

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
Petitioner,

v.

QOMPLX LLC,
Patent Owner.

Case IPR2026-00184
Patent 12,231,426

PATENT OWNER'S DISCRETIONARY DENIAL BRIEF

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2001	Declaration of Nathan Lowenstein in Support of Notice of Intent
2002	Declaration of Colette Woo in Support of Notice of Intent
2003	Amended Scheduling Order, <i>Qomplx LLC v. Microsoft Corp.</i> , No. 1:25-cv-01383, (W.D. Tex.) (Jan. 5, 2026) [Amended Scheduling Order]
2004	Defendant Microsoft Corporation’s Preliminary Invalidity Contentions, <i>Qomplx LLC v. Microsoft Corp.</i> , No. 1:25-cv-01383, (W.D. Tex.) (served Jan. 26, 2026) [Invalidity Contentions]
2005	Ex. B-10 to Defendant Microsoft Corporation’s Preliminary Invalidity Contentions, <i>Qomplx LLC v. Microsoft Corp.</i> , No. 1:25-cv-01383, (W.D. Tex.) (served Jan. 26, 2026) [Invalidity Contentions – Ex. B-10]
2006	Ex. B-11 to Defendant Microsoft Corporation’s Preliminary Invalidity Contentions, <i>Qomplx LLC v. Microsoft Corp.</i> , No. 1:25-cv-01383, (W.D. Tex.) (served Jan. 26, 2026) [Invalidity Contentions – Ex. B-11]
2007	Katie Roof, <i>Risk Analytics Firm Qomplx to Go Public Via Casper CEO SPAC</i> , BLOOMBERG (Mar. 1, 2021, 11:16 PM UTC), https://www.bloomberg.com/news/articles/2021-03-01/risk-analytics-firm-qomplx-to-go-public-through-casper-ceo-spac (archived at http://archive.ph/3bpk2) [Bloomberg]
2008	<i>On Point: EP. 3 Taking Qomplx Public via SPAC with Jason Crabtree '08</i> , https://www.oldgradclub.com/on-point/blog-post-title-two-ffmmh [On Point Podcast]
2009	<i>West Point First Captains</i> , WEST POINT ASSOCIATION OF GRADUATES, https://www.westpointaog.org/about/history/west-point-first-captains/ [West Point]
2010	Compilation of Awards Given to Jason Crabtree [Crabtree Awards]

2011	<i>Jason Crabtree</i> , NEW AMERICA, https://www.newamerica.org/our-people/jason-crabtree/ [New America]
2012	<i>Meet the Team</i> , THE DAKOTA FOUNDATION, https://www.dakotafoundation.org/team [Dakota Foundation]
2013	Joe Panettieri, <i>SPAC Cybersecurity Merger: Tailwind, QOMPLX Tackle Microsoft Active Directory Security</i> , MSSPALERT (Mar. 2, 2021), https://www.msspalert.com/news/spac-cybersecurity-merger-tailwind-qomplx-tackle-microsoft-active-directory-security [MSSPALert]
2014	<i>Architect's Corner: Qomplx leverages automation to run stateful services in containers for the financial and cybersecurity industries</i> , PORTWORX (Sept. 20, 2018), https://portworx.com/blog/devops-realized-qomplx-leverages-automation-run-stateful-services-containers-massive-scale/ [Portworx]
2015	QOMPLX, Inc., <i>QOMPLX CEO Jason Crabtree Wins Ernst & Young Entrepreneur Of The Year® 2020 Mid-Atlantic Award</i> (Aug. 10, 2021), https://finance.yahoo.com/news/qomplx-ceo-jason-crabtree-wins-135600025.html [Yahoo! Finance]
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2017	Tailwind Acquisition Corp., <i>QOMPLX, Inc., Frequently Asked Questions about Tailwind Transaction</i> , https://www.sec.gov/Archives/edgar/data/1814215/000110465921033365/tm219025d2_425.htm [SEC FAQ]
2018	<i>QOMPLX and Tailwind Acquisition Corp. Mutually Agree To End Business Combination Due to Market Conditions</i> , BUSINESSWIRE (Aug. 17, 2021, 8:21 AM EDT), https://www.businesswire.com/news/home/20210817005565/en/QOMPLX-and-Tailwind-Acquisition-Corp.-Mutually-Agree-To-End-Business-Combination-Due-to-Market-Conditions [BusinessWire]

