

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TESLA, INC.,
Petitioner

v.

CHARGELOGIC LLC,
Patent Owner

Case IPR2026-00382
U.S. Patent 11,909,011

**PATENT OWNER'S
REQUEST FOR DISCRETIONARY DENIAL**

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EXHIBIT LIST

Exhibit No.	Description
2001	March 26, 2025 USPTO Memorandum on Interim Processes for PTAB Workload Management, available at https://www.uspto.gov/sites/default/files/documents/InterimProcesses-PTABWorkloadMgmt-20250326.pdf (“Process Memorandum”)
2002	March 11, 2026 Squires Memorandum on Additional Discretionary Institution Considerations – U.S. Manufacturing and Small Business Use of AIA Proceedings, available at https://www.uspto.gov/subscription-center/2026/uspto-issues-additional-discretionary-institution-facts (“Small Business Memorandum”)
2003	Excerpts from File History of U.S. Patent Application 18/298,152 (issuing as U.S. Patent No. 12,272,189)
2004	USPTO Reexaminations – FY 2026, Quarter ending 6/30/2026, available at https://www.uspto.gov/sites/default/files/documents/reexamination-op-stats.pdf
2005	Tesla, Inc. Form 10-K for the Year Ending December 31, 2025
2006	Complaint for Patent Infringement and Jury Demand, <i>ChargeLogic LLC v. Tesla, Inc.</i> , C.A. No. 7:26-cv-00100 (W.D. Tex. March 23, 2026)
2007	Shareholder Deck for Q2 2026 Update, Tesla Investor Relations, July 22, 2026, available at https://assets-ir.tesla.com/tesla-contents/IR/TSLA-Q2-2026-Update.pdf
2008	NHTSA Part 583 American Automobile Labeling Act Report for 2026, available at https://www.nhtsa.gov/part-583-american-automobile-labeling-act-reports
2009	CM/ECF Docket Report, <i>ChargeLogic LLC v. Tesla, Inc.</i> , C.A. No. 7:26-cv-00100 (W.D. Tex.) (as of August 23, 2026)

Exhibit No.	Description
2010	Joint Proposed Scheduling Order, <i>ChargeLogic LLC v. Tesla, Inc.</i> , C.A. No. 7:26-cv-00100, Doc. 34-1 (W.D. Tex. Aug. 10, 2026)
2011	U.S. Patent 10,090,567

I. INTRODUCTION

Patent Owner ChargeLogic LLC (“ChargeLogic”) requests that the Director exercise discretion to deny institution of *inter partes* review under 35 U.S.C. § 314. Several considerations from the Director’s Interim Processes for PTAB Workload Management (“Process Memorandum”) weigh heavily in favor of discretionary denial, including ChargeLogic’s strong settled expectations of patentability (*infra* Section III.A.1), the weakness of the validity challenge (*id.* at A.2), heavy overreliance on expert testimony by Petitioner (*id.* at A.3), and the potential to improve the PTAB’s ability to meet its statutory deadlines (*id.* at A.4).

The *Fintiv* factors also favor discretionary denial. Before the institution decision deadline, the parties will have prepared and served preliminary infringement and invalidity contentions, exchanged claim terms and met and conferred to narrow the terms in dispute, and disclosed extrinsic evidence. Before any final written decision, the parties will have conducted all *Markman* briefing, the Court will have held the *Markman* hearing, fact and expert discovery will be closed, the deadline for dispositive motions will have passed, and the parties will have served extensive pretrial disclosures. Because there is no indication that the district court will stay the parallel action, both the parties and the district court will necessarily expend substantial and duplicative resources before any final written decision issues. In addition, Petitioner is not pursuing this IPR as a true alternative

to its district court invalidity case, as Petitioner is reserving the ability to present certain section 102 and 103 challenges in the parallel action, including challenges based on publications and patents.

