

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACTIVISION BLIZZARD, INC.

Petitioner

v.

MILESTONE ENTERTAINMENT, LLC

Patent Owner

Case No. IPR2025-00711
U.S. Patent No. 11,335,164

PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL

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List of Patent Owner’s Exhibits

Ex. No.	Description
2001	U.S. Patent No. 7,798,896
2002	PCT/US04/28560, filed on September 1, 2004 (the “Milestone PCT Application”)
2003	U.S. Patent No. 5,816,918
2004	File History (excerpted), U.S. Patent No. 7,798,896
2005	New Matter form dated Dec. 10, 2002
2006	Invention disclosure
2007	Provisional application No. 60/378,289, filed on May 6, 2002 (“Walker Provisional”)
2008	Information Disclosure Statement (“IDS”) filed by Microsoft in connection with U.S. Patent App. No. 12/652,289
2009	U.S. Application No. 2006/028705

Pursuant to the Director’s guidance on “Interim Processes for PTAB Workload Management” (“March 26 Stewart Memorandum”), Patent Owner, Milestone Entertainment, LLC (“Milestone” or “PO”) submits this paper requesting discretionary denial of IPR2025-00711.

I. THE PETITION SHOULD BE DISCRETIONARILY DENIED

The March 26 Stewart Memorandum provides that “to facilitate [the new] bifurcated approach, the USPTO will permit parties to file separate briefing on requests for discretionary denial of institution” in which “the parties are permitted to address all relevant considerations,” including: (1) “discretionary considerations enumerated in existing Board precedent (including *Fintiv*, *General Plastics*, and *Advanced Bionics*) and the Consolidated Trial Practice Guide (Nov. 2019)”; and (2) other “relevant considerations” identified in the March 26 Stewart Memorandum. (March 26 Stewart Memorandum, 2.) Discretionary denial is appropriate under these considerations.

A. Discretionary Denial is Appropriate Under 35 U.S.C. § 325(d) Because The Prior Art Disclosures Relied Upon For Grounds 1 and 2 Have Been Considered By the Patent Office

The Director should deny institution under 35 U.S.C. § 325(d) because substantially identical art and arguments were already considered by the Examiner during prosecution of this family of patents. The Board uses the following two-step test in considering whether to discretionarily deny institution pursuant to § 325(d):

- (1) whether the same or substantially similar art previously was presented to the Office or whether the same or substantially the same arguments previously were presented to the Office; and
- (2) if either condition of the first part of the framework is satisfied, whether the petitioner has demonstrated that the Office erred in a manner material to the patentability of the challenged claims. If a condition in the first part of the framework is satisfied and the petitioner fails to make a showing of material error, the Director generally will exercise discretion not to institute inter partes review.

Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH, IPR2019-01469, Paper 6 (PTAB Feb. 13, 2020) at 8-9.

This test reflects a “commitment to defer to previous Office evaluations of the evidence of record unless material error is shown.” *Id.* at 9.

Petitioner assures the Board that institution “is appropriate under § 325(d) because substantially the same art and arguments have never been presented to or considered by the Office.” Pet., 77. That contention is at best, misleading. Petitioners rely on the Kelly683 Patent (U.S. Patent No. 8,172,683)(Ex1005) as the primary reference for asserted Grounds 1 and 2 (Pet., 4), but the disclosures of Kelly683 were in fact expressly considered by the PTO during the prosecution of U.S. Patent 7,798,896 (the 896 Patent)(Ex2001), a family member to the 164 Patent challenged here, and very similar claims to those challenged here were allowed over that