2019	<i>Entrepreneurship Essentials for the Military Community</i> , USPTO, https://www.uspto.gov/about-us/events/entrepreneurship-essentials-military-community [Entrepreneurship Essentials for the Military Community]
2020	<i>2024 Veterans Innovation and Entrepreneurship Program</i> , USPTO, https://www.uspto.gov/about-us/events/2024-veterans-innovation-and-entrepreneurship-program [Veterans Innovation and Entrepreneurship Program]
2021	<i>Ready, set, compete! How we're helping veterans and military family members innovate and start new businesses</i> , USPTO (May 25, 2023) https://www.uspto.gov/blog/ready-set-compete-how-we [Ready, Set, Compete]
2022	Time to Trial Statistics for J. Alan Albright (generated via DocketNavigator) [Albright Time To Trial]

I. INTRODUCTION

The patent system exists to promote and protect American innovation. Patent Owner Qomplx's patented cybersecurity technologies are the result of precisely the kind of high-level technical innovation the system was created to encourage. Founded by two decorated United States military veterans to address, among other challenges, critical issues in data security and risk analytics, Qomplx developed a suite of cutting-edge solutions capable of detecting and thwarting cybersecurity threats in real time. The company raised over \$170 million in financing including \$78.6 million by the end of 2019, generated tens of millions of dollars in revenue, achieved a 139% net revenue retention rate, grew more than 700% between 2019 and 2020, served dozens of enterprise and government customers, and employed hundreds of professionals in the United States. In 2021, Qomplx constituted the majority of the value of a widely reported transaction valued at approximately \$1.4 billion.

Although market conditions ultimately prevented that transaction from closing, Qomplx's innovations are not diminished. The Office should not subject those patents to duplicative validity proceedings where, as here, the parties have already expended significant resources in a parallel district court action set to go to trial before any final written decision is due.

This petition is one of three filed by Microsoft challenging three of six patents asserted in *Qomplx LLC v. Microsoft Corp.*, No. 1:25-cv-01383 (W.D. Tex.) (the “District Court Action”). There, Microsoft has raised the very same prior art grounds presented here, along with numerous additional invalidity theories. The District Court Action has progressed substantially: Microsoft has produced source code, the parties have exchanged voluminous infringement and invalidity contentions, will complete the claim construction process by the institution decision deadline, and are proceeding toward a scheduled trial date that precedes the projected final written decision deadlines in these IPRs. Microsoft has not indicated whether it intends to file petitions challenging the remaining three asserted patents—creating additional uncertainty and further undermining any claim of simplification.

Maintaining parallel adjudications under these circumstances would be inefficient and unnecessary, and would punish the type of innovation the patent system is meant to encourage and protect. Every *Fintiv* factor favors denial. The parties are identical in both forums. The District Court Action is not stayed, and no stay is likely—particularly where Microsoft has challenged only half of the asserted patents. Trial is scheduled before the projected final written decision dates for these petitions. That delta will grow longer if Microsoft ultimately files IPR petitions challenging the three remaining asserted patents. The parties and the

court have already invested substantial resources. And Microsoft’s carefully worded stipulation is essentially meaningless, leaving ample room for Microsoft to pursue substantially overlapping invalidity theories in district court. Indeed, the system art Petitioner relies upon in the District Court Action are solely based on printed public publications, guaranteeing the very duplication that discretionary denial is meant to avoid.

And if Microsoft elects not to challenge the remaining patents in the Board, that choice only underscores the inefficiency of asking both the Board and a jury to adjudicate overlapping validity issues in parallel. *See Amazon.com, Inc. v. Audio Pod IP, LLC*, IPR2025-00768, Paper 15, 2 (Aug. 14, 2025) (denying institution where district court considering validity of other patents and, thus, referring petition to Board “would be an inefficient use of Board resources and tips the balance to discretionary denial”); *Samsung Elecs. Co., Ltd. v. iCashe, Inc.*, IPR2025-00641, Paper 12, 2 (Aug. 14, 2025) (similar).

