

**Opposition To Request For Discretionary Denial  
U.S. Patent No. 11,539,663**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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PALO ALTO NETWORKS, INC.,

Petitioner,

v.

QOMPLX LLC,

Patent Owner.

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Case No. IPR2026-00371

U.S. Patent No. 12,143,425

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

**Opposition To Request For Discretionary Denial**  
**U.S. Patent No. 12,143,425**

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**EXHIBIT LIST**

| <b>Ex.</b> | <b>Description</b>                                                                                                                                                                                                                                                                                                                                         |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1001       | U.S. Patent No. 12,143,425 (“the ’425 patent”)                                                                                                                                                                                                                                                                                                             |
| 1002       | Prosecution History for U.S. Patent No. 12,143,425                                                                                                                                                                                                                                                                                                         |
| 1003       | Declaration of Dr. Paul Min                                                                                                                                                                                                                                                                                                                                |
| 1004       | U.S. Patent No. 8,732,300 (“Barsness”)                                                                                                                                                                                                                                                                                                                     |
| 1005       | U.S. Patent Application Pub. No. 2016/0269247 A1 (“Chakradhar”)                                                                                                                                                                                                                                                                                            |
| 1006       | U.S. Provisional Application No. 62/132,686 (“Chakradhar Provisional”)                                                                                                                                                                                                                                                                                     |
| 1007       | U.S. Patent Application Pub. No. 2014/0059185 A1 (“Siripurapu”)                                                                                                                                                                                                                                                                                            |
| 1008       | Thomas Heinze, et al., Cloud-based Data Stream Processing, Proc. of the 8th ACM Int’l Conf. on Distributed Event-Based Sys., 238-245 (May 2014), <a href="https://di.acm.org/doi/10.1145/2611286.2611309">https://di.acm.org/doi/10.1145/2611286.2611309</a> (“Heinze”)                                                                                    |
| 1009       | Ashkon Soroudi, et al., High Availability on a Distributed Real Time Processing System, Electrical Engineering and Computer Sciences, University of California at Berkeley (May 15, 2015), <a href="http://www.eecs.berkeley.edu/Pubs/TechRpts/2015/EECS-2015-135.html">http://www.eecs.berkeley.edu/Pubs/TechRpts/2015/EECS-2015-135.html</a> (“Soroudi”) |
| 1010       | Naresh Kumar Reddy Rapolu, Dynamic Re-Optimization Techniques for Stream Processing Engines and Object Stores (2015) (Ph.D. dissertation, Purdue University) (“Rapolu”)                                                                                                                                                                                    |
| 1011       | Ankit Toshniwal, et al., Storm @Twitter, SIGMOD ’14: Proc. of the 2014 ACM SIGMOD Int’l Conf. on Mgmt. of Data, 147-156 (2014), <a href="http://dx.doi.org/10.1145/2588555.2595641">http://dx.doi.org/10.1145/2588555.2595641</a> (“Toshniwal”)                                                                                                            |

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|------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1012 | Leonardo Neumeyer, et al., S4: Distributed Stream Computing Platform, IEEE Int’l Conf. on Data Mining Workshops, 170-177 (2010), <a href="https://ieeexplore.ieee.org/document/5693297">https://ieeexplore.ieee.org/document/5693297</a> (“Neumeyer”) |
| 1013 | Michael Duller, et al., Virtualizing Stream Processing, Middleware (2011) (“Duller”)                                                                                                                                                                  |
| 1014 | Scott Schneider, et al., Tutorial: Stream Processing Optimizations, DEBS ’13 (2013) (“Schneider”)                                                                                                                                                     |
| 1015 | U.S. Patent No. 8,407,360 (“Andrade”)                                                                                                                                                                                                                 |
| 1016 | U.S. Patent No. 8,560,527 (“Santosuosso”)                                                                                                                                                                                                             |
| 1017 | U.S. Patent No. 8,190,960 (“Bahadur”)                                                                                                                                                                                                                 |
| 1018 | <i>Curriculum Vitae</i> of Dr. Paul Min                                                                                                                                                                                                               |
| 1019 | Plaintiff Qomplx LLC’s Responsive Claim Construction Brief, (Dkt. 57), <i>Qomplx LLC v. Microsoft Corporation</i> , Case No. 1:25-cv-01383-ADA                                                                                                        |
| 1020 | September 1, 2026 e-mail from Jeremy Thomas to Patent Owner                                                                                                                                                                                           |
| 1021 | Palo Alto Network’s Amended Invalidity and Subject Matter Contentions (redline), <i>Qomplx LLC v. Palo Alto Networks, Inc.</i> , Case No. 2:25-cv-00913-JRG                                                                                           |

