

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SKECHERS U.S.A., INC.,
Petitioner

v.

FAST IP, LLC,
Patent Owner

Case IPR2026-00373
U.S. Patent No. 12,274,325

**PATENT OWNER'S BRIEF ON
DISCRETIONARY DENIAL**

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PATENT OWNER'S EXHIBIT LIST

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2001	<i>HandsFree Labs Licensing, LLC et al. v. Skechers U.S.A. Inc.</i> , Case No. 2:25-cv-00744-JRG (E.D. Tex.), Second Amended Complaint and Jury Demand, filed Dec. 19, 2025
2002	<i>HandsFree Labs Licensing, LLC et al. v. Skechers U.S.A. Inc.</i> , Case No. 2:25-cv-007744-JRG (E.D. Tex.), Second Amended Docket Control Order, filed Dec. 23, 2025
2003	Conrad, J. (2026, March 26). Kizik's Hands-Free Tech is Coming to New Balance. Retrieved June 29, 2026, from https://www.inc.com/jennifer-conrad/kiziks-hands-free-tech-is-coming-to-new-balance/91319850
2004	England, A. (2022, January 2). Kizik by HandsFree Labs: "The Future of Footwear." Retrieved June 29, 2026, from https://www.techbuzznews.com/kizik-by-handsfree-labs-the-future-of-footwear-/
2005	Helms, H. (2026, April 22). The Most Convenient Running Shoe Innovation in Years Isn't From Nike or Adidas. Retrieved June 29, 2026, from https://www.gearpatrol.com/footwear/kizik-freedom-run/
2006	Newcomb, T. (2024, November 14). Kizik Growing Hands-Free Outdoor-Focused Footwear Lineup. Retrieved June 29, 2026, from https://www.forbes.com/sites/timnewcomb/2024/11/14/kizik-growing-hands-free-outdoor-focused-footwear-lineup/
2007	Pastore, A. (2024, January 9). Kizik's Bradley Johnson Discusses Enabling Discovery for Innovation Hungry Consumers. Retrieved June 29, 2026, from https://wwd.com/business-news/business-features/kizik-bradley-johnson-discovery-innovation-hungry-consumers-1236114333/

Exhibit No.	Description
2008	Daniels, M. (2025, April 18). Inside Kizik’s quest to dominate the hands-free shoe space through intellectual property. Retrieved June 29, 2026, from https://www.modernretail.co/operations/inside-kiziks-quest-to-dominate-the-hands-free-shoe-space-through-intellectual-property/
2009	Welty, M. (2025, March 10). The Designer Behind the Nike Benassi Slide is Changing Slip-on Footwear. Retrieved June 29, 2026, from https://www.complex.com/sneakers/a/matt-welty/andreas-harlow-nike-kizik-interview
2010	Docket Navigator Report showing Success Rate of Motions to Stay Pending <i>Inter Partes</i> Review before Judge Rodney Gilstrap, generated June 8, 2026
2011	Miller, C. (2024, October 7). Transforming Giants: Inside 3G Capital’s Most Successful Acquisitions. Retrieved June 29, 2026, from https://ceoworld.biz/2024/10/07/transforming-giants-inside-3g-capitals-most-successful-acquisitions/
2012	Excerpted Prosecution History of U.S. Patent No. 12,274,325
2013	<i>HandsFree Labs Licensing, LLC, et al. v. Skechers U.S.A., Inc.</i> , Case No. 2:25-cv-00744-JRG (E.D. Tex.), Skechers U.S.A., Inc.’s Preliminary Invalidity Contentions, filed Mar. 2, 2026
2014	3G Completes Acquisition of Skechers (2025, September 12). Retrieved May 28, 2026, from https://about.skechers.com/press-release/3g-capital-completes-acquisition-of-skechers
2015	Ireland, S. (2026, March 11). Alex Behring and Daniel Schwartz on Why 3G Capital’s Model is Rewriting the Rules of Private Equity. Retrieved June 29, 2026, from https://ceoworld.biz/2026/03/11/alex-behring-and-daniel-schwartz-on-why-3g-capitals-model-is-rewriting-the-rules-of-private-equity/