In short, Microsoft seeks a second, overlapping forum to litigate the same validity issues already before Judge Albright and a jury. Section 314(a) exists to prevent precisely this type of inefficiency. Institution should therefore be denied.

II. EVERY *FINTIV* FACTOR FAVORS DENIAL.

A. There Is No Stay Or Likelihood Of One Being Granted (Factor 1).

The District Court Action is not stayed, and Petitioner has neither sought nor indicated that it will seek a stay. That alone weighs against institution.

Nor is a stay likely to be granted if sought. Judge Albright has made clear that the “most important factor” in deciding whether to grant a stay is whether the IPR “will result in simplification of issues before the Court.” *Multimedia Content Mgmt. LLC v. DISH Network LLC*, No. 6:18-cv-00207-ADA, 2019 WL 11706231, *3 (W.D. Tex. May 30, 2019) (Albright, J.). And, unless a defendant “show[s] that the PTAB is likely to invalidate *all* asserted claims . . . a stay will likely not simplify the issues.” *mCom IP, LLC v. Bank of Am. Corp.*, No. 6:22-cv-00256-ADA, 2022 WL 22896963, *3 (W.D. Tex. Oct. 20, 2022) (Albright, J.) (emphasis in original, cleaned up).

Here, Microsoft has thus far challenged only three of the six asserted patents.¹ Even if institution were granted, half of the case would proceed

¹ To the extent that Microsoft later challenges the final remaining patents, that would only increase the delta between the trial date and the final written decision deadlines for these later filed cases (factor 2) and the amount of work

untouched. Under Judge Albright’s stated framework, that reality substantially undermines any argument that an IPR would simplify the litigation. The absence of a stay—and the unlikelihood of one—therefore strongly favors discretionary denial.

B. The District Court Trial Is Scheduled Prior To The Earliest FWD Deadline (Factor 2).

Factor 2 strongly favors denial because the district court trial is scheduled to occur before the projected final written decision (“FWD”) deadlines in these IPRs.

Here, the final written decisions for IPR2026-00182 and -00184 are due July 8, 2027 and the final written decision in IPR2026-00183 is due July 22, 2027 (IPR2026-00183). By contrast, the District Court Action is scheduled to go to trial on June 21, 2027.² *See* Ex. 2003 [Amended Scheduling Order] 6.

performed by the parties (factor 3). *See Amazon.com*, IPR2025-00768 Paper 15, 2 (Aug. 14, 2025) (where district court will consider other patents referring petition to Board “would be an inefficient use of Board resources and tips the balance to discretionary denial”); *Samsung*, IPR2025-00641, Paper 12, 2 (Aug. 14, 2025) (similar).

² This aligns with Judge Albright’s median time to trial of 25 months. *See* Ex. 2022 [Albright Time To Trial].

The then Acting Director has recognized that “it will be inefficient to maintain two parallel proceedings when the district court scheduled trial date and the projected final written decision due date are in close proximity.” *Shenzhen Tuozhu Tech. Co., Ltd. v. Stratasy, Inc.*, IPR2025-00354, Paper 11, 2 (June 12, 2025). That inefficiency is even more pronounced where, as here, the trial is scheduled to precede the Board’s decision altogether.

Indeed, even where a district court trial date is scheduled to occur after a projected FWD, this factor still favors denial where the parties have meaningfully invested in the district court proceeding:

Even though a district court trial date that occurs after a projected final written decision date reduces the possibility of conflicting decisions, that benefit does not outweigh the efficiencies gained by avoiding parallel proceedings in this instance because of the parties’ meaningful investment in the district court proceeding discussed above.

Adv. Micro Devices, Inc. v. Concurrent Ventures, LLC, IPR2025-00223, Paper 9, 2 (June 12, 2025) (“*Concurrent*”). Here, as further discussed in the next section, the District Court Action is already well advanced, the parties have already exchanged contentions and, by the institution deadline, claim construction will be complete and fact discovery underway.

Moreover, if Microsoft ever files petitions challenging the three remaining asserted patents, those projected FWD due dates would be due even further after

the scheduled trial date. Indeed, if Microsoft files its petitions today, the earliest that the FWD deadline could be is September 2027, three months after the scheduled trial date. This further reinforces the inefficiency of parallel proceedings.

