

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO. LTD., and
SAMSUNG ELECTRONICS, AMERICA, INC.,
Petitioners,

v.

FOUR BATONS WIRELESS, LLC,
Patent Owner.

Case IPR2025-00495
Patent 8,239,671

**PATENT OWNER'S SUPPLEMENTAL
DISCRETIONARY DENIAL BRIEF**

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

EXHIBIT LIST

| Exhibit | Description |
|----------------|--|
| EX2001 | Declaration of Eric J. Enger in Support of Patent Owner’s Notice of Intent to Designate Provisionally Recognized Attorney Eric J. Enger as Back-Up Counsel Under 37 C.F.R. § 42.10(c) |
| EX2002 | <i>Four Batons Wireless, LLC v. Samsung Electronics Co., Ltd. et al.</i> , Complaint for Patent Infringement, Case No. 2:24-cv-284, Dkt. No. 1 (E.D. Tex. Filed April 26, 2024) |
| EX2003 | <i>Four Batons Wireless, LLC v. Samsung Electronics Co., Ltd. et al.</i> , Defendants Samsung Electronics Co., Ltd.’s and Samsung Electronics America, Inc.’s Motion To Stay Proceedings Pending <i>Inter Partes</i> Review, Case No. 2:24-cv-284, Dkt. No. 62 (E.D. Tex. Filed Feb. 7, 2025) |
| EX2004 | <i>Four Batons Wireless, LLC v. Samsung Electronics Co., Ltd. et al.</i> , Plaintiff’s Opposition to Samsung’s Motion To Stay Proceedings Pending <i>Inter Partes</i> Review, Case No. 2:24-cv-284, Dkt. No. 63 (E.D. Tex. Filed Feb. 21, 2025) |
| EX2005 | <i>Four Batons Wireless, LLC v. Samsung Electronics Co., Ltd. et al.</i> , First Amended Docket Control Order, Case No. 2:24-cv-284, Dkt. No. 69 (E.D. Tex. Filed April 30, 2025) |
| EX2006 | United States District Courts — National Judicial Caseload Profile, available from https://www.uscourts.gov/sites/default/files/2025-02/fcms_na_distprofile1231.2024.pdf (accessed May 12, 2025) |
| EX2007 | <i>Four Batons Wireless, LLC v. Samsung Electronics Co., Ltd. et al.</i> , Plaintiff’s Infringement Contentions, Case No. 2:24-cv-284 (E.D. Tex. served July 25, 2024) |
| EX2008 | <i>Four Batons Wireless, LLC v. Samsung Electronics Co., Ltd. et al.</i> , Defendants’ Invalidity Contentions, Case No. 2:24-cv-284 (E.D. Tex. served Nov. 18, 2024) |
| EX2009 | <i>Four Batons Wireless, LLC v. Samsung Electronics Co., Ltd. et al.</i> , Samsung’s Preliminary Claim Constructions And Extrinsic Evidence Pursuant To Patent Local Rule 4-2, Case No. 2:24-cv-284 (E.D. Tex. served May 5, 2025) |
| EX2010 | <i>Four Batons Wireless, LLC v. Samsung Electronics Co., Ltd. et al.</i> , Plaintiff Four Batons Wireless, LLC’s Initial Proposed |

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| | Constructions, Case No. 2:24-cv-284 (E.D. Tex. served May 5, 2025) |
| EX2011 | Correspondence between Samsung and Four Batons |
| EX2012 | Comparison of Abobav3 vs. Abobav5, available at https://author-tools.ietf.org/iddiff?url1=draft-ietf-eap-keying-03&url2=draft-ietf-eap-keying-05&difftype=--hwdiff (accessed May 7, 2025) |
| EX2013 | <i>iRhythm Technologies, Inc. v. Welch Allyn, Inc.</i> , IPR2025-00363, Paper 10 (P.T.A.B. June 6, 2025) (highlighting added) |
| EX2014 | Office Action from Samsung's Patent Application No. 12/152,354 (dated September 10, 2012) (highlighting added) |
| EX2015 | Google Patents listing for U.S. Patent No. 8,239,671, available at https://patents.google.com/patent/US8239671B2/en?q=8%2c239%2c671 (accessed June 16, 2025) (highlighting added) |
| EX2016 | Google Translate for “삼성전자주식회사,” available at https://translate.google.com/?sl=auto&tl=en&text=삼성전자주식회사&op=translate (accessed June 16, 2025) |

