

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC. AND SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

GAEA, LLC,
Patent Owner.

Case IPR2026-00426
Patent 11,907,553

**BRIEF IN SUPPORT OF PATENT OWNER'S REQUEST FOR
DISCRETIONARY DENIAL**

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EXHIBIT LIST

Exhibit No.	Exhibit Description
2001	U.S. Patent Publication No. 2017/0075909 (Goodson)
2002	U.S. Patent Publication No. 2021/0182190 (Gao)
2003	July 29, 2026 Gaea's Preliminary Infringement Contentions Against Meta
2004	September 11, 2026 Meta's Invalidity Contentions
2005	July 6, 2026 Gaea's Preliminary Infringement Contentions Against Samsung
2006	August 31, 2026 Samsung's Invalidity Contentions
2007	August 31, 2026 Samsung's Subject Matter Ineligibility Contentions
2008	Ex. B to 7-29-2026 Gaea's Preliminary Infringement Contentions Against Meta
2009	Ex. B to 7-6-2026 Gaea's Preliminary Infringement Contentions Against Samsung
2010	April 1, 2025 Director's CSIS Statement
2011	June 30, 2022 Information Disclosure Statement, citing U.S. Patent Application No. 2004/0174627
2012	February 17, 2023 List of References Cited by Applicant and Considered by Examiner, citing U.S. Patent Application No. 2004/0174627

I. INTRODUCTION

Patent Owner Gaea, LLC, (“Gaea” or “Patent Owner”) respectfully requests that the Board exercise its discretion and deny institution of this Petition for *inter partes* review of U.S. Patent No. 11,907,553 (EX1001) under 35 U.S.C. § 341(a). Co-pending with the Petition are two district court actions for patent infringement of the ’553 patent, one in the Northern District of Texas and the other in the Eastern District of Texas (the “NDTX Case” and “EDTX Case” respectively). Pet. at 2-3. It would be inefficient and risk inconsistent rulings to allow the Petition to proceed.

First, Petitioner Meta Platforms, Inc., and Petitioner Samsung Electronics Co., Ltd. (“Meta” and “Samsung” or collectively “Petitioners”) fail to satisfy the requirements of *Advance Bionics* because Petitioners do not establish material error by the Patent and Trademark Office (“PTO” or “the Office”). For these reasons alone, the Petition should be denied. Second, based on the application of the *Fintiv* factors as detailed below, due to Petitioner’s substantial delay in filing the Petition, and the significant risk of substantial overlapping issues between the instant Petition and the parallel district court action, denial is warranted. Lastly, the Board should also exercise its discretion and deny institution under the factors that Acting Director Stewart outlined in her March 26, 2025 memorandum. These additional factors further supports discretionary denial here: (1) the merits of the Petition are weak; (2) the Petitioners improperly rely on and largely parrot an expert declaration; and (3)

the patent family has been in force for more than six years and has never been subject to challenge until now.

II. THE BOARD SHOULD DENY INSTITUTION UNDER *ADVANCED BIONICS*

The Board should exercise its discretion to deny institution under 35 U.S.C. § 325(d). Under the two-part framework established in *Advanced Bionics*, the Board considers (1) whether the same or substantially the same art or arguments were previously presented to the Office and, if so, (2) whether the petitioner has demonstrated that the Office materially erred in its consideration of that art or those arguments. *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 at 8–9 (PTAB Feb. 13, 2020) (precedential).

A. The Petition Relies on Substantially the Same Art Previously Presented Teachings for Policy-Directed Storage and Content-Processing Which Petitioners Now Rely on

The Petition challenges the '553 patent principally through the combination of Meir and Salessi. Petitioners characterize the proposed combination as an SSD having a processor that executes host commands according to a policy incorporating compression, decompression, encryption, and decryption algorithms. Pet., 20. Specifically, Petitioners rely on Meir for a programmable processor, device memory storing a configurable policy, a lower-level controller coupled to flash memory, and policy-directed storage operations. *Id.* at 23–37. They then propose modifying Meir's software and policy to incorporate Salessi's compression, encryption,

decompression, and decryption algorithms, thereby causing Meir's processor to perform those operations according to the policy. *Id.* at 20–23, 31–34, 53–55.