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**I. INTRODUCTION**

The discretionary factors strongly weigh against denial. Patent Owner primarily argues that Petitioner raised inconsistent claim construction positions in the parallel litigation in Petitioner's invalidity contentions. Although Petitioner's preliminary invalidity contentions served early in the parallel litigation preserved certain indefiniteness positions, none of those indefiniteness positions have been raised in connection with claim construction and Petitioner has expressly informed Patent Owner that it will not raise any of those indefiniteness arguments in the parallel litigation, and has amended its invalidity contentions to reflect that. Thus, there are no inconsistent claim construction positions.

Discretionary denial is also not warranted because Patent Owner does not contend that it has any settled expectations of validity in the '425 patent—nor could it given its recent issuance. Moreover, the '425 patent is related to U.S. Pat. No. 12,143,424 (the "'424 patent"), which Microsoft has challenged in IPR2026-00298 and which the Director recently instituted on July 28, 2026. The '424 and '425 patents name the same inventors, were filed and issued on the same dates, have an identical specification, and recite claims with near-identical scope. The instituted - 00298 IPR petition also relies on the same invalidity grounds presented here. Accordingly, the issues between the proceedings will largely be the same and institution here would promote efficiency by allowing the invalidity of these two

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related patents based on the same prior art grounds to be considered by the same tribunal.

Discretionary denial is also not warranted because the examiner committed material error. The examiner did not issue any rejections—instead, allowing the claims based on a limitation that the Director, in instituting the -00298 IPR, has since concluded is found in the prior art raised by Petitioner.

Patent Owner argues that *Fintiv* requires denial. Yet, the parallel litigation is in its early stages with claim construction having yet to begin. Trial is scheduled in August 2027, only a few months before the expected final written decision here, Petitioner has filed a broad stipulation, and the merits of the petition are unquestionably strong given that the Office has already instituted review of the related '424 patent on the same grounds.

**II. PETITIONER HAS NOT PROPOSED INCONSISTENT CLAIM CONSTRUCTIONS**

Patent Owner argues the petition should be denied under *Revvo* because Petitioner's *preliminary* invalidity contentions in the parallel litigation identified certain limitations as potentially indefinite. DD Brief at 2-11. However, Petitioner's preliminary invalidity contentions were served early in the parallel litigation and identified those limitations merely to preserve Petitioner's rights—the contentions do not provide any argument that the terms are indefinite. While the parties are not

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scheduled to exchange claim construction positions until September 28, Petitioner has informed Patent Owner that it will not be raising indefiniteness as to any of the identified terms and has amended its contentions. EX1020; EX1021 (Amended Invalidity Contentions) at 109-23. As a result, *Revvo* does not apply and there is no basis to deny because of inconsistent claim construction positions. *See, e.g., Google LLC v. Accusearch Techs. LLC*, IPR2026-00287, Paper 11 at 10 (Petitioner arguing that it had dropped the indefiniteness positions raised in its preliminary invalidity contentions); Paper 15 (P.T.A.B. July 21, 2026) (referring matter for merits consideration); Paper 16 (P.T.A.B. Aug. 25, 2026) (instituting proceeding).

