

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CIENA CORPORATION,
Petitioner,

v.

K.MIZRA LLC,
Patent Owner.

Case No. IPR2025-01362

U.S. Patent 8,782,282

**PETITIONER'S REQUEST FOR DIRECTOR REVIEW OF THE NOTICE
OF DISCRETIONARY DENIAL UNDER 37 C.F.R. § 42.75**

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PETITIONER’S LIST OF EXHIBITS

Exhibit	Brief Description
1001	U.S. Patent 8,782,282 (“the ’282 Patent”)
1002	Prosecution History for U.S. Patent 8,782,282
1003	Declaration of Dr. Douglas Schmidt
1004	U.S. Patent No. 7,209,968 (“ <i>Secer</i> ”), issued April 24, 2007, filed May 29, 2001
1005	U.S. Patent Pub. No. 2003/0177411 (“ <i>Dinker</i> ”), published September 18, 2003, filed March 12, 2002
1006	WIPO Publication WO 00/08823 (“ <i>Keene</i> ”), published February 17, 2000
1007	U.S. Patent Pub. No. 2003/0028654 (“ <i>Abjanic</i> ”), published February 6, 2003, filed August 10, 2001
1008	U.S. Patent No. 6,718,377 (“ <i>Bischoff</i> ”), issued April 6, 2004, filed March 15, 2000
1009	U.S. Patent No. 5,742,762 (“ <i>Scholl</i> ”), issued April 21, 1998
1010	U.S. Patent No. 7,043,525 (“ <i>Tuttle</i> ”), issued May 9, 2006, filed December 14, 2001
1011	U.S. Patent No. 6,470,394 (“ <i>Bamforth</i> ”), issued October 22, 2002
1012	U.S. Patent Pub. No. 2004/0008717 (“ <i>Verma</i> ”), published January 15, 2004, filed July 12, 2002
1013	U.S. Patent 6,260,062 (“ <i>Davis</i> ”), issued July 10, 2001
1014	U.S. Patent Pub. No. 2003/0120502 (“ <i>Robb</i> ”), published June 26, 2003, filed April 23, 2002
1015	NDGA Trial Statistics – U.S. District Court - Judicial Caseload Profile (June 2025), for the Northern District of Georgia, https://www.uscourts.gov/sites/default/files/document/fcms_na_distpr ofile0630.2025.pdf , accessed Dec. 9, 2025
1016	Complaint, <i>K.Mizra LLC v. Ciena Corp.</i> , Case No. 1:24-cv-05442 (N.D. Ga), Dkt. 1 (Nov. 25, 2024)

Exhibit	Brief Description
1017	Docket Sheet, <i>K.Mizra LLC v. Ciena Corp.</i> , Case No. 1:24-cv-05442 (N.D. Ga), retrieved Dec. 9, 2025
1018	Standing Order Regarding Civil Litigation, <i>K.Mizra LLC v. Ciena Corp.</i> , Case No. 1-24-cv-05442 (N.D. Ga), Dkt. 6 (Nov. 27, 2024)
1019	Excerpts of transcript, Oral Argument on Motions to Dismiss, <i>K.Mizra LLC v. Ciena Corp.</i> , Case No. 1-24-cv-05442 (N.D. Ga), Dkt. 63 (Nov. 10, 2025)
1020	K.Mizra’s Opp. to Ciena’s Motion to Dismiss for Failure to State a Claim Under Fed. R. Civ. P. 12(B)(6), <i>K.Mizra LLC v. Ciena Corp.</i> , Case No. 1-24-cv-05442 (N.D. Ga), Dkt. 36 (March 14, 2025)
1021	Lawsuits filed by K.Mizra LLC, retrieved from Docket Navigator (docketnavigator.com) Dec. 10, 2025
1022	Proceedings Involving the ’282 Patent, retrieved from Docket Navigator (docketnavigator.com) Dec. 11, 2025
1023	Internet Archive of Blue Planet, Multi-Domain Service Orchestration website (Oct. 17, 2015) <i>available at</i> https://web.archive.org/web/20151017054021/http://www.blueplanet.com/products/multi-domain-service-orchestration.html (last visited Dec. 11, 2025).