Factor 2 therefore strongly favors discretionary denial.

C. The Parties Have Expended Significant Resources In The District Court Action Including Exchanging Contentions And Will Complete Claim Construction By The Institution Decision Deadline (Factor 3).

Factor 3—“investment in the parallel proceeding by the court and the parties”—strongly favors denial.

The District Court Action is well advanced. The parties have exchanged infringement and invalidity contentions. By the earliest institution decision deadline (July 8, 2026), claim construction will be complete and fact discovery will be underway. *See* Ex. 2003 [Amended Scheduling Order] 2-3.

The then Acting Director has consistently found that completing such activities constitutes a “meaningful investment.” *NXP USA, Inc. v. Redstone Logics LLC*, IPR2025-00485, Paper 11, 2 (July 10, 2025) (finding “meaningful investment” where “the district court has held a *Markman* hearing”). Likewise, Factor 3 “strongly favor[ed] discretionary denial” where the parties had served extensive infringement and invalidity contentions, filed claim construction briefs,

and the court construed disputed claim terms. *Motorola Sols., Inc. v. Stellar, LLC*, IPR2024-01205, Paper 19, 3 (Mar. 28, 2025); *Concurrent*, 2 (favoring denial where “parties have exchanged infringement and invalidity contentions” and “a *Markman* hearing is scheduled to occur before the due date for an institution decision”).

The investment here meets or exceeds those cases. Extensive contentions have been exchanged and claim construction will be complete before the institution decision deadline. Fact discovery will be ongoing. And by the time any final written decision would issue, trial will already have occurred. *See* Ex. 2003 [Amended Scheduling Order] 3-6. Thus, Factor 3 strongly favors denial.

D. Petitioner Raises The Same Validity Defenses In The District Court Action And Its Stipulation Promises Two Bites At The Apple (Factor 4).

Factor 4 strongly favors denial.

Microsoft asserts in district court the same prior art grounds presented in these IPRs. *Compare* Ex. 2004 [Invalidity Contentions] 28-29, 37 (raising Kirti alone or in combination with Coffin) *with* Pet., 3. If institution is denied, Microsoft will suffer no prejudice: it may present those very defenses in the district court on summary judgment and at trial.

Microsoft attempts to mitigate overlap through a stipulation. But the stipulation is essentially no stipulation at all.

First, Microsoft agrees only not to assert “the specific grounds raised” in the IPR or combine system prior art “with any reference asserted as part of [a] ground.” Ex. 1067 [Stipulation] 1. It does *not* forswear reliance on system prior art altogether. To the contrary, its district court invalidity contentions rely heavily on prior art products and systems—two allegedly anticipating systems and nine additional systems for obviousness combinations. Ex. 2004 [Invalidity Contentions] 28-31. The stipulation leaves those theories untouched.

Moreover, its district court invalidity contentions that supposedly represent system prior art rely solely on public *printed materials* regarding those systems. *See, e.g.*, Ex. 2004 [Invalidity Contentions] 30, Exs. 2005 [Invalidity Contentions – Ex. B-10] 1-2, 2006 [Invalidity Contentions – Ex. B-11] 1-2. Petitioner’s invalidity contentions rely upon the AD “Azure Active Directory” and “Microsoft Account Platform (MSA)” products/systems. Ex. 2004 [Invalidity Contentions] 30. In the exhibits setting forth invalidity claim charts for these products/systems Petitioner solely relies upon alleged prior art printed publications that are fully available in an IPR proceeding:

For example, aspects of the Azure AD system are disclosed in the following:

- Microsoft, *What is Azure Multi-Factor Authentication*, available at <https://web.archive.org/web/20160314054531/https://azure.microsoft.com/en-us/documentation/articles/multi-factor-authentication/> (herein after “What is Azure Multi Factor Authentication”)

