

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.

Petitioner,

v.

MASSIVELY BROADBAND LLC,

Patent Owner.

IPR2026-00033
Patent 9,667,337

PATENT OWNER'S REQUEST FOR DISCRETIONARY DENIAL

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2065	Patent No. 8,600,295
2066	April 19, 2019 Office Action for Serial No. 15/898,316
2067	U.S. Patent 10,523,258
2068	Samsung's Notice of Subpoena <i>Duces Tecum</i> and <i>Ad Testificandum</i> to Glenn Golden, Dec. 11, 2025, <i>MASSIVELY BROADBAND LLC v. Samsung Elecs. Co. Ltd. et al.</i> , No. 2:25-cv-00608-JRG (E.D. Tex.) (without Ex. C, Protective Order)

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2073	Ex. 337-B (Obviousness Claim Chart for the ‘337 Patent) to Samsung’s P.R. 3-3 and 3-4 Invalidity Contentions (Ex. 2029)
2074	<i>In the Matter of Spectrum Horizons</i> , First Report and Order, ET Docket No. 18-21, Mar. 21, 2019, Federal Communications Commission.

Patent Owner MASSIVELY BROADBAND LLC (“MBB”) submits this request for discretionary denial of IPR2026-0033 for Patent No. 9,667,337 (“’337 Patent”) pursuant to the Board’s “Interim Processes for PTAB Workload Management” memorandum, dated March 26, 2025 (“Interim Processes Memo”) and the “Director Institution of AIA Trial Proceedings” memorandum, dated October 17, 2025 (“Director Institution Memo”).

I. INTRODUCTION

The Director should deny institution under 35 U.S.C. § 314(a) because review of the ’337 Patent would not meaningfully advance the efficiency or workload-management goals that guide the Director’s discretion. The challenged patent is one of twelve patents (“Asserted Patents”) asserted in a single district court action pending in the Eastern District of Texas. Collectively, the Asserted Patents contain 340 claims, only a small fraction of which will be asserted at trial in that case, which already is progressing under a well-structured docket control order designed to narrow claims and prior art “to Reduce Costs.” Ex. 2018, 5. Petitioner, Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively, “Samsung”), has not moved to stay the litigation as the district court customarily declines such stay requests before institution decisions. In light of this parallel proceeding, there are three reasons to deny institution here.

First, the ’337 Patent issued over eight years ago and seven of the Asserted

Patents have been in force for more than a decade, creating strong settled expectations of validity. Samsung’s own conduct reinforces those expectations. Samsung was made specifically aware of the ’337 Patent family over fourteen years ago when an examiner cited another patent in the ’337 Patent family during prosecution of a Samsung application; and Samsung cited another patent from the ’337 Patent family during prosecution of one of its own applications. Moreover, for nearly three decades, Samsung has regarded the Asserted Patents’ sole inventor, Professor Theodore Rappaport (“Rappaport”), as a leader in the field, collaborated with him closely, invited him to its campuses, replicated one of his measurement systems at Samsung’s own research complex, and repeatedly cited his foundational research in Samsung’s own technical papers and patents. Ex. 2025, ¶¶16–28. Despite this, Samsung never previously challenged any of the Asserted Patents, let alone any patent in the ’337 Patent family, although Samsung was aware of this patent family for over fourteen years. That history provides an additional compelling equitable consideration favoring denial.

Second, institution would be inefficient and duplicate the efforts of the district court. Twelve concurrent IPRs (one for each Asserted Patent) would require the Board to evaluate all 340 challenged claims across the Asserted Patents—including the sixty-three (63) claims of the ’337 Patent—whereas district court’s local rules and applicable docket control order will narrow the case to a

small subset of those claims. The Board, therefore, would be required to expend substantially more effort than the court, including evaluating claims that will never be adjudicated, contrary to the Office's stated efficiency and consistency priorities. Director Institution Memo, 1.

Finally, nearly every factor under the *Fintiv* framework favors denial:

Samsung has not requested a stay; the parties and the court have already invested substantially in the litigation; the issues and parties are identical; and the Petition relies extensively on conclusory expert testimony that largely mirrors the Petition's text. The only factor that does not weigh heavily in favor of denial is trial proximity, which is at best neutral: the projected final written decision (FWD) in this IPR proceeding will issue less than three weeks before trial, and Samsung's last-filed IPR will conclude merely one week before trial.