I. INTRODUCTION

Ciena Corporation (“Petitioner”) respectfully requests Director Review of the discretionary denial announced in the Notice of Decisions on Institution dated January 9, 2026 (Paper 10), hereafter, “Notice.” The Notice merely lists this case number (IPR2025-01362) as one of 39 cases in which the Director denied review after review of unstated “discretionary considerations.” Notice, 1. The Notice (1) did not comply with the Administrative Procedure Act (APA), the America Invents Act (AIA) or the U.S. Constitution and (2) contravenes multiple additional statutory, regulatory and policy requirements for deciding institutions.

Petitioner requests that the denial of this IPR in the Notice be rescinded and referred to the Board for institution on the merits in the ordinary course. Alternatively, Petitioner requests that the Office issue a reasoned decision on the institution, authored by a panel of APJs as required by 5 U.S.C. § 555(e) and 37 C.F.R. §42.4(a). At minimum, Petitioner requests a reasoned decision that sets forward the basis and rational of the denial so that Petitioner (and any reviewing court) may understand and assess the extent to which the basis of the decision exceeds the USPTO’s statutory bounds, constitutes “shenanigans”, gives rise to constitutional claims, or is otherwise reviewable under the AIA and APA. Petitioner submits that the notion of secret bases for denial constitutes unlawful agency action that it is arbitrary, capricious, an abuse of discretion, and otherwise not in accordance

with law, contrary to constitutional rights and in excess of statutory authority, and without observance of procedure required by law. 5 U.S.C. § 706(2); *SAS Inst., Inc. v. Iancu*, 584 U.S. 357, 371 (2018); *Cuozzo Speed Techs., LLC v. Lee*, 579 U.S. 261, 274-75 (2016).

A. The Notice Does Not Provide the Basis or Reasoning for its Decision, Violating the AIA, APA and U.S. Constitution by Precluding Any and All Forms of Judicial Review

Issuing institution decisions without setting forth the basis and rationale for the decision is a violation of the AIA, APA and U.S. Constitution. Doing so effectively precludes judicial review *in toto*, contrary to binding precedent of the United States Supreme Court. More specifically, 35 U.S.C. § 314(d) does not preclude review of constitutional claims or what the Supreme Court has termed “shenanigans,” such as situations in which the agency “act[s] outside its statutory limits.” *Cuozzo*, 579 U.S. at 274-75 (explaining that such claims are “properly reviewable” under the APA, which enables reviewing courts to “set aside agency action” that is “contrary to constitutional right,” “in excess of statutory jurisdiction,” or “arbitrary [and] capricious”) (quoting 5 U.S.C. §§ 706(2)(A)-(D)). “If a party believes the Patent Office has . . . exceed[ed] its statutory bounds, judicial review remains available consistent with the Administrative Procedure Act, which directs courts to set aside agency action ‘not in accordance with law’ or ‘in excess of statutory jurisdiction, authority, or limitations’.” *SAS*, 584 U.S. at 358 (citing 5

U.S.C. §§ 706(2)(A), (C)). “[J]udicial review remains available consistent with the Administrative Procedure Act to ensure that the Patent Office does not exceed its statutory bounds.” *Id.* at 371. Yet, by issuing the Notice without articulation of the basis and reasoning for the denial, there is no way for Petitioner or a reviewing court to determine whether the agency has “exceed[ed] its statutory bounds”, violates the U.S. Constitution, or otherwise engaged in “shenanigans.” *SAS*, 584 U.S. at 358; *Cuozzo*, 579 U.S. at 274-75. Federal Circuit precedent likewise requires reasoned decisions to ensure judicial review. *Pers. Web Techs., LLC v. Apple, Inc.*, 848 F.3d 987, 992 (Fed. Cir. 2017) (“For judicial review to be meaningfully achieved within these strictures, the agency tribunal must present a full and reasoned explanation of its decision.”); *Synopsys, Inc. v. Mentor Graphics Corp.*, 814 F.3d 1309, 1322 (Fed. Cir. 2016) (the USPTO must “provide an administrative record showing the evidence on which the findings are based, accompanied by the agency’s reasoning in reaching its conclusions.”).

