

2020-1399, -1400

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

NEW VISION GAMING & DEVELOPMENT, INC.,
Appellant,

v.

SG GAMING, INC., f/k/a Bally Gaming, Inc.,
Appellee,

and

ANDREW HIRSHFELD, Performing the Functions and Duties of the
Undersecretary of Commerce for Intellectual Property and Director of
the United States Patent and Trademark Office,
Intervenor.

On Appeal from United States Patent and Trademark Office, Patent Trial and
Appeal Board in Nos. CBM2018-00005 and CBM2018-00006

**APPELLANT NEW VISION GAMING & DEVELOPMENT, INC.'S
MOTION FOR RECONSIDERATION OF REMAND ORDER**

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INTRODUCTION

Pursuant to Federal Rule of Appellate Procedure 27 and Federal Circuit Rule 27(j), Appellant New Vision Gaming & Development Inc. (“New Vision”) hereby moves for reconsideration of the Court’s remand order of December 3, 2021. *See* Dkt. No. 110. The motion asks the Court to reconsider the remand order in view of recent information, to consider the impact of certain changing guidance (set forth as, for example, webpages and a webinar) by the U.S. Patent and Trademark Office (“PTO”), and to modify the remand order so that it instructs the PTO to implement an *Arthrex*-based Director review consistent with the legal requirements under the Administrative Procedure Act and other applicable statutes.

In particular, New Vision respectfully requests that, if the Court continues with the remand of this case to the PTO, then the Court should require the PTO to proceed with New Vision’s request for Director review as follows: (a) apply proper rules and guidance through any necessary rulemaking procedures for New Vision’s request for Director review; (b) to the extent applicable, identify any PTO officials or employees who are involved in and substantively contribute to the review of and decision

on New Vision’s request for Director review or who are part of the “advisory committee,” as noted below; (c) instruct the PTO to provide reasons or bases for its decision of New Vision’s request for Director review, *see* 5 U.S.C. § 557(c); and (d) stay any review of New Vision’s request for Director review until the U.S. Senate confirms a new PTO Director.

Prior to filing the motion, New Vision sought the consent of Appellee SG Gaming, Inc. (“SG Gaming”) and Intervenor PTO. SG Gaming and the PTO oppose the motion.

I. Background

A. Procedural History and the Current Remand Order

This consolidated appeal arises from two Covered Business Method Reviews (“CBMs”) before the Patent Trial and Appeal Board at the U.S. Patent and Trademark Office (“PTO”). The appeal was argued before the panel on April 2, 2021. The panel issued its opinion on May 13, 2021, which vacated the PTAB’s decision and remanded for further proceedings consistent with the Court’s now-vacated decision in *Arthrex, Inc. v. Smith & Nephew, Inc.*, 941 F.3d 1320 (Fed. Cir. 2019).

After the panel opinion issued, the Supreme Court decided *United States v. Arthrex, Inc.*, 141 S. Ct. 1970 (June 21, 2021). The Supreme Court’s ruling implicated the outcome here, so this Court asked for supplemental briefing. *See* Dkt. No. 102. The June 23 order asked the parties that raised an Appointments Clause challenge to “explain[] how they believe their cases should proceed in light of *Arthrex*.” Dkt. No. 65, at 2. The parties submitted supplemental briefing in July 2021. Dkt. Nos. 104, 105, 106.

On December 3, 2021, the Court issued its remand order in this case. Dkt. No. 110. The order vacated the May 13, 2021, opinion and judgment, and the case was remanded “for the limited purpose of allowing appellant the opportunity to request Director rehearing of the final written decisions.” *Id.* The Court retained jurisdiction over the appeal and set forth certain deadlines for complying with the order. *Id.*

B. The PTO’s Changing Procedures for Addressing *Arthrex*-Based Remands

In light of the Supreme Court’s decision in *Arthrex*, the Court has remanded numerous cases to the PTO, and the PTO has attempted to implement rules and procedures for addressing those remanded cases.

There has been a fair amount of criticism directed to the PTO's handling of the *Arthrex*-based remands.

The PTO has not properly implemented any rules, pursuant to the notice-and-comment process, governing the Director-review proceedings. In the approximately six months since the Supreme Court's *Arthrex* decision, the PTO has not published any notices of proposed rulemaking in the Federal Register concerning its procedures for implementing the *Arthrex*-based Director review. Declaration of David E. Boundy ("Boundy Decl.") ¶¶ 3–6. Nor has the PTO implemented other aspects of typical agency rulemaking that conform to APA requirements or standards. *See infra*; see generally Todd Garvey, *A Brief Overview of Rulemaking and Judicial Review*, Congressional Research Service (Mar. 27, 2017).¹

Rather than the typical rulemaking procedures, the PTO used a different approach: a web page of questions and answers ("Q&A's"), and a webinar by the PTAB's Chief APJ, Deputy Chief APJ, and Vice Chief

¹ <https://sgp.fas.org/crs/misc/R41546.pdf>.

APJ. Ex. B.² The PTO has changed the Q&A webpage frequently since it was created. Boundy Decl. ¶¶ 7–12; Exs. B–D.

C. The PTO Has Consistently Denied Remand Requests Using the Same Boilerplate Language

The outcomes of *Arthrex*-based remands add further reason to be concerned. As of December 15, the PTO has issued 86 decisions on requests for Director review. Boundy Decl. ¶¶ 13–20; Ex. F. With two exceptions, all decisions deny review with no reasoning. Boundy Decl. ¶¶ 13–20; Ex. F. The apparent consistent denial of rehearing requests is confirming what some predicted might happen: That “the Acting Director may be inclined to deny all requests for rehearing, in effect rubber stamping the APJs final determinations.”³

Every decision denying review of a request for Director review is essentially identical. The following snapshot is typical of the Director denials:

² The cited exhibits are included as attachments to the Boundy Declaration.

³ See, e.g., Porter Hedges, *United States v. Arthrex: Power Given To PTAB Patent Judges “Incompatible” With Their Appointment* (June 25, 2021), at <https://www.jdsupra.com/legalnews/united-states-v-arthrex-power-given-to-7664884/>.

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and
FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in this case is the final decision of the agency.

Ex. F; *see also* Boundy Decl. ¶¶ 18–19.

Additionally, the denials in the 86 proceedings do not identify the individual or individuals who were the actual decisionmakers. Boundy Decl. ¶ 20; Ex. F. The denials are unsigned, so it is unclear who the actual decisionmaker is or if there were multiple individuals involved in denying the request for Director review. All of the denials use essentially the same wording—“The request was referred to Mr. Hirshfeld,”—but no decision reveals the actual decisionmaker. Boundy Decl. ¶¶ 18–19; Ex. F. Rather than indicate who denied the request for Director review, the only suggestion is from the PTO's Q&A webpage, which cryptically states that “[r]equests for Director review will be evaluated by an *advisory committee* established by the Director.” Ex. B (emphasis added); Boundy Decl. ¶¶ 12(g). The Q&A webpage does not specify who is on the “advisory committee.” Ex. B. All it provides is that the advisory committee may be

drawn from “various [PTO] business units” such as the “Office of Policy and International Affairs.” *Id.*

No denial of a request for Director review yet contains any statement of reasons explaining why the request was denied. Boundy Decl. ¶¶ 16–20; Ex. F. No denial acknowledges the possibility of a close case requiring closer scrutiny or elaboration. Boundy Decl. ¶¶ 16–20; Ex. F. And only two decisions granted review and modify the PTAB’s final written decision. Boundy Decl. ¶ 16; Ex. F.

ARGUMENT

I. If Remand Is Ordered, The PTO Should Be Required To Issue Proper Rules, Not A Changing Webpage And A Webinar Video, For The *Arthrex* Remand Process

New Vision is not necessarily averse to having the case remanded, as it is one possible outcome New Vision originally sought on appeal. The primary concern now stems from the recent developments and new information, detailed above, and how the PTO has chosen not to implement proper rulemaking procedures.