- Microsoft, *Azure Active Directory Identity Protection*, available at <https://web.archive.org/web/20160419012327/https://azure.microsoft.com/en-us/documentation/articles/active-directory-identityprotection/?rmd=1> (herein after “Azure Active Directory Identity Protection”)
- Microsoft, *Securing access to Office 365 and other apps connected to Azure Active Directory*, available at <https://web.archive.org/web/20160421011004/https://azure.microsoft.com/en-us/documentation/articles/active-directory-conditional-access/> (herein after “Securing access to Office 365”)
- Microsoft, *Getting started with the Azure AD Reporting API*, available at <https://web.archive.org/web/20160408012325/https://azure.microsoft.com/en-us/documentation/articles/active-directory-reporting-api-getting-started/> (herein after “Azure AD Reporting API”)
- Microsoft, *Azure Active Directory reporting - preview*, available at <https://web.archive.org/web/20161114133555/https://azure.microsoft.com/en-us/documentation/articles/active-directory-reporting-azure-portal/> (herein after “Azure Active Directory reporting”)
- Microsoft, *Authentication Scenarios for Azure AD*, available at <https://web.archive.org/web/20160326203756/https://azure.microsoft.com/en-us/documentation/articles/active-directory-authentication-scenarios/> (herein after “Authentication Scenarios for Azure AD”)
- Microsoft, *Administer your Azure AD directory*, available at <https://web.archive.org/web/20160327030629/https://azure.microsoft.com/en-us/documentation/articles/active-directory-administer/> (herein after “Administer you Azure AD Directory”)
- Microsoft, *Azure Active Directory*, available at [https://learn.microsoft.com/en-us/previous-versions/azure/azure-services/mt168838\(v=azure.100\)](https://learn.microsoft.com/en-us/previous-versions/azure/azure-services/mt168838(v=azure.100)) (herein after “Azure Active Directory”)
- Microsoft, *Azure Active Directory for the Old-School AD Admin*, available at <https://techcommunity.microsoft.com/blog/coreinfrastructureandsecurityblog/azure-active-directory-for-the-old-school-ad-admin/257709> (herein after “Azure Active Directory for the Old-School AD Admin”)

Ex. 2005 [Invalidity Contentions – Ex. B-10] 1-2.

For example, aspects of the MSA system are disclosed in the following:

- PCQuest, *Microsoft Authenticator App Is About to Release*, available at <https://www.pcquest.com/microsoft-authenticator-app-is-about-to-release-on-august-15th/> (hereinafter, “PCQuest”);
- *Behind the Curtains Authentication to Azure with a Microsoft Live Account*, available at <https://journeyofthegeek.com/2016/04/02/behind-the-curtains-authentication-to-azure-with-a-microsoft-live-account/> (hereinafter “Behind the Curtains”);
- Microsoft, *Understand Microsoft Accounts*, available at <https://learn.microsoft.com/en-us/windows-server/identity/ad-ds/manage/understand-microsoft-accounts> (hereinafter “Understand Microsoft Accounts”);
- ZDNet, *New Microsoft Authenticator App to Roll Out*, available at <https://www.zdnet.com/article/new-microsoft-authenticator-app-to-roll-out-starting-august-15/> (hereinafter, “ZDNet”);
- Elcomsoft, *Microsoft Two-Factor Authentication: Always There*, <https://web.archive.org/web/20180122203044/https://blog.elcomsoft.com/2016/12/microsoft-two-factor-authentication-always-there/> (hereinafter, “MSA 2FA Always There”);
- Microsoft, *Windows Server 2012*, available at [https://learn.microsoft.com/en-us/previous-versions/windows/it-pro/windows-server-2012-R2-and-2012/jj884082\(v=ws.11\)](https://learn.microsoft.com/en-us/previous-versions/windows/it-pro/windows-server-2012-R2-and-2012/jj884082(v=ws.11)) (hereinafter “Windows Server 2012”);
- Microsoft, *Microsoft Authenticator Coming August 15th*, available at <https://web.archive.org/web/20170113234208/https://blogs.technet.microsoft.com/enterprisemobility/2016/07/25/microsoft-authenticator-coming-august-15th/> (hereinafter “Microsoft Authenticator Announcement”).

Ex. 2006 [Invalidity Contentions – Ex. B-11] 1-2. These exact materials could have been raised in an IPR ground. Microsoft’s district court and IPR positions are irreconcilable—it cannot both be the case that printed materials are sufficient to describe their systems, and that those same systems provide them with non-overlapping grounds as compared with its IPR. Petitioner’s stipulation not to rely upon grounds it could have raised in an IPR means nothing.

