

From: [Director_PTABDecision_Review](#)
To: [Neil Rubin](#); [Director_PTABDecision_Review](#)
Cc: [Jeremy Monaldo](#); rak_wilus@raklaw.com; [Karl Renner](#); [Nicholas Stephens](#); [Rishi Gupta](#); [John Phillips](#); [Usman Khan](#); [Jonathan Driesslein](#); [IPR39843-0195IP1](#); [IPR39843-0196IP1](#); [IPR39843-0197IP1](#); [IPR39843-0198IP1](#); [IPR39843-0199IP1](#); [PTAB Inbound](#)
Subject: RE: Samsung v. Wilus - IPR2025-00934, -00935, -00936, -01043, -01044 - request for leave to address recent decisions in director review requests
Date: Monday, November 17, 2025 5:44:40 PM

Counsel,

Patent Owner's request for authorization to address the Director's decisions in *Revvo v. Cerebrum* and *Tesla v. Intellectual Ventures II*, and to submit new evidence in support of its requests for Director Review in the above-identified proceedings is denied.

Thank you.

IPR2025-00934, 00935, 01043, 01044
Ex. 3100

From: Neil Rubin <nrubin@raklaw.com>
Sent: Friday, November 14, 2025 9:32 PM
To: Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>
Cc: Jeremy Monaldo <Monaldo@fr.com>; rak_wilus@raklaw.com; Karl Renner <renner@fr.com>; Nicholas Stephens <nstephens@fr.com>; Rishi Gupta <rgupta@fr.com>; John Phillips <phillips@fr.com>; Usman Khan <khan@fr.com>; Jonathan Driesslein <driesslein@fr.com>; IPR39843-0195IP1 <IPR39843-0195IP1@fr.com>; IPR39843-0196IP1 <IPR39843-0196IP1@fr.com>; IPR39843-0197IP1 <IPR39843-0197IP1@fr.com>; IPR39843-0198IP1 <IPR39843-0198IP1@fr.com>; IPR39843-0199IP1 <IPR39843-0199IP1@fr.com>; PTAB Inbound <PTABInbound@fr.com>
Subject: Re: Samsung v. Wilus - IPR2025-00934, -00935, -00936, -01043, -01044 - request for leave to address recent decisions in director review requests

CAUTION: This email has originated from a source outside of USPTO. **PLEASE CONSIDER THE SOURCE** before responding, clicking on links, or opening attachments.

Dear Honorable Director,

Patent Owner Wilus opposes Petitioner's proposal as we understand it. Samsung appears to be proposing that the decision on Director Review—and thus the ultimate decision on institution—be delayed until after the district court has issued its claim constructions, including deciding whether challenged claims in each of the IPRs is indefinite as Samsung contends. In other words, Samsung appears to ask that the Director permit it to fully litigate its contentions that challenged claims are indefinite in district court and then, if that effort to invalidate the claims in district court fails, proceed with its effort to invalidate the claims as obvious in its IPRs. That appears to be the reasoning behind Samsung's quotation to *Revvo*, suggesting that a petitioner would be able to pursue an IPR under a district court's construction, even if that construction was not the one the petitioner had advanced in district court.

There are two problems that Wilus sees with this approach. First, the Director in *Revvo* noted that “the rules discourage petitioners from seeking broader constructions at the Board to support a patentability challenge while seeking narrower constructions in litigation to avoid infringement liability,” and that permitting petitioners “to propose different claim constructions in the two forums” frustrated the Office’s goal of “providing greater predictability and certainty in the patent system.” *Revvo Technologies, Inc. v. Cerebrum Sensor Technologies, Inc.*, IPR2025-00632, Paper 19 at 4. The Director made clear in *Tesla* that these same considerations apply when the petitioner is arguing for indefiniteness in district court, but arguing for obviousness of the same claims at the PTAB. *Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00340, Paper 18 at 4. Samsung’s proposal, if followed routinely by the Director, would permit any petitioner to do precisely what *Revvo* and *Tesla* sought to put an end to: pursuing inconsistent legal theories in two different forums. The fact that the IPR would be put on hold under Samsung’s proposal, so that Samsung’s inconsistent theories are addressed serially, does not achieve the goals set forth in *Revvo* of requiring petitioners “to choose a single claim construction that best captures the true meaning of the patent claim” or to sufficiently explain the justification for inconsistent positions. *Revvo*, IPR2025-00632, Paper 19 at 4–5.

