UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTELLIGENT PROTECTION MANAGEMENT CORP.,
Petitioner,

v.

CISCO TECHNOLOGY, INC.,
Patent Owner

Case No. IPR2025-01588
U.S. Patent No. 8,830,293

PATENT OWNER'S DISCRETIONARY DENIAL BRIEF

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PATENT OWNER'S EXHIBIT LIST

Exhibit No.	DESCRIPTION
2001	News article reporting Cisco's acquisition of WebEx, retrieved from https://www.nbcnews.com/id/wbna17627369 (last visited Nov. 19, 2025)
2002	Cisco webpage giving usage statistics, retrieved from https://www.cisco.com/c/en_sg/products/conferencing/index.html (last visited Nov. 19, 2025)
2003	Complaint filed in *Paltalk Holdings, Inc. v. WebEx Commc'ns, Inc.*, No. 6:21-cv-757
2004	Aug. 26, 2024 Court Transcript from *Paltalk Holdings, Inc. v. WebEx Commc'ns, Inc.*, No. 6:21-cv-757
2005	Intelligent Protection Management Corp. SEC Form 8-K, Jan. 2, 2025, retrieved from sec.gov/Archives/edgar/data/1355839/000121390025000379/ea0226465-8k_intelli.htm (last visited Oct. 27, 2025)
2006	Complaint filed in *Cisco Sys., Inc. v. Intelligent Prot. Mgmt. Corp.*, No. 1:25-cv-271
2007	Defendant's Initial Invalidity Contentions in *Cisco Sys., Inc. v. Intelligent Prot. Mgmt. Corp.*, No. 1:25-cv-271
2008	Webex Suite webpage, retrieved from https://www.webex.com/suite/collaboration-suite.html (last visited Dec. 8, 2025)
2009	Cisco Meeting Server webpage, retrieved from https://www.cisco.com/c/en/us/products/conferencing/meeting-server/index.html (last visited Dec. 8, 2025)
2010	Cisco RoomOS webpage, retrieved from https://www.webex.com/us/en/solutions/roomos.html (last visited Dec. 8, 2025)
2011	Cisco Conferencing Products webpage, retrieved from https://www.cisco.com/c/en/us/products/conferencing/product-listing.html (last visited Dec. 8, 2025)

I. INTRODUCTION

Petitioner Intelligent Protection Management Corp.'s ("IPM's" or "Petitioner's") IPR2025-01588, challenging the patentability of U.S. Patent No. 8,830,293 ("'293 Patent"), should be discretionarily denied for the combination of the following three reasons.

First, the '293 Patent—a patent that relates to videoconferencing—issued over ***eleven*** years ago—a timeframe that the Director has previously found to favor discretionary denial based on settled expectations. *See, e.g., Toyota Motor Corporation v. AutoConnect Holdings LLC,* IPR2025-00890, Paper 9 at 2 ("the challenged patents have been in force for more than eleven years, creating strong settled expectations for Patent Owner"). Moreover, Petitioner was aware that Patent Owner Cisco owned numerous patents related to videoconferencing long before the IPR petition was filed because Petitioner sued Cisco back in 2021 alleging that Cisco's Webex video conferencing software infringes its own patents. *See* EX2003. Director has previously held that "[a] failure to seek early review of the patent favors denial" when "Petitioner was aware that Patent Owner was involved in the same technology space for a significant amount of time before filing its Petition." *Murata*, IPR2025-00383, Paper 14 at 2.

Second, lack of compelling merits weighs in favor of discretionary denial. The Petition presents two Grounds based on (1) Tysso alone or (2) Tysso in combination with another reference ("GIMP"). But Tysso is only available as prior art if the provisional application that Tysso claims priority to ("Tysso Provisional") (1) describes the claims of the '293 Patent ***and*** (2) provides written description support for at least one claim of Tysso. *In re Riggs*, 131 F.4th 1377, 1384 (Fed. Cir. 2025). And Petitioner bears the burden to demonstrate that Tysso can rely on Tysso Provisional to be effective as prior art. *See, e.g., Google LLC v. Ikorongo Technology, LLC*, IPR2021-00058, Paper 14 at 10 (holding that "the burden of production, for the purposes of establishing a priority date for asserted prior art, rests on the Petitioner"). Here, Tysso is not prior art to the '293 Patent because the Tysso Provisional does not provide adequate written support for any claims of Tysso. Hence, the Petition lacks compelling merits.