Moreover, there are a total of six IPR petitions pending against the challenged patent (“the ’011 Patent”)—and five related patents. The merits here, like the other five, are very weak. *Infra* Section III.A.2. Even if Petitioner could carry its burden on less than all of petitions, institution would not simplify or reduce the burden of parallel litigation. Indeed, the Board’s finite resources would be consumed adjudicating validity questions that the district court will resolve on a schedule unaffected by the Board’s action and with a trial date within a month of the projected final written decisions.

II. LEGAL STANDARDS

Under 35 U.S.C. § 314, the Director has broad discretion regarding whether to institute an IPR proceeding. *See, e.g., In re Motorola Sols., Inc.*, 159 F.4th 30, 36 (Fed. Cir. 2025); *SAS Inst. Inc. v. Iancu*, 584 U.S. 357, 366 (2018). The precedential *NHK Spring* and *Fintiv* decisions established the “*Fintiv* factors” governing that discretion where parallel proceedings are pending. *Motorola*, 159 F.4th at 34. The Director further explained that the discretion should focus on the public interest, unlike the “broad adjudication of private disputes in district court litigation.” *Magnolia Med. Techs., Inc. v. Kurin, Inc.*, IPR2026-00097, Paper 17 at 7 (PTAB

May 14, 2026) (*precedential*).

The Process Memorandum further detailed the Director’s consideration of additional relevant considerations including but not limited to the merits, the extent of the petitioner’s reliance on expert testimony, the settled expectations of the parties, compelling economic interests, and the ability of the PTAB to comply with its statutory deadlines. Ex. 2001 at 2-3. The subsequent Small Business Memorandum also identifies additional considerations related to U.S. manufacturing and small business use of AIA proceedings. Ex. 2002.

III. ARGUMENT

Discretionary denial is warranted pursuant to *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (PTAB Mar. 20, 2020) (designated *precedential*) (“Fintiv”) and other relevant considerations set forth in the Director’s subsequent guidance memoranda and decisions, as detailed below.

A. The Considerations Set Forth in the Process Memorandum Weigh In Favor of Discretionary Denial.

1. Patent Owner Has Strong Settled Expectations.

Although “there is no bright-line rule on when expectations become settled, in general, the longer the patent has been in force, the more settled expectations should be.” *Dabico Airport Sols. Inc. v. AXA Power ApS*, IPR2025-00408, Paper 21, at 3 (Dir. June 18, 2025) (informative). Strong settled expectations for patent owners

exist for patents that have been in force for at least six years. *See, e.g., id.* at 2; *Kahoot! AS v. Interstellar Inc.*, IPR2025-00696, Paper 12 at 2 (Dir. July 31, 2025); *Amgen Inc. v. Bristol-Myers Squibb Co.*, IPR2025-00601, Paper 9 at 3 (Dir. July 24, 2025); *HS Hyosung Advanced Materials v. Kolon Industries, Inc.*, IPR2025-00662, Paper 12, at 2 (Dir. Aug. 14, 2025).

Here, the first patent in the family (U.S. Patent No. 10,090,567) issued on October 2, 2018, nearly eight years ago and more than seven years before the Petition was filed on June 18, 2026. Ex. 1001, 1-2 (“Related Application Data”); Ex. 2011. Thus, ChargeLogic has strong settled expectations that the ’567 Patent is valid. The ’011 Patent shares the same specification as the ’567 Patent, covers very similar subject matter, and issued on February 20, 2024, more than two years ago. Although the fact that a patent has only issued within the past six years has been cited as a factor that “might favor referral to the Board,” *Phison Elec. Corp. v. Vervain, LLC*, IPR2025-00213, Paper 14 at 3 (Dir. July 10, 2025), that factor is substantially outweighed here by other factors. *See, e.g., Samsung Elecs. Co. Ltd. v. GenghisComm Holdings LLC*, IPR2025-00788, Paper 11, at 2 (Chief APJ Aug. 22, 2025) (“Although the patents challenged in these proceedings have not been in force for as long as those in [parallel IPRs], this fact alone does not tip the balance against discretionary denial.”); *Tesla, Inc. v. Granite Vehicle Ventures, LLC*, IPR2025-00943, Paper 17 at 2 (Dir. Sept. 26, 2025) (“Even though the challenged patents have

not been in force for a significant period of time (issued in 2023), this fact alone does not tip the balance against discretionary denial.”).

