

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SHUTTLESLIDE, LLC,
Petitioner,

v.

SEA SWIVEL INC.,
Patent Owner.

PGR2025-00089
Patent 12,258,111

PATENT OWNER'S DISCRETIONARY DENIAL BRIEF

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	FACTUAL AND PROCEDURAL BACKGROUND	4
III.	DISCRETIONARY DENIAL CONSIDERATIONS	7
IV.	ARGUMENT.....	9
A.	Discretionary Denial Considerations Weigh in Favor of Granting Discretionary Denial	9
i.	Parallel Litigation and Related Considerations.....	9
ii.	Serious Questions Regarding Real Parties-In-Interest	13
iii.	The Petition is not Supported by Adequate Expert Testimony	14
iv.	Weakness of Petitioner’s Unpatentability Challenge	14
V.	CONCLUSION.....	17

TABLE OF AUTHORITIES

CASES

Apple Inc. v. Fintiv, Inc., IPR2020-00019, Paper 11 (March 20, 2020) at 5-6 passim
Azurity Pharmaceuticals, Inc. et al. v. Heron Therapeutics, Inc., PGR2025-00035,
PGR2025-00036, Paper 11 (Aug. 14, 2025) at 39
Catalyst Orthoscience Inc. v. Shoulder Innovations, Inc., PGR2025-00001, Paper 8
at 9 (Apr. 24, 2025)8, 10
Cellulose Material Solutions, LLC v. SC Marketing Group, Inc., Case No. 22-cv-
03141-LB, 2024 WL 5114056 at *7 (N.D. Cal., December 13, 2024).....14
Cuozzo Speed Techs., LLC v. Lee, 579 U.S. 261, 273 (2016)8
Gen. Plastic Indus. Co. v. Canon Kabushiki Kaisha, IPR2016-01357, Paper 19, 16-
17 (Sept. 6, 2017) 2, 5, 11
Sea Swivel Inc. v. Rhodan Marine Systems of Florida LLC et al., Case No. 1:25-cv-
23581-RKA (S.D. Fla.). EX. 2001; EX. 2002.....1
Sotera Wireless, Inc. v. Masimo Corp., IPR2020-01019, Paper 12 at 19 (P.T.A.B.
Dec. 1, 2020)1, 11
TransWeb, LLC v. 3M Innovative Properties Co., 812 F.3d 1295 (Fed, Cir. 2016)
.....14
ZOLL Lifecor Corp. v. Philips Elecs. N. Am. Corp. et al., IPR2013-00609, Paper
15 at 10 (P.T.A.B. Mar. 20, 2014).....13

STATUTES

§ 324(a)1, 8
§1031
35 U.S.C. § 312(a)(2).....13
AIA Senate Committee Report, S. Rep. No. 110–259 at 722

REGULATIONS

77 Fed. Reg. 48,688, 48,759 (Aug. 14, 2012))13

LISTING OF EXHIBITS

Exhibit	Description
2001	Docket Sheet, <i>Sea Swivel Inc. v. Rhodan Marine Systems of Florida LLC et al.</i> , Case No. 1:25-cv-23581-RKA (S.D. Fla.)
2002	Complaint for Patent Infringement, <i>Sea Swivel Inc. v. Rhodan Marine Systems of Florida LLC et al.</i> , Case No. 1:25-cv-23581-RKA (S.D. Fla.)
2003	Sea Swivel’s Motion for Preliminary Injunction with Exhibits, <i>Sea Swivel Inc. v. Rhodan Marine Systems of Florida LLC et al.</i> , Case No. 1:25-cv-23581-RKA (S.D. Fla.)
2004	Declaration of Mark Berta in Support of Sea Swivel’s Motion for Preliminary Injunction with Exhibits, <i>Sea Swivel Inc. v. Rhodan Marine Systems of Florida LLC et al.</i> , Case No. 1:25-cv-23581-RKA (S.D. Fla.)
2005	Declaration of Andrew T. Oliver
2006	Docket Navigator Time-To-Trial Data for Patent Cases in the U.S. District Court for the District of Florida
2007	Docket Navigator Time-To-Trial Data for Patent Cases Before Judge Roy Altman
2008	U.S. District Courts - National Judicial Caseload Profile report – 2019 to 2024
2009	Declaration of Matthew S. Nelles
2010	Local Rules of Civil Procedure for the U.S. District Court for the Southern District of Florida
2011	“Interim Processes for PTAB Workload Management Memorandum,” issued March 26, 2025, https://www.uspto.gov/sites/default/files/documents/InterimProcesses-PTABWorkloadMgmt-20250326.pdf .

