

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD.,  
Petitioner,

v.

WILUS INSTITUTE OF STANDARDS AND TECHNOLOGY  
INC.,  
Patent Owner.

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Case No. IPR2025-00933  
U.S. Patent No. 11,470,595

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**PATENT OWNER'S REQUEST FOR DIRECTOR REVIEW OF  
INSTITUTION DECISION**

Patent Owner's Request for Director Review of Institution Decision  
IPR2025-00933 (U.S. Patent No. 11,470,595)

Patent Owner respectfully requests Director Review of the February 9, 2026 Decision Granting Institution of *Inter Partes* Review (Paper 15) to consider an issue stemming from Petitioner's conduct and representations it has made to the Board relating to the scope of its *Sotera*-type stipulation it signed to avoid discretionary denial.

On February 20, 2026, Patent Owner filed a request for Director Review in IPR2025-00988, in which Petitioner challenges U.S. Patent No. 10,687,281, which is related the '595 Patent at issue in this proceeding. *See* Paper 18, IPR2025-00988 (Feb. 20, 2026) ("-00988 IPR"). As illustrated therein and in this Request, Patent Owner's requests for Director Review in this IPR and in the -00988 IPR share a similar basis and are based on identical representations by Petitioner regarding its *Sotera*-type stipulation. The requests should be addressed with that context.<sup>1</sup>

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<sup>1</sup> Shortly before Patent Owner filed this Request, IPR counsel for Petitioner emailed Patent Owner and the Board stating that Samsung would not "pursue", in District Court combinations of prior art for that include "any [] prior art used in an invalidity ground" in either the -00988 or this -00933 IPRs. See 2/23/26 email from Monaldo to Director\_PTABDecision\_Review@uspto.gov (1:17 p.m. Pacific Time). Given this communication, Patent Owner will confer with Samsung's District Court counsel to determine whether and how Mr. Monaldo's statement affects Patent Owner's requests for Director Review.

## I. ARGUMENT

Earlier in this IPR, Samsung emphasized that it had stipulated to restrictions broader than those required under *Sotera*: “Samsung’s stipulation guarantees that, if instituted, none of the prior art asserted in the Petition will be used in the District Court proceeding—even in combination with unpublished system art.” Paper 9, at 40. Chief APJ Deshpande, citing this specific argument, denied Patent Owner’s request for discretionary denial and overruled its arguments for discretionary denial based on the potential for duplicative efforts regarding prior art between the PTAB and District Court. *See* Paper 11, at 3.

The Board subsequently denied institution (Paper 12), but revisited that decision in granting a rehearing request from Samsung (Paper 14), and then decided to institute the Petition (Paper 15). Through these milestones, Samsung has maintained what it said earlier: “**none** of the prior art asserted in the Petition will be used in the District Court proceeding”—a representation with which it has defeated Patent Owner’s discretionary denial arguments and obtained institution. This is consistent with its filed stipulation (Ex. 1051).

Samsung made these arguments and obtained the same results in both the -00933 IPR (concerning the ’595 Patent) and -00988 IPR (concerning

the '281 Patent), which concern related patents with a similar specification and similar claims. *See, e.g.*, Papers 9, 11, & 15, IPR2025-00988.

In District Court, however, Samsung has prepared trial invalidity arguments regarding the '281 Patent and '595 Patent that rest on the same prior art—art that it had promised not to use when arguing earlier against discretionary denial and for institution before the PTAB. Recently Samsung served an expert report in the District Court case with opinions that all claims of the '281 Patent and '595 Patent are obvious in view of prior art combinations including either U.S. Patent Application Publication 2016/0330300A1 (“Josiam”) or U.S. Patent Application Publication 2017/0181129 (“Bharadwaj 129”). Excerpts showing the relevant portions of the Table of Contents from Samsung’s invalidity expert report are provided below to demonstrate.

