



PTAB Committee

PTAB Committee Meeting

Monthly Update from the PTAB Committee

**Amster
Rothstein &
Ebenstein** LLP

Hosted By:

**Charles
Macedo**



**Ken
Adamo**



ZOOM WEBINAR



**June 17th
2025**

4-5 PM ET

RSVP: ADMIN@NYIPLA.ORG | 1.0 NY/NJ CLE AVAILABLE FOR ATTENDEES

Disclaimer



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Additionally, the following content is presented solely for the purposes of discussion and illustration, and does not comprise, nor is to be considered, as legal advice.

Agenda – Revamped Director Review

May and June 2025
Decisions

Director Review Decisions Since May 19, 2025

***Shenzhen Kangvape Technology Co., Ltd. v. RAI Strategic Holdings, Inc.*, IPR2024-01406 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings)**

- Decision vacating decision granting institution, and remanding for further proceedings – [Paper 13](#) (Stewart May 19, 2025)

***Motorola Solutions, Inc. v. Stellar, LLC*, IPR2024-01284, IPR2024-01285, IPR2024-01313 & IPR2024-01314 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings)**

- Decision vacating decision granting institution, and denying institution – [Paper 17](#) (Stewart May 23, 2025)

***Verizon Connect Inc. v. Omega Patents, LLC*, IPR2023-01162 (see Termination/Settlement)**

- Decision vacating Final Written Decision, and terminating the proceeding – [Paper 40](#) (Stewart June 3, 2025)

***Spectrum Solutions LLC v. Longhorn Vaccines & Diagnostics, LLC*, IPR2021-00847, IPR2021-00850, IPR2021-00854, IPR2021-00857 & IPR2021-00860**

- Decision modifying entered sanctions on unopposed remand and reconsideration – [Paper 147](#) (Stewart June 5, 2025)

***TikTok Inc. v. Cellspin Soft, Inc.*, IPR2024-00757, IPR2024-00759, IPR2024-00760, IPR2024-00767, IPR2024-00768, IPR2024-00769 & IPR2024-00770**

- Order granting Director Review – [Paper 34](#) (Stewart June 5, 2025)

***Klein Tools, Inc. v. Milwaukee Electric Tool Corp.*, IPR2024-01400 & IPR2024-01401 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings)**

- Decision vacating decision granting institution, and denying institution – [Paper 22](#) (Stewart June 9, 2025)

***Mastercard Inc. v. OV Loop, Inc.*, IPR2023-01289 (see Obviousness - 35 U.S.C. § 103)**

- Decision vacating Final Written Decision, and remanding for further proceedings – [Paper 41](#) (Stewart June 10, 2025)

***Arista Networks, Inc. v. Orckit Corp.*, IPR2024-01238 (see Delegated Rehearing Panel)**

- Order delegating Director Review to a Delegated Rehearing Panel – [Paper 10](#) (Stewart June 12, 2025)

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

SHENZHEN KANGVAPE TECHNOLOGY CO., LTD.,
Petitioner,

v.

RAI STRATEGIC HOLDINGS, INC.,
Patent Owner.

IPR2024-01406
Patent 11,925,202 B2

Before COKE MORGAN STEWART, *Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.*

ORDER

Granting Director Review, Vacating the Decision Granting Institution, and
Remanding to the Patent Trial and Appeal Board
for Further Proceedings

***Shenzhen Kangvape Technology Co., Ltd. v. RAI
Strategic Holdings, Inc., IPR2024-01406
(see Institution – 35 U.S.C. § 314(a), Parallel
proceedings) Paper 13 (Stewart) (May 19, 2025)***

Decision vacating decision granting institution, and
remanding for further proceedings –

Shenzhen Kangvape Technology Co., Ltd. v. RAI Strategic Holdings, Inc., IPR2024-01406 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) Paper 13 (Stewart) (May 19, 2025)

Director_PTABDecision_Review@uspto.gov
571.272.7822

Paper 13
Date: May 19, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

SHENZHEN KANGVAPE TECHNOLOGY CO., LTD.,
Petitioner,

v.

RAI STRATEGIC HOLDINGS, INC.,
Patent Owner.

IPR2024-01406
Patent 11,925,202 B2

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER
Granting Director Review, Vacating the Decision Granting Institution, and
Remanding to the Patent Trial and Appeal Board
for Further Proceedings

In the request, Patent Owner argues that the Board erred by not considering the *Fintiv* factors in view of **a parallel proceeding at the International Trade Commission (“ITC”) that has a November 24, 2025, target date** for completing the investigation. DR Req. 1, 8. Patent Owner requests reversal of the Board’s Decision and denial of institution because the *Fintiv* factors, when properly considered, favor denial. *Id.* at 1, 8–15. Petitioner argues that Patent Owner has **forfeited the opportunity to raise *Fintiv* arguments because those arguments were not made** in Patent Owner’s Preliminary Response (“POPR”), that Petitioner did not have an opportunity to provide a fulsome reply with responsive evidence, and that granting Patent Owner’s request would be an abuse of discretion that raises due process and Administrative Procedure Act concerns. See Paper 11, 1–3. Petitioner further contends that the *Fintiv* factors nonetheless favor institution. *Id.* at 4–5.

Shenzhen Kangvape Technology Co., Ltd. v. RAI Strategic Holdings, Inc., IPR2024-01406 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) Paper 13 (Stewart) (May 19, 2025)

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Paper 13
Date: May 19, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

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Petitioner,

v.

RAI STRATEGIC HOLDINGS, INC.,
Patent Owner.

IPR2024-01406
Patent 11,925,202 B2

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER
Granting Director Review, Vacating the Decision Granting Institution, and
Remanding to the Patent Trial and Appeal Board
for Further Proceedings

The Petition and the POPR do not substantively address *Fintiv*. At the time the Petition and POPR were filed, the Office’s June 21, 2022 memorandum entitled “Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation” (“2022 Interim Procedure Memo”) stated that the Board “will not discretionarily deny petitions based on applying *Fintiv* to a parallel ITC proceeding.” 2022 Interim Procedure Memo 7; Petition 77. The Office rescinded the 2022 Interim Procedure Memo on February 28, 2025, before the Board’s March 20, 2025 Decision but after the parties had completed pre-institution briefing. Shortly thereafter, on March 24, 2025, the Board’s Chief Judge issued a Memorandum providing guidance on the Office’s rescission of the 2022 Interim Procedure Memo.³ The March 2025 Memorandum states **that the rescission “applies to any case in which the Board has not issued an institution decision, or where a request for rehearing or Director review decision [is] filed and remains pending.”** March 2025 Memorandum 2.

Shenzhen Kangvape Technology Co., Ltd. v. RAI Strategic Holdings, Inc., IPR2024-01406 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) Paper 13 (Stewart) (May 19, 2025)

Director_PTABDecision_Review@uspto.gov
571.272.7822

Paper 13
Date: May 19, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

SHENZHEN KANGVAPE TECHNOLOGY CO., LTD.,
Petitioner,

v.

RAI STRATEGIC HOLDINGS, INC.,
Patent Owner.

IPR2024-01406
Patent 11,925,202 B2

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER
Granting Director Review, Vacating the Decision Granting Institution, and
Remanding to the Patent Trial and Appeal Board
for Further Proceedings

Under the facts and circumstances of this case, and consistent with the broad discretion given to the Director, and by delegation to the Board, on institution decisions, **it is appropriate to allow the parties the opportunity to present arguments and evidence addressing the *Fintiv* factors in view of the parallel ITC proceeding under the 2022 Interim Procedure Memo's rescission.** See 35 U.S.C. § 314(a); *Mylan Labs. Ltd. v. Janssen Pharmaceutica, N.V.*, 989 F.3d 1375, 1382 (Fed. Cir. 2021) (“**The Director is permitted, but never compelled, to institute an IPR**” and “**no petitioner has the right to such institution.**”). Accordingly, **the case is remanded to the Board for additional briefing on this issue.** The parties’ briefs **shall focus primarily on the facts and circumstances as they existed at the time of the Board’s Decision**, though a party also may address in **a separate section of the brief subsequent developments** that the party believes are relevant to the proceeding.

