IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TIKTOK INC.,

Petitioner,

v.

SHOPSEE, INC.,

Patent Owner.

_____

Case No. IPR2025-01485

U.S. Patent No. 11,134,316

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PETITIONER'S CORRECTED OPPOSITION TO PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL OF INSTITUTION

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I. INTRODUCTION

The Director should deny PO's request for discretionary denial (Paper 7) ("Request"). The '316 patent was not issued until late 2021 and was never asserted until PO brought a lawsuit against Petitioner late last year, leaving the parties with no settled expectations of validity. Moreover, the *Fintiv* factors heavily weigh against denial—the case is stayed pending a granted motion to transfer to the Northern District of California, and though there is no trial date, the Board's Final Written Decision will with near-certainty be issued before any trial occurs. Even in the unlikely event the District Judge reverses the Magistrate Judge's decision to transfer, PO agrees that it is not feasible for the previously scheduled trial date of October 5, 2026 to occur. But the delay will not be the "at most … mere weeks" (Request at 3) as Petitioner speculates—the delay will be significantly more because the case has already been stayed for nearly 4 months, discovery has not even begun, and the Court will need to reschedule its Markman hearing before a trial date is set.

II. PETITIONER'S STIPULATION

In view of PO's arguments, and as discussed below, Petitioner updates and clarifies the scope of its stipulation as follows: if institution is granted (and not later withdrawn or vacated), Petitioner stipulates that it will not pursue in the parallel litigation the grounds it raised or could have reasonably raised in the petition, and that it will not pursue any ground that relies on Ohliger or the Veepio system.

Petitioner further stipulates that, if institution is granted, it will not argue that claim 18's "software module," claim 1's "form[ing] one or more items, services, or songs of interest" and "the one or more items, services, or songs in the video media," and claim 18's "items, services, or songs presented in a video media" and "said first interactive layer contains the items, services, or songs of interest" are indefinite.

III. SETTLED EXPECTATIONS HEAVILY WEIGH AGAINST DENIAL

The '316 patent was issued on September 28, 2021. Thus, PO "has not developed strong settled expectations that favor discretionary denial." *See Cambridge Indus. USA, Inc. v. Applied Optoelectronics, Inc.*, IPR2025-00434, Paper 11 at 2-3 (June 26, 2025) (finding 2020 patent to lack settled expectations).

Nor has PO shown that the '316 patent was "commercialized, asserted, marked, licensed, or otherwise applied in [Petitioner's] technology space." *Home Depot U.S.A. v. H2 Intellect LLC*, IPR2025-00480, Paper 11 (Sept. 4, 2025). The '316 patent had never been asserted prior to PO's lawsuit brought in December 2024. And PO provides no evidence that it commercialized or licensed the '316 patent prior to its lawsuit. Although PO provides a screenshot of its website from October 20, 2025 with the self-serving statement that "[o]ur patented technology allows you to embed purchasable products directly into videos" (Request at 16 (citing Ex. 2016)), this website appears to have been specifically created for litigation purposes, and possibly even this proceeding. Captures of PO's website on the Internet Archive

show that at least prior to April 2025, when the last capture was made, PO's website provided minimal information and no claims that any of its products were patented. Ex. 1022 (April 27, 2025 capture), Ex. 1023 (March 29, 2025 capture). And even PO's self-serving October 20, 2025 screenshot contains no evidence substantiating its assertion that PO has any "patented technology" aside from the '316 patent itself. In sum, there is zero evidence that the '316 patent was ever used or enforced by PO before it brought this lawsuit.

PO also argues that the lengthy prosecution history of the '316 patent established settled expectations. Request at 14-16. To the contrary, the Office issued ***six rejections***, showing applicant attempted for too long to patent what was clearly unpatentable. The lengthy prosecution was therefore entirely due to applicant's failure to draft patentable claims. Pet. 7-9; Ex. 1004, 104-14, 140-51, 178-90, 215-29, 260-75. The examiner only allowed the claims after the applicant added the limitations that the "video media, the first interactive layer and the second interactive layer" are displayed to a user via first processing device and at least one guest via a second processing device, and "conversations" are displayed as "an overlay to the video media." *Id.*, 308-318. Yet, as discussed in the petition and below, those limitations are disclosed in Ohliger and Tapissier.

