UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,

Petitioner

v.

TELCOM VENTURES LLC,

Patent Owner

Case No. IPR2025-01421
U.S. Patent No. 10,674,432

PATENT OWNER'S DISCRETIONARY DENIAL BRIEF

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Exhibit Number	Description
2001	Interim Processes for PTAB Workload Management, Acting Director Memorandum (March 26, 2025) (https://www.uspto.gov/sites/de-fault/files/documents/InterimProcesses-PTABWorkloadMgmt-20250326.pdf)
2002	Telcom Ventures' Local Patent Rule 3.1 and 3.2 Disclosures, Served November 21, 2024
2003	Telcom Ventures' Subpoena to Google, Served July 18, 2025
2004	Stipulated Protective Order for Non-Party Google, Dated September 11, 2025
2005	Third Amended Docket Control Order
2006	Order Denying Samsung's Motion to Stay, Dated August 27, 2025
2007	Exhibit A13 to Samsung's Invalidity Contentions
2008	Exhibit A16 to Samsung's Invalidity Contentions
2009	Paul Hasting's Notices of Appearance in the Samsung Litigation

I. INTRODUCTION

Telcom Ventures LLC ("Telcom Ventures" or "Patent Owner") respectfully submits this brief requesting that the Board deny institution of the Petition for *inter partes* review (Paper 1, "Petition") filed by Google LLC ("Google" or "Petitioner") pursuant to 35 U.S.C. § 314(a) and the March 26, 2025 Memorandum titled "Interim Processes for PTAB Workload Management" ("Interim Process Memo"). Ex. 2001.

The Petition seeks *inter partes* review ("IPR") of claims 1-19 (the "Challenged Claims") of U.S. Patent No. 10,674,432 (the "Challenged Patent," Ex. 1001). The Challenged Patent shares a specification with seven other patents (collectively, the "Telcom Ventures Patents"), and all eight patents are the subjects of a co-pending patent infringement action that Telcom Ventures brought over one year ago against Samsung in the Eastern District of Texas, pending as Civil Action No. 2:24-cv-00691-JRG (the "Samsung Litigation").[1] In that action, Patent Owner alleges, among other things, that Samsung phones that support ***Google Pay*** infringe the Telcom Ventures Patents, and Google is participating in the litigation as a

[1] Patent Owner has withdrawn its infringement allegations with respect to two patents in the Samsung Litigation. Samsung subsequently filed declaratory judgment claims of invalidity on all eight Telcom Ventures Patents. Accordingly, the validity of all eight Telcom Ventures Patents remain at issue in the Samsung Litigation.

subpoenaed third party. Exs. 2002 at 3 ("the Accused Products include Defendants' Samsung-branded smartphones that support . . . Google Pay/Google Wallet ('Google Pay') and associated methods of using . . . Google Pay"), 2003, 2004.

Petitioner filed IPR petitions against seven of the eight patents at issue in the Samsung Litigation.[2] Google's IPR petitions are the ***third set*** of challenges before the Board on these same patents, as both Samsung and Apple filed IPR petitions against the Telcom Ventures Patents ***before*** Petitioner did so here.[3] *See* Paper 4. Four of the patents, including the Challenged Patent, are also at issue in a co-pending patent infringement action that Telcom Ventures brought over one year ago against Apple that is pending in the Northern District of California as Civil Action No. 3:25-cv-05041-RFL (the "Apple Litigation"). As explained in detail below, the Interim

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[2] IPR No. 2025-01349 received a notice according a filing date two weeks before the Present IPR's notice date, IPR Nos. 2025-01389, -01401, -01408, and -01409 were noticed one week ahead of the Present IPR's notice date, and IPR No. IPR2025-01419 was one day ahead of the Present IPR's notice date.

[3] Samsung's IPRs were discretionarily denied on October 10, 2025. *Samsung Elecs. Co. v. Telcom Ventures LLC*, IPR2025-00957, Paper 12 at 2-3 (Director Oct. 10, 2025).

Process Memo and *Fintiv*[4] factors weigh in favor of denying institution.

