

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOOGLE LLC,

Petitioner

v.

SONOS, INC.,

Patent Owner.

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Case No. IPR2026-00020  
U.S. Patent No. 11,080,001

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**PETITIONER'S OPPOSITION TO  
PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL**

**TABLE OF CONTENTS**

I.	Introduction.....	1
II.	Material Error Favors Institution.....	2
	A.    Sonos’s Lack of Adherence to the Reasonable Disclosure Window Led to Material Error During Examination.....	2
	1.    Sonos’s Delayed Submission of Janevski Contravenes the Duty of Disclosure .....	3
	2.    The Examiner Materially Erred by Overlooking Better Art .....	5
	B.    The Examiner Performed an Unduly Narrow Search.....	7
	C.    New, Noncumulative Art Relied on in the Petition Demonstrates Material Error.....	8
III.	Evidence Contradicts Sonos’s Claims About Inconsistent Constructions .....	9
IV.	Google’s Settled Expectations Outweigh Any Interests Sonos Has in the ’001 Patent .....	10
V.	<i>Fintiv</i> Favors Institution .....	13
	A.    Factor 1 Favors Institution or Is at Most Neutral.....	13
	B.    Factor 2 Favors Institution .....	14
	C.    Factor 3 Favors Institution or Is at Most Neutral.....	16
	D.    Factor 4 Favors Institution .....	17
	E.    Factor 5 Is at Most Neutral.....	18
	F.    Factor 6 Favors Institution .....	18
VI.	Sonos’s Remaining Aspirational Arguments Lack Evidentiary Support.....	19
VII.	Conclusion .....	20

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Cases</b>	
<i>Amgen Inc. v. Bristol-Myers Squibb Co.</i> , IPR2025-00601, Paper 9 (Director July 24, 2025).....	13
<i>Apple Inc. v. Apex Beam Techs. LLC</i> , IPR2025-00896, Paper 10 (Director Sep. 3, 2025).....	12
<i>Celgene Corp. v. Peter</i> , 931 F.3d 1342 (Fed. Cir. 2019) .....	11
<i>Eunsung Glob. Corp. v. HydraFacial LLC</i> , IPR2025-00445, Paper 14 (Director July 10, 2025).....	13
<i>Geotab Inc. v. Fractus, S.A.</i> , IPR2025-01026, Paper 14 (Director Oct. 17, 2025).....	12
<i>Jumio Corp. v. FaceTec, Inc.</i> , IPR2025-00106, Paper 17 (PTAB June 6, 2025) .....	19
<i>Masimo Corp. v. Apple Inc.</i> , IPR2023-00734, Paper 11 (PTAB Oct. 5, 2023).....	6
<i>Microsoft Corp. v. ParTec Cluster Competence Ctr. GmbH</i> , IPR2025-00318, Paper 9 (Director June 12, 2025) .....	13
<i>Murata Manufacturing Co. v. Georgia Tech Research Corp.</i> , IPR2025-00383, Paper 14 (Director July 29, 2025).....	12
<i>Oticon Med. AB v. Cochlear Ltd.</i> , IPR2019-00975, Paper 15 (PTAB Oct. 16, 2019).....	8, 9
<i>Tesla, Inc. v. Charge Fusion Techs., LLC</i> , IPR2025-00152, Paper 11 (Director June 12, 2025) .....	13
<i>Tesla, Inc. v. United States of Am. as represented by the Sec’y of the Navy</i> , IPR2025-00341, Paper 12 (PTAB June 13, 2025) .....	16

