UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.;
SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioners

v.

WHIRLPOOL CORP.,
Patent Owner.

Case No. IPR2026-00336
U.S. Patent No. 12,232,681

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

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I. INTRODUCTION

Discretionary denial is not appropriate. This proceeding involves one of a trio of meritorious petitions (two IPRs, one PGR) that Samsung filed challenging multiple recently-issued patents Whirlpool has asserted against it in parallel district court litigation.[1] Consistent with the latest Office guidance, Samsung filed each petition promptly; for example, it filed the Petition in this case less than two years after the patent's issuance. *See* Ex. 1001, code (45).[2] Notably, Whirlpool presents no evidence or argument that it has any settled expectations with regard to these patents.[3] It is thus in the interest of judicial efficiency for the Board to take up each of Samsung's challenges at once, allowing it to efficiently resolve them without requiring repetitive, piecemeal resolution of common issues.

None of Whirlpool's arguments for discretionary denial overcome Samsung's interest in having this Petition reviewed on the merits. *First*, Whirlpool relies heavily

[1] *Samsung Elecs. Co., Ltd. v. Whirlpool Corp.*, IPR2026-00337, Paper 3 (P.T.A.B. Apr. 15, 2026); *see also Samsung Elecs. Co., Ltd. v. Whirlpool Corp.*, PGR2026-00043, Paper 3 (P.T.A.B. Apr. 14, 2026).

[2] Whirlpool has just recently sought to add another patent, which issued on June 2, 2026, to the district court litigation. *See* Ex. 1043.

[3] *See, e.g.*, *Orca Sec. Ltd. v. Wiz, Inc.*, IPR2025-01083, Paper 10 at 2 (P.T.A.B. Oct. 17, 2025) ("[T]he challenged patents have not been in force for a significant period of time. . . . Accordingly, Patent Owner has not developed strong settled expectations that favor discretionary denial.").

on its incorrect assertion that the district court and Board would address overlapping invalidity issues. But Samsung has filed a broader-than-*Sotera* stipulation that will, after this Petition is instituted, preclude it from pursuing in the parallel district court proceeding "any invalidity ground that reasonably could have been raised in an *inter partes* review" *and* "any other ground based on a combination of system art with any prior art reference asserted as the basis of a ground in each IPR." Ex. 1041, 1. Consistent with the Director's recent informative guidance in *Tesla, Inc. v. Bulletproof Property Management, LLC*, IPR2026-00204, Paper 14 at 2 (P.T.A.B. June 15, 2026) (informative), such a stipulation weighs strongly against discretionary denial, eliminating any risk of duplicative invalidity litigation.

And Whirlpool's emphasis on the district court preliminary injunction proceedings is misplaced. The vast majority of the parties' briefing and argument addressed issues such as irreparable harm, infringement, and public interest—issues that have no bearing on this proceeding. Indeed, Whirlpool's preliminary injunction motion may be resolved without the court addressing validity at all. *See, e.g.*, *Multilift Wellbore Tech. Ltd. v. ESP Completion Techs LLC*, No. 2:16-cv-01187-RSP, 2017 WL 10222420, at *2 (E.D. Tex. July 25, 2017) (Judge Payne denying plaintiff's motion for preliminary injunction based exclusively on his determination that the plaintiff could not establish irreparable harm).

Second, Whirlpool's suggestion that institution of this proceeding would harm

United States manufacturing is exaggerated and also overlooks Samsung's own substantial, long-term investments in the United States appliance industry. Samsung has invested over $100 billion in the domestic economy across several sectors, including over $470 million to establish an appliance manufacturing plant—and a home appliance research and development center—in South Carolina.

Third, the *Fintiv* factors weigh against discretionary denial. The Final Written Decision in this proceeding is expected by October 15, 2027—nearly two months before the current trial date of December 6, 2027. The parallel litigation remains in its earliest stages: neither fact nor expert discovery has formally opened, no *Markman* hearing has occurred, and trial remains approximately eighteen months away. Samsung's broader-than-*Sotera* stipulation eliminates any concern of overlapping invalidity arguments between the two forums. And Whirlpool's contention that the Board cannot adequately assess secondary considerations evidence is entirely unsupported. As it has done in hundreds of prior final decisions, the Board can and does regularly weigh such evidence.

