

From: [Director_PTABDecision_Review](#)
To: "Richard M. Bemben"; Jennifer Chagnon; Williams, Eliot D.; rbembe-PTAB@sternekessler.com; rkim@netlist.com; Chandler, Ted; Pazmandi, Ferenc; [Speegle, Mark](#); [DL Samsung Netlist IPRs](#)
Cc: [PTAB Account](#)
Subject: RE: PGR2025-00071 - Guidance RE Inconsistent Claim Constructions - Request Denied
Date: Friday, June 5, 2026 7:00:00 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Counsel,

Patent owner's request to raise an additional issue for Director Review in the above identified proceeding is denied.

Thanks.

PGR2025-00071
Ex. 3107

From: Richard M. Bemben <RBEMBEN@sternekessler.com>
Sent: Tuesday, June 2, 2026 4:26 PM
To: Jennifer Chagnon <JChagnon@sternekessler.com>; Williams, Eliot D. <Eliot.Williams@BakerBotts.com>; Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>; rbembe-PTAB@sternekessler.com; rkim@netlist.com; Chandler, Ted <ted.chandler@bakerbotts.com>; Pazmandi, Ferenc <ferenc.pazmandi@bakerbotts.com>; Speegle, Mark <mark.speegle@bakerbotts.com>; DL Samsung Netlist IPRs <dlsamsungnetlistiprs@BakerBotts.com>
Cc: PTAB Account <PTAB@sternekessler.com>
Subject: RE: PGR2025-00071 - Guidance RE Inconsistent Claim Constructions

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Honorable Director,

That Samsung reframed its ITC non-infringement contentions only now, in response to Netlist bringing the inconsistency to the Director's attention, underscores Samsung's attempt to play fast and loose with these parallel proceedings. Because Samsung did not present terms for *Markman* at the ITC, it attempted to shoehorn claim constructions into its non-infringement contentions to circumvent the Director's policy against inconsistent claim constructions. Samsung's gamesmanship should not be tolerated, and Netlist respectfully requests that the Director terminate this proceeding.

Respectfully,
Richard Bemben
Lead Counsel for Netlist

Richard M. Bemben
Director, Co-Chair of PTAB Practice

Direct: 202.772.8549

Administrative Assistant: Maya Bennett
Main: 202.371.2600 **Direct:** 202.772.8843

From: Jennifer Chagnon <JChagnon@sternekessler.com>
Sent: Tuesday, June 2, 2026 3:43 PM
To: Williams, Eliot D. <Eliot.Williams@BakerBotts.com>; Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>; rbembe-PTAB@sternekessler.com; rkim@netlist.com; Chandler, Ted <ted.chandler@bakerbotts.com>; Pazmandi, Ferenc <ferenc.pazmandi@bakerbotts.com>; Speegle, Mark <mark.speegle@bakerbotts.com>; DL Samsung Netlist IPRs <dlsamsungnetlistips@BakerBotts.com>
Cc: Richard M. Bemben <RBEMBEN@sternekessler.com>; PTAB Account <PTAB@sternekessler.com>
Subject: RE: PGR2025-00071 - Guidance RE Inconsistent Claim Constructions

Copying Lead Counsel for Netlist, Richard Bemben to this email chain, as there was a typo in his email address in the original emails.

Jennifer Meyer Chagnon Director jchagnon@sternekessler.com	202-772-8890 direct 202-371-2600 main
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Sterne, Kessler, Goldstein & Fox PLLC
1101 K Street NW, 10th Floor, Washington, DC 20005

Assistant: Geri Margolis
202-772-8620 direct | GMargolis@sternekessler.com

From: Williams, Eliot D. <Eliot.Williams@BakerBotts.com>
Sent: Tuesday, June 2, 2026 3:23 PM
To: Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>; rbembe-PTAB@sternekessler.com; Jennifer Chagnon <JChagnon@sternekessler.com>; rkim@netlist.com; Chandler, Ted <ted.chandler@bakerbotts.com>; Pazmandi, Ferenc <ferenc.pazmandi@bakerbotts.com>; Speegle, Mark <mark.speegle@bakerbotts.com>; DL Samsung Netlist IPRs <dlsamsungnetlistips@BakerBotts.com>
Subject: RE: PGR2025-00071 - Guidance RE Inconsistent Claim Constructions