The '011 Patent is a continuation of parent applications in which the first issued family member—the '567 Patent—has been in force since at least 2018. Even where the challenged patent itself has not been in force for more than six years, its membership in a portfolio that has been in force or was known to Petitioner nonetheless creates settled expectations for ChargeLogic. *See, e.g., iRhythm Techs., Inc. v. Welch Allyn, Inc.*, IPR2025-00363, Paper 10 at 3 (Dir. June 6, 2025) (discretionarily denying institution where petitioner was aware of one patent in portfolio after it was cited in petitioner’s own patent application); *Datadome S.A. v. Arkose Labs Holdings, Inc.*, IPR2025-00693, Paper 13 at 2 (Dir. Aug. 14, 2025) (denying institution based, in part, on awareness of patent owner’s portfolio in general). The challenged subject matter is fully supported by the specification of the parent application that has been in force since 2018, and settled expectations regarding that portfolio favor denial here.

Further, because published patent applications and issued patents are publicly available, interested parties “may find published patents and patent applications using the Office’s automated search systems as well as publicly available resources on the Internet,” and “[a]s such, actual notice of a patent or of possible infringement is not necessary to create settled expectations.” *Dabico Airport*, IPR2025-00408,

Paper 21 at 3. Here, Petitioner *did* have personal knowledge of the published application of the '567 Patent more than two years ago. Specifically, during examination of Petitioner's patent application on August 15, 2024 the published application was explicitly applied by the Examiner to reject Petitioner's pending claims. Ex. 2003 at 28 (citing U.S. Pat. Appl. Publ. No. 2011/0175569 A1); *see* Ex. 2011 at 1. As of that time, Petitioner was or should have been aware of the '567 Patent and its progeny. The Office has found that a Petitioner's actual knowledge of a challenged patent is relevant in the settled expectations analysis. *See e.g., Google LLC v. SoundClear Techs., LLC*, IPR2025-00344, Paper 15 at 2-3 (Chief APJ Aug. 4, 2025); *iRhythm Techs.*, IPR2025-00363, Paper 10 at 3 (institution discretionarily denied for settled expectations where petitioner was aware of a challenged patent's application because of citation during examination of petitioner's patent application); *Murata Mfg. Co. v. Georgia Tech. Research Corp.*, IPR2025-00383, Paper 14 at 2-3 (Dir. July 29, 2025) (finding petitioner's knowledge of challenged patent created settled expectations weighing in favor of denial).

In view of the above, ChargeLogic's expectations that the claims of the challenged patent are valid are strong not only based on the length of time the portfolio has been in force, but also based on the length of time that Petitioner was specifically aware of the patent portfolio. If Petitioner had any expectation of invalidity, it should have sought IPR soon after it had actual notice of the portfolio.

Murata, IPR2025-00383, Paper 14 at 2-3 (“A failure to seek early review of the patent favors denial and outweighs the above-discussed considerations.”).

2. The Invalidity Challenge is Weak.

The Office permits patent owners to “direct attention to an anticipated POPR and evidence for a discussion of the merits,” while instructing that they “should not repeat [their] merits arguments verbatim but should briefly explain why the merits are relevant.”¹ Accordingly, below ChargeLogic briefly addresses a few of the issues indicating that Petitioner’s challenges are quite weak.

Generally, the prior art is flimsy. Petitioner asserts no anticipation grounds and relies on *eight* obviousness grounds, with all but one having at least *four* references and three having *five*. Petition, 2-3. When a petitioner’s strongest challenge cannot reach the independent claims without three references, that is *de facto* evidence of the weakness of the challenge.