Overlapping technical teachings and functional relationships were already presented to the Office through Olster (EX1005), Hashimoto (EX1006), Goodson (EX2001), and Gao (EX2002). Olster, Hashimoto, and Gao were identified in an Information Disclosure Statement that the Examiner acknowledged as considered. EX1002, 211–13. The Examiner independently identified Goodson and cited it on a PTO-892 Notice of References Cited. *Id.*, 126. Moreover, the Examiner substantively applied Olster in rejecting the pending claims under § 103. *Id.*, 259–61. Thus, these references were presented to the Examiner during prosecution.

1. The Previously Presented Art Discloses Substantially Overlapping Teachings

Petitioners rely on Meir for policy-directed storage operations and propose incorporating Salessi's compression and encryption algorithms into Meir's configurable policy. For claim 1, Petitioners contend that Meir's processor 52 retrieves a policy from memory 56 and processes content according to that policy through operations including copying, striping, and parity calculations. Pet., 29–33. They then propose modifying Meir's policy to incorporate Salessi's algorithms, so that the policy determines which data undergoes those processing operations. *Id.* at 33–34. Petitioners apply substantially the same theory to the read-side processing of claim 16 and the combined write/read operations of claim 26. *Id.* at 47–56.

Olster discloses the foundational concept of policy-directed storage operations. In particular, Olster describes policies governing replication and placement of stored data, including requirements concerning the number and distribution of copies. EX1005 ¶¶[0030]–[0031]. These teachings substantially overlap Meir’s use of a policy to direct copying and other redundancy operations, which Petitioners now rely on. Pet., 31–33. Indeed, the Examiner expressly applied Olster in rejecting the pending claims. EX1002, 259–61.

Goodson discloses the additional relationship Petitioners propose creating by incorporating Salessi’s processing algorithms into Meir’s policy. Goodson describes policy-based content management in which policies govern content-processing operations, including compression and encryption. *See* Ex. 2001 ¶¶[0061]–[0063]. Goodson further describes applying content-management policies during I/O operations. *Id.* ¶¶[0080]–[0081]. Thus, Goodson does not merely identify compression and encryption as known storage functions; it connects those operations to policies governing the handling of content. This substantially overlaps the petitioner’s assertion that Meir’s policy determines which data undergoes Salessi’s compression and encryption operations. Pet., 33–34.

Hashimoto likewise discloses SSD-side content processing. Hashimoto describes an SSD controller containing CPU 61, NAND controller 63, and hardware engine 64, which is configured to perform data compression and other heavy load

processing. EX1006 ¶¶[0150]–[0155]. Hashimoto separately discloses selectable in-device compression before data is written to flash memory, including embodiments in which the host designates whether compression is applied. *Id.* ¶¶[0218], [0222]–[0224]. These teachings substantially overlap Petitioners’ reliance on Salessi for processing content within an SSD before storage. Pet., 33–34.

Accordingly, the previously presented art disclosed the principal teachings Petitioners seek to combine: policy-directed storage operations, policies governing compression and encryption, and SSD-side processing of content before storage. These previously presented teachings substantially overlap the functionality and relationships on which Petitioners rely on in their Meir–Salessi combination.

2. The Previously Presented Art Also Discloses Substantially Overlapping Teachings for the Processor-Controller Architecture Which Petitioners Now Rely on

The Petition separately relies on Meir’s division of functions between a programmable processor and a lower-level device controller. Petitioners map Meir’s processor 52 to the claimed programmable processor, memory 56 to the device memory, low-level controller 44 to the device controller, and memory units 40 to the solid-state memory. Pet., 24–28. For write operations, Petitioners contend that processor 52 processes content according to the policy and transfers it to low-level controller 44 for storage in flash memory. *Id.* at 34–37. For read operations, Petitioners rely on controller 44 retrieving content from flash and transferring it to

processor 52 for further processing. *Id.* at 50–56.