The Notice does not provide any reasons for the Director’s disposition of this proceeding; it merely states that discretionary considerations were reviewed, not what those consideration(s) were, which consideration(s) formed the basis of the unstated decision(s) underlying the Notice, or how those considerations, to the extent lawful, justified the Notice. Indeed, it does not even assert that denial was based on the “discretionary considerations” reviewed, whatever those are. Even if the Notice

were interpreted as limited to the discretionary considerations briefed by the parties (there is nothing in the Notice that is so limited), just the briefing covers multiple, independent reasons why the IPR petition either should or should not be discretionarily denied. As the Notice stands, the parties and the public are left without guidance on which, if any, of the discretionary considerations (if any) was determinative or carried any weight in this case. Petitioner and any reviewing court is left guessing as to why the petition was not referred to a panel for a decision on institution. The denial here could have been based on bias, whim, fancy, pecuniary interest, spite, or simple luck of the draw.

The Notice reflects a new and dangerous “black box” practice of issuing denials with no explanation, reasoning, or record citation. The practice threatens to nullify the *Cuozzo* and *SAS* exceptions for judicial review. The Patent Office could conceal all sorts of constitutional and statutory violations inside the “black box.” Issuing a black box denial in violation of statute (e.g. 5 U.S.C. § 555(e), 35 U.S.C. §§ 314(a) and (c), discussed below) is itself a “shenanigan” because it flouts statutory limits and requirements Congress imposed on the agency. Indeed, *Cuozzo* specifically held that the appeal bar does not shield agency action “outside its statutory limits,” which the Court dubbed as reviewable “shenanigans.” *Cuozzo*, 579 U.S. at 275.

Beyond shielding improper agency action and giving rise to the appearance of

impropriety, the Notice's lack of reasoned explanation eviscerates Petitioner's ability to effectively use Director Review because it deprives Petitioner of "the opportunity to apprise the agency of any errors it may have made." *Tourus Recs., Inc. v. Drug Enf't Admin.*, 259 F.3d 731, 737 (D.C. Cir. 2001). The Director Review process is based on reviewable issues being those that give rise to (a) abuse of discretion, (b) important issues of law or policy, (c) erroneous findings of material fact, or (d) erroneous conclusions of law. But the "black box" Notice makes it impossible to point out such issues to the Director, thereby sapping the Director Review process of its error-correction purpose. The same phenomena deprives the ability of judicial review authorized by the Supreme Court in *Cuozzo* and *SAS*.

The Notice exceeds statutory bounds at least because it violates 5 U.S.C. § 555(e). There, the APA requires, at a minimum, "a brief statement of the grounds for denial" when a petition or other request is made in connection with any agency proceeding. The Decision fails to follow at least this requirement of the APA. More specifically, the APA requires that when an agency denies "a written ... petition, or other request of an interested person," it must provide prompt notice and "a brief statement of the grounds for denial," unless the denial is self-explanatory or affirms a prior denial. 5 U.S.C. § 555(e). "[T]he core requirement is that the agency explain 'why it chose to do what it did.'" *Tourus Records*, 259 F.3d at 737 (quoting Henry J. Friendly, *Chenery Revisited: Reflections on Reversal and Remand*

of Administrative Orders, 1969 Duke L.J. 199, 222). “This requirement not only ensures the agency’s careful consideration of such requests, but also gives parties the opportunity to apprise the agency of any errors it may have made and, if the agency persists in its decision, facilitates judicial review.” *Id.*

The Notice says nothing other than “Pursuant to 35 U.S.C. § 314(a) and § 324(a), after review of discretionary considerations, institution of *inter partes* review or post-grant review is denied in the following proceedings:” and identifies the present proceeding (IPR2025-01362) along with 38 other proceedings. Notice, 1. That is not a reasoned explanation; it is a bald conclusion. It does not explain “why” it chose to do what it did: it does not explain “what” the discretionary denial considerations were, and “why” they favored denial. This failure to explain is particularly critical where the Notice was in response to the individual briefings in 39 different proceedings each addressing a myriad of considerations that may be relevant to discretionary denial. Because the Notice provides no explanation, reasoning, or record citation, the Director has failed to provide the “brief statement of the grounds” required by law. The Notice is not self-explanatory, nor does it affirm a prior denial. This failure to give reasons for its denial also runs counter to 5 U.S.C. § 555(e) and constitutes agency action taken “without observance of

procedure required by law” within the meaning of 5 U.S.C. § 706(2)(D).¹ It also renders the decision “arbitrary, capricious, [and] an abuse of discretion” under § 706(2)(A). Because the Director’s action does not follow a clear statutory command, it exceeds statutory authority and must be rescinded.