The Petition’s unnecessarily complex and confusing presentation compounds this substantive weakness. For example, it contains *thirteen* separate “motivation to combine” sections sporadically placed throughout, each with its own “reasonable expectation of success” argument, which Petitioner compresses into “MTC” and “REOS”—apparently to conserve words against the word-count limit. *See* Pet. at ii-

¹ <https://www.uspto.gov/patents/ptab/interim-director-discretionary-process> (“Interim Director Discretionary Process”) at § II.c.i.

v; *id.* at 6 n.1. There are **four** such sections for Claim 1 alone. This needlessly burdens the Board and ChargeLogic in attempting to analyze the Petition and is prejudicial to ChargeLogic’s ability to reasonably respond to Petitioner’s intricate obviousness theories. Worse, these “MTC” sections repeat the same formulaic assertions from ground to ground. *See, e.g.*, Petition at 36, 46, 51 (asserting combination of prior art elements according to known methods to yield predictable results). A Petition that requires 13 discrete “MTCs,” often in repeated conclusory terms, is not strong. The Board’s limited resources are better devoted to petitions grounded in the references themselves.

Moreover, Petitioner’s attack against independent claim 1 requires combining the fundamentally different architecture of two disparate systems—Fujita’s emergency road-side charging system and Kelty-078’s network charging communication interface. *See* Ex. 1004, 1:57-2:5; Ex. 1006, 1:52-60, Fig. 1. Petitioner’s generalized arguments regarding a reasonable expectation of success do not engage with the technical distinction between Fujita’s improvised, variable-output roadside power-borrowing scenario and Kelty-078’s fixed AC-grid architecture with a dedicated AC-to-DC rectifier (PEM 34). Petition, 36. Mr. Andrews’ supporting opinions are conclusory and formulaic, generalizing the required changes as simply “monitoring batteries during charging” and opining that the modification is merely “simple programming,” involves only “straightforward

and routine changes to programming instructions,” and are “well within the skillset of a POSITA.” Ex. 1003 ¶¶157, 169–170, 193. These, and other issues with the proposed combinations, will be addressed more fully in ChargeLogic’s preliminary response.

3. The Petition Relies Heavily on Expert Testimony

The Office has previously explained that:

[E]xtensive reliance on expert testimony and/or reasonable disputes between experts on dispositive issues may suggest that the questions are better resolved in an Article III court. The statute and our reviewing court require that petitions be based on prior art patents and printed publications. As the judges have technical and legal expertise, it is not necessary for an expert to explain every aspect of the prior art. It is most helpful if an expert is providing focused testimony, for example to provide helpful context or to explain terms of art. The failure to provide focused expert testimony may weigh against institution.²

This factor is still reflected in the Office’s current guidance. *See* Interim Director Discretionary Process § I.B. This consideration favors discretionary denial because the Petition relies heavily on the unfocused declaration testimony of Petitioner’s proposed expert, Scott Andrews. Indeed, Mr. Andrews’ declaration consists of 334 paragraphs of testimony spanning 192 pages. *See generally* Ex. 1003. The Petition extensively cites to and relies upon his testimony. *See, e.g.*, Petition, 34-36, 38-40,

² FAQs for Interim Processes for PTAB Workload Management (“Interim FAQs”), at #22, <https://www.uspto.gov/patents/ptab/faqs/interim-processes-workload-management> (last accessed on Aug. 22, 2026) (FAQs superseded by the Interim Director Discretionary Process as stated on the webpage).

46-47 (examples of the many “MTC” sections). Indeed, the acronym “POSITA” appears 47 times in the Petition.