Shenzhen Kangvape Technology Co., Ltd. v. RAI Strategic Holdings, Inc., IPR2024-01406 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) Paper 13 (Stewart) (May 19, 2025)

Director_PTABDecision_Review@uspto.gov
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Paper 13
Date: May 19, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

SHENZHEN KANGVAPE TECHNOLOGY CO., LTD.,
Petitioner,

v.

RAI STRATEGIC HOLDINGS, INC.,
Patent Owner.

IPR2024-01406
Patent 11,925,202 B2

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER

Granting Director Review, Vacating the Decision Granting Institution, and
Remanding to the Patent Trial and Appeal Board
for Further Proceedings

Absent good cause, the Board shall issue a decision on remand withing 30 days of receiving the parties' briefs.

In consideration of the foregoing, it is:

ORDERED that Director Review is granted;

FURTHER ORDERED that the Board's Decision granting institution of *inter partes* review (Paper 7) is vacated;

FURTHER ORDERED that Petitioner and Patent Owner are authorized to file briefs of not more than ten pages addressing the exercise of discretion under *Fintiv* as set forth in this Order;

FURTHER ORDERED that the briefs authorized in this Order are due within fourteen days of this Order; and

FURTHER ORDERED that the case is remanded to the Board for further proceedings consistent with this Order.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

MOTOROLA SOLUTIONS, INC.,
Petitioner,

v.

STELLAR, LLC,
Patent Owner.

IPR2024-01284 (Patent 8,310,540 B2)
IPR2024-01285 (Patent 8,928,752 B2)
IPR2024-01313 (Patent 10,523,901 B2)
IPR2024-01314 (Patent 10,965,910 B2)¹

Before COKE MORGAN STEWART, *Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.*

ORDER

Granting Director Review, Vacating the Decision Granting Institution, and
Denying Institution of *Inter Partes* Review

¹ This order applies to each of the above-listed proceedings.

Motorola Solutions, Inc. v. Stellar, LLC, IPR2024-01284, IPR2024-01285, IPR2024-01313 & IPR2024-01314 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) Paper 17 (Stewart) (May 23, 2025)

Decision vacating decision granting institution, and
remanding for further proceedings –

Motorola Solutions, Inc. v. Stellar, LLC, IPR2024-01284, IPR2024-01285, IPR2024-01313 & IPR2024-01314 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) Paper 17 (Stewart) (May 23, 2025)

Director_PTAIDecision_Review@uspto.gov Paper 17
571.272.7822 Date: May 23, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
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MOTOROLA SOLUTIONS, INC.,
Petitioner,

v.

STELLAR, LLC,
Patent Owner,

IPR2024-01284 (Patent 8,310,540 B2)
IPR2024-01285 (Patent 8,928,752 B2)
IPR2024-01313 (Patent 10,523,901 B2)
IPR2024-01314 (Patent 10,965,930 B2)¹

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER

Granting Director Review, Vacating the Decision Granting Institution, and
Denying Institution of Inter Partes Review

¹ This order applies to each of the above-listed proceedings.

In each request, Patent Owner argues that the rationale provided for granting Director Review and denying institution in four related *inter partes* review (“IPR”) proceedings³ applies to each of the current IPRs. DR Request 4, 9. Patent Owner also asserts that the stay the district court entered in the parallel litigation was the product of “the Board’s flawed institution decisions” in the related IPRs. *Id.* at 6.

Motorola Solutions, Inc. v. Stellar, LLC, IPR2024-01284, IPR2024-01285, IPR2024-01313 & IPR2024-01314 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) Paper 17 (Stewart) (May 23, 2025)

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Paper 17
Date: May 23, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

MOTOROLA SOLUTIONS, INC.,
Petitioner,

v.

STELLAR, LLC,
Patent Owner.

IPR2024-01284 (Patent 8,310,540 B2)
IPR2024-01285 (Patent 8,928,752 B2)
IPR2024-01313 (Patent 10,523,981 B2)
IPR2024-01314 (Patent 10,965,930 B2)¹

Before COLE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

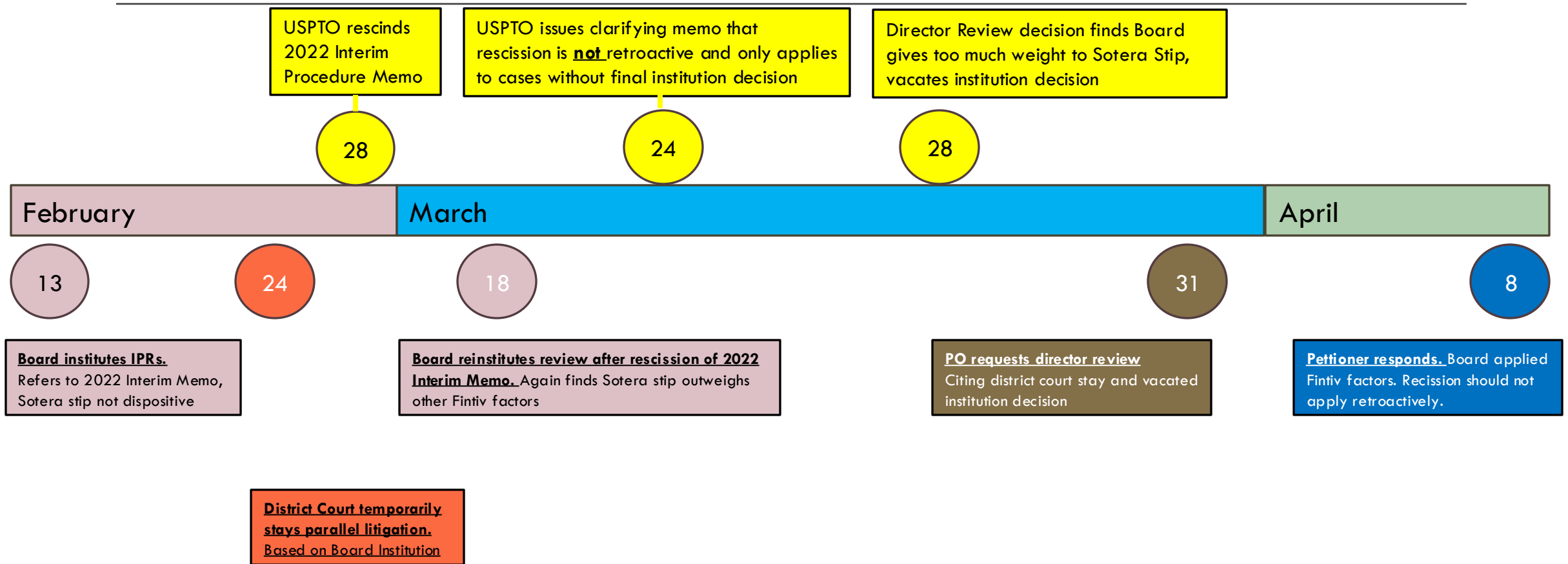
ORDER

Granting Director Review, Vacating the Decision Granting Institution, and
Denying Institution of Inter Partes Review

¹ This order applies to each of the above-listed proceedings.

