

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FORD MOTOR COMPANY,
Petitioner

v.

AUTOCONNECT HOLDINGS LLC,
Patent Owner

Case No. IPR2026-00173
Patent No. 9,173,100

AUTHORIZED RESPONSE TO DIRECTOR REVIEW REQUEST

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Patent Trial and Appeal Board
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I. INTRODUCTION

The Director correctly denied institution because the Petition came too late, was based on claim construction positions that were irreconcilable with those Petitioner had advanced in parallel litigation, and would have upset Patent Owner's strong settled expectations in a ten-year old patent. The decision avoided the sort of inefficient challenge that discretionary denial exists to prevent. The subsequent stay of the parallel litigation *does not alter the analysis* or support Director review.

Petitioner waited until the final statutory day to challenge the patent despite receiving detailed notice of infringement nearly two years earlier. It then attempted to justify that delay with a supplier-based "settled expectations" theory that collapsed under Petitioner's own admissions. Most notably, Petitioner has now stated that it did not become aware of the challenged patent until Patent Owner accused it of infringement in 2023, undermining any claim that Petitioner held "settled expectations" about the enforcement of the patent. A party cannot have expectations about a patent it does not even know exists.

Nor does the evidentiary record support Petitioner's suggestion that Flextronics supplied the accused systems or otherwise insulated Petitioner from infringement liability. Petitioner relies on vague references to undefined "SYNC modules" and legacy infotainment systems, yet never identifies any accused security functionality allegedly supplied by Flextronics. Nor did Petitioner contend that

Flextronics was its exclusive supplier. The resulting supplier-based theory is therefore not only contradicted by Petitioner’s assertion it was unaware of the patent until 2023, but is also unsupported by the record and logically flawed.

Petitioner also pursued the type of inconsistent claim construction positions the Director found improper in *Revvo* and *Tesla*. Here, Petitioner argued that the claims should receive plain-meaning constructions to support its obviousness theories. Yet in the parallel litigation—months after *Revvo* and *Tesla* issued—Petitioner served contentions asserting that numerous claim terms were indefinite. Petitioner chose to pursue these inconsistent positions when institution was under consideration and only attempted to change course after the Director denied institution.

The subsequent stay of the Delaware litigation does not justify reconsideration of the denial decision. The stay does not affect the core considerations that supported discretionary denial, including Petitioner’s lack of any credible settled expectations concerning enforcement, its tactical and inconsistent claim construction positions, and its decision to wait until the statutory deadline to seek review. The stay does not undermine the independent, non-*Fintiv* grounds supporting the Director’s decision.

Accordingly, Petitioner has identified no basis for Director review, and the denial decision should remain undisturbed.

II. “SETTLED EXPECTATIONS” SUPPORT THE DIRECTOR’S DECISION TO DENY INSTITUTION

A. Patent Owner Had Settled Expectations in Its Decade-Old Patent.

The challenged patent issued to Patent Owner over a decade ago, and Patent Owner’s settled expectations in the validity of its patents are substantial. These expectations were reinforced by Petitioner’s nearly two-year delay in filing a challenge to the patent after Petitioner was informed of its infringement. Petitioner then waited until the final statutory day to seek IPR review. This alone supports the Decision and denial of Petitioner’s request for Director review.

B. Petitioner’s Supplier-Based “Settled Expectations” Argument Is Belied by Petitioner’s Own Statements and Lacks Evidentiary Support.

Petitioner’s primary attempt to overcome the strong settled expectations supporting discretionary denial is the assertion that it expected not to be sued because Flextronics supplied the accused products—which the record ultimately proved to be false. Petitioner has stated that it *was not even aware the patent existed* until AutoConnect accused Petitioner of infringement. Petitioner’s assertions that it was unaware of the patents until 2023 and that it nevertheless possessed settled expectations regarding their enforcement are irreconcilable.

Despite this inconsistency, Petitioner relies on an earlier decision in a different proceeding in December 2025 to argue that it “had settled expectations that the challenged patents would not be asserted against it.” Paper 10 at 14. But that

decision (1) was issued on an *unchallenged and incomplete* record, (2) predated *Petitioner's statement* regarding its unawareness of the patent, and (3) is the subject of a *pending request for Director Review*. The record presented to the Director here confirms that this earlier decision rested on Petitioner's unsupported assertion that it possessed contemporaneous expectations of non-enforcement.

