

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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ADVANCED MICRO DEVICES, INC.,  
Petitioner

v.

ADVANCED CLUSTER SYSTEMS, INC.,  
Patent Owner

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IPR2025-00862  
Patent No. 10,333,768

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**PATENT OWNER'S OPPOSITION TO PETITIONER'S REQUEST FOR  
REHEARING<sup>1</sup>**

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<sup>1</sup> Authorized on October 7, 2025. Ex. 3102.

## PO Opposition to Petitioner's Request for Rehearing

**PATENT OWNER'S EXHIBIT LIST**

| <u>Exhibit</u> | <u>Description</u>                                                                                                                                                                                                                                                                                                               |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2001           | DocketNavigator Statistics for Motion Success for Stay Pending IPR (Post-Institution) for Judge Albright                                                                                                                                                                                                                         |
| 2002           | J. Albright Standing Order Governing Proceedings (OGP) 4.4 – Patent Cases (Jan 23, 2024)                                                                                                                                                                                                                                         |
| 2003           | DocketNavigator Statistics for Time-to-Milestones for Judge Albright                                                                                                                                                                                                                                                             |
| 2004           | <i>Advanced Cluster Systems, Inc. v. Advanced Micro Devices, Inc.</i> , Scheduling Order (D.I. 36)                                                                                                                                                                                                                               |
| 2005           | <i>Allani v. Apple Inc.</i> , No. 6:24-cv-304-ADA (W.D. Tex. May 6, 2025) (D.I. 30)                                                                                                                                                                                                                                              |
| 2006           | <i>Intellectual Ventures I LLC v. TCL Elects. Holdings Ltd.</i> , No. 6:23-cv-309-ADA (W.D. Tex. Sept. 10, 2024) (D.I. 44)                                                                                                                                                                                                       |
| 2007           | <i>Acquis, LLC v. Hon Hai Precision Indus Co. Ltd.</i> , No. 6:23-cv-264-ADA (W.D. Tex. May 31, 2024) (D.I. 46)                                                                                                                                                                                                                  |
| 2008           | AMD's Preliminary Invalidity and Subject-Matter Eligibility Contentions Cover Pleading (Corrected Apr. 23, 2025)                                                                                                                                                                                                                 |
| 2009           | AMD's Preliminary Invalidity Contention – Chart A-8                                                                                                                                                                                                                                                                              |
| 2010           | Declaration of Dr. Melissa C. Smith Under 37 C.F.R. § 1.68                                                                                                                                                                                                                                                                       |
| 2011           | <i>Curriculum Vitae</i> of Dr. Melissa C. Smith                                                                                                                                                                                                                                                                                  |
| 2012           | AMD Feb. 5, 2025 – 10-K Annual Report                                                                                                                                                                                                                                                                                            |
| 2013           | NVIDIA Company Overview (May 2025) (available at <a href="https://investor.nvidia.com/events-and-presentations/presentations/presentation-details/2025/Company-Overview-5-25/default.aspx">https://investor.nvidia.com/events-and-presentations/presentations/presentation-details/2025/Company-Overview-5-25/default.aspx</a> ) |
| 2014           | Advanced Micro Device's Answer and Affirmative Defenses to Plaintiff's Complaint, <i>Advanced Cluster Systems, Inc. v.</i>                                                                                                                                                                                                       |

PO Opposition to Petitioner's Request for Rehearing

Advanced Micro Devices, Inc. 7:24-cv-00244 (W.D. Tex. Jan. 8,  
2025) (D.I. 29)

## PO Opposition to Petitioner's Request for Rehearing

Patent Owner submits this opposition to Petitioner's Request for Rehearing (Paper 15, "Rehearing Req."). Petitioner has not carried its burden under 37 C.F.R. § 42.71(d). Rehearing requires a showing that the Director misapprehended or overlooked a matter previously presented or that a relevant post-decision development now alters the § 314(a) discretionary analysis. Petitioner shows neither.

**I. AMD's Treatment of Settled Expectations is Insufficient and Non-Responsive to the Decision**

The Director's discretionary denial decision rested, in part, on settled expectations for the '768 Patent as part of a holistic § 314(a) assessment. Paper 14, at 2-3. Petitioner's rehearing request does not explain how its policy narrative—even if credited—would displace that independent ground. Petitioner's rehearing request does not confront that holding on the record facts; it offers only a footnote citing a different case to assert that "certain discretionary factors may overcome others." Paper 15 at 9, n. 2. That is not the showing § 42.71(d) requires and for at least this reason alone warrants denial of Petitioner's request.

