UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PINTEREST, INC.,

Petitioner,

v.

OPENTV, INC.,

Patent Owner.

Case IPR2026-00365

Patent No. 11,825,139

PATENT OWNER'S MEMORANDUM

IN SUPPORT OF DISCRETIONARY DENIAL

TABLE OF CONTENTS

Page

INTRODUCTION 1

ARGUMENT 6

I. The History of the Dispute Between the Parties Favors Discretionary Denial Because It Demonstrates that Pinterest is Not Using *Inter Partes* Review as an Efficient Alternative to Litigation. 7

II. Pinterest's Petition Is Inconsistent with Claim Construction Positions It Has Taken in the UPC Action and the Second District Court Action for a Related Patent. 11

CONCLUSION 13

TABLE OF AUTHORITIES

Page(s)

Cases

Apple Inc. v. Fintiv, Inc., No. IPR2020-00019, Paper 11 (P.T.A.B. Mar. 20, 2020) 7, 8

Cuozzo Speed Techs. v. Lee, 579 U.S. 261 (2016) 6

Gen. Plastic Indus. Co. v. Canon Kabushiki Kaisha, IPR2016-01357, Paper 19 (P.T.A.B. Sept. 6, 2017)..... passim

Magnolia Med. Tech., Inc. v. Kurin, Inc., IPR2026-00097, Paper 17 (P.T.A.B. May 14, 2026) 7, 10, 13

Mylan Lab'ys Ltd. v. Janssen Pharmaceutica, N.V., 989 F.3d 1375, 1382 (Fed. Cir. 2021) 6

Pinterest, Inc. v. OpenTV, Inc., IPR2025-01184, Paper 1 (P.T.A.B. July 11, 2025) 4, 10

Pinterest, Inc. v. OpenTV, Inc., IPR2025-01184, Paper 11 (P.T.A.B. Nov. 20, 2025) 4

Pinterest, Inc. v. OpenTV, Inc., IPR2026-00334, Paper 1 (P.T.A.B. Apr. 6, 2026).4, 5, 10

Pinterest, Inc. v. OpenTV, Inc., IPR2026-00334, Paper 7 (P.T.A.B. June 8, 2026) .4

Pinterest, Inc. v. OpenTV, Inc., IPR2026-00366, Paper 2 (P.T.A.B. May 22, 2026)6

Revvo Technologies, Inc. v. Cerebrum Sensor Tech., Inc., IPR2025-00632, Paper 20 (P.T.A.B. Nov. 3, 2025)..... 11, 13

Statutes

35 U.S.C. § 314.....6, 8

Regulations

37 C.F.R. § 42.100(c).....8

37 C.F.R. § 42.107(b) 8

Rules

R. P. U.P.C., Preamble § 7.....5, 8

PATENT OWNER EXHIBIT LIST

Exhibit No.	Description
EX2001	Complaint, *OpenTV, Inc. v. Pinterest, Inc.*, No. 1-25:cv-01404-JCG, D.I. 1 (D. Del. Nov. 18, 2025)
EX2002	Complaint, *OpenTV, Inc. v. Pinterest, Inc.*, No. 1-24:cv-01301-JCG, D.I. 1 (D. Del. Nov. 27, 2024)
EX2003	Amended Scheduling Order, *OpenTV, Inc. v. Pinterest, Inc.*, No. 1-24:cv-01301-JCG, D.I. 68 (D. Del. Dec. 31, 2025)
EX2004	Docket Print-Out, *Nagravision Sàrl v. Pinterest Inc. et al.*, No. UPC-CFI-0001506/2025
EX2005	Statement of Defense (Excerpts, Redacted), *Nagravision Sàrl v. Pinterest Inc. et al.*, No. UPC-CFI-0001506/2025 (Mar. 26, 2026)
EX2006	European Patent No. 3,965,466
EX2007	U.S. Patent No. 12,231,703
EX2008	Counterclaim for Revocation (Excerpts), *Nagravision Sàrl v. Pinterest Inc. et al.*, No. UPC-CFI-0001506/2025 (Mar. 26, 2026)
EX2009	Notice of Hearing (English Translation), *Nagravision Sàrl v. Pinterest Germany GmbH et al.*, No. 7 O 14220/25 (Munich District Court I Nov. 18, 2025)
EX2010	Scheduling Order, *OpenTV, Inc. v. Pinterest, Inc.*, No. 1-25:cv-01404-JCG, D.I. 30 (D. Del. Mar. 25, 2026)
EX2011	Docket Print-Out (ECF), *OpenTV, Inc. v. Pinterest, Inc*., No. 1:24-cv-01301-JCG (D. Del.)
EX2012	App'x A to OpenTV's Disclosure of Asserted Claims and Infringement Contentions, *OpenTV, Inc. v. Pinterest, Inc.*, No. 1-25:cv-01404-JCG, D.I. 1 (D. Del. May 1, 2026)
EX2013	E-mail from Conrad Gosen, counsel for Pinterest, Inc., to Benjamen C. Linden, counsel for OpenTV, Inc. (July 17, 2026, 1:15PM CT) (on file with author and recipient) (Disclosure of Terms for Claim Construction)

