

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

STRAUMANN USA, LLC,
Petitioner,

v.

SMART DENTURE CONVERSIONS, LLC,
Patent Owner.

PGR2026-00070
Patent 12,551,319

**PATENT OWNER'S REQUEST
FOR DISCRETIONARY DENIAL
AND SUPPORTING BRIEF**

October 12, 2026

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Other Authorities

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LIST OF EXHIBITS

Exhibit No.	Description
2001	Declaration of John L. Gibbons
2002	International Patent Application No. WO 96/2019 (Sept. 29, 1996) (“Sutter (1996)”)
2003	U.S. Patent No. 6,332,777 B1 (Dec. 25, 2001) (“Sutter (2001)”)
2004	U.S. Patent No. 3,115,804 (Dec. 31, 1963) (“Johnson”)
2005	Oral Hearing Transcript, <i>Straumann USA, LLC v. Smart Denture Conversions LLC</i> , IPR2025-00956/PGR2025-00054, Paper 47
2006	U.S. Patent No. 6,517,543 B1 (Feb. 11, 2003) (“Berrevoets”)
2007	U.S. Patent No. 9,568,037 B2 (Feb. 14, 2017) (“Staniszewski”)
2008	U.S. Patent Publication No. 2002/0094255 A1 (July 18, 2002) (“Neuhengen”)
2009	Declaration of Justin Jay (“JJ”) Kofford (“Kofford Decl.”)
2010	Example packaging for NeoConvert products (“NeoConvert Packaging”)
2011	Excerpts from The Straumann Group’s 2025 Annual Report, available at https://perma.cc/5GR9-6A92 (“Annual Report”)
2012	Defendant Straumann USA, LLC’s Objections and Responses to Plaintiff Smart Denture Conversions, LLC’s First Set of Interrogatories to Defendants, <i>Smart Denture Conversions, LLC v. Straumann USA, LLC</i> , No. 1:24-cv-00507-JCB (D. Del.) (served Mar. 21, 2025) (“Straumann Interrogatory Resp.”)

I. INTRODUCTION

Patent Owner Smart Denture Conversions, LLC (“SDC”) respectfully requests that the Director exercise his discretion to deny institution of the Petition for Post Grant Review of U.S. Patent No. 12,551,319 (“’319 Patent”) by Straumann USA, LLC (“Petitioner”) under 35 U.S.C. § 325(d) and this Board’s precedential decisions applying that statute. *See Advanced Bionics v. MED-EL*, IPR2019-01469, 2020 WL 740292, at *3–4 (PTAB Feb. 13, 2020) (precedential) (citing *Becton, Dickinson v. B. Braun Melsungen*, IPR2017-01586, Paper 8 (PTAB Dec. 15, 2017) (precedential as to § III.C.5, first paragraph)). The examiner already considered, and allowed the ’319 Patent over, the same four references on which Petitioner relies. Moreover, Petitioner fails to argue, much less prove, that the examiner committed any material error in allowing the ’319 Patent.

Furthermore, the Director should exercise his discretion to deny institution based on the considerations set forth in *Additional Discretionary Institution Considerations – U.S. Manufacturing and Small Business Use of AIA Proceedings* (Mar. 11, 2026) (“U.S. Manufacturing Memorandum”).¹ Institution would disadvantage Patent Owner SDC, a U.S. small business committed to creating

¹ Available at <https://perma.cc/HD4L-GDEV>.

domestic jobs, in favor of Petitioner, the U.S. arm of an international business group seeking an end-run around its foreign-made products' infringement.

II. THE BOARD SHOULD DENY INSTITUTION UNDER 35 U.S.C. § 325(d).

In deciding whether to institute an AIA proceeding, “the Director may take into account whether, and reject the petition or request because, the same or substantially the same prior art or arguments previously were presented to the Office.” 35 U.S.C. § 325(d). This analysis has a two-part inquiry: (1) “whether the *same or substantially the same art* previously was presented to the Office or whether the same or substantially the same arguments previously were presented to the Office,” and if so, (2) “whether the petitioner has demonstrated that the Office *erred in a manner material to the patentability* of challenged claims.” *Advanced Bionics*, 2020 WL 740292, at *3 (emphasis added). Board resources should be committed to an AIA proceeding only where there is a “substantial showing of apparent examiner error.” *Magnolia Med. Techs. v. Kurin*, IPR2026-00097, Paper 17 at 8 (Director May 14, 2026).