IV. THE *FINTIV* FACTORS HEAVILY WEIGH AGAINST DENIAL

The *Fintiv* factors heavily weigh against denial. The parallel litigation is

currently stayed pending the District Court's approval of a motion to transfer granted by the Magistrate Judge. There is therefore a high likelihood that the case will be transferred to the Northern District of California, putting the Board's Final Written Decision well before any potential trial date. Even in the unlikely scenario that the District Court does not transfer the case, even by PO's own admission (Request at 3), the trial will need to be delayed—and given that discovery has not even started, trial will have to be delayed by months.

A. Factor 1: The Litigation is Stayed

The parallel litigation is currently stayed, which heavily weighs against denial. On August 26, 2025, Magistrate Judge Gilliland granted Petitioner's motion to transfer venue and stayed the case until September 24, 2025. Ex. 1024. On September 8, 2025, PO filed an appeal to Judge Gilliland's order. *Id.* On September 22, 2025, the parties jointly moved to extend the stay until the District Court decides PO's appeal. *Id.* The next day, Judge Gilliland granted the parties' motion. As of the date of the filing of this brief, the District Court has not ruled on PO's appeal. It has been nearly 4 months since Judge Gilliland stayed the case. There is no indication that the District Court will issue its order any time soon, especially in view of the upcoming holidays.

PO argues that "a stay is not dispositive" on the issue of discretionary denial. Request at 3. The cases PO relies on do not help PO's position. Indeed, the Director

has made clear that a stay, even one that is pending appeal, "counsel[s] against discretionary denial." *Amazon.com, Inc. v. Virtamove, Corp.*, IPR2025-00561, Paper 9 (July 11, 2025) (cited by Request at 3); *see also Kahoot! AS v. Interstellar Inc.*, IPR2025-00696, Paper 12 (July 31, 2025) (cited by Request at 3) ("Some factors counsel against discretionary denial. For example, the parallel district court proceeding … has been stayed."). In each of PO's cases, the Director instead denied institution because of strong settled expectations based on the age of the patents. *Amazon.com, Inc. v. Virtamove Corp.*, IPR2025-00561, Paper 9. ("[T]he challenged patents have been in force for more than 14 years, creating strong settled expectations"); *Kahoot! AS*, Paper 12 ("[T]he challenged patent has been in force for over six years, creating strong settled expectations"); *Amazon.com, Inc. v. Kaifi LLC*, IPR2025-00624, Paper 16 (July 29, 2025) ("[T]he patents … have been in force for approximately fourteen, ten, and fifteen years, respectively, creating strong settled expectations for PO."). By contrast, the '316 patent was issued in 2021 and therefore lacks any settled expectations.

B. Factor 2: No Scheduled Trial Date

Although the Court previously scheduled trial for October 5, 2026, PO concedes trial will not happen on that date in view of the stay. Request at 3 ("[T]rial will be delayed"). As things stand, the Magistrate Judge has granted Petitioner's motion to transfer to the Northern District of California. That decision is likely to be

affirmed by the District Court given the applicable "clearly erroneous or is contrary to law" standard (F.R.C.P. 72 (a)) (a high threshold) required for reversal. Once affirmed, to the extent N.D. Cal. even schedules a new trial date, it will be long after the Board's expected Final Written Decision date of March 16, 2027. Ex. 1025 at 2 (time-to-trial average for N.D. Cal. of 37.6 months).