Patent Owner Four Batons Wireless, LLC (“Four Batons” or “Patent Owner”) respectfully submits this two-page supplemental discretionary denial brief pursuant to the Board’s June 16, 2025 email order. EX3101 (Order) at 1.

On May 21, 2025, Patent Owner filed its Bifurcated Discretionary Denial Briefing advocating for the Director to discretionarily deny the Petition. Paper 10. Since that filing, the Director recently issued a decision in the *iRhythm* IPRs on June 6, 2025. *iRhythm Technologies, Inc. v. Welch Allyn, Inc.*, IPR2025-00363, Paper 10 (P.T.A.B. June 6, 2025), EX2013 (highlighting added). That *iRhythm* decision declined to institute the petition because “Petitioner was aware of [the challenged patent] as early as 2013—having cited the then-pending application that issued as the challenged patent in an Information Disclosure Statement Petitioner filed in its own patent application—[so] settled expectations favor denial of institution.” *Id.* at 3. Accordingly, the Director denied the *iRhythm* petition because “Petitioner’s awareness of Patent Owner’s applications and failure to seek early review of the patents favors denial and outweighs the above-discussed considerations.” *Id.*

The facts in the present case are on all fours with *iRhythm* decision. Like the *iRhythm* petitioner, Samsung was aware of the challenged ‘671 Patent as early as 2012—having learned of the then-pending application that issued as the challenged ‘671 patent in an Information Disclosure Statement the Examiner filed in Petitioner’s own patent application. More specifically, Petitioner Samsung learned

of the then-pending ‘671 Patent application on September 9, 2010¹ when, during prosecution of Samsung’s own U.S. Patent Application, the Examiner applied the ‘671 Patent application to reject Samsung’s pending claims. EX2014 (Samsung FH excerpt) at cover, 3-5, 8 (highlighting added). Yet despite Samsung’s awareness of Patent Owner’s ‘671 patent application for more than a decade, Samsung failed to seek early review of the ‘671 Patent. Per the logic in *iRhythm*, this shows the settled expectations of these parties were that the ‘671 Patent was valid and would not be challenged in a post-grant procedure, which favors discretionary denial. EX2013.

On balance, for the reasons in Patent Owner’s initial discretionary denial briefing and this supplemental brief, Patent Owner respectfully asks the Director to discretionarily deny Samsung’s Petition.

Dated: June 18, 2025

Respectfully submitted,

By: /Michael F. Heim /
Michael F. Heim (Reg. No. 32,702)
Attorney for Patent Owner
Four Batons Wireless, LLC

¹ Samsung also learned of the ‘671 Patent by at least September 7, 2016 and December 6, 2016, when it was cited during the prosecution of Samsung’s own Korean patent applications. EX2015 (Google Patents) at 11 (highlighting added) (showing the ‘671 Patent was cited for Korean patent applications KR101655264 and KR101683286 to “삼성전자주식회사”; EX2016 (Google Translate) at 1 (showing “삼성전자주식회사” translates to “Samsung Electronics Co., Ltd.”).

CERTIFICATE OF SERVICE

The undersigned certifies that pursuant to 37 C.F.R. § 42.6(e), a copy of the foregoing was served via email to lead and backup counsel of record for Petitioner as follows:

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| Lead Counsel for Petitioner |
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Dated: June 18, 2025

Respectfully submitted,

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