Petitioner responds that the Board did not err in declining to exercise discretion to deny institution in these cases because the Board properly found that *Fintiv* factors 1–4 and 6 weighed against discretionary denial. See Paper 16, 1, 3–5. Petitioner explains that, at the time it filed the petitions, it relied on the Office’s June 21, 2022 memorandum entitled “Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation” (“2022 Interim Procedure Memo”), which was “‘binding agency guidance’ [stating] that ‘the [Board] will not discretionarily deny institution of an IPR’ if there is a *Sotera*[5] stipulation.” *Id.* at 1 (emphasis omitted). Petitioner argues the Office’s rescission of that guidance on February 28, 2025, cannot apply retroactively to these proceedings without raising Administrative Procedure Act and due process concerns. *Id.* at 2.

Motorola Solutions, Inc. v. Stellar, LLC, IPR2024-01284, IPR2024-01285, IPR2024-01313 & IPR2024-01314 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) Paper 17 (Stewart) (May 23, 2025)



Motorola Solutions, Inc. v. Stellar, LLC, IPR2024-01284, IPR2024-01285, IPR2024-01313 & IPR2024-01314 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) Paper 17 (Stewart) (May 23, 2025)

Director_PTAIDecision_Review@uspto.gov Paper 17
571.272.7822 Date: May 23, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

MOTOROLA SOLUTIONS, INC.,
Petitioner,

v.

STELLAR, LLC,
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IPR2024-01314 (Patent 10,965,930 B2)¹

Before COLE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER

Granting Director Review, Vacating the Decision Granting Institution, and
Denying Institution of Inter Partes Review

¹ This order applies to each of the above-listed proceedings.

Petitioner's response to Patent Owner's Director Review request is premised **on the argument that the Office has applied the rescission of the 2022 Interim Procedure Memo retroactively.** The Office has not done so. As explained above, **the March 2025 Memo clarified that the rescission is applicable only to cases in which a final decision on institution had not yet been made.** Because Patent Owner requested Director Review of the Board's Decision and that request is pending, there is no final decision on institution. Further, both parties had the opportunity to present, and Petitioner did present, arguments in view of the rescission. Paper 16, 3–5.

Motorola Solutions, Inc. v. Stellar, LLC, IPR2024-01284, IPR2024-01285, IPR2024-01313 & IPR2024-01314 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) Paper 17 (Stewart) (May 23, 2025)

Director_PTAIDecision_Review@uspto.gov
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Paper 17
Date: May 23, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
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MOTOROLA SOLUTIONS, INC.,
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IPR2024-01285 (Patent 8,928,752 B2)
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Before COLE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER

Granting Director Review, Vacating the Decision Granting Institution, and
Denying Institution of Inter Partes Review

¹ This order applies to each of the above-listed proceedings.

As to the **district court's stay in the parallel litigation**, the court entered that stay after the Board's decisions instituting review in the related IPRs. In so doing, the district court explained that **its stay analysis depended in part on "whether some or all asserted claims [in the litigation] are subject to IPR proceedings. . . ."** Ex. 1058, 1; see also *id.* at 2 (explaining that the district court will rule on the stay motion "only after considering the [Board's] additional institution decisions and the parties' advisories" to the court). The Board's Decision determined that *Fintiv* factor 1 **"weighs strongly against discretionary denial" in light of the stay**, Decision 9, and the **district court's stay featured prominently in the Board's analysis of *Fintiv* factors 2, 3, and 4 as well.** *Id.* at 10–12. But the district court's stay was premised on the Board's institution decisions in the related IPRs, **which have since been vacated.**

The district court entered an Order on April 21, 2025, determining that the litigation is to remain stayed. See Ex. 3101. But that Order does not change the fact that the court's original stay was premised on the Board's decisions instituting review in the related IPRs. In any event, the district court continued the stay pending the Board's "ultimate resolution" of these proceedings and the related IPRs and the court's resolution of pending motions. *Id.* at 5.

Motorola Solutions, Inc. v. Stellar, LLC, IPR2024-01284, IPR2024-01285, IPR2024-01313 & IPR2024-01314 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) Paper 17 (Stewart) (May 23, 2025)

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571.272.7822

Paper 17
Date: May 23, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
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Petitioner,

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STELLAR, LLC,
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IPR2024-01284 (Patent 8,310,540 B2)
IPR2024-01285 (Patent 8,928,752 B2)
IPR2024-01313 (Patent 10,523,981 B2)
IPR2024-01314 (Patent 10,965,930 B2)¹

Before COLE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER

Granting Director Review, Vacating the Decision Granting Institution, and
Denying Institution of Inter Partes Review

¹ This order applies to each of the above-listed proceedings.

As to the **district court's stay in the parallel litigation**, the court entered that stay after the Board's decisions instituting review in the related IPRs. In so doing, the district court explained that **its stay analysis depended in part on "whether some or all asserted claims [in the litigation] are subject to IPR proceedings. . . ."** Ex. 1058, 1; see also *id.* at 2 (explaining that the district court will rule on the stay motion "only after considering the [Board's] additional institution decisions and the parties' advisories" to the court). The Board's Decision determined that *Fintiv* factor 1 **"weighs strongly against discretionary denial" in light of the stay**, Decision 9, and the **district court's stay featured prominently in the Board's analysis of *Fintiv* factors 2, 3, and 4 as well.** *Id.* at 10–12. But the district court's stay was premised on the Board's institution decisions in the related IPRs, **which have since been vacated.**

The district court entered an Order on April 21, 2025, determining that the litigation is to remain stayed. See Ex. 3101. But that Order does not change the fact that the court's original stay was premised on the Board's decisions instituting review in the related IPRs. In any event, the district court continued the stay pending the Board's "ultimate resolution" of these proceedings and the related IPRs and the court's resolution of pending motions. *Id.* at 5.

Motorola Solutions, Inc. v. Stellar, LLC, IPR2024-01284, IPR2024-01285, IPR2024-01313 & IPR2024-01314 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) Paper 17 (Stewart) (May 23, 2025)

Director_PTAIDecision_Review@uspto.gov Paper 17
571.272.7822 Date: May 23, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
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MOTOROLA SOLUTIONS, INC.,
Petitioner,

v.

STELLAR, LLC,
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IPR2024-01284 (Patent 8,310,540 B2)
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IPR2024-01314 (Patent 10,965,930 B2)¹

Before COLE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER

Granting Director Review, Vacating the Decision Granting Institution, and
Denying Institution of Inter Parties Review

¹ This order applies to each of the above-listed proceedings.

Under these circumstances, Director Review is granted, and the efficiency and integrity of the system are best served by denying institution in these cases for the same reasons as set forth in the 1205 Director Review Decision. See 1205 DR Decision 2–4.

In consideration of the foregoing, it is:

ORDERED that Director Review is granted;

FURTHER ORDERED that the Board’s Decision granting institution of *inter parties* review (Paper 12) is vacated; and

FURTHER ORDERED that the Petition is *denied*, and no trial is instituted.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

VERIZON CONNECT INC.,
Petitioner,

v.

OMEGA PATENTS, LLC,
Patent Owner.