**Statutes**

5 U.S.C. § 706(2)(A).....11

35 U.S.C. § 315(e) .....18

**Regulations**

37 C.F.R. § 1.56(a).....2

37 C.F.R. § 1.56(c).....3

37 C.F.R. § 1.97 .....3

37 C.F.R. § 1.104(c)(2).....5, 6

**Other Authorities**

March 26, 2025, Interim Processes for PTAB Workload Management.....2

M.P.E.P. § 609(III).....3

M.P.E.P. § 904.01 .....7

M.P.E.P. § 904.02 .....7

M.P.E.P. § 2120(I) .....5

## **I. Introduction**

Despite using Janevski to challenge other companies' audio sync patents in IPRs, Sonos withheld Janevski from the Examiner of the '001 patent for at least a year and a half. Indeed, Sonos conveniently (i) waited to disclose Janevski until the Examiner had already issued a notice of allowance and (ii) buried it in a series of IDSs containing hundreds of references. Sonos's conduct prevented the Examiner from accessing better prior art, leading to material error in subsequent examination that never resulted in another rejection. The Examiner further erred when he failed to perform adequate searches for the "future time" limitation determined to be the point of patentability. Early disclosure of Janevski would have allowed the Examiner to focus on better art and perform more targeted searches without wasting time on applying weaker prior art. Moreover, the Examiner materially erred by failing to consider Okamura, which a POSITA would have looked to for the "future time" limitation. Institution of the Petition is worth the Office's resources because the Petition relies on Janevski and Okamura, providing the Office with an opportunity to correct these mistakes.

Other discretionary considerations further support institution: (1) Sonos sat on the '001 patent while asserting patents against Google, providing Google with settled expectations of nonassertion; and (2) Sonos's Request omits material facts about the overlap of claim constructions and invalidity issues. There is no trial date in the

parallel litigation; the evidence suggests that any trial will occur after the Board's deadline to issue a final written decision. Indeed, Sonos has made the parallel district court litigation increasingly more complex by waiting to assert the '001 patent and other patents until five years into the litigation. Accordingly, in addition to the meritorious challenge presented in the Petition, Google requests that the Director institute the Petition because discretionary considerations favor Google.<sup>1</sup>

## **II. Material Error Favors Institution**

### **A. Sonos's Lack of Adherence to the Reasonable Disclosure Window Led to Material Error During Examination**

Applicants have a “duty to disclose to the Office all information known to that individual to be material to patentability.” 37 C.F.R. § 1.56(a). Upon learning of information material to patentability, applicants must disclose the art to the Office “within a reasonable time, i.e., within three months.” M.P.E.P. § 609(III) (citing 37 C.F.R. §§ 1.97, 1.56(c)). Under these Rules, Sonos had a duty to disclose Janevski

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<sup>1</sup> Petitioner reserves the right to challenge the March 26, 2025, Interim Processes for PTAB Workload Management, including that document's list of “relevant” factors, at least because that document is legally invalid as (1) exceeding the Director's authority, (2) arbitrary and capricious, and (3) adopted without notice-and-comment rulemaking.

to the Office because Sonos learned about Janevski while prosecuting the '001 patent and knew that Janevski was relevant to the claimed audio sync technology. Sonos's lack of adherence to these Rules led to material error during examination because it prevented the Examiner from issuing rejections based on better art and developing adequate searches. Notwithstanding these errors, Sonos's action is an independent reason to institute this IPR because denial would only reward this gamesmanship.

**1. Sonos's Delayed Submission of Janevski Contravenes the Duty of Disclosure**

Sonos knew about Janevski over one and a half years before disclosing it to the Examiner. On March 9, 2018, Sonos filed IPRs asserting Janevski as a primary reference against other master-slave audio sync patents. *Sonos, Inc. v. Implicit, LLC*, IPR2018-00766, IPR2018-00767 (EX1019; EX1020). Sonos did not disclose Janevski to the Examiner until November 26, 2019, in an IDS. EX1002, 656.