First, instituting this Petition would require a considerable and inefficient use of the Board's resources as at least one and possibly two district court trials on the Telcom Ventures Patents, including the Challenged Patent, are scheduled to conclude well before any final written decision would issue in any of the Google IPRs. Indeed, the Director already confirmed that "[t]he district court's scheduled trial date is June 1, 2026, and the time-to-trial statistics suggest trial will begin by October 2026" and that it is unlikely that a final written decision in the Samsung IPRs, which were filed almost ***three months before*** this IPR, "will issue before district court trial occurs resulting in significant duplication of effort, additional expense for the parties, and a risk of inconsistent decisions." *Samsung Elecs.* IPR2025-00957, Paper 12 at 2.

Second, Patent Owner's Discretionary Denial briefs together and individually demonstrate Patent Owner has had strong settled expectations for the family of Telcom Ventures Patents going back nearly a decade—which stem from U.S. Patent No. 9,462,411, which was filed on November 4, 2008, and issued on October 4, 2016. Indeed, the Challenged Patent is ***over five years old*** as it issued on June 2,

[4] *Apple v. Fintiv, Inc.*, No. IPR2020-00019, Paper 11 (P.T.A.B. Mar. 20, 2020) (precedential) ("*Fintiv*").

2020. The Challenged Patent and the six other challenged Telcom Ventures Patents are continuations of the ’411 Patent that the Office has, after a full and complete examination, issued year after year—in 2017, 2019, 2020, 2023, and 2024.[5] Moreover, each of the applications has been directed to the same technology area as the products accused of infringement in the Samsung Litigation, including the Samsung phones that support Google Pay. That the Office has continued to review and grant claims across the family underscores Patent Owner’s settled expectations for these patents.

All told, there are many reasons to deny institution, and institution should be denied.

II. LEGAL STANDARDS

35 U.S.C. § 314(a) gives the Director discretion to deny institution of IPR due to the advanced state of parallel district court litigation regarding the same issues.

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[5] *See, e.g.*, *Samsung Elecs. Co., Ltd. v. Icashe, Inc.*, IPR2025-00639, Paper 11 at 2 (P.T.A.B. Aug. 14, 2025) (granting discretionary denial where some of the patents “have been in force for over nine, eight, twelve, nine, and nine years, respectively, creating strong settled expectations for Patent Owner” and where instituting IPRs on other patents that issued more recently would be “an inefficient use of Board resources and tips the balance to discretionary denial as to those patent[s] too”).

See NHK Spring Co. v. Intri-Plex Techs., Inc., IPR2018-00752, Paper 8 at 19-21 (P.T.A.B. Sept. 12, 2018) (precedential). The Interim Process Memo outlines several discretionary factors committed to the Director's discretion under § 314(a), including a non-exhaustive set of factors that the Board may consider when evaluating how to apply its discretion under § 314(a) ("Interim Process Memo Factors") and the *Fintiv* factors. The "[p]arties are encouraged to address ***any*** fact or circumstance they believe bears on the Director's discretion to institute, including reasons not discussed in current Board precedent or in the Process Memorandum." *See* Interim Director Discretionary Process Website, I.B (emphasis added).

III. THE DIRECTOR SHOULD DENY INSTITUTION OF INTER PARTES REVIEW UNDER § 314(a)

The Director should deny institution on all grounds. Google's IPR petitions are ***the third set*** of challenges, and the Board has already discretionarily denied the first set because, among other reasons, "it is unlikely that a final written decision in [the earlier-filed IPR] proceeding will issue before district court trial occurs resulting in significant duplication of effort, additional expense for the parties, and a risk of inconsistent decisions." *Samsung Elecs.*, IPR2025-00957, Paper 12 at 2. Worse, these later petitions by Goole present challenges to patents that will be subject to not only the district court trial in the Samsung Litigation, *see id.*, but potentially a second district court trial in the Apple Litigation. As shown below, many of the Interim Process Memo Factors weigh in favor of denying institution in the interest of

efficiency and fairness, including Patent Owner's settled expectations, the Petition's reliance on expert testimony, and other considerations. Moreover, the *Fintiv* factors weigh in favor of denying institution in view of at least the Samsung Litigation. *See NXP USA, Inc. v. Impinj, Inc.*, PGR2022-00005, Paper 18 at 7 (P.T.A.B. May 2, 2022) (weighing *Fintiv* factors and denying institution).