Rulemaking for the CBM process is governed by 35 U.S.C. § 326(a)(4): “The Director shall prescribe regulations . . . governing [proceedings].” *See also Facebook, Inc. v. Windy City Innovations, LLC*,

973 F.3d 1321, 1350 (Fed. Cir. 2020) (additional views of unanimous panel) (explaining that the PTO Director must “prescribe regulations” in order to promulgate rules); *Aqua Prods., Inc. v. Matal*, 872 F.3d 1290, 1331 (Fed. Cir. 2017) (Moore, J., concurring) (“It is not for courts to second guess Congress’ decision that the Director must effect such rulemaking through regulation.”).

Proper rulemaking is important. This Court’s workload, the stability of the PTAB’s rulings, and the fair treatment of parties all require that the PTO follow the law. If an agency’s underlying rulemaking is defective, adjudications based thereon are subject to collateral attack. *See* 5 U.S.C. § 704; *id.* § 706(2)(D); *Kooritzky v. Reich*, 17 F.3d 1509, 1514 (D.C. Cir. 1994) (holding agency violated § 553 where proposed rulemaking “contain[ed] nothing, not the merest hint, to suggest” that it would amend a regulation).

Under the PTO’s current scheme, there is no question that the PTO has not complied with its rulemaking obligations to ensure the proper procedures for implementing Director-review per *Arthrex*. A changing website and webinar video are not proper rulemaking, and the PTO’s current approach is a far cry from its correct approach when it first

implemented CBM reviews pursuant to the America Invents Act. *See Changes to Implement Transitional Program for Covered Business Method Patents*, 77 Fed. Reg. 7080, 7081 (Feb. 10, 2012) (“The purpose . . . is to establish a more efficient and streamlined patent system that will improve patent quality and limit unnecessary and counterproductive litigation costs.”). The PTO knows how to properly implement the rules and procedures governing AIA proceedings, when it wants to do so.

Further, any rule which an agency intends to have binding effect must be published in the Federal Register. 5 U.S.C. § 552(a)(1)(C) (“Each agency shall separately state and currently publish in the Federal Register for the guidance of the public . . . rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations[.]”); *id.* § 552(a)(1)(E) (same requirement for “each amendment, revision, or repeal of the foregoing”). Without that publication, the rule may be unenforceable. *Id.* § 552(a)(1). The PTO has not published any such notice relating to *Arthrex*-based Director review. Boundy Decl. ¶¶ 3–6; Ex. A.

Another problem with the PTO's current *ad hoc* approach is that it overlooks requirements of the Paperwork Reduction Act. That Act requires a notice-and-comment period that generally tracks the APA's, followed by a filing with and subsequent clearance by the Office of Management and Budget. *See* 44 U.S.C. § 3507; 5 C.F.R. § 1320.3(c)(4)(i) (applying the Paperwork Reduction Act to any "rule of general applicability"); 5 C.F.R. § 1320.8 (procedural roadmap for agency compliance). If an agency fails to follow the procedures required by the Paperwork Act, the agency's decision may be voidable, at least insofar as the agency's decision rests on the agency's sub-statutory law. 44 U.S.C. § 3512; *Center for Auto Safety v. Nat'l Highway Traffic Safety Admin.*, 244 F.3d 144, 148–49 (D.C. Cir. 2001) (limiting a decision of NHTSA because of Paperwork defects); *United States v. Smith*, 866 F.2d 1092, 1096 (9th Cir. 1989) (permitting Paperwork Reduction Act issues to be raised anew even as late as appeal in a court of appeals).

In short, for its *Arthrex*-based Director review process, the PTO has yet to comply with the applicable requirements of APA or the Paperwork Reduction Act. As such, the remand process is operating under a set of

rules that are promulgated “without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

Any remand should order the PTO to comply with the requirements of 35 U.S.C. § 326(a)(4), 5 U.S.C. §§ 552(a)(1)(C) and 553, 44 U.S.C. § 3507, and 5 C.F.R. Part 1320. The APA offers a well-paved road that works well and that other federal agencies routinely follow. For New Vision’s request for Director review under *Arthrex*, the Director could, for example, promulgate an interim rule in the Federal Register, pursuant to 5 U.S.C. § 553(d)(3), and then later undertake notice-and-comment rulemaking. At the very least, Federal Register publication gives the public a reference standard that does not change on a monthly basis. The procedural requirements of the APA and Paperwork Reduction Act ensure that an agency’s procedures are reasonable for both the public and the agency.

II. The PTO Cannot Use An Anonymous “Advisory Committee” For Deciding Requests For Director Review

Another troubling concern with the PTO’s Q&A-based procedure is that it apparently authorizes a so-called “advisory committee” of unknown members to advise on the Director review. Boundy Decl. ¶ 12(g); Ex. B. Using an anonymous “advisory committee” violates due

process and undermines Congress’s intent that AIA reviews are completed by technically skilled administrative patent judges. *See* 35 U.S.C. § 6 (“The administrative patent judges shall be persons of competent legal knowledge and scientific ability . . .”).

From a due process perspective, we should be long past the days of anonymous panels of unknown government employees—particularly when those employees are making important decisions concerning property rights. *See In re Oliver*, 333 U.S. 257, 266–71 (1948). But yet here we are, with an anonymous “advisory committee” fashioned out of whole cloth to play a significant—and perhaps dispositive—role in reviewing the PTAB’s decisions. Given the PTO’s Q&A-based rules and the anonymous “advisory committee,” there is no effective means for a patent owner, a petitioner, or even this Court to assess whether the members of this so-called “advisory committee” comply with the APA’s protections against conflicts of interest, partiality, and *ex parte* communications. This process, without at least some transparency, does not comport with due process.

Moreover, the Appointments Clause requires that reviews be conducted by persons other than those who made the decision under

review. *See Lucia v. SEC*, 138 S. Ct. 2044, 2055 (2018) (“To cure the constitutional error, another ALJ (or the Commission itself) must hold the new hearing to which Lucia is entitled.”). Thus, without any information about the composition of the “advisory committee,” this Court is left in the dark about the agency’s compliance with the law.⁴

In short, the PTO’s chosen path raises the very concerns that New Vision identified in its supplemental brief to the Court:

Lastly, it is also not clear how the PTO will implement new procedures and comply with any necessary rulemaking requirements to avoid further potential problems, such as ensuring no conflicts of interest, ensuring impartiality, and avoiding ex parte communications. Patent owners and patent challengers alike ought to have confidence in the system. Without transparency, there will be no confidence.

Dkt. No. 104, at 10. These concerns—seemingly ignored by the PTO and exacerbated in recent months by the agency’s changing and opaque “rules”—warrant careful consideration before remanding this case. If the case is remanded, this Court ought to impose obligations on the PTO to implement the necessary procedural safeguards as set forth herein.

⁴ Indeed, the PTO’s Q&A states that the “advisory committee” may be drawn from the PTAB itself. For all the PTO has told the public, the panel of the “review committee” might be the same three APJs whose decision is nominally under review.

III. A Decision On Director Review Requires “Findings And Conclusions, And The Reasons Or Basis Therefor,” Not A Boilerplate, Two-Sentence Order

The PTO’s cursory decisions being issued in Director reviews do not comport with the APA. Any remand order must include an instruction to the PTO to provide reasons or bases for its decision of New Vision’s request for Director review. *See* 5 U.S.C. § 557(c). Alternatively, the Court can stay the remand until the PTO has taken the necessary steps to ensure compliance with the APA.

As this Court has recognized, CBM reviews (like IPRs and PGRs) are “formal adjudication” proceedings under the APA. *Dell Inc. v. Acceleron, LLC*, 818 F.3d 1293, 1301 (Fed. Cir. 2016) (explaining how 5 U.S.C. §§ 554, 556, and 557 apply to AIA proceedings). The APA governs decisions on “agency review of the decision of subordinate employees,” 5 U.S.C. § 557(b), and requires a “ruling on each . . . exception presented,” and requires that such “decisions . . . include a statement of... findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record,” *id.* § 557(c).