Sonos knew that Janevski was material to the patentability of the '001 patent. In its IPRs, Sonos provided a ten-page overview of Janevski and admitted that Janevski discloses a highly relevant master-slave audio sync system. EX-1019, 29-38. While merely submitting a reference on an IDS may not be an admission of materiality, this evidence suggests that Sonos understood Janevski to be material to its purported invention because it was worth using to challenge other audio sync patents. Indeed, Sonos characterized Implicit LLC's patents as claiming

synchronized rendering devices, including audio devices. EX1019, 13-16; EX1020, 14-17. Sonos asserted that “[a]s with [Implicit LLC’s] Patent[s], Janevski is directed to ‘techniques for synchronizing playback of two or more digital streams based on renderable content of those streams.’” EX1019, 35-36 (quoting Janevski, 1:8-11), 37 (describing Janevski’s PVRs as master-slave devices); EX1020, 33-35. Sonos even asserted that “Janevski discloses a ‘time synchronization’ message flow ...” (EX1019, 71), just like the ’001 patent claims (EX1001, claim 1). Sonos thus should have disclosed Janevski to the Examiner within at least three months of filing its IPRs because Sonos understood that Janevski was material to the patentability of the ’001 claims, which relate to synchronized playback devices.

But Sonos did not. And in the meantime, Sonos wasted Office resources by delaying over 20 months to make its disclosure and allowing three rejections and a notice of allowance to issue in the interim. EX1002, 1159-71 (09/27/2019 Non-Final Rejection), 1278-92 (01/07/2019 Non-Final Rejection), 1372-84 (07/11/2018 Final Rejection), 1227-34 (NOA). Sonos never flagged Janevski’s high relevance for the Examiner, who did not issue any additional rejections after Sonos disclosed Janevski. *See generally id.*, 1-1226.

This lack of adherence to the Office’s Rules alone weighs in favor of institution because it calls into question Sonos’s intentions to seek truly patentable inventions. Such behavior should not be rewarded now by insulating the ’001 patent

from review. At the very least, Sonos's action hindered the Examiner's ability to look for better primary references and to focus his search on the specific type of timing information, which both ultimately lead to material error.

## **2. The Examiner Materially Erred by Overlooking Better Art**

“In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command.” 37 C.F.R. § 1.104(c)(2); M.P.E.P. § 2120(I) (“Prior art rejections should ordinarily be confined strictly to the best available art.”). Here, the Examiner materially erred by overlooking and failing to issue rejections based on Janevski, which was a better primary reference.

Without timely disclosing Janevski, Sonos left the Examiner with weaker primary references. Focusing on the last Non-Final Rejection, the Examiner relied on Isely as a primary reference. EX1002, 1163-64. The Examiner found that Isely does not provide any teachings for generating or receiving playback timing information or playing back audio content based on the received playback timing information. *Id.* But using Isely as a primary reference, as the Examiner did, further requires modifying Isely's system entirely to use timing information before even addressing the specific type of timing information. *Id.*

Unlike Isely, Janevski focuses the obviousness inquiry on swapping infrared for Bluetooth and the purported point of novelty—the specific type of timing

information.<sup>2</sup> Pet. 19-23, 29-31, 37-43. For example, as explained in the Petition, Janevski teaches transmission of timing information; Okamura discloses specific the type of timing information, and it would have been obvious to replace the timing information of Janevski. *Id.*, 44. Janevski is significantly closer to the claim than Isely and streamlines the obviousness inquiry, making it a better primary reference.

The Examiner overlooked Janevski when Sonos submitted it after the First Notice of Allowance and buried Janevski in a slew of IDSs. Some references “provide[] a more natural, and thus stronger, primary reference” than others. *See Masimo Corp. v. Apple Inc.*, IPR2023-00734, Paper 11, 18 (PTAB Oct. 5, 2023). The same is true here. Because Janevski was a better primary reference available to the Examiner, the examination did not follow the Office’s Rules. Accordingly, it was a material error for the Examiner to overlook Janevski and fail to apply it in a combination contrary to the Office’s Rules. Instituting review of the challenged claims warrants the Office’s resources to ensure the claims are assessed using better available prior art according to the Office’s Rules. 37 C.F.R. § 1.104(c)(2).