IPR2023-01162
Patent 8,032,278 B2

Before COKE MORGAN STEWART, *Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.*

ORDER

Vacating the Final Written Decision and
Terminating the Proceeding

***Verizon Connect Inc. v. Omega Patents, LLC, IPR2023-01162
(see Termination/Settlement), Paper 40 (Stewart) (June 3, 2025)***

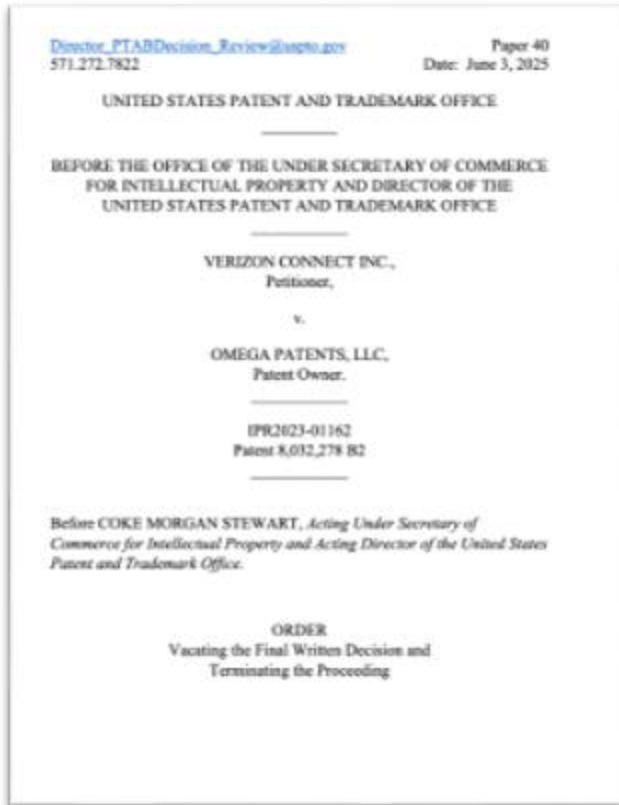
Decision vacating Final Written Decision, and
terminating proceedings –

Verizon Connect Inc. v. Omega Patents, LLC, IPR2023-01162 (see Termination/Settlement), Paper 40 (Stewart) (June 3, 2025)



Omega Patents, LLC (“Patent Owner”) filed a request for Director Review of the Final Written Decision in the above-captioned case, and Verizon Connect Inc. (“Petitioner”) filed an authorized response to the request. See Papers 35, 36. An Order to Show Cause (“Order,” Paper 37) was issued on May 2, 2025, directing Petitioner to show cause why this proceeding should not be terminated in view of seven prior challenges to the patent claims, “including a separate [*inter partes* review] concluding that the same [challenged] claims are unpatentable that is currently on appeal.” Order, 3–4. On May 16, 2025, Petitioner and Patent Owner filed responses to the Order. See Papers 38, 39.

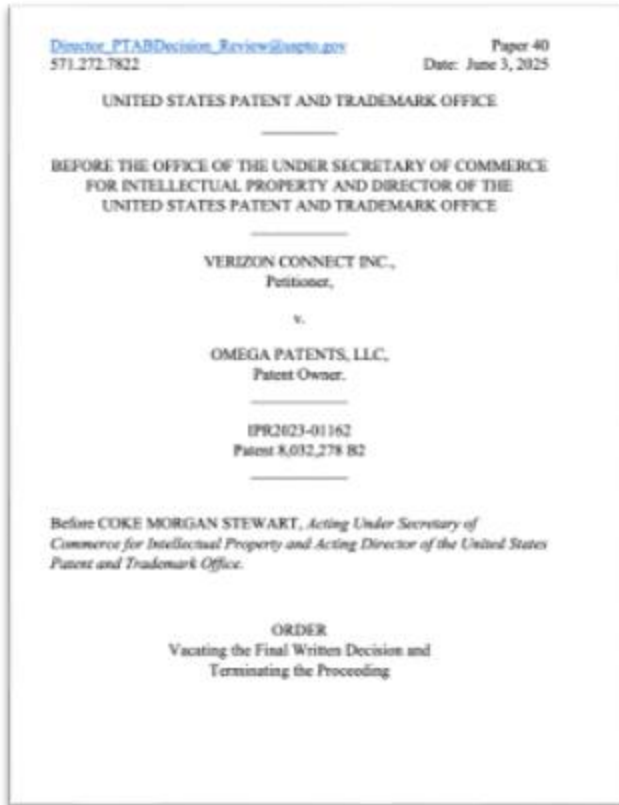
Verizon Connect Inc. v. Omega Patents, LLC, IPR2023-01162 (see Termination/Settlement), Paper 40 (Stewart) (June 3, 2025)



Having considered the parties' submissions, **Petitioner fails to show cause why this proceeding should not be terminated, as set forth in the Order, in light of the numerous prior challenges noted above and detailed further in the Order.** See 35 U.S.C. § 314(a); 37 C.F.R. § 42.72; *Sling TV, L.L.C. v. Realtime Adaptive Streaming LLC*, 840 F. App'x 598 (Fed. Cir. 2021); *BioDelivery Scis. Int'l, Inc. v. Aquestive Therapeutics, Inc.*, 935 F.3d 1362 (Fed. Cir. 2019)

This Order does not constitute a final written decision under 35 U.S.C. § 318(a).

Verizon Connect Inc. v. Omega Patents, LLC, IPR2023-01162 (see Termination/Settlement), Paper 40 (Stewart) (June 3, 2025)



In consideration of the foregoing, it is:

ORDERED that Director Review is granted;

FURTHER ORDERED that the Board's Final Written Decision (Paper 34) is vacated;

FURTHER ORDERED that the Petition is dismissed; and

FURTHER ORDERED that the proceeding is terminated.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

SPECTRUM SOLUTIONS LLC,
Petitioner,

v.

LONGHORN VACCINES & DIAGNOSTICS, LLC,
Patent Owner.

IPR2021-00847 (Patent 8,084,443 B2)
IPR2021-00850 (Patent 8,293,467 B2)
IPR2021-00854 (Patent 8,669,240 B2)
IPR2021-00857 (Patent 9,212,399 B2)
IPR2021-00860 (Patent 9,683,256 B2)¹

Before COKE MORGAN STEWART, *Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.*

ORDER
Modifying Entered Sanctions on Unopposed Remand and *Sua
Sponte* Reconsideration

¹ This order applies to each of the above-listed proceedings.

[Spectrum Solutions LLC v. Longhorn Vaccines & Diagnostics, LLC, IPR2021-00847, IPR2021-00850, IPR2021-00854, IPR2021-00857 & IPR2021-00860 Paper 147 \(Stewart\) \(June 5, 2025\)](#)

Decision modifying entered sanctions on
unopposed remand and reconsideration—

Spectrum Solutions LLC v. Longhorn Vaccines & Diagnostics, LLC, IPR2021-00847, IPR2021-00850, IPR2021-00854, IPR2021-00857 & IPR2021-00860 Paper 147 (Stewart) (June 5, 2025)

Director_PTADDecision_Review@uspto.gov Paper 147
571-272-7822 Date: June 5, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

SPECTRUM SOLUTIONS LLC,
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IPR2021-00857 (Patent 9,212,399 B2)
IPR2021-00860 (Patent 9,663,256 B2)¹

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER
Modifying Entered Sanctions on Unopposed Remand and Sua
Sponte Reconsideration

¹ This order applies to each of the above-listed proceedings.

This Order modifies the July 26, 2024 Director Review Decision in this case (“Previous Director Review Decision,” Paper 143), on unopposed remand from the U.S. Court of Appeals for the Federal Circuit (Paper 146) and *sua sponte* reconsideration.²

Spectrum Solutions LLC v. Longhorn Vaccines & Diagnostics, LLC, IPR2021-00847, IPR2021-00850, IPR2021-00854, IPR2021-00857 & IPR2021-00860 Paper 147 (Stewart) (June 5, 2025)



The Previous Director Review Decision affirmed the Board's entry of judgment in the trial, *i.e.*, entry of adverse judgment against all 183 challenged claims, as a sanction against Patent Owner Longhorn Vaccines & Diagnostics, LLC ("Patent Owner"), with modified reasoning. See Paper 143, 65. This Order maintains the prior determination, and underlying findings, that Patent Owner violated the identified provisions by affirmatively engaging in sanctionable misconduct to deceive and mislead the Board through its counsel by: (1) intentionally withholding and concealing relevant factual evidence; (2) intentionally relying on known falsely elicited expert testimony; and (3) intentionally making a false statement of fact. See *id.* at 3, 45, 65.