B. The Notice Violates Multiple Additional Statutory, Regulatory and Policy Requirements for Deciding Institution

The Notice disregards existing statutes, rules, and policies governing *inter partes* review proceedings. The Notice violates 35 U.S.C. § 6, which requires IPRs to be “heard by at least 3 members of the Patent Trial and Appeal Board.” The related regulations, 37 C.F.R. §§ 42.4 and 42.108, require “the Board” to decide whether to institute an IPR. The Board did not do so here.

The Decision names only Director Squires, which creates two statutory issues. First, there is no indication that “at least 3 members of the Patent Trial and Appeal Board” reviewed any papers in the record of the proceeding or participated to any

¹ The Notice also exceeds statutory bounds in that it violates 35 U.S.C. §§314(a) and (c). Specifically, 35 U.S.C. § 314(a) requires that the Director consider “the information presented in the petition filed under section 311 and any response filed under section 313” when making an institution decision. The related regulation, 37 C.F.R. § 42.108(c), requires consideration of the petition, preliminary response, and any additional authorized briefing.

extent that could meet the statutory requirement that the proceeding be “heard” by those Board members. 35 U.S.C. § 6.

Second, there is no evidence the Director “designated” the legally-required “3 members of the Patent Trial and Appeal Board” (*id.*) to hear this proceeding: unlike the long history of institution decision issued by the Office over the last decade, which explicitly listed the three Board members making the institution decision. Contrary to statute, the Notice lists only the Director.

While the Director’s October 17, 2025 Memorandum titled “Director Institution of AIA Trial Proceedings” (https://www.uspto.gov/sites/default/files/documents/Director_Institution_of_AIA_Trial_Proceedings.pdf) states that the “Director, in consultation with at least three PTAB judges, will determine whether to institute trials” (Director Institution Memo, 1-2), the Director’s Institution Memo does not override the statutory requirement. Moreover, there is nothing in the Notice to support that “consultation” did, in fact, occur here, or that, if it did, it meets the statutory requirement that three Board members “heard” this proceeding.

The rules specifically delegate institution authority from the Director to the Board: the “Board institutes the trial on behalf of the Director” (37 C.F.R. § 42.4) and the “Board will authorize the review” (37 C.F.R. § 42.108). The USPTO promulgated these regulations, through notice-and-comment rulemaking, which provide in relevant part: “[t]he Board institutes the trial on behalf of the Director.”

37 C.F.R. § 42.4(a). The plain text of this regulation treats “[t]he Board” as an entity distinct from “the Director.” Moreover, as the USPTO explained at the time of promulgation, “Section 42.4(a) specifically delegates the determination to institute a trial to the Board.” 77 Fed. Reg. 48,612, 48,616 (Aug. 14, 2012).

The Director himself therefore cannot perform the act of institution; that task is left to a Board panel. Having delegated his authority by regulation, the Director is bound by that delegation and “denies himself the right to sidestep [the delegation] or dictate its decision.” *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267 (1954). This is exactly as Congress envisioned. *Ethicon Endo-Surgery, Inc. v. Covidien LP*, 812 F.3d 1023, 1031-32 (Fed. Cir. 2016) (“Congress assigned the Director the decision to institute, necessarily assuming that the popularity of [IPR] and the short time frame to decide whether to institute [IPR] would mean that the Director could not herself review every petition.”).

An agency may not alter legislative rules (adopted by notice-and-comment rulemaking) using less formal means, such as by memorandum or guidance. *See Mid Continent Nail Corp. v. United States*, 846 F.3d 1364, 1373 (Fed. Cir. 2017) (“For the purposes of notice and comment, withdrawal or repeal of an existing regulation is treated the same as promulgation of a new regulation.”); *see also Consumer Energy Council of Am. v. FERC*, 673 F.2d 425, 446 (D.C. Cir. 1982), *aff’d sub nom. Process Gas Consumers Grp. v. Consumer Energy Council of Am.*, 463 U.S. 1216

(1983), *rehearing denied* 463 U.S. 1250 (1983) (“The value of notice and comment prior to repeal of a final rule is that it ensures that an agency will not undo all that it accomplished through its rulemaking without giving all parties an opportunity to comment on the wisdom of repeal.”).