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<sup>2</sup> The Petition also cites Kawamura as evidence that it would have been obvious for Janevski’s remote controller to use Bluetooth rather than infrared. This is a minuscule obviousness step given the conventionality of Bluetooth. Pet. 17-23.

**B. The Examiner Performed an Unduly Narrow Search**

The Examiner identified a “*future time that is relative to a reference clock time*” as the novel limitation for allowance but failed to adequately search for this element. EX1002, 587 (emphasis in original). The M.P.E.P. requires examiners to “conduct a thorough and complete search of the prior art.” M.P.E.P. § 904.02. “A search is considered thorough when all areas with the highest probability of finding prior art relevant to the invention as it is claimed and described in the specification are identified for search.” *Id.* This includes considering variants, equivalents, and analogous art. *Id.* § 904.01.

The Examiner here failed to abide by the Office’s guidelines when searching for the purported patentable aspect of the claims. He ran only *one search* for the future time that returned only 22 results: “(playback or playing) with (audio or music or sound or song) with future adj2 time and (@ad<‘20040401’ or @rlad<‘20040401’).” EX1002, 1243. Running only one narrow search string for the “future time” limitation is an error because it is not a search for all the areas of highest probability of finding art, constituting a thorough and complete search. A reasonable searcher would have spent more time looking for the purported novel limitation or explored variations of “future,” such as “offset” as used in the specification. Moreover, the Examiner never searched for “future adj2 time” with clock timing information or playback timing information as the claims require,

further evidencing a failure to conduct a thorough and complete search. *Id.*

This flawed search led to further material error because it prevented the Examiner from identifying art that teaches the purported point of patentability—the specific type of timing information required by the claim. Pet. 39-40; EX1002, 587. It is appropriate to use the Board’s resources to evaluate art that the Examiner should have considered. *Infra* § II.C. Had the Examiner relied on Janevski, which is closer to the claims, it would have been easier to streamline the prior art search for the specific type of timing information in the claims, revealing art like Okamura.

**C. New, Noncumulative Art Relied on in the Petition Demonstrates Material Error**

Material errors include instances where the Office was unaware of prior art disclosing a novel limitation when a POSITA would have considered the prior art’s teachings relevant to problems faced by the inventor. *Oticon Med. AB v. Cochlear Ltd.*, IPR2019-00975, Paper 15, 19-20 (PTAB Oct. 16, 2019) (precedential).

Okamura was not previously presented to the Office during examination of the ’001 patent. Okamura is new and noncumulative art because it teaches the “future time” limitation that the Examiner found was not in the prior art. EX1002, 587; Okamura, 1:42-56, 5:53-67, 24:7-12. For example, Okamura teaches the “future time” limitation because it describes adding an “offset time to a time indicated by the timestamp” to control “synchronous reproduction.” Okamura, 5:53-67.

Furthermore, Okamura is analogous art and relates to the same timing-based playback as the '001 patent. Pet. 15, 39-43. As such, similar to *Oticon*, Okamura's teachings "would have been considered by a [POSITA] at the time of filing facing the problem of" achieving synchronized playback. IPR2019-00975, Paper 15, 20; Okamura, 1:42-56, 2:49-3:19, 5:53-67, 24:7-25:57; EX1003 (Anderson Decl.), ¶ 70. Accordingly, "there was error in the prosecution leading to the issuance of the ['001] patent because [Okamura], with its teaching of [offset timing/"future time"], was not considered." IPR2019-00975, Paper 15, 19.

This new, noncumulative art outweighs the other discretionary denial considerations and is worth the Office's resources because the art at least teaches the element that Sonos and the Office determined was not in the prior art. Pet. 39-43; EX1002, 587. Moreover, reviewing the merits of the new art is worth the Office's resources because it promotes the Office's goals of issuing strong patents, upholding innovation, and preventing gamesmanship.

