

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TANKLOGIX, LLC,
Petitioner,

v.

SITEPRO, INC.,
Patent Owner.

U.S. Patent No. 12,321,184

Case No.: PGR2025-00060

SITEPRO, INC.'S BRIEF FOR DISCRETIONARY DENIAL

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EXHIBIT LIST

No.	Exhibit Description
Ex. 2001	File History of '184 Patent
Ex. 2002	Screenshots of '184 Patent File History and Front Pages of '184 Patent
Ex. 2003	Scheduling Order for <i>SitePro, Inc. v. TankLogix, LLC</i> , 7:25-cv-00266-XR-DTG (Paper 20), pending in the United States District Court for the Western District of Texas
Ex. 2004	SitePro's Preliminary Infringement Contentions, <i>SitePro</i> , 7:25-cv-00266-XR-DTG, pending in the United States District Court for the Western District of Texas
Ex. 2005	Comparison Table of Petition's and Wooley Declaration's Discussion of Almadi in [1.b] of Claim 1

I. Introduction

Under the *Interim Process for PTAB Workload Management Memorandum* (the “Memorandum”) issued on March 26, 2025, the decision whether to institute a post-grant review (PGR) is bifurcated between: (i) discretionary denial; and (ii) merits and other non-discretionary statutory decisions. Pursuant to the Memorandum, Patent Owner, SitePro Inc., requests that the Director discretionarily deny Petitioner’s, TankLogix LLC’s, Petition for PGR of U.S. Patent No. 12,321,184 (the “’184 patent”) for the reasons below.

In short, discretionary denial is warranted here for several reasons. First, all four references relied upon in the Petition’s obviousness ground were already before the patent examiner during the original examination of the ’184 patent (three of which were cited by the examiner himself), and the Petition stands silent on how or why the patent examiner might have erred in deeming the claims novel and nonobvious over those references already of record and finding all claims patent eligible under section 101. These facts strongly favor discretionary denial under 35 U.S.C. § 325(d). In addition, the district court schedule will require the district court to evaluate many of the same validity questions raised here because the trial is scheduled to occur six weeks after the written decision of this PGR, which would result in significant duplication of effort and waste of judicial resources. These circumstances warrant discretionary denial under 35 U.S.C. § 314(a).

Moreover, the Petition is substantively flawed and is severely lacking in merit. For instance, Petitioner's obviousness ground fails to identify any disclosure from the cited references that would map to certain claim features in the independent claims of the '184 patent, with one reference (Gutierrez) not even being prior art. Also, Petitioner's subject matter ineligibility ground misapplies the *Alice/Mayo* test by disregarding the claimed subject matter as a whole and lacks any arguments against Claims 30 and 31 despite their additional subject matter beyond Claim 1 and being different claim types. And yet the most egregious flaw is that the '184 patent is not eligible for PGR because it is a pre-AIA patent, which will be demonstrated in Patent Owner's forthcoming preliminary response.¹

The totality of circumstances strongly favors discretionary denial of the Petition.

II. Discretionary Considerations under § 325(d) Strongly Favor Denial

The Director should exercise discretion in denying the Petition for post-grant review under 35 U.S.C. § 325(d) because all four references used in this Petition—Kahn, Gutierrez, Almadi and SCADA—were already known to, and considered by, the Patent Office during the prosecution of the '184 patent.

¹ All '184 patent claims are fully supported by the original specification and claims of the earliest priority document entitled to a priority date of December 12, 2012.