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Honorable Director,

Samsung is not taking inconsistent claim construction positions in the PTAB and the ITC. Netlist raised this same issue with you on 5/5, and you denied Netlist's request for further briefing on 5/11, as shown by the email thread below that was filed as Exhibit 3104. Nothing has changed in the last three weeks that would justify a different result now. In particular, in those three weeks, Samsung has not raised any

claim construction arguments in either the PTAB or in the ITC. In fact, both Netlist and Samsung agreed in the ITC that no claim terms require construction (as explained by my email below to you on 5/6), which is consistent with the position taken in the PTAB by both Samsung and its expert for the past 9 months (as explained by my email below to you on 5/6).

Netlist's most recent email to you focuses on the recent deposition on 5/22 of Samsung's expert, but during that deposition the expert simply confirmed yet again that he is just applying the plain and ordinary meaning of the claim language (which is "control logic configurable to **control** respective states of the first and second conduits"). Thus, in the testimony cited by Netlist's most recent email, when the expert was asked if the claim requires "to *select*," he simply pointed out that the plain language of the claim requires "to **control**." Samsung has never proposed a claim construction for this term in either the ITC or the PTAB, and as noted above Netlist has agreed with Samsung in the ITC that no claim terms (including this claim term) require construction. There is no inconsistency between Samsung's position in the PTAB and the ITC.

Netlist's most recent email to you contends that in the ITC that Samsung proposed a claim construction for this term in "Samsung's March 25 non-infringement contentions at 109" which included the sentence, "This limitation requires that the C/A signals (not including a chip select signal) select between the first and second conduit." To the contrary, that sentence was simply summarizing *Netlist's infringement theory* (before explaining why it was wrong), and was not proposing a claim construction. Indeed, claim constructions were due weeks earlier in the ITC, on February 13th, and Samsung never proposed a construction for this term, and as explained above Netlist agreed with Samsung that no claim constructions were needed for any claim terms of this patent. To avoid any further misinterpretation, yesterday Samsung amended the sentence above in its non-infringement contentions to make clear that Samsung is not proposing a claim construction. The sentence now reads (with emphasis added): "***Netlist's infringement contentions appear to contend that*** this limitation requires that the C/A signals (not including a chip select signal) select between the first and second conduit. See '087 Chart at 184 ("the on and off state of the data conduits will depend on which channel or pseudo-channel is selected for read and write")."

In summary, Samsung is not taking inconsistent claim construction positions. Netlist is merely pointing to non-infringement contentions in the ITC dated 3/25 identifying *factual* disagreements about alleged *infringement*, not claim construction positions (which were due in the ITC on 2/13), and Samsung has specifically amended the sentence identified by Netlist, confirming that Samsung was not proposing a claim construction in the ITC as part of its non-infringement contentions. Thus, Netlist's request for further briefing should be denied for the same reason that Netlist's previous request was denied on 5/11.

Respectfully,
Eliot Williams
Lead Counsel for Samsung

BAKER BOTTS LLP ■
+1 202 639-1334 (Direct Dial)

From: Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>
Sent: Monday, June 1, 2026 2:06 PM
To: rbembe-PTAB@sternekessler.com; jchagnon-ptab@sternekessler.com; rkim@netlist.com;
Williams, Eliot D. <Eliot.Williams@BakerBotts.com>; Chandler, Ted
<ted.chandler@bakerbotts.com>; Pazmandi, Ferenc <ferenc.pazmandi@bakerbotts.com>; Speegle,
Mark <mark.speegle@bakerbotts.com>; DL Samsung Netlist IPRs
<dlsamsungnetlistiprs@BakerBotts.com>
Subject: RE: PGR2025-00071 - Guidance RE Inconsistent Claim Constructions

[EXTERNAL EMAIL]

Counsel,

Petitioner may respond with its position as to the issue raised by Patent Owner via email by Tuesday, June 2nd.