Exhibit No.	Description
2016	Burba, A. (2024, October 21). How Kizik Found Its Footing. Retrieved June 29, 2026, from https://www.inc.com/annabel-burba/how-kizik-found-its-footing/90990715
2017	Beyond Private Equity: 3G Capital’s Business-Building Partnership Model. (2026, April 20). Retrieved June 19, 2026, from https://thebossmagazine.com/post/beyond-private-equity-3g-capitals-business-building-partnership-model/
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2019	<i>HandsFree Labs Licensing, LLC, et al. v. Skechers U.S.A., Inc.</i> , Case No. 2:25-cv-00744-JRG (E.D. Tex.), Exhibit 325-C, Invalidity Combinations Chart for U.S. Patent No. 12,274,325
2020	Who Owns 3G Capital? Founders, Partners, and Structure. (2026, June 11). Retrieved June 29, 2026, from https://legalclarity.org/who-owns-3g-capital-founders-partners-and-structure/
2021	Skechers Agrees to be Acquired by 3G Capital, United States Securities and Exchange Commission Archive, Retrieved June 30, 2026, from https://www.sec.gov/Archives/edgar/data/1065837/000119312525112159/d943603dex991.htm
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I. INTRODUCTION

The Director should deny institution of *inter partes* review of U.S. Patent No. 12,274,325 (“the ’325 patent”) because discretionary considerations overwhelmingly favor denial. *First*, Skechers advances inconsistent claim construction positions in the IPR that conflict with its positions in the district court. *Second*, the *Fintiv* factors strongly favor denial. Trial in the parallel litigation is scheduled for *over five months* before the projected Final Written Decision date for this Petition. *Third*, the Petition warrants denial under 35 U.S.C. § 325(d) because the Office already considered the same or substantially the same art used in the Petition. *Fourth*, Skechers updated its mandatory notices in July—after Patent Owner (“PO”) pointed out that it omitted a clear RPI in the related cases. And yet, Skechers still fails to name its private equity owner as a real party in interest, despite that owner’s ability to control this IPR. *Fifth*, PO licensed the ’325 patent, creating settled expectations. These five independent reasons compel denial.

II. BACKGROUND

The challenged patent arises from pioneering innovations in hands-free footwear technology. The invention addresses a technically difficult footwear problem: how to allow a user to step into a shoe without using hands, bending down, or tying laces, while still providing the fit, structure, and retention expected from ordinary footwear. *See* EX1001, Abstract, 1:20-30, 1:48-62. Contrary to

Petitioner's accusations (Pet., 1), Utah-based Kizik Design, LLC ("Kizik") and its U.S. owners and inventors spent considerable time and R&D money developing and commercializing this technology through hands-free footwear sold under its Kizik® brand; PO, Utah-based Fast IP, LLC holds the patent assets commercialized by Kizik; and Utah-based HandsFree Labs Licensing, LLC controls the licensing of those patent assets. Each is owned by U.S.-based HandsFree Labs, Inc. ("HFL"). EX2001, ¶¶3, 12-14; *see also* Paper 6.

PO's corporate structure reflects a conventional operating company model for protecting and commercializing technologies. One affiliate holds the patent assets, another manages licensing rights, and the product company practices the technologies in the market. Here, the HFL corporate family ("HFL family") includes the inventors, the patent assets, the licensing function, and the well-known Kizik® brand. Today, Kizik has served millions of customers with distribution in over 40 countries, while the HFL family's technologies are protected by more than 200 patents and patent applications worldwide. EX2001, ¶4. Thus, contrary to the Petition's suggestion, PO is part of an American corporate family that practices its patents in the technologies and products it develops and sells.

The HFL family are the innovators that first successfully commercialized hands-free footwear. Kizik launched in 2017 as the world's original hands-free shoe brand, based on Utah-based founder Michael Pratt's foundational work

developing shoes that could be put on without bending over or tying laces.

Independent industry coverage has consistently identified the HFL family as pioneers in the category. *See, e.g.*, EX2003-EX2009. And in 2019, Nike—the world’s largest footwear company with a long history of innovation—made a strategic investment in HFL and entered a licensing partnership, recognizing the HFL family as a pioneer in hands-free footwear technology. EX2001, ¶4.