Spectrum Solutions LLC v. Longhorn Vaccines & Diagnostics, LLC, IPR2021-00847, IPR2021-00850, IPR2021-00854, IPR2021-00857 & IPR2021-00860 Paper 147 (Stewart) (June 5, 2025)

Director_PTADDecision_Review@uspto.gov Paper 147
571-272-7822 Date: June 5, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

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Before COKE MORGAN STEWART, Acting Under Secretary of
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Patent and Trademark Office.

ORDER
Modifying Entered Sanctions on Unopposed Remand and Sua
Sponte Reconsideration

¹ This order applies to each of the above-listed proceedings.

On reconsideration, cancelling all challenged claims is not an appropriate sanction here. Absent extraordinary circumstances, the Board should never cancel claims it has not determined to be unpatentable as a sanction. The Board's entry of judgment in the trial as a sanction against Patent Owner and cancellation of all challenged claims, therefore, is vacated.

Spectrum Solutions LLC v. Longhorn Vaccines & Diagnostics, LLC, IPR2021-00847, IPR2021-00850, IPR2021-00854, IPR2021-00857 & IPR2021-00860 Paper 147 (Stewart) (June 5, 2025)



Entry of compensatory expenses, including attorney fees under 37 C.F.R. § 42.12(b)(6), would have been appropriate as a sanction against Patent Owner. However, apportioning fees here is not appropriate at this time because Petitioner Spectrum Solutions LLC (“Petitioner”) has withdrawn itself from participation in further proceedings involving the challenged patents and the parties have entered into a settlement agreement to bear their own costs. See *Spectrum Solutions LLC v. Longhorn Vaccines & Diagnostics, LLC*, Nos. 23-2111, -2112, -2113, -2114, -2115, Order (Fed. Cir. Mar. 25, 2025) (granting Petitioner’s motion to dismiss its appeal); [...], Cross-Appellant’s Motion to Withdraw and to Dismiss (Fed. Cir. Mar. 10, 2025) (“Spectrum has agreed . . . to refrain from participating in challenges against the patents at issue. . . . The parties have agreed to bear their own costs.”).

Spectrum Solutions LLC v. Longhorn Vaccines & Diagnostics, LLC, IPR2021-00847, IPR2021-00850, IPR2021-00854, IPR2021-00857 & IPR2021-00860 Paper 147 (Stewart) (June 5, 2025)



In the absence of other sanctions, Patent Owner is strongly admonished for its conduct and cautioned that any future misconduct before the Office will be met with additional sanctions. See, e.g., *Patent Quality Assurance, LLC v. VLSI Tech. LLC*, IPR2021-01229, Paper 143 at 13–14 (Vidal Dec. 13, 2023) (imposing similar sanction).

All other portions of the Previous Director Review Decision not explicitly vacated are maintained. The Board’s findings of unpatentability on the merits in the Final Written Decision are also maintained. See Paper 114 (public version).

Spectrum Solutions LLC v. Longhorn Vaccines & Diagnostics, LLC, IPR2021-00847, IPR2021-00850, IPR2021-00854, IPR2021-00857 & IPR2021-00860 Paper 147 (Stewart) (June 5, 2025)

Director_PTADDecision_Review@uspto.gov Paper 147
571-272-7822 Date: June 5, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

SPECTRUM SOLUTIONS LLC,
Petitioner,

v.

LONGHORN VACCINES & DIAGNOSTICS, LLC,
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IPR2021-00847 (Patent 8,084,443 B2)
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IPR2021-00857 (Patent 9,212,399 B2)
IPR2021-00860 (Patent 9,663,256 B2)¹

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER
Modifying Entered Sanctions on Unopposed Remand and Sua
Sponte Reconsideration

¹ This order applies to each of the above-listed proceedings.

This decision does not preclude the USPTO's Office of Enrollment and Discipline from exploring potential sanctions or discipline for violations of Part 11 based on the conduct in these proceedings. See 37 C.F.R. §§ 11.81(c)(2), 11.19(b) (2021).

Spectrum Solutions LLC v. Longhorn Vaccines & Diagnostics, LLC, IPR2021-00847, IPR2021-00850, IPR2021-00854, IPR2021-00857 & IPR2021-00860 Paper 147 (Stewart) (June 5, 2025)



In consideration of the foregoing, it is hereby:

ORDERED that the Director Review Decision Modifying-in-Part

Order Granting Petitioner's Motions for Sanctions (Paper 143) is *sua sponte* reconsidered; and

FURTHER ORDERED that the entry of sanctions is modified as follows: judgment in the trial against Patent Owner is vacated, and instead, Patent Owner is strongly admonished and cautioned that any future misconduct before the Office will be met with additional sanctions.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

TIKTOK INC.,¹
Petitioner,

v.

CELLSPIN SOFT, INC.,
Patent Owner.

IPR2024-00757 (Patent 8,756,336 B2)
IPR2024-00759 (Patent 8,862,757 B2)
IPR2024-00760 (Patent 8,898,260 B2)
IPR2024-00767 (Patent 11,659,381 B2)
IPR2024-00768 (Patent 11,234,121 B2)
IPR2024-00769 (Patent 9,900,766 B2)
IPR2024-00770 (Patent 8,904,030 B2)²

Before COKE MORGAN STEWART, *Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.*

ORDER
Initiating *Sua Sponte* Director Review

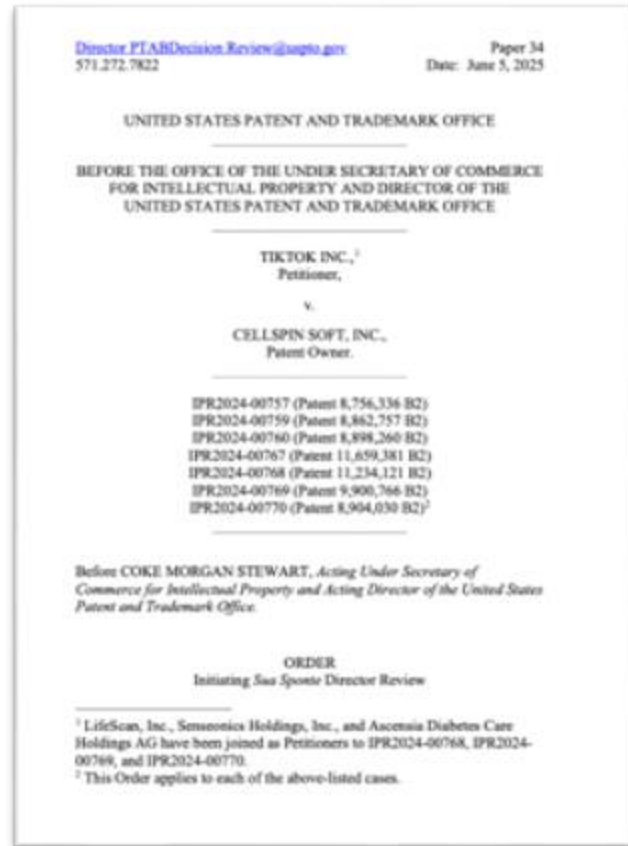
¹ LifeScan, Inc., Senseonics Holdings, Inc., and Ascensia Diabetes Care Holdings AG have been joined as Petitioners to IPR2024-00768, IPR2024-00769, and IPR2024-00770.

² This Order applies to each of the above-listed cases.