These considerations establish that institution would undercut longstanding expectations regarding the validity of the '337 Patent, duplicate the district court's work, and consume significant administrative resources. The Director should, therefore, exercise its discretion to deny institution.

II. FACTUAL BACKGROUND

A. The Patent Owner

Rappaport is the sole named inventor for the Asserted Patents, including the '337 Patent. Rappaport is a well-known, award-winning researcher, inventor and

educator in wireless communications. Ex. 2001, ¶¶ 1, 246-248. Former FCC Chairman Ajit Pai invited him to address technical issues related to 6G wireless. Ex. 2074, 15, 39; Ex. 2025, ¶14. He is credited as being the “father” of 5G cellular millimeter wave (“mmWave”) (Ex. 2003, 3; Ex. 2004, 2; Ex. 2005; Ex. 2006), having authored the seminal paper and book on the subject. Exs. 2013, 2023. His contributions in wireless communications are widely recognized by industry, including by Samsung. Ex. 2001, ¶ 47; Ex. 2025, ¶¶ 10-28. He founded wireless research centers at Virginia Tech, University of Texas (“UT”), and New York University (“NYU”), each of which holds an annual wireless conference that he launched. Ex. 2025, ¶¶ 8-9. He also authored a seminal textbook on wireless communications. *Id.*, ¶ 15.

Samsung has been a member, at various times, in all three of Rappaport’s research centers dating back over 25 years. Exs. 2007-2009; Ex. 2025, ¶ 17. For years, Rappaport and Samsung have collaborated extensively: Samsung funded and participated in research projects in Rappaport’s labs, hosted Rappaport for lectures in Korea, and Rappaport and Samsung employees co-authored multiple technical papers. Ex. 2001, ¶¶ 250-257; Ex. 2010, ¶¶ 250-257; Exs. 2013-2017; Ex. 2025, ¶¶ 17-25. Samsung has also praised and cited Rappaport’s work (Ex. 2025, ¶¶ 26-28) and filed his seminal textbook (*id.*, ¶ 15) on wireless communications as an exhibit in an IPR. *See Samsung Elecs. Co. v. One-E-Way*,

Inc., IPR2025-01540, Ex. 1018.

Prior to December 31, 2024, Rappaport owned all of the Asserted Patents. On that date, he assigned all of the Asserted Patents to MBB, of which Rappaport is sole founder and manager. Ex. 2002; Ex. 2001, ¶ 8.

B. The Parallel District Court Litigation and the Related IPRs

On June 6, 2025, MBB sued Samsung in the Eastern District of Texas asserting the '337 Patent as one of twelve Asserted Patents from three patent families that involve similar subject matter – wireless communications. Ex. 2001, 1-2, ¶ 2. After seeking and obtaining a 90-day extension to answer the complaint (Ex. 2026), Samsung commenced filing IPRs, filing one IPR petition for each Asserted Patent. *See* Paper 8. Samsung filed its first IPR on September 25, 2025 (IPR2025-01565) and filed its last of twelve IPRs on November 3, 2025 (IPR2026-00103). The Board has not yet reached an institution decision on any of the IPRs.

In the meantime, the parallel district court litigation has progressed substantially. Samsung filed its Answer on September 29, 2025, asserting forty-eight affirmative defenses, including invalidity of all of the Asserted Patents on numerous grounds. Ex. 2010, 54-63. Thereafter, the Court issued a discovery order, a protective order, and a docket control order, setting trial for May 17, 2027. Exs. 2027-2028, 2018. MBB has served preliminary infringement contentions (Ex. 2032); the parties have exchanged initial disclosures and written discovery requests

(Exs. 2020, 2021, 2030, 2031), and made substantial document productions.

Samsung has also served extensive invalidity contentions (Exs. 2029, 2073) that overlap with the assertions in the IPRs. Additionally, Samsung has served twenty-three (23) subpoenas to third parties in the industry seeking additional prior art to assert in the district court regardless of whether this IPR is instituted. Exs. 2045-2063, 2068, 2070-2072.

C. The '337 Patent and Other Asserted Patents

The '337 Patent relates to a broadband wireless repeater or relay for wireless communication, and issued over eight years ago. Ex. 1001. As shown in the table below: (i) nine of the twelve Asserted Patents have been in force for more than six years; and (ii) each family *includes at least one patent in force for more than twelve years*.