### **III. Evidence Contradicts Sonos's Claims About Inconsistent Constructions**

Sonos's Request omits material facts about the overlap of claim constructions and invalidity, failing to accurately represent the status of the district court case. Req. 13-14. Regarding indefiniteness positions for the '001 patent, Sonos only submitted Google's invalidity contentions (EX2107) with its Request to argue that "Google raises nearly *twenty* separate indefiniteness grounds." Req. 13 (emphasis in

original). But Google's claim construction briefs reveal that Google is *not advancing any* indefiniteness positions for the '001 patent. EX1030; EX1031. Regarding overlapping issues between Sonos's Sync Patents, Sonos manufactures illusory overlapping claim construction and invalidity issues. While there are four common terms across Sonos's Sync Patents (EX2113, 3-5), the parties have already agreed on constructions for these terms. EX1030; EX1031; EX1037. And none of these terms form the basis of any invalidity disputes for the '001 patent because Sonos does not argue that any limitations are not disclosed by the prior art. Req. 10-12. Thus, Sonos's claims are disingenuous and contradict knowledge and evidence that Sonos had before filing its Request. EX1037. Because there is no risk of overlapping or inconsistent issues, the Director should institute the Petition.

#### **IV. Google's Settled Expectations Outweigh Any Interests Sonos Has in the '001 Patent**

To the extent either party is entitled to settled expectations, the half decade of ongoing litigation with Sonos where the '001 patent was not originally asserted entitles Google to settled expectations that outweigh any claims that Sonos is entitled to settled expectations.<sup>3</sup> The saga of litigations between Sonos and Google started in

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<sup>3</sup> The Director's application of "settled expectations" exceeds the Director's authority under the APA and is barred by judicial estoppel based on the Office

January 2020, where Sonos filed both an ITC action and a Central District of California (“CDCA”) action asserting five patents against Google. While the ITC case was ongoing, the CDCA case was stayed, coming alive again between November and December of 2024. During the interim, Sonos filed another complaint against Google in a separate litigation—asserting different patents—in September of 2020 in the Western District of Texas (asserting five patents, later transferred to Northern District of California, EX1029; EX1036). The ’001 issued in 2021, and Sonos waited over three years to assert the ’001 patent. Thus, to the extent either party has claims to settled expectations, Google’s expectation of nonassertion outweighs any of Sonos’s positions.

Google’s expectation of not having to defend against the ’001 patent is supported by Sonos’s delay considering Sonos’s allegations that it put Google on notice of infringement of the ’001 patent back in August 2021. Req. 12. When Sonos amended its complaint to assert the ’001 patent in October 2024, it had sat on the patent for over three years after purportedly notifying Google of its alleged infringement. Such facts weigh in favor of Google and counsel against finding that

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repeatedly advancing the position that patentees lack an expectation that their patents will not be challenged. *See Celgene Corp. v. Peter*, 931 F.3d 1342, 1361-62 (Fed. Cir. 2019); *see also* 5 U.S.C. § 706(2)(A).

Sonos is entitled to any settled expectations.

Sonos is not entitled to settled expectations because the patent was four years old when Google filed its petition, and thus this Petition is still an early challenge. *See Geotab Inc. v. Fractus, S.A.*, IPR2025-01026, Paper 14, 2 (Director Oct. 17, 2025) (2021 patent in the early challenge window for being less than four years old); *Apple Inc. v. Apex Beam Techs. LLC*, IPR2025-00896, Paper 10, 3 (Director Sep. 3, 2025) (no strong settled expectations in four-year-old patent).

Sonos points to its alleged nearly decade-long involvement in the technology space. However, Sonos is not entitled to any settled expectations in the '001 patent before it issued on August 3, 2021. Sonos's citation to *Murata Manufacturing Co. v. Georgia Tech Research Corp.* (Req. 12) is inapposite because "the challenged patent ha[d] been in force for more than 16 years." IPR2025-00383, Paper 14, 2-3 (Director July 29, 2025). Some reasons may entitle young patents to settled expectations, e.g., "an extraordinary amount of investment, time, and resources dedicated to research, development, trials, and regulatory approval." *Amgen Inc. v. Bristol-Myers Squibb Co.*, IPR2025-00601, Paper 9, 2 (Director July 24, 2025). Sonos has ***presented no evidence*** of any such reasons.