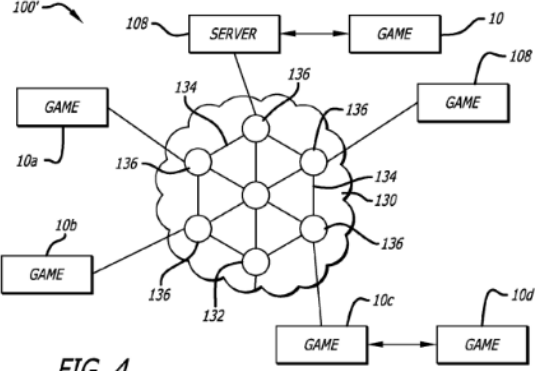
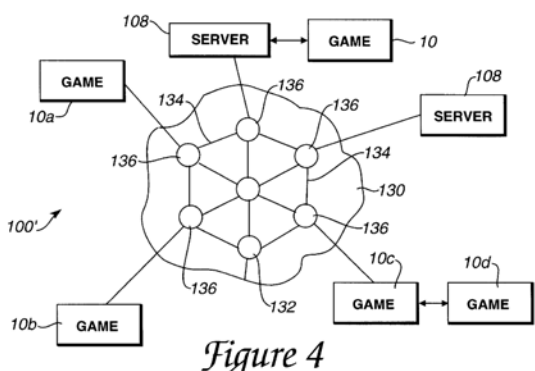
disclosure. Petitioner does not address these facts at all, let alone explain how the Office made a material error.

The 164 Patent claims priority to a National Stage application, PCT/US04/28560, filed on September 1, 2004 (the “Milestone PCT Application”). *See* Ex1001, 1:6-33 (describing priority claim). The Milestone PCT Application (Ex2002) explains that it is a continuation-in-part of application Serial No. 10/654,585, filed September 2, 2003, entitled "Methods and Apparatus for Extended Game Play in a Lottery Environment". Ex2002, [0002]. Application No. 10/654,585 was allowed as U.S. Patent No. 7,798,896 (the 896 Patent)(Ex2001, 1 (“Appl. No.: 10/654,585”).

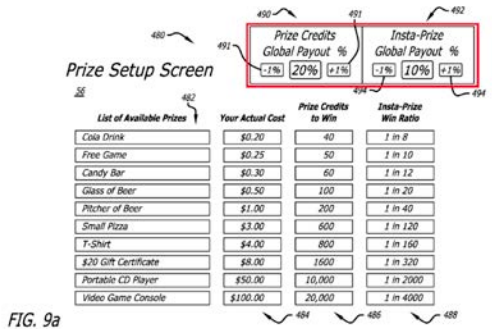
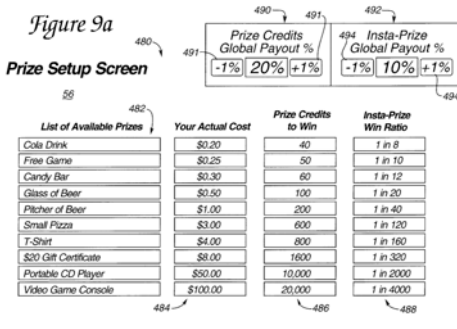
The Kelly683 disclosure relied upon by Petitioners was before, and considered by, the Patent Office during the prosecution of the family member 896 Patent. Specifically, during the prosecution of the 896 Patent, the Office initially rejected claims reciting the use of “variable parameters” to achieve “mandated parameters,” as do the claims here, in view of the disclosures of U.S. Patent No. 5,816,918 (Kelly918)(Ex2003). *See* Ex2004 (896 Patent File History, 10/14/2009 Office Action p. 4 (stating “Claims 1, 2, 6, 34-42 & 63 are rejected under 35 U.S.C. 102(b) as being anticipated by Kelly et al. (US Patent Number 5,816,918).”)

The Kelly638 ground asserted here is a continuation-in-part of the Kelly918 reference already considered by the Office (*see* Ex1005, 1 (describing related

application data), and as shown, Petitioners rely on the same disclosures in Kelly638 that were also in Kelly918, and considered by the PTO in allowing similar claims.