INTRODUCTION

The Board should deny institution of Petitioner's request for *inter partes* review of U.S. Patent No. 11,825,139 (the "'139 patent"). Petitioner is not pursuing *inter partes* review as an efficient alternative to litigation—indeed, the '139 patent has not been asserted against Petitioner in any pre- or post-suit licensing discussion, or in any of the current litigation between the parties. Instead, Petitioner's *inter partes* review request is part of a broader strategy of multiplying proceedings.

The on-going litigation between the parties includes:

- *OpenTV, Inc. v. Pinterest, Inc.*, No. 1:24-cv-01301-JCG (D. Del.) where four unrelated patents are asserted (the "First District Court Action");
- IPR2025-01184 on a patent from the First District Court Action, where IPR was discretionarily denied;
- *OpenTV, Inc. v. Pinterest, Inc.*, No. 1-25:cv-01404-JCG (D. Del.) where U.S. Patent No. 12,231,703 (the "'703 patent")—family member of the '139 patent—is asserted (the "Second District Court Action");
- *Nagravision Sàrl v. Pinterest Inc. et al.*, No. UPC-CFI-0001506/2025 (the "UPC Action") where a European counterpart of the '703 patent is asserted;

- *Nagravision Sàrl v. Pinterest Germany GmbH et al.*, No. 7 O 14220/25 (Munich District Court I) where an unrelated patent, European Patent No. 3,241,126 is asserted (the "German Action");
- IPR2026-00334 on the '703 patent;
- IPR2026-00366 on U.S. Patent No. 11,184,652 (the "'652 patent")—a patent related to the '139 patent and the '703 patent; and
- The IPR of the '139 patent at issue here: IPR2026-00365.

The totality of the circumstances supports discretionary denial. Pinterest is involved in all of these actions, and the subject matter overlaps. The UPC Action will resolve issues between Petitioner and Patent Owner long before the Board could reach a final decision here, and then again in the Second District Court Action. There is no need for yet another forum.

The parties will also reach trial in the First District Court Action and the UPC Action, and complete discovery and summary judgment briefing in the Second District Court Action, prior to the estimated timing of the Board issuing a final written decision. Adding an IPR on the '139 patent, which will not resolve until after trial in these actions, is simply extra work for the parties and the Board that will not provide a lower-cost or otherwise efficient alternative to litigation. Instead, the additional IPRs Petitioner filed on patents that the parties have never discussed and that are not in suit demonstrate that Petitioner's goal is the opposite of efficiency.

Accordingly, Patent Owner respectfully requests that the Board exercise discretion and deny Petitioner's request for *inter partes* review of the '139 patent.