Asserted Patent	Fam	Patent Issue Date	Tenure (Years)	Case No.	IPR File Date	Exp. FWD Date
7,676,194	A	09-Mar-10	15.8	IPR2026-00035	9-Oct-25	16-Apr-27
8,224,794	B	17-Jul-12	13.4	IPR2026-00103	3-Nov-25	10-May-27
8,350,763	C	08-Jan-13	13.0	IPR2025-01565	25-Sep-25	7-Apr-27
8,515,925	B	20-Aug-13	12.3	IPR2026-00032	12-Oct-25	16-Apr-27
8,593,358	C	26-Nov-13	12.1	IPR2025-01587	21-Oct-25	26-Apr-27
8,725,700	B	13-May-14	11.6	IPR2026-00086	24-Oct-25	29-Apr-27
8,923,754	A	30-Dec-14	11.0	IPR2025-01595	29-Sep-25	6-Apr-27
9,667,337	A	30-May-17	8.6	IPR2026-00033	22-Oct-25	27-Apr-27
10,224,999	A	05-Mar-19	6.8	IPR2025-01594	30-Sep-25	8-Apr-27
10,797,783	A	06-Oct-20	5.2	IPR2025-01605	14-Oct-25	22-Apr-27
11,063,625	C	13-Jul-21	4.4	IPR2025-01564	26-Sep-25	6-Apr-27
11,876,548	C	16-Jan-24	1.9	IPR2025-01563	9-Oct-25	16-Apr-27

The table also shows that the Asserted Patents are part of three families. Each member of the Intelligent Wireless Broadband Relay patent family (Family A in the table) shares a common specification (Exs. 1001, 2033, 2034, 2036, 2037), as does each member of the Network Monitoring patent family (Family B). Exs. 2042-2044. In the third family, the Smart Antenna patent family (Family C), the first two issued patents (Patents 8,350,763 and 8,593,358) share a common specification (Exs. 2038, 2039), while the later two issued patents (Patents 11,063,625 and 11,876,548) are CIPs that share an extended version of that specification. Exs. 2040, 2041.

Finally, the table also reflects the dates Samsung filed the IPRs and the projected statutory FWD dates, showing the last expected FWD, May 10, 2027 for IPR2026-00103, is merely one week before the scheduled trial date in the district court litigation (May 17, 2027).

III. THE DIRECTOR SHOULD EXERCISE HIS DISCRETION TO DENY THE PETITION

A. Settled Expectations Favor Discretionary Denial

A patent's "settled expectations" are a compelling "relevant consideration" favoring discretionary denial. Interim Processes Memo, 2. One of the factors indicative of the parties' settled expectations is "the length of time the claims have been in force." *Id*; *Dabico Airport Solutions Inc. v. AXA Power ApS*, IPR2025-00408, Paper 21 at 2-3 (PTAB June 18, 2025) ("the longer the patent has been in

force, the more settled expectations should be,” favoring discretionary denial); *Kahoot! AS v. Interstellar Inc.*, IPR2025-00696, Paper 12 at 2 (PTAB July 31, 2025) (discretionary denial favored where “challenged patent has been in force for over six years, creating strong settled expectations”). Other factors include the parties’ relationship and the petitioner’s knowledge of the patent family. *See Nvidia Corp. v. Neural AI, LLC*, IPR2025-00606, Paper 18, 2-3 (PTAB July 31, 2025). Here, the “settled expectations” favor denial because the challenged ’337 Patent issued over eight years ago; the first patent in the ’337 Patent family—U.S. Patent No. 7,676,194 (Ex. 2033) (“the ‘194 Patent”)—issued over fifteen years; Samsung and Rappaport have had an extensive, decades-long relationship; and Samsung had specific knowledge of Rappaport’s patent portfolio, including notice of the ’337 Patent family for at least fourteen years before filing this Petition.