Kelly683 Disclosures Relied on by Petitioner	Disclosure of Kelly918
<p>Kelly683 discloses . . . providing “<i>an operator the ability to adjust prizes and determined the desired prize costs and ratios.</i>” EX1005, 5:3-5. (Pet., 29)</p>	<p>“In another aspect of the present invention, the redemption system <i>provides an operator the ability to adjust prizes and determine desired prize costs and win ratios.</i> Ex2003, 3:55-57</p>
 <p>FIG. 4 (Pet., 14)</p>	 <p>Figure 4 Ex2003, Figure 4</p>
<p>Kelly683 explains that this user input “can provide a particular game command to the game processor 12, and the “<i>game processor interprets the commands and influences game states and game events in the game process accordingly.</i>” Ex1005, 10:12-15; see also 10:16-20, 10:25-29, 11:16-17, 11:20-24. (Pet., 15-16, 34)</p>	<p>“Each type of user input can provide a particular game command to the game processor 12, and the <i>game processor interprets the commands and influences game states and game events in the game process accordingly.</i>” Ex2003, 7:14-18</p>
<p>Notably, Kelly683 discloses mandated parameters for the system as a whole to achieve in the form of prize pay out (here, “<i>global payout percentage,</i>” <i>id.</i>,</p>	<p>The prize cost is determined in accordance with the operator's desired amount of payout. The payout input for credit prizes may include a <i>global</i></p>

Kelly683 Disclosures Relied on by Petitioner	Disclosure of Kelly918
<p>5:20-29, 37:27-38:15, 38:58-39:7, Fig. 9a) and “<i>win ratios</i>” (<i>id.</i>, 5:3-5, 5:30-43, 5:55-6:3).</p> <p>(Pet., 9)</p>	<p><i>payout percentage</i> value that is the operator's desired percentage of the monetary income earned by the game apparatus that the operator wishes to provide back to players in the form of the prizes won using prize credits.</p> <p>Ex2003, 4:7-13 (<i>Compare</i> with Ex1005, 5:20-29)</p> <p>In another aspect of the present invention, the redemption system provides an operator the ability to adjust prizes and determine desired prize costs and <i>win ratios</i>.</p> <p>Ex2003, 3:55-57 (<i>Compare</i> with Ex1005, 5:3-5)</p>
<p>For game structure, Kelly683 explains that “[t]he <i>difficulty and thus the average prize credits awarded per game can be adjusted using a variety of techniques that depend on the type of game being played.</i>” <i>Id.</i>, 38:63-65. This can include adjusting the “<i>speed of controlled objects,</i>” “<i>frequencies of winning combinations,</i>” “<i>difficulty of the questions,</i>” or “<i>[d]urations of games.</i>” <i>Id.</i>, 38:65-39:7.</p> <p>(Pet., 9)</p>	<p>The <i>difficulty and thus the average prize credits awarded per game can be adjusted using a variety of techniques that depend on the type of game being played.</i> For example, in an action game the <i>speed of controlled objects,</i> response of input devices, etc., can be adjusted So that most players don’t receive a score higher than a particular value. In card games, the <i>frequencies of winning combinations</i> of cards can be adjusted. In quiz games, the <i>difficulty of the questions</i> at various times during the game can be adjusted So that average players will typically win a certain number of prize credits per game. <i>Durations of games</i> which have a fixed duration can also be adjusted to achieve an average payout</p>

Kelly683 Disclosures Relied on by Petitioner	Disclosure of Kelly918
	level of prize credits. Ex2003, 36:43-55 (<i>Compare with Ex1005, 38:65-39:7</i>)
For prizing structure, Kelly683 recognizes that the “ <i>average global payout percentages can be obtained by adding all the individual payout percentages and dividing by the number of prizes.</i> ” <i>Id.</i> , 41:65-67. (Pet., 9)	An <i>average global payout percentage can then be obtained by adding all the individual payout percentages and dividing by the number of prizes.</i> Ex2003, 39:55-58.
Kelly683 discloses that the global payout percentage and win ratios <i>must be achieved by the system as a whole.</i> Crevelt ¶161. “ <i>The prize payout percentage 490 indicates the payout of the game unit 10 as a percentage of an operator’s revenue from the game that the operator will pay back, on average, to players in the form of prize credits or prizes purchased using prize credits.</i> ” EX1005, 37:35-39 (Pet., 20)	<i>The prize payout percentage 490 indicates the payout of the game unit 10 as a percentage of an operator’s revenue from the game that the operator will pay back, on average, to players in the form of prize credits or prizes purchased using prize credits.</i> Ex2003, 35:11-15.
 <p>FIG. 9a</p> <p>EX1005, Fig. 9a</p>	 <p>Figure 9a</p> <p>Ex2003, Figure 9a</p>