Further, Mr. Andrews’ declaration contains much of the same language as the Petition, even including the same annotations and color-coding used in the Petition. *Compare, e.g.,* Pet., 6-63 *with* Ex. 1003, 56-154 (Ground 1 analysis); Pet., 63-66 *with* Ex. 1003, 155-160 (Ground 2 analysis); Pet. at 67-94 *with* Ex. 1003 at 160-203 (Grounds 3-8 analyses). The Board has been skeptical where arguments from the petition are repeated verbatim by a witness purporting to give expert testimony. *Kinetic Techs., Inc. v. Skyworks Sols., Inc.*, IPR2014-00529, Paper 8 at 14-15 (PTAB Sept. 23, 2014) (denying institution). Such skepticism is warranted in reviewing the Petition considering Mr. Andrews’ extensive repetition of the Petition, as well as the nature of the technology at issue. *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9, at 15, 19 (PTAB Aug. 24, 2022) (precedential) (denying institution).

Moreover, there are at minimum “reasonable disputes between experts on dispositive issues” that are “better resolved in an Article III court.” Interim FAQs at #22. The preliminary response will identify several disputes between experts as to whether the limitations of independent claim 1 are obvious based on the asserted prior art. While ChargeLogic submits that the prior art plainly fails to teach these limitations, the existence of these disputes independently favors denial, and the Board’s resources are better allocated to petitions grounded in the references

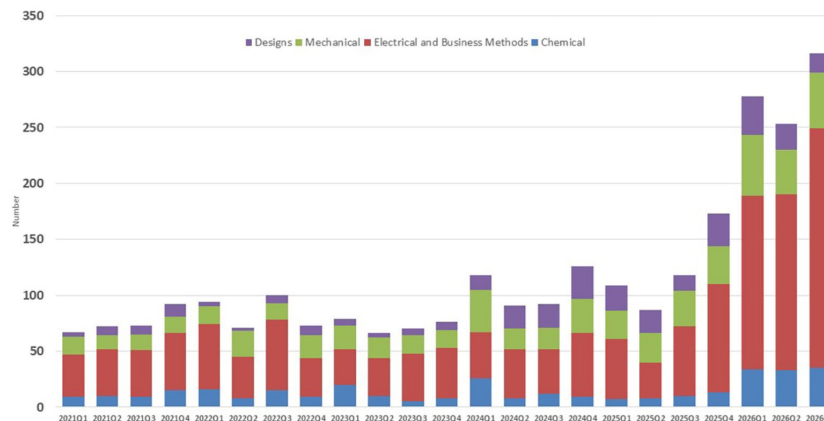
themselves.

4. Discretionary Denial would Improve the PTAB’s Ability to Comply with its Statutory Deadlines.

This consideration relates to “the ability of the PTAB to comply with pendency goals for *ex parte* appeals, its statutory deadlines for AIA proceedings, and other workload needs.” Process Memorandum at 3. This proceeding is one of six *inter partes* review petitions filed by Petitioner concerning the same six patents asserted in the underlying Texas litigation. Paper 5 at 2. The full list of proceedings includes IPR2026-00377 (USP 10,090,567), IPR2026-00378 (USP 11,258,107), IPR2026-00380 (USP 11,721,844), IPR2026-00379 (USP 11,508,996), IPR2026-00381 (USP 11,909,010), and IPR2026-00382 (USP 11,909,011). *Id.* However, the reasons for discretionary denial herein largely apply with equal force to the five other pending petitions. Thus, discretionary denial would not only free up Board resources associated with this proceeding, but also the five other proceedings. Further, the Director has explained that in similar situations involving several IPR petitions challenging patents asserted in a single district court proceeding, “addressing all of the challenged patents in the district court proceeding would be the fastest and most efficient resolution” of the parties’ disputes. *Samsung Elecs. Co. v. VB Assets, LLC*, IPR2025-00870, Paper 11 at 3 (Chief APJ Oct. 10, 2025). Given the Director’s focus “on the ability of the PTAB to comply with pendency goals for *ex parte* appeals, its

statutory deadlines for AIA proceedings, and other workload needs,” denial is favored here because it would result in significant Board resources becoming available, including for appeals relating to ordinary patent prosecution and *ex parte* proceedings. Process Memorandum at 3.