Second, even if that could be overlooked, Petitioner only narrowly forswears reliance upon system art in combination “with any reference asserted as part of a ground.” This confirms that Petitioner reserves the right to rely upon system art in combination with other references cited in the IPRs that are not a part of any ground and upon system art in combination with references that are materially similar to the references making up a part of Petitioner’s grounds. *SAP Am., Inc. v. Cyandia, Inc.*, IPR2024-01496, Paper 13, 8-9 (Apr. 7, 2025) (stipulations have “limited practical effect in reducing the overlapping efforts” when IPR prior art does not reduce prior art systems offered in district court).

Third, Microsoft expressly reserves the right to rely on IPR references for purposes other than specific claim elements—including the level of skill, state of the art, claim meaning, and motivation to combine. Ex. 1067 [Stipulation] 1. Thus, even the very references forming the basis of the IPR grounds remain available to shape its district court invalidity case.

In short, the stipulation does not eliminate substantial overlap. It preserves parallel litigation of closely related prior art theories in two forums in close temporal proximity. The former Acting Director has cautioned against “giv[ing] too much weight” even to enhanced stipulations where, as here, the district court proceeding is advanced and unstayed. *Green Revolution Cooling, Inc. v. Midas Green Tech., LLC*, IPR2025-00196, Paper 15, 2 (July 25, 2025).

That is precisely the situation here. Factor 4 therefore weighs strongly in favor of discretionary denial.

E. The Petitioner And The Defendant In The District Court Action Are The Same (Factor 5).

Factor 5 strongly favors denial because the Petitioner is the defendant in the District Court Action.

F. Qomplx Is Precisely The Sort Of American Startup The Patent System Should Encourage, Not Punish By Providing Microsoft Multiple Bites At The Validity Apple (Factor 6).

Factor 6 strongly favors denial. Qomplx represents precisely the sort of American innovation, spearheaded by military veterans, that the Office has consistently sought to promote.

Qomplx, formerly known as Fractal Industries, was founded in 2015 by Mr. Jason Crabtree and Dr. Andrew Sellers, two accomplished military veterans. Ex. 2007 [Bloomberg]; Ex. 2008 [On Point Podcast].³

³ Audio available at <https://www.oldgradclub.com/on-point/blog-post-title-two-ffmmh>.



Jason Crabtree, Qomplx's Co-Founder And CEO

Mr. Crabtree, who is still Qomplx's CEO today, is an Afghanistan veteran and former Captain in the U.S. Army. Ex. 2008 [On Point Podcast]. In 2008, he was First Captain and Brigade Commander at West Point, the highest-ranking cadet position at the Academy. Former First Captains include Generals John Pershing, Douglas MacArthur, and William Westmoreland. Ex. 2009 [West Point]. Mr. Crabtree served as a ranger-qualified infantry officer in Afghanistan. In the course of his service, Mr. Crabtree was awarded a Purple Heart, two Bronze Star Awards, The Army Commendation Medal with Valor, and The Meritorious Service Medal. Ex. 2010 [Crabtree Awards]. Mr. Crabtree was also selected as a Rhodes and Marshall Scholar (declined to accept Rhodes), earning his Masters by Research degree from Oxford University. Ex. 2008 [On Point Podcast].



Dr. Andrew Sellers, Qomplx’s Co-Founder And Former CTO

Mr. Crabtree met Dr. Sellers, an Iraq veteran and former U.S. Air Force Senior Cyberspace Operations Officer and Computer Science leader, at Oxford. Ex. 2008 [On Point Podcast]. Drawing on their respective experiences as a Special Technical Advisor in U.S. Army Cyber Command and a Senior Cyberspace Operations Officer in the Air Force, they identified structural vulnerabilities in government and enterprise data and identity infrastructure. Ex. 2008 [On Point Podcast]; Ex. 2011 [New America]; Ex. 2012 [Dakota Foundation]. They founded Qomplx to address, among other things, those very vulnerabilities through advanced data integration, integrity security, and AI-enhanced risk modeling and simulation technologies.

