stipulation in its discretionary denial brief.” Interim Director Discretionary Process Guidelines §I.D; *see also* EX2022 at 2 (“[A] ***timely-filed*** *Sotera* stipulation . . . is highly relevant.”).

Here, Petitioner’s *Sotera* stipulation is untimely. Petitioner had ample opportunity to file its *Sotera* stipulation with its Petition, as Samsung did in the related case. *See Samsung Elecs. Co., Ltd. et al. v. TopWire LLC*, IPR2026-00324, Paper 1, at EX1031 (Mar. 31, 2026). And even if Petitioner did not do so, it still

could have filed the stipulation during the two-month window before Patent Owner’s discretionary denial brief deadline—but instead waited nine days past that deadline. This is nothing more than litigation gamesmanship. *See, e.g., Samsung Elecs. Co., Ltd. v. Netlist, Inc.*, IPR2026-00018, Paper 20, at 3 (Director Apr. 28, 2026) (denying institution where petitioner’s “untimely” *Sotera* stipulation was filed after patent owner’s discretionary denial brief deadline).

Petitioner’s only support for this delay is a single case in which the Board granted institution despite petitioner’s “inadequate [*Sotera*] stipulation.” *Wybotics Co. Ltd. v. Zodiac Pool Sys. LLC*, IPR2026-00158, Paper 12, at 4–5 (Director May 6, 2026). There, the petitioner showed “that the Office materially erred during prosecution” by failing to consider an IDS reference that clearly disclosed a claimed feature. *Id.* at 2–3. No such facts are present here.

B. Petitioner’s *Sotera* Stipulation is Improper

The substance of Petitioner’s *Sotera* stipulation is also improper. A *Sotera* stipulation must render the IPR a “true alternative” to the district court proceeding by eliminating the inefficiencies of parallel litigation. *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12, at 19 (P.T.A.B. Dec. 1, 2020). Petitioner’s stipulation claims that “it will not, in the Litigation, rely on any product or system that is ‘based on the same evidence presented’ in this IPR.” *Apple Inc. v. TopWire LLC*, IPR2026-00303, Paper 7 (May 28, 2026) (quoting *SAP America, Inc.*

v Cyandia, Inc., IPR2024-01496, Paper 13, at 9 (P.T.A.B. Apr. 7, 2025)). But Petitioner’s invalidity arguments in the district court “are more expansive and include combinations of the prior art asserted in these proceedings with unpublished system prior art, which Petitioner’s stipulation is not likely to moot” because it is unclear what specific combinations this stipulation precludes Petitioner from raising in district court. *Shenzen Tuozhu Tech. Co., Ltd. v. Stratasys, Inc.*, IPR2025-00354, Paper 11, at 2 (Director June 12, 2025); *see* EX1023 at 15–17 (explaining various system art combinations). Accordingly, the stipulation at best “reduces, but does not eliminate, the inefficiencies” of maintaining two parallel proceedings. *Id.* at 3; *see also Motorola Sols. v. Stellar, LLC*, IPR2024-01205, Paper 19, at 3–4 (P.T.A.B. Mar. 28, 2025).

The Board has frequently denied institution when petitioners offer similarly worded *Sotera* stipulations. *See, e.g., Hisense USA Corp. v. Light Guide Innovations LLC*, IPR2025-01538, Paper 10 (Director Jan. 16, 2026); *Samsung Electronics Co., Ltd. et al. v. GenghisComm Holdings, LLC*, IPR2025-00899, Paper 10 (P.T.A.B. Sept. 26, 2025); *TankLogix, LLC v. SitePro, Inc.*, IPR2025-00761, Paper 10 (Director Sept. 3, 2025).

III. CONCLUSION

For the additional reasons set forth above, TopWire respectfully requests that the Director exercise discretion and deny institution.

Respectfully submitted,

Dated: June 24, 2026

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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITS

I hereby certify that this paper complies with the agreed-upon 3-page limit requirement for this reply.

Dated: June 24, 2026

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document and Exhibits listed on Patent Owner's Exhibit List were served on June 24, 2026, by electronic mail to the following:

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