The question at hand is whether this Decision "should be modified," which demands a case-specific explanation of how the asserted policy interests, to the extent actually supported by the evidence, overcome the settled-expectations determination in this record. Petitioner provides no such analysis. A general statement that some factors can outweigh others somewhere else is simply a disagreement with the Acting Director's original decision and does not carry

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Petitioner's burden to displace an expressly articulated ground the Decision relied upon here. *See, e.g., Motorola Sols., Inc. v. Stellar, LLC*, IPR2024-01205, Paper 23 at 5 (PTAB May 23, 2025) (denying petitioner's request for rehearing). Petitioner has not carried its burden to show that the Decision "should be modified" under § 42.71(d), and accordingly its request should be denied.

**II. No Misapprehension or Oversight – Only Disagreement with the Director's Weighing**

Petitioner asserts the Director "overlooked" its national-security record, but it repeatedly restates the same arguments of its discretionary-denial briefing that the Director expressly considered and found insufficiently detailed to alter § 314(a). Paper 14 at 3 ("Petitioner, however, does not explain in sufficient detail why review of the challenged patents is in the interest of national security"). Rehearing is not a vehicle to re-argue the same points.

Petitioner does no more than repackage its prior claim that "the Government's AI, national security, and public health interests warrant[] review of the challenged patent." Paper 15 at 9. But Petitioner fails once again to explain—because it cannot—why there is a public interest for such analysis to be performed at the Patent Office rather than by the district court (the forum that will decide issuance of any injunction). Indeed, aside from representing the same general arguments in its original opposition (*compare* Paper 15, Section III.A *with* Paper 11 at 2-7), Petitioner only proffers an unsupported conclusory argument that it "presented compelling

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evidence that demonstrated that these interests overcome any other discretionary denial factors . . . .” Paper 15 at 8. Petitioner’s reliance on *Home Depot U.S.A. Inc. v. H2 Intellect LLC*, IPR2025-00480, Paper 15 at 9, n. 2 (PTAB Sept. 4, 2025) is likewise unhelpful because that decision addresses facts irrelevant to the settled expectation issue relied on by the Acting Director when originally denying institution of the underlying petition.

Moreover, District Courts, and especially Judge Albright, address prior art challenges all the time. That Patent Owner is seeking an injunction does not foreclose Petitioner’s prior art case in the district court, and does not create any national security, public health, or economic interest in favor of institution.

Petitioner also again fails to chart a clear nexus between the accused products and its AI/national-security/public-health themes. The quotes from the U.S. officials discuss the AI industry generally, and not the specific accused products. *See*, Paper 15 at 5 (citing Exs. 1079, 1080). Moreover, Petitioner’s implication that the *Wall Street Journal* article’s identification of “one of AMD’s INSTINCT™ accelerators (the MI308) by name” supports a national security interest (Paper at 5) is misleading. The reference therein to the MI308 accelerators is with respect to exports to China of that product being halted. Ex. 1079 at 2. Exporting these products to China hardly supports a U.S. security interest, and rather supports the opposition conclusion—that there is no national security interest for these products. Petitioner’s identification of

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“numerous published articles” noting that tech companies are using AMD products (Paper 15 at 6) also falls well short of establishing a national security or other U.S. governmental interest. Nor do they suggest that these companies’ supercomputers could not perform equally well with a non-infringing chip. Thus, Petitioner’s arguments are still “not narrowly-tailored towards particular products, and Petitioner does not sufficiently explain how” its AI/national-security/public-health themes warrant review of the ’768 Patent.

\* \* \*

Petitioner identifies no misapprehension or oversight and no relevant post-decision change under § 42.71(d).

Petitioner’s asserted AI/national-security/public-health themes were already presented and properly weighed and rejected. Petitioner’s request for rehearing does not satisfy the requirements of § 42.71(d), and should be denied.

Dated: October 9, 2025

Respectfully submitted,

*/David P. Lindner/*

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*Counsel for Patent Owner*

*Advanced Cluster Systems, Inc.*

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**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6(e), the undersigned hereby certifies that I caused true and correct copies of the foregoing **PATENT OWNER'S OPPOSITION TO PETITIONER'S REQUEST FOR REHEARING** to be served in their entirety on October 9, 2025 by filing this document through the U.S. Patent Office's P-TACTS Filing System as well as causing true and correct copies be delivered by electronic mail on Petitioner's lead and backup counsel at the following email addresses (as agreed by counsel for Petitioner):

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Dated: October 9, 2025

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