The availability of PTAB resources is of particular importance given the recent surge in *ex parte* reexamination (“EPR”) filings. Specifically, the PTO’s statistics³ show a substantial 2x-3x increase in EPR filings beginning Q4 2025:



Recent Office statistics show that 297 EPRs were filed in the third fiscal quarter of 2026 (April-June) alone. *See* Ex. 2004 at 1. Thus, the surge beginning in late 2025 is not an anomaly—it is part of a clear upward trajectory that *continues* to increase, reaching its highest number to date in the last quarter. Discretionary denial will

³ <https://www.uspto.gov/learning-and-resources/statistics/reexamination-information> (last accessed Aug. 22, 2026).

further the goal of ensuring the PTAB can efficiently meet its statutory deadlines in IPRs and PGRs, as well as the goal of efficiently deciding EPR appeals.

5. Petitioner Size and Manufacturing Does Not Favor Institution

Petitioner is not a small business. It has a current market capitalization of over \$1 trillion, and reported fiscal 2025 revenues of \$94.8 billion, (Ex. 2005 at 31), and so qualifies as a large, “market dominant company” like those the Director has found to dominate IPR filings. *Magnolia Med. Techs.*, IPR2026-00097, Paper 17 at 5. Although Petitioner maintains extensive manufacturing and assembly operations in the United States, its own disclosures show that it also depends substantially on foreign production: its installed annual U.S. automotive capacity for the accused products⁴ is approximately 1,050,000 units per year, against approximately 1,325,000 units per year outside the United States. Ex. 2007 at 6. And as of June 2026, 25-40% of the parts in the accused products (by value) were made outside the U.S. and Canada, with some portion of the remaining 60-75% made in Canada rather than the United States. *See* Ex. 2008 at 8-9. Given Petitioner’s size and its considerable reliance on foreign parts and labor, this consideration is at most neutral, and Petitioner’s domestic footprint does not give it free reign to infringe.

⁴ Ex. 2006 ¶¶ 38-39 (identifying Model 3, Y, S, X, Cybercab, Cybertruck, and Semi).

Although Petitioner has a heavy U.S. presence, Petitioner is not a small business and a considerable portion of Petitioner's parts are made in foreign countries. Consequently, this consideration is neutral at best.

B. The *Fintiv* Factors Weigh In Favor of Discretionary Denial.

The Director should also exercise discretion to deny institution pursuant to the *Fintiv* factors. The patent challenged in this Petition, and the patents challenged in related proceedings, are concurrently asserted against Petitioner in parallel litigation in the Western District of Texas before Judge Counts, with Magistrate Judge Gilliland being assigned to handle all pre-trial matters. *See ChargeLogic LLC v. Tesla, Inc.*, Case No. 7:26-cv-00100-DC-DTG (filed Mar. 23, 2026) (“the Litigation”). Because of the substantial litigation efforts by the parties (and the district court) that will necessarily occur before institution and any final written decision and the low likelihood of a stay, the *Fintiv* factors as a whole strongly weigh in favor of exercising discretion not to institute.

1. Likelihood of a Stay

There is no stay of proceedings in the parallel litigation, no motion to stay has been filed, and there is no evidence that a stay is likely should such a motion be filed. *See, e.g., Samsung Elecs. Co. v. GenghisComm Holdings, LLC*, IPR2025-00899, Paper 10 at 2 (Chief APJ Sept. 26, 2025) (denying institution based on *Fintiv* where the time of trial was close to the projected issuance date of the FWD and the co-

pending litigation had insufficient evidence of stay). Any assertion that a hypothetical stay will be granted is entirely speculative and discretionary denial is appropriate under this factor. *See Samsung Elecs. Co. v. Telcom Ventures LLC*, IPR2025-00957, Paper 12 at 2 (Dir. Oct. 10, 2025). The Board should reserve its resources for situations where a co-pending district court litigation will not proceed in parallel. This factor strongly favors discretionary denial.