While many recognized the HFL family’s innovations through industry praise and licensing, Skechers took a different path—entering the category after the HFL family had already patented, commercialized, and licensed the technology. Skechers launched its Hands Free Slip-ins and other hands-free products without requesting a license and simply incorporated the HFL family’s patented technologies into its own “Skecherized” versions. EX2001, ¶¶1, 5.

This is the kind of private dispute that should proceed in district court, not before the Board. Indeed, “courts are, and always have been, the primary forum for adjudicating private disputes,” while AIA review serves broader interests of the Office, the patent system, and the public. *Magnolia Med. Techs., Inc. v. Kurin, Inc.*, IPR2026-00097, Paper 17 at 6-7 (P.T.A.B. May 14, 2026) (precedential) (Squires, Director). Here, the dispute concerns a serial infringer that competes directly with a U.S. PO’s groundbreaking technology. This dispute does not present a meaningful public-interest concern warranting institution.

III. OVERVIEW OF THE '325 PATENT AND EXAMINATION.

The '325 patent is entitled “Rapid-Entry Footwear Having a Stabilizer and an Elastic Element.” It was filed on October 13, 2022, as a continuation of application 16/942,335, which claims priority to provisional application 62/879,883, filed on July 29, 2019. The '325 patent discloses a rapid-entry shoe with a stabilizer to resist a rear portion of the shoe from collapsing downward. EX1001, Abstract. Such a shoe can be put on without bending over to tie laces, making everyday tasks easier, faster, and more convenient. EX2001, ¶3. This technology is particularly useful for people with disabilities, injuries, elderly people, or others that have difficulty bending over to tie laces. EX2001, ¶3.

The Examiner performed a thorough and extensive examination of the '325 patent, most of which Skechers intentionally omits from its “excerpted” prosecution history submitted with its Petition. The complete prosecution history of the '325 patent includes: eight separate searches; seven Office Actions (January 2023; April 2023; August 2023; October 2023; March 2024; June 2024; and September 2024); seven amendments/applicant remarks, including three Requests for Continued Examination (April 2023; July 2023; October 2023; January 2024; May 2024; September 2024; and February 2025); and seven Examiner interviews. *See generally* EX2012. During the course of prosecution, the Examiner considered a reference relied upon in Skecher’s challenge and issued numerous rejections

alleging the claims were unpatentable over prior art. At the conclusion of this robust examination, the Examiner determined the claims were allowable and mailed a Notice of Allowance. EX1002, 132-33. PO paid the issue fee and the '325 patent issued. There was no material error in the Examiner's rigorous and detailed examination of the '325 patent, cumulating in the Examiner's correct conclusion that the claims are patentable.

IV. THE PETITION WARRANTS DISCRETIONARY DENIAL

The Director should exercise discretion to deny institution for multiple independent reasons.

A. Skechers advances inconsistent claim constructions in the IPR and district court in clear contravention of Office policy.

The Director should deny institution because Skechers presents different claim construction positions between its Petition before the PTAB and its invalidity contentions in the EDTX case. Skechers argues in its IPR Petition that “none of the issues presented in this Petition require any claim term to be construed.” Pet., 14. Yet in EDTX, Skechers alleges *fourteen* separate limitations spanning all nine of the challenged claims in this IPR are indefinite. EX2013, 160-61. Taking inconsistent claim construction positions is highly disfavored by Office policy and undermines the integrity of the patent system. That is reason alone for the Director to discretionarily deny this IPR.

The Office has made clear that allowing petitioners to propose different constructions at the Board and the district court, such as seeking narrower constructions in litigation to avoid infringement liability, is contrary to the goal of “providing greater predictability and certainty in the patent system.” *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 20 at 4 (P.T.A.B. Nov. 3, 2025) (Squires, Director) (precedential) (internal citations omitted). “The Board’s claim construction rules are designed to ensure that the Board correctly construes claim terms and to minimize inconsistency in claim construction between forums.” *Revvo*, IPR2025-00632, Paper 20 at 4. That a petitioner “cannot raise indefiniteness challenges in an *inter partes* review is not a sufficient explanation” for advancing different constructions because such a statement amounts to an assertion that a petitioner should be permitted to raise inconsistent invalidity challenges. *Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00340, Paper 18 at 3-4 (P.T.A.B. Nov. 5, 2025) (Squires, Director) (informative).