The APA also sets minimum standards for adjudicatory decisions and requires sufficient explanation to avoid being “arbitrary and capricious.” 5 U.S.C. § 555(e); *id.* § 706(2)(A); *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (“[T]he agency must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.” (quotation omitted)). An agency’s failure to explain its decision is a paradigmatic example of “arbitrary and capricious” decisionmaking, and courts routinely vacate such decisions lacking a sufficient explanation of the agency’s rationale. *See, e.g., In re Lee*, 277 F.3d 1338, 1342 (Fed. Cir. 2002) (“For judicial review to be meaningfully achieved within these strictures, the agency tribunal must present a full and reasoned explanation of its decision.”).

Even when affirming the PTAB, the Director must give some explanation for the decision (with an obvious exception for “self-explanatory” denials that “fully inform” the party making the request). *Cf. Roelofs v. Sec’y of the Air Force*, 628 F.2d 594, 601 (D.C. Cir. 1980). For Director reviews of AIA proceedings, most issues will be complex enough that few denials can be “self-explanatory.” Notably, *Roelofs*

concerns “informal adjudication” under 5 U.S.C. § 557(c), and the standard to explain under § 557(c) is lower than in formal adjudications. The PTO’s 84 denials of requests for Director review do not even meet that lower requirement to explain the agency’s decision. And of course, even discretionary action must be sufficiently explained to avoid being “arbitrary and capricious.” *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1904–05 (2020) (observing that the APA “requires agencies to engage in reasoned decisionmaking, and directs that agency actions be set aside if they are arbitrary or capricious” (internal quotation marks and citation omitted)); *AFL-CIO v. NLRB*, 471 F. Supp. 3d 228, 238 (D.D.C. 2020) (explaining that “‘a board composed of public officials’ may not make discretionary decisions in an ‘arbitrary or capricious’ way or ‘for undisclosed reasons,’ for doing so ‘violate[s] the fundamental principles of justice and due process of law’” (quoting *Goldsmith v. Clabaugh*, 6 F.2d 94, 96 (D.C. Cir. 1925))).

Accordingly, if the Court orders remand after consideration of this motion, New Vision submits that the PTO should be ordered to comply with the requirements of 5 U.S.C. § 557(b) and (c) when it considers New Vision’s request for Director review pursuant to *Arthrex*.

IV. Significant Questions Remain About How The PTO Can Lawfully Implement The *Arthrex* Decision Under Current Circumstances

Other problems remain. First, *Arthrex* requires a review by the PTO Director or Acting Director. *Arthrex*, 141 S. Ct. at 1986. The PTO has no current Director or Acting Director, however. Instead, Drew Hirshfeld is identified as “performing the functions and duties of the Under Secretary of Commerce for Intellectual Property and Director” of the PTO.⁵ He is the Commissioner of Patents, not the Director or the Acting Director. For Commissioner Hirshfeld to ostensibly make the decisions seems to only repeat the constitutional problems the Supreme Court recognized in *Arthrex*.

Second, the PTO’s decision to employ Commissioner Hirshfeld in place of a Director or Acting Director raises fundamental questions under the Federal Vacancies Reform Act (“FVRA”) of 1998. *See* 5 U.S.C. § 3345(a)(3); *see also LM-M v. Cuccinelli*, 442 F. Supp. 3d 1, 36 (D.D.C. 2020) (holding that rules promulgated under a “functions and duties” interim officer cannot be enforced until a Senate-confirmed officer is

⁵ U.S. Patent & Trademark Office, Drew Hirshfeld <https://www.uspto.gov/initiatives/expanding-innovation/national-council-expanding-innovation/drew-hirshfeld> (last visited Dec. 17, 2021).

inaugurated); *Guedes v. Bureau of Alcohol, Tobacco, Firearms*, 920 F.3d 1, 11 (D.C. Cir. 2019) (discussing requirements of Vacancies Reform Act); *NLRB v. SW Gen., Inc.*, 137 S. Ct. 929, 938 (2017) (“Subsection (b)(1) of the FVRA prevents a person who has been nominated for a vacant PAS office from performing the duties of that office in an acting capacity.”).⁶

For these reasons, if remand is ordered, the PTO should stay any action on New Vision’s request for Director review until a new PTO Director is confirmed. The President has nominated a well-qualified individual for the Director position, and the Senate may confirm the nomination in short order.

V. Conclusion

For the foregoing reasons, if the Court continues with the remand of this case to the PTO, then the Court should require the PTO to proceed with New Vision’s request for Director review as follows: (a) apply proper rules and guidance through any necessary rulemaking procedures for New Vision’s request for Director review; (b) to the extent applicable, identify any PTO officials and employees who are involved in and

⁶ A “PAS office” is an office requiring Presidential appointment and Senate confirmation.

substantively contribute to the review of and decision on New Vision's request for Director review or who are part of the "advisory committee," as noted below; (c) instruct the PTO to provide reasons or bases for its decision of New Vision's request for Director review, *see* 5 U.S.C. § 557(c); and (d) stay any review of New Vision's request for Director review until the U.S. Senate confirms a new PTO Director.

Date: December 17, 2021

Respectfully submitted,

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CERTIFICATE OF INTEREST

Counsel for Appellant New Vision Gaming & Development, Inc. states the following:

1. **Represented Entities.** Provide the full names of all entities represented by undersigned counsel in this case. Fed. Cir. R. 47.4(a)(1).

New Vision Gaming & Development, Inc.

2. **Real Party in Interest.** Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities. Fed. Cir. R. 47.4(a)(2).

3. **Parent Corporations and Stockholders.** Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities. Fed. Cir. R. 47.4(a)(3).

None.

4. **Legal Representatives.** List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

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Richard A. Baker, Jr. (patent agent), New England Intellectual
Property, LLC
Steven Martin, Altman & Martin

5. **Related Cases.** Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). See also Fed. Cir. R. 47.5(b).

New Vision Gaming & Development, Inc. v. Bally Gaming Inc.,
2:17-cv-01559-APG-BNW (D. Nev.).

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

None.

I certify the preceding information is accurate and complete to the best of my knowledge.

Date: December 17, 2021

/s/ Matthew J. Dowd

Signature of counsel

Matthew J. Dowd

Counsel for Appellant

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2020-1399, -1400

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

NEW VISION GAMING & DEVELOPMENT, INC.,
Appellant,

v.

SG GAMING, INC., f/k/a Bally Gaming, Inc.,
Appellee,

and

ANDREW HIRSHFELD, Performing the Functions and Duties of the
Undersecretary of Commerce for Intellectual Property and Director of
the United States Patent and Trademark Office,
Intervenor.

On Appeal from United States Patent and Trademark Office, Patent Trial and
Appeal Board in Nos. CBM2018-00005 and CBM2018-00006

**DECLARATION OF DAVID E. BOUNDY IN SUPPORT OF
APPELLANT NEW VISION GAMING & DEVELOPMENT, INC.'S
MOTION FOR RECONSIDERATION OF REMAND ORDER**

DECLARATION

I, David E. Boundy, state and declare as follows:

1. I am an attorney admitted in the state courts of Massachusetts and New York, and several federal courts including the U.S. Court of Appeals for the Federal Circuit.

2. I have personal knowledge of the statements made herein and can attest to the accuracy thereof.

3. As part of my professional activities, I monitor the Federal Register web site regularly, at least weekly.

4. While I have been monitoring the Federal Register, I have not identified any notice from the U.S. Patent and Trademark Office relating to its implementation of *Arthrex* Director review.

5. On December 15, 2021, I performed two follow-up searches to identify any Federal Register notices that include the following search terms: (1) “patent and trademark” AND *Arthrex*; and (2) “patent and trademark” AND “director review.” The searches of the Federal Register can be performed at the following URL: <https://www.federalregister.gov/documents/search>.

6. My searches yielded only five hits, all before June 2021, and all of which are irrelevant to the *Arthrex* Director review. A true and correct copy of the search results is attached as Exhibit A.

7. The *Arthrex Q&A* page (“Q&A Page”) is on the PTO’s website at the following URL: <https://www.uspto.gov/patents/patent-trial-and-appeal-board/procedures/arthrex-qas>. A true and correct copy of the current version of this page, printed on December 16, 2021, is attached as Exhibit B.

8. The Q&A Page has an “updated” date at the top and bottom of the page. The current version on the PTO’s web site has an “updated” date of December 4, 2021.