ChargeLogic is currently unaware of any instance where Judge Counts has granted any contested motions to stay pending *inter partes* review, and the practice of most district courts is to deny a motion to stay where the Board has not yet acted on the petition. *Arbor Global Strategies v. Samsung Elecs. Co.*, No. 2:19-cv-333-JRG-RSP, 2021 U.S. Dist. LEXIS 2434, at *7 (E.D. Tex. Jan. 7, 2021) (explaining the practice of most district courts).

Even if Petitioner were to move to stay post-institution, there is “insufficient evidence that the district court is likely to stay its proceeding even if the Board were to institute trial.” *See, e.g., Samsung Elecs. Co. v. Cerence Op. Co.*, IPR2025-00458, Paper 14 at 2 (Chief APJ June 25, 2025); *Cisco Systems, Inc. v. WSOU Investments LLC*, IPR2025-00429, Paper 15 at 2 (Dir. June 25, 2025). Thus, this factor favors denial. *See, e.g., GenghisComm Holdings, LLC*, IPR2025-00899, Paper 10 (institution denied where trial date was close to projected FWD with insufficient evidence of stay); *Telcom Ventures LLC*, IPR2025-00957, Paper 12 (same).

2. Proximity of District Court Trial Date

Although trial in the Parallel Litigation has not been set, the parties recently jointly submitted a proposed scheduling order that sets trial for January 18, 2028,⁵ which is less than a month after the projected statutory deadline for a final written decision (December 23, 2027).⁶ It is also possible that the statutory deadline for the final written decision could be extended up to six months, putting the latest possible deadline for the final written decision on June 23, 2028, roughly five months after the trial. 35 U.S.C. § 316(a)(11). Even assuming institution, by the time a final written decision issues the parties will be at the cusp of a jury trial after having expended significant resources addressing validity, infringement and damages. Further, given that the trial is scheduled within the relevant deadlines for rehearing and appeal of the final written decision, institution here creates no efficiencies for the parties or the court below whatsoever. Because trial is scheduled to occur within a month of the projected deadline for the final written decision, this factor is at best either neutral or slightly favors not exercising discretion to deny. *Protect Animals*

⁵ Ex. 2009, Doc. 34-1; Ex. 2010.

⁶ This date was determined based on the June 23, 2026 Notice of Filing Date Accorded (Paper 3), Patent Owner's three-month deadline to file a preliminary response (September 23, 2026), the Board's three-month deadline to issue a decision on institution (35 U.S.C. § 314(b)), and the one-year deadline from institution to issue a final written decision (35 U.S.C. § 316(a)(11)).

with Satellites v. OnPoint Sys., IPR2021-01483, Paper 11 at 12-13 (PTAB Mar. 4, 2022) (finding proximity factor neutral where the FWD was due approximately one month after the trial deadline); *see also iRhythm Techs., Inc.*, IPR2025-00363, Paper 10 at 3 (discretionarily denying institution even though trial date was seven months after projected FWD deadline due to other factors).

3. Court and Parties' Investment in Parallel Proceeding

This factor is related to the trial date factor and whether institution would lead to duplicative costs. *Fintiv*, IPR2020-00019, Paper 11 at 10. Here, the parties have already invested in the litigation. Petitioner filed a motion to dismiss under Rule 12(b)(6), which the parties resolved by entering a joint stipulation. Ex. 2009, Doc. 26. Petitioner also filed a motion to transfer venue, which is pending. *Id.*, Doc. 32. Further, before the projected institution decision deadline (December 23, 2026), the parties will have taken venue discovery and fully briefed the motion to transfer, prepared and served preliminary infringement and invalidity contentions, exchanged proposed claim terms and met and conferred to narrow the terms in dispute, disclosed extrinsic evidence, and claim construction briefing (except for the Plaintiff's sur-reply) will be completed. *See* Ex. 2010. Before the deadline for a final written decision, the Court will have held the *Markman* hearing, fact and expert discovery will be closed, the deadline for dispositive motions will have passed, and the parties will have served pretrial disclosures (jury instructions, exhibit lists,

witness lists, and discovery and deposition designations). *Id.* A final written decision will issue only approximately three weeks before the trial date and would prevent none of the foregoing efforts by the parties or the district court.

