

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PALO ALTO NETWORKS, INC.,

Petitioner,

v.

QOMPLX LLC,

Patent Owner.

Case No. IPR2026-00371

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

**PETITIONER'S SUR-REPLY IN SUPPORT OF OPPOSITION TO
REQUEST FOR DISCRETIONARY DENIAL**

Petitioner's Preliminary Reply
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Revvo does not apply here because Petitioner has not taken any inconsistent claim construction positions in the parallel litigation. Petitioner has expressly withdrawn the indefiniteness positions it made in its preliminary invalidity contentions served months before the IPR petition was filed and has informed PO that it will not raise indefiniteness arguments for the '425 patent in the parallel litigation, including when the parties exchange proposed claim terms in two weeks.

Unwilling to accept these facts, PO maintains Petitioner has somehow **not** withdrawn its indefiniteness positions, and accuses Petitioner of attempting to hide “undisclosed inconsistent positions.” Reply, 2. Both are false.

E.D. Texas practice allows for a party to unilaterally withdraw any positions at any time before the deadline for final election of claims and defenses in the Scheduling Order. Moreover, E.D. Texas requires that indefiniteness positions be included when the parties exchange terms for construction, which is scheduled for September 28. P.R. 4-1(a). On that day, Petitioner, as promised, will **not** be asserting that any term of the '425 patent is indefinite.

PO is left with baseless speculation that Petitioner may attempt to raise indefiniteness despite a binding promise not to. If accepted, PO's argument would mean that any case where an IPR is filed before claim construction could be denied based on pure speculation that a Petitioner may subsequently take an inconsistent position. That argument is unsupported and, in any event, is protected against by

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the fact that the Director can intervene at any time to de-institute a proceeding if Petitioner later raises inconsistent claim construction positions. *See Ford*, IPR2025-01342, Paper 27 (terminating proceeding four months after it was instituted).

PO points to boilerplate language in the amended preliminary invalidity contentions reserving the right to assert indefiniteness “in response to any additional claim construction positions [PO] may take in this case or any further claim construction the Court may adopt in this case.” EX1021, 3. That, of course, is not an affirmative position on claim construction. Moreover, Petitioner has already affirmatively stated it will not raise such indefiniteness positions with respect to the '425 patent. That commitment overrides any boilerplate reservation of rights.

Ford is simply inapposite. There, Petitioner raised its inconsistent position “at its first opportunity to do so *after* institution was granted.” *Ford* at 3. And Petitioner never withdrew its positions—instead stipulating that it would only withdraw “*if* the Board agrees to maintain and not vacate institution of these IPRs.” *Id.* Here, Petitioner has withdrawn its positions before institution and affirmed that it will not raise indefiniteness for the '425 patent *regardless* of what occurs in this proceeding. Thus, Petitioner does not believe any stipulation is required, but to remove all doubt, Petitioner hereby unconditionally stipulates that it has withdrawn all indefiniteness positions against the '425 patent and will not raise them in the parallel litigation regardless of what occurs in this proceeding.

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DATED: September 15, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 15, 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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