UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TESLA, INC.

Petitioner

v.

BULLETPROOF PROPERTY MANAGEMENT, LLC.

Patent Owner.

IPR2026-00205
Patent 12,240,457

PATENT OWNER'S DISCRETIONARY DENIAL BRIEF

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Patent Owner's Exhibit List

Exhibit No.	Description
2002	Case Readiness Status Report in *Bulletproof Property Management, LLC, v. Tesla, Inc.*, Case No. 1:25-cv-00665, Dkt. 34 (W.D. Tex. Mar. 10, 2026) ("CRSR")
2003	Westlaw Analysis of Honorable Alan D. Albright's Stay Statistics in Intellectual Property Matters
2004	Notice of Venue Discovery in *Bulletproof Property Management, LLC, v. Tesla, Inc.*, Case No. 1:25-cv-00665, Dkt. 16
2005	Information Disclosure Statement in U.S. App. No. 18/928,130 (continuation application) (December 6, 2024)
2006	Non-Final Rejection in U.S. App. No. 18/928,130 (continuation application) (December 17, 2024)

I. INTRODUCTION

Patent Owner Bulletproof Property Management, LLC ("Bulletproof" or "Patent Owner"), submits this paper requesting discretionary denial of the Petition for *Inter Partes* Review ("Petition") pursuant to the Board's guidance on "Interim Processes for PTAB Workload Management," dated March 26, 2025 ("Guidance"), other guidance provided by the USPTO, and denial decisions applying the same.

Petitioner Tesla, Inc., ("Petitioner" or "Tesla") seeks inter partes review of U.S. Patent No. 12,240,457 ("the '457 Patent") while the same claims are being litigated between the same parties in the Western District of Texas on a similar timeline, with a jury trial likely taking place within a few weeks of the projected Final Written Decision. *See Bulletproof Prop. Mgmt., LLC, v. Tesla, Inc.*, Case No. 1:25-cv-00665, Dkt. 34 (W.D. Tex. Mar. 10, 2026) ("CRSR"), EX2002. The above-captioned proceeding is one of seven *inter partes* review petitions filed by the Petitioner concerning the patents asserted in the underlying Texas litigation. TESLA-1100. The full list of proceedings includes IPR2026-00227 (U.S. Pat. No. 11,932,230), IPR2026-00219 (U.S. Pat. No. 12,221,104), IPR2026-00204 (U.S. Pat. No. 12,227,184), IPR2026-00222 (U.S. Pat. No. 12,233,871), IPR2026-00228 (U.S. Pat. No.12,240,456), IPR2026-00205 (U.S. Pat. No. 12,240,457), and IPR2026-00229 (U.S. Pat. No. 12,240,458).

The Petition presents the kind of duplicative challenge to a patent asserted in litigation that is routinely denied under the current discretionary denial framework.

Duplicate parallel proceedings with the potential for conflicting determinations and/or gamesmanship utilizing different claim construction proposals is counter to the Congressional purpose of the AIA and is precisely the type of litigation costs multiplier, and wasting of limited resources that the Office is focused on eliminating. *Nautilus Hyosung Inc. v. Diebold, Inc.*, IPR2017-00426, Paper 17 at 11 (citing H.R. Rep. No. 112-98, pt. 1, at 48 (2011)). These risks present themselves in the instant matter. For example, Petitioner has reserved the right to make different claim construction arguments in the District Court litigation. This is a tactic that was used by Tesla in a petition for a different matter which resulted in a Director Review Order vacating institution and discretionarily denying the petition on that basis.[1] The Director found that Tesla's conduct "detracts from, the Office's goal of 'providing greater predictability and certainty in the patent system.'"[2]

On the merits, the Petition presents a strained interpretation of the prior art and does not identify any particular error in the patent's examination. It does not present any unique reason to tax the Board's limited resources, especially where the same claims and challenges are being litigated by the same parties on a similar trajectory

[1] *See Tesla, Inc. v. Intell. Ventures II LLC*, No. IPR2025-00340, Paper 18 (Director, Nov. 5, 2025) (informative) (While acknowledging that the rules do not "prohibit … taking inconsistent claim construction positions," Tesla did not provide a credibly adequate explanation for its flip-flop on indefiniteness disputed claim term construction in the parallel court case and its inconsistent "plain meaning no construction necessary" for the same term at the PTAB) (citing *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 20 at 3–5 (Director Nov. 3, 2025) (precedential) (explaining the Office's approach to addressing a petitioner's different claim construction positions in two fora)).