Even in the unlikely situation that the District Court reverses the Magistrate Judge's grant of the motion to transfer, trial will have to be significantly delayed. The stay has been in place for nearly four months as of the filing of this brief. Because of the stay, the Court's Markman hearing date of October 2, 2025 will have to be rescheduled. Under the Western District of Texas's rules, discovery does not begin until after the Markman hearing and all deadlines are keyed from that date. Ex. 1026 at 3. Even assuming optimistically that the Court schedules a Markman hearing in late January or early February 2026, that would place trial in late January or early February 2027, merely a month before the Board's Final Written Decision deadline. A lack of settled expectations outweighs a one-month difference between trial date and Final Written Decision. *See, e.g.*, *Zhuhai CosMX v. Ningde Amperex Technology Ltd.*, IPR2025-00385, Paper 9 (July 2, 2025). And this scenario rests on numerous assumptions: (1) that the District Court finds the Magistrate Judge's decision to be "clearly erroneous or is contrary to law" (F.R.C.P. 72 (a)) (a high threshold) and is not itself thereafter overturned on Mandamus, (2) that the District

Court issues its decision within the next month, and (3) that the District Court schedules a Markman hearing within weeks of its decision. In all likelihood, the trial date will be delayed by many more months even if the case remains in Texas, which strongly weighs against denial. A better metric for estimating a trial date if the case remains in Texas is the median time-to-trial for the Western District of Texas, which is 32.8 months and would place trial in August or September 2027, well after the Final Written Decision. Ex. 1025 at 1.

C. Factor 3: Little Investment in the Litigation

The parties have invested very little in the litigation. Importantly, discovery has not yet begun. Ex. 1026 at 3 ("Except with regard to venue, jurisdictional, and claim constructed-related discovery, all other discovery shall be stayed until after the *Markman* hearing."). And although the parties began claim construction briefing, the briefing was not completed before the Court stayed the litigation, with PO's sur-reply still outstanding. Moreover, the Court's scheduled Markman hearing date of October 2, 2025 did not occur and will have to be rescheduled. The lack of a Markman hearing date indicates a lack of investment in litigation. *Cf. Coretronic Corp. v. Maxell Ltd.*, IPR2025-00941, Paper 9 (Sept. 26, 2025) (finding meaningful investment where "the parties have participated in a *Markman* hearing, fact discovery was scheduled to close on August 21, 2025, and expert discovery will close soon."). PO does not identify any substantial investment in the litigation

beyond its false claim that "claim construction was fully briefed"[1]—which is not a substantial investment, especially in the Western District of Texas where discovery only begins after the *Markman* hearing. Ex. 1026 at 3.

PO instead focuses on Petitioner's alleged "delay" in filing the petition, accusing Petitioner of doing so to "obtain a tactical advantage." Request at 4-5. PO, however, does not identify how Petitioner could have gained any advantage from any alleged deliberate delay. In reality, Petitioner did ***not*** delay in filing its petition. The petition was filed less than 8.5 months after service of the complaint, a reasonable amount of time to prepare an IPR petition. Moreover, although Petitioner was aware of Ohliger by May 2025, the petition also relies on other references that did not come to Petitioner's attention until later, including Kaiserlian and Sakhartov.

D. Factor 4: Petitioner's Broad Stipulation

Petitioner has filed a *Sotera* stipulation and further clarified its scope, which removes all potential overlap with the district court litigation, and weighs against denial. March 24, 2025 Boalick Memo ("[A] timely-filed *Sotera* stipulation … is highly relevant"). PO claims that Petitioner's assertion of the Veepio prior art system will allow Petitioner to use Ohliger regardless of the stipulation. Request at

[1] Patent Owner's sur-reply brief was to be due August 28, 2025, but was never filed because of the stay.

5-6. PO is wrong, but to avoid all doubt, Petitioner clarified above that its stipulation was intended to bar Petitioner from relying on Ohliger, even as evidence of system prior art. Petitioner also updates its stipulation to exclude reliance on Veepio. Accordingly, and especially in view of the delayed trial date, there is simply no risk of overlapping issues.

E. Factor 5

Factor 5 does not outweigh the other factors above.