**III. SETTLED EXPECTATIONS HEAVILY WEIGH AGAINST DENIAL IN FAVOR OF INSTITUTION**

“Settled expectations of either party may be a factor in determining whether to institute an AIA review.” *Magnolia Medical Techs., Inc. v. Kurin, Inc.*, IPR2026-00097, Paper 17 at 8-9 (Director May 14, 2026) (precedential). Here, Patent Owner does not claim it has any settled expectations of validity, nor could it, because the ’425 patent is less than two years old—it was issued on November 28, 2024. Thus, Patent Owner “has not developed strong settled expectations that favor discretionary denial.” *Cambridge Indus. USA, Inc. v. Applied Optoelectronics, Inc.*, IPR2025-00434, Paper 11 at 2-3 (Director June 26, 2025).

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Moreover, prior to filing its lawsuits against Microsoft and Palo Alto Networks on August 28, 2025, Patent Owner had never asserted the '425 patent, , or any related patent (despite the fact that the '425 patent claims priority to a chain of patents and applications dating back to October 2015), nor had Patent Owner otherwise ever attempted to license or commercialize the '425 patent. Patent Owner does not allege that it practices the '425 patent nor any related patent. Thus, if anyone has settled expectations it is Petitioner. *Home Depot U.S.A., Inc. v. H2 Intellect LLC*, IPR2025-00480, Paper 11 (Director Sept. 4, 2025) (informative) (a petitioner may have its own settled expectations when a patent has not been commercialized, asserted, licensed, or otherwise applied in a petitioner's technology space).

**IV. INSTITUTION WOULD PROMOTE EFFICIENCY BECAUSE THE BOARD INSTITUTED *INTER PARTES* REVIEW OF THE RELATED '424 PATENT**

The '425 patent is related to the '424 patent, which Microsoft has challenged in IPR2026-00298 and which the Director recently instituted on July 28, 2026. Both the '424 patent and '425 patent have the same specification, the same inventors, and their claims are nearly identical in scope. Both patents are directed to using different sets of computer systems to apply the same transformation pipelines to incoming data. Both petitions present the same grounds with the same art using very similar arguments. Because the Director has already found that there is a “reasonable

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likelihood” the ’424 patent is unpatentable, this strongly weighs against discretionary denial. Indeed, it is highly likely that both IPRs will involve the same disputed issues, and therefore institution would be an efficient use of Board resources. *Embody, Inc. v. Zimmer Biomet Holdings, Inc.*, IPR2025-00248, Paper 13 at 3 (Director June 26, 2025) (“[I]t is an efficient use of Board resources to address the related patent.”).

Specifically, claim 1 of both the ’424 and ’425 patents recites a “first plurality of computer systems” where one computer system receives input data on which it applies a “first transformation pipeline,” and outputs the transformed data to a second computer system of the “first plurality of computer systems.” The patents also both recite a “distributed computational graph” that describes the “flow of data” from the first “transformation pipeline” to the second. Finally, both patents recite another “plurality of computer systems” that also applies the same first and second transformation pipelines. The below chart shows the near identical scope of claim 1 from each patent:

| <b>’425 Patent (this proceeding)</b>                                                                                                                                                                    | <b>’424 Patent (IPR2026-00298)</b>                                                                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| A system comprising:<br><br>a <b>distributed computing network</b> comprising a first plurality of computer systems, a second plurality of computer systems, and a third plurality of computer systems, | A <b>distributed computing cluster</b> comprising:<br><br>a first plurality of computer systems,<br>... |