[2] *See Tesla, Inc. v. Intell. Ventures II LLC*, No. IPR2025-00340, Paper 18 (Director, Nov. 5, 2025) (informative).

in the District Court litigation and will be resolved around the same time. As will be articulated in greater detail below, the discretionary denial considerations weigh heavily in favor of denial of institution. Moreover, this Petition does not present the kind of case for which *inter partes* review is currently reserved. Respectfully, the Director should exercise discretion to deny institution of the Petition.

II. FACTUAL BACKGROUND

Bennet Langlotz is the inventor of the '457 Patent and owner of Bulletproof. As a Tesla vehicle owner/driver, he recognized that vehicles without traditional shift levers experience greater difficulty, and even potential danger, when backing out of parking spaces as compared to traditional shift lever vehicles. The danger arises because such vehicles usually require a driver to take their eyes off the road, and their hands off the steering wheel, to swipe a touchscreen to shift the car from reverse to drive before moving forward on the roadway. Mr. Langlotz conceived and patented an innovative solution called Vehicle Gear Selection Control, embodied in U.S. Pat. No. 11,932,230 (the "'230 Patent," parent to the patent challenged in the above-captioned IPR) to solve and eliminate the safety risk.

Shortly after issuance of the '230 Patent (in March of 2024), Patent Owner informed Petitioner of its patent in an attempt to license the patent for use in Petitioner's vehicles. TESLA-1101 at 8. Two months later (May of 2024), after having been informed of the '230 Patent, rather than engage in good faith licensing negotiations with an individual inventor, Petitioner provided a software update to its

vehicles which included the infringing auto shift feature. *Id*. at 9. Petitioner was then informed on May 15, 2024, that its new feature infringed the '230 Patent. *Id*. Patent Owner filed suit in the Western District of Texas on May 5, 2025. TESLA-1100.

III. RESPECTFULLY, THE DIRECTOR SHOULD EXERCISE HIS DISCRETION AND DENY INSTITUTION

Pursuant to the Office's Memorandum titled "Interim Processes for PTAB Workload Management," dated March 26, 2025, Patent Owner respectfully submits this brief explaining why the Director should exercise his discretion to deny institution of Petitioner's Petition for Inter Partes Review. In the Interim Processes Memo, the Office identified several considerations, including, among others, "[t]he strength of the unpatentability challenge," "[t]he extent of the petition's reliance on expert testimony," "[s]ettled expectations of the parties, such as the length of time the claims have been in force," and "[a]ny other considerations bearing on the director's discretion." The Director enjoys broad discretion in deciding whether to institute a petition. *Oil States Energy Servs., LLC v. Greene's Energy Grp., LLC*, 584 U.S. 325, 331 (2018) (citing *Cuozzo Speed Techs., LLC v. Com. for Intell. Prop.*, 579 U.S. 261, 273 (2016)); *see also Tianma Microelectronics Co., Ltd. v. LG Display Co., Ltd*, IPR2025-01579, Paper 12 (March 18, 2026) (precedential) at 7 (explaining the Office's "settled broad discretion in deciding whether to use its limited resources to institute IPR in any given case").

A. The *Fintiv* factors weigh against institution.

Respectfully, the Director should deny the Petition under the *Fintiv* factors. In *Apple Inc. v. Fintiv, Inc.*, the Board articulated six nonexclusive factors for determining whether to institute an AIA post-grant proceeding where there is parallel district court litigation. *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (P.T.A.B. Mar. 20, 2020) ("*Fintiv*"). These factors have been clarified by the Interim Processes Memo, and many of these clarifications are directly relevant here. Discretionary denial of institution of the Petition is warranted in the instant matter because the *Fintiv* factors as a whole strongly weigh in favor of denial of review.