9. In addition, I have reviewed the Internet Wayback Machine, which stores numerous versions of the *Arthrex Q&A* page between June 29, 2021, and today. A printout of the Internet Wayback Machine results for this webpage are provided as Exhibit C.

10. Both the Wayback Machine timestamps (Exhibit C) and the “updated” dates at the top of the Q&A Pages (Exhibits B and D) agree that the *Arthrex Q&A* page was initially created on approximately June 29, 2021, and updated on July 20, 2021, and on December 4, 2021.

11. The December 4, 2021, version (from the PTO’s web site as of December 16, 2021) is attached as Exhibit B. The versions from June and July (from the Wayback Machine) are attached as Exhibit D.

12. Based on my review, from June 2021 to December 2021, the following parts of the *Arthrex Q&A* page have changed:

- (a) Answer A3 is changed to clarify the interaction of panel rehearing and Director rehearing.
- (b) Answers A6, A7, A8, and A9 are new. Answer A6 discusses *sua sponte* Director review, a topic not considered in the original June version.
- (c) Answer A7 is new, it explains that circumstances exist in which the Director might consider new evidence or new arguments, but it gives no insight into what those circumstances might be or how to request review based on new evidence or new arguments.
- (d) Answer A8 states page limits, a topic that was entirely absent from the June original Q&A.
- (e) Answer A9 states that the PTO will not entertain Director review requests for institution and *ex parte* appeal decisions, a topic not discussed in the June original Q&A.
- (f) In answer B2, the last sentence is added to explain that the deadline of 30 days to request review runs from any remand from a federal court.
- (g) Answers D1, D2, and D3 are new. Answers D1 and D2 note the existence of the “advisory committee,” an element of the Director review process that was absent from the June original Q&A.
- (h) Answer D3 explains that the Director may order review *sua sponte*, or on recommendation of the PTAB’s “internal

management review team that ensures all PTAB written decisions are reviewed.”

13. I also searched for and compiled decisions on Director review at the PTO’s PTAB search page, <https://developer.uspto.gov/ptab-web/#/search/decisions>, and on Westlaw. Searching for “Director review” gave no useful result in either. It appears that only a handful of Director review decisions have been included in the PTAB’s searchable database or in Westlaw.

14. I also searched the private compilation of PTAB decisions maintained by Unified Patents, at the following link: <https://portal.unifiedpatents.com/ptab/caselist>. I performed a search for: “request for Director review” OR “requests Director review.” The results of that search are attached as Exhibit E.

15. From my searches, I identified 86 proceedings in which a Director review decision had been issued between July and December 15, 2021. Some of the decisions covered multiple proceedings. After removing duplicate orders (*i.e.*, an order applicable to more than one AIA proceeding), I downloaded 45 decisions on requests for Director review that cover those 86 proceedings. These 45 decisions are attached as Exhibit F.

16. Of the 86 proceedings involving a request for Director review under *Arthrex*, the request for Director review was granted only twice. These two are the last two decisions included in Exhibit F.

17. Of the 84 decisions denying Director review, all are essentially identical. The minor changes are limited to listing the proceeding number and/or singular or plural forms depending on whether the decisions cover a single or multiple proceedings. Even the paper number for the request (Ex. 3100) is identical in the vast majority of the decisions denying review. *See* Ex. F.

18. Among the 84 denial decisions, there are only two variations in the second paragraph, depending on singular or plural:

It is ORDERED that the request for Director review is denied; and

It is ORDERED that the request for Director review in each case is denied;
and

19. Among the 84 denial decisions, there are only three variations of the last paragraph:

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in this case is the final decision of the agency.

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

20. Other than the designation "Before ANDREW HIRSHFELD, Commissioner for Patents" legend at the beginning of each decision, none of the decisions denying review includes the name of any decisionmaker or the signature of the PTO officials or employees involved in the review process.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 17, 2021.

Respectfully submitted,

/David E. Boundy/

David E. Boundy
P.O. Box 590638
Newton, MA 02459
DavidBoundyEsq@gmail.com

Exhibit A

Searches of federalregister.gov for notices
relating to Director review



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The Daily Journal of the United States Government



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Inventions and patents 1

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SECTION

Business & Industry 1

Science & Technology 1

Did you mean the 28 documents matching "patent and trademark" AND arthritis ?

DOCUMENTS FOUND 1

RELEVANT NEWEST OLDEST

Setting and Adjusting Patent Fees During Fiscal Year 2020

by the Patent and Trademark Office on 08/03/2020.

ACTION: Final rule. SUMMARY: The United States Patent and Trademark Office (Office or USPTO) sets or adjusts patent fees as authorized by the ... considerably lower than the FY 2019 actual unit cost. As a result of the SAS and Arthrex Inc. v. Smith & Nephew, Inc., 941 F.3d 1320 (Fed. Cir....

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- Business & Industry
- Health & Public Welfare

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Find "patent and trademark" AND "director review" 4 documents

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Other Formats: CSV/Excel, JSON

TYPE	DOCUMENTS FOUND	4	RELEVANT	NEWEST	OLDEST
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AGENCY					
Personnel Management Office	4				
SECTION					
Health & Public Welfare	4				
Money	4				

(N)	SES Positions That Were Career Reserved During CY 2009	by the Personnel Management Office on 08/05/2010.	
	Director, Office Of Pacific Marine Environmental Laboratory Patent And Trademark Office Associate Commissioner For Patent Recourses And Planning ... Assurance Officer Director, Mission Support Division Director, Review And Assessment Division Director, Safety And Assurance Requirements		
(N)	SES Positions That Were Career Reserved During 2006	by the Personnel Management Office on 04/03/2007.	
	NETWORKS DIVISION DEPUTY DIRECTOR FOR SYSTEMS AND NETWORKS. PATENT AND TRADEMARK OFFICE PATENT EXAMINING GROUP DIRECTOR. OFFICE OF THE GENERAL ... DIRECTOR, SAFETY AND ASSURANCE REQUIREMENTS DIVISION. DIRECTOR, REVIEW AND ASSESSMENT DIVISION. AERONAUTICS RESEARCH MISSION DIRECTORATE		
(N)	SES Positions That Were Career Reserved During 2005	by the Personnel Management Office on 03/10/2006.	Site Feedback
	Networks Division Deputy Director for Systems and Networks. Patent and Trademark Office Deputy Administrator for Legislative and International Affairs ... Director, Safety and Assurance Requirements Division. Director, Review and Assessment Division. Aeronautics Research Mission Directorate		
(N)	SES Positions That Were Career Reserved During 2003	by the Personnel Management Office on 03/22/2004.	
	Networks Division Deputy Director for Systems and Networks. Patent and Trademark Office Deputy Administrator for Legislative and International Affairs ... Office Director, Safety and Assurance Requirements Division. Director, Review and Assessment Division. Global Hydrology Research Office...		

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Exhibit B

PTO's *Arthrex Q&A* pages, December
update, from
<https://www.uspto.gov/patents/patent-trial-and-appeal-board/procedures/arthrex-qas> (printed
Dec. 16, 2021)



Arthrex Q&As

The **Arthrex Q&As** were updated on December 4, 2021, to add new question A9 in response to questions and comments from stakeholders. The Office expects to provide additional information and updates soon.

A. Effect of **Arthrex** on PTAB proceedings general

A1. Q: How are PTAB proceedings impacted by **Arthrex**?

A: **Arthrex** provided the Director authority to review a PTAB final decision in an inter partes review by rehearing. If initiated *sua sponte* by the Director, the parties to the proceeding will be given notice and may be given an opportunity for briefing. Additionally, parties to a PTAB proceeding will be able to request review. The Director's review may address any issue, including issues of fact and issues of law, and will be *de novo*.

A2. Q: What is the mechanism to request review by the Director?

A: As an interim measure, the mechanism to request review by the Director is similar to the current rehearing procedures under 37 C.F.R. 42.71(d) and Standard Operating Procedure 2. Parties may request Director review of a final decision by concurrently (1) entering a Request for Rehearing by the Director into PTAB E2E and (2) submitting a notification of the Request for Rehearing by the Director to the Office by email to Director_PTABDecision_Review@uspto.gov (mailto:Director_PTABDecision_Review@uspto.gov), copying counsel for all parties by email. The filed Request for Rehearing by the Director must satisfy the timing requirements of 37 C.F.R. 42.71(d), i.e., filing within 30 days of the entry of a final written decision or a decision granting rehearing by a PTAB panel. A timely Request for Rehearing by the Director will be considered a request for rehearing under 37 C.F.R. 90.3(b) and will reset the time for appeal or civil action as set forth in that rule.