In contrast to Skechers’ assertion that no claims need to be construed in this IPR (Pet., 12), Skechers contends that *all* of the challenged claims are indefinite in district court. EX2013, 160-61. Specifically, Skechers alleges *fourteen* elements of challenged claims 1-9 are indefinite, including six elements from claim 1 alone and one claim element from each of claims 2-9. *See* EX2013, 160-61. Skechers does not, and cannot, provide any explanation for its inconsistent positions.

The impact on the patent system and the Board when a petitioner takes inconsistent positions cannot be understated. “It multiplies litigation expense, reduces patent value, discourages innovation, diminishes the integrity of the patent system, and depletes the Office’s resources.” *Terumo BCT Inc. v. Haemonetics Corp.*, IPR2025-01374, Paper 20 at 4-5 (P.T.A.B. May 12, 2026) (Squires, Director) (informative). Skechers’ conduct “demonstrates that this dispute is less about a litigation alternative, as Congress intended, and more about inconsistent positions to gain an upper hand in the overall litigation.” *See Terumo*, IPR2025-01374, Paper 20 at 4 (citing H.R. Rep. No. 112-98, at 48 (2011)). Such conduct should not stand. Accordingly, the Director should deny the Petition.

B. The *Fintiv* factors all favor denial.

All six *Fintiv* factors favor, or strongly favor, discretionary denial of institution. *See Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (P.T.A.B. Mar. 20, 2020) (precedential).

1. Factor 1 favors denial: the EDTX is not likely to grant a stay.

Factor 1 strongly favors denial because there is no stay of the parallel district court litigation, and there is little likelihood that the Eastern District of Texas will stay its proceeding pending conclusion of an IPR. Indeed, there is no indication, or reason, that Judge Gilstrap (the assigned district court judge in EDTX) would

depart from his usual practice in which he has denied close to 85% of all stay requests and 100% of all requests this year. EX2010.

2. Factor 2 strongly favors denial: the district court trial will occur over five months before the Final Written Decision.

Factor 2 strongly favors denial. The projected statutory deadline for a Final Written Decision (FWD) in this IPR is December 5, 2027 (assuming a FWD issues on the first business day following the projected institution deadline of December 4, 2026). This is more than *five months* after the June 21, 2027 trial date in the EDTX. EX2002. Moreover, as discussed in Section D.2 below, at a minimum, Skechers' amendment of its RPI disclosure requires a new filing date of July 24, 2026, putting the trial *seven months* before the projected FWD. Institution of an IPR under these circumstances—when the district court trial will occur much faster than the issuance of a decision by the Board—would not be consistent with the AIA's objective to provide an effective and efficient alternative to litigation. *NHK Spring Co., Ltd. v. Intri-Plex Techs., Inc.*, IPR2018-00752, Paper 8 at 20 (P.T.A.B. Sept. 12, 2018) (precedential).

3. Factor 3 favors denial because there has been significant investment in the district court.

Factor 3 favors denial. The relevant consideration is the “amount and type of work already completed in the parallel litigation by the court and the parties *at the time of the institution decision.*” *Fintiv*, 9 (emphasis added). Here, the deadline for

issuing a Decision on Institution (DI) in this IPR is December 4, 2026. By this date, significant work will have been done in the parallel district court litigation, including the exchange of infringement contentions (November 10, 2025) and exchange of invalidity contentions (March 2, 2026), exchange of claim construction positions (September 3, 2026), submission of the Joint Claim Construction Statement (September 24, 2026), completion of document production (November 5, 2026) and completion of claim construction briefing (November 27, 2026). EX2002. The Markman hearing will be less than two weeks away (December 17, 2026). *Id.* And if the filing date is adjusted to the date Skechers updated its RPI on July 24, 2026 (Section D.2), then the Markman hearing will have been held *a month* before the projected institution date and fact discovery will be complete (on February 1, 2027).

Moreover, Petitioner was not diligent in filing this IPR. The district court litigation was served on August 6, 2025. Skechers waited almost *ten* months before it filed this IPR. This lack of diligence is an additional reason this factor weights in favor of denial. *Fintiv*, 11-12. Accordingly, Factor 3 strongly favors denial.

4. Factor 4 favors denial because the IPR issues overlap with district court and Skechers’ stipulation does little to mitigate concerns of inefficiency and duplication of effort.