A. The Interim Process Memo Factors Weigh Against Institution

1. The Telcom Ventures Patents Will Be Subject to Validity Determinations Well Before Any Final Written Decision

Petitioner filed seven separate petitions challenging the Telcom Ventures Patents nearly ***three months after*** Samsung and ***weeks after*** Apple filed their own petitions challenging the same patents.[6] These petitions are thus the third set of patentability challenges on the same set of patents before the Board, and the first set has already been discretionarily denied. *See, e.g.*, *Samsung Elecs.*, IPR2025-00957, Paper 12 at 2; *uPI Semiconductor Corp. v. Force MOS Tech. Co. Ltd.*, IPR2025-00920, Paper 12 at 2 (Director Sept. 12, 2025) ("Repeated challenges weigh against institution, and it would not be an efficient use of Office resources to further consider

[6] *See Samsung Elecs. Co. v. Telcom Ventures LLC,* IPR2025-00957, -00972, -00973, -00974, -00975, -00976, -00977, -00978 (the "Samsung IPRs"); *Apple Inc. v. Telcom Ventures LLC,* IPR2025-01232, -01233, -01234, -01235, -01236, -01237, -01238, -01239 (the "Apple IPRs").

the Petition under these circumstances."); *Zhuhai CosMX Battery Co., Ltd. v. Ningde Amperex Tech. Ltd.*, IPR2025-00524, Paper 10 at 2 (Director Sept. 3, 2025) ("Repeat challenges weigh against institution."). It would be an inefficient use of the Office's resources to review serial challenges by different Petitioners to the same patents, particularly here given the likelihood of earlier district court trials that impose "significant duplication of effort, additional expense for the parties, and a risk of inconsistent decisions." *Samsung Elecs.*, IPR2025-00957, Paper 12 at 2.

Specifically, the Telcom Ventures Patents are asserted in the Samsung Litigation, where trial is scheduled for June 1, 2026. *See id.*; Ex. 2005. Thus, trial on the Telcom Ventures Patents will conclude in the Samsung Litigation ***eight months*** before February 19, 2027, the statutory deadline for the Board to issue a final written decision in this IPR (assuming the Board's institution decision is dated February 19, 2026).[7] Further, should the Board institute the Apple IPRs, the Board's statutory deadline to issue any final written decision in those IPRs is before the statutory deadline in the instant proceedings, not to mention the possibility of a district court

[7] The '411 Patent is not challenged by Google but is at issue in the Samsung Litigation. The fact that the Court will consider the validity of the '411 Patent regardless of what happens in this IPR further underscores the inefficiency of instituting the Google IPRs and increases the likelihood of inconsistent results.

trial on four of the Telcom Ventures Patents in the Apple Litigation.

In sum, it is unlikely that any final written decision in this proceeding will issue before at least one and potentially two district court trials occur on the Challenged Patent ***and*** before the deadline for the Board to issue a final written decision in the Apple IPRs (should the Board institute those proceedings). Under these circumstances, it would be an inefficient use of the Office's resources to review the Challenged Patent. *See, e.g.*, *Samsung Elecs.*, IPR2025-00957, Paper 12 at 2; *Docker Inc. v. Intellectual Ventures II LLC*, IPR2025-00840, Paper 9 at 2 (Director Sept. 19, 2025) (denying institution where the challenged patent was at issue in other district court proceedings and IPRs and a district court trial would occur before any final written decision). Accordingly, discretionary denial of institution is appropriate in this proceeding based on at least the ordered Samsung Litigation trial date and the expected Apple Litigation trial date, as well as the Board's deadline to issue a final written decision in the Apple IPRs (should the Board institute those proceedings).

2. Patent Owner's Settled Expectations Favor Denial

The Challenged Patent belongs to a family of patents with strong settled expectations. "Settled expectations" is generally directed to the length of time the claims have been in force. This factor weighs in favor of denying institution.