A3. Q: Can a party request both Director review and panel rehearing after issuance of a final written decision?

A: No, after a panel issues a final written decision in an inter partes review or a post-grant review, a party may request either Director review or rehearing by the original PTAB panel, but may not request both. If a party requests Director review, and that review is not granted, the party may not then request PTAB panel rehearing. If a party requests rehearing by the original PTAB panel and the panel denies rehearing, the party may not request Director review of that decision. In the event a panel grants rehearing, however, a party may request Director review of that panel decision following the same procedure described above. If a party requests both Director review and panel rehearing (either together, or in the alternative) of a final written decision or a decision granting rehearing by a PTAB panel, the Office will treat such a request as a request for Director review.

A4. Q: Will the USPTO provide more information about the Director review process?

A: Yes, the current process is envisioned as an interim procedure that may change based on input from the public and experience with conducting Director reviews. More information and updates will be provided in the near term to facilitate transparency of the process.

A5. Q: Will the USPTO seek public feedback on the Director review process?

A: Yes, the USPTO will seek feedback from the public on the Director review process, including after the Office provides additional information and updates in the near term. Information on how to provide feedback on the interim procedure is below.

A6. Q: When might the Director *sua sponte* initiate Director review?

A: The Director has the option to *sua sponte* initiate Director review of any final written decision or corresponding decision on rehearing (whether denying or granting rehearing) at any point before the filing of a notice of appeal under 37 C.F.R. § 90.3 or before the time for filing such a notice has passed.

A7. Q: Can a party make new arguments or submit new evidence with a Request for Rehearing by the Director?

A: No, although the Director's review will address any issue *de novo*, a request for Director review is not an opportunity for a party to make new arguments or submit new evidence. However, the Director may choose to request additional briefing on identified issues, and, in appropriate circumstances, provide the parties with an opportunity to submit new evidence.

A8. Q: Are there page limits for a Request for Rehearing by the Director?

A: Yes, the page limit for a Request for Rehearing by the Director is 15 pages, similar to current page limits under 37 C.F.R. 42.24(a)(1)(v).

A9. Q: Can parties request Director review of decisions on institution and ex parte appeals decisions?

A: At this time, the Office does not accept requests for Director review of decisions on institution and ex parte appeals decisions; parties may only request Director review of final written decisions issued in inter partes reviews and post-grant reviews.

B. Effect of **Arthrex** on ongoing PTAB proceedings

B1. Q: When will a Request for Rehearing by the Director be considered timely?

A: The time for filing a request for rehearing is set forth in 37 C.F.R. § 42.71(d) and requires a party to request rehearing within 30 days of the entry of a final written decision. Those same time requirements apply to the filing of a Request for Rehearing by the Director.

B2. Q: Will the USPTO accept a late-filed Request for Rehearing by the Director?

A: As a general matter, the Director will not consider untimely requests for rehearing of decisions. However, the Director may choose to extend the rehearing deadline for good cause if a party requests such an extension before the due date for a request for rehearing. Parties whose deadline for

requesting rehearing had expired at the time the *Arthrex* decision issued may request a waiver of the deadline, so long as they request the waiver before the due date for filing a notice of appeal under 37 C.F.R. § 90.3. A request for Director review in a case where a decision has been remanded to the USPTO by a federal court for further proceedings consistent with *Arthrex* will be considered timely if the party requests Director review within 30 days of the remand order.

B3. Q: Will the Precedential Opinion Panel (POP) process remain in effect?

A: Yes, the POP process is unchanged at this time. However, the Office will be reviewing the POP process in view of the Director review process and welcomes public suggestions regarding potential changes.

B4. Q: May third parties request Director review of a particular case?

A: No, third parties may not request Director review of a particular case.

B5. Q: May third parties submit comments concerning Director review of a particular case?

A: At this time, third parties may not submit comments concerning Director review of a particular case unless such participation is requested by the Director.

C. For additional questions about *Arthrex*

C1. Q: Will the USPTO charge a fee for a Request for Rehearing by the Director?

A: During implementation of the interim procedure, the USPTO will not charge a fee for a Request for Rehearing by the Director. The USPTO will consider whether to charge a fee for such requests in the future.

C2. Q: If a party has additional questions regarding the implications of *Arthrex* for a specific proceeding, what should the party do?

A: Submit case-specific questions (e.g., request a call with the Board) via email to Trials@uspto.gov (<mailto:Trials@uspto.gov>).

C3. Q: If a member of the public has a general question regarding *Arthrex*, but does not have a case pending before the Board, what should they do?

A: Submit general *Arthrex*-related questions via email to Trials@uspto.gov (<mailto:Trials@uspto.gov>).

C4. Q: If a member of the public has a suggestion about the Director review process, what should they do?

A: Submit Director review suggestions via email to Director_Review_Suggestions@uspto.gov (mailto:Director_Review_Suggestions@uspto.gov).

D. Interim internal process for Director review

D1. Q: What happens to a Director review request when it is received by the USPTO?

A: Requests for Director review will be evaluated by an advisory committee established by the Director. That committee will advise the Director on whether decisions merit review. The advisory committee will include members from various business units within the Office, such as the Office of the Under Secretary, the PTAB, the Office of the Commissioner for Patents, the Office of the General Counsel, and the Office of Policy and International Affairs. The Director will determine whether review will be granted or denied.

D2. Q: What criteria does the advisory committee use when evaluating Director review requests?

A: Although there is no exclusive list of criteria, decisions may warrant review if they include, for example, material errors of fact or law, matters that the Board misapprehended or overlooked, novel issues of law or policy, issues on which Board panel decisions are split, issues of particular importance to the Office or patent community, or inconsistencies with Office procedures, guidance, or decisions.

D3. Q: How will the Director identify decisions for *sua sponte* Director Review?

A: Even if a party does not request Director review, the Director may choose to conduct a *sua sponte* Director review of any final written decision or corresponding decision on rehearing (whether denying or granting rehearing). The PTAB has an internal management review team that ensures all PTAB final written decisions are reviewed using many of the same criteria noted above. The internal management review team will alert the Director to decisions that may warrant Director review.

Submit feedback about this page to Patent Trial and Appeal Board.

Published on: Jun 29, 2021 10:11 AM EDT

Last Modified: Dec 3, 2021 11:33 AM EST

Exhibit C

Wayback Machine display of capture d
versions of *Arthrex Q&A* pages, from
[https://web.archive.org/web/*/https://w
ww.uspto.gov/patents/patent-trial-
and-appeal-board/procedures/arthrex-
qas](https://web.archive.org/web/*/https://www.uspto.gov/patents/patent-trial-and-appeal-board/procedures/arthrex-qas)