BACKGROUND

OpenTV is a Delaware corporation with its principal place of business in the United States in Phoenix, Arizona. Ex. 2001, ¶ 5. OpenTV and its affiliates develop digital media technologies, employ hundreds of employees in the United States and worldwide, and protect that research and development through a patent portfolio comprising thousands of patents. *Id*., ¶ 2. OpenTV was founded in 1996 as Thomson Sun Interactive, LLC, a joint venture of Thomson Multimedia SA and Sun Microsystems, Inc., and was converted into OpenTV in 1997. *Id*., ¶ 20. From its inception, OpenTV has developed and commercialized patented technology for delivering television and other media content to consumers through cable, satellite, terrestrial, managed, and unmanaged networks. *Id*. OpenTV also has a long history of innovation in software for set-top boxes, including a partnership with EchoStar's DISH Network, the first satellite company to provide interactive television services in the United States. *Id*., ¶ 21. Today, OpenTV develops software for intuitive and personalized viewing experiences, including advanced user interfaces, VOD, PVR, HD, interactive and addressable advertising, and enhanced television applications. *Id*., ¶ 25.

OpenTV and Pinterest's disputes began long before Petitioner filed its Petition concerning the '139 patent. *See*, *e.g.*, Ex. 2002; Paper 2. The First District Court Action began on November 27, 2024, when OpenTV filed a district court complaint against Pinterest asserting four patents. Ex. 2002. Pinterest then filed an IPR petition challenging one of the asserted patents on July 11, 2025. *Pinterest, Inc. v. OpenTV, Inc.*, IPR2025-01184, Paper 1 (P.T.A.B. July 11, 2025). The Board discretionarily denied that petition on November 20, 2025. *Pinterest, Inc. v. OpenTV, Inc.*, IPR2025-01184, Paper 11 (P.T.A.B. Nov. 20, 2025). None of the other three asserted patents were challenged in IPR and that case is proceeding with a trial date scheduled for a little under a year from now—July 12, 2027. Ex. 2003 at 4.

OpenTV then filed the Second District Court Action asserting the '703 patent (a continuation of the '139 patent at issue here) against Pinterest on November 18, 2025. Ex. 2001. Thereafter, Petitioner petitioned the Board to institute IPR on the '703 patent. *Pinterest, Inc. v. OpenTV, Inc.*, IPR2026-00334, Paper 1 (P.T.A.B. Apr. 6, 2026). Patent Owner has requested discretionary denial of Petitioner's '703 patent IPR. *Pinterest, Inc. v. OpenTV, Inc.*, IPR2026-00334, Paper 7 (P.T.A.B. June 8, 2026).

In the Second District Court Action, OpenTV alleges that Pinterest's website and mobile applications infringe the '703 patent through, among other things, Pinterest's processing of video content. *Id.*, ¶¶ 1, 3, 85-89. The Complaint focuses

on Pinterest's reuse of playback-pipeline components in connection with the accused Pinterest applications. *Id*., ¶¶ 52-63, 98-123. Pinterest is both the defendant in the Second (and First) District Court Action and the Petitioner in this proceeding. *See* Ex. 2001; Ex. 2002; Paper 2. Notably, Patent Owner has never even mentioned the '139 patent to Petitioner, instead choosing only to file suit on the '703 patent out of that family. *See* Ex. 2001; Ex. 2002.

The parties' dispute also extends to Europe. The UPC Action began on November 10, 2025, when Nagravision Sàrl (an OpenTV affiliate) filed a complaint in the Unified Patent Court against Pinterest Germany GmbH, Pinterest Europe Ltd., and Pinterest Inc. for infringement of European Patent No. 3,965,466 (the "EP '466 patent"). Ex. 2004; Ex. 2005; Ex. 2006. The EP '466 patent is a counterpart to the '703 patent, and both share a substantially identical detailed description with the '139 patent. *See* Ex. 1001; Ex. 2006; Ex. 2007.

Pinterest has raised, among others, the same prior art references in its counterclaim for invalidity in the UPC Action as it did in IPR2026-00334 concerning the '703 patent, and as it now does here. *See* Paper 2 at 4-6 (Orr, Hervey, Hsu); Ex. 2008 at 8 (same); *Pinterest, Inc. v. OpenTV, Inc.*, IPR2026-00334, Paper 1 at 7-9 (P.T.A.B. Apr. 6, 2026) (same). Trial is expected in the UPC Action sometime in 2027. *See* R. P. U.P.C., Preamble § 7 (". . . proceedings shall be conducted in a way which will normally allow the final oral hearing on the issues of infringement and

validity at first instance to take place within one year . . ."); Ex. 2004 at 17. In addition, the German Action was filed asserting unrelated European Patent No. 3,241,126 (the "'126 patent"). *See* Ex. 2009.