F. Factor 6: The Merits of the Petition are Strong

PO's arguments on the merits would be better suited for review during the merits consideration of the Director's review of the petition, not during discretionary denial. Regardless, PO's arguments are wrong, as explained further below.

1. Petitioner provided sufficient explanation for its claim construction positions

Claim 18, "software module." PO accuses Petitioner of failing to meet its obligation under 37 C.F.R. § 42.104(b)(3) to provide a construction for the term "software module" in claim 18, which as explained in the petition, Petitioner believes is subject to Section 112(f) and lacks corresponding structure. Request at 6-7. As an initial matter, this issue is moot, because Petitioner will not pursue this argument if the proceeding is instituted. In addition, PO's argument only applies to two of the 19 challenged claims and therefore does not merit denial of institution.

Moreover, Petitioner explained in its petition that it would apply PO's

construction of the term wherein "software module" is not subject to Section 112(f) because the preamble provides structure for the term. Pet. 15. To the extent the Director does not find that the petition sufficiently "explained why alternative positions are warranted" (*Revvo Techs., Inc. v. Cerebrum Sensor Techs. Inc.*, IPR2025-00632, Paper 20 at 3-4 (precedential)), Petitioner has stipulated above that it will not pursue this position if instituted. Accordingly, if the IPR is instituted, PO's plain and ordinary meaning of "software module" would apply both in the IPR and in district court litigation.

Claim 1, "audio objects in … frames." For claim 1's "a plurality of visual or audio objects in one or more frames of the video media," Petitioner explained that "audio objects in one or more frames" is "nonsensical." However, the Board need not resolve that issue to decide Petitioner's IPR. The claim requires "visual *or* audio objects," and Petitioner mapped the prior art to "visual … objects," which alone is sufficient to meet this claim limitation. Pet. 10. Thus, regardless of what "audio objects in one or more frames" may require or whether it is indefinite, claim 1 is invalid over Petitioner's prior art. *Mylan Pharms. Inc. v. Horizon Pharma USA*, IPR2017-01995, Paper 72 at 5-6 (Mar. 28, 2019) ("[W]e need not necessarily determine the outer boundaries of a claim in reaching a conclusion as to whether the asserted prior art anticipates a claim or renders it obvious."). The Director has indicated such an explanation is sufficient. *Tesla, Inc. v. Intellectual Ventures II*

LLC, IPR2025-00340, Paper 18 at 3-4 (Nov. 5, 2025) (informative) ("Petitioner's explanation may have risen to a sufficient level, for example, if Petitioner had shown that, notwithstanding the alleged indefiniteness of the claim term, an ordinarily skilled artisan would understand that the asserted art satisfies the claim limitation (such as if the limitation prescribed a range and only the outer bounds of the range were unclear).").

Claims 1 and 18, other indefiniteness positions. For claim 1's "form[ing] one or more items, services, or songs of interest" and "the one or more items, services, or songs in the video media," as well as claim 18's "items, services, or songs presented in a video media" and "said first interactive layer contains the items, services, or songs of interest," Petitioner explained that it adopts PO's construction for the petition because it is "sufficiently described." While Petitioner believes that PO's construction is not supported by the intrinsic record, it is not necessary for the Board to resolve this issue. Pet. 11-13. Petitioner has now stipulated that it will not pursue the aforesaid indefiniteness arguments if this proceeding is instituted. Accordingly, if the IPR is instituted, the same interpretation advanced by PO for these limitations will apply both in this IPR and in district court litigation.

2. Extensive Discovery is Not Necessary to Resolve this Petition

PO claims that this proceeding "likely will require extensive discovery to demonstrate the objective indicia supporting non-obviousness, further confirming

the district court is a better forum." Request at 9. The only objective indicia that PO identifies is Petitioner's alleged commissions from sales that occur on its platform that are purportedly "enabled by the '316 Patent's claimed technology" that was purportedly "cop[ied]." *Id.* PO does not claim that it practices or commercializes the '316 patent, or that any of PO's products were successful, received industry praise, or met a long-felt need. PO has also not alleged in the litigation that Petitioner copied anything from PO. And importantly, PO does not allege any nexus between the claims and Petitioner's success.