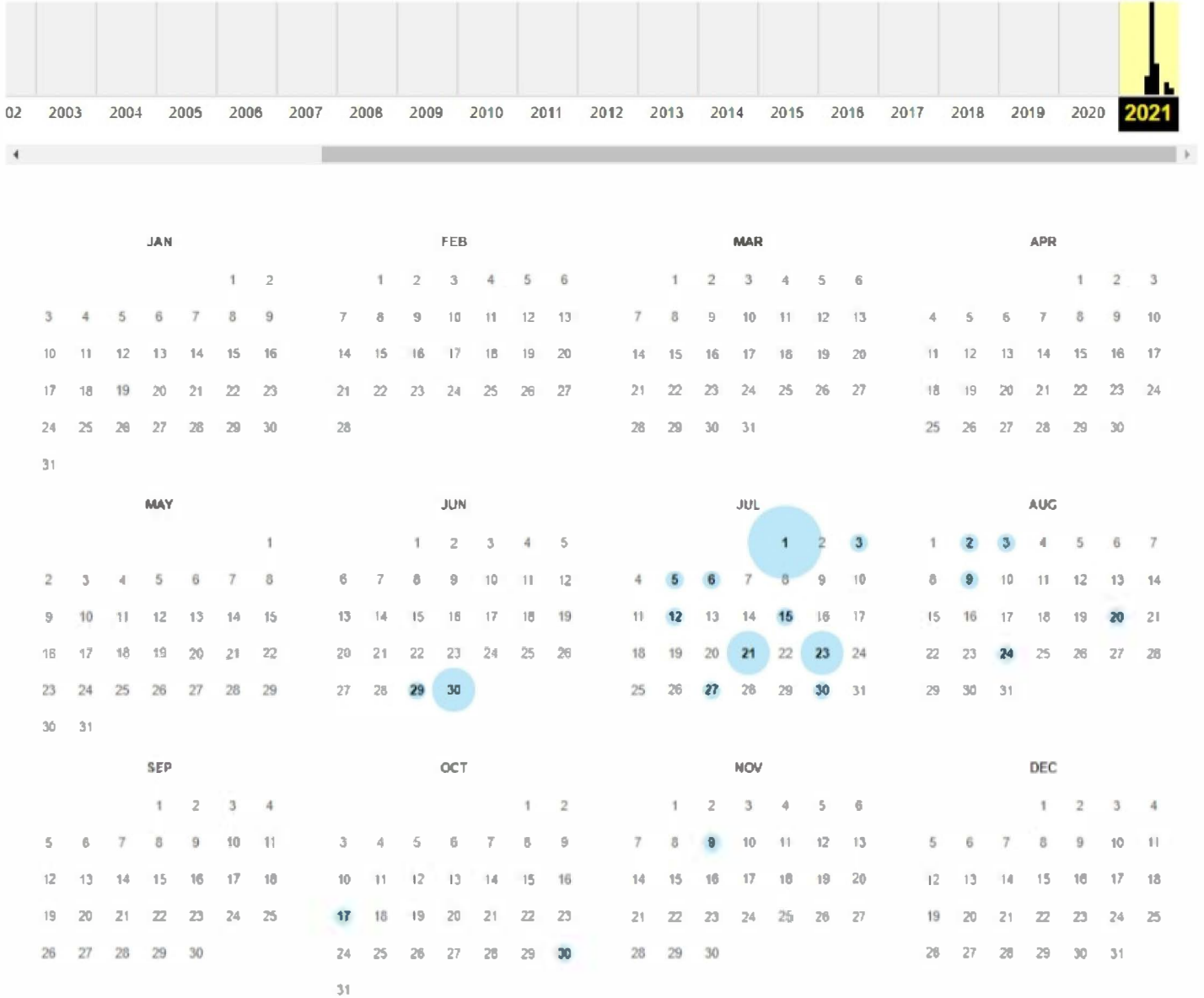
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Saved 26 times between June 29, 2021 and November 9, 2021.



Note

This calendar view maps the number of times <https://www.uspto.gov/patents/patent-trial-and-appeal-board/procedures/arthrex-qas> was crawled by the Wayback Machine, not how many times the site was actually updated. More info in the [FAQ](#).

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The Wayback Machine is an initiative of the Internet Archive, a 501(c)(3) non-profit, building a digital library of Internet sites and other cultural artifacts in digital form. Other projects include Open Library & archive-it.org.

C-1

Exhibit D

Back versions of *Arthrex Q&A* page, from
June 2021 and July 2021, as recovered
from the Wayback Machine

The Wayback Machine - <https://web.archive.org/web/20211109113718/https://www.uspto.gov/patents/patent-trial-and-appeal-board/procedures/arthrex-qas>



Arthrex Q&As

The *Arthrex* Q&As were updated on July 20, 2021, to add new questions A6–A8 and D1–D3 and modify questions A2, A3, and B2 for clarity in response to questions and comments from stakeholders. The Office expects to provide additional information and updates soon.

A. Effect of *Arthrex* on PTAB proceedings general

A1. Q: How are PTAB proceedings impacted by *Arthrex*?

A: *Arthrex* provided the Director authority to review a PTAB final decision in an inter partes review by rehearing. If initiated *sua sponte* by the Director, the parties to the proceeding will be given notice and may be given an opportunity for briefing. Additionally, parties to a PTAB proceeding will be able to request review. The Director's review may address any issue, including issues of fact and issues of law, and will be *de novo*.

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order.

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C2. Q: If a party has additional questions regarding the implications of *Arthrex* for a specific proceeding, what should the party do?

A: Submit case-specific questions (e.g., request a call with the Board) via email to Trials@uspto.gov (<https://web.archive.org/web/20211109113718/mailto:Trials@uspto.gov>).

C3. Q: If a member of the public has a general question regarding *Arthrex*, but does not have a case pending before the Board, what should they do?

A: Submit general *Arthrex*-related questions via email to Trials@uspto.gov (<https://web.archive.org/web/20211109113718/mailto:Trials@uspto.gov>).

C4. Q: If a member of the public has a suggestion about the Director review process, what should they do?

A: Submit Director review suggestions via email to Director_Review_Suggestions@uspto.gov (https://web.archive.org/web/20211109113718/mailto:Director_Review_Suggestions@uspto.gov).

D. Interim internal process for Director review

D1. Q: What happens to a Director review request when it is received by the USPTO?

A: Requests for Director review will be evaluated by an advisory committee established by the Director. That committee will advise the Director on whether decisions merit review. The advisory committee will include members from various business units within the Office, such as the Office of the Under Secretary, the PTAB, the Office of the Commissioner for Patents, the Office of the General Counsel, and the Office of Policy and International Affairs. The Director will determine whether review will be granted or denied.

D2. Q: What criteria does the advisory committee use when evaluating Director review requests?

A: Although there is no exclusive list of criteria, decisions may warrant review if they include, for example, material errors of fact or law, matters that the Board misapprehended or overlooked, novel issues of law or policy, issues on which Board panel decisions are split, issues of particular importance to the Office or patent community, or inconsistencies with Office procedures, guidance, or decisions.

D3. Q: How will the Director identify decisions for *sua sponte* Director Review?

A: Even if a party does not request Director review, the Director may choose to conduct a *sua sponte* Director review of any final written decision or corresponding decision on rehearing (whether denying or granting rehearing). The PTAB has an internal management review team that ensures all PTAB final written decisions are reviewed using many of the same criteria noted above. The internal management review team will alert the Director to decisions that may warrant Director review.

Submit feedback about this page to Patent Trial and Appeal Board.

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The Wayback Machine - <https://web.archive.org/web/20210629154420/https://www.uspto.gov/patents/patent-trial-and-appeal-board/procedures/arthrex-qas>



Arthrex Q&As

A. Effect of *Arthrex* on PTAB proceedings general

A1. Q: How are PTAB proceedings impacted by *Arthrex*?

A: *Arthrex* provided the Director authority to review a PTAB final decision in an inter partes review by rehearing. If initiated sua sponte by the Director, the parties to the proceeding will be given notice and may be given an opportunity for briefing. Additionally, parties to a PTAB proceeding will be able to request review. The Director's review may address any issue, including issues of fact and issues of law, and will be de novo.

A2. Q: What is the mechanism to request review by the Director?

A: As an interim procedure, similar to the current rehearing procedures under 37 C.F.R. 42.71(d) and Standard Operating Procedure 2, parties may request Director review of a final decision by concurrently (1) entering a Request for Rehearing by the Director into PTAB E2E and (2) submitting a notification of the Request for Rehearing by the Director to the Office by email to Director_PTABDecision_Review@uspto.gov (https://web.archive.org/web/20210629154420/mailto:Director_PTABDecision_Review@uspto.gov), copying counsel for all parties by email. The filed Request for Rehearing by the Director must satisfy the timing requirements of 37 C.F.R. 42.71(d), filing within 30 days of the entry of a final written decision or a decision on rehearing by a PTAB panel. A timely Request for Rehearing by the Director will be considered a request for rehearing under 37 C.F.R. 90.3(b) and will reset the time for appeal or civil action as set forth in that rule.

A3. Q: Can a party request Director review or, in the alternative, panel rehearing?