The facts and circumstances in this case parallel those for IPR2025-00761, where the Petition for *inter partes* review (IPR) of the parent U.S. Patent No. 12,019,461 (the “’461 patent”) was discretionarily denied for relying on references cited by the examiner and also by the applicant during prosecution of the challenged patent without demonstrating any error by the Patent Office.² *See TankLogix, LLC v. SitePro, Inc.*, IPR2025-00761, Paper 10 at 2-3. Notably, the same examiner, Christopher E. Everett, examined the parent ’461 patent and the instant ’184 patent, all four references in this Petition were also in front of Examiner Everett during the examination of both ’461 and ’184 patents, with three of the four references having been cited by Examiner Everett himself, and the fourth reference (SCADA) having been cited in an IDS and discussed in the patents’ specifications. *Id.*, Paper 7 at 20-24. Patent Owner requests the Director apply the same discretion to deny this PGR Petition since Petitioner has again relied on the same four references without any showing of examiner error in allowing the ’184 patent claims over references: Kahn, Gutierrez, Almadi, and SCADA.

The Board may exercise its discretion in denying institution when the same or

² The references asserted in the Petition of IPR2025-00761 against U.S. Patent No. 12,019,461 (now denied) are the same four references in this Petition: Kahn, Gutierrez, Almadi, SCADA. *See TankLogix*, IPR2025-00761, Paper 2 at 5-7.

substantially the same prior art or arguments previously were presented to the Patent Office. *Becton, Dickinson & Co. v. B. Braun Melsungen AG* (“*Becton*”), IPR2017-01586, Paper 8 at 17–18 (PTAB Dec. 15, 2017) (precedential as to Section III.C.5, first paragraph). The *Becton* case sets forth six factors to weigh when considering discretionary denial, which are: (a) the similarities and material differences between the asserted art and the prior art involved during examination; (b) the cumulative nature of the asserted art and the prior art evaluated during examination; (c) the extent to which the asserted art was evaluated during examination, including whether the prior art was the basis for rejection; (d) the extent of the overlap between the arguments made during examination and the manner in which Petitioner relies on the prior art or Patent Owner distinguishes the prior art; (e) whether Petitioner has pointed out sufficiently how the examiner erred in its evaluation of the asserted prior art; and (f) the extent to which additional evidence and facts presented in the Petition warrant reconsideration of the prior art or arguments. *Id.*

Here, the majority, if not all, of factors weigh in favor of rejecting the Petition.

A. All Four References Used by the Petition in § 103 Obviousness Ground Were Known to, and Already Considered by, the Patent Office.

The Director should exercise discretion in denying institution under 35 U.S.C. § 325(d) because all four references (Kahn, Gutierrez, Almadi, and SCADA) that the Petition relies on in its obviousness ground were considered during the original

prosecution that led to the allowance of the '184 patent.

1. Kahn, Gutierrez and Almadi were cited by the Examiner.

Kahn, Gutierrez and Almadi were cited by the examiner himself during the prosecution of the '184 patent. *See* Ex. 2001 at 79-80; *see also* Ex. 2002 at 1, depicting screenshots of part of the USPTO document titled “*Notice of References Cited*,” where the asterisks in the far-left column indicate that these references were cited by the examiner.

This is further confirmed on pages 2-3 of the '184 patent, where Kahn, Gutierrez and Almadi appear under the “References Cited” section with an asterisk next to each reference, indicating these references were “cited by examiner.”

2. The SCADA reference was considered by the Patent Office and also discussed in the '184 Patent.

The SCADA reference used in this Petition was submitted by Patent Owner, along with three other SCADA-related references, in an information disclosure statement (IDS) to the Patent Office during the prosecution of the '184 patent. *See* Ex. 2001 at 124-125 (Non-Patent Literature Documents #2, #8, #9, and #17). *Also see* Ex. 2002 at 2, showing a portion of the second page of the '184 patent, which is annotated to highlight the SCADA reference and other SCADA technology related references from the IDS considered by the examiner.

The IDS listing the SCADA references was acknowledged and signed by the examiner, Christopher E. Everett, on January 6, 2025, as shown in the screenshot

below. *See* Ex. 2001 at 166-170.

EXAMINER SIGNATURE			
Examiner Signature	/Christopher E. Everett/ (01/06/2025)	Date Considered	01/06/2025
*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through a citation if not in conformance and not considered. Include copy of this form with next communication to applicant.			