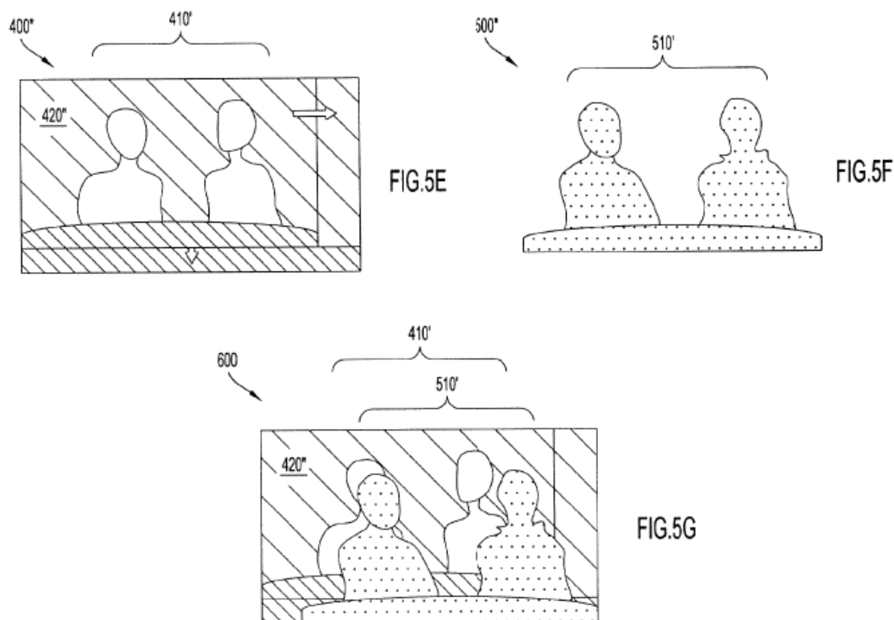
Finally, the duplication of efforts between this instant IPR petition and the co-pending District Court litigation additionally favors discretionary denial. Petitioner served Cisco with invalidity contentions that rely on not only the same Ground as that presented in the Petition, but on at least ten additional Grounds not present in the instant Petition. Despite the overlap, Petitioner has not filed any kind of stipulation that could even remotely mitigate the duplication of efforts. The

inefficiency introduced and deliberately maintained by the Petitioner favors discretionary denial.

II. FACTUAL BACKGROUND

A. The '293 Patent

The '293 Patent was filed on May 26, 2009 and issued on September 9, 2014. EX1001 at Cover. The '293 Patent is directed to combining two or more video streams into a combined stream by superimposing the subject of one over the other to display the combined video stream on a video display. EX1001 at Abstract. For example, as illustrated below, the '293 Patent describes separating the video frame from the background image (*see* FIG. 5F) and combining it with a second video stream to form a combined video stream (*see* FIG. 5G). *See* EX1001 at 7:20-8:7.



EX1001, FIGS. 5E-5G.

This allows participants in a videoconference to appear overlapping on the same screen even though they are located in disparate locations. *See* EX1001 at 2:23-29.

B. Factual Background

Cisco has been operating in the video conferencing technology space for nearly two decades. *See* EX2001 (describing Cisco's 2007 acquisition of online videoconference platform, Webex). Cisco markets numerous videoconferencing products, such as Webex Suite,[1] Cisco Meeting Server,[2] Webex RoomOS,[3] and much more.[4] Cisco's Webex platform hosts over 500 million video calls each year. *See* EX2002 at 4.

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[1] EX2008.

[2] EX2009.

[3] EX2010.

[4] EX2011.

Petitioner IPM, formerly known as Paltalk Holdings, Inc.[5], sued Cisco in 2021, alleging that Cisco's Webex software infringed one of its patents. *See* EX2003. And Petitioner was well aware that Cisco holds patents in the very same videoconferencing technology space. EX2004 at 51:19-23 ("Cisco's history of innovation is perhaps best showed most clearly by the fact that it has 14,000 issued U.S. patents of its own. As you'll hear, more than 700 of those patents relate to Webex.").

Cisco filed suit against IPM in 2025, asserting two of Cisco's videoconferencing patents—one of which is the '293 Patent—against IPM's ManyCam software. *See Cisco Systems, Inc. v. Intelligent Protection Management Corp.*, No. 1:25-cv-00271 (D. Del. Mar. 7, 2025). Seven months after Cisco filed suit, IPM filed the instant IPR petition, raising two Grounds of unpatentability—both relying on a prior art reference called "Tysso." *See* EX2006; Pet. at 3.