Petitioner seeks to rehash issues already resolved by the examiner during an informed examination process, yet cannot demonstrate apparent error.

A. During Prosecution, The Examiner Considered The Same Four References On Which The Petition Relies—As Well As Multiple Cumulative References.

Ground 3 asserts that claims 1–4, 6–17 and 19–21 would have been obvious to a POSA based on Bernhard, Poovey and Gracco. *See* Petition at 49–87.

Similarly, Ground 4 asserts that claims 5, 9, 16, 18 and 22–29 would have been obvious based on the same three references plus Derey. *See* Petition at 87–105. All four of these references, however, were submitted to and considered by the examiner during the '319 Patent's prosecution. Moreover, the examiner considered numerous other references that are substantially the same. These facts satisfy *Advanced Bionics* step one.

1. SDC Disclosed, And The Examiner Considered, Bernhard, Poovey, Gracco And Derey.

“[P]reviously presented art includes art made of record ... such as on an Information Disclosure Statement (IDS).” *Biocon Pharma v. Novartis Pharms.*, IPR2020-01263, 2021 WL 608300, at *4 (PTAB Feb. 16, 2021) (quoting *Advanced Bionics*, 2020 WL 740292, at *3); *see also Mylan Pharms. v. Merck Sharp & Dohme*, IPR2020-00040, 2020 WL 2478503, at *6 (PTAB May 12, 2020) (same).

All four references—Bernhard, Poovey, Gracco, and Derey—appear on the face of the '319 Patent in the list of “References Cited”:

2008/0233538	A1	9/2008	Hug et al.
2009/0123891	A1	5/2009	Rosenberg
2010/0143870	A1	6/2010	Kahdemann
2010/0159417	A1	6/2010	Whipple
2010/0209877	A1	8/2010	Hogan et al.
2011/0086327	A1	4/2011	Lerner et al.
2011/0306014	A1	12/2011	Conte et al.
2012/0122057	A1	5/2012	Adams
2013/0304136	A1	11/2013	Gourlaouen-Preissler et al.
2015/0147721	A1	5/2015	Codina
2016/0045290	A1	2/2016	Poovey
2017/0151058	A1	6/2017	Fan et al.
2017/0202649	A1	7/2017	Bernhard et al.
2017/0340417	A1	11/2017	Hogan et al.
2018/0185123	A1	7/2018	Kaup et al.
2018/0200030	A1	7/2018	Fan et al.
2018/0344434	A1	12/2018	Poovey
2019/0223986	A1	7/2019	Buurlage et al.
2019/0298497	A1	10/2019	Robb et al.

Ex. 1001 ('319 Patent), at (56) (annotations added).

EP	0727193	A1	8/1996	
KR	20100013149	A	2/2010	
KR	20140080313	A	6/2014	
KR	101745575	B1	6/2017	
WO	1996029019	A1	9/1996	
WO	2009024838	A2	2/2009	
WO	2011036268	A2	3/2011	
WO	WO-2013030839	A1 *	3/2013	 A61C 8/0057
WO	2014153487	A2	9/2014	
WO	2014195955	A1	12/2014	
WO	2016012581	A1	1/2016	
WO	2018029650	A1	2/2018	
WO	2019007852	A1	1/2019	
WO	2020260263	A1	12/2020	

Ex. 1001 ('319 Patent), at (56) (annotations added).

Abdelfattah, "Different Mechanical Complications of Implant Prosthodontics: Review Article." *International Journal of Dental Sciences and Research*, vol. 2, No. 6 (2014): 190-196.

Winkler et al. "Implant screw mechanics and the settling effect: an overview", *Journal of Oral Implantology* 2003;29(5):242-5.

Tesmer "Bacterial colonization of the dental implant fixture-abutment interface: an in vitro study", *J Periodontol*. Dec. 2009;80(12):1991-7.