Additionally, Patent Owner discussed some of the features and shortcomings of the SCADA technology in the Background and Detailed Description sections of the '184 patent, specifically identified it as a prior system. Ex. 1001 at 1:65-2:9, 3:23-27. *See McCoy v. Heal Sys., LLC*, 850 Fed. Appx. 785, 789 (Fed. Cir. 2021) (“By characterizing certain parts as conventional in the specification, the patentee effectively admits that such things would be known to a POSA”). Thus, the discussion of SCADA in the specification of the '184 patent, submission of multiple SCADA-related patents to the patent office, and examiner's acknowledgement of the IDS filings are collectively a strong indicator that the examiner was aware of and had considered SCADA when examining the '184 patent.

As further explained below, all factors under 35 U.S.C. § 325(d) are strongly in favor of institution denial.

B. All Factors Under 35 U.S.C. § 325(d) Are Strongly in Favor of Institution Denial.

1. Factor (a): Similarities and material differences between the asserted art and the prior art involved during examination.

This factor strongly favors Patent Owner because the asserted art in the PGR

and the prior art involved during examination are the same. Kahn, Gutierrez and Almadi—the same references used in this Petition—were cited by the examiner during the prosecution of the '184 patent. *See Section II.A.1* above. And, the same SCADA reference used in this Petition was presented to and acknowledged by the examiner during the original prosecution. *See Section II.A.2* above.

2. Factor (b): The cumulative nature of the asserted art and the prior art evaluated during examination.

This factor strongly favors Patent Owner because the same Kahn, Gutierrez, Almadi, and SCADA references used in the Petition were before and evaluated by the examiner. Moreover, SCADA technology was further discussed in the specification of the '184 patent, and the prior art in front of the examiner included at least two other SCADA-related references (*see Section II.A.2* above), making the use of SCADA in the Petition clearly cumulative over the prior examination.

3. Factor (c): The extent to which the asserted art was evaluated during examination, including whether the prior art was the basis for rejection.

Factor (c) also favors Patent Owner because, while the only basis for rejection of the original claims during the prosecution of the '184 patent was a non-statutory double-patenting rejection (*see* Ex. 2001 at 72-80), the examiner had himself cited Kahn, Gutierrez, and Almadi as prior art (*id.* at 79-80). This is a clear indication that the examiner had evaluated the merits of those references and had determined that the then-pending claims were patentable over those references.

4. Factor (d): The extent of the overlap between the arguments made during examination and the manner in which Petitioner relies on the prior art or Patent Owner distinguishes the prior art.

This factor is neutral or favors Patent Owner because there were no arguments made during the original examination regarding the Petition's references, *despite* the fact that the examiner was in possession of all four references and had actually cited three of them.

5. Factor (e): Whether Petitioner has pointed out sufficiently how the Examiner erred in its evaluation of the asserted prior art.

This factor favors Patent Owner because Petitioner has not set forth any discussions of how and whether the examiner erred. *See* Petition, lacking any § 325(d) analysis.

6. Factor (f): the extent to which additional evidence and facts presented in the Petition warrant reconsideration of the prior art or arguments.

This factor strongly favors Patent Owner because Petitioner does not set forth any discussion of § 325(d) considerations, and, as explained in **Section III.F.1**, the technical merits of the proposed obviousness ground are weak and the ground relies on a reference that is not prior art.

In sum, the *Becton* factors favor discretionary denial of the Petition for reliance on prior art previously considered during examination of the '184 patent.

C. The Petition's Invalidity Assertions Under § 101 Make No Showing of Error By the Patent Office and Over Generalize the Claims.

The reasons for denying institution of the Petition under 35 U.S.C. § 325(d) also apply to Petitioner's § 101 ground because the Petition makes no showing that the Examiner erred in the evaluation of the subject matter eligibility of the '184 patent claims and presents no additional evidence or facts to support the alternative.