Exhibit	Description
2012	Order re Stay and Leave to Re-Raise Motions After Stay Lifted
2013	March 31, 2025 Cease and Desist Letter to ShuttleSlide
2014	June 25, 2025 Cease and Desist Letter to ShuttleSlide
2015	Declaration of Mark Berta in Support of Discretionary Denial
2016	"Company" Webpage from Gulf Atlantic Marketing, Inc. Website at http://www.gulfatl.net/company.html , last accessed 12/08/2025
2017	"Home" Webpage from Gulf Atlantic Marketing, Inc. Website at http://www.gulfatl.net/home.html , last accessed 12/08/2025
2018	"Products" Webpage from Gulf Atlantic Marketing, Inc. Website at http://www.gulfatl.net/products.html , last accessed 12/08/2025
2019	Track 1 Examination Request for Patent Application re '111 Patent

Patent Owner Sea Swivel Inc. (“Patent Owner” or “Sea Swivel”) respectfully requests that the Director deny institution of the Petition filed by ShuttleSlide LLC (“Petitioner” or “ShuttleSlide”) challenging the patentability of claims 1-18 (“challenged claims”) of U.S. Patent No. 12,258,111 (“the ‘111 Patent”) (Ex. 1001).

I. INTRODUCTION

The Director should exercise his discretion and deny institution under 35 U.S.C. § 324(a) and other applicable law—instituting this Petition would require a considerable and inefficient use of the Board’s resources.

The parties are engaged in litigation concerning the ‘111 Patent in *Sea Swivel Inc. v. Rhodan Marine Systems of Florida LLC et al.*, Case No. 1:25-cv-23581-RKA (S.D. Fla.). EX. 2001; EX. 2002. Petitioner and Patent Owner are both parties to the parallel litigation. *Id.* Petitioner has not submitted a *Sotera* stipulation and would likely seek to relitigate many of the same issues under §102 and §103 after a decision by the Board upholding the validity of the ‘111 Patent. Even if the Petitioner were to belatedly submit a *Sotera* stipulation, instituting PGR would not resolve the issues alleged by Petitioner because other interested parties not bound by that stipulation could relitigate the same or similar issues in the parallel litigation or in other AIA proceedings.

AIA proceedings, including PGRs, “should generally serve as a complete substitute for at least some phase of the litigation.” AIA Senate Committee Report, S. Rep. No. 110–259 at 72. Indeed, Congress designed such proceedings “to provide an effective and efficient *alternative* to district court litigation.” *Gen. Plastic Indus. Co. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19, 16-17 (Sept. 6, 2017) (precedential) (emphasis added). Under the present circumstances, a PGR would not be “a complete substitute” for any phase of the district court litigation nor “an effective and efficient alternative” to the district court litigation.

Additionally, other considerations set forth in *Fintiv* or referenced in the “Interim Processes for PTAB Workload Management Memorandum” issued March 26, 2025 (“the March 26 PTAB Workload Memo”) further weigh in favor of discretionary denial and demonstrate that institution of PGR would not be “an effective and efficient alternative to district court litigation.” EX. 2011.

For example, the time-to-trial for the U.S. District Court for the Southern District of Florida (“SDFL”), where the parallel litigation is pending, is among the fastest for U.S. District Courts. EX. 2005; EX. 2009. This is in part due to Local Rules that dictate tracks for case management schedules. *Id.* A merits decision on institution will likely not issue until 3 months after Patent Owner’s Preliminary Response to the PGR Petition – *i.e.*, April 8, 2026. Absent extensions, a final written decision (“FWD”) on the merits would not be expected for 12 more months

– *i.e.*, April 8, 2027. With extensions, the FWD date could be extended six (6) months until October 8, 2027.