Kelly683 Disclosures Relied on by Petitioner	Disclosure of Kelly918
<p>Similarly, Kelly683 explains that “<i>the specific prize ratios 488 are automatically determined by the redemption system based on other operator input such as actual cost 484 and the specific prize global win ratio 492.</i>” EX1005, 37:11-14.</p> <p>(Pet., 20)</p>	<p>Similar to the prize cost fields 486, <i>the specific prize ratios 488 are automatically determined by the redemption system based on other operator input such as actual cost 484 and the specific prize global win ratio 492.</i>”</p> <p>Ex2003, 34:53-56.</p>

As such, the Office had before it an identical disclosure, in all relevant respects, from Kelly918 to the one Petitioners rely on here in Kelly683, when it allowed the similar claims of the 896 Patent family member, after initially rejecting the proposed claims in view of Kelly918. Ex2004 (6/4/2010 Notice of Allowance).

164 Patent Claim 1	896 Patent Claim 1 (allowed over Kelly918)
<p>1. A system for electronic game play involving one or more remote users of a system in an electronic environment, the remote users utilizing electronic communication devices having display capabilities, the electronic communication devices having input capability and generate an output corresponding to the input, the electronic communication devices having storage to store information from a remote source, comprising: a server including memory to process and store: registration user information of the remote users, payment information of the remote users, and mandated and variable</p>	<p>1. A system for effecting game play and prizing in an electronic environment, comprising: an input for receiving mandated parameters, a memory coupled to the input for storing at least the mandated parameters, the mandated parameters including at least prize payout and win rates, a processing system coupled to the memory for implementing the mandated parameters by utilizing variable parameters which define a particular game play experience, the variable parameters including at least the game structure,</p>

parameters for use in the course of game play, wherein the **mandated parameters represent parameters which must be achieved by the system as a whole**, and the **variable parameters represent parameters characterizing at least one of: a game structure and a prizing structure**, a communication interface adapted to couple bi-directional communications between the one or more remote users utilizing electronic communication devices, **a game processor coupled to memory generating game play information**, the game processor providing at least: the game play information including game play with virtual money (vCoins), the virtual money (vCoins) being acquired in response to a purchase utilizing the payment information of the users, the virtual money (vCoins) acquired in response to a purchase being subject to a multiplier, **implementing a first set of variable parameters to provide a first game play experience, and modifying the variable parameters to provide a second set of variable parameters providing a second game play experience, where the first game play experience differs from the second game play experience**, memory storing account information which varies through game play, a decision engine for performing game analytics on the game play, and a prizing system to award a win to the one or more remote users determined by a prizing structure.

characterized in that the system utilizes probabilities corresponding closely with real world probabilities while the mandated parameters constrain the game to provide prizing which could not be achieved through use of said probability, **storage for recording information regarding particular game play events as determined by the processor**, and a presentation system for at least displaying game play events.

Ex2001 (Annotated)

Ex1001 (Annotated)	
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Accordingly, the same or substantially similar art previously was presented to the Office, and similar claims in the 896 Patent were allowed over that art. Accordingly, discretionary denial is appropriate here, particularly where Petitioners have not addressed whether the Patent Office erred in doing so. *See Darfon Elecs. Corp. v. Michael Shipman*, IPR2022-01008, Paper 11 (PTAB Dec. 2, 2022), 14 (exercising discretion to deny institution under § 325(d) where Petitioner’s art was cumulative to or substantially the same as art considered during prosecution and Petitioner failed to address whether the Patent Office materially erred.). Because Petitioner relies on substantially the same art that was considered during prosecution of similar claims and has not shown material error by the Examiner, the Director should exercise discretion to deny institution under § 325(d).