III. SETTLED EXPECTATIONS WARRANT DISCRETIONARY DENIAL

A. Director Has Repeatedly Discretionarily Denied Petitions When The Patent Has Issued More Than Ten Years Ago

The Director has repeatedly discretionarily denied IPR petitions if the

[5] In 2024, Petitioner "change[d] its corporate name from 'Paltalk, Inc.' to 'Intelligent Protection Management Corp.'" *See* EX2005.

challenged patent was issued more than a decade ago. *See, e.g., Toyota Motor Corp. v. AutoConnect Holdings LLC* IPR2025-00890, Paper 9 at 2 ("the challenged patents have been in force for approximately eleven and ten years, respectively, creating strong settled expectations for Patent Owner"). ; *Intel Corp. v. General Video, LLC,* IPR2025-01036, Paper 13 at 3 (finding settled expectations for patents after ten and seventeen years); *United Microelectronics Corp. v. Advanced Integrated Circuit Process LLC*, IPR2025-01053, Paper 11 at 2 (finding settled expectations after ten, eleven, twelve, and thirteen years). ***The '293 Patent issued more than eleven years ago.***

B. Director Has Also Discretionarily Denied Petitions When The Petitioner Was Previously Aware Of Patent Owner's Patent Rights

In addition, the Director has discretionarily denied IPR petitions if the Petitioner was aware of Patent Owner's involvement in the same technology space long before the IPR petition was filed, particularly, as here, when the patent was in force for more than six years. *See Murata*, IPR2025-00383, Paper 14 at 2 (finding that settled expectations warranted denial, in part because "Petitioner was aware that Patent Owner was involved in the same technology space for a significant amount of time before filing its Petition"). Here, Petitioner sued Cisco over four years ago in 2021 over the very same videoconferencing technology space. *See* EX2003. Indeed, in that lawsuit, Cisco told Petitioner that Cisco holds numerous patents in

the video technology space. *See* EX2004 at 51 ("Cisco's history of innovation is perhaps best showed most clearly by the fact that it has 14,000 issued U.S. patents of its own. As you'll hear, more than 700 of those patents relate to Webex.").

The Director's prior decisions have found such facts to be sufficient to deny review based on settled expectations. Moreover, the Petition's lack of compelling merits further warrants discretionarily denying institution.

IV. THE PETITION LACKS COMPELLING MERITS

The Petition lacks compelling merits because Tysso does not qualify as prior art.

A. Applicable Legal Standard

In an IPR, "there are two distinct burdens of proof: a burden of persuasion and a burden of production." *Dynamic Drinkware, LLC v. Nat'l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015) (*citing Tech. Licensing Corp. v. Videotek, Inc.,* 545 F.3d 1316, 1326-27 (Fed. Cir. 2008)). Petitioner "ha[s] the initial burden of production" to demonstrate that the reference Petitioner relies on is indeed prior art. *Id.* at 1379.

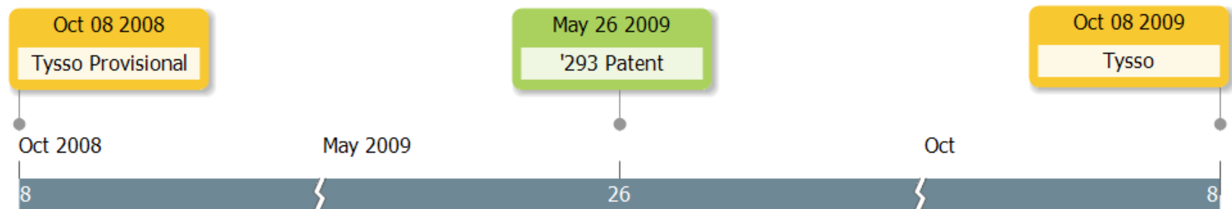
A prior art reference can sometimes rely on an earlier-filed U.S. provisional application's filing date as the prior art date. However, to be afforded the benefit of that earlier filing date, the Petitioner must prove two things. ***First***, Petitioner must show that the prior art provisional application reads on the challenged claims. ***Second***, Petitioner must prove that the "the disclosure of the provisional application

provides ***support for the claims in the reference patent*** in compliance with §112, ¶ 1." *Dynamic Drinkware,* 800 F.3d at 1381 (*citing In re Wertheim,* 646 F.2d 527, 537 (CCPA 1981); *see also Roku, Inc. v. Anonymous Media Rsch. Holdings, LLC*, IPR2024-01054, Paper 9 at 9 (holding that Petitioner "bears the burden of production of arguments and/or evidence to show that [the asserted reference] is entitled to the benefit of its provisional filing date"); *Google LLC v. Ikorongo Technology, LLC*, IPR2021-00058, Paper 14 at 10 (holding that "the burden of production, for the purposes of establishing a priority date for asserted prior art, rests on the Petitioner").