Gao discloses overlapping processor-to-flash-control hierarchy. Gao places CPU 801 within flash controller 102 and describes software-controlled processing that directs flash-memory operations. *See* Ex. 2002 Fig.8, ¶[0232]. This closely parallels Petitioner’s assertion that Meir describes processor 52 residing within high-level controller 36 and interfaces with separate low-level controller 44 to communicate with the memory units. *Pet.*, 22, 27–28. Gao further describes CPU 801 managing command queues, while lower-level state-machine and sequencing logic translates commands into microinstructions executed through the flash-control circuitry. *See* Ex. 2002 ¶¶[0265]–[0270]. Thus, Gao discloses a software-controlled processor directing lower level flash control logic, substantially overlapping the functional relationship Petitioners attribute to Meir’s processor 52 and low-level controller 44.

Hashimoto provides further overlapping architecture. Its SSD controller includes CPU 61, NAND controller 63, and hardware engine 64. EX1006 ¶¶[0150]–[0155]. Hashimoto therefore discloses programmable processing and lower level NAND-control functionality within the SSD, together with circuitry configured for data compression and other content processing operations.

These references demonstrate that the overlap in teachings is not limited to isolated, generic components. The previously considered art discloses substantially

overlapping teachings and functional relationships with Meir–Salessi involving software-controlled processing, lower level flash control operations, policy-directed storage, and in-device content processing. These are the same categories of teachings Petitioners invoke in constructing their Meir–Salessi combination.

3. Petitioners Reuse These Same Meir-Salessi Teachings Across the Challenged Claims

For claim 16, Petitioners rely on Meir for retrieving a policy, directing a lower-level controller to read content from flash, and returning that content to processor 52. They then incorporate Salessi so that processor 52 decompresses or decrypts the retrieved content according to the policy. Pet., 49–56. Claim 26 combines the same write-side and read-side theories. *Id.* at 47–56.

For claims 5 and 6, Petitioners rely on modifying Meir’s policy to incorporate Salessi’s compression or encryption algorithms. *Id.* at 39–45. Claims 19 and 20 apply the corresponding decompression and decryption operations upon retrieval, while claims 30 and 31 combine those operations into write/store/read/process sequences. *Id.* at 57–67. Petitioners thus continue to rely on the same proposed modification of Meir’s software and policy using Salessi’s algorithms.

The additional references in Grounds 2–4 do not alter this conclusion. Petitioners rely on Chou for the additional printed-circuit-board and housing limitations while continuing to rely on Meir and Salessi for the underlying processor/controller architecture and policy-directed processing. Pet., 68–72, 80–81.

Similarly, Petitioners add Lovinger to supply claim 9's requirement that the storage request include a storage-device policy, while expressly incorporating their Meir–Salessi mappings for the remaining limitations, including policy-directed processing. *Id.* at 73–78. Thus, every ground continues to depend on the same core Meir–Salessi teachings that substantially overlap the art previously presented to the Office. Neither Chou nor Lovinger is relied upon to supply those core teachings.

B. Petitioners Fail to Establish Material Examiner Error

Because the Petition relies on substantially the same previously presented teachings, Petitioners must demonstrate material Examiner error under the second part of *Advanced Bionics*. *Advanced Bionics*, Paper 6 at 8–9. *Ecto World* requires Petitioners to identify material error in the Office's prior consideration of the art. *Ecto World, LLC v. RAI Strategic Holdings, Inc.*, IPR2024-01280, Paper 13 at 4–7 (PTAB May 19, 2025) (precedential as to § A). Petitioners identify two alleged errors: first, that the Examiner allowed the '553 claims without requiring limitations added during prosecution of the ancestor '023 patent; and second, that the Examiner allegedly failed to conduct an adequate search after Applicant added the policy-directed processing limitation. Pet., 11–14. Neither is material error.

1. The Omission of Limitations Added During Prosecution of the Ancestor '023 Patent Does Not Establish Material Examiner Error

Petitioners first argue that the Examiner erred by allowing the '553 patent

claims without requiring the limitations that led to allowance of the ancestor '023 patent. Pet., 11–13. Specifically, Petitioners point to amendments requiring that the device controller receive a storage policy “from a host” and that the policy indicate a “recording method for writing content to the storage media.” *Id.* at 12–13. Petitioners emphasize that those limitations were not carried forward into the '553 patent claims.

But the fact that an ancestor patent was allowed following the addition of particular limitations does not establish that all later continuation claims must include those same limitations to be patentable. The relevant question is whether the particular claims under examination are patentable in view of their own limitations and the applicable prior art.