Fourth, Whirlpool's suggestion that Samsung's Petition improperly relies on expert testimony is contrary to Office guidance, which has emphasized that detailed expert declarations actually "weigh[] against discretionary denial." *iRhythm Techs., Inc. v. Welch Allyn, Inc.*, IPR2025-00363, Paper 10 at 2 (P.T.A.B. June 6, 2025).

II. THERE IS NO RISK OF DUPLICATIVE INVALIDITY LITIGATION

A. Samsung's broader-than-*Sotera* stipulation obviates Whirlpool's stated concern of parallel invalidity challenges.

Whirlpool spends a large portion of its brief asserting that the Director should exercise his discretion to deny institution in order to avoid duplicative invalidity litigation. *See* Patent Owner's Discretionary Denial Brief ("DD Br."), Paper 7, at 1–2, 6–10, 17–18. Those concerns, however, are resolved by Samsung's submission of a broader-than-*Sotera* stipulation.

Specifically, Samsung has stipulated[4] that if this review is instituted, it "will not pursue in the related district court case . . . any invalidity ground that reasonably could have been raised in an *inter partes* review [] and any other ground based on a combination of system art with any prior art reference asserted as the basis of a ground in each IPR." Ex. 1041. This stipulation thus goes beyond *Sotera*. Accordingly, if this review is instituted, ***none*** of the prior art asserted in the Petition will be used in the parallel district court litigation to invalidate these claims—even in combination with unpublished system art. There will thus be no overlap between the two proceedings, negating Whirlpool's concerns of duplicative effort. DD

[4] On June 12, 2026, the district court issued an order identifying a trial date. Ex. 1042, 1. Samsung served its stipulation on Whirlpool one week later, on June 19, 2026. *See* Ex. 1041, 1. Samsung's stipulation was informed by the Director's guidance in *Bulletproof*, which was issued with an informative designation on June 15, 2026, four days before Samsung served its stipulation. *See Bulletproof*, IPR2026-00204, Paper 14 at 2.

Br. 17–18.

Samsung's broad stipulation weighs against discretionary denial. Indeed, the Director recently explained that an ***identical*** stipulation was sufficiently broad so as to "allow[] this AIA review to function as an alternative to the co-pending litigation." *Bulletproof*, IPR2026-00204, Paper 14 at 3. So, too, here: Samsung's broad stipulation "reduces the concern of inconsistent outcomes or significant duplication of efforts." *Samsung Elecs. Co. v. Wilus Inst. of Standards & Tech. Inc.*, IPR2025-00933, Paper 11 at 3 (P.T.A.B. Oct. 10, 2025); *see also, e.g.*, *Tesla, Inc. v. Intell. Ventures II LLC*, IPR2025-00217, Paper 9 at 2 (P.T.A.B. June 13, 2025) (informative) (explaining that Tesla's broader-than-*Sotera* stipulation "counsel[s] against discretionary denial").

Put simply, Whirlpool's assertion that Samsung's Petition is a "second bite at the apple," DD Br. 6–10, is misplaced. Samsung is appropriately pursuing this invalidity challenge as a true alternative to district court litigation—the exact purpose of the IPR system contemplated by Congress. *See, e.g.*, 35 U.S.C. § 315(e)(2). Indeed, Samsung's broad stipulation eliminates entirely Whirlpool's stated concerns of duplicative litigation.

B. The district court preliminary injunction proceedings largely addressed unrelated issues, and may never be resolved on the basis of invalidity.

Whirlpool repeatedly argues that, if instituted, any efforts invested in the

present *inter partes* review would be wholly duplicative of efforts already invested in the parallel proceeding. *See* DD Br. 6–10. This is simply untrue. In fact, the vast majority of the district court's and parties' efforts to date has been focused on issues unrelated to the question of the '681 Patent's invalidity.