Finally, Patent Owner has not asserted the challenged '139 patent in any of these active litigations between the parties. Instead, Patent Owner is asserting claims from only the related '703 patent, a patent that Pinterest has already petitioned the Board to institute IPR proceedings, in addition to seeking IPR proceedings of the '139 patent here, and its family member, the '652 patent. Paper 2; *Pinterest, Inc. v. OpenTV, Inc.*, IPR2026-00366, Paper 2 (P.T.A.B. May 22, 2026).

ARGUMENT

Pinterest's Petition should be denied because institution would undermine, rather than advance, the efficiency and fairness objectives of AIA review. *See Gen. Plastic Indus. Co. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19 at 16-17 (P.T.A.B. Sept. 6, 2017) (precedential). Institution of *inter partes* review is a matter of discretion. *Cuozzo Speed Techs. v. Lee*, 579 U.S. 261, 273 (2016) (citing 35 U.S.C. § 314); *Mylan Lab'ys Ltd. v. Janssen Pharmaceutica, N.V.*, 989 F.3d 1375, 1382 (Fed. Cir. 2021) ("[N]o petitioner has a right to such institution."). "The Office institutes review to reconsider its own decision and correct a possible error in the original patent grant—not to shield a particular petitioner from infringement liability." *See Magnolia Med. Tech., Inc. v. Kurin, Inc.,* IPR2026-00097, Paper 17 at

6 (P.T.A.B. May 14, 2026) (precedential). And where institution does not align with the AIA's objective "to provide an effective and efficient alternative to district court litigation," it should be denied. *Gen. Plastic Indus. Co.*, Paper 19 at 16-17.

Here, the history of the dispute between the parties demonstrates that Pinterest is *not* using IPR as an efficient alternative to litigation, but rather as a tool to drag OpenTV into numerous additional and parallel disputes, thus reducing efficiency and driving up costs. This directly contradicts the purpose of IPR proceedings as recently emphasized by Director Squires: "Congress intended AIA reviews to narrow disputes—not create another forum where litigation can be expanded." *Magnolia Med. Tech., Inc.*, Paper 17 at 3-4. Additionally, Pinterest's claim construction position on nearly identical claim terms in the UPC Action further reveals Pinterest's goal—to increase burden and expense, rather than seek an efficient alternative to litigation. The Board should deny institution accordingly.

I. The History of the Dispute Between the Parties Favors Discretionary Denial Because It Demonstrates that Pinterest is Not Using *Inter Partes* Review as an Efficient Alternative to Litigation.

Among other considerations, the Board aims to holistically determine "whether efficiency, fairness, and the merits support the exercise of authority to deny institution[.]" *Apple Inc. v. Fintiv, Inc.*, No. IPR2020-00019, Paper 11 at 6 (P.T.A.B. Mar. 20, 2020) (precedential). The Board has made clear that "[o]ther facts and circumstances may also impact the Board's discretion to deny institution." *Apple*

Inc., Paper 11 at 15-16. The facts and circumstances surrounding the disputes between the parties reveal that institution here would result in piecemeal litigation, inefficiency, and increased costs, obviating the goal of AIA post-grant proceedings. *See id.*; *Gen. Plastic Indus. Co.*, Paper 19 at 16-17. Therefore, the Board should exercise its discretion to deny Pinterest's Petition. *See Apple Inc*., Paper 11 at 15-16.