The provisional application can satisfy the §112 requirement if it provides "sufficient enough detail that a person of ordinary skill in the art will understand that the inventor truly 'possessed the invention as claimed.'" *Duke Univ. v. Sandoz Inc.*, No. 24-1078, 2025 WL 3210322 at *3 (Fed. Cir. Nov. 18, 2025) (citing *Regents of the Univ. of Minnesota v. Gilead Scis., Inc.,* 61 F.4th 1350, 1355 (Fed. Cir. 2023)). But it must support "the entire scope of the claimed invention." *Juno Therapeutics, Inc. v. Kite Pharma, Inc.*, 10 F.4th 1330, 1337 (Fed. Cir. 2021). A written description that "merely renders the invention obvious" does not satisfy §112. *Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1352 (Fed. Cir. 2010) (*en banc*).

B. Petitioner Failed To Demonstrate That Tysso Is Prior Art

As illustrated below, Tysso was not filed until October 8, 2009—*more than four months after the filing date of the '293 Patent*. Petitioner, therefore, must rely on the filing date of Tysso Provisional to contend that Tysso qualifies as prior art under 35 U.S.C. § 102(e).



Petitioner, at pages 14-19 of the Petition, attempts to "demonstrate support in the [Tysso] provisional application for *the claims of the [Tysso] patent*." *Dynamic Drinkware,* 800 F.3d at 1381-82. But Petitioner falls far short of making that showing. For independent claim 1, Petitioner offers only bare string citations—without further explanation, elaboration, or even reproduction of the underlying text. For the remaining independent claims, Petitioner merely refers back to the same purported support cited for claim 1. *See* Pet. at 14-19.

In fact, a substantive review of Petitioner's string citations demonstrates that the Tysso Provisional fails to provide written description support for at least two

limitations in claim 1 (and related limitations in other independent claims), reproduced below:

Limitations From Tysso's Claim 1	Tysso Provisional
extracting, at the multipoint control unit, participant image data from the sound and image data included in the video data;	6:37-38.
combining, at the multipoint control unit, the processed participant image data to generate a merged image data of participants from other endpoints, the merged image data excluding surrounding background image data corresponding to each of the participants, images of the participants overlapping in the merged image data;	Fig. 1; 3:15-17; 3:32-35; 5:3-5.

Pet. at 14-15.

Beginning with the second, "combining" limitation, Petitioner alleges the following passages from Tysso Provisional provide §112 support:

Tysso Claims	Tysso Provisional
1. ***combining, at the multipoint control unit,*** the processed participant image data **to generate a merged image data of participants** from other endpoints	Fig. 1. Figure 1 illustrates the concept of the present invention where a plurality of

Tysso Claims	Tysso Provisional
	participants located at different end point locations are merged and presented on a single monitor. 3:15-17. The second step is to process and extract image data of participants from their backgrounds, if this has not already been done at one or more endpoints as said above, and processing the extracted image data in such a way that the images of each participant appears to have similar appearance. 3:32-35. The resulting images of the participants will then be presented aligned horizontally and overlapped on a monitor. This process is performed dynamically according to the number of participants in the video conference. 5:3-5.
12. at least one endpoint connected to the multipoint control unit and configured to display **merged image data of the participants *received from the multipoint control unit***	Presumably "identical to those cited for claim 1."
16. A ***multipoint control unit device*** for a video conferencing system comprising. . . ***a combining unit configured to combine the processed participant image data*** **into a merged participant image data**	
18. to receive, ***from the multipoint control unit,*** **a merged participant image data**	
21. receiving, ***at a multipoint control unit***, video data. . . combining the processed participant	