"Basic Biology of Oral Microbes", *Atlas of Oral Microbiology*. 2015:1-14.

Galindo-Moreno et al., "Prosthetic Abutment Height is a Key Factor in Peri-implant Marginal Bone Loss", *Journal of Dental Research* Jul. 2014;93(7 Suppl):80S-85S.

Gracco et al., "Effects of thread shape on the pullout strength of miniscrews". *American Journal of Orthodontics and Dentofacial Orthopedics*, vol. 142, Issue 2, 186-190.

Mishra et al., "Changing trends in implant designs: A review". *Int J Periodontol Implantol*. 2023 ; 8(3):117-123.

Manikyamba et al., "Implant thread designs: An overview." *Trends in Prosthodontics and Dental Implantology* 2017; 8(1&2), 11-19.

Ex. 1001 ('319 Patent), at (56) (annotations added).

SDC first cited Bernhard and Poovey in a June 3, 2023 IDS submission in a parent application, and the examiner marked the references "considered" on January 2, 2024. Ex. 1015 ('730 App. Prosecution History), at 769, 1079, 1081, 1083; *see Mylan*, 2020 WL 2478503, at *6 ("There is no dispute that WO '498 and the '871 patent were identified in an IDS early in prosecution, and that the Examiner later signed that IDS."). SDC again submitted Bernhard and Poovey in a September 6, 2024 IDS submission in the '656 application that resulted in the '319 Patent; the examiner marked the references "considered" on June 20, 2025. Ex. 1023 (Prosecution History), at 215–16, 415–16, 419.

SDC submitted Derey on January 11, 2025. Ex. 1023 (Prosecution History), at 236–56, 259–62. The examiner discussed and considered Derey—identifying it

as among “[t]he closest prior art”—and allowed the claims over it nevertheless. Ex. 1023 (Prosecution History), at 368–69, 552.

Finally, SDC submitted Gracco on September 22, 2025 in conjunction with a request for continued examination. Ex. 1023 (Prosecution History), at 437–39, 511–12, 533–39. The examiner reopened prosecution, specifically to consider Gracco and several other references, marked Gracco “considered” on October 3, 2025, and again allowed the claims. Ex. 1023 (Prosecution History), at 541–52, 581.

Thus, Bernhard, Poovey, Gracco and Derey were all previously presented to and considered by the examiner. In fact, SDC asked that the prosecution be reopened so the examiner could consider Gracco. Ex. 1023 (Prosecution History), at 437–39, 511–12, 533–39. The examiner allowed the challenged claims over all four of these references—a fact the Petition simply ignores.

2. The Examiner Also Considered Numerous References That Are Cumulative Of Petitioner’s References.

In addition to the four specific references on which Petitioner relies here, the examiner also considered more than 100 others. Much of this prior art was cumulative of what, according to Petitioner, Gracco and Derey supposedly teach. Thus, Gracco and Derey themselves are cumulative because they “teach[] no more than what a reasonable examiner would consider to be taught by the prior art already before the PTO.” *Regeneron Pharms. v. Merus*, 864 F.3d 1343, 1350 (Fed.

Cir. 2017); *see also Sonos v. Google*, IPR2021-00963, 2021 WL 5195655, at *4 (PTAB Nov. 9, 2021) (“Accordingly, as Horn is applied in the Petition to the challenged claims in the same way as art previously presented to the Office, we determined that with regard to the Petition and the challenged claims that Horn is substantially the same as art previously presented to the Office.”).

a. Additional Prior Art Cumulative To Derey

Derey describes a snap-fit detachable fastener for dental implants. Ex. 1008 (Derey), at 1. Specifically, Derey discloses a push-in fastener that uses a split-post structure to “hold[] the internal thread” of the dental implant “from the inside.” Ex. 1008 (Derey), at 1.