Factor 4 considers the overlap between the issues raised in the IPR and in the parallel proceeding to evaluate “concerns of inefficiency and the possibility of

conflicting decisions.” *Fintiv*, 12. This factor also strongly favors denial.

Indeed, in the parallel district court proceeding, Petitioner submitted invalidity contentions that completely overlap with its IPR challenges. *Compare* EX2019, 1-3 (asserting the challenged claims are anticipated and/or obvious over Takahashi, Doenges, and Shin-276) *with* Pet., 17 (asserting the challenged claims are unpatentable as anticipated and/or obvious based on the same references). In district court, Petitioner further challenges the claim on numerous additional anticipation and obviousness grounds. EX2019, 1-3.

Furthermore, Petitioner’s stipulation does little to mitigate concerns of inefficiency or duplication of effort such that this IPR would be a “true alternative” to the parallel district court proceeding. *See Motorola Sols., Inc. v. Stellar, LLC*, IPR2024-01205, Paper 19 at 3-4 (P.T.A.B. Mar. 28, 2025) (on Director Review vacating panel’s institution decision and denying under *Fintiv*). Petitioner’s stipulation is expressly conditional, applying only if the IPR is “not vacated, reversed, or otherwise withdrawn.” EX1036. It, therefore, effectively allows Skechers to preserve duplicate invalidity contentions through the conclusion of this IPR. As the Director has recognized, such tactics are problematic because it permits a petitioner “to maintain duplicative grounds in district court until the eve of trial ... [and] could force patent owner[] to expend significant resources substantively responding to such grounds in the district court.” *See Advanced*

Micro Devices, Inc. v. XtreamEdge, Inc., IPR2025-00223, Paper 29 at 4-5

(P.T.A.B. May 12, 2026) (Squires, Director). To be sure, the prejudice here is real. For the past nine months, since the invalidity challenges were served on November 10, 2025, PO has been forced to defend itself in district court against the same invalidity challenges raised in this IPR. Petitioner's stipulation that it will not pursue the challenges if this IPR is instituted does nothing to mitigate the significant resources that PO has already expended, and will continue to expend, responding to the duplicative challenges.

Moreover, Petitioner remains free to pursue in district court additional anticipation and obviousness grounds (i.e., combinations of patent and printed publications, not raised here, with system or product art). *See* EX1036. The stipulation also permits Petitioner to advance other grounds of invalidity, which indeed it has. *See* Section IV.A.

Thus, even if this IPR is instituted, it will not be a "true alternative" to the parallel proceeding because the district court judge and jury will still have to decide complex invalidity issues, along with additional combinations and theories not before the Board. PO also necessarily has to expend resources to prepare for the possibility that the duplicative grounds may become live if this IPR is terminated. Petitioner's stipulation also does not prevent it from pursuing its contentions that the claim challenged in the Petition is invalid under § 112, which

further exacerbates the inefficiencies and potential for inconsistent results (e.g., different claim constructions) that would result from allowing Petitioner to proceed in both forums. Accordingly, Factor 4 strongly favors denial.

5. Factor 5 favors denial because the parties in the IPR overlap with the parties in the district court.

Factor 5 favors denial because the parties are the same in both proceedings. *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 15 at 15 (P.T.A.B. May 13, 2020) (“Because the petitioner and the defendant in the parallel proceeding are the same party, this factor weighs in favor of discretionary denial.”).

6. Factor 6 favors denial because the merits are weak.

Factor 6 also favors denial because the merits are weak. As will be explained in the PO’s Preliminary Response (“POPR”), for multiple reasons, the Petition fails to establish that the challenged claims are invalid over the asserted Grounds. PO asks the Director to consider the briefing presented in its POPR. *See* Interim Process, § II.C.i (patent owner may direct attention to an anticipated POPR and evidence for a discussion of the merits).

For all of these reasons, the *Fintiv* factors weigh decisively in favor of denying institution.