A: Yes, after a final written decision is issued by a panel in an inter partes review or a post-grant review, a party may request Director review or, in the alternative, rehearing by the original PTAB panel. However, if the party requests only Director review, and that review is not granted, it may not then request PTAB panel rehearing. In the event panel rehearing is granted, parties will be permitted to request Director review of the panel rehearing decision following the same procedure described above, whether or not they originally requested Director review.

A4. Q: Will the USPTO provide more information about the Director review process?

A: Yes, the current process is envisioned as an interim procedure that may change based on input from the public and experience with conducting Director reviews. More information and updates will be provided in the near term to facilitate transparency of the process.

A5. Q: Will the USPTO seek public feedback on the Director review process?

A: Yes, the USPTO will seek feedback from the public on the Director review process, including after the Office provides additional information and updates in the near term. Information on how to provide feedback on the interim procedure is below.

B. Effect of *Arthrex* on ongoing PTAB proceedings

B1. Q: When will a Request for Rehearing by the Director be considered as timely?

A: The time for filing a request for rehearing is set forth in 37 C.F.R. § 42.71(d) and requires a party to request rehearing within 30 days of the entry of a final written decision. Those same time requirements apply to the filing of a Request for Rehearing by the Director.

B2. Q: Will the USPTO accept a late-filed Request for Rehearing by the Director?

A: As a general matter, the Director will not consider untimely requests for rehearing of decisions. However, the Director may choose to extend the rehearing deadline for good cause if a party requests such an extension before the due date for a request for rehearing. Parties whose deadline for requesting rehearing had expired at the time the *Arthrex* decision issued may request a waiver of the deadline, so long as they request the waiver before the due date for filing a notice of appeal under 37 C.F.R. § 90.3.

B3. Q: Will the Precedential Opinion Panel (POP) process remain in effect?

A: Yes, the POP process is unchanged at this time. However, the Office will be reviewing the POP process in view of the Director review process and welcomes public suggestions regarding potential changes.

B4. Q: May third parties request Director review of a particular case?

A: No, third parties may not request Director review of a particular case.

B5. Q: May third parties submit comments concerning Director review of a particular case?

A: At this time third parties may not submit comments concerning Director review of a particular case unless such participation is requested by the Director.

C. For additional questions about *Arthrex*

C1. Q: Will the USPTO charge a fee for a Request for Rehearing by the Director?

A: During implementation of the interim procedure, the USPTO will not charge a fee for a Request for Rehearing by the Director. The USPTO will consider whether to charge a fee for such requests in the future.

C2. Q: If a party has additional questions regarding the implications of *Arthrex* for a specific proceeding, what should the party do?

A: Submit case-specific questions (e.g., request a call with the Board) via email to trials@uspto.gov (<https://web.archive.org/web/20210629154420/mailto:trials@uspto.gov>).

C3. Q: If a member of the public has a general question regarding *Arthrex*, but does not have a case pending before the Board, what should they do?

A: Submit general *Arthrex*-related questions via email to trials@uspto.gov. (<https://web.archive.org/web/20210629154420/mailto:trials@uspto.gov>).

C4. Q: If a member of the public has a suggestion about the Director review process, what should they do?

A: Submit Director review suggestions via email to Director_Review_Suggestions@uspto.gov (https://web.archive.org/web/20210629154420/mailto:Director_Review_Suggestions@uspto.gov).

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Exhibit E

Decisions on Director review— Search results from Unified Patents search

Case #	Patent #	Petitioner	Patent Owner
IPR2020-00679	8626314	Axonics Modulation Technologies, Inc. Axonics, Inc.	Medtronic, Inc.
#73, 2021-12-06, Order Denying Request for Director Review			
IPR2020-00715	8036756	Axonics Modulation Technologies, Inc. Axonics, Inc. KILPATRICK TOWNSEND & STOCKTON LLP	Medtronic, Inc. PAUL HASTINGS LLP
#74, 2021-12-06, Order Denying Request for Director Review			
IPR2020-00634	7749581	Nokia Neenah, Inc.	Nucoat, Inc. Jodi A. Schwendimann
#41, 2021-11-22, Order Denying Request for Director Review			
IPR2020-00628	RE41623	Avery Products Corporation Neenah, Inc. Nokia	Nucoat, Inc. Jodi A. Schwendimann Jodi A. Dalvey f/k/a JODI A. DALVEY NUCOAT, INC. JODI A. SCHWENDIMANN NUCOAT, INC
#31, 2021-12-06, Order Denying Request for Director Review			
IPR2020-00629	7754042	Nokia Avery Products Corporation Neenah, Inc.	Nucoat, Inc. Jodi A. Schwendimann f/k/a JODI A. DALVEY NUCOAT, INC.
#41, 2021-11-22, Order Denying Request for Director Review			
IPR2020-00644	7749581	STAHL'S Inc	Nucoat, Inc. Jodi A. Schwendimann Jodi A. Dalvey f/k/a JODI A. DALVEY NUCOAT, INC.
#37, 2021-11-22, Order Denying Request for Director Review			
IPR2020-00633	RE41623	STAHL'S Inc	Nucoat, Inc. Jodi A. Schwendimann Jodi A. Dalvey f/k/a JODI A. DALVEY NUCOAT, INC. JODI A. SCHWENDIMANN NUCOAT, INC
#42, 2021-12-06, Order Denying Request for Director Review			

[IPR2020-00635](#) [7754042](#) STAHL'S Inc

Nucoat, Inc.
Jodi A. Schwendimann
f/k/a JODI A. DALVEY
NUCOAT, INC.

[#49, 2021-11-22, Order Denying Request for Director Review](#)

[IPR2020-00641](#) [RE41623](#) STAHL'S Inc

Nucoat, Inc.
Jodi A. Schwendimann
Jodi A. Dalvey
f/k/a JODI A. DALVEY
NUCOAT, INC.
JODI A. SCHWENDIMANN
NUCOAT, INC

[#44, 2021-12-06, Order Denying Request for Director Review](#)

[IPR2020-00476](#) [9198565](#) Samsung
Samsung Electronics Co., Ltd
Samsung Electronics America, Inc.

Cellect, LLC

[#35, 2021-08-27, Order Denying Request for Director Review](#)

[IPR2020-00477](#) [9667896](#) Samsung
Samsung Electronics Co., Ltd
Samsung Electronics America, Inc.

Cellect, LLC

[#35, 2021-08-27, Order Denying Request for Director Review](#)

[IPR2020-00557](#) [6784460](#) Cree, Inc.

Document Security Systems, Inc.

[#39, 2021-10-15, Order Denying Request for Director Review](#)

[IPR2020-00478](#) [8389070](#) Favored Tech Corporation

P21 Ltd.
P2I Ltd.

[#33, 2021-11-22, Order Denying Request for Director Review](#)

[IPR2020-00338](#) [6839751](#) Juniper Networks, Inc.
Palo Alto Networks, Inc.

Packet Intelligence LLC

[#50, 2021-11-22, Order Denying Request for Director Review](#)

[IPR2020-00337](#) [6771646](#) Juniper Networks, Inc.
Palo Alto Networks, Inc.

Packet Intelligence LLC

[#50, 2021-11-22, Order Denying Request for Director Review](#)

[IPR2020-00486](#) [6954789](#) Juniper Networks, Inc.
Palo Alto Networks, Inc.

Packet Intelligence LLC

[#49, 2021-11-22, Order Denying Request for Director Review](#)

[IPR2020-00339](#) [6954789](#) Juniper Networks, Inc.
Palo Alto Networks, Inc.