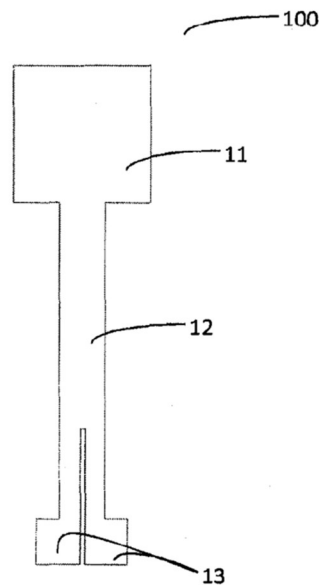


Fig. 5

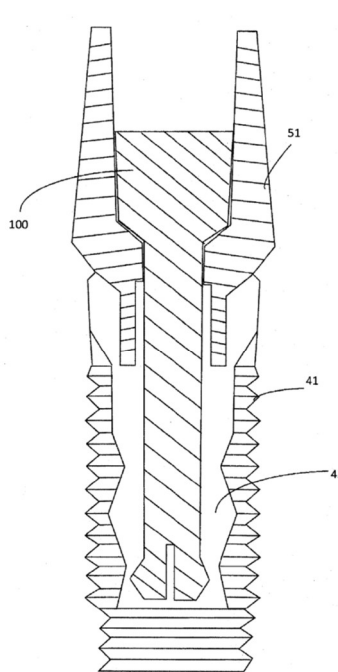


Fig. 6

Ex. 1008 (Derey), at 18–19.

As explained above, the examiner received and considered Derey—and allowed all challenged claims over it. Moreover, the examiner considered several additional prior-art references that similarly use a split-post structure to grip the female threading of an implant abutment.

- Sutter (1996) discloses such a fastener. *See* Ex. 2002 (Sutter (1996)), at FIGS. 19–20. Sutter (1996) was provided to the examiner in an IDS; she marked it “considered” on June 20, 2025. Ex. 1023 (Prosecution History), at 217, 417, 419.
- Sutter (2001)’s Figure 35 discloses a similar embodiment. *See* Ex. 2003 (Sutter (2001)), at FIG. 35. Sutter (2001) was provided to the examiner in an IDS; she marked it “considered” on June 20, 2025. Ex. 1023 (Prosecution History), at 208, 408, 419; *see also* Ex. 1001 (’319 Patent), at (56) (listing Sutter (2001) in “References Cited”).
- Johnson similarly discloses a push-in fastener with “two flexible legs or prongs” that “terminate in lips 29” that match the female threading of the base element. Ex. 2004 (Johnson), at 2. Johnson was provided to the examiner in an IDS; she marked it “considered” on June 20, 2025. Ex. 1023 (Prosecution History), at 207, 407, 419.

Petitioner argues that Derey would have made it obvious “to design the temporary fastener to have a slot to create a split-post structure with deflecting

legs, in order to make it easier to pull the fastener out of the abutment while still ensuring that the temporary connection is stable and secure.” Petition at 89. But Derey itself was before the examiner—and considered—when the examiner allowed the claims. Furthermore, Derey’s snap-fit connector “teaches no more than what a reasonable examiner would consider to be taught” by the *other* references also submitted to the examiner, *Regeneron*, 864 F.3d at 1350, including Sutter (1996), Sutter (2001), Johnson, Berrevoets, and the discussion of prior art included in the ’319 Patent itself.

b. Additional Prior Art Cumulative To Gracco

Gracco discusses “the effects of variations in thread shape on the axial pullout strength of orthodontic miniscrews.” Ex. 1006 (Gracco), at 3. Specifically, Petitioner points to Gracco’s “asymmetric buttress thread with a smaller proximal angle,” which “could be pulled out with less force than a reverse buttress thread.” Petition at 55.