A trial date in the parallel litigation would likely be set sometime between February 2027 and May 2027, if the Director promptly grants discretionary denial within a month of Petitioner's response to this Brief. *See, e.g.*, EX. 2009. Thus, the district court trial date would likely be prior to the anticipated date for the FWD.

Other factors, including “compelling economic . . . interests” and irreparable harm to Patent Owner, also weigh in favor of discretionary denial. EX. 2011. Patent Owner sought preliminary injunctive relief in the parallel litigation to address the likelihood of irreparable harm from the mass distribution of Petitioner's directly competing infringing products at a significantly reduced price. EX. 2003. Patent owner recently learned that Petitioner entered into a distribution agreement with one of the largest marine product distributors and is flooding the market with infringing trolling motor mounts. *See, e.g.*, EX. 2003 at pp. 2003-7, 2003-8, 2003-23, 2003-24, and 2003-24; EX. 2004 at ¶¶ 15-16, 33-40. Petitioner is actively causing price erosion and eroding consumer recognition for Patent Owner in the marketplace. EX. 2003 at 2003-28.

However, the district court will not consider Patent Owner's preliminary injunction motion at least until a decision on institution is issued in part because the court determined that “if the PTAB denies the petition, then the Plaintiff will be

free to resume its litigation here with only a minimal delay—and without the risk of an intervening PTAB decision.”¹ EX. 2012 at pp. 2012-3, 2012-4.

Thus, institution of PGR would delay consideration of Patent Owner's Motion for Preliminary Injunction until long into 2027, permitting ongoing irreparable harm and economic damage to Patent Owner. This factor raises serious and compelling economic interests that weigh in favor of discretionary denial.

Other considerations referenced in the March 26 PTAB Workload Memo, such as “the petitions reliance of expert testimony” and the weakness of the unpatentability challenge also favor discretionary denial as more fully set forth below. EX. 2011.

Accordingly, it would be far more efficient to conduct one proceeding—the Parallel Litigation—to resolve all of the parties' disputes, rather than try to resolve issues that might ultimately be relitigated at the trial court, or to try to piecemeal issues where the district court is better equipped to address time sensitive issues such as injunctive relief.

II. FACTUAL AND PROCEDURAL BACKGROUND

The rotating trolling motor mount disclosed in and claimed by the '111

¹ The district court stayed the case pending a decision on institution and denied the preliminary injunction motion as moot but stated that **Patent Owner “may re-raise its motions once we lift the stay.”** EX. 2012 at 2012-4 (emphasis added).

Patent solved the safety problems presented by fixed-mount trolling motors by providing a rotating mounting plate compatible with leading manufacturer trolling motors that can be mounted to upward facing gunnel of the boat. An angler no longer needs to expose themselves to danger by boarding the bow of the boat to deploy or retract the trolling motor shaft. EX. 2003 at 2003-11; EX. 2004 at ¶¶ 3-6. The invention gives one complete lateral control over a trolling motor—no need to remove it from the deck. *Id.* Nothing like it was available at the time Sea Swivel's flagship product went to market.

Patent Owner has invested heavily to secure its patent rights and establish its patented product in the market, including over \$500,000.00 in just three years between marketing, advertising, and development to build its brand and develop this new market product, the first swiveling trolling motor mount. EX. 2003 at 2003-11; EX. 2004 at ¶¶ 8-9.

The patented Sea Swivel is the flagship product for Patent Owner that accounts for nearly all of Patent Owner's revenues. EX. 2003 at 2003-12; EX. 2004 at ¶10. Those revenues are entirely derived from eCommerce, and approximately 80% come from commercial distribution. *Id.*

On September 26, 2023, Sea Swivel filed its first priority application (Prov. Appl. No. 63/540,483) to protect its intellectual and product development investment in its Sea Swivel rotatable trolling motor mount. EX. 1001. On

September 26, 2024, Sea Swivel filed a Track 1 expedited non-provisional application to ensure it could protect the market for its innovative trolling motor mount. EX. 2019. The '111 patent issued on March 25, 2025. EX. 1001.