Moreover, discovery on objective indicia would not burden the parties (certainly not PO who would not be producing such evidence) or the Board. The Board provides mechanisms to request limited discovery. *See* 37 C.F.R. § 42.51(b). Indeed, other IPR proceedings have properly dealt with secondary considerations evidence that is far more extensive than what PO proposes here. *See, e.g.*, *NJOY, LLC et al. v. JUUL Labs, Inc.*, IPR2024-00231, Paper 36 at iii-vii (listing dozens of secondary considerations exhibits).

3. The Merits of the Petition are Strong

PO raises arguments that attempt to collaterally attack the grounds via criticisms and mischaracterizations of the organization and wording of the petition, instead of addressing the petition's substance.

First, PO argues that Dr. Almeroth's declaration is not "reasoned expert

testimony." Request at 9-10. The only example PO provides is Dr. Almeroth's explanation for why a POSITA would be motivated to modify Ohliger's user interface to overlay (as also taught by Ohliger) one of Ohliger's user interface screens with the video disclosed in Ohliger. *Id.* (citing Ex. 1002, ¶¶158-63). Dr. Almeroth provided extensive reasoning for why a POSITA would be so motivated, such as because it would provide a "streamlined display of multiple conversations" which "enable[s] rapid navigation between different object discussions without requiring sequential object selection," or that it "enhance[e] the user's ability to survey and access multiple conversation threads," or that it would "allow[] viewers to view information on different products more efficiently," or that "users could then readily select relevant sub-comments for display," thereby meeting Ohliger's express goal of "brows[ing] that product while [a user] watch[es] it in action," or that the modification would change a series of successive operations into a single operation. Ex. 1002, ¶¶158-63.

PO does not dispute any of these benefits. Instead, PO asks the Director to ignore this testimony because Dr. Almeroth does not cite to a particular reference for the proposition that overlaying product information on a video would beneficially allow a user to simultaneously view both. To the contrary, Dr. Almeroth cites to Ohliger itself, which states that it is beneficial for a user "to browse that product while they watch it in action." Ex. 1002, ¶161 (quoting Ex. 1006, 29:19-

21). Moreover, "[g]eneral knowledge may still be used in an IPR to support a motivation to combine or to demonstrate the knowledge of a person having ordinary skill in the art." Ex. 2018, 1-2.

Second, PO claims that Petitioner "relies on expert testimony to supply missing limitations." Request at 11. The only example PO provides is with respect to dependent claim 15's recitation of layers being "unaffected by ad blocking software." *Id.* But Petitioner does not rely on Dr. Almeroth's say-so for this limitation. Instead, Petitioner cites to the Fahnestock reference, which teaches that "online media providers embed advertisements directly into the online media itself" which "increases the difficulty of blocking the advertisements." Ex. 1009, ¶19; Pet. 76. Petitioner also cites Ohliger and Boffa, the former for a non-web browser mobile application, and the latter for the well-known fact that such apps are unaffected by blocking software. Pet. 76; Ex. 1006, 4:1-3, Fig. 13; Ex. 1019, 1:38-49.

Third, PO claims that the petition presents "needlessly duplicative and confusing grounds." Request at 11-13. But the organization of the petition is plain. PO claims that "Grounds 2-4 layer on teachings of Sakhartov, Kaiserlian, and Tapissier, in various permutations." Request at 11. This is plainly untrue, as a simple review of the petition clearly shows. Each of Grounds 2 through 4 provides an alternative basis for rendering obvious different limitations of independent claims 1, 17, and 18. Ground 2 combines Ohliger with Sakhartov's "merging process" to