Petitioner's assertion that the "claims are directed to the abstract idea of controlling fluid-handling devices" is flatly wrong. The '184 patent claims are directed to computer product and system for remotely controlling fluid-handling devices at, for example, oil wells, petro water disposal or re-injection facilities, or petroleum pumping stations. Ex 1001 at 2:17-20. The claimed invention solves longstanding problems for remotely operating pumps and valves at such fluid-handling sites, including overcoming controller device failure when a network connection is lost (which prior to the '184 patent prohibited reliance on conventional SCADA systems that frequently disconnected in the event of a network failure). *Id.* at 1:65-2:4, 5:21-36. Petitioner's argument that controlling the operations of such tangible and physical objects amounts to an abstract idea simply defies common sense.

The patented technology of the '184 patent is relied on in a multitude of practical applications for the oil and gas industry that has enhanced safety and

reduced costs for fluid-handling sites. Not only are the claims directed to the statutory categories without a judicial exception, they solve a fundamental technical problem for reliable remote control of fluid-handling devices through interrelated claim elements that render the claimed technique and system significantly more than a judicial exception.

Petitioner's arguments attacking the claims' subject matter eligibility mischaracterize the claims as a whole and ignore or trivialize specific claim elements. The Petition's over-generalizing disregards prior precedent. *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1337 (Fed. Cir. 2016) ("describing the claims at such a high level of abstraction and untethered from the language of the claims all but ensures that the exceptions to § 101 swallow the rule"). The Petition's § 101 ground also attempts to divide and conquer, by discussing claim elements in isolation and out of context without recognizing their interplay that create the technical effect of the claims as a whole.

Not only are the merits of Petitioner's § 101 arguments inadequate, the Petition does not address, let alone raise a compelling reason, how the Examiner may have erred in allowing the claims. The Examiner understood the claims were not abstract, as a § 101 rejection was never raised during prosecution of the '184 patent. *See* Ex. 2001. What's more, the Office has consistently (and correctly) recognized the claims of the entire patent family of the '184 patent as patent eligible,

as none of the nine patents in this family have ever been rejected under § 101 as directed to ineligible subject matter.³

In sum, Petition's § 101 ground is procedurally and substantively flawed, and the relevant facts and circumstances based on the original examination record of the '184 patent, the examination record of the related patents in this family, and Petition's lack of explanation as to any errors by the Patent Office completely favor discretionary denial of the PGR.

III. The *Fintiv* Factors Favor Denial

As established in the precedential case of *Apple v. Fintiv*, the Board considers six factors when exercising its discretion to deny an *inter partes* review in view of a parallel proceeding. *Apple v. Fintiv*, IPR2020-00019, Paper 11 (PTAB Mar. 20, 2020) (precedential). Those factors are: (1) whether the district court granted a stay or evidence exists that one may be granted if a proceeding is instituted; (2) proximity of the court's trial date to the Board's projected statutory deadline for a final written decision; (3) investment in the parallel proceeding by the district court and the parties; (4) overlap between issues raised in the petition and in the parallel

³ Only one parent patent of the '184 patent, U.S. Patent No. 11,726,504, has been rejected under 35 U.S.C. § 101 for double patenting in a first Office Action, initially claiming the same invention as its direct parent, U.S. Patent No. 11,294,403.

proceeding; (5) whether the petitioner and the defendant in the parallel proceeding are the same party; and (6) other circumstances that impact the Board's exercise of discretion, including the merits. *Id.* Here, there is a parallel district court proceeding pending in the United States District Court for the Western District of Texas between SitePro, Inc. and Petitioner TankLogix, LLC. The case is *SitePro, Inc. v. TankLogix, LLC*, 7:25-cv-00266-XR-DTG (the "District Court Proceeding") and has been assigned to Judge David Counts. As discussed below, the *Fintiv* factors weigh in favor of denying institution in view of the District Court Proceeding.