After Patent Owner's flagship product went to market and began to have significant success, several third parties, including Petitioner, began copying patented features of Patent Owner's Sea Swivel rotating trolling motor mount. Patent Owner repeatedly asked Petitioner to stop selling its copycat product, both before and after the '111 Patent issued. *See, e.g.*, EX. 2013; EX. 2014. In fact, Patent Owner sent a cease-and-desist letter to Petitioner less than a week after the '111 Patent issued. EX. 2013.

When Petitioner continued selling its infringing rotating trolling motor mounts, Patent Owner brought an action for patent infringement in the SDFL – just over four (4) months after the '111 Patent issued. EX. 2001; EX. 2002. After Patent Owner learned that ShuttleSlide had entered into a distribution agreement with Keystone Automotive Operations, Inc. to do mass distribution of ShuttleSlide's infringing trolling motor mounts via Keystone's marine distribution company, SeaWide Marine Distribution Inc., Patent Owner filed a motion for preliminary injunction to prevent irreparable harm. They are one of the largest distributors in the world and mass distribution if directly competing infringing motor mounts through their extensive network of distribution channels would

likely cause price erosion and the erosion of consumer recognition associated with Patent Owner's innovation of the Sea Swivel. EX. 2003; EX. 2004.

This PGR's Schedule. Petitioner responded to the parallel litigation by filing its petition for post grant review on September 25, 2025. The Preliminary Patent Owner Response is due on January 8, 2026. See Paper 3 at 2. The Board's decision whether to institute post grant review will therefore be due April 8, 2026. Assuming post grant review is instituted (it should not be), the Board's final written decision ("FWD") would be due on April 8, 2027, absent any extensions. With extensions, the FWD could be due as late as October 8, 2027.

III. DISCRETIONARY DENIAL CONSIDERATIONS

The March 26 PTAB Workload Memo provides for a bifurcation between requests for discretionary denials and requests for merits-based denials. EX. 2011. The March 26 PTAB Workload Memo explains that for requests for discretionary denials the Director will consider *Fintiv* factors² and other factors referenced in the memo, such as "[c]ompelling economic . . . interests", the "strength of the unpatentability challenge", "[t]he extent of the petition's reliance on expert testimony," and "[a]ny other considerations bearing on the Director's discretion."

Considerations or factors for discretionary denial are evaluated by taking "a

² *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (March 20, 2020) (precedential).

holistic view of whether efficiency and integrity of the system are best served by denying or instituting review.” *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (March 20, 2020) at 5-6. Instituting or denying a petition under § 324(a) “is a matter committed to the Patent Office’s discretion.” *Cuozzo Speed Techs., LLC v. Lee*, 579 U.S. 261, 273 (2016); *Catalyst Orthoscience Inc. v. Shoulder Innovations, Inc.*, PGR2025-00001, Paper 8 at 9 (Apr. 24, 2025) (“Because Section 324, like Section 314 for inter partes review, includes no mandate to institute review, ‘the agency’s decision to deny a petition is a matter committed to the Patent Office’s discretion.’”).

Fintiv articulated six factors to consider in determining whether to exercise discretion to deny institution based on a parallel district court or ITC proceeding: (1) whether the court granted a stay or evidence exists that one may be granted if an PGR proceeding is instituted; (2) proximity of the court’s trial date to the Board’s projected statutory deadline for a FWD; (3) investment in the parallel proceeding by the court and the parties; (4) overlap between issues raised in the petition and in the parallel proceeding; (5) whether the petitioner and the defendant in the parallel proceeding are the same party; and (6) other circumstances that impact the Board’s exercise of discretion, including the merits. *Fintiv*, IPR2020-00019, Paper 11 at 5-6.