The Efficiency of Continuing Under the Pending Proceedings: The Petitioner here and the defendant in the Second (and First) District Court Action are both Pinterest. *Compare* Ex. 2001 and Ex. 2002 *with* Paper 2; *see Apple Inc*., Paper 11 at 5-6, 13-14 (discretionary denial favored when the PTAB petitioner and district court defendant are the same party). The Board is not estimated to issue a written decision to these parties until November 29, 2027.[1] Before November of 2027, several major events in the parties' various disputes, including the First District Court Action, UPC Action, Second District Court Action, and German Action are expected to have taken place:

- briefing completed by August 26, 2026 in the UPC Action concerning the EP counterpart to the '703 patent, with a trial date anticipated

[1] This estimate accounts for OpenTV's three-month patent-owner response period, the Board's three-month period to institute review, and the one-year deadline to issue a written decision. *See* 35 U.S.C. § 314(b); 37 C.F.R. §§ 42.100(c), 42.107(b).

sometime in 2027, *see* Ex. 2005; Ex. 2008; R. P. U.P.C., Preamble § 7, R. 29;

- trial starting in the German Action on October 29, 2026 before the Munich District Court I of Germany concerning the EP '126 patent, Ex. 2009;
- claim construction in the Second District Court Action completed by January 19, 2027, Ex. 2010;
- trial in the First District Court Action in July 2027 concerning four other OpenTV patents infringed by Pinterest, Ex. 2003;
- expert discovery closed and reports exchanged in the Second District Court Action completed by July 30, 2027, Ex. 2010; and
- summary judgment briefing (if any) underway in the Second District Court Action before the Board's estimated November 29, 2027 written decision, Ex. 2010.

Additionally, OpenTV has already invested significantly in the First and Second District Court Actions and related litigation against Pinterest. *See* Ex. 2001; Ex. 2002; Ex. 2004; Ex. 2003. OpenTV has engaged in related litigation with Pinterest for over eighteen months, defending two motions to dismiss and a motion for judgment on the pleadings, with document discovery completed in the First District Court Action. *See* Ex. 2002; Ex. 2003 at 3; Ex. 2011. And OpenTV has

litigated the Second District Court Action for over six months, Ex. 2001, and has invested significant resources in preparing detailed infringement charts, Ex. 2012. Thus, the public interest in conserving the limited resources of the USPTO favors exercising discretion and denying Pinterest's Petition. *See Magnolia Med. Tech., Inc.*, Paper 17 at 3-4; *Gen. Plastic Indus. Co.*, Paper 19 at 16-17.

Duplicative Proceedings: Pinterest's conduct here is not limited to the '139 patent. *See* Ex. 2001; Ex. 2002; *Pinterest*, IPR2026-00366, Paper 2; *Pinterest*, IPR2025-01184, Paper 1; *Pinterest*, IPR2026-00334, Paper 1. Despite the fact that other members of the '703 patent family have not been asserted by OpenTV against Petitioner, Pinterest petitioned the Board to institute IPR proceedings against the '139 patent and its family member, the '652 patent. *See* Ex. 1001; Ex. 2001; Paper 2; Ex. 2002; *Pinterest*, IPR2026-00366, Paper 2. The multiplicity of petitions further confirms that Pinterest is using AIA proceedings to expand the parties' disputes beyond the patents and claims actively at issue between the parties, rather than to provide an efficient alternative forum for resolving the parties' pending litigation. This additional collateral IPR activity underscores the inefficiency and unfairness of institution here, and reinforces that discretionary denial is warranted. *See Magnolia Med. Tech., Inc.*, Paper 17 at 3-4; *Gen. Plastic Indus. Co.*, Paper 19 at 16-17.

II. Pinterest's Petition Is Inconsistent with Claim Construction Positions It Has Taken in the UPC Action and the Second District Court Action for a Related Patent.

Like its *inter partes* review petition for the related '703 patent, Pinterest's Petition advances inconsistent claim construction positions with those advanced in the UPC Action and the Second District Court Action. In *Revvo*, Director Squires held that "when a petitioner takes alternative positions before the Board and a district court, that petitioner should, at a minimum, explain why alternative positions are warranted." *Revvo Technologies, Inc. v. Cerebrum Sensor Tech., Inc.*, IPR2025-00632, Paper 20 at 3-4 (P.T.A.B. Nov. 3, 2025). In its Petition, Pinterest takes the position that the '139 patent claim terms should be given their plain and ordinary meaning. *See* Paper 2 at 12-13; Ex. 1002, ¶ 41.