Here, the '553 patent claims do not simply reproduce the ancestor claims while omitting the previously added language. They recite a different set of requirements, including instructions directing the programmable processor to process content for storage based on a storage device policy. Independent claims 16 and 26 further recite policy-directed processing of retrieved content. Petitioners themselves acknowledge that Applicant added the processing limitation during prosecution of the '553 patent and that the Examiner subsequently allowed the claims. Pet., 13–14.

Petitioners therefore cannot establish material error merely by pointing to

limitations that appeared in the allowed ancestor claims but not in the '553 patent claims. They must explain why the Examiner materially erred in assessing the patentability of the different limitations actually recited in the '553 patent claims. Their comparison to the ancestor prosecution does not make that showing.

2. Petitioner's Search-Based Error Theory Does Not Establish That the Examiner Materially Erred

Petitioners next contend that the Examiner failed to search adequately after Applicant amended the claims to require processing content for storage based on a storage-device policy. Pet., 13–14. They emphasize that the recorded search queries did not include terms such as “process” or “encrypt.” *Id.* at 14.

The prosecution record, however, provides a more complete account of the Examiner's examination following the amendment. Applicant submitted the relevant amendment on May 25, 2023. EX1002, 273–74, 292. Thereafter, the Examiner conducted a PE2E search on June 11, 2023, before issuing the June 23 Notice of Allowance. *Id.*, 323–25, 329, 342–344. The recorded queries addressed storage devices, requests, policies, rules, algorithms, data, and storage operations. *Id.*, 333–45. Notably, examination did not end with the June allowance. After Applicant filed an RCE in September 2023 to correct priority information, the Examiner conducted another PE2E search on October 4, 2023, and again allowed all 36 claims. *Id.*, 346–53, 375–76, 393–404.

Petitioners emphasize the absence of search terms such as “process” and

“encrypt.” Pet., 14. But that observation does not establish material error. The Examiner’s searches addressed storage policies, rules, algorithms, requests, data, and storage operations. EX1002, 333–45, 380–405. Petitioners do not explain why the absence of particular search terms demonstrates that the Examiner overlooked materially different technical teachings relevant to the amended claims.

Indeed, as discussed above, the Examiner had already been presented with Olster’s policy-directed storage operations, Goodson’s policy-based compression and encryption teachings, Hashimoto’s SSD-side processing, and Gao’s processor-to-flash-control architecture. EX1002, 126, 211–13, 259–61. Against that record, the absence of particular terms from the Examiner’s post-amendment search queries does not demonstrate a material failure to examine the amended subject matter.

Petitioners identify no specific teaching that their proposed search terms would have uncovered that was materially different from the substantially overlapping teachings already presented to the Office. Their criticism of the Examiner’s search terminology therefore falls short of demonstrating material error under *Advanced Bionics* and *Ecto World*.

3. Petitioner’s Disagreement with Applicant’s Characterization of Olster Does Not Establish Material Examiner Error

Petitioners also criticize Applicant’s prosecution argument concerning Olster, asserting that Applicant “grossly mischaracteriz[ed]” Olster as merely a distributed-search reference. Pet., 13–14. But Petitioners’ criticism does not accurately capture

the entirety of Applicant's response or establish that the Examiner materially erred.

Applicant did not merely assert that Olster concerned distributed searching. Applicant distinguished Olster on additional grounds, including the location of Olster's controller relative to the storage devices and the absence of a disclosure that the controller or another processing element performed particular data-processing operations, such as encryption. EX1002, 273–74. Applicant further argued that Leow did not overcome the identified deficiencies. *Id.*

Petitioners may disagree with Applicant's assessment of Olster, but that disagreement does not establish that the Examiner overlooked Olster or accepted a materially erroneous characterization of its teachings. To the contrary, the Examiner had expressly relied on Olster in rejecting the pending claims. EX1002, 259–61. The Examiner was therefore familiar with Olster's disclosures, including its policy-directed storage operations.

Moreover, Petitioners do not identify any specific disclosure in Olster that the Examiner failed to consider because of Applicant's characterization, much less explain why that alleged oversight was material to the patentability of the amended claims. Their assertion that Applicant mischaracterized Olster is not a substitute for the required showing of material Examiner error.