***Fintiv* factor 1** – There is no stay of proceedings in the District Court litigation, no motion to stay has been filed, and there is no evidence that a stay is likely should such a motion be filed.[3] *See, e.g.*, *Samsung Elecs. Co. v. GenghisComm Holdings, LLC*, IPR2025-00899, Paper 10 at 2 (PTAB Sept. 26, 2025) (denying institution based on *Fintiv* where the time of trial was close to the projected issuance date of the FWD and the co-pending litigation had insufficient evidence of stay). Any assertion that a hypothetical stay will be granted is entirely speculative, and discretionary denial is appropriate under this factor. *See Samsung Elecs. Co., Ltd. v. Telcom Ventures LLC*, IPR2025-00957, Paper 12 at 2 (Director Oct. 10, 2025). Patent Owner requests that the Board reserve its resources for situations where a co-pending district

[3] In fact, according to available statistics the Honorable Alan D. Albright's denial of motions to stay in Intellectual Property is more likely than not. *See* EX2003.

court litigation will not proceed in parallel, and this factor weighs in favor of exercising discretionary denial.

***Fintiv* factor 2** – While no scheduling order has yet been entered, the trial date in the District Court is anticipated[4] to be August 23, 2027. *See* EX2002. The expected time for a final written decision is July 27, 2027. Moreover, even if there are moderate delays in the trial date the parties will still undergo all discovery, motion practice, trial preparation, travel arrangements, and pretrial rulings prior to any final written decision by the Board. The Board's decision in this case will therefore not be received in time to create any efficiency in the co-pending litigation. *See Samsung Elecs. Co. v. VB Assets, LLC*, IPR2025-00870, Discretionary Decision (PTAB Oct. 10, 2025) (explaining that even where the FWD will issue slightly before trial, it does not outweigh the efficiencies gained by avoiding parallel proceedings). The risk of inconsistent decisions issued in the two different fora contravenes the statutory purpose of the AIA and this Office's acknowledged statutory mandate to foster a more efficient patent system. *See*, *e.g.*, *Comcast Cable Commc'ns, LLC, v. Entropic Commc'ns, LLC*, IPR2025-00183, Paper 11 at 2 (June 25, 2025) ("multiple parallel proceedings and the avoidance of inconsistent outcomes favors discretionary

[4] While no scheduling order has yet been entered, the District Court's "Standing Order Governing Proceedings (OGP)—Patent Cases' Exemplary Scheduling Order," and the parties Case Readiness Status Report, reliably anticipate this date. *See* EX2002. The fact that a trial date has not been officially set does not mean discretionary denial is improper. *See Murata Mfg. Co. v. Georgia Tech Rsch. Corp.*, IPR2025-00383, Paper 14 at 2-3 (July 29, 2025) (discretionarily denying the petition where no trial date was set).

denial.") Thus, this factor weighs strongly in favor of denial.

***Fintiv* factor 3** – By the time the Patent owners Preliminary Response and the Petitioner's Reply to this brief are due (*e.g.*, April 27, 2026) the parties will have invested a year's worth of time and expense and the District Court will have invested/allocated its limited resources, in the litigation – which has been pending since May 5, 2025. *See* TESLA-1100. The parties and the District Court have invested significantly in the litigation and continue to do so. Patent Owner has served its infringement contentions, and Petitioner's invalidity contentions are due May 4, 2026.[5] The parties exchange claim terms for construction on May 18, 2026. Petitioner filed a motion to transfer venue[6] on July 21, 2025, forcing (and automatically opening pursuant to the District Court's standing order) venue discovery. *See* EX2004 (Dkt. 16, Notice of Venue Discovery). Patent Owner served interrogatories and requests for production, and Petitioner has supplied written answers and document production. Patent Owner has also deposed two of Petitioner's 30(b)(6) witnesses. Moreover, by the expected institution decision (*e.g.*, July 27, 2026), the parties will have exchanged proposed claim constructions by June 1, 2026; Defendant will have filed opening claim construction brief by June 22, 2026; Plaintiff will have filed responsive claim construction by July 13, 2026; and defendant will have filed reply claim construction brief by July 27, 2026.

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[5] Pursuant to the Standing Order in the District Court.
[6] Despite Petitioner reincorporating in Texas, and having moved its global headquarters to Austin, TX.

***Fintiv* factor 4** - The Petition makes it clear that Petitioner will be challenging the validity of the asserted patents in the District Court on additional grounds, such as §§ 101 and 112.[7] Petitioner has also reserved the right to make different claim construction arguments in the District Court.[8] *See Tesla, Inc. v. Intell. Ventures II LLC*, No. IPR2025-00340, Paper 18 (Director, Nov. 5, 2025) (informative) (Tesla's explanation for the conflicting contradictory claim construction positions in the two different fora was not credibly adequate resulting in discretionary denial of the petition). The Petition therefore presents the type of duplicative challenges to a patent that is often denied under the current discretionary denial framework. Moreover, Petitioner's just recently filed Sotera stipulation does not alter the analysis and is not dispositive. *see Ericsson Inc. v Procomm Int'l Pte. Ltd*, IPR2024-01455, Paper 15 (May 16, 2025) (discretionarily denying institution despite a Sotera stipulation).