At issue in these seven IPRs is a single set of continuation patents. This single family of patents, whose filing date is in 2008, embodies the inventions of two

inventors, Peter D. Karabinis and Rajendra Singh. By the time of the institution decisions in these proceedings, the '411 Patent (the oldest family member) will have been in force for more than nine years—since October 4, 2016—and the Challenged Patent itself has been in force since 2020. This creates strong settled expectations for Telcom Ventures. *See, e.g.*, *Samsung*, Paper 11 at 2 (granting discretionary denial where the challenged patents "have been in force for over nine, eight, twelve, nine, and nine years, respectively, creating strong settled expectations for Patent Owner"); *Yangtze Memory Techs. Co., Ltd. v. Micron Tech., Inc.*, IPR2025-00498, Paper 11 at 2 (P.T.A.B. Aug. 14, 2025) (granting discretionary denial where "the challenged patents have been in force for approximately ten, six, and six years, respectively, creating strong settled expectations for Patent Owner").

Moreover, the Office has continually issued patents in this family over the last nine years. As such, starting with the original filing in 2008 (and issuance in 2016), Patent Owner has invested a significant amount of time and resources into this family of patents, none of which have ever been challenged before the present serial IPR petitions by Samsung, Apple, and Google, and the Office has continuously awarded Telcom Ventures patent after patent in the family after rigorous examination by the Examiners. Petitioner does not—and cannot—provide any persuasive reasoning for why an *inter partes* review of seven patents in the same family is an appropriate use of Board resources. *Icashe*, Paper 11 at 3 (granting

discretionary denial of seven IPRs even though some of the patents had not been in force as long as others); *Yangtze*, Paper 11 at 2 (declining to "disturb the strong settled expectations of Patent Owner" where Petitioner failed to explain why IPR is an appropriate use of Board resources).

The fact that the first patent in the Telcom Ventures Patent family issued about nine years ago and the Challenged Patent has been in force since 2020, coupled with the substantial investments by Patent Owner (both then and in the many years since then) as the Office granted issuance of each family member, demonstrates settled expectations that warrant denial of institution. *See, e.g.*, *iRhythm Techs., Inc. v. Welch Allyn*, IPR2025-00363, Paper 10 at 3 (Director June 6, 2025) (denying institution where "one of the patents has been in force since as early as 2012"); *Dabico Airport Sols. Inc. v. AXA Power ApS*, IPR2025-00408, Paper 21 at 2–3 (Director June 18, 2025) ("[T]he challenged patent has been in force almost eight years, creating settled expectations."); *Samsung Elecs., Co., Ltd. v. Cerence Operating Co.*, IPR2025-00458, Paper 14 at 2 (Director June 25, 2025) ("[T]he challenged patents issued over 11 years ago . . . . Patent Owner's settled expectations also weigh toward discretionary denial."). The longstanding nature of the Challenged Patent (and the family as a whole), and the Office's regular and consistent granting of each patent in the family over the last nine years, demonstrates settled expectations surrounding Messrs. Karabinis and Singh's inventions.

Moreover, each of the applications has been directed to the same technology area as the products accused of infringement in the Samsung Litigation—including Samsung's phones that support Google's mobile financial transaction technology—and in the Apple Litigation. For example, the Telcom Ventures Patents, including the Challenged Patent, are directed to financial transactions and wallet applications. Specifically, starting with the first application filed in November 2008, each of the Telcom Ventures Patents is directed to a wallet function on a mobile wireless device. Ex. 1001 at 1:41-44 ("It would, for example, be desirable to have a mobile wireless device act as a 'wallet' (over and above other functions) only when it is time to pay for an item and not act as a wallet when there is no need to do so."). Indeed, each of the Telcom Ventures Patents relates to the use of a proximity criterion for completing financial transactions. *Id*. at 9:25-29 ("In one embodiment, the detection by mobile subscriber device 14 of a proximity criterion relative to Entity 1 can enable the mobile subscriber device 14 to authorize and complete a financial transaction such as the payment of a toll and/or of an item at a check out line.").

Thus, Patent Owner's settled expectations weigh against institution.

3. The Petition's Reliance on Expert Testimony Favors Denial

In evaluating discretionary denial, the Director also considers the "extent of the petition's reliance on expert testimony." Interim Process Memo at 2.

This factor favors denial because Petitioner relies heavily on expert testimony,

assumptions, and inferences to fill in the gaps of the prior art in order to arrive at the claimed inventions. Also, Petitioner's expert testimony is oftentimes superficial and at all times lengthy, covering every claim limitation and every asserted ground, rather than providing a focused expert declaration addressing only the limitations for which expert testimony is strictly warranted. *See generally* Ex. 1002.