A. The evidence is unclear as to whether the district court is likely to grant a stay.

Petitioner has not sought a stay in the District Court Proceeding, and thus the District Court Proceeding is on course to follow a trial schedule based on the court-ordered schedule. *See* Ex. 2003. Should TankLogix pursue a stay to the litigation, SitePro will oppose the motion to stay, which is expected to significantly reduce the likelihood of a stay being granted. Notably, Judge Counts has not previously ruled on any contested motions to stay pending PTAB post-grant proceedings. Thus, this factor likely favors Patent Owner, but conservatively, it can be considered neutral.

B. The district court trial will begin six weeks after the Board's statutory deadline to issue a final written decision.

When the district court's trial date is earlier than the expected statutory deadline for Board's final written decision, "the Board generally has weighed this

fact in favor of exercising authority to deny institution.” *Fintiv*, IPR2020-00019, Paper 11 at 9. Here, the statutory final written decision deadline is January 18, 2027. In the District Court Proceeding, the final pretrial conference is set for the same day (February 5, 2027), with trial set to begin March 1, 2027. *See* Ex. 2003 at 5-6. Although this trial date falls slightly after the final written decision deadline, i.e., six weeks later, essentially all of the effort and resources required to litigate validity in the district court would have been spent before the final written decision date.

Should a PGR be instituted, the two proceedings would have a significant amount of overlap, and all pretrial activities, including claim construction, fact discovery, expert discovery, and dispositive motions would be complete, with the parties only awaiting the final pretrial conference and trial itself, scheduled to begin six weeks after the final written decision deadline. As such, any PGR decision would provide little simplification to the district court, and not only would the two proceedings continue at the same time, but the parties would also be likely litigating duplicative and overlapping issues in parallel, consuming unnecessary resources for both the parties, the district court, and the Board.

Because nearly all litigation work in the District Court Proceeding would be complete before issuance of a final written decision, with the trial to follow just six weeks later, this factor favors discretionary denial.

C. The parties and the court have invested substantial resources in the district court case.

The District Court Proceeding was filed on June 6, 2025. Since that time, the parties have invested substantial resources in the case. Patent Owner has already completed and served its initial infringement contentions on Petitioner on August 25, 2025. *See* Ex. 2004. Further, by the January 18, 2026 Institution deadline for this PGR, the parties will have fully briefed their claim construction arguments in the district court, with the *Markman* hearing set for February 9, 2026.

Thus, this case is not at the early stages of litigation, and it will be even further along by the Institution deadline. Thus, this factor favors discretionary denial.

D. There is substantial overlap between the issues raised in the Petition and the parallel District Court Proceeding.

All claims challenged in this Petition are also at issue in the District Court Proceeding. Petitioner has recently filed a *Sotera* stipulation⁴ in the PGR, stating that “that if the PTAB institutes *inter partes* review (sic), Petitioner will not pursue in the District Court Proceeding “the specific grounds ... or ... any other ground ... that was raised or could have been reasonably raised in a PGR (i.e., any ground that could be raised under §§ 102 or 103 on the basis of prior art patent or printed

⁴ *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 at 13-14 (PTAB Dec. 1, 2020) (precedential).

publications.” Ex. 1014 at 2. Petitioner also stated that “if the PTAB institutes inter partes review, Petitioner will not, in the [District Court Proceeding], rely on any product or system art that is “based on the same evidence presented” in this PGR.” *Id.*