B. Discretionary Denial is Appropriate Because Patent Owners Will Swear Behind Ground 3, And An Article III Judge and Jury Are Best Suited To Assess Whether Ground 3’s Primary Reference Is Prior Art




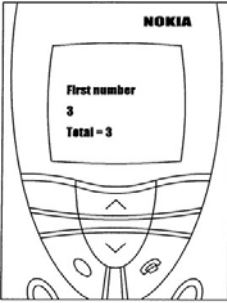

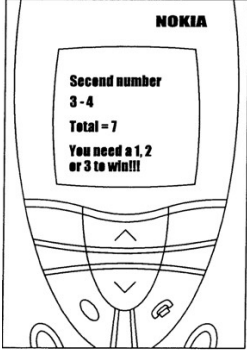
The Director should also deny institution because Patent Owner will “swear behind” the Walker369 reference (U.S. App. No. 2004/0002369)(Ex1006) that is the primary reference for Petitioners’ Ground 3, the last of 3 asserted Grounds (Pet., 40-41) – establishing that Walker369 is not prior art to the challenged claims. At a minimum, the question of whether Walker369 is prior art to the 164 Patent is better


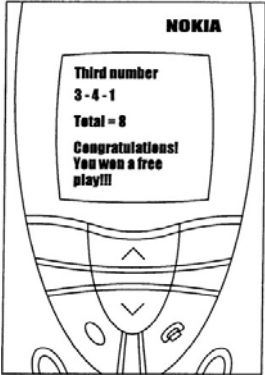
resolved in an Article III Court, in view of the fact-intensive determinations that will need to be made.

Because the 164 Patent has an effective filing date prior to March 16, 2013, it is a pre-America Invents Act (“pre-AIA”) patent. *See* Ex1001. Accordingly, the 164 Patent can be accorded a priority date corresponding to its date of invention, rather than its filing, which will in turn disqualify the Walker369 reference as prior art.

Petitioners contend that the “challenged claims are entitled to an effective filing date of no earlier than September 1, 2004” (Pet. 7). On its face, the 164 Patent claims priority to the Milestone PCT Application (Ex2002) filed on September 1, 2004, but the Milestone PCT Application, as explained above, is a continuation-in-part of application Serial No. 10/654,585, filed September 2, 2003. Ex2002, [0002]. Walker369 has an effective filing date of May 1, 2003. Ex1006, 1. The patent prosecutor opened a new matter for this family of patents on December 10, 2002 (Ex2005), and as part of their disclosure, the named inventors provided the prosecutor with a slide deck describing a game named “Perfect 10” (Ex2006) on December 4, 2002. That invention disclosure is reproduced in relevant part in the 164 Patent:

Comparison of Invention Disclosure with 164 Patent Disclosure

December 2002 Invention Disclosure (Ex2006)	164 Patent Disclosure (Ex1001)
 <p>The prize payout is... 10 = Top Prize 9 = \$2 8 = Free Play Good luck!!</p>	 <p>NOKIA The prize payout is... 10 = Top Prize 9 = \$2 8 = Free Play Good luck!!</p> <p>FIG. 23A</p>
 <p>First number 3 Total = 3</p>	 <p>NOKIA First number 3 Total = 3</p> <p>FIG. 23B</p>
 <p>Second number 3 - 4 Total = 7 You need a 1, 2 or 3 to win!!!</p>	 <p>NOKIA Second number 3 - 4 Total = 7 You need a 1, 2 or 3 to win!!!</p> <p>FIG. 23C</p>

December 2002 Invention Disclosure (Ex2006)	164 Patent Disclosure (Ex1001)
 <p data-bbox="285 810 391 846">Slide 9</p>	 <p data-bbox="1024 810 1092 829">FIG. 23D</p>

The 164 Patent describes the “Perfect 10” game extensively, including describing how it implements variable parameters to achieve a set of mandated parameters – for example by forcing a loss:

For example, in Perfect 10, if it has been determined that the particular game play will be a ‘lose’, it may enhance play experience to give the player a 3, followed by a 4, such that there is the potentiality of them winning (the sum of 7 can win if the next number is a 1, 2 or 3). ***Then, since that game play was predetermined to be a loss, the next number displayed could be a 4, putting the player slightly over the ‘Perfect 10’.*** ***The required loss is achieved by the system,*** but the player may have a better play experience as compared, for example, to a game play where the player loses after the first two numbers (e.g., if the first 2 numbers are 1 followed by 1, for a sum of 2, and the maximum possible sum for

the third number is 7, such that they know they have lost after the second number).

Ex1001, 40:9-23.

The 164 Patent similarly describes how the “Perfect 10” game implements variable parameters to achieve a set of mandated parameters by changing the prizing structure.