C. Institution should be denied under 35 U.S.C. § 325(d) because the same art was previously before the Office.

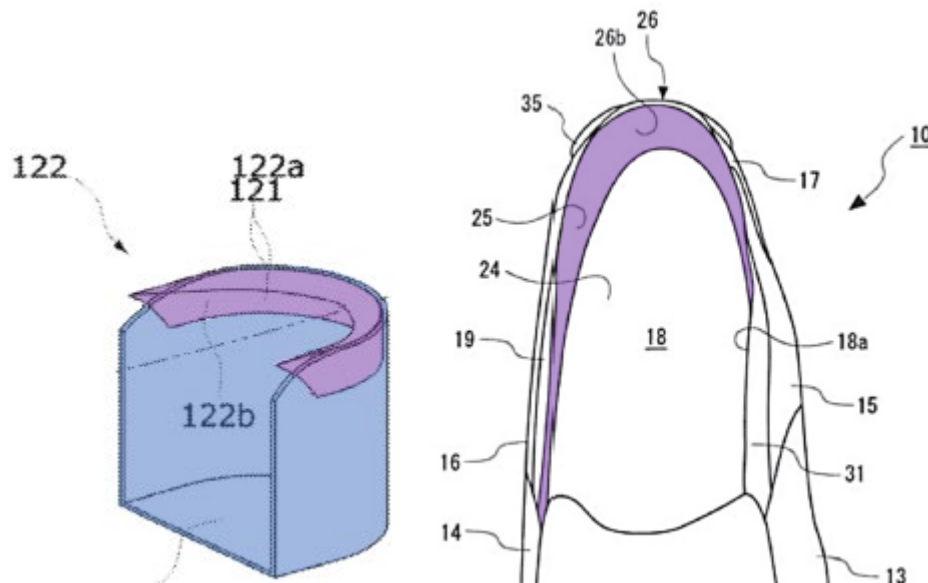
This IPR also warrants denial under 35 U.S.C. § 325(d) because all of Skechers’ challenges are based on the same or substantially the same art that the

Office has already thoroughly considered during prosecution of the '325 patent.

Under the two-part framework used by the Board to decide whether to deny institution under 35 U.S.C. § 325(d), both parts are met. *See Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 at 7-8 (P.T.A.B. Feb. 13, 2020) (precedential). Thus, the Director should deny institution because is not an efficient use of the Board's resources to re-consider patentability based on the same references previously before the Office.

Under part one of the *Advanced Bionics* framework, the Petition presents the "same or substantially the same art previously ... presented to the Office." *Advanced Bionics* at 8. Skechers alleges challenged claims 1- 3 are anticipated by Shin (Ground 3), claims 1-7 are obvious over Shin and Takahashi (Ground 4), and claims 1-7 are anticipated by Takahashi (Ground 1). Pet., 17. The challenges to dependent claims 8 and 9 presented in Grounds 2 and 5 are also based on Shin and/or Takahashi. Pet., 17. Shin was previously presented to the Office because it was cited in an IDS and considered by the Examiner before issuing the Notice of Allowance. EX1002, 120; *see also Ecto World, LLC v. RAI Strategic Holdings, Inc.*, IPR2024-01280, Paper 13 at 5 (P.T.A.B. May 19, 2025) (Stewart) (precedential) (clarifying that a reference cited on an IDS satisfies prong one of *Advanced Bionics*). And, for the reasons explained below, Takahashi is cumulative of Shin.

The Petition's reliance on Takahashi essentially mirrors its reliance on Shin for a claimed feature that the Examiner found to be lacking in the prior art. The Notice of Allowance referred to applicant's remarks as "reasons for allowance." EX1002, 134. Those remarks explain that the prior art does not disclose a foam liner that extends "beyond at least one of the medial portion of the base portion and the lateral portion of the base portion and [is] oriented downward toward the sole such that the foam liner acts to retain a heel within the heel portion of the rapid-entry shoe." EX1002, 117. Yet, as illustrated in the figures below, the Petition points to similar disclosure and structure in Shin and Takahashi as purportedly disclosing the claimed feature. *See* Pet., 47-50, 95-100.



Pet., 97 (citing Shin, FIG. 10) Pet., 49 (citing Takahashi, FIG. 2)

Thus, Petitioner relies on Takahashi in a manner cumulative to Shin for a critical limitation determined by the Examiner to be a reason to allow claim 1.