TikTok Inc. v. Cellspin Soft, Inc., IPR2024-00757, IPR2024-00759, IPR2024-00760, IPR2024-00767, IPR2024-00768, IPR2024-00769 & IPR2024-00770, Paper 34 (Stewart) (June 5, 2025)

Order granting Director Review –

TikTok Inc. v. Cellspin Soft, Inc., IPR2024-00757, IPR2024-00759, IPR2024-00760, IPR2024-00767, IPR2024-00768, IPR2024-00769 & IPR2024-00770, Paper 34 (Stewart) (June 5, 2025)



On June 2, 2025, the Board issued an Order Denying Patent Owner’s Motion to Terminate. Paper 33 (“Order”). Cellspin Soft, Inc. (“Patent Owner”) requested that the Board terminate the *inter partes* reviews (“IPRs”) and vacate its decisions on institution for two reasons: (1) Petitioner TikTok, Inc. (“Petitioner”) failed to name the Chinese Communist Party (“CCP”) as a real party-in-interest (“RPI”) as required under 35 U.S.C. § 312(a); and (2) Petitioner is an entity controlled by a sovereign and, therefore, is not a “person” eligible to file IPRs under the Supreme Court’s ruling in *Return Mail, Inc. v. United States Postal Service*, 587 U.S. 618 (2019). Order 2.

TikTok Inc. v. Cellspin Soft, Inc., IPR2024-00757, IPR2024-00759, IPR2024-00760, IPR2024-00767, IPR2024-00768, IPR2024-00769 & IPR2024-00770, Paper 34 (Stewart) (June 5, 2025)

Director, PTABDecision.Review@uspto.gov
571.272.7822

Paper 34
Date: June 5, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

TIKTOK INC.,¹
Petitioner,

v.

CELLSPIN SOFT, INC.,
Patent Owner.

IPR2024-00757 (Patent 8,756,336 B2)
IPR2024-00759 (Patent 8,862,757 B2)
IPR2024-00760 (Patent 8,898,260 B2)
IPR2024-00767 (Patent 11,659,381 B2)
IPR2024-00768 (Patent 11,234,121 B2)
IPR2024-00769 (Patent 9,900,766 B2)
IPR2024-00770 (Patent 8,904,030 B2)²

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

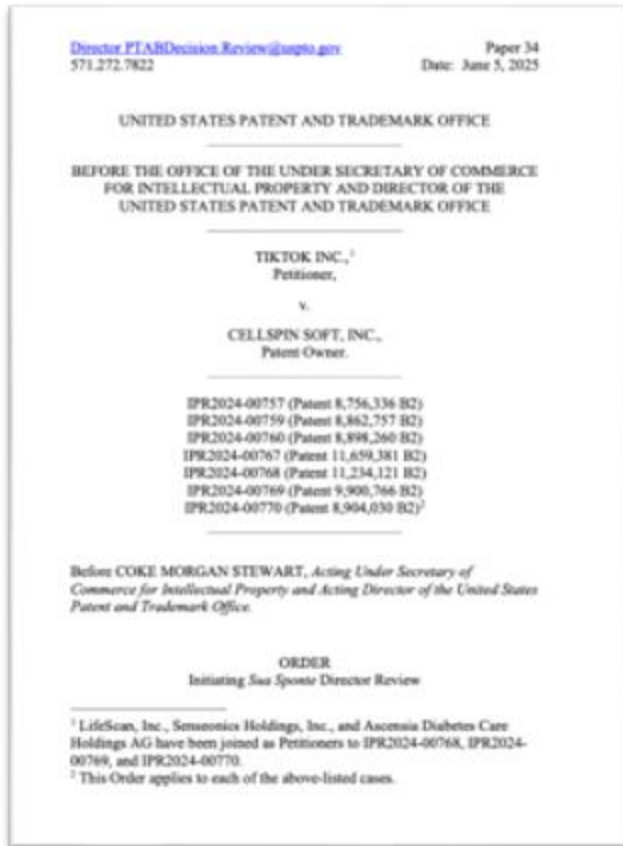
ORDER
Initiating *Sua Sponte* Director Review

¹ LifeScan, Inc., Sensonics Holdings, Inc., and Ascensia Diabetes Care Holdings AG have been joined as Petitioners to IPR2024-00768, IPR2024-00769, and IPR2024-00770.

² This Order applies to each of the above-listed cases.

In denying Patent Owner's motion, the Board determined that Patent Owner waived its right to raise the RPI issue as a basis to terminate the IPRs. *Id.* at 8. Nevertheless, the Board addressed some of Patent Owner's substantive arguments.

TikTok Inc. v. Cellspin Soft, Inc., IPR2024-00757, IPR2024-00759, IPR2024-00760, IPR2024-00767, IPR2024-00768, IPR2024-00769 & IPR2024-00770, Paper 34 (Stewart) (June 5, 2025)



As to Patent Owner’s argument that Petitioner failed to name the CCP as an RPI, the Board found that even if the CCP was an unnamed RPI, Patent Owner did not show that Petitioner’s failure to name the CCP in the petitions requires termination because the Board’s “jurisdiction to consider a petition does not require a ‘correct’ identification of all RPIs in a petition” and because it is not necessary for the Board to consider whether an unnamed party is an RPI when adding that party “would not create a time bar or estoppel under 35 U.S.C. § 315.” Order 9 (quoting *SharkNinja Operating LLC v. iRobot Corp.*, IPR2020-00734, Paper 11, 18 (PTAB Oct. 6, 2020) (precedential) (additional citation omitted)).

TikTok Inc. v. Cellspin Soft, Inc., IPR2024-00757, IPR2024-00759, IPR2024-00760, IPR2024-00767, IPR2024-00768, IPR2024-00769 & IPR2024-00770, Paper 34 (Stewart) (June 5, 2025)

Director, PTABDecision.Review@uspto.gov
571.272.7822

Paper 34
Date: June 5, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

TIKTOK INC.,¹
Petitioner,

v.

CELLSPIN SOFT, INC.,
Patent Owner.

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IPR2024-00770 (Patent 8,904,030 B2)²

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER
Initiating *Sua Sponte* Director Review

¹ LifeScan, Inc., Sensonics Holdings, Inc., and Accusis Diabetes Care Holdings AG have been joined as Petitioners to IPR2024-00768, IPR2024-00769, and IPR2024-00770.

² This Order applies to each of the above-listed cases.

As to Patent Owner's *Return Mail* argument, the Board was not persuaded that the decision applies to these IPRs, because *Return Mail* addressed whether a federal agency is a “person” able to petition for post-grant reviews and the alleged sovereign in these IPRs—the CCP—is a foreign country not a U.S. federal agency. Order 11–12. The Board also declined to extend *Return Mail* to these IPRs. *Id.* at 12–14.

TikTok Inc. v. Cellspin Soft, Inc., IPR2024-00757, IPR2024-00759, IPR2024-00760, IPR2024-00767, IPR2024-00768, IPR2024-00769 & IPR2024-00770, Paper 34 (Stewart) (June 5, 2025)

Director.PTABDecision.Review@uspto.gov
571.272.7822

Paper 34
Date: June 5, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

TIKTOK INC.,¹
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v.

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Patent Owner.