The Director’s decision to assume control over all institution determinations is an improper attempt to amend or rescind § 42.2(a) without notice-and-comment rulemaking. The Office has not even issued a notice of proposed rulemaking to begin the formal process of amending or rescinding § 42.2(a), much less issued a final rule. Therefore, § 42.2(a) as written remains effective: “[t]he Board”—not the Director on his own—continues to have the delegated responsibility of “institut[ing] the trial on behalf of the Director.”

Moreover, the regulatory history requires strict separation of the Board and the Director. 37 C.F.R. § 43.3(a) states, “Prior to issuance of a decision by a panel, the Director ... shall not communicate, directly or through intermediaries, with any member of the panel regarding the decision.” The Office adopted this rule and others in response to a Government Accountability Office report that recommended increased transparency. Specifically, Part 43 of 37 C.F.R. was issued in response to GAO 23-105336, *Increased Transparency Needed in Oversight of Judicial Decision-Making* (2022), available at <https://www.gao.gov/assets/gao-23-105336.pdf> (“Transparency Report”), which recommended that the Office adopt policies

detailing the Director’s oversight of the Board. The rules followed interim oversight procedures that “clarified that the USPTO *Director would not be involved in decision-making prior to issuance*” (Transparency Report, Highlights) (emphasis added) and include, for example, 37 C.F.R. § 43.3(a) (quoted above). Because the Director’s Institution Memo states the Director will consult with three Board judges (i.e., a panel), the Notice facially does not follow this rule.

Reviewing 35 U.S.C. § 6, the Supreme Court held that the “Director ... may review final PTAB decisions and, upon review, may issue decisions himself on behalf of the Board.” *United States v. Arthrex*, 594 U.S. 1, 25 (2021). Thereafter, the Office initiated the Director Review process, and extended it to institution decisions. See <https://www.uspto.gov/patents/ptab/decisions/director-review-process>, §§ 1, 2.A. But *Arthrex* confirms that the statute requires the Board to issue decisions, and then *those* decisions might be subject to review by the Director. Neither statute nor the Supreme Court condone the Director issuing decisions in the first place.

Accordingly, Petitioner is entitled to a three-judge institution decision.

C. Fee-Setting Under 35 U.S.C. §311(a)

The Notice violates the fee-setting provision of 35 U.S.C. § 311(a). Congress required that the fees paid by petitioners for requesting IPR be established by regulation “in such amounts as the Director determines to be reasonable, considering

the aggregate costs of the review.” 35 U.S.C. § 311(a) (emphasis added). The Office set the fees for IPR petitions based on an expectation that a panel of three APJs would spend 35 hours of judge time per petition. 77 Fed. Reg. 55,028, 55,049-51 (Sept. 6, 2012). The most recent fee adjustment was done in November 2024, which increased IPR fees by 25%—based on the Office’s stated reason of “better align[ing] the fee rates charged to petitioners with the actual costs borne by the USPTO in providing these proceedings.” 89 Fed. Reg. 91898, 91936 (Nov. 20, 2024) (emphasis added).

Petitioner filed its IPR petition on August 31, 2025, and paid the required fees. In exchange for those fees, Petitioner expected to receive the services the Office had been performing at the time the agency set those fees—based expressly on “the actual costs borne by the USPTO in providing these proceedings.” 89 Fed. Reg., 91936. That all changed, however, when the Director announced on October 17, 2025, that, effective October 20, he would personally make all institution determinations in AIA trials and that they would generally issue as “summary notices”—all while keeping fees the same. By replacing reasoned, three-judge decisions with summary notices issued personally by the Director, the USPTO now collects institution-phase fees that bear no rational relationship to the service provided or the work performed. This misalignment between fees charged and work performed violates 35 U.S.C. § 311(a).