In connection with Whirlpool's preliminary injunction motion, the district court must determine whether Whirlpool has established that: it is likely to succeed on the merits of its infringement claims; it will suffer irreparable harm absent an injunction; that the balance of hardships tips in its favor; and an injunction is in the public interest. *See Apple, Inc. v. Samsung Elecs. Co.*, 678 F.3d 1314, 1323 (Fed. Cir. 2012). Whirlpool must prove all four factors to succeed on its motion. *Id.* Determining whether Whirlpool is likely to succeed on the merits of its infringement claims requires the district court to consider both non-infringement and invalidity arguments, either of which could alone defeat the requested injunction. *See, e.g.*, *Gryphon Oilfield Sols., LLC v. Stage Completions (USA) Corp.*, Civ. No. H-17-3220, 2018 WL 447364, at *2–3 (S.D. Tex. Jan. 17, 2018) (denying motion for preliminary injunction without addressing validity at all, explaining that the plaintiff could not establish a likelihood of success of proving its infringement allegations); *Genentech, Inc. v. Novo Nordisk A/S*, 108 F.3d 1361, 1364 (Fed. Cir. 1997) (explaining a preliminary injunction is improper where the party opposing the injunction raises a substantial question "concerning validity, enforceability, ***or***

infringement") (emphasis added).

Put simply, the district court could very well deny Whirlpool's motion on any of the four factors, by determining: (1) Whirlpool has not established a reasonable likelihood of infringement; (2) Whirlpool has not established the requisite irreparable harm; (3) the balance of the hardships does not tip in its favor; or (4) an injunction would not be in the public interest. Indeed, when Judge Payne has issued orders on preliminary injunction or temporary restraining order motions in patent cases, he has addressed invalidity only *twice* in nine proceedings. If Judge Payne similarly denies Whirlpool's motion on any non-validity ground, the preliminary injunction proceedings would conclude with the district court having said nothing at all regarding invalidity.

Accordingly, contrary to Whirlpool's framing of the issues, the question of validity is only a small subset of the issues before the court. The parties' now-completed briefing demonstrates this fact. For example, Whirlpool committed less than two pages of its 25-page post-hearing brief to discussing the '681 Patent's validity, Ex. 2009, 21–23, and Samsung barely over a single page, Ex. 2010, 15–16. The parties instead focused the vast majority of their efforts on issues that will never be addressed by the Board, including the likelihood of success on infringement, irreparable harm, the balance of equities, and the public interest. *See generally* Ex. 2009, Ex. 2010.

Even if the district court's preliminary injunction decision ultimately does address the '681 patent's invalidity in some way, those findings would necessarily be only preliminary, not equivalent to the full merits review contemplated by *inter partes* review. *Lackey v. Stinnie*, 604 U.S. 192, 200 (2025) ("Preliminary injunctions . . . do not conclusively resolve legal disputes."). And the court would have applied a different evidentiary standard than that applied by the Board in this proceeding, *i.e.*, the district court would have considered whether Whirlpool "will likely withstand challenges to the validity and enforceability of" the '681 patent, not made a final determination based on the preponderance of the evidence. *Wenyong Yue v. Reaction Laby's, LLC*, 816 F. Supp. 3d 732, 738 (W.D. Tex. 2026) (citing *Amazon.com, Inc. v. Barnesandnoble.com, Inc.*, 239 F.3d 1343, 1350 (Fed. Cir. 2001) (internal quotation marks omitted). Furthermore, the court has in any event not yet made its determination on Whirlpool's preliminary injunction motion. Whirlpool's assertions that the court will necessarily rule on invalidity issues are thus wholly speculative.[5]

Accordingly, the existence of the still-pending preliminary injunction proceedings—focusing largely on issues unrelated to the '681 Patent's invalidity,

[5] If the court issues a decision on Whirlpool's preliminary injunction motion before the Director issues a referral decision, Samsung will provide the Director with supplemental briefing addressing the impact, if any, of that decision on the issues in this proceeding.

and which may never resolve validity at all—is not a sufficient basis to deny Samsung's Petition due consideration on its merits.

III. SAMSUNG HAS MADE SUBSTANTIAL INVESTMENTS IN THE UNITED STATES APPLIANCE INDUSTRY

Whirlpool asserts that instituting review would harm the United States appliance manufacturing industry. DD Br. 10–12. In doing so, Whirlpool incorrectly characterizes Samsung as exclusively a "foreign manufacturer," despite Petitioner Samsung Electronics America, Inc. being a United States corporation incorporated in New York since 1978. Whirlpool's remaining arguments underestimate the substantial, long-term investments Samsung has made and continues to make in the United States across multiple sectors of the economy including the appliance manufacturing industry.