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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>wherein a <b>first computer system</b> of the first plurality of computer systems is configured to execute first software instructions that:</p> <p>receive a <b>first stream of data</b>,</p> <p>process first portions of the first stream of data by <b>applying a first transformation pipeline</b> to the first portions of the first stream of data to generate first pipeline output messages, and</p> <p><b>transmit the first pipeline output messages;</b></p> | <p>a second plurality of computer systems;</p> <p>wherein a <b>first computer system</b> of the first plurality of computer systems is configured to:</p> <p>receive a <b>first stream of input data</b> from a first input feed,</p> <p>process the first stream of input data substantially in real time by executing software instructions that <b>apply the first transformation pipeline</b> to the first stream of input data to generate first pipeline output messages,</p> <p>process the respective first data stored in the memory of the first computer system to determine information about the second transformation pipeline,</p> <p>and <b>transmit the first pipeline output messages</b> to a second computer system of the first plurality of computer systems in accordance with the determined information,</p> |
| <p>wherein a <b>second computer system</b> of the first plurality of computer systems is configured to execute second software instructions that:</p> <p>process first portions of the first pipeline output messages by <b>applying a second transformation pipeline</b> to the first portions of the <b>first pipeline output messages;</b></p>                                                                                                                           | <p>wherein the <b>second computer system</b> is configured to:</p> <p>receive the first pipeline output messages,</p> <p>and process the first pipeline output messages substantially in real time by executing software instructions that <b>apply the second transformation pipeline</b> to the <b>first pipeline output messages</b> to generate second pipeline output messages,</p>                                                                                                                                                                                                                                                                                                                                                                                                                                              |

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>wherein a <b>third computer system</b> of the second plurality of computer systems comprises a memory that <b>stores a first data</b>,</p> <p>wherein the first data represents a portion of a <b>distributed computational graph</b>,</p> <p>and wherein the portion of the distributed computational graph describes a <b>flow of data from the first transformation pipeline to an input of the second transformation pipeline</b>;</p>                                                                                                                                                                                                                | <p>wherein <b>each respective computer system</b> of the first plurality of computer systems comprises a memory that <b>stores a respective first data</b>,</p> <p>wherein the respective first data represents a respective portion of a <b>distributed computational graph</b>,</p> <p>and wherein the distributed computational graph describes a <b>flow of output data of a first transformation pipeline to an input of a second transformation pipeline</b>,</p> |
| <p>wherein the <b>third computer system</b> is configured to execute third software instructions that:</p> <p>process the first data to determine information about at least one of the first transformation pipeline and the second transformation pipeline,</p> <p>monitor at least a portion of the execution of at least one of the first software instructions and the second software instructions in accordance with the determined information, and</p> <p>in response to the monitoring, <b>cause a fourth computer system of the third plurality of computer systems to execute fourth software instructions</b> that perform at least one of:</p> | <p>wherein a <b>third computer system</b> of the first plurality of computer systems is configured to execute software instructions that <b>cause a fourth computer system of the second plurality of computer systems to execute software instructions that</b></p>                                                                                                                                                                                                    |

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|                                                                                                                                                                                                                                                                                                                                                       |                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| <p>processing second portions of the first stream of data by applying the first transformation pipeline to the second portions of the first stream of data, or</p> <p>processing second portions of the first pipeline output messages by applying a second transformation pipeline to the second portions of the first pipeline output messages,</p> | <p>apply at least one of the first transformation pipeline and the second transformation pipeline.</p> |
| <p>wherein the first computer system and the third computer system are distinct, and</p> <p>wherein the third computer system and the fourth computer system are distinct.</p>                                                                                                                                                                        | <p>wherein the first and second computer systems are distinct</p>                                      |

The primary difference between the claims is that the “third computer system” of the ’425 patent is on a different “plurality of computer systems” than the first and second computer systems, and that it is expressly recited to monitor the application of the transformation pipelines.

Because the claims are nearly identical in scope, both Microsoft’s IPR petition and the petition here rely on the same prior art and present similar arguments. The grounds of challenge in Microsoft’s IPR are:

|                 | Reference(s)                     | Basis | Claims              |
|-----------------|----------------------------------|-------|---------------------|
| <b>Ground 1</b> | Barsness (EX1004)                | § 103 | 1-3, 5, 7, 9-11, 13 |
| <b>Ground 2</b> | Barsness and Chakradhar (EX1005) | § 103 | 1-3, 5, 7, 9-11, 13 |