teach limitation 1[c][i] and 17[b][i]'s generating of video data with two interactive layers. Pet. 89, 92. Ground 3 combines Ohliger with Kaiserlian's "conversation thread[ing]" to teach limitation 1[c][vi], 17[b][vi], and 18[d][vi]'s toggling between different conversations. Pet. 93, 96-99. And Ground 4 combines Ohliger with Tapissier's "chatroom in an interactive television environment" to also teach those limitations, as well as the dependent claims 2, 17, and 19's toggling on/off of the conversation. Pet. 99-100, 104-08. These grounds are not vague permutations but are each additional reasons why certain, specific limitations in the independent claims are rendered obvious. And Ground 5 combines Ohliger, Sakhartov and either Kaiserlian or Tappisier.

PO claims this simple organization is confusing because the petition supposedly does not explain "**why** TikTok adds" these alternative grounds. Request at 12 (emphasis in original). The petition clearly states why: they are alternative grounds for those limitations. The obviousness of these limitations is made more apparent by the fact that multiple references disclose them.

PO claims that it will be "unnecessarily burden[ed]" because it must "respond to a nebulous set of prior art grounds." Request at 12-13. Again, the grounds are not nebulous, as each one introduces a new reference as an alternative basis that renders obvious a specific, narrow limitation. PO's "burden" is simply to either show a lack of motivation to combine the references, or that the combination would

not read on the limitation, as it would be for any obviousness challenge. To the extent PO is "burden[ed]," it is merely because PO must address the fact that these limitations were well-attested in the art. PO cannot claim to be burdened by the difficulty of defending a patent that is rendered obvious by multiple grounds.

Fourth, PO makes the ridiculous and speculative assertion that because Petitioner allegedly "contributed to a crowdsourced prior art search" but did not end up using any of the references from that search, instead being "forced to cobble together other disparate references," that must "confirm[] the strength and validity of the '316 Patent." Request at 13. While the crowdsourced search found numerous references that are relevant and establish that each of the limitations are found and known in the prior art, Petitioner chose to use art that it found from its own searches. That multiple, disparate searches led to multiple invalidating references confirms the ***weakness***, not the strength, of the patent.

V. THE EXAMINER DID NOT CONSIDER MATERIAL ART

Discretionary denial is also unwarranted because the examiner did not consider important prior art (Ohliger and Tapissier). *Anthony Inc. v. ControlTec LLC*, IPR2025-00559, Paper 12 at 2 (July 16, 2025). Even other factors may favor discretionary denial, "it is an appropriate use of Office resources to review the[se] potential error[s]." *Taiwan Semiconductor Manufacturing Co. v. Marlin Semiconductor Ltd.*, IPR2025-00847 et al, Paper 11 (Sept. 3, 2025).

The examiner found that the claims overcame the prior art following an amendment that required "video media, the first interactive layer, and the second interactive layer" to be provided to "first processing device" and a "second processing device", including display of "conversations" on an "overlay." Ex. 1004, 308-318. The petition explained how Ohliger and Tapissier disclose this limitation. Pet. 44-56, 99-105. Moreover, as PO admits, "the Examiner could not access Ohliger's disclosure or consider it during prosecution," and so IPR should be instituted to allow the Office to consider this highly relevant art. Request at 18. And Tapissier was also not cited during prosecution of the '316 patent. Accordingly, Ohliger and Tapissier are highly relevant prior art that the examiner did not review, and this heavily weighs against discretionary denial.

VI. PO'S REMAINING ARGUMENTS LACK MERIT

First, PO argues that, because Ohliger (an issued United States patent) was not published until after the '316 patent issued, Petitioner should be barred from relying on Ohliger. Request at 17-19. PO's argument is entirely inconsistent with Congress's unambiguous statutory command, which is that an IPR petition may use "prior art consisting of ***patents*** or printed publications." 35 U.S.C. § 311(b). There is no dispute that Ohliger is a patent and is prior art. PO cannot immunize its patent from prior art merely because it lacked awareness of such art. After all, the Director has frequently emphasized that IPR proceedings should promote "robust, predictable

patent rights" (*Google*, IPR2025-00875, Paper 10 at 2) which would be undermined if the PTAB is not able to consider what the examiner could not. There is no lack of fairness to PO, who could have filed a request for reexamination, new claims in its currently-pending child application, or a motion to amend in this proceeding.