Thank you.

From: Richard M. Bemben <RBEMBEN@sternekessler.com>
Sent: Monday, June 1, 2026 9:12 AM
To: Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>; Williams, Eliot D.
<Eliot.Williams@BakerBotts.com>; DL Samsung Netlist IPRs
<dlsamsungnetlistiprs@BakerBotts.com>; Jennifer Chagnon <JChagnon@sternekessler.com>;
Richard Kim <rkim@netlist.com>; Raymond Chan <rchan@netlist.com>; Francisco Rubio
<frubio@netlist.com>; PTAB Account <PTAB@sternekessler.com>
Subject: PGR2025-00071 - Guidance RE Inconsistent Claim Constructions

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Re: PGR2025-00071

Honorable Director,

Netlist seeks your guidance on how to raise the issue that Samsung is taking inconsistent claim construction positions in this PGR and the co-pending ITC investigation. The status of this PGR is that Netlist's Request for Director Review was filed March 4 and is currently pending, and Netlist's POR is due June 8.

Netlist's previous attempt to raise this issue was denied, see email chain below. But since then, new facts confirm that Samsung is advancing inconsistent positions. For example, claim 1 of the '087 patent recites: "wherein the control die further includes control logic configurable to control respective states of the first and second conduits in response to one or more C/A signals received via one or more of the C/A terminals, wherein the one or more C/A signals do not include any chip select signal." Samsung labeled this element 1.k1 and 1.k2 in its PGR petition.

Seeking to avoid infringement, Samsung argued before the ITC: "This limitation requires that the C/A signals (not including a chip select signal) select between the first and second conduit." Samsung's March 25 non-infringement contentions at 109. But seeking invalidity at the PTAB, Samsung argues the opposite. Specifically, Samsung's expert in this PGR was deposed on May 22. When asked whether this limitation requires that the C/A signals select between the first and second conduit, he testified "No. [objection from counsel] Only to control their respective state." See below. Samsung is plainly advancing different constructions. This is not a factual disagreement about infringement. Netlist will provide a public copy of Samsung's non-infringement contentions and Dr. Wolfe's May 22 deposition transcript, if requested.

Excerpt of Transcript of May 22 Deposition of Dr. Wolfe in PGR2025-00071, 79:16-22:

Q But don't the claim limitations 1(k) (1) and 1(k) (2) require the CA signals, not including the chip select signal, to select between the first and second conduit?

A No.

MR. CHANDLER: Objection. Form.

A Only to control their respective state.

The parties conferred on this issue. Counsel for Samsung provided the following response: The Director already denied Netlist's request on this issue on 5/11. *See* EX3104. Nothing has changed since then that would justify yet another email to the Director. Dr. Wolfe's deposition testimony on 5/22 simply applied the plain and ordinary meaning of the claim language, reiterating the same analysis present in his declaration (EX1003), which was filed over 9 months ago with the Petition, neither of which identified any terms for construction. And in the ITC, Netlist and Samsung agreed no terms require construction, as explained in EX3104. Netlist is merely pointing to an interrogatory response in the ITC identifying *factual* disagreements about alleged *infringement*, not claim construction positions (which were due in the ITC on 2/13), and thus Netlist has not identified any claim construction dispute either here or in the ITC, as explained in EX3104.