Tysso Claims	Tysso Provisional
image data **to generate a merged image data**	

As shown above, each of Tysso's independent claims require ***"combining" participant images at the "multipoint control unit" ("MCU")*** to generate "a merged image data of participants." EX1005 at claim 1; *see also id.* at claims 12, 15, 18, and 21. But the passages cited by Petitioner from Tysso Provisional do not mention anything at all about the ***MCU, or combining at MCU***. The passages relied on by Petitioner only broadly and generically describe merging participants and presenting them on a single monitor, without any explanation or indication whether merging is the same as combining, or where such merging occurs. Indeed, the Tysso Provisional does not use the word "combining," and does not include FIG. 4 which was a new figure added when the '293 Patent was filed. FIG. 4 is a "functional diagram of a multipoint control unit" that includes a "combining unit 53":

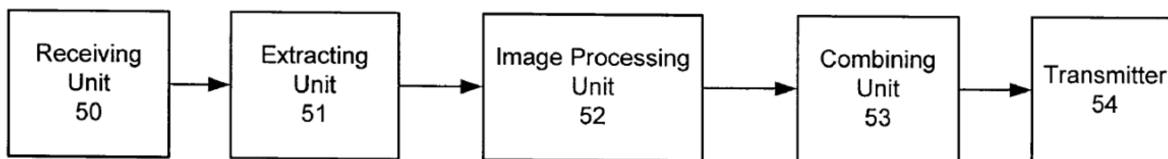


Figure 4

EX1004, FIG. 4. The '293 Patent describes that the "combining unit 53 merges the processed participant images into a merged data wherein the participant images are overlapped and a participant that is speaking is highlighted." EX1004, 2:49-51. However, in the Tysso Provisional, there is no figure or description regarding a "combining unit" in the MCU. Hence, the Tysso Provisional does not include support for "***combining***, ***at the multipoint control unit***, *the processed participant image data to generate a merged image data of participants from other endpoints*." And the Federal Circuit has found written description support to be lacking in such situations. *See Purdue Pharma L.P. v. Faulding Inc.,* 230 F.3d 1320, 1328 (Fed. Cir. 2000) ("[T]he specification does not clearly disclose to the skilled artisan that the inventors … considered the ratio … to be part of their invention. … There is therefore no force to Purdue's argument that the written description requirement was satisfied because the disclosure revealed a broad invention from which the [later-filed] claims carved out a patentable portion."); *see also Regents of the Univ. of Minnesota v. Gilead Scis., Inc.,* 61 F.4th 1350, 1356-1358 (Fed. Cir. 2023) finding no benefit under 35 U.S.C. §120, because the earlier-filed applications did not provide sufficient blaze marks to provide the later-filed claims with sufficient support under 35 U.S.C. §112(a).).

As for the "extracting" limitation, Petitioner points to the following passages:

<table>
<tr><th>Tysso Claim</th><th>Tysso Provisional</th></tr>
<tr><td>1. extracting, at the multipoint control unit, participant image data from the sound and image data included in the video data.</td><td>If the MCU receives video signals from an endpoint where participants have not been extracted from the background, the MCU will perform this process. 6:37-38.</td></tr>
<tr><td>12. the multipoint control unit extracting participant image data from the sound and image data</td><td rowspan="4">Presumably "identical to those cited for claim 1."</td></tr>
<tr><td>16. an extracting unit configured to extract participant image data from the sound and image data included in the video data;</td></tr>
<tr><td>18. an extraction unit configured to extract participant image information from the video data;</td></tr>
<tr><td>21. extracting participant image data from the sound and image data included in the video data</td></tr>
</table>

As shown above, each of Tysso's independent claims require extracting "participant image data/information" "***from the sound and image data***" or "***from the video data***." EX1005 at claims 1, 12, 15, 18, and 21. But Petitioner relies on passages that only discuss extracting "***from the background***." Petitioner provides no explanation whatsoever how the claimed "sound and image data" and "video data" are equivalent to the "background" described in Tysso Provisional. Indeed, these three terms are not equivalent to each other for the following two reasons.

First, as claim 1 of Tysso confirms, "video data" claimed in claim 18 includes more than just "sound and image data" claimed in claims 1, 12, 16, and 21 because

"video data ***includ[es]*** sound and image data." EX1001 at claim 1. "Including" is an open-ended term. *See* M.P.E.P. §2111.03.I ("The transitional term 'comprising', which is synonymous with 'including,' …, is inclusive or open-ended and does not exclude additional, unrecited elements or method steps."). Hence, "video data" claimed in claim 18 includes more than just sound and image data, and any purported written description support for the "video data" must capture that distinction.