***Fintiv* factor 5** - The parties are identical between the two parallel proceedings, which favors discretionary denial.

***Fintiv* factor 6** – As will be explained in greater detail in the forthcoming Patent Owner Preliminary Response ("POPR"), the merits of the Petition are weak, and the Petition is overly reliant upon expert testimony. It fails to establish a reasonable likelihood that the challenged claims are unpatentable. Patent Owner asks the Director

[7] Petition at 7 ("Petitioner is not conceding that each challenged claim satisfies all statutory requirements.")
[8] *Id*. ("nor is Petitioner waiving any arguments concerning claim scope or grounds that can only be raised in district court.")

to consider its briefing presented in the POPR. *See* Interim Process, § II.C.i (patent owner may direct attention to an anticipated POPR and evidence for a discussion of the merits).

That said, the Petition fails to identify any particular error in the patent's examination. As pointed out in the Petition, the examiner determined that no prior art discloses "a method of operating a motor vehicle having a steering control and a drive system [or controller] operable to selectably drive wheels in a drive mode and in a reverse mode, the method including: the drive system [or controller] offering a driver a change from one of the drive mode and reverse mode to the other of the drive mode and reverse mode based on the steering control" as recited in claims 1 and 12. Petition at 6. These limitations are:

Claim 1	
1[p]	A method of operating a motor vehicle having a steering control and a drive system operable to selectably drive wheels in a drive mode and in a reverse mode, the method comprising:
1[b]	the drive system offering a driver a change from one of the drive mode and reverse mode to the other of the drive mode and reverse mode based on the steering control; and

Petition at vi.

Claim 12	
12[p]	A method of operating a motor vehicle having a steering control and a controller operable to selectably drive wheels in a drive mode and in a reverse mode, the method comprising:
12[b]	the controller offering a driver a change from one of the drive mode and reverse mode to the other of the drive mode and reverse mode based on the steering control; and

Id. at viii.

The Petition asserts 9 grounds. Joos, the primary reference in all grounds, is nine (9) pages long. TESLA-1004. Limitation 1[b] is 12 words long. The Petition spends the same number of pages (9 pages) attempting to find these 12 words in Joos. Dr. Janet, Petitioner's expert, does the same. TESLA-1003 at ¶¶ 85-97. But an ocean of advocate and expert ink cannot re-write Joos, and Petitioner's attempt to do so is indicative of improper reliance on expert testimony to gap-fill the missing limitation. Joos simply does not concern itself with responding to steering control. The attempt to find this limitation in Joos has resulted in many conclusory and unsupportable

statements by both Petitioner and Dr. Janet.[9, 10] As such, the Petition lacks support that limitation 1[b] is disclosed in the prior art, and fails to show that the examiner made a mistake.

Moreover, Petitioner fails to mention that Joos was considered by the examiner during initial prosecution, as the applicant submitted an IDS on December 5, 2024, which contained the Joos reference. *See* TESLA-1002 at 131. The examiner, in the following office action, explained that the aforementioned IDS was considered. *See Id*. at 139. Most significantly, the examiner did not issue a rejection based on Joos providing further evidence of Petitioner's distorted representation of Joos. In short, the Office has already considered Joos. Moreover, the examiner committed no error by properly not issuing a rejection based on Joos.

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[9] Dr. Janet states Joos discloses the "***controller*** of the ***drive system changing from the reverse mode to the drive mode based on the steering control***." TESLA-1003 at ¶ 86 (emphasis in original). But Dr. Janet also acknowledges that it is ***"[a]fter the end position is reached***" that Joos's "driver assistance system itself can change from the reverse gear into the forward gear." *Id*. at ¶ 87, (emphasis changed). Thus, Dr. Janet's conclusion that Joos discloses gear shifting "based on the steering control" due to the turning angles in Joos autonomous unparking procedure is unsupportable. *Id.* at ¶ 88. Joos's shift is not based on the steering control, it is based on reaching a pre-determined end point.