Not only is such a stipulation practically meaningless given the broader scope of estoppel of PGR proceedings, Petitioner's statements in the *Sotera* stipulation ignore the timeline of the District Court Proceeding. Petitioner's *Sotera* stipulation is conditioned on the Board instituting review—a condition that may not be resolved until January 18, 2026. In the meantime, Petitioner's preliminary invalidity contentions will be due in the District Court Proceeding on October 20, 2025. Ex. 2003 at 2. While Petitioner awaits the Board's institution decision, Petitioner will be *required* to raise overlapping invalidity grounds in the District Court Proceeding or waive them, and the parties will have to account for those overlapping grounds during the claim construction phase that concludes shortly after the institution decision (i.e., *Markman* hearing on February 9, 2026; see *id.* at 4), requiring significant duplication of effort. In effect, the district court schedule eliminates much or all of the resource savings a *Sotera* stipulation might otherwise provide, and in this case, renders it largely meaningless. Thus, this factor likely weighs in favor of Patent Owner, but conservatively, it can be considered neutral.

E. Petitioner and the defendant in the parallel District Court Proceeding are the same party.

Where the petitioner and the defendant in the parallel proceedings are the same party, this factor favors denial. *See Sotera*, IPR2020-01019, Paper 12 (PTAB Dec. 1, 2020) (precedential as to §II.A); *see also Comcast Cable Communications, LLC v. Touchstream Technologies, Inc.*, IPR2024-00324, Paper 13 at 15 (PTAB July 24, 2024). Here, the parties in this proceeding and in the District Court Proceeding are the same: Petitioner is the defendant in the District Court Proceeding, and Patent Owner is the plaintiff. Thus, this factor weighs in favor of discretionary denial.

F. There are no other circumstances that would disfavor denial.

Fintiv factors 2, 3, and 5 weigh in favor of denial, with factors 1 and 4 being neutral (or favoring Patent Owner). For factor 6, there are several problems with the Petition amounting to additional circumstances that favor its denial.

The Petition's first invalidity ground challenging the subject matter eligibility of all claims of the '184 patent completely neglects addressing the independent system claims (Claims 30 and 31), analyzes cherry-picked features in Claim 1, and, critically, is silent on any plausible errors committed by the examiner when deeming the claims patent eligible by allowing them. *See Section II.C* above. Petitioner's second invalidity ground, obviousness based on a four-reference combination, is incomplete, inconsistent, incoherent, and reliant on a reference that is not prior art

(i.e., Gutierrez, which will be discussed in Patent Owner's forthcoming Preliminary Response). The Petition's third invalidity ground purports to challenge the written description support of independent Claim 31 alongside dependent Claims 2, 11, 14 (Petition at 86); yet, the Petition's assertion that Claim 31 lacks support for "*water handling facility*" is facially incorrect since Claim 31 does not recite "*water handling facility*" in the claim. *See Id.* at 11, 86-87. *See* Ex. 1001 at 20:54-22:38 (Claim 31).

While these and other gross deficiencies will be described in more detail in the forthcoming Patent Owner Preliminary Response, the following provides a few highlights that illustrate some of the significant flaws of the Petition that strongly favor Patent Owner for *Fintiv* factor 6.

1. The purported § 103 arguments in Ground 2 fail to account for all limitations of the challenged claims.

Petitioner asserts the "combination of Kahn and Gutierrez in further view of Almadi and SCADA" renders obvious the challenged claims under (post AIA) 35 U.S.C. § 103. Petition at 15. This assertion is incorrect. The Petition fails to show the requisite disclosure, teaching, or suggestion in the prior art for several claimed features of independent Claims 1, 30, and 31 and provides no explanation or reasoning for why these features or the claim as a whole would have been obvious.

Not only does the Petition fail to satisfy the requisite legal standard of obviousness under 35 U.S.C. § 103 for failing to account for the differences between

the claimed invention and the prior art, Petitioner's element-by-element mappings are faulty. The combination of Kahn, Gutierrez, Almadi, and SCADA (hereinafter, the "Combination") does not disclose, teach, suggest, or otherwise render obvious each claimed limitation in Claims 1, 30, and 31. For **Claim 1**, the Petition fails to map or provides an unclear and/or incorrect element mapping for several limitations among the nine claim sections (parsed as claim elements [1.a] to [1.f]).

a. No mapping in [1.c].