1. The ’337 Patent Has Settled Expectations of Validity

No one has previously challenged the validity of the ’337 Patent (or any of the Asserted Patents), even though its inventor and predecessor owner, Rappaport, long has been widely recognized for his pioneering contributions to wireless communications – the very field of the ’337 Patent. Standing alone, the lengthy period of unchallenged validity creates “settled expectations” for both the inventor and the public, just as in *Dabico* and *Kahoot!* Throughout the tenure of the ’337 Patent, the maintenance fees have been timely paid (Ex. 2069), further evidencing

the clear settled expectations for this patent. *See Omnivision Technologies, Inc. v. Re Secured Networks, LLC*, IPR2025-01019, Paper 14 (PTAB Oct. 10, 2025) (discretionary denial where challenged patent expired for term).

2. Samsung's Knowledge of Rappaport's Work and Patents

Samsung has collaborated with Rappaport for nearly three decades through joint research projects, participation in his university research centers, co-authoring publications, inviting him to speak in Korea, and attending his industry conference keynote addresses. Ex. 2025, ¶¶ 15-27; Exs. 2007-2009, 2013-2017; Ex. 2010, 44 (¶ 251). Samsung was also made specifically aware of the '337 Patent family over fourteen years ago when, during the examination of a Samsung patent application, the examiner cited the '194 Patent. Ex. 2012, 1; Ex. 2064, 3. Moreover, Samsung cited another patent in the same family as the '337 Patent during prosecution of one its own patent applications. Ex. 2024, 1 (citing Patent No. 8,600,295 (Ex. 2065), a continuation claiming priority to the '194 Patent); *see also* Ex. 2067, 2; Ex. 2066, 6 (Samsung patent citing Pub. 2013/0328723, issued as Patent 11,063,625 (Ex. 2040) in Family C). Yet Samsung never previously challenged any Asserted Patent let alone any patent in the '337 Patent family.

3. The *iRhythm* Decision Also Supports Discretionary Denial

In *iRhythm Techs., Inc. v. Welch Allyn, Inc.*, IPR2025-00363, Paper 10 (PTAB June 6, 2025), the then-Acting Director discretionarily denied institution

for five patents where just one of the five had been in force for more than twelve years, but the others had lesser tenures. *See also Samsung Elecs. Co. v. iCashe, Inc.*, IPR2025-00639-00645, Paper 11 (PTAB Aug. 14, 2025) (discretionary denial for non-long tenured patents that were part of parallel litigation with long tenured patents); *See also Nvidia Corp. v. Neural AI, LLC*, IPR2025-00606, Paper 18 (PTAB Jul. 31, 2025) (discretionary denial for patent in force two years where petitioner had years-long knowledge of patent portfolio, a longstanding relationship with the original patent owner, and failed to seek early review). As discussed above, Samsung has long been aware of Rappaport’s patent work and the asserted technology, yet never sought early review of any Asserted Patent. Under *iRhythm*, *iCashe*, and *Nvidia*, discretionary denial is appropriate here.

4. Exercising Discretion Serves the Office’s Policy Objectives

Institution of an *inter partes* review on the ’337 Patent would not advance the efficiency or workload-management goals articulated in the Office’s current policy directives. Both the Interim Processes and Director Institution Memos emphasize that institution decisions must be guided by efficient allocation of PTAB resources and consistent application of discretionary considerations.

According to the Director Institution Memo, the Director determines whether to institute IPRs “[t]o improve efficiency, consistency, and adherence to the statutory requirements for institution of trial” Director Institution Memo at

1. Under this unified process, the Office seeks to prioritize petitions that meaningfully advance the AIA's goal of timely and efficient resolution of patentability disputes, while conserving the Board's capacity for matters presenting unsettled or significant questions of patentability.

Here, the '337 Patent has long been in force, as have most of the Asserted Patents, and Samsung has long been familiar with Rappaport's research and patents in the same field. Denying institution under § 314(a) would align with the Director's formalized institution policy, furthering both the AIA's statutory framework and the Office's ongoing commitment to efficient, consistent, and judicious use of agency resources.

B. Instituting the IPRs Would Result in Duplication and Inefficiency

Institution across the twelve IPRs for the Asserted Patents, including the '337 Patent, would not promote efficiency. Rather than streamlining the dispute, twelve concurrent Board proceedings would vastly duplicate efforts and prolong resolution of overlapping issues already before the district court.