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*Corrected Expert Report of Harry Bims (January 30, 2026), at pp. 8-9<sup>2</sup>*

In the -00988 IPR concerning the '281 Patent, Bharadwaj 129 forms the basis of Grounds 2A, 2B, 2C, and 2D. *See* Paper 2, -00988 IPR, at pp. 2 & 51-90. Likewise, in this -00933 IPR concerning the '595 Patent, Josiam forms the basis of Grounds 1A and 1B. Paper 2, at pp 8-84. And, as explained above, Samsung has prepared obviousness theories against the '281 Patent using Josiam and Bharadwaj 129, and against the '595 Patent using Josiam.

*Moreover*, Samsung has indicated that, even if the -00988 or -00933 IPRs were instituted, it **will not** withdraw in District Court certain invalidity theories based on Bharadwaj 129 or Josiam. This is demonstrated through an earlier, January 6, 2026 submission by Samsung to the District Court, that indicated which prior art combinations and reservations it was preserving for trial presentation and, importantly, which prior art and combinations it would

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<sup>2</sup> Patent Owner believes it is unnecessary to submit Samsung's invalidity expert report for purposes of this Request for Director Review, but can do so upon request.

drop if Samsung's pending IPRs were instituted. *See* Ex. 2016 ("1/6/26 election"). The 1/6/26 election is provisionally filed alongside this Request; Patent Owner has requested leave to file it. *See* 2/19/26 email from Rubin to Director\_PTABDecision\_Review@uspto.gov titled "Samsung v. Wilus - IPR2025-00988, -00933 - request for leave to submit additional exhibit" (3:20 a.m. Pacific Time).

The 1/6/26 election shows that Samsung will withdraw some prior art combinations but not others:

**U.S. Patent No. 10,687,281:<sup>1</sup>**

1. Samsung Device (e.g., Samsung Galaxy Tab S) in view of **US 2016/0330300A1 ("Josiam")** and US 2016/0353322A1 ("Li")
2. Samsung Device (e.g., Samsung Galaxy Tab S) in view of **US 2016/0330300A1 ("Josiam")** and US 2016/0353322A1 ("Li") and US 2016/0174200A1 ("Seok")
3. Samsung Device (e.g., Samsung Galaxy Tab S) in view of US 2016/0353322A1 ("Li") and US 2016/0174200A1 ("Seok")
4. Samsung Device (e.g., Samsung Galaxy Tab S) in view of IEEE 802.11ac and US 2016/0353322A1 ("Li")
5. Samsung Device (e.g., Samsung Galaxy Tab S) in view of IEEE 802.11ac and **US 2016/0330300A1 ("Josiam")** and US 2016/0353322A1 ("Li")
6. **US 2017/0181129A1 ("Bharadwaj 129")** in view of US 2016/0330058A1 ("Chen")

<sup>1</sup> Samsung will no longer pursue ground no. 6 if IPR2025-00988 is instituted.

**U.S. Patent No. 11,470,595:<sup>3</sup>**

1. Samsung Device (e.g., Samsung Galaxy Tab S) in view of US 2017/0064718A1 ("Bharadwaj 718") and US 2017/0094664A1 ("Lee")
2. Samsung Device (e.g., Samsung Galaxy Tab S) in view of IEEE 802.11ac and US 2017/0094664A1 ("Lee")
3. Samsung Device (e.g., Samsung Galaxy Tab S) in view of US 2016/0353322 ("Li") and US 2017/0094664A1 ("Lee")
4. Samsung Device (e.g., Samsung Galaxy Tab S) in view of **US 2017/0181129 ("Bharadwaj 129")** and US 2017/0094664A1 ("Lee")
5. **US 2016/0330300A1 ("Josiam")** alone or in view of US 2016/0174200A1 ("Seok")
6. US 2016/0330058A1 ("Chen") in view of US 2017/0070998A1 ("Wu")

<sup>3</sup> Samsung will no longer pursue ground nos. 5 and 6 if IPR2025-00933 is instituted.