Indeed, Petitioners have not demonstrated material error in the Office's prior consideration of the substantially overlapping teachings on which the Petition now

relies. Their argument directed to limitations added during prosecution of the ancestor patent does not establish error in allowing the differently claimed '553 invention; their criticism of the Examiner's search terminology does not establish that materially different teachings were overlooked; and their disagreement with Applicant's characterization of Olster does not demonstrate that the Examiner materially misunderstood that reference.

III. INSTITUTION SHOULD BE DENIED UNDER *FINTIV*

The Director should exercise his discretion to deny institution under *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (PTAB Mar. 20, 2020) (precedential) ("*Fintiv I*"); and its progeny.

A. ***Fintiv* Factor 1: Petitioners Have Not Indicated that they Intend to File for any Pre-Institution or Post-Institution Stays.**

Petitioners have neither requested pre-institution stays in either the NDTX Case or EDTX Case, nor given any indication that they plan to do so. Petitioners have also not given any indication that they intend to request a post-institution stay. Because there is no evidence indicating that pre- or post-institution stays will be sought or granted in the parallel NDTX and EDTX Cases, the first *Fintiv* factor weighs in favor of denying institution.

B. ***Fintiv* Factor 2: Trial in the Parallel District Court Actions Is Estimated to Occur Contemporaneously with the Board's Deadline for a Final Written Decision.**

Based on the Notice of Filing Date Accorded issued on August 5, 2026, the

deadline for a final written decision in this IPR is approximately February 4, 2028, which may be extended to August 4, 2028 for good cause or in the case of joinder. 37 C.F.R. § 42.100(c). In the NDTX Case, trial has been scheduled for February 21, 2028. *See Gaea, LLC v. Meta Platforms, Inc.*, 4:26-cv-00348 (N.D. Tex.) (“*Gaea v. Meta*”) at Dkt. No. 34. In the EDTX Case, trial has been scheduled for April 3, 2028. *See Gaea, LLC v. Samsung Electronics Co., Ltd.*, 2:26-cv-00264 (E.D. Tex.) (“*Gaea v. Samsung*”) at Dkt. No. 24. Trial in the NDTX Case will be contemporaneous with the deadline for final written decision for the instant prospective IPR. As the EDTX Case overlaps substantially with the NDTX Case, it is very likely that the outcome of the NDTX Case will heavily inform the EDTX Case. Therefore, since the issues across the NDTX and EDTX Cases will be resolved contemporaneously with the deadline for final written decision for this IPR (or well before, should the deadline for final written decision be extended), this factor weighs against institution.

C. *Fintiv* Factor 3: The Parties Expect to Invest Heavily in Several Parallel Proceedings, and Petitioner Unduly Delayed in Filing the Petition.

Here, Petitioners and Patent Owner are engaged in the parallel NDTX and EDTX Cases, which are anticipated to require significant resources to resolve, including claim construction, substantial document productions, the examination of source code, and the service of written discovery and responses thereto. In both cases, there are pending motions to transfer venue. *See Gaea v. Meta*, Dkt. No. 62;

Gaea v. Samsung, Dkt. No. 43. Additionally, there is a pending motion to dismiss in *Gaea v. Samsung*. See Dkt. No. 41. In *Gaea v. Meta*, venue discovery is set to close on October 12, 2026, with Gaea's response to Meta's motion due on November 2, 2026. See Dkt. No. 60. In *Gaea v. Samsung*, the Parties' deadline to submit a venue discovery order and briefing schedule is October 13, 2026. See Dkt. No. 50. The parties have already expended significant effort (which will only continue to increase) related to these motions.

In addition to expending resources on the above motions practice, the parties in both cases have dedicated substantial time and energy to the creation of preliminary infringement, invalidity, and subject matter ineligibility contentions. See EX2003 (7-29-2026 Gaea's Preliminary Infringement Contentions Against Meta); EX2004 (9-11-2026 Meta's Invalidity Contentions); EX2005 (7-6-2026 Gaea's Preliminary Infringement Contentions Against Samsung); EX2006 (8-31-2026 Samsung's Invalidity Contentions); EX2007 (8-31-2026 Samsung's Subject Matter Ineligibility Contentions). With a filing date accorded of August 5, 2026, the institution decision for the Petition will be made on or before February 5, 2027. By this date, in the NDTX Case, the parties will have completed all claim construction discovery and briefing and will be preparing for a *Markman* hearing. See *Gaea v. Meta*, Dkt. No. 24. Patent Owner also expects that discovery efforts will be in full swing by the time of the institution decision. Thus, because of the past and future

duplicative resource expenditures by the parties in the parallel proceedings this factor favors denial.