Petitioner fails to map the claimed feature in [1.c] of "*the feedback being indicative of whether the given fluid-handling device is in targeted states among the plurality of different target states.*" Petition at 48-50. The Petition does not address Kahn and SCADA at all for any aspect of limitation [1.c]. *Id.* For Gutierrez and Almadi, the Petition's [1.c] section mentions the term "*feedback*" only once pertaining to Gutierrez's single statement about translation module 145 allowing an operator to receive feedback data from controller 130. *See id.* at 49, referencing Ex. 1009 at 9:54-59. Notably, there is no discussion in the Petition (and likewise Gutierrez) of the feedback being indicative of the fluid-handling device being in a "*target state*," as required by the claim. And, Petitioner's discussion of Almadi supposedly teaching a fluid-handling device's target state lacks any connection to Gutierrez's feedback. Thus, this claim feature is totally neglected in Petitioner's obviousness ground against Claim 1.

b. Failed mapping in [1.b].

Petitioner fails to properly map any disclosure from each of Kahn, Gutierrez, Almadi, and SCADA to the claimed feature in [1.b] of “*wherein the first computing system is operative to maintain control of the fluid handling devices in an absence of an external network connection.*” The Petition points only to Almadi by alleging, without any support, that a POSITA would understand Almadi’s “intelligent field devices” maintain such control without an external network connection. Petition at 47. Almadi does not disclose or teach this, and Petitioner fails to identify or explain what in Almadi’s disclosure provides a POSITA to understand the claimed capability in Almadi’s system. *Id.* Instead, the Petition merely points to Petitioner’s expert declaration, which does nothing more than repeat verbatim the same baseless conclusion about a POSITA’s knowledge without even citing a single statement in Almadi.⁵ Thus, Petitioner makes no showing that the Combination discloses, teaches, suggests, or otherwise renders obvious limitation [1.b].

c. Features of system Claims 30 and 31 are unaddressed.

Like for Claim 1, Petitioner also fails to make a sufficient obviousness showing for the other independent claims of the ’184 patent. ***Claim 30*** is directed

⁵ Petition cites Ex. 1005 at ¶124 (*see* Petition at 47), which is a verbatim copy of the same statements made in the Petition without any citation to Almadi. *See* Ex. 2005.

to a system claim with similar but not “identical” limitations as elements [1.a]-[1.f], contrary to Petitioner's incorrect assertions. Petition at 83. For instance, Claim 30's elements [30.a] and [30.b] are completely unaccounted for by the Petition. *Id.* **Claim 31** is also directed to a system claim, but with far more limitations than in Claim 1. For elements [31.j]-[31.o], Petitioner relies on the same faulty arguments from Claim 1 combined with disparate arguments spread out over other dependent claims. *Id.* at 84-87. The Petition thus fails to demonstrate Claims 30 and 31 are disclosed, taught, suggested, or rendered obvious by the Combination.

As these isolated examples illustrate, the merits of the Petition are far from compelling, and these examples are far from exhaustive.

IV. Conclusion

Taken together, the § 325(d) considerations, *Fintiv* factors, and other issues discussed herein strongly weigh in favor of discretionarily denying institution.

Dated: September 17, 2025

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CERTIFICATE OF WORD COUNT UNDER 37 CFR § 42.24(d)

Under 37 C.F.R. § 42.24(d), the undersigned certifies that the word count for this *Brief on Discretionary Denial* totals 4,427 words and 20 pages, excluding the parts exempted by 37 C.F.R. § 42.24(a). The word count was made using the built-in word count function in the Microsoft® Word software used to prepare this document.

Dated: September 17, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of September, 2025, true and correct copies of the foregoing SITEPRO, INC.'S BRIEF FOR DISCRETIONARY DENIAL and EXHIBITS were served via electronic mail on Petitioner's counsel at the following address:

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