[10] Dr. Janet fails to provide any support for the conclusion that Joos discloses shifting "at the end position of the unparking maneuver only after ***and in response*** to the steering control being steered in the opposite direction to set the pull forward steering angle (based on the steering control) while the vehicle is stopped at the end position." *Id*. at ¶90 (emphasis changed). Dr. Janet does not explain how Joos does ***anything in response to steering control***. Nor would it make sense for Joos to do so, as ***it is setting the steering control, not responding to them***. *See Id*. at ¶89 ("the specified steering angle has been set by the driver assistance system.")

B. Additional Considerations – Settled Expectations, Public Interest, and Manufacturing Memorandum

In addition to the *Fintiv* factors, the Director's Guidance specifies further considerations, including the settled expectations of the parties. The Board's policy is to take a "holistic" view of these factors. S*ee, e.g., iRhythm Techs., Inc. v. Welch Allyn, Inc*., IPR2025-00363 et al., Paper 10 at 3 (June 6, 2025). The Office has previously found that Petitioner's actual knowledge of the challenged patent is relevant in the settled expectations analysis. *Google LLC v. SoundClear Techs., LLC*, IPR2025-00344, Discretionary Decision (PTAB Aug. 4, 2025). Petitioner has had actual knowledge of the '230 Patent since March of 2024, when Patent Owner informed Petitioner of its patent in an attempt to license the patent for use in Petitioner's vehicles. TESLA-1101 at 8. Having been informed of the '230 Patent, Petitioner instead chose (in mid-May of 2024) to provide a software update to its vehicles which included an infringing auto shift feature. *Id*. at 9. Petitioner was then informed on May 15, 2024, that its new feature infringed the '230 Patent. *Id*. In light of the above facts, Petitioner's choice to wait nearly two years (and 7 months after being sued for infringement) created settled expectations between the parties. Petitioner could have chosen to challenge the patent at any point prior, but instead waited until a duplicative proceeding was filed against it.

Additionally, compelling public interests weigh against institution. This inventor is one that the patent system is designed to protect. As explained above, the

claims address a safety issue arising from the use of vehicles without traditional shifting sticks; the solution of which addresses the safe operation of an ever-growing portion of cars on the road. This innovation should be protected, and such protection is essential in ensuring that Patent Owners and small businesses continue to innovate in technology that benefits the public. This is particularly true when, as here, the Petitioner is a large, sophisticated company with prior awareness of the challenged patent. Rather than give Petitioner a second forum to litigation aspects of a larger dispute, the Office should conserve its limited resources and allow the inventor his day in court.

It is noteworthy that the Director, on March 11, 2026, issued a memorandum concerning additional discretionary institution considerations "to assist the Office in gathering data about the extent to which AIA proceedings give a tactical advantage to companies that neither manufacture in the United States, nor are making American manufacturing investment…" When deciding whether to institute an IPR, the Director can now consider (1) the extent to which products accused of infringement in a parallel proceeding are manufactured in the United States (or related U.S. manufacturing investments), (2) the extent to which a patent owner makes, sells, or licenses competing products in the United States, and (3) whether the petitioner is a small business that has been sued for infringement.

Patent Owner states that it has accused Petitioner's vehicles which use the "Auto Shift" feature of infringement. *See* Tesla-1101, Amended Complaint. This includes

Petitioner's Model S, Model X, and Model 3. Based on publicly available information, it appears that (1) the accused vehicles sold in the United States, while assembled in the United States, comprise 30% to 40% of components sourced in foreign countries including China, Mexico and Canada. Significantly, in connection with the instant matter, since the issuance of the '457 patent to date, those foreign sourced components include computer/computer related components.[11]

IV. CONCLUSION

For all the reasons and authority set forth above, Patent Owner respectfully requests that the Director discretionarily deny the Petition.

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[11] Tesla's more recent stated ***intention*** to require its suppliers to move away from China's products does not alter this reality.

Dated: March 27, 2026

Respectfully submitted,

By /s/ Michael Doell

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CERTIFICATE OF COMPLIANCE

Pursuant to §42.24(d) and the Director's Memorandum on Interim Processes for PTAB Workload Management, the undersigned certifies that this paper contains no more than twenty pages, not including the portions of the paper exempted by §42.24(b).

CERTIFICATE OF SERVICE

I certify that on March 27, 2026, the foregoing DISCRETIONARY DENIAL BRIEF has been served on the Petitioners' counsel of record via email, at the following email addresses:

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