IV. ARGUMENT

A. Discretionary Denial Considerations Weigh in Favor of Granting Discretionary Denial

i. *Parallel Litigation and Related Considerations*

Patent owner brought an action for patent infringement in the SDFL prior to Petitioner filing its petition for post grant review. Considerations relating to that parallel litigation, based on a holistic assessment of all the evidence and arguments, weigh in favor of discretionary denial. *Azurity Pharmaceuticals, Inc. et al. v. Heron Therapeutics, Inc.*, PGR2025-00035, PGR2025-00036, Paper 11 (Aug. 14, 2025) at 3.

Factors 1 & 2: Even though the district has provisionally stayed the case pending a decision by the PTAB on whether to institute PGR, this factor alone is not dispositive, since other discretionary denial considerations outweigh this. EX. 2012. One of those considerations is how quickly the SDFL district court will get to trial. As demonstrated by the Declarations of Andrew Oliver and Matthew Nelles and accompanying time-to-trial data, the SDFL is among the fastest federal district courts from filing to start of trial. EXs. 2005-2008; EXs. 2009-2010.

Additionally, the Local Rules for SDFL include case management scheduling guidelines that dictate how fast a case must move. EX. 2009 at ¶¶ 4-7.

Based on those guidelines, the underlying parallel litigation would move to trial within 15-16 months of the filing date of the case if the stay were lifted. EX. 2009 at ¶¶ 9-11. A discretionary denial within about a month of Petitioner's responsive brief would permit a trial date to be set sometime between February 2027 and May 2027. The FWD on the petition for PGR would issue no earlier than April 8, 2027 and, with extensions, could be as late as October 8, 2027. Thus, in the event of a discretionary denial, the SDFL trial date will likely be prior or close to the anticipated date for the SDFL. Thus, *Fintiv* Factor 2 weighs in favor of discretionary denial.

Factors 3 & 4: Patent Owner has invested significantly in the parallel patent litigation. Not only has multiple claim infringement charts been prepared and submitted to the court, but Patent Owner prepared and submitted a motion for preliminary injunction with evidence and supporting declarations to enjoin ongoing irreparably harm by Petitioner's mass distribution of infringing products. *See, e.g.*, EX. 2002; EX. 2003; and EX. 2004. Moreover, an early challenge to a patent does not insulate it from discretionary denial under *Fintiv*. *Catalyst Orthoscience Inc. v. Shoulder Innovations, Inc.*, PGR2025-00001, Paper 8 at 12-14, 18 (PTAB Apr. 24, 2025) (discretionary denial of PGR in light of trial expected to take place before statutory deadline for FWD and time and resources invested in parallel litigation). Thus, *Fintiv* Factor 3 weighs in favor of discretionary denial.

Additionally, there is substantial overlap between the Petition and the parallel litigation, which is accentuated by Petitioner's failure to submit a *Sotera* stipulation. The Petition is directed to the same patent and largely encompasses the same claims. Despite this significant overlap, Petitioner has not filed a *Sotera* stipulation or any other stipulation to mitigate concerns of potential duplicative efforts between the district court and the Board, as well as any concerns regarding subsequent conflicting decisions. *See Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 at 19 (P.T.A.B. Dec. 1, 2020). Petitioner's failure to make a *Sotera* stipulation weighs heavily against institution. Thus, *Fintiv* Factor 4 weighs in favor of discretionary denial.

Factors 5: Petitioner and Patent Owner are both parties to the underlying parallel patent litigation. This weighs in favor of discretionary denial. Even though there are two additional parties to the parallel litigation, under the circumstances this fact weighs even heavier in favor of discretionary denial, because estoppel will not attach to those parties who could simply relitigate the same issues raised in the PGR at the district court. That would run counter to Congress' design for AIA proceedings "to provide an effective and efficient *alternative* to district court litigation." *Gen. Plastic Indus. Co. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19, 16-17 (Sept. 6, 2017) (precedential) (emphasis added). And it would be a considerable and inefficient use of the Board's resources. Thus, *Fintiv* Factor 5

weighs in favor of discretionary denial.