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IPR2024-00759 (Patent 8,862,757 B2)
IPR2024-00760 (Patent 8,898,260 B2)
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IPR2024-00768 (Patent 11,234,121 B2)
IPR2024-00769 (Patent 9,900,766 B2)
IPR2024-00770 (Patent 8,904,030 B2)²

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

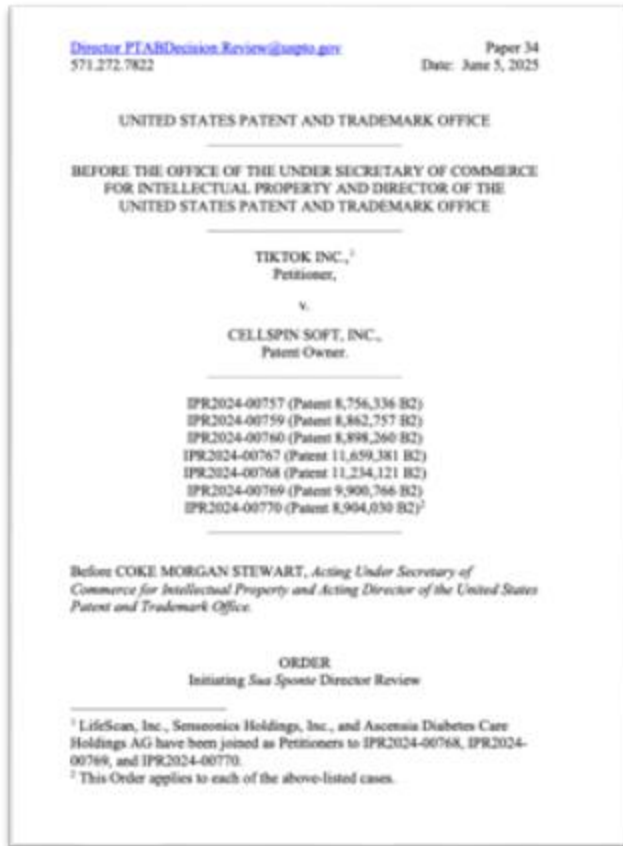
ORDER
Initiating *Sua Sponte* Director Review

¹ LifeScan, Inc., Sensonics Holdings, Inc., and Ascensia Diabetes Care Holdings AG have been joined as Petitioners to IPR2024-00768, IPR2024-00769, and IPR2024-00770.

² This Order applies to each of the above-listed cases.

I have reviewed the Board's Order and the relevant papers. I determine that *sua sponte* Director Review is appropriate to reconsider the Board's decisions to institute in view of the novel issues presented in these IPRs. 37 C.F.R. § 42.75(b); *United States v. Arthrex, Inc.*, 594 U.S. 1 (2021). The cases shall be stayed until further notice and an opinion will issue in due course.

TikTok Inc. v. Cellspin Soft, Inc., IPR2024-00757, IPR2024-00759, IPR2024-00760, IPR2024-00767, IPR2024-00768, IPR2024-00769 & IPR2024-00770, Paper 34 (Stewart) (June 5, 2025)



Accordingly, based on the foregoing, it is

ORDERED that a *sua sponte* Director review to reconsider the Board's decisions to institute is initiated;

FURTHER ORDERED that these IPRs are stayed until further notice;
and

FURTHER ORDERED that an opinion will issue in due course.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

KLEIN TOOLS, INC.,
Petitioner,

v.

MILWAUKEE ELECTRIC TOOL CORPORATION and
KETER HOME AND GARDEN PRODUCTS, LTD.,
Patent Owner.

IPR2024-01400 (Patent 11,365,026 B2)
IPR2024-01401 (Patent 11,794,952 B2)¹

Before COKE MORGAN STEWART, *Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.*

ORDER

Granting Director Review, Vacating the Decision Granting Institution, and
Denying Institution of *Inter Partes* Review

¹ This order applies to each of the above-listed proceedings.

Klein Tools, Inc. v. Milwaukee Electric Tool Corp., IPR2024-01400 & IPR2024-01401 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings), Paper 22 (Stewart) (June 9, 2025)

Decision vacating decision granting institution, and
denying institution—

Klein Tools, Inc. v. Milwaukee Electric Tool Corp., IPR2024-01400 & IPR2024-01401 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) , Paper 22 (Stewart) (June 9, 2025)

Director_PTABDecision_Review@uspto.gov
571.272.7822

Paper 22
Date: June 9, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

KLEIN TOOLS, INC.,
Petitioner,

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Patent Owner.

IPR2024-01400 (Patent 11,365,026 B2)
IPR2024-01401 (Patent 11,794,952 B2)¹

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER
Granting Director Review, Vacating the Decision Granting Institution, and
Denying Institution of *Inter Partes* Review

¹ This order applies to each of the above-listed proceedings.

In each request, Patent Owner argues that the Board erred in its fact-finding as to *Fintiv* factors 1, 4, and 6—likelihood of a stay in the parallel proceeding, overlap between issues raised in the petition and the parallel proceeding, and the strength of the Petition’s merits, respectively. DR Request 6–15. Petitioner responds that the Board thoroughly considered the *Fintiv* factors. Paper 20, 1–5.

Klein Tools, Inc. v. Milwaukee Electric Tool Corp., IPR2024-01400 & IPR2024-01401 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) , Paper 22 (Stewart) (June 9, 2025)

Director_PTABDecision_Review@uspto.gov Paper 22
571.272.7822 Date: June 9, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
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Patent Owner.

IPR2024-01400 (Patent 11,365,026 B2)
IPR2024-01401 (Patent 11,794,952 B2)¹

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER
Granting Director Review, Vacating the Decision Granting Institution, and
Denying Institution of Inter Partes Review

¹ This order applies to each of the above-listed proceedings.

The Board's analysis of factors 1 and 4, and overall weighing of the *Fintiv* factors were erroneous. See Decision 14–20. The Board did not give enough weight to the lack of a stay, or the fact that a stay was unlikely, in the parallel International Trade Commission (“ITC”) investigation. See *id.* at 14–15. Nor did the Board sufficiently consider the extent of overlap between the two proceedings. See *id.* at 16–19. Under the proper analysis, factors 1 and 4 weigh in favor of denial. Here, the ITC investigation is unlikely to be stayed, and the ITC already has conducted a full evidentiary hearing and is scheduled to issue a final determination six months before the statutory deadline for the Board's final written decision. See *id.* at 15–16. Further, the ITC investigation involves the same parties, the same challenged claims, and includes overlapping prior art references. *Id.* At 17–19.

Klein Tools, Inc. v. Milwaukee Electric Tool Corp., IPR2024-01400 & IPR2024-01401 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) , Paper 22 (Stewart) (June 9, 2025)

Director_PTABDecision_Review@uspto.gov Paper 22
571.272.7822 Date: June 9, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
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KLEIN TOOLS, INC.,
Petitioner,

v.

MILWAUKEE ELECTRIC TOOL CORPORATION and
KETER HOME AND GARDEN PRODUCTS, LTD.,
Patent Owner.

IPR2024-01400 (Patent 11,365,026 B2)
IPR2024-01401 (Patent 11,794,952 B2)¹

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER
Granting Director Review, Vacating the Decision Granting Institution, and
Denying Institution of *Inter Partes* Review

¹ This order applies to each of the above-listed proceedings.

With respect to factor 6, under *Fintiv*'s holistic assessment, the merits of the Petitions do not outweigh the other factors, which all favor denial. *Id.* at 19. Thus, a holistic analysis of all the circumstances demonstrates that the efficiency and integrity of the system are best served by denying institution.

Klein Tools, Inc. v. Milwaukee Electric Tool Corp., IPR2024-01400 & IPR2024-01401 (see Institution – 35 U.S.C. § 314(a), Parallel proceedings) , Paper 22 (Stewart) (June 9, 2025)

Director_PTABDecision_Review@uspto.gov
571.272.7822

Paper 22
Date: June 9, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
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KLEIN TOOLS, INC.,
Petitioner,

v.

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KETER HOME AND GARDEN PRODUCTS, LTD.,
Patent Owner.

IPR2024-01400 (Patent 11,365,026 B2)
IPR2024-01401 (Patent 11,794,952 B2)¹

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER

Granting Director Review, Vacating the Decision Granting Institution, and
Denying Institution of *Inter Partes* Review

¹ This order applies to each of the above-listed proceedings.

In consideration of the foregoing, it is:

ORDERED that Director Review is granted;

FURTHER ORDERED that the Board's Decision granting institution of *inter partes* review (Paper 17) is vacated; and

FURTHER ORDERED that the Petition is *denied*, and no trial is instituted.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED
STATES PATENT AND TRADEMARK OFFICE

MASTERCARD INCORPORATED and
MASTERCARD INTERNATIONAL INCORPORATED,
Petitioner,

v.