Specifically, as Samsung recently explained in tariff-related public comments, "Samsung has been operating in the country for nearly 50 years and [has] invested more than US$100 billion. Today, Samsung employs approximately 20,000 people in the United States across manufacturing, sales and strategy, and research and development functions." Samsung's Public Comments Regarding Potential Inclusion of Household Appliance Products Within the Existing Steel and Aluminum Section 232 Measures (May 6, 2025) ("Samsung's Section 232 Filing") at 2; *see also id.* (Samsung's "U.S. operations support another 175,000 direct and indirect jobs").

Notably, Samsung has invested over $470 million to establish a home appliance manufacturing plant in Newberry, South Carolina, which has since manufactured over a million appliances. "Samsung's Road to Success in South Carolina," SAMSUNG NEWSROOM (Nov. 5, 2020).[6] The Newberry plant directly supports over 1,500 United States jobs, and a University of South Carolina study found that the facility generates $926 million in total annual economic output in South Carolina. "Samsung Electronics Home Appliances America Celebrates 5 years in South Carolina," SAMSUNG NEWSROOM (June 28, 2022)[7]; *see also* Samsung's Section 232 Filing at 2 ("[N]early three quarters of American households are home to a Samsung product.").

To the extent Whirlpool's research and development-specific expenditures are relevant, *see* DD Br. 11, Samsung has also made substantial investments in its domestic research and development activities. Samsung operates numerous research and development-focused offices in the United States, in California, Texas, New Jersey, New York, and Massachusetts. *See* "Where to find us," https://sra.samsung.com/locations/ (last accessed July 7, 2026). Samsung even has a domestic R&D partnership focused exclusively on home appliances: the Palmetto

[6] Available at https://news.samsung.com/us/samsungs-road-to-success-south-carolina-seha-home-appliance-manufacturing-facility# (last accessed July 7, 2026).

[7] Available at https://news.samsung.com/us/samsung-home-appliances-america-celebrates-5-years-in-south-carolina-seha# (last accessed July 7, 2026).

Consortium for Home Appliance Innovation. "Samsung Electronics America Opens Home Appliance Manufacturing Hub in Newberry, South Carolina," AREADEVELOPMENT (Jan. 15, 2018).[8]

Whirlpool's citation to *Magnolia Medical Technologies, Inc. v. Kurin Inc.* is thus misplaced. DD Br. 10, 12 (citing IPR2026-00097, Paper 17 at 6–7 (P.T.A.B. May 14, 2026) (precedential)). In *Magnolia*, the Director explained that AIA reviews should not "provide a tactical advantage to companies that neither manufacture in the United States nor make American manufacturing investments." *Magnolia*, IPR2026-00097, Paper 17 at 7. As demonstrated by its substantial and sustained domestic investments, neither is true of Samsung. Institution should thus not be discretionarily denied on this basis.

IV. THE *FINTIV* FACTORS WEIGH STRONGLY AGAINST DENYING INSTITUTION OF SAMSUNG'S MERITORIOUS PETITION

A. Factor 1 weighs against discretionary denial: The Eastern District of Texas often stays litigation in favor of IPRs instituted before *Markman*.

Whirlpool's argument that any motion to stay "will almost certainly be denied" is premised on the fact that the Eastern District of Texas often denies stay motions (without prejudice) before reviews are instituted. But this ignores that the

[8] Available at https://www.areadevelopment.com/newsitems/1-15-2018/samsung-electronics-america-manufacturing-newberry-county-south-carolina.shtml (last accessed July 7, 2026).

general practice in that court is for the moving party to renew any stay motion after institution.[9] And for an early-filed motion where a review was instituted pre-*Markman*—which would be the case here—Judge Payne's record on granting stays is substantially more favorable. *See, e.g.*, Order, *Harbor Island Dynamic, LLC v. Samsung Elecs. Co., Ltd.*, No. 2:24-cv-00140-JRG-RSP, Dkt. 81, at 4 (E.D. Tex. May 19, 2025) (staying case in favor of IPR where motion was filed before the claim construction hearing, even despite the final written decision being expected after the scheduled trial date). In fact, Judge Payne has consistently granted stay motions where, as here, the Final Written Decision would issue well *before* the trial date. *See, e.g.*, *Ravenwhite, LLC v. Home Depot, Inc.*, No. 2:24-cv-00688-JRG-RSP, 2025 WL 4763676, at *2 (E.D. Tex. June 18, 2025) (granting stay motion where "final written decisions for the IPRs are expected before the scheduled trial").

