

From: [Director Discretionary Decision](#)
To: [Rosato, Michael](#); [Director Discretionary Decision](#)
Cc: [Gerrard, Sonja](#); [Medley, Patrick](#); [Mills, Jad](#); [Jim Glass](#); [Margaret Shyr](#); [QE-Tempus-IPR](#)
Subject: RE: IPR2025-01434, IPR2025-01435
Date: Friday, November 28, 2025 11:57:38 AM

Patent Owner's request is granted.

From: Rosato, Michael <mrosato@wsgr.com>
Sent: Wednesday, November 26, 2025 3:32 PM
To: Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>
Cc: Gerrard, Sonja <sgerrard@wsgr.com>; Medley, Patrick <pmedley@wsgr.com>; Mills, Jad <jmills@wsgr.com>; Jim Glass <jimglass@quinnemanuel.com>; Margaret Shyr <margaretshyr@quinnemanuel.com>; QE-Tempus-IPR <qe-tempus-ipr@quinnemanuel.com>
Subject: IPR2025-01434, IPR2025-01435

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Dear Honorable Director:

On November 20, 2025, Petitioner filed its oppositions to Patent Owner's (Guardant Health) request for discretionary denial in IPR2025-01434 and -01435. Patent Owner's Discretionary Denial briefs identified, *inter alia*, Petitioner's district court indefiniteness arguments as being inconsistent with the petition argument.

In Opposition, Petitioner does not explain its different positions but argues that "exchanged claim construction proposals" (identified by PO as inconsistent with the petition) submitted with the Discretionary Denial briefs are "no longer operative." However, those "claim construction proposals" have not been withdrawn by Petitioner. Petitioner also fails to inform the Board it additionally served invalidity contentions asserting indefiniteness of the challenged claims at district court.

Requested Relief: Patent Owner requests authorization to file Petitioner's invalidity contentions, which further confirm Petitioner's pursuit of its indefiniteness arguments at district court. Good cause exists for this request. See e.g., IPR2025-01055, Paper 11, p. 13 (explaining that Patent Owner should not be burdened as the first party to inform the Board of Petitioner's different positions in the two forums).

Petitioner indicates it does not oppose this request and offers the following statement:

"Petitioner does not oppose PO's request but notes that, as shown in EX1091,

invalidity contentions and claim constructions in the district court action are due in March and April 2026 respectively. The positions in the preliminary invalidity contentions in the district court action are not final and Patent Owner's contention that Petitioner's argument is 'false' is incorrect."

Respectfully,

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