D. *Fintiv* Factor 4: The Petition and the Parallel District Court Cases Will Likely Raise Substantially Overlapping Issues.

In the parallel district court cases, Patent owner has asserted claims 1-4 and 9-12 of the '553 patent against Petitioners. *See* EX2008 (Ex. B to 7-29-2026 Gaea's Preliminary Infringement Contentions Against Meta); EX2009 (Ex. B to 7-6-2026 Gaea's Preliminary Infringement Contentions Against Samsung). Meanwhile, the Petition challenges claims 1-7, 9-20, and 26-31 of the '553 patent. Pet., 10-12; *see also* EX2006 at 2. In their invalidity contentions, both parties raised prior art references Meir, Salessi, Chou, and Lovinger. *See* EX2004; EX2006. The prior art references raised by Petitioners in the petition are the same: Meir, Salessi, Chou, and Lovinger. Pet., 13-18. Because of the guaranteed overlap of claims and the substantively overlapping prior art at issue, the fourth *Fintiv* factor weighs in favor of denying institution.

E. *Fintiv* Factor 5: Petitioners Are the Parallel Proceeding Defendants.

The Petition concedes that Petitioners are the defendants in the parallel NDTX and EDTX Cases, and thus merits discretionary denial. Pet., 3; *Fintiv I* at 15.

F. *Fintiv* Factor 6: Petitioners Rely on Substantially the Same Art Previously Presented to the Office and Fail to Show

Material Error.

As explained in Section II above, Petitioners assert substantially the same prior art references which were considered by Examiner, disclosing the same technical teachings and relationships. *See supra* § II. As such, Petitioners must demonstrate material Office error, which they have failed to do. *Id.* This factor weighs in favor of discretionary denial.

IV. ADDITIONAL FACTORS SET FORTH IN THE DIRECTOR'S MEMORANDUM SUPPORT DISCRETIONARY DENIAL**A. The Strength of the Unpatentability Challenge**

As previously explained for *Fintiv* Factor 6, Petitioner's unpatentability challenge is extremely weak, resorting to rehashing similar art already explicitly considered by the Examiner. *See supra* § III.F. The Petition therefore fails to show a reasonable likelihood of prevailing.

B. Petitioners' Reliance on a Parroting Declaration to Supply Missing Teachings Favors Denial

The Petition's extraordinary dependence on its expert declaration independently favors discretionary denial. The Petition cites Dr. Litz approximately 250 times, often tracking his declaration nearly verbatim. But here, the problem runs deeper: rather than explain an identified disclosure, the declaration supplies relationships absent from the cited references, as the following examples show.

First, Meir states that memory 56 stores the controller's policy and, separately, that controller software may be stored on non-transitory media; it never

identifies memory 56 as storing that software. EX010 ¶¶[0033]–[0034]. Dr. Litz supplies that missing identification—reasoning that the software must be available to processor 52 and “[t]hus” through memory 56—which the Petition adopts as “confirming” that the claimed application is stored there. EX1003 ¶99; Pet., 29.

Second, Petitioners use the declaration to attribute RAID operations to processor 52. Although the Petition cites Meir ¶¶[0038] and [0045] for processor 52 splitting a read request and retrieving data from multiple memory units, those paragraphs disclose only redundancy rules and an ECC pipeline. For the assertions that processor 52 reassembles the data and uses parity to rebuild it after a drive failure, the Petition cites only Dr. Litz—not prior art. Pet., 54 (citing EX1003 ¶174).