Ex. 2016, at 2-3.

Taking the 1/6/26 election at face value in view of the recent institutions, Samsung's District Court invalidity trial case still includes: (1) obviousness against the '281 Patent based on Josiam; and (2) obviousness against the '595 Patent based on Bharadwaj 129.

“Wait,” Samsung may respond, “no foul”—perhaps by pointing out that its IPR against the '281 Patent did not include grounds based on Josiam, and that its IPR against the '595 Patent did not include grounds based on Bharadwaj 129, and so, technically, it will not present the same art against the '281 and '595 Patents that it used in its IPRs. But this underscores the fundamental impropriety and unfairness in Samsung's conduct: it would mean that it has tried to evade (and has arguably made mockery of) the primary purpose of the discretionary denial framework in avoiding duplication of effort between administrative and judicial tribunals—by simply using the same prior art in District Court that it had promised earlier to not use, but “swapping” them between the '281 and '595 Patents (which, as noted, are in the same family and share substantial similarity in their challenged claims).

In addition, Samsung's District Court conduct contradicts its earlier representation that: “**none** of the prior art asserted in the Petition will be used in the District Court proceeding.” Paper 9, at 40. This unambiguous

representation, on which Chief Judge Deshpande relied to refuse discretionary denial, has been rendered false by Samsung's subsequent conduct.

Thus, this proceeding and the related -00988 IPR present an important question: to what extent can petitioners make promises to the PTAB regarding their future conduct in co-pending District Court litigation in order to avoid discretionary denial, but later break those promises, as Samsung has done here? To the extent that Chief Judge Deshpande concluded that the Samsung's *Sotera*-type stipulation would, as Samsung said, remove the IPR prior art from the District Court case in the event of institution, that was an "erroneous finding[] of material fact" warranting Director Review and denial of institution.<sup>3</sup> To the extent Samsung's conduct exposes an unintentional loophole in the discretionary denial framework which merits correction, this matter presents an "important issue[] of law or policy" also warranting Director Review and denial of institution.

## **II. Conclusion**

For the foregoing reasons, Wilus respectfully requests that the Director grant Director Review and deny institution of this IPR.

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<sup>3</sup> See <https://www.uspto.gov/patents/ptab/decisions/director-review-process> (accessed Feb. 19, 2026).

Dated: February 23, 2026

/Neil A. Rubin/

Reza Mirzaie (Reg. No. 69,138)  
Neil A. Rubin (Reg. No. 67,030)  
Philip X. Wang (Reg. No. 74,621)  
Linjun Xu (Reg. No. 73,887)  
RUSS AUGUST & KABAT  
12424 Wilshire Boulevard, 12th Floor  
Los Angeles, CA 90025  
Telephone: 310-826-7474  
Email: [rmirzaie@raklaw.com](mailto:rmirzaie@raklaw.com)  
Email: [nrubin@raklaw.com](mailto:nrubin@raklaw.com)  
Email: [pwang@raklaw.com](mailto:pwang@raklaw.com)  
Email: [lxu@raklaw.com](mailto:lxu@raklaw.com)

Attorneys for Patent Owner,  
WILUS INSTITUTE OF  
STANDARDS AND TECHNOLOGY  
INC.

**CERTIFICATE OF SERVICE**

I hereby certify that “Patent Owner’s Request for Director Review of Institution Decision” was served on February 23, 2026 by email sent to:

W. Karl Renner  
Jeremy J. Monaldo  
Jennifer J. Huang  
FISH & RICHARDSON PC  
60 South Sixth Street, Suite 3200  
Minneapolis, MN 55402  
Telephone: 202-783-5070  
Email: renner@fr.com  
Email: jjm@fr.com  
Email: IPR39843-094IP1@fr.com  
Email: PTABInbound@fr.com

Dated: February 23, 2026

*/Neil A. Rubin/*