Considering the district court litigation is a multi-patent case (indeed, Whirlpool recently added yet another newly issued patent to that litigation), referral and possible institution could simplify the case dramatically. *Fintiv* Factor 1 thus weighs against discretionary denial.

[9] As Whirlpool acknowledges, Samsung has not yet filed a stay motion in the district court. The relevance of *Fintiv* factor 1 is thus not "whether the court granted a stay" but instead whether "evidence exists that one may be granted if a proceeding is instituted." *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 15 at 17 (P.T.A.B. May 13, 2020) (informative). As explained herein, the evidence suggests that any such motion filed *post*-institution has a substantially higher chance of success.

B. Factor 2 weighs against discretionary denial: The current trial date is well after the Final Written Decision deadline, and will likely be moved even later.

The Final Written Decision in this proceeding is expected by October 15, 2027—two months before the currently set trial date of December 6, 2027. *See* Ex. 1042, 1. Accordingly, if this proceeding were to be instituted and in view of Samsung's stipulation, all of the parties' printed publication prior art invalidity disputes would be resolved months before trial. And the current trial date does not account for any litigation delays or adjustments, which are typical in a complex, multi-patent case like this one. In other words, the Final Written Decision will certainly issue well before the trial occurs, "reducing the concern of inconsistent outcomes or significant duplication of efforts." *Apple Inc. v. Apex Beam Techs., LLC*, IPR2025-00896, Paper 10 at 2 (P.T.A.B. Sep. 3, 2025) (discretionary denial is "not appropriate" where "the projected final written decision due date is November 18, 2026" and the "scheduled trial date is December 7, 2026"). Factor 2 thus also weighs against discretionary denial.

C. Factor 3 weighs against discretionary denial: Institution would occur well before *Markman* and the close of both fact and expert discovery.

Contrary to Whirlpool's exaggerated assertions about the parties' investment in the district court litigation, that proceeding objectively remains at an early stage. As explained above, the district court proceeding has been focused on Whirlpool's

preliminary injunction motion, and the parties' efforts to date have been both preliminary and largely unrelated to invalidity.

Notably, the parties' limited investment in the district court litigation has all been *pre*-discovery; neither fact nor expert discovery has yet formally opened, and trial remains at least 18 months away. Instead, the parties have submitted abbreviated, preliminary evidence and expert reports, focusing on a subset of issues relevant to the preliminary injunction motion. The vast majority of the parties' and the district court's investment remains ahead. *See, e.g.*, *Tesla, Inc. v. Autonomous Devices*, IPR2023-01172, Paper 21 at 8–9 (P.T.A.B. Jan. 8, 2024) (finding this factor weighs against discretionary denial where "fact discovery is ongoing" and "expert discovery has not yet begun"). Indeed, the Director has previously referred Petitions to be considered on their merits even though the parties had engaged in preliminary injunction briefing in the parallel district court litigation. *See, e.g.*, *Shuttleslide, LLC v. Sea Swivel Inc.*, PGR2025-00089, Paper 7 at 10–11 (P.T.A.B. Jan. 8, 2026). Factor 3 thus similarly weighs against discretionary denial.

D. Factor 4 weighs against discretionary denial: Samsung's broader-than-*Sotera* stipulation precludes parallel invalidity litigation.

As explained at the outset, Samsung's broader-than-*Sotera* stipulation mitigates concerns about duplicative efforts, because, upon institution, it will eliminate not only "any invalidity ground that reasonably could have been raised" in this proceeding, but also "any other ground based on a combination of system art

with any prior art reference asserted as the basis of a ground in each IPR." Ex. 1041, 1. Thus, if instituted, the prior art asserted in the Petition will not be used in the parallel litigation to prove that the patents are invalid, even in combination with system art. Accordingly, there will be no overlap between the two proceedings. *See supra* § II.A. Factor 4 therefore also weighs against discretionary denial.

E. Factor 6 weighs against discretionary denial: Whirlpool falsely assumes that the Board cannot fulsomely assess secondary considerations, and Samsung's petition is strong on the merits.