Third, neither reference discloses the required policy/algorithm nexus: Meir merely makes certain policy rules configurable, using logical-to-physical address mapping as its example, while Salessi separately identifies compression, decompression, encryption, and decryption. EX1010 ¶[0055]; EX1011 ¶¶[0006], [0050]. Dr. Litz bridges that gap by asserting that a skilled artisan “would therefore modify” Meir’s policy to incorporate Salessi’s algorithms and “define to which data” each applies—a conclusion the Petition repeats without identifying any passage in either reference that teaches that nexus. EX1003 ¶¶112–113, 177–178; Pet., 34, 55.

The first two examples supply claim-specific facts absent from Meir—the application’s storage location and processor 52’s alleged RAID operations. For the

third the expert and Petition repeat a proposed combination with little reference-based support for its critical policy/algorithm nexus. These opinions go beyond explaining motivation, background knowledge, or an identified teaching; they supply the missing location, operations, and nexus. That defect independently requires denial. Rule 42.104(b)(4) requires the Petition to “specify where each element of the claim is found in the prior art patents or printed publications relied upon.” The Director’s July 31, 2025 memorandum confirms that expert testimony “may not be used to supply a missing claim limitation” and that, under § 312(a)(4) the Board “shall deny” a noncompliant petition. Enforcement and Non-Waiver of 37 C.F.R. § 42.104(b)(4) and Permissible Uses of General Knowledge in Inter Partes Reviews at 1 (July 31, 2025). The memorandum applies here because the Petition was filed after September 1, 2025. *Id.* at 3. Because the declaration cannot cure those missing teachings denial is mandatory under § 312(a)(4) and Rule 42.104(b)(4), and independently warranted as a matter of discretion.

C. Settled Expectations of the Parties.

The expectations of the parties for the ’553 patent claims are well-settled. Specifically, the ’553 patent claims were issued several years ago on February 20, 2024. *See* EX1001 at 1. The fact that the ’553 patent has already been in force for several years with no challenges counsels against review. In addition, the Acting Director noted the ability of companies such as Petitioners to “scour issued patents

for commercial opportunities and to review issued patents to determine if and how they impact these companies' freedom to operate." *See* EX2010 at 8. To that end, during prosecution of the '553 patent, a Samsung reference was cited, first by Patent Owner in its 6-30-2022 Information Disclosure Statement. *See* EX2011 (6-30-2022 Information Disclosure Statement, citing U.S. Pat. Pub. No. 2004/0174627). This same reference was then included in the 2-17-2023 List of References Cited by Applicant and Considered by Examiner. EX2012 (the 2-17-2023 List of References Cited by Applicant and Considered by Examiner, citing U.S. Pat. Pub. No. 2004/0174627). The '553 patent as issued cites to the above Samsung reference, which would have put Petitioner Samsung on notice of the '553 patent (in addition to being on notice of family member U.S. Patent No. 10,776,023, which has been in force for six years and is also asserted in the parallel proceeding) and of Patent Owner's patenting activity in a relevant technology area to Samsung. *See* EX1001 at 2. But, not until the filing of this Petition has Petitioner Samsung ever sought to challenge the '553 patent (or any of its family members) at the PTAB. Because of the well settled expectations of the parties, including the length of time the claims have been in effect and Petitioner Samsung's prior decision not to challenge the '553 patent, despite notice and opportunity to do so, this factor favors denial of institution.

V. CONCLUSION

The Board should exercise its discretion and deny institution of the Petition.

Respectfully Submitted,

Dated: October 13, 2026

/C. Maclain Wells/

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(Case No. IPR2026-00426)

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**CERTIFICATION UNDER INTERIM DIRECTOR DISCRETIONARY
PROCESS (II)(C)(iii)**

Under the provisions of 37 C.F.R. § 42.24(d), the undersigned hereby certifies that the page count for all portions of the foregoing Patent Owner's Brief in Support of Request for Discretionary Denial totals 20 pages per Microsoft Word, which complies with the requirement of 20 pages allowed under the Interim Director Discretionary Process. *See* Interim Director Discretionary Process (II)(C)(iii) (<https://www.uspto.gov/patents/ptab/interim-director-discretionary-process>).

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CERTIFICATE OF SERVICE

As authorized by Patent Owner's Mandatory Notice, I hereby certify that on October 13, 2026, a copy of this document has been served in its entirety by electronic mail on Petitioner's lead and backup counsel.

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