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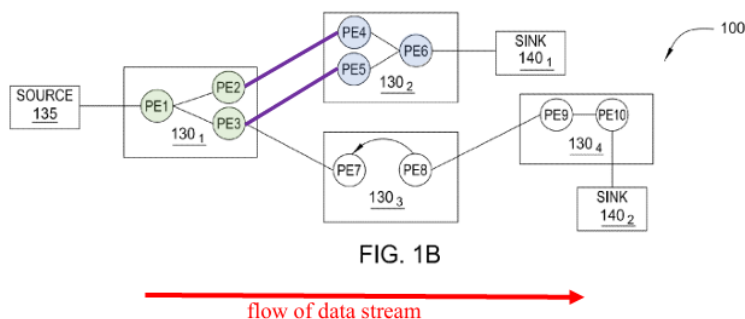
|                 | Reference(s)                         | Basis | Claims              |
|-----------------|--------------------------------------|-------|---------------------|
| <b>Ground 3</b> | Barsness and Siripurapu (EX1007)     | § 103 | 1-3, 5, 7, 9-11, 13 |
| <b>Ground 4</b> | Barsness, Chakradhar, and Siripurapu | § 103 | 1-3, 5, 7, 9-11, 13 |

IPR2026-00298, Paper 2 (“Microsoft IPR”) at 2-3. Similarly, the grounds of challenge in the petition here are:

| Ground | Basis | Reference(s)                         | Claims |
|--------|-------|--------------------------------------|--------|
| 1      | § 103 | Barsness                             | 1-6    |
| 2      | § 103 | Barsness and Chakradhar              | 1-6    |
| 3      | § 103 | Barsness and Siripurapu              | 1-6    |
| 4      | § 103 | Barsness, Chakradhar, and Siripurapu | 1-6    |

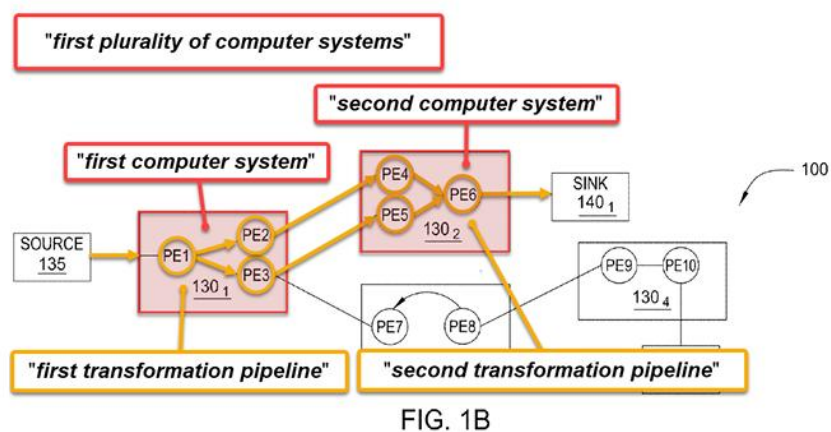
Pet. at 5.

Thus, both petitions rely on Barsness as the primary ground, and Chakradhar and/or Siripurapu as alternative grounds. With respect to Barsness, both petitions rely on the same computer system and operator graph described in Figure 1B of Barsness:



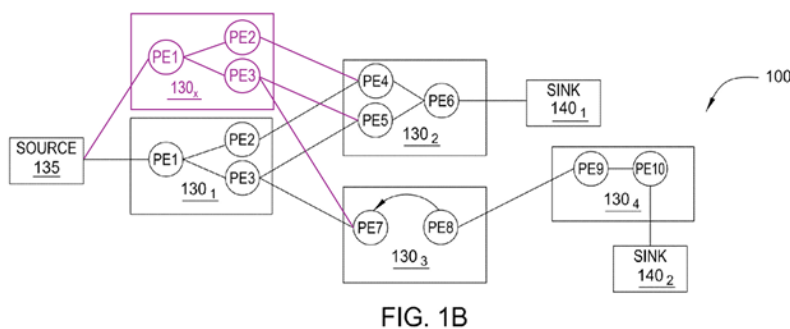
(Microsoft IPR at 26)

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(Pet. at 17)