Nor does the evidentiary record support Petitioner's assertion that Flextronics supplied the accused systems. The system accused of infringing the '100 patent provides network security measures to protect the vehicle computing systems from cybersecurity breaches included in model year 2017 and later vehicles. Ex. 1005 at ¶ 240; Ex. 2027. Flextronics' involvement with legacy "SYNC" infotainment systems does not address these security measures. Paper 10 at 13 (stating that "Petitioner introduced SYNC in 2007 and began sourcing infotainment technology from Flextronics in 2010.") The unidentified legacy "SYNC" systems on which Petitioner relies predate the asserted patent and have not been tied in any way to the accused cybersecurity functionality appearing years later in the accused vehicles.

Instead, Petitioner offers a vague declaration that refers to undefined "SYNC modules." Ex. 1121. Despite numerous opportunities to provide more information, Petitioner refuses to identify any functionality whatsoever of the Flex "module" because it would amount to another representation that cannot be reconciled with its "settled expectations" narrative. The declaration therefore provides no support to

Petitioner’s suggestion that Flextronics “has continuously supplied the accused SYNC system to Petitioner” for over ten years. Paper 10 at 13. That is *not even possible* since the accused technology was not introduced until 2017. Ex. 1005 at ¶ 240; Ex. 2027.

Petitioner’s argument also fails because Petitioner acknowledges that Flextronics was not an exclusive supplier for the accused functionality. The record shows Petitioner moved to “SYNC 3” (developed by Panasonic) well before the accused 2017 model year vehicles entered the market. Paper 6 at 6 (citing Exs. 2018-2019); Paper 7 at 7–8 (citing Ex. 2018). Petitioner had no reasonable basis to assume it was insulated from suit for infringing systems sourced from competing suppliers. Absent exclusivity, Petitioner’s supplier-based immunity theory collapses because systems sourced from other suppliers would independently expose Petitioner to infringement liability.

Petitioner’s Flextronics-based argument is belied by its own statement that it was ignorant of the patent, lack of evidentiary support, and failure in logic. Petitioner has identified no basis to reconsider the denial decision.

C. Petitioner’s Stated Lack of Awareness Also Forecloses Its Argument about the Patent’s Temporary Lapse.

Petitioner also points to the temporary maintenance-fee lapse to contend it had settled expectations the ’100 patent would not be enforced. *See* Paper 10 at 2 (“These factors and others created a well-settled expectation that Petitioner would

not face an infringement claim on the '100 Patent.”). That argument fares no better.

Petitioner identifies no new evidence or arguments that warrant reconsideration of this issue. Nor can Petitioner reconcile this theory with its separate representation that it was unaware the patent existed until Patent Owner charged it with infringement in December 2023. If Petitioner was unaware the patent existed, then it could not have formed any contemporaneous expectation based on the patent’s temporary lapse, which was revived before the Petitioner became aware of it. Petitioner therefore cannot plausibly contend that the lapse shaped any settled expectation regarding potential enforcement of the patent.

In any event, the maintenance-fee lapse was temporary and unintentional, and AutoConnect acted promptly to correct it upon discovery. Exs. 2013–2014. The USPTO agreed the lapse was unintentional and revived the patent in April 2023. *Id.* By regulation, once the payment is accepted, “the patent shall be considered as not having expired,” rendering Petitioner’s reliance on the lapse legally misplaced.

III. PETITIONER PURSUED INCONSISTENT CLAIM CONSTRUCTION POSITIONS.

Petitioner also downplays its efforts to “have it both ways” by offering competing claim construction positions in the petition and the parallel litigation. *See Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 36 at 3 (Director Jan. 26, 2026); *see also* Paper 20 at 5 (Director Nov. 3, 2025) (precedential). A petitioner cannot simultaneously contend that claim scope is so

uncertain that the claims are indefinite in district court, while asking the Board to adopt sufficiently definite constructions to invalidate those same claims on the merits in an IPR. Such conduct undermines the integrity and efficiency of parallel proceedings by encouraging litigants to opportunistically tailor claim construction positions depending on the forum and strategic objective. *Id.*; *see also Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00340, Paper 18 at 4 (Director Nov. 5, 2025) (informative); *Generac Power Sys., Inc. v. Champion Power Equipment, Inc.*, IPR2025-00805, Paper 40 at 4-5 (Director Feb. 3, 2026).