Petitioner's expert declaration lacks focus because, for example, it provides only a cursory analysis of the prior art using language that tracks the Petition and using the same headings and sub-headings throughout the claim analysis (*compare* Ex. 1002, ¶¶ 51-59 *with* Pet. at 8-13; *compare* Ex. 1002, ¶¶ 60-70 *with* Pet. at 13-19; *compare* Ex. 1002, ¶¶ 71-86 *with* Pet. at 19-31. Worse, Petitioner's obviousness grounds—based on *Barnett* in combination with *Waters*, *White*, and/or *Smith*—rely on expert testimony to establish what Petitioner contends would have been the relevant knowledge of persons of ordinary skill in the art ("POSITA"), including how a POSITA allegedly would have understood or combined these four references to fit the language of the Challenged Claims. *See, e.g.*, Pet. at 27, 33, 39, 40, 48, 50, 51, 72 (for limitations [1.a], [1.b], [1.d.iii], [1.d.iv], [5.pre]-[5.a], [5.a.ii], [5.a.iii], [5.a.iv], and [8.pre]-[8.a], asserting what "[a] POSITA would have understood"); *see also id.* at 17 (for limitation [1a], asserting that "[a] POSITA would have been motivated to incorporate such a sensing mechanism, similar to that disclosed by Waters, to selectively enable/disable the NFC tag in Barnett's device"); *id*. at 32 (for

limitation [1b], asserting that "[a] POSITA would have also been motivated in view of White to allow an approver to authorize multiple transactions at once"); *id*. at 39 (for limitation [1.d.vi], asserting "[a] POSITA would have understood that the payment information sent from the consumer's phone to the POS terminal is associated with the subscriber approval response received from the approver's device").

Patent Owner will explain in its POPR (which Patent Owner incorporates by reference) why Petitioner's and its expert's arguments, assumptions, and inferences are incorrect and do not meet the claim limitations. Regardless, because of Petitioner's extensive reliance on superficial but extensive expert testimony in an attempt to establish unpatentability of the Challenged Claims, the patentability of the Telcom Ventures patent family is better suited to resolution in an Article III district court, including both the Samsung Litigation that is already far advanced (and scheduled for trial well before this proceeding would conclude) and the Apple Litigation. Thus, this factor favors denial of institution.

4. Other Circumstances Weigh Against Institution

Other circumstances also weigh against institution. For example, Google waited ***eleven months*** after Telcom Ventures initiated the Samsung Litigation and nearly ***nine months*** after Telcom Ventures asserted that Samsung's phones that support Google's mobile wallet technology infringe the Telcom Ventures Patents to

file these IPR Petitions. Indeed, Telcom Ventures served its initial, public infringement contentions on November 21, 2024, where Telcom Ventures asserted that Samsung phones that support Google Pay infringe the Telcom Ventures Patents. Ex. 2002. Regardless, Google's petitions are well behind the streamlined district court trial scheduled for June 2026 in the Samsung Litigation, not to mention the possibility of another trial in the Apple Litigation for a subset of the patents (including the Challenged Patent). The purpose of discretionary denial is to "allay[] concerns about inefficiency and duplication of efforts." *Fintiv*, Paper 11 at 6. Instituting seven separate IPRs to address the patentability of the Telcom Ventures Patents that will already be decided by at least one jury (and by the Board, should the Board institute the Apple IPRs) would frustrate the intended efficiencies of the AIA and would be an unnecessary and unwarranted expenditure of the Board's resources. *See Samsung Elecs.*, IPR2025-00957, Paper 12 at 2.

In essence, Petitioner is requesting an additional seven separate IPR trials (which, when added to both the Samsung and Apple IPRs that were already before the Board at the time of Petitioner's filings, results in 23 IPRs challenging eight

patents[8]), where both the Samsung Litigation and the Apple Litigation (as well as the Board's final written decisions in the Apple IPRs, should they be instituted) will likely finish well in advance of any IPR final written decisions here. The IPR Petitions on the family of Telcom Ventures Patents create duplicative workloads, inefficiencies, and potential for inconsistent results that the Interim Guidance Memo is designed to prevent. *See, e.g.*, *Samsung Elecs.*, IPR2025-00957, Paper 12 at 2; *Comcast Cable Commc'ns, LLC d/b/a Xfinity v. Entropic Commc'ns, LLC*, IPR2025-00183, Paper 11 at 3 (Director June 25, 2025) ("The presence of multiple parallel proceedings and avoidance of duplicative workloads and inconsistent outcomes favor discretionary denial."). The Article III proceedings in at least the Samsung Litigation, and potentially the Apple Litigation as well, will be faster than these IPRs and additionally will be able to provide the most efficient resolution of the parties' many extensive disputes over validity, all of which favors denial of institution.