Both petitions also rely on Barsness’s teaching of a management system that, in the event the computing system fails to meet historical rates of computing, issues “corrective actions” that “spawn[s] new compute nodes, [and] duplicat[es] a compute node.” Pet. 54-55 (quoting EX1004, 14:51-56); Microsoft IPR at 45-48 (same). Both petitions provide similar annotations to Figure 1B reflecting how Barsness adds compute nodes to the computing system:



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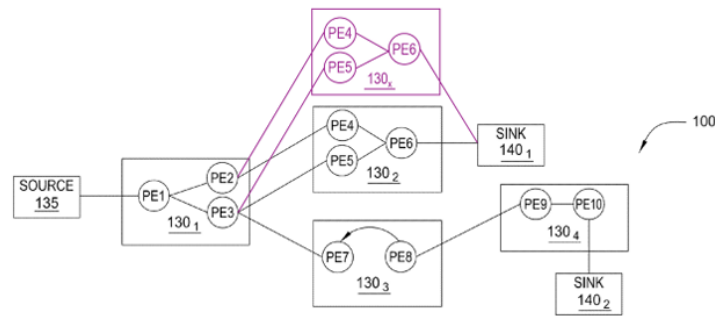


FIG. 1B

(Microsoft IPR at 47-48 (purple annotations added))

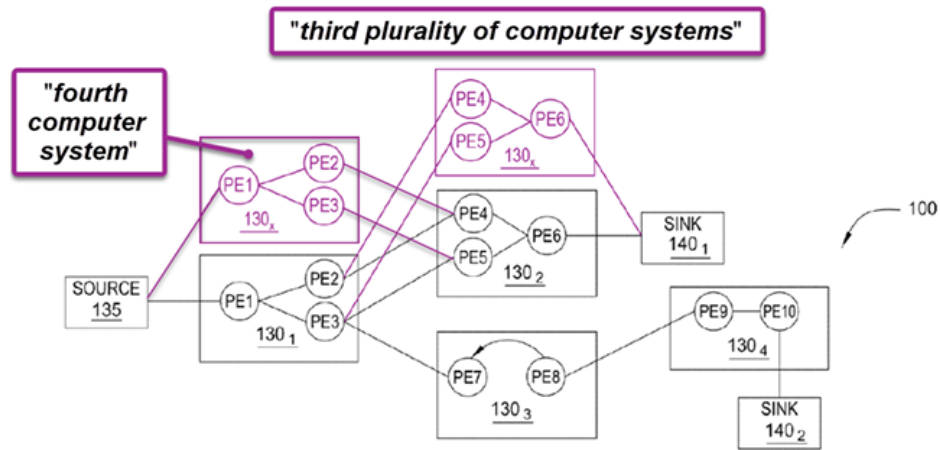


FIG. 1B

(Pet. at 56 (purple annotations added))

Both petitions also rely on Chakradhar and Siripurapu for the same purposes. Chakradhar is used as an alternative disclosure of storing and using a “distributed computational graph,” and both petitions present similar reasons to combine with Barsness. Pet. 71-74; Microsoft IPR at 71-73. Siripurapu is used as an alternative disclosure for provisioning additional computer systems to execute the transformation pipelines, and again, both petitions present similar reasons to combine with Barsness. Pet. 79-82; Microsoft IPR at 80-82.

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Accordingly both proceedings are likely to involve the same issues. Indeed, each of the arguments Patent Owner raised in its preliminary response in Microsoft's IPR proceeding could also be raised here. IPR2026-00298, Paper 8 ("-00298 POPR). In its -00298 POPR, Patent Owner makes the following arguments: (1) that Barsness and Siripurapu do not disclose storing a distributed computing graph (-00298 POPR at 3-13), (2) that Barsness does not identify a "second transformation pipeline" (-00298 POPR at 14-21), (3) that Barsness's management system does not cause a separate plurality of computer systems to apply the transformation pipelines (-00298 POPR at 21-31), and (4) that there is no motivation to combine Barsness with either Chakradhar or Siripurapu (-00298 POPR at 31-44). Although in instituting Microsoft's IPR the Director rejected each of these arguments, it is likely Patent Owner will raise similar arguments at trial.