PO claims that the pending Petition for Writ of Certiorari in *Lynk Labs, Inc. v. Samsung Electronics Co., Ltd. et al.* would impact this case. Request at 18-19. It would not. *Lynk Labs* was about whether a patent application that was not issued as a patent could be a "printed publication" if it was published after the challenged patent's priority date. *Lynk Labs*, 125 F.4th 1120 (Fed. Cir. 2025). It has nothing to do with whether a patent was available for the examiner to review. Ohliger is a "patent" and is "prior art" and therefore indisputably falls within Section 311(b) regardless of the meaning of a "printed publication" or when Ohliger was published. Moreover, unless and until the Supreme Court grants the petition and decides the appeal, the Federal Circuit's opinion in *Lynk Labs* is judicial authority which the Director must follow. The Federal Circuit held that "a published patent application is, by its literal terms, a 'printed publication'" which "is deemed prior art as of its filing date." *Id.*, 125 F.4th at 1127. Thus, Ohliger is both a "patent" and also a "printed publication" that was "prior art as of its filing date." *Id.*

Second, PO argues that "compelling national security interests" outlined in the Director's RPI memo weigh in favor of denial. Request at 19-20. Although the

RPI memo asserted "significant national-security concerns" related to actions financed by "[s]tate-linked entities" (RPI Memo at 2), Congress and the President have already addressed any such concerns with respect to Petitioner—the statutory "qualified divestiture" procedure. Notably, the President has made a significant determination on that front based on a "Framework Agreement" where TikTok in the United States will "be operated by a newly established joint venture based in the United States," which "will be majority-owned and controlled by United States persons and will no longer be controlled by any foreign adversary." Ex. 1027. The President has concluded that this agreement will "protect[] national security." *Id.* In particular, the President has concluded that the agreed transaction "resolves these national security concerns [identified by Congress]" and will "protect the American people from the misuse of their data and the influence of a foreign adversary, while also allowing the millions of American viewers, creators, and businesses that rely on the TikTok application to continue using it." *Id.* Simply put, whatever national security concerns the Director may have had with respect to TikTok have been squarely addressed by those who are constitutionally and statutorily empowered to address them—Congress and the President.

PO also argues that Petitioner failed to identify its corporate parents as RPIs. Request at 20. PO makes no attempt to meet its burden to show that any such entity is an RPI. While Petitioner does not believe there are any additional RPIs, out of an

abundance of caution, Petitioner will file updated mandatory notices to moot PO's argument. Petitioner notes that even if the petition's filing date is changed, the petition would still be within the one-year time bar, as the complaint was served December 20, 2024. Ex. 1028.

DATED: December 19, 2025 Respectfully submitted,

By */s/ James Glass*

James M. Glass (Reg. No. 46,729)
QUINN EMANUEL URQUHART & SULLIVAN, LLP
295 5th Avenue, 9th Floor
New York, NY 10016
Tel: (212) 849-7000
jimglass@quinnemanuel.com

Attorney for Petitioner.

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, I hereby certify that on December 19, 2025 the foregoing document was served via email on the following counsel of record:

raghav.bajaj@lw.com
matthew.moore@lw.com
tiffany.weston@lw.com
rachel.cohen@lw.com
joe.previti@lw.com
lauren.rosen@lw.com

DATED: December 19, 2025 Respectfully submitted,

By */s/ James Glass*

James M. Glass (Reg. No. 46,729)
QUINN EMANUEL URQUHART & SULLIVAN, LLP
295 Fifth Avenue, 9th Floor
New York, NY 10016
Tel: (212) 849-7000
jimglass@quinnemanuel.com