1. No Stay Has Been Requested and the District Court Does Not Consider Stays Until Institution

Samsung has not yet sought a stay of the district court litigation as the Eastern District of Texas has a well-established practice of declining to consider a stay until after the PTAB decides whether to institute review. *See Nanco Techs. Ltd. v. Samsung Elecs. Co.*, No. 2:20-cv-00038-JRG, 2021 WL 3027335, *1 (E.D.

Tex. Jan. 8, 2021) (describing consistent practice of denying motions to stay when the PTAB has yet to institute). As a result, the litigation will advance for many months before any stay could even be considered.

2. It is Unlikely That All Twelve IPRs Will Be Instituted

The Director denied 60% of IPRs in FY2025 based solely on discretionary considerations. Ex. 2011, 6. The actual denial rate is greater than 60% because if a petition moves past the discretionary denial stage, the Director can still deny institution based on other considerations. Interim Processes Memo, 1.

Accordingly, it is extremely unlikely that any, let alone all twelve, of Samsung's petitions will be instituted. This means the district court will continue to adjudicate a substantial portion of the dispute, regardless of the Board's actions.

3. A Stay Would Likely Be Denied Even if Requested

If Samsung moves for a stay of the parallel litigation in May 2026, when the last of the institution decisions is likely to issue, a stay is unlikely. **First**, a stay is unlikely unless all twelve IPRs are instituted. *Koninklijke KPN N.V. v. Telefonaktiebolaget LM Ericsson*, No. 2:21-CV-00113-JRG, 2022 WL 17484264 (E.D. Tex. Jul. 7, 2022) (stay denied where IPRs for only two of three asserted patents were instituted because issues will not be simplified for patent that is not subject to instituted IPR); *Polaris PowerLED Techs., LLC v. Samsung Elecs. Am., Inc.*, No. 2:22-cv-00469-JRG, 2024 WL 4953802 (E.D. Tex. Dec. 3, 2024)

(denying motion to sever and stay litigation where PTAB did not institute IPRs on two of three asserted patents). As shown above, it is statistically unlikely that all twelve IPRs will be instituted.

Second, the advanced stage of the litigation by the time the twelfth institution decision is made (May 8, 2026) will undermine the efficiencies sought to be achieved by a stay. The parties already have exchanged infringement and invalidity contentions and, by May 2026, will be well into fact discovery. Ex. 2018. At that point, any marginal benefit of splitting the case between forums would be far outweighed by the inefficiency of duplicative proceedings.

Third, staying the litigation will prejudice MBB by delaying vindication of its patent rights, with the IPR covering only a portion of Samsung's invalidity contentions. See *Lionra Techs. Ltd. v. Cisco Sys., Inc.*, No. 2:24-cv-00097-JRG, 2025 WL 1239317, at *2-4 (E.D. Tex. Apr. 28, 2025).

4. The Case Will Likely Return to District Court

Even if all petitions were instituted and the district court granted a stay, the case would likely return to the district court for further proceedings. Approximately twenty-four percent (24%) of challenged claims in instituted-IPRs are ultimately found patentable in FWDs. Ex. 2011, 14. Thus, a significant number of the 340 claims across the twelve Asserted Patents are statistically likely to survive even if all IPRs are instituted, making it practically certain that the

district court will need to adjudicate infringement, validity, and damages for numerous surviving claims even after the IPRs conclude. Granting institution would not avoid parallel proceedings; it would merely stage them sequentially, prolonging the overall resolution while duplicating the parties' and the Office's efforts, delaying vindication of MBB's patent rights after substantial investment in securing and maintaining them.

5. The District Court's Efficient Claim-Narrowing Procedures

The district court's case-management framework ensures that only the material issues are litigated, further confirming that institution of Samsung's petitions would not promote efficiency. Under E.D. Tex. Local Patent Rule 3-1(a), the patent owner must identify the specific claims asserted in its infringement contentions, immediately focusing the litigation on those that matter. *See Ex. 2032.* The district court's Docket Control Order in the parallel litigation goes even further, as it requires the parties to "Submit Proposed Order Focusing Patent Claims and Prior Art *to Reduce Costs*" by January 12, 2026. *Ex. 2018 at 5* (emphasis added). That order recognizes that claim focusing reduces costs and promotes judicial efficiency. The district court's model order further contemplates that the patent owner will elect no more than 32 claims by the completion of claim construction discovery. *See www.txed.uscourts.gov/sites/default/files/forms/ModelPatentOrder.pdf.* Although the parties are not presently committed to a

specific number of claims, this model order demonstrates that, at a minimum, the number of claims of the Asserted Patents to be finally adjudicated in district court will be narrowed by an order of magnitude.