By way of example, the probability of an 8, 9 or 10 in Perfect 10 ‘should be’ 40%. *Game play may be selected such that a ‘win’ occurs at that frequency. The predefined prizing structure may then be achieved in the secondary prizing phase.* Alternately, *the frequency of a result qualifying a player for entry into the secondary prizing phase may be greater than the real world probability.* In the example of Perfect 10, the revealed numbers in the first phase of the game ‘may’ win more than 40% of the time (i.e., there is a percentage of events that qualify the player to enter the second, prizing phase which is greater than the real world percentage). *The prizing phase then corrects the prizing result to achieve the predefined outcome.*

Ex1001, 41:24-36.

Patent Owner will show that the named inventors worked diligently thereafter to reduce the invention to practice before May 1, 2003. Accordingly, Walker369 is not prior art.

Walker369 claims priority to Provisional application No. 60/378,289, filed on May 6, 2002 (“Walker Provisional”). Ex1006, [0001]. However, the Walker

Provisional, dated May 6, 2002 (Ex2007), cannot support an earlier date for Walker369, because it lacks the disclosures Petitioner relies on in Ground 3. For example, Petitioner relies on Walker369's disclosure of "predetermined criteria" as disclosing the claimed "mandated parameters." Pet., 10-11. But the Walker Provisional makes no mention of predetermined criteria (Ex2007), and Petitioner has identified none therein. Because the Walker Provisional does not disclose "mandated parameters," it also does not disclose "utilizing" a set of "variable parameters to achieve the mandated parameters" as the challenged claims require. Similarly, Petitioner relies on "rais[ing] a median or mean score of a game in order to further motivate players by enabling more players to achieve a score that corresponds to a prize (e.g., a more valuable prize) or that is closer to a score that corresponds to a prize." Pet., 51. But the Walker Provisional makes no disclosure of adjusting the median or mean score of a game, let alone doing so to "motivate players," and Petitioner has identified none. Walker369 cannot be accorded an earlier effective date than May 1, 2003, and so it is not prior art.

As a result, Petitioner's Ground 3 is even weaker on the merits than Grounds 1 and 2 (which were already considered by the Patent Office, as described above). This fact warrants discretionary denial. *See* March 26 Stewart Memorandum, 2 (identifying the "strength of the unpatentability challenge" as a basis for discretionary denial). More fundamentally, the fact that Petitioners will swear behind

Walker369 raises complex fact and evidentiary issues that are best resolved before an Article III court. As the Director is aware, a patent owner can demonstrate prior invention for a pre-AIA patent by establishing an earlier reduction to practice of the claimed invention before the critical date of the reference, or by establishing conception of the invention prior to the critical date plus reasonably continuous diligence to reduce the invention to practice after the critical date. *REG Synthetic Fuels, LLC v. Neste Oil Oyj*, 841 F.3d 954, 958 (Fed. Cir. 2016). A patent owner “bears the burden of establishing that its claimed invention is entitled to an earlier priority date than an asserted prior art reference.” *In re Magnum Oil Tools Int'l Ltd.*, 829 F.3d 1364, 1375-76 (Fed. Cir. 2016). While the question of whether a patent antedates a reference is a question of law, it is based on subsidiary findings of fact, such as whether “reasonable diligence” was exercised, and for what period, that are better resolved by a jury before an Article III Court. *See Perfect Surgical Techniques, Inc. v. Olympus Am., Inc.*, 841 F.3d 1004, 1008 (Fed. Cir. 2016)(reversing Board’s determination regarding diligence as “too exacting and in conflict with our precedent.”). This is an independent reason supporting discretionary denial here.

C. Petitioners’ Reliance On 180 Pages Of Expert Testimony Supports Discretionary Denial

Petitioner’s extensive reliance on an unfocused, conclusory expert declaration (Ex1003, Crevelt Declaration) purporting to address every limitation of every challenged claim supports discretionary denial. The March 26 Stewart Memorandum

identifies the “extent of the petition's reliance on expert testimony” as a factor relevant to discretionary denial. March 26 Stewart Memorandum, 2. As the Office has explained, “[w]hile the Board may consider expert testimony, as a matter of efficiency, *extensive reliance on expert testimony and/or reasonable disputes between experts on dispositive issues may suggest that the questions are better resolved in an Article III court.*” PTAB, FAQs for Interim Processes for PTAB Workload Management, at question 21, <https://www.uspto.gov/patents/ptab/faqs/interim-processes-workload-management>.