The final *Fintiv* factor similarly favors referral for the Board to consider Samsung's Petition on the merits. Whirlpool argues that the district court is "better situated" to address evidence regarding secondary considerations of obviousness, suggesting that the Board does not have access to "fulsome discovery" mechanisms to adequately address those issues. DD Br. 18–19. This argument is specious. The Board has addressed evidence of secondary considerations in hundreds of proceedings. *See e.g.*, *Samsung Elecs. Co., Ltd. v. Ouraring, Inc.*, PGR2024-00039, Paper 58 at 50–72 (P.T.A.B. Dec. 5, 2025); *Lectrosonics, Inc. v. Zaxcom*, IPR2018-01129, Paper 33 at 60–72 (P.T.A.B. Jan. 24, 2020); *Akorn, Inc. v. Senju Pharm. Co., Ltd.*, IPR2015-01205, Paper 39 at 15–24 (P.T.A.B. Nov. 22, 2016). And while Whirlpool suggests its secondary considerations arguments will require filing confidential exhibits, *see* DD Br. 19, that is often the case. The Board is fully capable of receiving and handling such evidence, as should be evident from Whirlpool's

confidential filings to date. *See, e.g.*, Ex. 2009 (Whirlpool's Post-Hearing Brief in Support of Motion for a Preliminary Injunction, featuring multiple redactions); *see also* 37 C.F.R. §§ 42.54, 42.55 (providing for the protection of confidential material submitted to the Board).[10]

Whirlpool's final *Fintiv* argument is that the Petition is weak. DD Br. 19–20.[11] These cursory arguments are unavailing. Whirlpool provides a single example of an alleged weakness in Samsung's Petition: that the Carr and Mailander references purportedly fail to disclose the claimed "cup seats." DD Br. at 19. But Whirlpool's argument is predicated on the Board adopting a construction of the term "cup seat" that is not consistent with the claim term, and which would read out its own embodiments. *Id.* As Samsung's Petition explains, the prior art teaches this term in

[10] Whirlpool points to a few lines of unsupported expert testimony in the district court that it suggests supports copying. That is not meaningful evidence of anything, much less non-obviousness. And it is contradicted by other testimony in the same transcript specifically rebutting the excerpts Whirlpool identified. *See, e.g.*, Ex. 2008, 77:7–78:22. In any event, to the extent there is a meaningful dispute regarding copying, that is exactly the type of issue the Board can resolve in an instituted *inter partes* review.

[11] As an initial matter, this preview of Whirlpool's eventual merits arguments contravenes Office guidance prohibiting patent owners from using discretionary denial briefing "as an additional opportunity for merits briefing." *Interim Director Discretionary Process* § II.C.i (https://www.uspto.gov/patents/ptab/interim-director-discretionary-process, last accessed June 29, 2026). Regardless, consideration of the merits does not factor into the *Fintiv* inquiry unless the remaining factors favor denial. *ResMed Corp. v. Cleveland Med. Devices*, IPR2025-00158, Paper 11 at 13 (P.T.A.B. June 13, 2025) (explaining that the merits weigh "neutrally" when "none of the other Fintiv factors favor discretionary denial").

a manner consistent with the specification. Paper 3, 9. Regardless, to the extent this issue needs further explanation, the correct course of action is to institute trial and allow the Board to consider evidence and argument on it.

Factor 6 thus similarly weighs against discretionary denial.

V. THE PETITION'S STRONG GROUNDS ARE APPROPRIATELY SUPPORTED BY EXPERT TESTIMONY

Whirlpool's allegations that the expert declarations in support of Samsung's Petition "are more accurately framed as attorney argument" and that Samsung's reliance on those declarations thus supports discretionary denial are incorrect. DD Br. 20. Contrary to Whirlpool's conclusory, single-paragraph argument, the Petition properly relies on expert testimony to explain the knowledge of those of skill in the art and to provide background regarding the technology, citing prior art in support, as required by regulation. 37 C.F.R. § 42.65(a). Indeed, the Board encourages the submission of detailed, evidence-supported declarations. *See, e.g.*, *Tesla, Inc. v. Charge Fusion Techs., LLC*, IPR2025-00032, Paper 11 at 39 (P.T.A.B. May 19, 2025) (characterizing a 278-page expert declaration containing "extensive explanations" "with citations to dozens of pieces of objective evidence" as "a feature, not a bug of his testimony" and "applaud[ing]" the expert and Petitioner for "leav[ing] virtually none of the substance of his testimony unsupported by objective evidence"). And as the Board has explained, Samsung's "rel[iance] on its expert to explain the background knowledge of" those of skill actually "weighs ***against***

discretionary denial." *iRhythm Techs., Inc. v. Welch Allyn, Inc.*, IPR2025-00363, Paper 10 at 2–3 (P.T.A.B. June 6, 2025) (emphasis added).