A related European counterpart to the '139 patent, at issue in the UPC Action, uses similar claim language as that before the Board here. *E.g.*, c*ompare* Ex. 1001, Claim 1 (". . . receiving, by a digital receiver, a selection of a new piece of content for playback during playback of the first piece of content . . ."), *with* Ex. 2006, Claim 1 (". . . receiving (306) a selection of a new piece of content for playback during playback of a first piece of content . . ."). Despite this similar and, in many cases, identical claim language, Pinterest has dedicated nearly twelve pages in the UPC Action to detailing its narrow claim construction position for these and other similar

claim terms. Ex. 2005 at 6-17. Examples of Pinterest's inconsistent constructions include:

U.S. '139 patent claim term (Claim 1) / EP '466 patent claim term (Claim 1)	Pinterest's '139 patent claim term construction	Pinterest's EP '466 patent claim term construction
"selection of a new piece of content"	"plain and ordinary meaning"	requires that "the user consciously selects a specific video"
"during playback of [a] first piece of content"	"plain and ordinary meaning"	"when the digital receiver is still playing back the first piece of content to the user"

See Paper 2 at 12-13 ("Claim terms should be given their plain and ordinary meaning . . ."); Ex. 1001, Claim 1; Ex. 2005 at 6-17; Ex. 2006, Claim 1. Conveniently, Pinterest uses its narrow claim construction in the UPC Action to argue non-infringement. *E.g.*, *compare* Ex. 2005 at 7 (Pinterest's construction that "the [selection of a new piece of content] requires that the user consciously selects a specific video"), *with id.* at 27-28 (Pinterest arguing that the claimant's "infringement allegations . . . are based on its flawed claim interpretation. . . . [A] selection as claimed . . . requires a conscious decision by the user to view a specific new piece of content").

Pinterest's inconsistent positions extend to the Second District Court Action. While the '139 patent is not before a district court, the related '703 patent is asserted

in the Second District Court Action. In its claim construction disclosures, Pinterest has indicated that the identical (or near identical) terms found in the related '139 patent—"selection of a new piece of content" and "during playback of a first piece of content"—require a construction. Ex. 2013 at 1. Thus, Pinterest has already signaled that it intends to take inconsistent positions on these two claim terms found in related patents asserted in the UPC and the district court.

The Patent Office should not condone Pinterest's litigation strategy of taking inconsistent claim construction positions for infringement and validity or Pinterest's multiplication of the proceedings between the parties. *Revvo Technologies, Inc.*, Paper 20; *Magnolia Med. Tech., Inc.*, Paper 17 at 3-4; *Gen. Plastic Indus. Co.*, Paper 19 at 16-17.

CONCLUSION

For the foregoing reasons, the Board should decline to institute *inter partes* review of the '139 patent.

Dated: July 29, 2026

Respectfully submitted,

/Cyrus A. Morton/

Cyrus A. Morton
(Registration No. 44,954)
CMorton@RobinsKaplan.com
Lead Counsel
Benjamen C. Linden
(Registration No. 81,276)
BLinden@RobinsKaplan.com
Back-Up Counsel
ROBINS KAPLAN LLP
800 LaSalle Avenue, Suite 2800
Minneapolis, MN 55402
Phone: 612-349-8500
Fax: 612-339-4181

Attorneys for Patent Owner

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Patent Owner's Memorandum in Support of Discretionary Denial was served on July 29, 2026, by electronic mail to Petitioner's counsel at the following addresses indicated in Petitioner's Mandatory Notices:

James M. Glass
jimglass@quinnemanuel.com

Ron Hagiz
ronhagiz@quinnemanuel.com

Quincy Lu
quincylu@quinnemanuel.com

Dated: July 29, 2026

/Cyrus A. Morton/

Cyrus A. Morton
(Registration No. 44,954)
CMorton@RobinsKaplan.com
ROBINS KAPLAN LLP
800 LaSalle Avenue, Suite 2800
Minneapolis, MN 55402
Phone: 612-349-8500
Fax: 612-339-4181

Attorneys for Patent Owner