Lastly, the Director already rejected arguments that the examiner committed errors during prosecution of the Telcom Ventures Patents. *See Samsung Elecs.*,

[8] Even considering the Director's discretionary denial of the Samsung IPRs, the Board and the Patent Owner spent considerable resources on each of the 23 IPR proceedings.

IPR2025-00957, Paper 12 at 2 ("Petitioner's argument that the patent examiner committed 'multiple errors' during prosecution are not persuasive."). This too weighs against instituting any of the IPRs on the Telcom Ventures Patents.

In sum, many of the Interim Guidance Memo factors warrant discretionary denial of Google's IPR petitions, including the present Petition.

B. The *Fintiv* Factors Weigh Against Institution

1. *Fintiv* Factor 1: There Is No Evidence That a Stay is Likely in the Samsung Litigation

***Fintiv* Factor 1** favors denial of institution because of the Samsung Litigation. The Court denied Samsung's Motion to Stay in the Samsung Litigation on August 27, 2025. Ex. 2006. And the Director has already discretionarily denied the Samsung IPRs and determined that "there is insufficient evidence that the district court is likely to stay its proceeding even if the Board were to institute trial." *Samsung Elecs.*, IPR2025-00957, Paper 12 at 2. Thus, *Fintiv* Factor 1 weighs against institution.

2. *Fintiv* Factor 2: Any Final Written Decision Would Occur After the Scheduled Trial in the Samsung Litigation

Fintiv* Factor 2** weighs heavily against institution. In the Samsung Litigation, trial is scheduled for June 1, 2026. Ex. 2005. Trial on the Telcom Ventures Patents will therefore be complete ***eight months before February 19, 2027, the statutory deadline for the Board to issue a final written decision in this IPR (assuming the Board's institution decision is dated February 19, 2026). *Samsung Elecs.*, IPR2025-00957, Paper 12 at 2 (finding that "[t]he district court's scheduled trial date is June

1, 2026, and the time-to-trial statistics suggest trial will begin by October 2026.”).

In view of these facts, the Director already determined that “it is unlikely that a final written decision in [the earlier-filed Samsung] proceeding will issue before district court trial occurs resulting in significant duplication of effort, additional expense for the parties, and a risk of inconsistent decisions.” *See Samsung Elecs.,* IPR2025-00957, Paper 12 at 2 (denying institution where the trial date (June 1, 2026) was six months before the final written decision date (Dec. 1, 2026), while here the final written decision date is even two months later (Feb. 15, 2027)); *see also Cisco Sys., Inc. v. WSOU Investments LLC d/b/a Brazos Licensing & Dev.*, IPR2025-00429, Paper 15 at 2 (Director June 25, 2025) (finding this factor weighed in favor of discretionary denial and denying institution where the trial date (March 2026 or April 20, 2026) was three-to-five months before the final written decision date (July 30, 2026)); *Cisco Sys., Inc. v. QPrivacy USA LLC,* IP2025-00836, Paper 11 at 2 (Director Aug. 29, 2025) (finding this factor weighed in favor of discretionary denial and denying institution where the trial date (Oct. 19, 2026) was less than one month before the final written decision date (Nov. 12, 2026)); *Taiwan Semiconductor Mfg. Co. Ltd. v. Advanced Integrated Circuit Process LLC*, IPR2025-00682, Paper 17 at 2 (Director Aug. 14, 2025) (finding this factor weighed in favor of discretionary denial and denying institution where the trial date (June 22, 2026) was less than four months before the final written decision date (Oct. 18, 2026)).

Thus, *Fintiv* Factor 2 favors denial in view of the Samsung Litigation.