Petitioner did just that here. *See* Paper 6 at 15–16 (outlining Petitioner’s inconsistent constructions). In its petition, it contended plain and ordinary meaning applies for most claim terms and had no difficulty applying those constructions to support its obviousness challenge. Yet in February 2026 in the parallel litigation—when application of *Revvo* and *Tesla* was already established—Petitioner nevertheless alleged numerous claims terms of the patent were indefinite. *Id.* Thereafter, the Director issued the decision denying institution on April 1. Paper 9.

Only *after* the Director denied institution did Petitioner attempt to retreat from the inconsistent positions it affirmatively chose to pursue while institution was under consideration. Petitioner’s effort to revise its litigation positions after suffering an adverse discretionary decision cannot retroactively cure the strategic inconsistency presented to the Director at the relevant time.

In any event, Petitioner sought permission to submit new evidence concerning its changed position after the Board denied institution, and the Board rejected that request. Ex. 3102. The Director’s § 314(a) analysis necessarily evaluates the positions Petitioner elected to maintain when seeking institution—not positions reformulated afterward to avoid the consequences of discretionary denial. Permitting a petitioner to erase inconsistent positions only after denial would undermine the purpose of *Revvo* and *Tesla* by encouraging parties to advance opportunistic claim construction theories until they are strategically inconvenient.

The argument also remains substantively deficient. The unauthorized evidence Petitioner references consists of “supplemental” invalidity contentions and claim construction disclosures served only after institution was denied. But “supplemental” contentions, as the name indicates, do not withdraw prior positions; they merely add to them. Petitioner has still not provided any unconditional stipulation abandoning the indefiniteness defenses asserted in the parallel litigation. Petitioner’s contentions and claim construction disclosures continue to maintain indefiniteness positions concerning phrases such as “and/or” and “one or more of”

for numerous patents,¹ which terms appear in the claims of the '100 Patent.

In addition, any attempted revision came too late. When institution was under consideration—and with full awareness from *Revvo* and *Tesla* that inconsistent claim construction positions could support discretionary denial—Petitioner nevertheless chose to pursue inconsistent positions across forums to serve different strategic objectives. Section § 314(a) exists precisely to prevent this sort of inefficient and opportunistic parallel litigation strategy.

IV. THE SUBSEQUENT LITIGATION STAY DOES WARRANT RECONSIDERATION OF THE DENIAL DECISION.

Petitioner principally relies on the subsequent stay of the Delaware litigation to argue that the discretionary denial should be revisited under *Fintiv*. But the stay does not materially alter the considerations that most strongly supported denial here.

Although the Director has not yet issued a written opinion identifying the precise basis for denial, the record strongly indicates that the denial rested primarily on the non-*Fintiv* considerations Patent Owner emphasized in its briefing—namely, the settled expectations surrounding a decade-old patent and Petitioner's pursuit of

¹ Petitioner also incorrectly states that the court “rejected” its indefiniteness position concerning “and/or”. Paper 10 at 10. But the court denied the motion at the pleadings stage, and Petitioner maintains this indefiniteness argument for numerous asserted patents.

inconsistent claim construction positions across forums. Patent Owner devoted substantial attention to those issues in explaining why those circumstances made institution inconsistent with the integrity and efficiency of the IPR process. Those considerations remain unchanged by the later-issued stay.

At most, the stay affects certain schedule-based efficiency considerations traditionally associated with *Fintiv*. But even there, the stay does not compel institution. At the time institution was under consideration, the Delaware Action remained in relatively early stages, and trial was scheduled approximately four months after any final written decision would have been due. The Director's discretionary authority under § 314(a) remains holistic and permits denial based on the totality of circumstances, including settled expectations and litigation conduct independent of trial schedules. And notably, the parallel GM litigation involving overlapping invalidity issues remains scheduled for trial in July irrespective of the Delaware stay. *See* Paper 6 at 12–13. Concerns regarding duplicative proceedings, inefficient parallel litigation, and inconsistent outcomes have not disappeared.

When the Directed denied institution, no stay existed, and Petitioner had already chosen to pursue the inconsistent litigation positions and delay tactics underlying Patent Owner's discretionary-denial arguments. Subsequent procedural developments do not erase those strategic choices or undermine Patent Owner's settled expectations in a 10-year old patent.

V. CONCLUSION

For the foregoing reasons, the Director should decline review of the Decision.

Date: May 8, 2026

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **PATENT OWNER'S AUTHORIZED RESPONSE TO DIRECTOR REVIEW REQUEST** was served electronically via e-mail on May 8, 2026, in its entirety on the following counsel of record for Petitioner:

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