Given this significant overlap, it would therefore be a highly efficient use of Board resources to institute.

**V. THE EXAMINER COMMITTED MATERIAL ERROR DURING PROSECUTION**

The examiner erred in allowing the '425 patent by overlooking significant prior art. The examiner did not issue any rejections. Instead, following agreement to an examiner's amendment, the examiner issued a notice of allowability. EX1002,

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422, 501-505. The examiner's reasons for allowance stated that the prior art did not disclose the amended claim elements, namely:

in response to the monitoring, cause a fourth computer system of the third plurality of computer systems to execute fourth software instructions that perform at least one of: processing second portions of the first stream of data by applying the first transformation pipeline to the second portions of the first stream of data, or processing second portions of the first pipeline output messages by applying a second transformation pipeline to the second portions of the first pipeline output messages, wherein the first computer system and the third computer system are distinct, and wherein the third computer system and the fourth computer system are distinct.

EX1002, 506-513.

The examiner materially erred because this limitation is clearly found in the prior art reference Barsness. As the petition explained (Pet. 54-60), Barsness teaches a “monitoring system 110” that “determines if the current tuple processing rate is outside a pre-configured range based on the historical tuple processing rate averages.”

EX1004, 14:25-29. If so, the monitoring system takes “corrective actions” that include “spawning new compute nodes, [and] duplicating a compute node.”

EX1004, 14:51-56. Barsness teaches that these duplicated compute nodes apply the same transformation pipelines as the original compute nodes, as the new compute nodes process the same type of stream data in parallel, “increas[ing] data throughput” (*id.*, 10:26-28) and maintaining the desired processing rate” (*id.*, 14:54-56, 14:30-39).

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The Director has already found that there is a “reasonable likelihood” that Barsness discloses a similar limitation found in the related ’424 patent: “wherein a third computer system of the first plurality of computer systems is configured to execute software instructions that cause a fourth computer system of the second plurality of computer systems to execute software instructions that apply at least one of the first transformation pipeline and the second transformation pipeline.” IPR2026-00298, Paper 15.

Indeed, Patent Owner in addressing this limitation in the ’424 patent did not dispute that Barsness discloses spawning new computer systems that apply the same transformation pipelines—Patent Owner in fact agreed that “Barsness’s management system can, at the instruction of other components of the Barsness system, provision a new compute node with PEs whose structure mimics that of a previously existing compute node.” -00298 POPR at 26-27. Patent Owner also concedes that Barsness’s “*monitoring* system” “direct[s] processes” that “cause newly created compute nodes to apply” the transformation pipelines. IPR2026-00298, Paper 14 (PO Preliminary Surreply) at 4. Patent Owner instead argued that Barsness’s “*management* system” is merely instructed by the “monitoring system” to spawn the new nodes but does not play a role in *causing* the new nodes to perform their function. -00298 POPR at 28-29. The Director correctly rejected this argument. Moreover, the petition here relies on the *monitoring* system, not merely the

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*management* system. Pet. 55 (“Monitoring system 110 causes new compute nodes 130x ... to ‘spawn’ to provide additional computing resources”).

Accordingly, the examiner committed a material error because it allowed the ’425 patent based on a limitation that was found in the prior art.

**VI. THE *FINTIV* FACTORS WEIGH AGAINST DISCRETIONARY DENIAL**

The *Fintiv* factors heavily weigh against denial. The parallel litigation has barely progressed, with defendant having just filed its Answer. The parties have not produced much discovery nor have they exchanged claim construction positions. Petitioner has filed a robust stipulation to avoid overlap between this proceeding and the parallel litigation. And given that the related ’424 patent was instituted, the merits of the petition are strong.

**A. Factor 1: Likelihood of Stay**

This factor is at worst neutral because the Court has not indicated whether it would stay the case against Petitioner. The Board declines to engage in such speculation when the district court has not expressed any position on the matter, instead treating this factor as neutral. *Apple, Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 15 at 12 (P.T.A.B. May 13, 2020) (declining to “infer, based on actions taken in different cases with different facts, how the District Court would rule”).