3. *Fintiv* Factor 3: The Court and Parties Have Already Invested Significant Effort and Resources in the Samsung Litigation

Fintiv* Factor 3** weighs heavily against institution. *Fintiv* Factor 3 looks to the "amount and type of work already completed in the parallel litigation by the court and the parties ***at the time of the institution decision." *Fintiv*, Paper 11 at 9 (emphasis added). There is no doubt that by institution, the Court, the parties, and Google, will have made substantial investments in the Samsung Litigation.

In the Samsung Litigation, by this IPR's institution deadline (February 19, 2026), the parties will have already exchanged initial infringement and invalidity contentions and ***completed all fact and expert discovery***, since the deadlines for the close of fact and expert discovery—December 18, 2025, and February 4, 2026, respectively—are ***before*** the institution deadline in this IPR. Ex. 2005.

Further, as of this paper's filing, Samsung has already served eighteen third-party subpoenas seeking documents and deposition testimony pertaining to alleged prior art in an attempt to bolster its validity challenges. Moreover, Telcom Ventures issued a subpoena to Google, seeking documents relevant to Samsung's use of Google Pay technology and associated infringement. Google and twelve other subpoenaed third-parties have already produced responsive documents, and the parties have spent significant time and resources reviewing those productions.

Given, the significant resources the parties, subpoenaed third-party Google, and the Court will have invested by the institution decision date, *Fintiv* Factor 3 weighs heavily against institution.

4. *Fintiv* Factor 4: Overlap of the Issues

***Fintiv* Factor 4** also weighs against institution. In addition to being involved in the Apple Litigation, the Challenged Patent is at issue in the Samsung Litigation, which is scheduled to conclude well before any final written decision here. Moreover, both grounds presented in the Petition rely on prior art that is presently asserted in the Samsung Litigation. Specifically, Samsung asserts that Waters (WO 2006/087503) and Smith (US2007/0124211) anticipate and/or render obvious each of the Telcom Ventures Patents.[9] Exs. 2007, 2008. Given, the overlap of the issues in the Samsung Litigation, *Fintiv* Factor 4 weighs against institution.

5. *Fintiv* Factor 5: Overlap of Parties

***Fintiv* Factor 5** also weighs against institution because Petitioner (Google LLC) is a relevant third-party to the Samsung Litigation and Patent Owner (Telcom Ventures LLC) is the plaintiff. Ex. 2003. While Petitioner will likely argue

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[9] While Google asserts that Smith (WO 02/09005) renders the Challenged Claims obvious, Smith (US2007/0124211) issued to one of the inventors named in Smith (WO 02/09005) and contains disclosures similar to those that Google relies on here.

that there is no overlap of the parties in the Samsung Litigation, Petitioner's argument falls flat as Samsung phones that incorporate Google's technology are accused of infringement in the Samsung Litigation, and Telcom Ventures subpoenaed Google for relevant documents and information pertinent to its claims. Also, multiple attorneys from the law firm representing Google in this IPR entered an appearance for Samsung in the Samsung Litigation. Ex. 2009. Thus, there is effectively an overlap of the parties, and this factor weighs against institution.

6. *Fintiv* Factor 6: The Merits of the Petition Are Weak

Fintiv **Factor 6** relates to the weakness of the Petition on the merits, which weighs against institution. The merits will be addressed in Patent Owner's Preliminary Response (which is incorporated herein by reference pursuant to the Interim Director Discretionary Process Website, II.C.i).

IV. CONCLUSION

Patent Owner respectfully submits that the Petition should be denied.

Dated: October 20, 2025

Respectfully submitted,

By: / Christopher TL Douglas /
Christopher TL Douglas, Reg. No. 56,950

CERTIFICATION UNDER 37 C.F.R. §42.24

I hereby certify that this paper complies with the 20-page limit requirement for discretionary denial briefs filed after September 1, 2025.

Dated: October 20, 2025

By: / Christopher TL Douglas /
Christopher TL Douglas

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §42.6(e), the undersigned hereby certifies that true and correct copies of the above-captioned **PATENT OWNER'S DISCRETIONARY DENIAL BRIEF and Exhibits 2001 – 2009** were served in its entirety on October 20, 2025 via filing through the Patent Trial and Appeal Case Tracking System (P-TACTS) and electronic mail on the following counsel of record for Petitioner:

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