The second problem with Samsung’s proposed approach is that it requires a lengthy extension of the IPR schedule mandated by statute and by the Office’s regulations. Assuming that Samsung proposes delaying briefing on Director Review until after the district court decides the indefiniteness issues, that would require delaying Director Review briefing until at least the December 16 *Markman* hearing, and possibly for months after that date if it takes time for the district court to issue its *Markman* order. This is inconsistent with the statutory requirement to decide institution within three months of the preliminary response, 35 U.S.C. § 314(b), and may make it difficult for the Board to resolve the IPR within the overall timeline contemplated by Congress and by the regulations. While there are times that IPRs take longer to resolve than dictated by statute or regulation, this should not occur simply to facilitate petitioners advancing inconsistent legal theories in different forums.

While Wilus opposes Samsung’s proposal for a lengthy extension for Director Review briefing, Wilus does request a short extension. The deadline for Wilus’s request for Director Review in IPR2025-00934 is currently Monday, 11/17. The deadlines in the other four IPRs are on 11/20 and 11/21. Wilus cannot fully prepare its requests until it knows whether the Director grants its 11/10 request for authorization to address *Revvo* and *Tesla* and to submit additional evidence concerning Samsung’s district court claim

construction positions. Accordingly, Wilus requests that the deadline for its Director Review requests in these IPRs be extended until the latter of 11/21 or three business days after the Director decides whether to grant its requests for authorizations. In addition to permitting Wilus adequate time to submit requests that comply with the Director's decision on authorization, this will permit Wilus's request in IPR2025-00934 to address any arguments that Samsung makes in its district court claim construction brief, which as Samsung notes is due 11/18.

Finally, to the extent that the Director does order a lengthy extension of the deadlines for Director Review, as Samsung proposes, Wilus requests that the Director vacate the scheduling orders that have been entered in these IPRs. The parties should not incur the expense of depositions, expert declarations, and patent owner responses while the question of institution is still pending.

Respectfully submitted,

Neil A. Rubin

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On Nov 13, 2025, at 8:40 AM, Director_PTABDecision_Review
<Director_PTABDecision_Review@uspto.gov> wrote:

Counsel,

Patent Owner may respond with its position as to Petitioner's proposal via email by Friday, November 14th.

Thanks.

From: Jeremy Monaldo <Monaldo@fr.com>

Sent: Wednesday, November 12, 2025 7:02 PM

To: Director_PTABDecision_Review

<Director_PTABDecision_Review@uspto.gov>; nrubin@raklaw.com; rak_wilus@raklaw.com; Karl Renner <renner@fr.com>; Nicholas Stephens <nstephens@fr.com>; Rishi Gupta <rgupta@fr.com>; John Phillips <phillips@fr.com>; Usman Khan <khan@fr.com>; Jonathan Driesslein <driesslein@fr.com>; IPR39843-0195IP1

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IPR39843-0197IP1 <IPR39843-0197IP1@fr.com>; IPR39843-0198IP1 <IPR39843-
0198IP1@fr.com>; IPR39843-0199IP1 <IPR39843-0199IP1@fr.com>; PTAB Inbound
<PTABInbound@fr.com>

Subject: RE: Samsung v. Wilus - IPR2025-00934, -00935, -00936, -01043, -01044 -
request for leave to address recent decisions in director review requests

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Dear Honorable Director,

Petitioner notes that claim construction is not yet complete in co-pending litigation. The litigation docket specifies November 18 for Petitioner's claim construction brief, November 25 for Patent Owner's reply claim construction brief, December 5 for Patent Owner's final election of claims, and December 16 for the *Markman* hearing. Petitioner welcomes briefing by both parties on claim construction positions being advanced in co-pending litigation. However, Petitioner requests that the timing of the briefing be aligned with *Markman*, so that both parties can address the full litigation record on the issue in speaking to the existence or absence of consistency. This timing aligns with *Revvo's* example where a "party would have sufficient reason for advancing the broader, court-adopted construction in a proceeding before the Board." *Revvo Technologies, Inc. v. Cerebrum Sensor Technologies, Inc.*, IPR2025-00632, Paper 19 at 5 (Precedential)).

Petitioner would not oppose extensions of Patent Owner's deadlines for Requesting Director Review to enable the parties to address the full litigation record. To the extent Patent Owner is provided the opportunity to submit evidence, the same reasons support Petitioner being given an opportunity to respond to Patent Owner's requests with any evidence needed to complete the record on claim construction before the district court.

