

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. IPR2026-00337
U.S. Patent No. 10,512,385

**PETITIONER'S SUR-REPLY IN OPPOSITION TO PATENT OWNER'S
REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION**

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LIST OF EXHIBITS

Ex. No.	Description
Ex-1001	U.S. Patent No. 10,512,385 (“the ’385 Patent”)
Ex-1002	Declaration of Dr. Kimberly K. Cameron
Ex-1003	Curriculum Vitae of Dr. Kimberly K. Cameron
Ex-1004	Prosecution History of U.S. Patent No. 10,512,385
Ex-1005	U.S. Patent Application Publication No. 2018/0220867 A1 to Carr (“Carr”)
Ex-1006	U.S. Patent Application Publication No. 2008/0169009 A1 to Mailander (“Mailander”)
Ex-1007	D.E. Patent No. 6810173 to Bosch (“Bosch”) (Certified English Translation)
Ex-1008	E.P. Patent No. 2368479 to Fumagalli (“Fumagalli”)
Ex-1009	U.S. Patent No. 9,445,703 B2 to Heidel et al. (“Heidel”)
Ex-1010	U.S. Patent No. 9,510,729 B2 to Fey et al. (“Fey”)
Ex-1011	U.S. Patent No. 6,869,029 B2 to Ochoa (“Ochoa”)
Ex-1012	U.S. Patent No. 10,045,681 B2 to Schessl et al. (“Schessl”)
Ex-1013	U.S. Patent No. 2,910,207 to Andrew (“Andrew”)
Ex-1014	D.E. Patent No. 6810173 to Bosch (“Bosch”)
Ex-1015	U.S. Patent No. 7,365 to Houghton (“Houghton”)
Ex-1016	U.S. Patent No. 10,602,910 B2 to Gutkowski (“Gutkowski”)
Ex-1017	U.S. Patent No. 51,000 to Alexander (“Alexander”)
Ex-1018	U.S. Patent No. 355,139 to Cochrane (“Cochrane”)

Ex. No.	Description
Ex-1019	G.B. Patent No. 219,103 to Livens (“Livens”)
Ex-1020	INTENTIONALLY LEFT BLANK
Ex-1021	U.S. Patent No. 2,734,520 to Abresch et al. (“Abresch”)
Ex-1022	Decl. of Emad Tanbour, Ph.D., in Reply to the Expert Decl. of Dr. Kimberly K. Cameron Regarding Non-Infringement and Invalidity of the Asserted Patents, <i>Whirlpool Corp. v. Samsung Elecs. Co., Ltd.</i> , No. 25-cv-01042-JRG-RSP (Jan. 16, 2026)
Ex-1023	U.S. Patent No. 2,648,588 to Ruspino (“Ruspino”)
Ex-1024	U.S. Patent No. 4,402,556 to Schwind (“Schwind”)
Ex-1025	U.S. Patent No. 3,464,566 to Gilson (“Gilson”)
Ex-1026	U.S. Patent No. 4,475,656 to Collier (“Collier”)
Ex-1027	U.S. Patent Application Publication No. 2010/0051069 A1 to Schessl et al. (“Schessl”)
Ex-1028	U.S. Patent Application Publication No. 2013/0002107 A1 to Paschini et al. (“Paschini”)
Ex-1029	U.S. Patent Application Publication No. 2015/0196189 A1 to Shaffer et al. (“Shaffer”)
Ex-1030	U.S. Patent Application Publication No. 2006/0237051 A1 to Bengston et al. (“Bengston”)
Ex-1031	U.S. Patent Application Publication No. 2006/0127051 A1 to Tsumagari et al. (“Tsumagari”)
Ex-1032	U.S. Patent Application Publication No. 2015/0053238 A1 to Lee et al. (“Lee”)
Ex-1033	U.S. Patent Application Publication No. 2015/0320290 A1 to Hederstierna et al. (“Hederstierna”)
Ex-1034	E.P. Patent No. 2594186 A1 to Milani et al. (“Milani”)

Ex. No.	Description
Ex-1035	U.S. Patent Application Publication No. 2014/0190528 A1 to Wegener et al. (“Wegener”)
Ex-1036	U.S. Patent No. 3,402,975 to Smith (“Smith”)
Ex-1037	U.S. Patent No. 3,044,842 to Abresch et al. (“Abresch”)
Ex-1038	U.S. Patent No. 7,032,604 B2 to Welch (“Welch”)
Ex-1039	U.S. Patent No. 2,745,707 to Sebens (“Sebens”)
Ex-1040	U.S. Patent No. 5,332,105 to Standfield (“Standfield”)
Ex-1041	Letter to M. Heim from B. Haber, dated June 18, 2026 (’385 Patent Stipulation Letter)
Ex-1042	Docket Control Order, Dkt. 78, <i>Whirlpool Corp. v. Samsung Elecs. Co., Ltd.</i> , No. 25-cv-01042-JRG-RSP (June 12, 2026)
Ex-1043	Plaintiff’s Unopposed Motion for Leave to File Second Amended Complaint, Dkt. 87, <i>Whirlpool Corp. v. Samsung Elecs. Co., Ltd.</i> , No. 25-cv-01042-JRG-RSP (June 26, 2026)

Whirlpool’s request for discretionary denial should be denied. Its choice to add yet another related patent to the parallel litigation does not insulate all asserted patents from review. And Samsung’s stipulation is *the same* as the one in *Tesla* that weighed against discretionary denial—including that it is operable upon institution.