The Office has further explained that it “is most helpful if an expert is providing focused testimony, for example to provide helpful context or to explain terms of art. *The failure to provide focused expert testimony may weigh against institution.*” *Id.*

The Petition, which relies extensively on its expert declaration to support its arguments rather than the prior art itself, comprehensively and repeatedly violates this guidance. Petitioner’s expert declaration is 180 pages long and numbers 362 paragraphs and more than 36,000 words, in support of a Petition limited to 14,000 words by rule. Ex1003. The Petition cites to and relies on this expert testimony no fewer than 203 times, directing the Board to consult the expert declaration for effectively every substantive argument made, for every limitation. The Office has explained that “[P]etitions” are “require[d] to be based on prior art patents and printed publications,” (*Id.*) but Petitioners have instead relied on conclusory opinions

of its expert here. As an example, Petitioner’s expert contends that limitation 1.a.i of the 164 Patent Claim 1 (“a server including memory to process and store... registration user information of the remote users” is met by the Kelly683 reference (Ex1003, ¶¶144-151), but does not point to any disclosure of Kelly683 showing that registration information is stored in memory. Instead, Petitioner’s expert merely asserts without support that a “Although Kelly683 does not expressly disclose that server 108 can also serve as the prize database server where the storage device of server 108 processes and stores the player registration information, it would have been obvious. Implementing multiple services on a single server was a known design choice.” *Id.* ¶150. Petitioner’s expert never explains why a POSITA would have understood this to be obvious, given the total lack of disclosure; it relies solely on the expert’s *ipse dixit*. Such “expert” opinion, especially given its scope and breadth, is better tested before an Article III Court, where the 164 Patent has already been asserted against Petitioners.

D. The Settled Expectations Of The Parties Support Discretionary Denial Of The Petition

A further relevant consideration identified in the March 26 Stewart Memorandum was the “[s]ettled expectations of the parties, such as the length of time the claims have been in force.” Memorandum, at 2. In this case, the claims of the 164 Patent are now expired, further underscoring that this dispute is largely a private one, better resolved between the private parties before an Article III court.

Moreover, due to the early priority date of the 164 Patent, members of this patent family served as prior art to many other patent applications in the industry, including those of Petitioner's corporate parent, Microsoft. Despite knowing of the patent family for the 164 Patent for nearly 15 years, Petitioner did nothing, creating an expectation between the parties. On January 6, 2009, Petitioner's parent Microsoft submitted an information disclosure statement ("IDS") in its then-pending application No. 12/652,289 that indicates it was aware of the 164 Patent disclosure. Ex2008 (Information Disclosure Statement dated January 6, 2009 in Application No. 12/652,289, submitted by Microsoft, identifying Office U.S. Application No. 2006/0287051). Specifically, Petitioners' parent company disclosed to the Office U.S. Application No. 2006/0287051 (Ex2009), ***which is the same PCT application on which the 164 Patent is based.*** See Ex1003 at 1. Yet Petitioners did nothing to challenge the 164 Patent until more than 15 years later. This lengthy delay further favors exercising discretion and denying this Petition. See, e.g., *iRhythm Technologies, Inc. v. Welch Allyn Inc.*, IPR2025-00363, Paper No. 10 (June 6, 2025) at 3 (denying institution on discretionary grounds: "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.").

II. CONCLUSION

For the reasons stated above, the Petition should be discretionarily denied.

Dated: June 17, 2025

Respectfully submitted.

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CERTIFICATION OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(b)(1) and (d), the undersigned hereby certifies that the Patent Owner's Request for Discretionary Denial complies with the type-volume limitation 37 C.F.R. § 42.24(b)(1) permitting a response of up to 14,000 words because, exclusive of the exempted portions, the response contains 4,576 words, as identified by Microsoft Word's word-counting feature.

Dated: June 17, 2025

Respectfully submitted.

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CERTIFICATION OF SERVICE (37 C.F.R. §§ 42.6(e), 42.105(a))

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