The examiner received and considered Gracco—and allowed all challenged claims over it. Moreover, the principles that (a) different thread profiles exist and (b) affect the pullout force required to disengage a screw are both well-known and the natural result of inherent geometry. In fact, during the consolidated oral hearing before the Board in IPR2025-00956 and PGR2025-00054, Petitioner’s counsel argued that Gracco did not add anything novel and “just confirms” background

knowledge in the art. Ex. 2005 (Oral Hearing Transcript, IPR2025-00956, Paper 47), at 31:18–25. Several additional references before the examiner incorporated these concepts:

- Berrevoets included a fastener screwed directly into bone, which appears to show asymmetric threads 32 that the Petition would call “buttress threads.” Ex. 2006 (Berrevoets), at FIGS. 2–3; *see also* Ex. 1023 (Prosecution History), at 179–90, 192, 213, 333–57, 368–71, 413, 549–50, 552 (discussing Berrevoets).
- Staniszewski’s thread shaft has an asymmetric thread profile. Ex. 2007 (Staniszewski), at 1. Staniszewski was submitted to the examiner in an IDS; she marked it “considered” on June 20, 2025. Ex. 1023 (Prosecution History), at 213, 413, 419.
- Neuhengen, which the examiner independently identified and considered in a parent patent’s prosecution, shows a screw with an asymmetrical thread profile. Ex. 2008 (Neuhengen), at 2. Neuhengen explained that in “self-tapping or thread forming screws,” to “increase the amount of loosening torque required to remove the screw”—i.e., “to prevent unwanted unthreading”—the engineer can “make the thread of the screw asymmetrical.” Ex. 2008 (Neuhengen), at 3. Furthermore, “[a]nother object of the present invention is to provide

an improved thread forming screw which is designed to have increased resistance to pullout.” Ex. 2008 (Neuhengen), at 3; *see also id.* at 4 (“It has been found that by providing the relatively smaller trailing angle β , that resistance to pullout is increased over prior configurations.”). The examiner identified Neuhengen in the parent patent prosecution on September 7, 2023. Ex. 1015 (’730 App. Prosecution History), at 229–30, 238. She also rejected certain claims in that parent patent prosecution based on prior-art combinations that included Neuhengen. *Id.* Neuhengen was again submitted to the examiner in the ’656 application prosecution; she marked it “considered” on June 20, 2025. Ex. 1023 (Prosecution History), at 416, 419.

Gracco itself confirms that the inherent geometric characteristics of different screw profiles are well known and Gracco’s experiment was not novel. “Measuring performance in pullout tests with axial force is a well-established method to compare different screw designs, and the resulting pullout strength has been described in the orthopedic, maxillofacial surgery, and orthodontic fields as a fundamental biomechanical parameter contributing to the primary stability of screws.” Ex. 1006 (Gracco), at 3. The “buttress reverse” threaded screw was the “commercially available control design” against which Gracco’s other

configurations were measured. Ex. 1006 (Gracco), at 4. Gracco attributes the “significant reduction in pullout force found between the buttress reverse and the buttress thread miniscrews” to “the geometry of the thread that was inclined toward the tip, thus reducing the resistance to removal in an axial direction.” Ex. 1006 (Gracco), at 6. “This finding was consistent with previous reports” as well. Ex. 1006 (Gracco), at 6 nn.38–40 (citing three other previous studies on mechanical properties of bone screws).

Petitioner argues that Gracco would have made it obvious to “design the temporary fastener to have an asymmetric buttress thread ... to make the fastener easier to pull out.” Petition at 55. But Gracco itself was before the examiner when the examiner allowed the claims. Furthermore, Gracco’s destructive testing “teaches no more than what a reasonable examiner would consider to be taught” by the additional references *also* before the PTO, *Regeneron*, 864 F.3d at 1350, including Berrevoets, Staniszewski and Neuhengen.

B. Petitioner Failed to Argue, Much Less Prove, That The Examiner Committed Material Error And Will Not Be Able To Do So In Its Response Brief Either.

All four of the Petition’s references were therefore submitted to the examiner and the challenged claims were allowed over them—thus meeting *Advanced Bionics* step one. Petitioner accordingly bears the burden to show that the examiner erred in a manner material to the challenged claims’ patentability. *Advanced*

Bionics, 2020 WL 740292, at *3. “An example of a material error may include misapprehending or overlooking specific teachings of the relevant prior art where those teachings impact patentability of the challenged claims.” *Id.* at *3 n.9. But “[i]f reasonable minds can disagree regarding the purported treatment of the art or arguments, it cannot be said that the Office erred in a manner material to patentability.” *Id.* at *3.