VI. SAMSUNG'S CHALLENGES SHOULD BE CONSIDERED TOGETHER TO CONSERVE JUDICIAL RESOURCES

Whirlpool initially asserted two patents in its district court complaint against Samsung. *See* Complaint, Dkt. 1, *Whirlpool Corp. v. Samsung Elecs. Co., Ltd.*, No. 2:25-cv-01042, at 11–14 (E.D. Tex. Oct. 10, 2025). Consistent with Office guidance, Samsung promptly challenged both patents within months of the complaint's filing. *See* Paper 3; *see also Samsung Elecs. Co., Ltd. v. Whirlpool Corp.*, IPR2026-00337, Paper 3 (P.T.A.B. Apr. 15, 2026). In February 2026, Whirlpool was granted another patent—and immediately amended its district court complaint to add it to the litigation against Samsung. *See* Amended Complaint, Dkt. 38, *Whirlpool Corp. v. Samsung Elecs. Co., Ltd.*, No. 2:25-cv-01042, at 11–41 (E.D. Tex. Feb. 9, 2026). Again, Samsung promptly challenged the newly-issued patent, filing a petition for post-grant review just two months later. *See Samsung Elecs. Co., Ltd. v. Whirlpool Corp.*, PGR2026-00043, Paper 3 (P.T.A.B. Apr. 14, 2026). Whirlpool has now sought leave to add to the district court litigation another patent, newly issued in June 2026. *See* Ex. 1043 (moving to amend complaint to assert U.S. Patent No. 12,642,422, issued on June 2, 2026).[12] And Whirlpool's

[12] Samsung is considering further validity challenges to that newly-issued patent.

patent prosecution activities are continuing, meaning it very well may seek to add further asserted patents in the district court litigation in the future.

Samsung's repeated "early challenges favor robust, predictable patent rights and weigh against discretionary denial." *Geotab Inc. v. Fractus, S.A.*, IPR2025-01026, Paper 14 at 2 (P.T.A.B. Oct. 17, 2025). Furthermore, each of Samsung's challenges to Whirlpool's ever-increasing number of asserted patents involve overlapping and common issues. These challenges should thus be taken up by the Board together, allowing for their efficient resolution without repetitive, piecemeal litigation of common issues. As the Director has recently explained, "it is an efficient use of Board resources to address" patents with related or overlapping issues together. *Padagis US LLC v. Neurelis, Inc.*, IPR2025-00464, Paper 12, at 3–4 (P.T.A.B. July 16, 2025) (denying patent owner's request for discretionary denial in proceedings involving three patents with similar subject matter, explaining that overlapping issues in the three proceedings counseled against discretionary denial); *see also, e.g.*, *Embody, Inc. v. Lifenet Health*, IPR2025-00248, Paper 13, at 1–2 (P.T.A.B. June 26, 2025) (denying patent owner's request for discretionary denial in two proceedings involving related patents, explaining that settled expectations had not accrued for one patent and "it is an efficient use of Board resources to address the related [older] patent"). Similarly here, it is in the interest of judicial economy to allow each of Samsung's promptly filed, related challenges to be resolved together.

VII. CONCLUSION

The bulk of Whirlpool's brief presupposes that the Board and district court would engage in duplicative factfinding, but Samsung's broad stipulation has rendered that assertion moot. Beyond Whirlpool's heavy reliance on that now-mooted proposition, little remains in support of its request for discretionary denial. The *Fintiv* factors weigh heavily against discretionary denial, and Whirlpool's remaining arguments are unpersuasive. Moreover, Samsung's early challenges to Whirlpool's related patents, which all raise substantially similar issues, further counsels in favor of institution in the interest of judicial economy. Samsung thus respectfully requests that the Director decline to exercise his discretion to deny institution and instead refer the Petition to a panel to decide whether to institute based on the merits.

Date: July 15, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e)(1))

I hereby certify that on July 15, 2026, I caused a true and correct copy of the foregoing PETITIONER'S OPPOSITION TO PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION to be served electronically on counsel for Patent Owner at the following addresses:

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