Factors 6 (Other Circumstances Impacting Exercise of Discretion): As discussed above, there are compelling interests regarding irreparable harm to Patent Owner that weight in favor of discretionary denial. As discussed above, a motion for preliminary injunction was already filed, but the district court determined to forego considering the motion until after a denial of the PGR, after which the court has stated Patent Owner may re-raise its motion. EX. 2012 at 2012-4.

Patent Owner's Sea Swivel trolling motor mount accounts for nearly all of Patent Owner's revenues. EX. 2003 at 2003-12; EX. 2004 at ¶10. Those revenues are entirely derived from eCommerce, and approximately 80% come from commercial distribution. *Id.* Patent Owner has invested over \$500,000.00 in bringing this product, the first swiveling trolling motor mount, to market. EX. 2003 at 2003-11; EX. 2004 at ¶¶ 8-9. If consideration of Patent Owner's motion for preliminary injunction is delayed until long into 2027 and Petitioner is permitted to engage in ongoing infringement through mass distribution of directly competing and infringing products over a long period of time, that would likely irreparably harm the market through price erosion and cause irrecoverable economic damage to Patent Owner. Compelling economic interests and irreparable harm are considerations that weigh in favor of discretionary denial. Thus, *Fintiv* Factor 6

weighs in favor of discretionary denial.

ii. Serious Questions Regarding Real Parties-In-Interest

The Petition “may be considered only if . . . the petition identifies all real parties in interest[.]” 35 U.S.C. § 312(a)(2). “[T]he ‘real party-in-interest’ is the party that desires review of the patent.” *ZOLL Lifecor Corp. v. Philips Elecs. N. Am. Corp. et al.*, IPR2013-00609, Paper 15 at 10 (P.T.A.B. Mar. 20, 2014) (citing 77 Fed. Reg. 48,688, 48,759 (Aug. 14, 2012)).

ShuttleSlide is a small privately-held company believed to have limited financial resources. Keystone Automotive Operations, Inc. and its distribution company, SeaWide Marine Distribution Inc., one of the largest distributors in the world, would understandably “desire review of the patent” because they have a financial interest as participants in the mass distribution of Petitioner’s infringing trolling motor mounts. There is a serious question regarding whether financial resources originating from such distributors have helped support Petitioner bring the Petition for PGR. This raises serious questions regarding whether all “real parties in interest” have been named in the Petition. Petitioner should at a minimum provide greater disclosure regarding its relationship with Keystone Automotive and SeaWide Marine and their relationship to the PGR. Likewise, Petitioner should be required to provide greater disclosure regarding its relationship with the other defendants in the parallel litigation and their

relationship to the PGR.

iii. The Petition is not Supported by Adequate Expert Testimony

The March 26 PTAB Workload Memo indicates that the extent to which the Petition relies on expert testimony is a relevant consideration for discretionary denial. Here, Petitioner proffers testimony from Russell Taylor, but his testimony is flawed and lacks the corroboration . Taylor is the owner of Petitioner. EX. 1003 at ¶ 3. As the owner of Petitioner, Taylor is an interested party and requires a level of corroboration because such testimony is often unreliable. *TransWeb, LLC v. 3M Innovative Properties Co.*, 812 F.3d 1295 (Fed. Cir. 2016) (“A ‘rule of reason’ analysis is used to determine the sufficiency of corroboration, under which “all pertinent evidence is examined . . .”). “To corroborate the testimony of interested actors, courts “have consistently required” documentary proof.” *Cellulose Material Solutions, LLC v. SC Marketing Group, Inc.*, Case No. 22-cv-03141-LB, 2024 WL 5114056 at *7 (N.D. Cal., December 13, 2024) (citation omitted) (Slip Copy).

That lack of independent uninterested testimony by Petitioner weighs in favor of discretionary denial and goes toward the weakness of Petitioner's challenge. Further factors regarding the weakness of Petitioner's unpatentability challenge are discussed below.

iv. Weakness of Petitioner's Unpatentability Challenge

Petitioner's PGR petition is weak and based on unreliable information and

non-analogous art.