Respectfully submitted,
Jeremy Monaldo

Jeremy Monaldo

Principal ■ Fish & Richardson P.C.

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1000 Maine Avenue SW, Suite 1000, Washington, DC 20024

From: Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>
Sent: Monday, November 10, 2025 10:43 AM
To: nrubin@raklaw.com; rak_wilus@raklaw.com; Karl Renner <renner@fr.com>;
Jeremy Monaldo <Monaldo@fr.com>; Nicholas Stephens <nstephens@fr.com>; Rishi
Gupta <rgupta@fr.com>; John Phillips <phillips@fr.com>; Usman Khan
<khan@fr.com>; Jonathan Driesslein <driesslein@fr.com>; IPR39843-0195IP1
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<PTABInbound@fr.com>
Subject: RE: Samsung v. Wilus - IPR2025-00934, -00935, -00936, -01043, -01044 -
request for leave to address recent decisions in director review requests

[This email originated outside of F&R.]

Counsel,

Petitioner may respond with its position as to Patent Owner's request via email by
Wednesday, November 12th.

Thank you.

From: Neil Rubin <nrubin@raklaw.com>
Sent: Monday, November 10, 2025 3:00 AM
To: Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>
Cc: rak_wilus@raklaw.com; W. Karl Renner <renner@fr.com>; Jeremy J. Monaldo
<jjm@fr.com>; Nicholas W. Stephens <nstephens@fr.com>; Rishi Gupta
<rgupta@fr.com>; John C. Phillips <phillips@fr.com>; Usman A. Khan <khan@fr.com>;
Jonathan C. Driesslein <driesslein@fr.com>; IPR39843-0195IP1@fr.com; IPR39843-0196IP1@fr.com;
IPR39843-0197IP1@fr.com; IPR39843-0198IP1@fr.com; IPR39843-0199IP1@fr.com;
PTABInbound@fr.com
Subject: Samsung v. Wilus - IPR2025-00934, -00935, -00936, -01043, -01044 - request
for leave to address recent decisions in director review requests

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Dear Honorable Director:

Patent Owner Wilus intends to submit requests for director review of the recent institution decisions in IPR2025-00934, -00935, -00936, -01043, and -01044. In these director review requests, we intend to address the implications of the Director's recent decisions in *Revvo v. Cerebrum*, IPR2025-00632 (Precedential) and *Tesla v. Intellectual Ventures II*, IPR2025-00340 (Informative). We therefore request leave to address these new decisions and to submit as exhibits documents that evidence the claim construction positions taken by petitioner Samsung in the pending district court litigation between Wilus and Samsung. These documents show that Samsung contends in district court that at least one of the claims challenged in each of the IPRs is indefinite, and that in certain of the IPRs Samsung is taking other claim construction positions that it did not address in its IPR petitions.

The Office's guidance on the director review process states that "the submission of new evidence or arguments may be warranted in cases addressing . . . issues involving intervening changes in the law or USPTO procedures, guidance, or decisions." (<https://www.uspto.gov/patents/ptab/decisions/director-review-process> at 3.E.) These IPRs are precisely such cases, as the *Revvo* and *Tesla* decisions were issued and designated within the past week, during the same week as the challenged institution decisions issued. This new controlling caselaw directly applies to these five IPRs, and under the logic of these decisions none of these five IPRs should have been instituted.

Wilus acted diligently to raise these legal issues and to submit this new evidence prior to the institution of these IPRs. The decision in *Revvo* issued on 11/3, and the decision in *Tesla* on 11/5. The institution decision in IPR2025-00934 issued on 11/3, before Wilus could have attempted to address the new decisions. Late on the evening of 11/5, Pacific Time, less than 11 hours after the Office announced that *Tesla* was designated informative, Wilus emailed Samsung's counsel asking for its position on supplemental briefing and submission of district court claim construction evidence in IPR2025-00935, -00936, -01043, and -01044, as well as in other IPRs that were pending institution. The institution decisions in IPR2025-00935, -00936, -01043, and -01044 issued on 11/6 and 11/7, before Samsung provided its position on the requested supplemental briefing and submission of evidence. As of the time this email is sent, Samsung has still not provided its position on supplemental briefing or submission of evidence

for the other IPRs that are pending institution.

Respectfully submitted,

Neil A. Rubin

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