By contrast, once an IPR is instituted, the Board must evaluate every challenged claim, regardless of its materiality to the dispute. *SAS Institute, Inc. v. Iancu*, 584 U.S. 357, 363 (2018). Because Samsung challenged all 340 claims across its twelve petitions, including all sixty-three claims of the '337 Patent (Pet. 4), the Board's workload—requiring full claim-by-claim analysis—would likely be approximately ten times greater than the district court's given its claim-narrowing procedures. Rather than streamlining the dispute, institution would expand and duplicate the work of both tribunals.

Finally, the three Asserted Patent families concern closely related wireless-communication technology and share common or related specifications. That overlap allows the district court to evaluate all validity issues together, but would require the Board to conduct duplicative, piecemeal analysis across twelve separate petitions—further weighing against institution of this IPR.

6. Overall Inefficiency

The Interim Processes Memo (at p.3) emphasizes that the Board must manage its caseload to “maintain PTAB capacity,” while the Director Institution Memo (at p.1) highlights that institution decisions should “improve efficiency,

consistency, and adherence to statutory requirements” Together, these policy statements reaffirm that AIA trial proceedings should be instituted only where they *meaningfully advance* the efficient and balanced administration of the Office. *See also* 35 U.S.C. § 316(b) (directing consideration of “the efficient administration of the Office, and the ability of the Office to timely complete ... proceedings”).

Institution here would have the exact opposite effect. Samsung has challenged all twelve Asserted Patents, most all of which, like the ’337 Patent, have strong settled expectations. There is no litigation stay. The prospects of full institution of all twelve IPRs is statistically remote. And the Board’s workload would be significantly more burdensome relative to the district court’s—requiring comprehensive claim-by-claim adjudication even for claims that the court’s own procedures will already have narrowed “to Reduce Costs.” As a result, rather than streamlining the resolution of the dispute, institution would multiply the effort across forums, delay final resolution, and consume substantial administrative and party resources without achieving material simplification or efficiency.

Accordingly, discretionary denial is warranted. Denial would conserve both judicial and administrative resources, avoid duplication, and uphold the workload-management principles articulated by the Director and by Congress in § 316(b).

C. The *Fintiv* Factors Support Denial

Parallel litigation, assessed under the factors enunciated in *Apple Inc. v.*

Fintiv, Inc., IPR2020-00019, Paper 11 (PTAB Mar. 20, 2020) (precedential), remains a relevant consideration for discretionary denial. Interim Processes Memo, 2. Here, most every *Fintiv* factor strongly favors denial.

Factor 1 – Stay. Samsung has not requested a stay, and the Eastern District of Texas rarely grants stays before institution decisions. *See Nanco Techs., supra*. Even after institution, a stay would be unlikely for the reasons explained above. *See Koninklijke, supra*, (stay denied where IPRs for two of three asserted patents were instituted and due to advanced stage of litigation); *Polaris PowerLED, supra* at *2 (same). This factor favors denial.

Factor 2 – Proximity of Trial to Final Written Decision. The district court trial is set to commence May 17, 2027 (Ex. 2018, 1), which is consistent with the median time-to-trial statistics for this venue. Ex. 2019 (median 655 days to trial for cases pending being between Jan. 1, 2022 and Oct. 22, 2025 before Judge Gilstrap; 655 days from the complaint date (June 6, 2025) is March 23, 2027). Thus, the trial is less than three weeks after the projected FWD date (April 22, 2027) for this IPR. Also, the projected FWD date for Samsung’s last-filed IPR (IPR2026-00103) is only one week before the start of the trial. Given the close proximity between the trial date and projected FWDs here, the proximity is neutral or slightly favors denial because the district court and the parties will have expended substantial effort preparing the case for trial by the time of the FWDs.

Factor 3 – Investment in the Parallel Proceeding. The parties have already exchanged infringement and invalidity contentions and commenced fact discovery. Exs. 2020-2021, 2029, 2032. Thus, the court and the parties have already invested substantially in the proceeding, and their investment will continue unabated through at least April 2026. *Fintiv* Factor 3 weighs in favor of denial.