Grady-White. Petitioner's attempt at proffering a Grady-White reference is fraught with problems. For example, the sports fishing article at EX. 1014 is an unreliable printout from an internet source that hasn't been verified by anyone as being prior to the priority date. And from the printout itself there is evidence of information that was not available before 2025. On page 13 of the article, there are referenced articles from 2025. Page 14 of the article claims a copyright of 2025.

Further, there is no way to verify from the document whether any elements from the claim are there. While page 11 of the article talks about swiveling, there is no way to tell whether it swivels between a horizontal or vertical axis; the referenced device could just tilt the motor up out of the water. And there is no witness sponsoring the article; it has not been authenticated. There is no way to know which information in the article is new or old.

The photos at EX. 1012 and corresponding declaration of Neal Trombley at EX. 1013 are also problematic. The photos don't show how the device works nor do the photos show that it rotates. Nor is there any testimony in Trombley's declaration regarding how it works. The declaration also doesn't state when the photos were taken. And there is no evidence to corroborate the declaration. Also concerning is that the device in the photos at EX. 1012 is different from device in the article at EX. 2014.

Further, Trombley's declaration (EX. 1013) does not state or confirm whether the photographs represent anything on the boat at the time he allegedly purchased it; he could have installed the alleged device later. Also concerning is that Trombley states nothing about himself or his relationship to Petitioner or his relationship with the infringing trolling motor mount. He merely states that he bought a boat. But Trombley has a financial interest in the outcome of the petition for post grant review. He is the president of Gulf Atlantic Marketing, Inc., a marketing and distribution company that markets and distributes Petitioner's trolling motor mount accused of infringing the '111 Patent. See Decl. Berta at EX. 2015, ¶¶ 5-10. As a group sales representative that profits from the sales of Petitioner's infringing trolling motor mounts, Trombley would financially benefit if the '111 patent claims were held invalid. *Id.*

Also, the purported bill of sale at EX. 1015 is questionable. It has not been signed by anyone, suspiciously some of it blurred and some it is clear, and the bill of sale doesn't say anything about the device at issue being on the boat.

Other Cited References. As will be further discussed in Patent Owner's Preliminary Response to the Petition, other references cited by Petitioner do not support the petition for PGR. For example, many of the cited references are non-analogous art: Bredford is for a tractor trailer connector (EX. 1004); Gillespie is for a downrigger including a line and weight (EX. 1005); and Henze is for a fishing

apparatus “which includes a large diameter reel mounted on a frame” (EX. 1006).

The others simply do not disclose all the claimed elements of the ‘111 patent.

V. CONCLUSION

Accordingly, Patent Owner respectfully requests that the Director deny institution of the Petition filed by ShuttleSlide LLC challenging the patentability of claims 1-18 of the '111 Patent.

Respectfully submitted,

Date: December 8, 2025

By: /Perry S. Clegg/

Perry S. Clegg, Reg. No. 65,304
Counsel for Patent Owner

Johnson & Martin, P.A.
50 W. Broadway, Suite 900
Salt Lake City, UT 84101
(801) 783-3200

CERTIFICATE OF SERVICE

I certify that the above-captioned **PATENT OWNER'S DISCRETIONARY DENIAL BRIEF** was served in its entirety on December 8, 2025, upon the following parties via electronic mail:

Kelly G. Swartz (Lead Counsel)
Daniel C. Pierron (Backup Counsel)
WIDERMAN MALEK, PL
1990 W. New Haven Ave.
Suite 201
Melbourne, FL 32904
Kelly@USLegalTeam.com;
DPierron@USLegalTeam.com;
Jill@USLegalTeam.com;
PatentDocket@USLegalTeam.com

Respectfully submitted,

By: /s Perry S. Clegg/

Perry S. Clegg, Reg. No. 65,304

CERTIFICATION OF PAGE COUNT

The page count of the foregoing petition is 20 pages or less, not including the case caption/heading, Table of Contents, Table of Authorities, Certificate of Service, Certificate of Page Count, and List of Exhibits, which does not exceed the page count limit.

/s Perry S. Clegg/

Perry S. Clegg, Reg. No. 65,304