I. THE ADDITION OF THE ’422 PATENT TO THE PARALLEL LITIGATION DOES NOT JUSTIFY DISCRETIONARY DENIAL

Whirlpool asserts “there will be significant overlap of issues involved in litigating the ’422 Patent,” which it believes supports discretionary denial. PO Reply in Support of its Discretionary Denial Briefing (“PO Reply”) at 1. But Whirlpool ignores that, because the ’422 Patent was recently granted, any soon-filed challenge to the ’422 Patent would be for post-grant review, not *inter partes* review. As the Office has recently explained in a precedential decision, “[p]etitions for post-grant review are favored” and thus weigh *against* discretionary denial—even in circumstances where “it is unlikely that a final written decision . . . will issue before” the district court trial. Paper 10, *Multi-Color Corp. v. Brook & Whittle Ltd.*, PGR2025-00025 (P.T.A.B. July 16, 2026) (precedential).

Furthermore, Whirlpool’s assumption that the district court would necessarily deny any motion to stay is not supported by precedent. Whirlpool’s one cited case indicates only that the Eastern District of Texas may deny a stay where the Office institutes review on only a subset of the asserted claims, circumstances inapplicable to this case’s current procedural posture. As Samsung explained, Judge Payne

specifically has a favorable record of granting stay motions that are filed before the *Markman* hearing, even where the final written decision is expected to issue after the scheduled trial date. *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). Whirlpool’s assertion that “the District Court is very unlikely to stay the case,” PO Reply 2, is thus both speculative and demonstrably false.

At bottom, Whirlpool seeks to leverage its recent assertion of the ’422 Patent in district court to insulate *all* asserted patents from review. If Whirlpool is correct, then all patent owners could immunize their patents from post-grant challenges by simply staggering their assertion in the parallel litigation. Whirlpool cites to no statute or precedent to justify such gamesmanship, nor could it. Instead, as the Office has 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). Indeed, an expected petition for PGR of the ’422 Patent would actually weigh in favor of institution, not against it. Accordingly, this petition should be referred for consideration on its merits.

II. SAMSUNG’S BROADER-THAN-SOTERA STIPULATION WEIGHS AGAINST DISCRETIONARY DENIAL

To be clear, Samsung’s broader-than-*Sotera* stipulation is *identical* in scope to the stipulation in *Tesla, Inc. v. Bulletproof Property Management, LLC*, that the Director noted weighed against discretionary denial. IPR2026-00204, Paper 14

(P.T.A.B. June 15, 2026). Whirlpool grasps at unrelated straws to differentiate the stipulations, asserting that Samsung’s continued opposition to the entry of a preliminary injunction, with its attendant, pre-institution invalidity defense, somehow undermines the strength of its stipulation. Whirlpool is wrong.

The procedural posture here differs in one respect from *Tesla*, as Whirlpool elected to file a preliminary injunction (“PI”) motion. As Samsung explained in its opposition brief, the parties thus engaged in briefing on many issues, of which substantial questions to the ’385 Patent’s validity is a small portion. However, that Samsung continues to oppose the entry of a preliminary injunction on a variety of grounds does not in any way undermine its stipulation. *See, e.g., Shuttleslide, LLC v. Sea Swivel Inc.*, PGR2025-00089, Paper 7 at 10–11 (P.T.A.B. Jan. 8, 2026) (referring petition for merits consideration despite PI proceedings).

Finally, to the extent Whirlpool suggests Samsung has “retained” any ability to pursue invalidity challenges, that is only because Samsung’s stipulation—just like every *Sotera*, broader-than-*Sotera*, or other such prior art stipulation—becomes effective only ***upon institution***. In other words, Samsung is not bound to forgo invalidity contentions unless and until the proceeding is instituted. *See* Ex-1041.

III. CONCLUSION

Whirlpool’s supplemental briefing does not demonstrate that the totality of the factors weighs in favor of discretionary denial. Its request should be denied.

Date: July 31, 2026

Respectfully submitted,

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

I hereby certify that on July 31, 2026, I caused a true and correct copy of the foregoing PETITIONER’S SUR-REPLY IN 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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