Factor 4 – Overlap of Issues. In the parallel litigation, Samsung asserts the same invalidity grounds as presented in the Petition. Pet. at 4; Ex. 2029, 38-52; Ex. 2073. Although Samsung filed a stipulation (Paper 5) incorporating the standard *Sotera* commitment and additionally disclaiming a small set of specific references, that stipulation remains far from dispositive of overlap between the two fora. *See Formycon AG v. Regeneron Pharm., Inc.*, IPR2025-00233, Paper 15, 11 (PTAB Jun. 2, 2025).

Samsung's stipulation is also materially narrower than the standard the Office has proposed. The Notice of Proposed Rulemaking (90 Fed. Reg. 48341 (Oct. 17, 2025)) would require a petitioner, as a precondition to institution, to stipulate not to pursue any § 102 or § 103 invalidity ground in any other proceeding if an IPR is instituted. Samsung declined to make that commitment and expressly reserved its ability to advance additional invalidity theories in district court. Indeed, Samsung recently (post-filing its IPR petitions) served twenty-three (23) subpoenas upon different industry participants seeking additional

prior art to assert in the parallel litigation. Exs. 2045-2063, 2068, 2070-2072.

Samsung thus seeks to invoke the Board’s resources while strategically and simultaneously pursuing evidence from third parties that Samsung undoubtedly will use to relitigate substantially the same invalidity issues in the district court litigation—precisely the inefficiency the proposed rule is designed to prevent.

Factor 4, therefore, weighs against institution.

Factor 5 – Identity of Parties. The parties are identical in both fora, *see* Pet.; Ex. 2001; Ex. 2010, which further favors denial under Factor 5.

Factor 6 – Other Circumstances. In addition to the “settled expectations” and efficiency considerations discussed above, Samsung’s reliance on conclusory expert testimony further supports denial. Expert opinion that merely restates a petitioner’s assertions without supporting reasoning is entitled to little or no weight. 37 C.F.R. § 42.65(a). Here, nearly every technical statement in the Petition cites Dr. Mahon’s declaration (Ex. 1002), which largely repeats the Petition text verbatim. As shown in Ex. 2022, throughout the entire thirty-three pages of redline comparison, the Petition’s obviousness analysis for Ground 1 is nearly word-for-word identical to Dr. Mahon’s declaration (Ex. 1002, ¶¶75-123) offering no additional reasoning or technical explanation. Ex. 2022. The only substantive difference between the texts is the generic description of “internet backbone” in Dr. Mahon’s declaration at ¶115, which is not repeated in the Petition. Parroting of the

Petition’s text without technical reasoning exemplifies conclusory testimony of the sort the Board routinely discounts. *See MarkForged Inc. v. Continuous Composites, Inc.*, IPR2022-01431, Paper 7, at 14 (PTAB Jan. 18, 2023) (expert declaration “entitled to little to no weight as it merely parrots the Petition”). The Petition also sets forth unsupported assertions that are unsubstantiated by the evidence. For example, the Petition, at page 9, alleges certain features (e.g. “ignoring/filtering out some signal or data transmissions...”) were “well-known in the art” and cites Dr. Mahon’s declaration at ¶¶ 53, 56, however, these paragraphs fail to point to any substantiating evidence. The Petition, at page 1, also alleges “transceiver/repeater devices using wide frequency bandwidths was ubiquitous in the prior art” and again fails to point to any substantiating evidence or testimony. The Petition’s heavy reliance on unsupported assertions weighs against institution.

Holistic Analysis (Balancing of *Fintiv* Factors). Balancing the *Fintiv* factors holistically, three factors—1 (stay), 3 (investment), and 5 (identity)—strongly favor denial, and Factors 4 (overlap) and 6 (other) add strong additional weight. Factor 2 (trial proximity) is at best neutral for Samsung. On balance, the overall circumstances demonstrate that instituting this IPR would not meaningfully advance the efficiency goals of the AIA.

IV. CONCLUSION

The Director should discretionarily deny the Petition.

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Respectfully submitted,

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CERTIFICATION OF SERVICE

I hereby certify that on December 29, 2025, I caused a true and correct copy of the foregoing to be served on the following counsel for Petitioners by electronic mail to the following email address:

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