Second, the term "background" discussed in the Tysso Provisional may not necessarily encompass both "sound and image data" (and "video data" which, as explained above, may include even more information than "sound and image data"). Specifically, as the following examples demonstrate, while Tysso Provisional utilizes the term "background" in connection with "image data," Tysso Provisional never explicitly utilizes the term "background" in connection with "sound data":

- "In this case the endpoint comprises means for extracting ***image data*** from each participant ***from the background*** in such a way that only the participant is included in ***the image data***." EX1005 at 3:26-29.
- "There are different known ways of extracting only the image data of one or more participants from the ***background of an image***. One way of doing this is by using techniques comprising ***a synthetic blue screen*** by using an algorithm that analyzes different parameters of the background image. Another way is to use pattern recognition for recognizing faces and bodies. Depth information for each pixel in an

image is also a feasible way of extracting ***image data belonging to the background***." EX1005 at 4:15-20.

- "Primatte is a high-end chroma key technology used in motion picture, television and photographic host applications to remove solid coloured ***backgrounds (usually greenscreen or bluescreen*** since these colour values are far away from the colour value of the skin and replace them with transparency to facilitate replacement of the ***background***." EX1005 at 4:28-30.

Indeed, it is altogether possible that "participant image data" can be extracted from an initial data set that includes both image and sound (and other) data (as the Tysso claims requires) or from an initial data set where the sound data has already been removed such that the participant image data need only be extracted from background image data (as may be supported by Tysso Provisional).

And to be clear, it was the Petitioner's burden to explain how these passages in Tysso Provisional provide written description support and Petitioner has not even attempted to do so. *See* Petition at 14-19. Simply put, the Tysso claims may claim a method of image extraction that is broader than what Tysso Provisional disclosed initially, and Petitioner has not demonstrated that written description support exists. *See LizardTech, Inc. v. Earth Res. Mapping, Inc.*, 424 F.3d 1336, 1345-46 (Fed. Cir. 2005) (holding that a claim directed to "creating a seamless array of DWT

coefficients generically" lacked adequate written description when the specification only taught "a particular method for creating a seamless DWT").

V. PARALLEL DISTRICT COURT LITIGATION FAVORS DENIAL

There is yet a third, further compounding factor that favors discretionary denial. When a parallel district court proceeding involves the same patent and the same parties, "concerns of inefficiency and the possibility of conflicting decisions" favor denial. This is particularly true when there is substantial overlap between the Ground, arguments, and evidence presented to each tribunal. *See Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 12 (precedential). Here, the Petitioner relies on nearly-identical grounds, evidence, and arguments to attack the same claims as it does in the district court. And Petitioner does so without any stipulation to forego the second bite at the invalidity apple in the district court.

In the parallel district court litigation, Petitioner served Cisco with initial invalidity contentions alleging that the same challenged claims of the Petition are invalid in light of the same Tysso (or Tysso Provisional). EX2007 at Ex. A-3. With the minor exception of the little-used GIMP reference, (*see* Petition, 62-70), the evidence presented in the Petition is nearly identical to those presented in the district court. That is not all. Petitioner is pursuing at least ten additional §§ 102 and 103 invalidity grounds in the district court based on four other patents and/or printed

publications. EX2007 at 8-19. So, while Petitioner's invalidity grounds presented here are almost entirely comprehended by its theories in the district court, only a fraction of its arguments in the district court are presented here in the Petition.

Despite the substantial duplicative efforts between the two forums, Petitioner has not offered any kind of a stipulation whatsoever. *See Phison Electronics Corporation v. Vervain, LLC*, IPR2025-00213, Paper 14 at 3; *Charter Communications, Inc. v. Iarnach Technologies Ltd.*, IPR2025-00473, Paper 14 at 2 ("The absence of such a stipulation tips the balance in favor of discretionary denial."); *see also* Revision to Rules of Practice Before the Patent Trial and Appeal Board, 90 Fed. Reg. 48338, 4834 (proposed Oct. 17, 2025) (to be codified at 37 C.F.R. § 42). Petitioner's decision to forego such a stipulation—despite the substantial duplicative efforts that would occur—further favors discretionary denial.

VI. CONCLUSION

For the reasons discussed above, Patent Owner Cisco respectfully requests that the Director exercise his discretion to deny institution.

Dated: December 9, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that a complete copy of Patent Owner's Discretionary Denial Brief and corresponding exhibits were caused to be served on counsel of record for the Petitioner by filing this document through PTACTS and by sending this document via electronic mail to the following addresses:

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