Among Qomplx's developments was a proprietary risk cloud that could ingest disparate data sources to help organizations better quantify, model, and predict risk in areas including cybersecurity, insurance, and finance. Ex. 2013 [MSSPAlert]; Ex. 2014 [Portworx]. Qomplx's platform "provides the immediate context needed to understand what's happening on the network when it's happening, and what to do about it in order to minimize your risk exposure." Ex. 2014 [Portworx].

Qomplx's success was substantial. It raised over \$170 million in financing including \$78.6 million by the end of 2019, generated tens of millions of dollars in revenue, achieved a 139% net revenue retention rate, grew more than 700% between 2019 and 2020, served dozens of enterprise and government customers, and employed hundreds of professionals in America. Ex. 2013 [MSSPAlert]; Ex. 2014 [Portworx]. Qomplx's customers included Fidelity National Financial, Tech Mahindra, Berkshire Hathaway, Axonic Capital, and Barclays. In 2021, Mr. Crabtree was named an Ernst & Young Entrepreneur Of The Year® 2021 Mid-Atlantic Winner by a panel of independent judges. Ex. 2015 [Yahoo! Finance].

In 2021, Qomplx's successes resulted in a widely reported announced merger with Tailwind Acquisition Corp. ("Tailwind"), a Special Purpose Acquisition Company. Ex. 2013 [MSSPAlert]; Ex. 2008 [On Point Podcast]; Ex. 2007 [Bloomberg]; Ex. 2016 [Virginia Business]. The merger was intended to be a

path to take Qomplx public through a transaction valued at \$1.4 billion.⁴ Ex. 2013 [MSSPAlert]; Ex. 2008 [On Point Podcast]; Ex. 2007 [Bloomberg]; Ex. 2016 [Virginia Business]; Ex. 2017 [SEC FAQ]. Several months later, however, the merger between Tailwind and Qomplx was mutually terminated due to unfavorable market conditions. Ex. 2018 [BusinessWire].

Qomplx’s achievements, innovation, and entrepreneurship are precisely the type of success for military veterans that the Office has sought to promote. Indeed, the Office has held several “Entrepreneurship Essentials for the Military Community” and “Veterans Innovation and Entrepreneurship Program” events in recent years. Ex. 2019 [Entrepreneurship Essentials for the Military Community]; Ex. 2020 [Veterans Innovation and Entrepreneurship Program]. As the Office has recognized:

America’s inventors and entrepreneurs power our nation’s economy, competitiveness, and security. Many of America’s outstanding innovators and leaders are veterans. The skills they gained from their service, including teamwork, integrity, and being organized,

⁴ More specifically, under the SPAC, Qomplx was to acquire two additional companies, Tyche and Sentar, and the merged entity was valued at \$1.4 billion. Qomplx was the focus of the acquisition and constituted the majority of the transaction’s value. *See, e.g.*, Ex. 2013 [MSSP Alert].

disciplined, adaptable, and focused, prepare them well for entrepreneurship. In fact, veterans have a proven track record of engaging in business ownership at higher rates than their peers in the civilian sector.

Ex. 2021 [Ready, Set, Compete].

Where, as here, a veteran-founded company is already litigating the same validity issues in an advanced district court proceeding set for trial before any final written decision would issue, multiplying forums does not advance efficiency, predictability, or the innovation-promoting purposes of the patent system.

Allowing Microsoft a second, parallel adjudication of the same validity defenses would impose duplicative burdens without corresponding benefit. In these circumstances, discretionary denial aligns with both institutional efficiency and the patent system's core mission of encouraging high-level American innovation.

Factor 6 therefore favors denial.

III. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that institution be denied under 35 U.S.C. § 314(a).

Respectfully submitted,

/ Kenneth J. Weatherwax /

Kenneth J. Weatherwax (Reg. No. 54,528)
Nathan Lowenstein, *pro hac vice* pending
Colette Woo, *pro hac vice* pending
LOWENSTEIN & WEATHERWAX LLP

Date: March 9, 2026

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the following documents were served by electronic service, by agreement between the parties, on the date below:

PATENT OWNER'S DISCRETIONARY DENIAL BRIEF

EXHIBITS 2003-2022

The names and addresses of the parties being served are as follows:

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Respectfully submitted,

/Abbie Neufeld/

Abbie Neufeld

Date: March 9, 2026