Moreover, even if Sonos has a presence in the technology space, its prosecution strategy overburdens the Patent Office and impedes challengers' ability to identify the most important patents. The '001 patent's family has over 100

nonprovisional patent applications stemming from a single U.S. Provisional App. No. 60/490,768. EX1021. Now that Sonos revealed which patents of its overly complex portfolio are in issue, it is most efficient for the Board to resolve the dispute.

Finally, the material errors addressed above outweigh any interests Sonos has in the '715 patent. The Director has routinely found that material error outweighs other factors in cases with facts like these, the same result is warranted here. *Microsoft Corp. v. ParTec Cluster Competence Ctr. GmbH*, IPR2025-00318, Paper 9, 3 (Director June 12, 2025); *Eunsung Glob. Corp. v. HydraFacial LLC*, IPR2025-00445, Paper 14, 2-3 (Director July 10, 2025); *Tesla, Inc. v. Charge Fusion Techs., LLC*, IPR2025-00152, Paper 11, 2-3 (Director June 12, 2025).

## **V. *Fintiv* Favors Institution**

### **A. Factor 1 Favors Institution or Is at Most Neutral**

After the district court's almost five-year stay, Sonos expanded the scope of the district court litigation by adding the '001 patent and four additional patents against Google. Despite Sonos's claims otherwise (Req. 3-4), evidence suggests that Judge Kronstadt would more likely than not stay the district court litigation to allow the PTAB to decide the patentability of the '001 patent. EX1034.

Judge Kronstadt's stay statistics reveal that he is willing to defer to the PTAB to resolve issues of patentability. Judge Kronstadt grants general stays 89% of the time. *Id.* And, when the request to stay is related to a pending PTAB decision, he

grants the stay 77% of the time. *Id.* Judge Kronstadt’s grant rate is almost 10% higher than the national average for pending PTAB decisions. *Id.*

Sonos’s arguments do not reflect actual evidence that suggests a stay would be granted. Sonos contends that judges in the CDCA “routinely den[y] stays under similar circumstances,” but the cases Sonos relies on are authored by other judges and not Judge Kronstadt. Req. 3-4. As such, they do not accurately represent the litigation as it exists. Moreover, including this proceeding, Google has challenged all five of Sonos’s newly asserted patents involved in the litigation. *See* IPR2025-01213 (Director Review request pending); IPR2025-01590; IPR2026-00021; IPR2026-00131. Therefore, when looking at the litigation holistically and Judge Kronstadt’s statistics, factor 1 favors institution.

**B. Factor 2 Favors Institution**

No trial date has been set. And two months after this IPR was filed, Sonos agreed to push the district court schedule back by over two months. EX2103, 2-3. Sonos presents a conveniently sliced view of generic CDCA’s time-to-trial statistics. Req. 4-5. But a fuller view reveals that trial is more likely than not going to occur after the Board issues its FWD because Judge Kronstadt’s typical time to trial is significantly longer than what Sonos reports.

Sonos’s time-to-trial statistics do not fully reflect the district court’s estimated time-to-trial statistics. Sonos’s brief only references that the median time to trial is

20 months. *Id.*; EX2104. But Sonos’s own exhibit reveals that the average time to trial is 28 months, putting the trial date in April 2027—in line with the projected FWD date of April 21, 2027. *See* EX2104. Even applying medians instead of averages, the median time-to-trial date for Judge Kronstadt’s *patent cases* is 1,292 days, which is over 41 months. EX1035, 2. This would put trial around May 2028—about a year after an FWD.

