

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AROMA360, LLC,

Petitioner,

v.

AIR ESSENTIALS, INC.,

Patent Owner.

Case IPR 2025-00705
U.S. Patent No. 9,527,094

PATENT OWNER'S
DISCRETIONARY DENIAL BRIEF

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Pursuant to the “Interim Processes for PTAB Workload Management” (Mar. 26, 2025), Air Essentials, Inc. (“Patent Owner”) submits the following regarding discretionary denial. The parties in this matter stipulated to a stay of the underlying litigation in order to have Aroma360, LLC’s (“Petitioner”) invalidity challenge decided by the Patent Trial and Appeal Board (PTAB). Therefore, while Patent Owner disagrees with the merits of the petition, it respectfully requests that the PTAB refrain from a discretionary denial, and instead deny institution based on Patent Owner’s forthcoming merits brief.

I. Patent Owner’s Statement Regarding Discretionary Denial

As an initial matter, the first factor of *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019 (Paper 11), considers whether the district court in a co-pending litigation has granted a stay, or, alternatively, whether evidence exists that a stay may be granted if proceedings at the PTAB are instituted. Here, Judge Kathleen M. Williams, who is presiding over the litigation in the U.S. District Court for the Southern District of Florida (i.e., Case No. 1:24-vc-20594-KMW), has ***already granted a stay pending resolution of the present proceedings at the PTAB***. Accordingly, the first factor of *Fintiv* strongly weighs against discretionary denial.

Furthermore, the fourth factor of *Fintiv* considers the overlap (if applicable) between issues raised in the petition and in the parallel proceedings at the district court level. On that note, when a petitioner submits a stipulation consistent with the guidance in *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019 (Paper 12)—thereby agreeing not to pursue in district court any grounds that were raised or reasonably could have been raised in the *inter partes* review (IPR)—the Board has found that such a stipulation substantially reduces concerns of duplicative efforts and potentially conflicting decisions. *See Sotera*, IPR2020-01019 (Paper 12). Here, ***Petitioner has submitted a Sotera-type stipulation, which Patent Owner acknowledges, accepts, and does not***

contest as further mitigating concerns under the fourth Fintiv factor. As such, the fourth factor of *Fintiv* also weighs against discretionary denial.

In view of at least the foregoing, Patent Owner respectfully requests that the PTAB decline its discretion to deny institution under *Fintiv*. Instead, Patent Owner respectfully requests that the PTAB consider Patent Owner's forthcoming merits denial brief and deny institution based on the merits.

Respectfully submitted,

Dated: June 16, 2025

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CERTIFICATE OF WORD COUNT

The undersigned certifies that the foregoing Patent Owner's Discretionary Denial Brief complies with the type-volume limitation in 37 C.F.R. § 42.24(c)(1) and the "Interim Processes for PTAB Workload Management" (Mar. 26, 2025). According to the word-processing system's word count, the brief contains at most 465 words, excluding the parts of the brief exempted by 37 C.F.R. § 42.24(a)(1), if applicable.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of Patent Owner's Discretionary Denial Brief has been served in its entirety on June 16, 2025, by causing the aforementioned document to be electronically mailed to the following attorneys of record for the Petitioner:

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