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**B. Factor 2: Proximity of Trial Date and Final Written Decision**

Trial is scheduled for August 16, 2027, a mere 3.5 months before the latest statutory deadline for the Final Written Decision—December 2, 2027. However, this date is not guaranteed given Judge Gilstrap’s busy trial docket. Even if the scheduled trial date is maintained, the Director has referred petitions to the Board despite comparable timing concerns, particularly where other factors—like lack of settled expectations—weigh against denial. *See Zhuhai CosMX Battery Co. v. Ningde Amperex Tech. Ltd.*, IPR2025-00385, Paper 9 at 2-3 (P.T.A.B. July 2, 2025) (lack of settled expectations justified referral to the Board despite trial scheduled to occur before FWD).

**C. Factor 3: The Parties’ Limited Investment In The District Court**

This factor significantly weighs against discretionary denial. As of the filing of this Opposition, the parallel litigation is in its early stages. Petitioner only recently served its Answer and very little discovery has taken place—Patent Owner cites only to preliminary invalidity contentions, which the Court typically schedules at the beginning of the case. As for claim construction, the parties are not scheduled to exchange terms until September 28, 2026, and briefing will not be completed until early next year—January 19, 2027. The Court has scheduled a claim construction hearing for February 1, 2027, nearly two months after the Board’s statutory deadline for institution.

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Patent Owner argues that Petitioner has “tie[d] its claim construction positions in this IPR to the Microsoft Action where the parties have already completed claim construction briefing.” DD Brief at 16. That is not true. As Petitioner explained, none of the terms at issue in the Microsoft Action need to be resolved by the Board, because the prior art teaches the limitations under either party’s construction. Pet. 8-15. Patent Owner does not contend otherwise. The Court’s resolution of those terms therefore has no bearing here.

**D. Factor 4: Petitioner’s Broad Stipulation**

Petitioner has filed a broad *Sotera*-plus stipulation (Paper 9) agreeing not to raise any challenges it could have brought in this proceeding or any ground of invalidity under Sections 102 or 103 that include the Petition art. By removing the Petition art from all potential district court §§ 102 or 103 grounds—including combinations with system art—Petitioner’s stipulation effectively eliminates the possibility of duplicative or conflicting adjudication. This stipulation therefore closes the loophole that the Director identified in *Motorola. Motorola Sols.*, IPR2024-01205, Paper 19 at 4 (“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.”). Petitioner’s broad stipulation therefore significantly weighs against denial. *See, e.g., Samsung Electronics Co., Ltd. v. Wilus Institute of*

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*Standards and Technology Inc.*, IPR2025-00933, Paper 11 (P.T.A.B. Oct. 10, 2025)

(“Petitioner has filed a broad stipulation that reduces the concern of inconsistent outcomes or significant duplication of efforts.”).

**E. Factor 5: Petitioners Being the District Court Defendants Does Not Outweigh the Factors Weighing Against Discretionary Denial**

Petitioner is the defendant in the district court case. This factor does not outweigh the other factors discussed above.

**F. Factor 6: The Strength of the Petition Weighs Against Discretionary Denial**

Finally, the strength of the petition heavily weighs against discretionary denial. As discussed *supra*, Section III, the Director has already instituted Microsoft’s IPR against the related ’424 patent. The ’425 patent is of similar scope and the petition here raises the same art and similar arguments as Microsoft’s IPR petition. The Director has already found that Microsoft’s challenge has a “reasonable likelihood” of succeeding, and that conclusion also applies here.

Patent Owner argues that this factor weighs against denial because of Petitioner’s indefiniteness positions preserved in its preliminary invalidity contentions. As explained in the next section, there is no inconsistency because Petitioner has already informed Patent Owner that it does not intend to raise those arguments during claim construction. Notably, Patent Owner makes no attempt to argue the actual merits of the petition.

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DATED: September 2, 2026

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on September 2, 2026, true and correct copies of the foregoing document and supporting materials were served in its entirety at the following email addresses:

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DATED: September 2, 2026

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