The district court’s standard practice may be “to set a trial date at the final pretrial conference, which is typically held only weeks before trial,” but that does not change the outcome. Req. 5 n.1; EX2103, 2-3. The district court has not set a pretrial schedule or set a date for a final pretrial conference as of the date of this Opposition, which further proves that the time-to-trial date is purely speculative.

The complexity of the parallel litigation outweighs any potential for an earlier trial date. *See Tesla, Inc. v. United States of Am. as represented by the Sec’y of the Navy*, IPR2025-00341, Paper 12, 2-3 (Director June 13, 2025). Sonos admitted that the parallel litigation is complex, stating: “Currently, the litigation involves ten Sonos patents, two Google patents, dozens of accused Google products, at least a dozen accused Sonos products, fourteen affirmative defenses and two counterclaims from Google, and fourteen affirmative defenses and six counterclaims from Sonos. *See* Exs.2108-2109.” Req. 7. The litigation involves six distinct patent families, creating a labyrinth that would be simplified by the review of the asserted patents.

**C. Factor 3 Favors Institution or Is at Most Neutral**

Sonos's gamesmanship has increased the complexity of the district court litigation, effectively restarting the CDCA case from the beginning. The district court litigation involves twelve patents (ten from Sonos and two from Google). Sonos's decision to add five patents after the five original patents were litigated at the ITC has forced the parties to restart the litigation. Since Sonos asserted the '001 patent and four other patents, minimal investment has been made in the district court litigation as evidenced by the ever-changing district court schedule. EX2103, 2-3.

The district court schedule is far from fast moving. And the parties recently agreed to postpone most of the deadlines by over two months. *Id.* Sonos's final infringement contentions are not due until after the institution decision deadline for this case, and Google's final invalidity contentions will not be filed for a month after that. *Id.*, 2. Institution of this IPR would substantially minimize the investment in the case, as Google's stipulation would refine positions that Google could bring.

Sonos also overstates the parties' agreement to reuse discovery from the ITC, ignoring that the '001 patent was not litigated at the ITC. Req. 7. The parties are seeking additional discovery—indeed, Sonos recently asked the parties to increase all discovery limits—and does not “preclude any Party from challenging the admissibility, relevance, and responsiveness of the re-used document or information.” EX2106, 11. Moreover, even for the five ITC patents, the parties

submitted new invalidity and noninfringement contentions, will have a new *Markman* hearing, and will then submit new expert reports. All these issues must be dealt with for Sonos's new patents (including the '001 patent) and Google's two patents, requiring the parties to continue to invest substantial resources on litigation.

**D. Factor 4 Favors Institution**

Sonos oversells the overlap of claims, grounds, and arguments between the Petition and the district court litigation. Req. 8-10. The Petition challenges eleven more claims than Sonos asserts in the district court litigation. EX2107, 6; Pet. 1. Such challenges are worth the Office's resources because they advance this administration's goals of ensuring strong patent quality. Google's *Sotera* stipulation mitigates any concerns about overlap between the grounds and arguments presented in the Petition and Google's invalidity contentions for the '001 patent. If this proceeding is instituted and not terminated, Google's stipulation would effectively accelerate the effect of 35 U.S.C. § 315(e) statutory estoppel, limiting Google's invalidity defenses in district court. That Google could pursue the same grounds, based on Janevski and Okamura, against other Sync Patents in the litigation is misleading because Google filed a petition and *Sotera* stipulation for the '715 patent, which further minimizes overlap. Req. 9; *see Google LLC v. Sonos, Inc.*, IPR2025-01590, EX1026 (PTAB Dec. 2, 2025). Sonos's argument highlights its own gamesmanship during prosecution and litigation because it has obtained and asserted

claims that are so similar that they can be invalidated by the same art. Moreover, none of the overlapping terms of Sonos's Sync Patents form the basis of any invalidity disputes for the '001 patent, as explained above, eliminating any overlap. *Supra* § III.