Petitioner failed to make this showing in its Petition and will not be able to do so in any response to this request for discretionary denial either. As the Board has previously made clear, showing material error sufficient to satisfy *Advanced Bionics* step two is a demanding hurdle. A petitioner’s own analysis of the prior art, without reference to the examiner’s analysis, is not enough. *See Balt USA v. MicroVention*, IPR2019-01259, 2021 WL 219251, at *10, 12 (PTAB Jan. 21, 2021). Arguing that the examiner failed to substantively evaluate the references is not enough. *See Sony Interactive Entm’t v. Terminal Reality*, IPR2020-00711, 2020 WL 6065188, at *5 (PTAB Oct. 13, 2020) (exercising discretion to deny institution where petitioner “relie[d] entirely on its argument that the combination of Lee and Obata was not considered” but otherwise failed to explain “how the Examiner erred in its evaluation of the asserted prior art”).

Instead, Petitioner must “specifically address *Advanced Bionics*” and “the *Becton Dickinson* factors” and show “how the Examiner may have

misapprehended or overlooked specific material teachings in the relevant prior art.” *Ocado Grp. v. Autostore Tech.*, IPR2021-00412, Paper 9 at 37 (PTAB July 21, 2021); *see also GlaxoSmithKline Consumer Healthcare Holdings (US) v. Cipla*, IPR2020-00369, 2020 WL 4390663, at *5 (PTAB July 31, 2020) (denying institution where “Petitioner does not explicitly allege error in the Examiner’s previous consideration of the prior art or arguments, and does not discuss or cite to the factors listed in the Board’s precedential decision in *Becton, Dickinson*”). Allusions to the prosecution history or vague gestures at error are not enough. It is not the Board’s responsibility to “scour[] the Petition to cobble together an argument under the second part of *Advanced Bionics*,” because that “improperly shifts Petitioner’s burden to demonstrate material error onto the Board.” *Ecto World v. RAI Strategic Holdings*, IPR2024-01280, 2025 WL 1441509, at *2 n.2 (Director May 19, 2025); *cf. Gross v. Cicero*, 619 F.3d 697, 702 (7th Cir. 2010) (“Judges are not like pigs, hunting for truffles buried [in the record].”).

Finally, “a petitioner must provide an analysis” under *Advanced Bionics* step two “even when the asserted prior art is on an IDS, but the Examiner did not apply the reference.” *Ecto World*, 2025 WL 1441509, at *2; *see also Nespresso USA v. K-Fee Sys.*, IPR2021-01222, 2022 WL 212376, at *9 (PTAB Jan. 18, 2022) (rejecting argument that examiner erred “by allowing the challenged claims to issue ‘without

comment and without considering the art’ asserted in the Petition”). Absence of discussion by the examiner is Petitioner’s problem, not Patent Owner’s.

In short, Petitioner failed to satisfy *Advanced Bionics* step two in its Petition and will not be able to satisfy it in any future briefing. All four references on which Petitioner relies—Bernhard, Poovey, Gracco, and Derey—were before the examiner. And the examiner also considered additional references suggesting the same principles. Petitioner’s theory amounts merely to a disagreement with the examiner over the state of the art, which is insufficient to show material error.

The Director should exercise his discretion under 35 U.S.C. § 325(d) and *Advanced Bionics* to deny institution.

III. DENYING INSTITUTION WOULD FURTHER THE PURPOSES OF THE PATENT SYSTEM BY PROTECTING INVESTMENTS IN DOMESTIC JOBS AND INFRASTRUCTURE.

In institution decisions, the Director also considers the extent to which the Patent Owner’s or accused infringer’s products are manufactured in the United States, with an eye toward “appropriately weigh[ing] the interests of entities that invest in domestic production.” U.S. Manufacturing Memorandum at 2. “[M]any of the most frequent users of IPR and PGR proceedings are large companies that have stated in public financial disclosures that they do not have a significant, existing manufacturing presence in the United States, nor are they taking concrete steps to invest in American manufacturing.” *Id.* Thus “[w]hen determining whether

the institute IPR and PGR proceedings, the Director will consider ... the extent to which any products accused of infringement in a parallel proceeding are ***manufactured in the United States or are related to investments in American manufacturing operations***” as well as “the extent to which any products made, sold, or licensed by the patent owner that ***compete with the accused products are manufactured in the United States.***” *Id.* (emphasis added).