Under part two of the framework, Skechers has not, and cannot, demonstrate “that the Office erred in a manner material to the patentability of the challenged claims.” *Advanced Bionics*, 8. Skechers does not articulate any “material error” by the Examiner but only asserts that Shin was never cited by the Examiner and that Shin was included on an IDS with other references. Pet., 2. But PO’s IDS was “not tantamount to a voluminous IDS that may have impaired the examiner’s ability to consider the listed references,” but was “applicant’s good faith effort to meet its duty of disclosure.” *Microsoft Corp. v. Sandpiper CDN, LLC*, IPR2026-00190, Paper 13 at 3-4 (P.T.A.B. May 15, 2026) (Squires, Director). Moreover, Skechers’ assertions fall short of establishing material error, particularly when, for reasons which will be explained in the POPR, the Petition’s mapping of this element is weak and relies on expert testimony that is conclusory and wrong. Simply put, neither Shin, nor Takahashi, teach a foam liner that is coupled to the stabilizer between the medial and lateral portions “*of the base portion*” along the convex structure, with at least a portion “*extending beyond*” at least one of the medial and lateral portion of the base portion, and that “*acts to retain a heel within*” the shoe, as recited in claim 1. At bottom, Skechers’ challenges merely reflect disagreement with the Examiner’s decision to allow the claims, which does not constitute a material error warranting PTAB review. *See Advanced Bionics*, 9 (“If reasonable minds can disagree regarding the purported treatment of the art or arguments, it

cannot be said that the Office erred in a manner material to patentability.”).

The Director should reject Skecher’s improper attempt to challenge the ’325 patent over the same art previously considered by the Office and deny institution.

D. Skechers failed to name a clear real party in interest.

The Petition suffers a fatal defect because it fails to name a clear real party in interest (RPI) to this IPR. This omission violates Skechers’ statutory and regulatory obligations and is another independent reason this IPR warrants denial.

1. Legal Authority

“A petition filed under section 311 may be considered *only if* ... the petition identifies all real parties in interest.” 35 U.S.C. § 312(a)(2) (emphasis added); *see also* 37 C.F.R. §§ 42.8(b)(1), 42.104. It is “Petitioner’s burden to bring forth evidence or arguments that it named all RPIs.” *Yangtze Memory Techs. Co., Ltd. v. Micron Tech., Inc.*, IPR2025-00098, Paper 38 (P.T.A.B. Jan 15, 2026) (Squires, Director) (informative) (citing *Worlds Inc. v. Bungie, Inc.*, 903 F.3d 1237, 1242 (Fed. Cir. 2018)). A petition that fails to name all RPIs cannot be considered. *Corning Optical Commc’ns RF, LLC v. PPC Broadband, Inc.*, IPR2014-00440, Paper 68 at 23-24 (P.T.A.B. Aug. 18, 2015) (precedential except § II.E.1).

“Determining whether a non-party is a ‘real party in interest’ ... takes into account both equitable and practical considerations, with an eye toward determining whether the non-party is a clear beneficiary that has a preexisting,

established relationship with the petitioner.” *Applications in Internet Time, LLC v. RPX Corp.*, 897 F.3d 1336, 1351 (Fed. Cir. 2018) (“*AIT*”). Factors relevant for evaluating whether a party is an unnamed RPI include: (i) the relationship between the petitioner and the unnamed party; (ii) the unnamed party’s “interest in” and “benefit from” the IPR; (iii) whether petitioner can be said to be representing that interest; and (iv) whether the unnamed party desired review of the patent. *See RPX Corp. v. Applications in Internet Time, LLC*, IPR2015-01750, Paper 128 at 10-11 (P.T.A.B. Oct. 2, 2020) (precedential) (“*RPX*”) (listing factors).

1. 3G Capital is an unnamed RPI.

As announced in Skechers’ own press release, Skechers was acquired by 3G Capital on September 12, 2025—eight months before it filed its IPR Petition. EX2014. SEC documents and public press releases about the acquisition refer to 3G Capital as the company that owns and controls Skechers. *See* EX2014, EX2021. Skechers provided information, in the related IPRs, that the actual company that acquired it was “Beach Acquisition Co Parent, LLC,” EX2022, but made no attempt to explain its inconsistent press release and SEC filing.