A final written decision in this case will therefore not be received in time to create any efficiency in the co-pending litigation. *See VB Assets, LLC*, IPR2025-00870, Paper 11 at 2 (explaining that even where the FWD will issue before trial, it does not outweigh the efficiencies gained by avoiding parallel proceedings); *Shenzhen Tuozhu Tech. Co. v. Stratasy, Inc.*, IPR2025-00354, Paper 11 at 2 (Dir. June 12, 2025) (denying institution and finding that “[e]xercising discretion to deny the petition in this case reduces the inefficiencies and burdens on the parties to maintain two parallel proceedings”).

4. Overlap with Parallel Proceeding

Petitioner submitted a stipulation pursuant to *Sotera Wireless, Inc. v. Masimo Corporation*, IPR2020-01019, Paper 12 (PTAB Dec. 1, 2020):

[I]f IPR is instituted in any of the IPRs (“the instituted IPR”), then in *ChargeLogic LLC v. Tesla, Inc.*, Case No. 7:26-cv-00100-DC-DTG (W.D. Tex.) (“the Parallel Litigation”), Tesla will not advance against the claims challenged in any instituted IPR: (i) the specific grounds asserted in the instituted IPR(s); (ii) any ground that reasonably could have been raised in the instituted IPR(s) (i.e., any ground that reasonably could have been raised under §§ 102 or 103 on the basis of prior art patents or printed publications); or

(iii) any other ground based on a combination of system art with any prior art reference asserted as the basis of a ground in the instituted IPR(s).

Ex. 1058. Element (iii) is carefully crafted such that Petitioner reserves its ability to pursue invalidity theories in the district court based on system art alone, or in combination with *any* patents or publications, except for the few references relied on in the asserted grounds of the Petition. *See id.* Thus, Petitioner is not offering a true alternative to litigating validity in the district court, causing this factor to weigh in favor of discretionary denial. *Magnolia Med. Techs.*, IPR2026-00097, Paper 17 at 3 (PTAB May 14, 2026) (“[A]ll too often the co-pending litigation involves either the same arguments as the AIA review, or a petitioner asserts system art in the litigation that overlaps with the patents or printed publications asserted in the AIA review—a tell-tale sign that the AIA review is not functioning as a litigation alternative.”); *see also Motorola Sols., Inc. v. Stellar, LLC*, IPR2024-01205, Paper 19 at 3-4 (PTAB March 28, 2025) (Director review decision vacating institution of IPR and finding this factor to favor denying institution despite *Sotera* stipulation because “Petitioner’s stipulation does not ensure that these IPR proceedings would be a true alternative to the district court proceeding”) (quotation marks omitted).

5. Same Parties

Both Petitioner and ChargeLogic are the same parties in the parallel district court action. Ex. 2006. This factor thus also favors exercising discretion to deny

institution.

6. Other circumstances, including the merits

The circumstances and considerations set forth in Section III.A also strongly favor exercising discretion to deny institution, including but not limited to ChargeLogic's strong settled expectations (Section III.A.1) and the weakness of the validity challenge (Section III.A.2).

As the Office has repeatedly recognized (including in *Fintiv*), no single factor or consideration is dispositive, and the Director "takes a holistic view of whether efficiency and integrity of the system are best served by denying or instituting review." *Fintiv*, Paper 11 at 6. A holistic view of the factors above heavily counsels in favor of discretionary denial.

IV. CONCLUSION

For the reasons above, ChargeLogic respectfully requests that the Director exercise discretion and deny institution of *inter partes* review.

Dated: August 23, 2026

Respectfully submitted,

/James H. Hall/

James H. Hall

Registration No. 66,317

Counsel for Patent Owner

ChargeLogic LLC

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e)(4), the undersigned certifies that on August 23, 2026, the foregoing document and all exhibits were served via electronic mail at the following e-mail addresses, where Petitioner has previously consented to electronic service:

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