Respectfully,
Richard Bembien
Lead Counsel for Netlist

Richard M. Bemben

Director, Co-Chair of PTAB Practice

Direct: 202.772.8549

Administrative Assistant: Maya Bennett

Main: 202.371.2600 **Direct:** 202.772.8843

From: Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>

Sent: Monday, May 11, 2026 1:15 PM

To: Williams, Eliot D. <Eliot.Williams@BakerBotts.com>; Richard M. Bemben <RBEMBEN@sternekessler.com>; DL Samsung Netlist IPRs <dlsamsungnetlistiprs@BakerBotts.com>; Jennifer Chagnon <JChagnon@sternekessler.com>; Richard Kim <rkim@netlist.com>; Raymond Chan <rchan@netlist.com>; Francisco Rubio <frubio@netlist.com>; PTAB Account <PTAB@sternekessler.com>

Subject: PGR2025-00071 & IPR2025-01431 - Request for Supplemental Briefing

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Counsel,

Patent Owner's request for authorization to file a supplemental brief in support of its pending Request for Director Review in the above identified proceedings is denied.

Thank you.

From: Williams, Eliot D. <Eliot.Williams@BakerBotts.com>

Sent: Wednesday, May 6, 2026 11:03 AM

To: Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>; Richard M. Bemben <RBEMBEN@sternekessler.com>

Cc: DL Samsung Netlist IPRs <dlsamsungnetlistiprs@BakerBotts.com>; Jennifer Chagnon <JChagnon@sternekessler.com>; Richard Kim <rkim@netlist.com>; Raymond Chan <rchan@netlist.com>; Francisco Rubio <frubio@netlist.com>; PTAB Account <PTAB@sternekessler.com>

Subject: RE: Request for Supplemental Briefing

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Honorable Director,

Netlist's request is untimely. Trial was instituted February 18th, and Netlist's requests for Director Review were filed March 4th — over two months ago. Netlist's requests for Director Review did not raise claim construction, and thus Netlist's

request now for a 5-page supplemental brief about claim construction is nothing more than an untimely *second* request for Director Review. See 37 C.F.R. §§ 42.71(d) (1), 42.75(c)(1) (requiring a request for Director Review within 14 days of entry of an institution decision “unless an extension is granted by the Director upon a showing of good cause”).

Nor is there good cause for Netlist’s untimely request. Netlist’s email below concedes that Samsung’s petitions here rely on the “‘ordinary and customary meaning’ of the claims,” and Netlist concedes that “Samsung did not present any terms for construction at the ITC for either the ’087 or ’731 patents during the *Markman* process.” But Netlist contends that Samsung supposedly is being inconsistent because allegedly on “March 25, 2026, Samsung advanced claim constructions at the ITC that are inconsistent with its claim constructions before the PTAB.” However, all that Samsung did on March 25th in the ITC was serve an interrogatory response identifying *factual* disagreements about *infringement*, not claim construction positions (which were due in the ITC on February 13th, before Netlist’s requests for Director Review here). Indeed, two days later, on March 27th, Netlist admitted to the ITC that “there are no disputed terms in asserted United States Patent Nos. . . . 10,025,731; and 12,308,087.” See <https://edis.usitc.gov/external/search/document/876876>. And then on April 1st, Netlist filed a claim construction brief in the ITC that again did not identify any claim construction disputes for the 731 or 087 patents. See <https://edis.usitc.gov/external/search/document/878104>. The *Markman* hearing in the ITC was held on April 21st, and then on May 1st the parties filed a joint statement with their final claim construction positions, which again did not identify any claim construction disputes for the 731 or 087 patents. See <https://edis.usitc.gov/external/search/document/881002>.

Netlist is merely pointing to a factual dispute in the ITC about infringement, not a claim construction dispute either here or in the ITC. The rules permit the PTAB to consider “[a]ny prior claim construction determination” in a parallel proceeding, not factual disputes about infringement. See 37 C.F.R. §§ 42.100(b), 42.200(b). Factual disputes about infringement in a parallel proceeding are common and are not “good cause” for untimely requests for Director Review of institution decisions. See *Savant Techs. LLC v. Feit Elec. Co.*, IPR2024-01357, Paper 69, at 6 (PTAB Apr. 9, 2026) (citing EX3101 and EX3102, emails from the Director denying untimely requests for Director Review under *Revvo*). If they were, there would be no end to the number of requests for Director Review that either party could bring, contrary to the goal in the PTAB of “the just, speedy, and inexpensive resolution of every proceeding.” 37 C.F.R. § 42.1(b).