OV LOOP, INC.,
Patent Owner.

IPR2023-01289
Patent 10,032,171 B2

Before COKE MORGAN STEWART, *Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.*

ORDER

Granting Director Review and Remanding to the Patent Trial
and Appeal Board for Further Proceedings

Mastercard Inc. v. OV Loop, Inc., IPR2023-01289 (see Obviousness - 35 U.S.C. § 103), Paper 41 (Stewart) (June 10, 2025)

Decision vacating Final Written Decision, and
remanding for further proceedings —

***Mastercard Inc. v. OV Loop, Inc.*, IPR2023-01289 (see Obviousness - 35 U.S.C. § 103), Paper 41 (Stewart) (June 10, 2025)**

Director, PTABDecision_Review@uspto.gov
571-272-7822

Paper 41
Date: June 10, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED
STATES PATENT AND TRADEMARK OFFICE

MASTERCARD INCORPORATED and
MASTERCARD INTERNATIONAL INCORPORATED,
Petitioner,

v.
OV LOOP, INC.,
Patent Owner.

IPR2023-01289
Patent 10,032,171 B2

Before COKE MORGAN STEWART, Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.

ORDER
Granting Director Review and Remanding to the Patent Trial
and Appeal Board for Further Proceedings

The Board issued a Final Written Decision (Paper 37, “Decision”) for the above-captioned case, finding that Mastercard Incorporated and Mastercard International Incorporated (“Petitioner”) had shown that claims 1–33 of U.S. Patent No. 10,032,171 are unpatentable as obvious over Collinge. Decision 64–65.

***Mastercard Inc. v. OV Loop, Inc.*, IPR2023-01289 (see Obviousness - 35 U.S.C. § 103), Paper 41 (Stewart) (June 10, 2025)**



OV Loop, Inc. (“Patent Owner”) filed a request for Director Review of the Decision and Petitioner filed an authorized response. See Paper 39 (“DR Request”), Paper 40. In its request, Patent Owner argues that the Board erred because it relied on components of Collinge that were outside of Petitioner’s identified “remote computer system” to meet the functionality of the “remote computer system” of claim 10. See DR Request 1, 6–9, 11. In particular, Patent Owner argues that the Petition relies on Collinge’s disclosure that the point-of-sale (POS) terminal may transmit transaction information to acquirer processing server 312, yet Petitioner does not identify this server as part of the alleged “remote computer system” of claim 10. See *id.* at 7 (citing Pet. 58 (citing Ex. 1011 ¶ 77)).

***Mastercard Inc. v. OV Loop, Inc.*, IPR2023-01289 (see Obviousness - 35 U.S.C. § 103), Paper 41 (Stewart) (June 10, 2025)**

Director, PTABDecision_Review@uspto.gov
571-272-7822

Paper 41
Date: June 10, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED
STATES PATENT AND TRADEMARK OFFICE

MASTERCARD INCORPORATED and
MASTERCARD INTERNATIONAL INCORPORATED,
Petitioner,

v.

OV LOOP, INC.,
Patent Owner.

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Petitioner argues in response that, for claim 10's "remote computer system" functionality, it relies on Collinge's issuer processing server 308 to validate a received authorization request, which is transmitted through payment network 124. See Paper 40, 3–4.

***Mastercard Inc. v. OV Loop, Inc.*, IPR2023-01289 (see Obviousness - 35 U.S.C. § 103), Paper 41 (Stewart) (June 10, 2025)**



The Board’s Decision includes some discussion of Patent Owner’s arguments and concludes the discussion by adopting Petitioner’s contentions “as supported by the evidence cited by Petitioner” notwithstanding that Patent Owner disputed some of Petitioner’s contentions. Decision 57, 59 (citing Paper 1, 58–61; Paper 26, 24–25); see *also id.* at 56 (adopting Petitioner’s contentions, citing Paper 1, 58–60). The Board also found that Petitioner’s identification of Collinge’s “remote computer system” was not limited to “remote-SE system 110,” but also “include[s] other aspects of the Collinge computer system that Petitioner expressly relies upon, as shown in the annotated version of Collinge Figure 7 provided by Petitioner in Reply.” *Id.* at 57 (citing Paper 26, 16–18).

***Mastercard Inc. v. OV Loop, Inc.*, IPR2023-01289 (see Obviousness - 35 U.S.C. § 103), Paper 41 (Stewart) (June 10, 2025)**



In reviewing the record, it is unclear which of Collinge's components the Board relied on for claim 10's limitation "receiving [at the remote computer system] an authorization request to authorize the transaction from the POS terminal." Accordingly, Director Review is granted, and this case is remanded to the Board for consideration of the arguments made in Patent Owner's DR Request.

***Mastercard Inc. v. OV Loop, Inc.*, IPR2023-01289 (see Obviousness - 35 U.S.C. § 103), Paper 41 (Stewart) (June 10, 2025)**



On remand, the Board shall consider Patent Owner's arguments as to claims 10 and 27, and their dependent claims. Regardless of the Board's disposition on remand, **the Board should address Patent Owner's arguments and explain more fully its findings as to claims 10 and 27.** The Board should **point more specifically to where in Collinge the argued limitation is taught, if anywhere, and which components of Collinge satisfy the limitation**, if any. In doing so, the Board should **limit itself to the teachings on which Petitioner relies.**

Mastercard Inc. v. OV Loop, Inc., IPR2023-01289 (see Obviousness - 35 U.S.C. § 103), Paper 41 (Stewart) (June 10, 2025)

Director_PTABDecision_Review@uspto.gov
571-272-7822

Paper 41
Date: June 10, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
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ORDER
Granting Director Review and Remanding to the Patent Trial
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Absent good cause, the Board shall issue a decision on remand within 30 days of this Order.

Accordingly, it is:

ORDERED that Director Review is granted;

FURTHER ORDERED that the case is remanded to the Board for further proceedings consistent with this Order.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

ARISTA NETWORKS, INC.,
Petitioner,

v.

ORCKIT CORPORATION,
Patent Owner.

IPR2024-01238
Patent 8,830,821 B2

Before COKE MORGAN STEWART, *Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.*

ORDER

Arista Networks, Inc. v. Orckit Corp., IPR2024-01238 (see Delegated Rehearing Panel), Paper 10 (Stewart) (June 12, 2025)

Order delegating Director Review to a Delegated Rehearing Panel –

Arista Networks, Inc. v. Orckit Corp., IPR2024-01238 (see Delegated Rehearing Panel), Paper 10 (Stewart) (June 12, 2025)



Having considered the request and the response, the Decision warrants review by a Delegated Rehearing Panel (“DRP”). Accordingly, Director Review of the Decision is delegated to a DRP to review the Decision and determine whether the Board misapprehended or overlooked any issue, including: (1) whether the Board’s construction of the limitation “digital logic . . . configured to determine a probability of concurrent failure of said working entity and said protection entity” in claim 14 was correct; (2) whether the Board properly considered Petitioner’s argument that Ashwood Smith teaches this limitation; and (3) if Ashwood Smith does teach this limitation, whether discretionary denial is warranted based on Patent Owner’s arguments under 35 U.S.C. § 325(d).

Arista Networks, Inc. v. Orckit Corp., IPR2024-01238 (see Delegated Rehearing Panel), Paper 10 (Stewart) (June 12, 2025)



Absent good cause, the DRP shall issue a decision within 30 days of this Order.

Accordingly, it is:

ORDERED that the request for Director Review is delegated to a DRP.

Next Month

We will review the latest in discretionary denial decisions by the office.



Questions