Sonos further overlooks that district courts eventually make parties narrow the issues. Indeed, Judge Kronstadt typically requires a narrowing of asserted claims and defenses before trial. *See, e.g.*, EX1032 (*Sound View Innovations, LLC v. Hulu, LLC*, No. LACV17-04146 JAK); EX1033 (*LG Elecs. Inc. v. Hisense Elecs. Mfg. Co. of Am. Corp.*, No. 2:19-cv-09474 JAK). While this litigation is complex and will continue to be so, by the time that trial comes, the parties will have been required to drop claims and defenses. Referral and institution of this Petition would facilitate the parties in simplifying the issues in the district court.

**E. Factor 5 Is at Most Neutral**

Factor 5 is at most neutral because the Board has suggested that the same parties being involved has little impact on this factor. *See, e.g.*, *Jumio Corp. v. FaceTec, Inc.*, IPR2025-00106, Paper 17, 8 (PTAB June 6, 2025).

**F. Factor 6 Favors Institution**

The Petition presents strong challenges that detail how claims 1-3, 6-14, 17-25, and 28-33 are unpatentable. Sonos's claims are false that the Petition's modifications to Janevski lack clarity and rely on phantom teachings. Req. 11-12.

First, as an example, the rationale to modify Janevski with Okamura is stated within Janevski because it discloses that “[t]ime synchronization can be implemented in many different known ways.” Pet. 39 (alteration in original) (quoting Janevski, 8:53-54). Second, the Petition does not rely on phantom teachings. Sonos’s allegations are cherrypicked portions from seven pages in the Petition explaining its combination of Janevski and Okamura. Req. 11-12. Although quotation marks were mistakenly included around two sentences on page 38 of the Petition that paraphrase Janevski, these sentences are supported by citations to Janevski that support the statements. *See* Pet. 38 (citing Janevski, 9:11-13, 9:15-35). Sonos’s claims about lack of notice of the Janevski-based challenge are thus demonstratively erroneous. Sonos’s contention that Janevski lacks these teachings is contrary to the assertions Sonos made *in its own IPRs* against Implicit LLC. For example, Sonos asserted that “Janevski discloses that each ‘participant’ PVR periodically ‘time synchroniz[es]’ its ‘time count’ with the ‘initiator’ PVR’s ‘time count’ to compensate for a calculated ‘time misregistration’ between the ‘initiator’ and ‘participant’ PVRs.” EX1019, 74 (quoting Janevski, 12:59-13:21) (alterations in original), 20-21; EX1020, 22-23, 40.

## **VI. Sonos’s Remaining Aspirational Arguments Lack Evidentiary Support**

Sonos describes positions that it “will” make rather than presenting arguments and evidence to the Board in its Request. Req. 14-16. For example, Sonos “will present” secondary consideration evidence from its ’357 patent but does not do so

for the Director’s consideration. *Id.*, 14. The ’357 patent claims, however, are significantly different from the ’001 patent in at least that they do not require the “future time” limitation (EX2116, 3-4), making any future evidence irrelevant. Sonos “will antedate Kawamura” with evidence of source code but does not do so for the Director’s consideration. Req. 14-15. Aside from lacking support, this position conflicts with Sonos’s district court petitions. Pet. 4 (citing EX1012). And finally, Sonos “will” create a battle of the experts in this IPR and in district court but does not do so for the Director’s consideration. Req. 15-16. Sonos’s claim that the Petition involves expert testimony to supply missing claim limitations or for hindsight-based motivations is equally conclusory and unsupported as these arguments lack any specificity. *Id.* Accordingly, without any support, these factors do not weigh in favor of denial.

## **VII. Conclusion**

For the foregoing reasons, Petitioner respectfully requests that the Director decline to exercise discretion to deny institution and institute based on the merits.

Date: January 21, 2026

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing **Petitioner's Opposition to Patent Owner's Request for Discretionary Denial** was served on January 21, 2025, via email directed to counsel of record for the Patent Owner at the following:

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