3G Capital is “a global investment firm and private partnership built on an owner-operator approach to investing over a long-term horizon.” EX2014, 2. It is not a hands-off owner. Rather, at the core of 3G Capital’s strategy is a unique model that “requires the firm to invest capital **while also playing a hands-on role**

in running its acquisitions.” EX2011, 2 (emphasis added). “Rather than simply providing financial backing and expecting management to take care of the rest, 3G Capital’s partners roll up their sleeves **and become part of the operational fabric of each company they acquire.”** EX2011, 2 (emphasis added). When 3G Capital acquires a company, “the partners **work closely alongside existing management teams**, bringing operational experience and perspective ... **with a focus on partnering hand-in-hand rather than directing from a distance.”** EX2017, 5 (emphasis added). 3G Capital is **directly involved** in management and operations of its portfolio companies (which includes Skechers). *See* EX2015. 3G Capital requires their portfolio companies to engage in Zero Based Budgeting, denoting a significant involvement in reviewing and approving a business’s budget. EX2020.

3G Capital is an unnamed RPI to this IPR. It is a “clear beneficiary that has a preexisting, established relationship with the petitioner.” *AIT*, 897 F.3d at 1351. 3G Capital has a pre-existing, established relationship with Skechers. EX2014. As the sole investor, it would plainly benefit from IPR review and potential invalidation of the ’325 patent. Thus, Skechers is evidently representing the interests of 3G Capital. Moreover, it is clear from 3G Capital’s business model that it has the ability to exercise control of this proceeding. *See Sun Pharm. Indus., Inc. v. Biofrontera Inc.*, PGR2026-00021, Paper 12 at 2 (P.T.A.B. May 26, 2026)

(Squires, Director) (explaining that RPIs include entities that have the *ability* to control the proceeding).

2. The Petition should be denied.

Amendment of the RPI disclosure would necessarily result in according the Petition a new filing date. *See Curium US LLC v. Universität Heidelberg*, IPR2025-01582, Paper 11 at 3 (P.T.A.B. Feb. 25, 2026) (Squires, Director) (informative). In response to arguments PO made in the related IPRs, Skechers updated its RPIs on July 24, 2026, to include the Beach Acquisition parent companies. *See* Paper 11. At a minimum, this requires a reset of the filing date to July 24, 2026 (or later, after PTAB reviews the filing, as with original petitions).

But Skechers still has not updated its RPIs to include the company—3G Capital—that its own press release states is the owner. *See* EX2014. Nor should it be permitted to do so. It will be time barred under 35 U.S.C. § 315(b) a mere two days after the filing of PO’s discretionary denial brief. Even if Skechers acts promptly and submits updated mandatory notices before it is time barred, it would not be an efficient use of the Board’s resources to reset this proceeding (even to July 24, 2026) given the advanced state of the district court litigation and other compelling reasons for discretionary denial set forth herein. Because the Petition fails to name all RPIs, the Director should not consider the Petition and should deny review. *Yangtze Memory*, 8.

E. Patent Owner has settled expectations in the '325 patent.

Settled expectations weigh in favor of denial of institution because PO has licensed the '325 patent to Nike. *See Alliance Laundry Sys., LLC v. PayRange LLC*, IPR2025-00950, Paper 11 at 3 (P.T.A.B. Sept. 19, 2025) (evidence that a challenged patent is licensed creates settled expectations for patent owner).

Nike—a U.S.-based world leader in the design, marketing, and distribution of athletic footwear—entered into a strategic investment and partnership with HFL in 2019. EX2018; EX2001, ¶4. The partnership includes “an intellectual property license” (including to the '325 patent) that extends the reach of HFL’s patented portfolio and its innovative technology. EX2018, 1. In entering into the partnership and license, Nike recognized PO’s hands-free technology “has the potential to broaden and enhance” its efforts to remove barriers to play and making sport easier for more people. EX2018, 2. Skechers’ early challenge and voluntary search disclosure form do not outweigh the settled expectations created by PO’s license of the '325 patent. These settled expectations, grounded in PO’s significant partnership and license to Nike, warrant denial of this IPR.

V. CONCLUSION

For the foregoing reasons, the Director should exercise discretion to deny institution of this IPR.

Respectfully submitted,

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

I certify that the above-captioned **PATENT OWNER'S BRIEF ON
DISCRETIONARY DENIAL** and associated Exhibits 2001-2022 were served in
their entireties on August 4, 2026, upon the following parties via electronic mail:

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