This Petition is simply the latest installment in a larger dispute between SDC and Petitioner. SDC “is a family-run company that sells an innovative patented system to convert removable dentures into fixed prostheses much more quickly, and with better outcomes, than conventional conversion procedures.” Ex. 1021 (Suppl. Compl.), ¶ 1. “After observing SDC’s contributions to, and success in, the dental prosthesis industry, [Petitioner], a corporate group that has consolidated various dental manufacturing brands under one umbrella, used its considerable resources to replicate the functionality of SDC’s patented system and undercut SDC in the market.” *Id.* ¶ 2. As the Petition acknowledges, SDC has sued Petitioner for infringement of the ’992 and ’781 Patents, both related to the ’319 Patent at issue here. *See* Petition at 3–4. This Petition likely reflects Petitioner’s awareness that it is infringing the ’319 Patent as well.

The considerations set forth in the U.S. Manufacturing Memorandum favor discretionary denial here. SDC is a U.S. small business that manufactures its

products exclusively in the United States. *See* Ex. 2009 (Kofford Decl.), ¶¶ 3–5. Petitioner, on the other hand, is the U.S. arm of an international conglomerate headquartered in Switzerland. *See* Ex. 2011 (Annual Report), at 16 (identifying Basel, Switzerland as The Straumann Group’s “Global headquarters”). Its NeoConvert products—which compete with SDC’s products and infringe the ’992 Patent, ’781 Patent, and likely the ’319 Patent—are *manufactured in Brazil*. *See* Ex. 2010 (NeoConvert Packaging) (“CONTAINER AND CONTENT MADE IN BRAZIL.”); Ex. 2009 (Kofford Decl.), ¶¶ 7–9; Ex. 2012 (Straumann Interrogatory Resp.). This favors discretionary denial because SDC has invested, and continues to invest, in domestic jobs and domestic infrastructure in reliance on its patents. Petitioner’s products accused of infringement, in contrast, are manufactured outside of the United States and then imported for sale.

SDC’s size is also relevant to discretionary denial. *Cf.* U.S. Manufacturing Memorandum at 2 (“the Director will consider ... whether the petitioner is a small business that has been sued for infringement of the patent at issue”). SDC is a small, family-owned business with only 12 employees. Ex. 2009 (Kofford Decl.), ¶ 4. Petitioner, on the other hand, is the U.S. arm of The Straumann Group, a sprawling worldwide enterprise that reported 2025 revenues exceeding 2.605 billion Swiss francs (more than \$3.190 billion). *See* Ex. 2011 (Annual Report), at 203. It has roughly 12,000 employees scattered among “more than 100 countries.”

Id. at 5, 16, 95. Petitioner seeks to use its market power to force Patent Owner to compete ***against its own inventions*** in the U.S. market. Under the U.S. Manufacturing Memorandum, this factor also strongly favors discretionary denial.

IV. CONCLUSION

For these reasons, the Director should exercise his discretion and deny institution of post-grant proceedings.

Respectfully submitted,

Dated: October 12, 2026

By: /s/ Kelsey I. Nix
Kelsey I. Nix (Registration No. 33,119)
Counsel for Patent Owner

CERTIFICATE OF COMPLIANCE

The undersigned certifies that the foregoing Patent Owner's Request for Discretionary Denial and Supporting Brief contains fewer than 20 pages, which is within the limit set by part II.C.iii of the *Interim Director Discretionary Process* guidance, available on the USPTO's website as of this date.

Respectfully submitted,

Dated: October 12, 2026

By: /s/ Kelsey I. Nix
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CERTIFICATE OF SERVICE

I hereby certify that on October 12, 2026, I caused a true and correct copy of the foregoing Patent Owner's Request for Discretionary Denial and Supporting Brief to be served via email on Petitioner at the following addresses:

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