D. The Notice Appears to Be Premised on Rules Implemented Without Notice and Comment Rulemaking

The unstated considerations for denial appear to include new rules implemented without notice and comment rulemaking (“NCRM”), contrary to the APA. Under the APA, an agency may only adopt substantive rules through NCRM. 5 U.S.C. § 553. NCRM requires important, well-established procedures central to administrative procedure law. *Id.* at § 553(c); *see also Citizens to Pres. Overton Park, Inc. v. Volpe*, 401 U.S. 402, 416 (1971). The process reflects Congress’s “judgment that notions of fairness and informed administrative decision making require” agency decisions to be made “only after affording interested persons notice and an opportunity to comment.” *Chrysler Corp. v. Brown*, 441 U.S. 281, 316 (1979).

The Director’s new discretionary denial factors are new rules. The APA defines a “rule” as an “agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy.” 5 U.S.C. § 551(4). Courts “generally refer[] to the category of rules to which the notice and comment requirements ... apply” as “substantive” or “legislative” rules. *Mendoza v. Perez*, 754 F.3d 1002, 1021 (D.C. Cir. 2014). A “substantive” rule is “one that effects a change in existing law or policy which affects individual rights and obligations.” *In re Chestek PLLC*, 92 F.4th 1105, 1109 (Fed. Cir. 2024) (quotation marks omitted); *see also Chrysler*, 441 U.S. at 302 (a substantive rule “affect[s]

individual rights and obligations”). A substantive rule “grant[s] rights, impose[s] obligations, or produce[s] other significant effects on private interests.” *Batterton v. Marshall*, 648 F.2d 694, 701-702 (D.C. Cir. 1980). NCRM are required when a rule affects private rights and interests. *See Chrysler*, 441 U.S. at 316.

The new discretionary denial considerations are substantive rules that require NCRM. On October 17, 2025, the Director issued a memo on institution decisions that “flows from the processes outlined in the March 26, 2025 memorandum entitled ‘Interim Processes for PTAB Workload Management’ (‘Interim Processes’), under which the Director determines whether or not to deny a petition based on discretionary considerations.” Mem. Dir. Inst. of AIA Trial Proc. at 1-2, Oct. 17, 2025 (“Director Institution Memo”) (https://www.uspto.gov/sites/default/files/documents/Director_Institution_of_AIA_Trial_Proceedings.pdf). Although the Notice does not provide any reasoned findings for the denial, the Director Institution Memo suggests that the Notice implicates an unbound list of possible factors in the Interim Processes memo, introducing the new “settled expectations” rule and concluding with “Any other considerations bearing on the Director’s discretion.” Interim Processes at 2-3. These factors were issued to “All PTAB Judges” and placed into effect immediately without NCRM. *Director Institution Memo* at 1; Interim Processes at 1.

This constitutes substantive rules because it “produce[s] ... significant effects

on private interests.” *See Batterton*, 648 F.2d at 702. They are highly likely to produce more denials of institution and thus harm petitioners. *Apple Inc. v. Vidal*, 63 F.4th 1, 16-17 (Fed. Cir. 2023); *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (Mar. 20, 2020) (precedential). The Federal Circuit recognizes denials “threaten[s] ... harm” to the “legally protected interest” of private parties by reducing the likelihood that they can pursue IPR (*Apple*, 63 F.4th at 16), and denying their “realistically perceived advantages” such as reduced costs, statutory deadlines, and lower burdens (*id.* at 17). *See also Am. Hosp. Ass’n v. Bowen*, 834 F.2d 1037, 1046 (D.C. Cir. 1987) (discretionary policies altered the parole standards subject to NCRM because of “substantial effect on ultimate parole decisions.”); *Small Refiner Lead Phase-Down Task Force v. U.S.E.P.A.*, 705 F.2d 506, 547 (D.C. Cir. 1983). Finally, the NCRM is called for by the AIA in that it expressly directs the adoption of “regulations” setting forth the standards for the showing of “sufficient grounds to institute a review” 35 U.S.C. § 316(a). The term “regulations” denotes “legislative [i.e., substantive] rules” requiring NCRM. *U.S. Telecom Ass’n v. F.C.C.*, 400 F.3d 29, 38 (D.C. Cir. 2005).

II. CONCLUSION

The Director should vacate the Notice for the reasons above and the Board should issue an institution decision compliant with all applicable statutes, regulations, and Office policies.

Date: February 9, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on the below date a copy of the foregoing Petitioner's Request for Director Review of the Notice of Discretionary Denial was served by electronic means to counsel of record in the present IPR:

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Respectfully submitted,

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