Respectfully,
Eliot Williams
Lead Counsel for Samsung

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From: Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>
Sent: Tuesday, May 5, 2026 1:39 PM
To: Richard M. Bemben <RBEMBEN@sternekessler.com>
Cc: DL Samsung Netlist IPRs <dlsamsungnetlistiprs@BakerBotts.com>; Jennifer Chagnon <JChagnon@sternekessler.com>; Richard Kim <rkim@netlist.com>; Raymond Chan <rchan@netlist.com>; Francisco Rubio <frubio@netlist.com>; PTAB Account <PTAB@sternekessler.com>
Subject: RE: Request for Supplemental Briefing

[EXTERNAL EMAIL]

Counsel,

Petitioner may respond with its position as to Patent Owner's request via email by Wednesday, May 6th.

Thanks.

From: Richard M. Bemben <RBEMBEN@sternekessler.com>
Sent: Tuesday, May 5, 2026 11:49 AM
To: Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>
Cc: dlsamsungnetlistiprs@bakerbotts.com; Jennifer Chagnon <JChagnon@sternekessler.com>; Richard Kim <rkim@netlist.com>; Raymond Chan <rchan@netlist.com>; Francisco Rubio <frubio@netlist.com>; PTAB Account <PTAB@sternekessler.com>
Subject: Request for Supplemental Briefing

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Re: PGR2025-00071 (US 12,308,087) & IPR2025-01431 (US 10,025,731)

Honorable Director,

Netlist requests authorization to file a 5-page supplemental brief in support of its pending Requests for Director Review of the institution decisions in the above-captioned proceedings. De-institution of these proceedings is warranted based on inconsistent claim constructions that Samsung advanced in co-pending ITC investigation 1337-TA-1472 *after* Netlist filed its Requests for Director Review on March 4, 2026.

On March 25, 2026, Samsung advanced claim constructions at the ITC that are inconsistent with its claim constructions before the PTAB. Although Samsung did not present any terms for construction

at the ITC for either the '087 or '731 patents during the *Markman* process, its recent discovery responses tell a different story. Specifically, Samsung's non-infringement contentions advance narrow express and implied constructions of certain claim terms to allege Samsung's products do not infringe. While Netlist does not agree with Samsung's assertions at the ITC, Samsung's express and implied constructions are clearly inconsistent with its assertions before the PTAB that no constructions are needed and that Samsung's challenges apply the "ordinary and customary meaning" of the claims.

Samsung served its contentions under the ITC's protective order, preventing Netlist from providing an unredacted copy to the PTAB. Since then, Netlist has been diligent in seeking a version of Samsung's contentions that it can submit at the PTAB, exchanging multiple communications with Samsung's PTAB counsel and Samsung's ITC counsel (who are different).

Only yesterday (May 4) did Samsung's ITC counsel provide a redacted version of the contentions sufficient to show Samsung's inconsistent claim constructions. Accordingly, Netlist requests authorization to file the redacted version of Samsung's contentions as an exhibit and a 5-page supplemental brief in support of its pending Requests for Director Review addressing these changed circumstances.

Finally, it is Netlist's understanding that this request is appropriate for the Director because PTAB panels do not have authority to grant the relief that Netlist is requesting. *See Savant Techs. LLC v. Feit Elec. Co., Inc.*, IPR2024-01357, Paper 69 at 8-10 (PTAB April 9, 2026).

Respectfully,
Richard Bemben
Lead Counsel for Netlist



Richard M. Bemben
Director, Co-Chair of PTAB Practice
Direct: 202.772.8549

Administrative Assistant: Maya Bennett
Main: 202.371.2600 **Direct:** 202.772.8843

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