Packet Intelligence LLC

[#50, 2021-11-22, Order Denying Request for Director Review](#)

IPR2020-00336	6665725	Juniper Networks, Inc. Palo Alto Networks, Inc.	Packet Intelligence LLC
#50, 2021-11-22, Order Denying Request for Director Review			
IPR2020-00320	7446338	Samsung Samsung Display Co., Ltd. Apple, Inc	Solas Oled, Ltd. Solas OLED Limited
#38, 2021-08-02, Order Denying Request for Director Review			
IPR2020-00081	10270816	Google LLC	Hammond Development International, Inc. HAMMOND DEVELOPMENT INTERNATIONAL, INC
#39, 2021-08-02, Order Denying Request for Director Review			
IPR2020-00136	RE45776	Medtronic, Inc. Medtronic Vascular, Inc.	Teleflex Innovations S.A.R.L.
#108, 2021-08-27, Order Denying Request for Director Review			
IPR2020-00129	RE45380	Medtronic, Inc. Medtronic Vascular, Inc. Medtronic, Plc	Teleflex Innovations S.A.R.L.
#130, 2021-08-27, Order Denying Request for Director Review			
IPR2020-00135	RE45776	Medtronic, Inc. Medtronic Vascular, Inc.	Teleflex Innovations S.A.R.L.
#131, 2021-08-27, Order Denying Request for Director Review			
IPR2020-00134	RE45760	Medtronic, Inc. Medtronic Vascular, Inc.	Teleflex Innovations S.A.R.L.
#127, 2021-08-27, Rehearing:Decision on Request for Rehearing			
IPR2020-00132	RE45760	Medtronic, Inc. Medtronic Vascular, Inc.	Teleflex Innovations S.A.R.L.
#130, 2021-08-27, Rehearing:Decision on Request for Rehearing			
IPR2020-00137	RE47379	Medtronic Vascular, Inc. Medtronic, Inc. Medtronic, Plc	Teleflex Innovations S.A.R.L.
#133, 2021-08-27, Order Denying Request for Director Review			
IPR2020-00127	8048032	Medtronic Vascular, Inc. Medtronic, Inc.	Teleflex Innovations S.A.R.L.
#109, 2021-08-27, Order Denying Request for Director Review			
IPR2020-00138	RE47379	Medtronic, Inc. Medtronic Vascular, Inc. Medtronic, Plc	Teleflex Innovations S.A.R.L.

[#109, 2021-08-27, Order Denying Request for Director Review](#)

IPR2020-00130	RE45380	Medtronic, Inc. Medtronic Vascular, Inc. Medtronic, Plc	Teleflex Innovations S.A.R.L.
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[#107, 2021-08-27, Order Denying Request for Director Review](#)

IPR2020-00126	8048032	Medtronic, Inc. Medtronic Vascular, Inc.	Teleflex Innovations S.A.R.L.
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[#132, 2021-08-27, Rehearing:Decision on Request for Rehearing](#)

IPR2020-00128	RE45380	Medtronic Vascular, Inc. Medtronic, Inc. Medtronic, Plc	Teleflex Innovations S.A.R.L.
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[#132, 2021-08-27, Order Denying Request for Director Review](#)

IPR2020-00002	8257723	Palette Life Sciences, Inc.,	Incept LLC
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[#75, 2021-11-22, Order Denying Request for Director Review](#)

IPR2020-00004	7744913	Palette Life Sciences, Inc.,	Incept LLC
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[#75, 2021-11-22, Order Denying Request for Director Review](#)

PGR2019-00062	10143728	Galderma SA Galderma Laboratories Inc. Galderma Laboratories LP Galderma Research & Development SNC Nestle Skin Health S.A. Nestle S.A. Nestl Skin Health S.A. NESTLÉ SKIN HEALTH S.A NESTLÉ S.A	Medy-Tox, Inc. Medy-Tox, Inc.
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[#72, 2021-09-17, Order Denying Request for Director Review](#)

IPR2019-01148	8046899	Club Champion LCC, CLUB CHAMPION LLC	True Spec Golf LLC, TRUE SPEC GOLF LLC
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[#93, 2021-11-22, Order Denying Request for Director Review](#)

IPR2019-01105	8718543	Volkswagen Group of America, Inc.	Carucel Investments, L.P.
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[#32, 2021-12-06, Order Denying Request for Director Review](#)

IPR2019-01101	7221904	Volkswagen Group of America, Inc.	Carucel Investments, L.P.
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[#36, 2021-12-06, Order Denying Request for Director Review](#)

IPR2019-01103	7979023	Volkswagen Group of America, Inc.	Carucel Investments, L.P.
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[#33, 2021-12-06, Order Denying Request for Director Review](#)

IPR2019-01102	7848701	Volkswagen Group of America, Inc.	Carucel Investments, L.P.
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[#33, 2021-12-06, Order Denying Request for Director Review](#)

[IPR2019-01079](#) [7979023](#) Unified Patents, LLC
[#41, 2021-12-06, Order Denying Request for Director Review](#)

Carucel Investments, L.P.

[IPR2019-00929](#) [9774703](#) Ingenico Inc.
[#57, 2021-12-06, Order Denying Request for Director Review](#)

Ioengine, LLC
 IOENGINE, LLC

[IPR2019-00879](#) [9059969](#) Ingenico Inc.
[#73, 2021-12-06, Order Denying Request for Director Review](#)

Ioengine, LLC
 IOENGINE, LLC

[IPR2019-00582](#) [6451572](#) Associated British Foods PLC,
 AB Vista Inc.
 PGP International, Inc
 Abitech Corporation
 AB Enzymes GmbH
 Abitec Corporation
[#126, 2021-10-15, Order Denying Request for Director Review](#)

Cornell Research Foundation, Inc.

[IPR2019-00579](#) [7829318](#) Associated British Foods PLC,
 AB Vista Inc.
 PGP International, Inc
 Abitech Corporation
 AB Enzymes GmbH
 Abitec Corporation
 AB ENZYMES, INC
 AB ENZYMES GMBH
[#127, 2021-10-15, Order Denying Request for Director Review](#)

Cornell Research Foundation, Inc.

[IPR2019-00578](#) [8455232](#) Associated British Foods PLC,
 AB Vista Inc.
 PGP International, Inc
 Abitech Corporation
 AB Enzymes GmbH
 AZ Enzymes GmbH
 Abitec Corporation
 AB ENZYMES, INC
 AB ENZYMES GMBH
[#127, 2021-10-15, Order Denying Request for Director Review](#)

Cornell Research Foundation, Inc.

[IPR2019-00580](#) [7312063](#) Associated British Foods PLC,
 AB Vista Inc.
 PGP International, Inc
 Abitech Corporation
 AB Enzymes GmbH
 Abitec Corporation

Cornell Research Foundation, Inc.

[#126, 2021-10-15, Order Denying Request for Director Review](#)[IPR2019-00581](#)[7026150](#)

Associated British Foods PLC,
 AB Vista Inc.
 PGP International, Inc
 Abitech Corporation
 AB Enzymes GmbH
 Abitec Corporation

Cornell Research Foundation, Inc.

[#127, 2021-10-15, Order Denying Request for Director Review](#)[IPR2019-00577](#)[8993300](#)

Associated British Foods PLC,
 AB Vista Inc.
 PGP International, Inc
 Abitech Corporation
 AB Enzymes GmbH
 Abitec Corporatio
 Abitec Corporation
 AB ENZYMES, INC
 AB ENZYMES GMBH

Cornell Research Foundation, Inc.

[#133, 2021-10-15, Order Denying Request for Director Review](#)[IPR2019-00547](#)[8964708](#)

Emerson Electric Co.

Sipco, LLC

[#38, 2021-10-15, Order Denying Request for Director Review](#)[IPR2019-00545](#)[8964708](#)

Emerson Electric Co.

Sipco, LLC

[#40, 2021-10-15, Rehearing:Decision on Request for Rehearing](#)[IPR2019-00555](#)[9668014](#)

Comcast Cable Communications, LLC

Rovi Guides, Inc.

[#40, 2021-10-29, Order Denying Request for Director Review](#)[IPR2019-00466](#)[9800706](#)

Unified Patents, LLC

MobilePay LLC
 MOBILEPAY LLC

[#40, 2021-10-15, Order Denying Request for Director Review](#)[IPR2019-00416](#)[8539047](#)

Ingenico Inc.

Ioengine, LLC
 IOENGINE, LLC

[#65, 2021-12-06, Order Denying Request for Director Review](#)[IPR2019-00239](#)[7779011](#)

Comcast Cable Communications, LLC

Veveo, Inc.
 Rovi Guides, Inc.

[#55, 2021-10-29, Order Denying Request for Director Review](#)[IPR2019-00290](#)[7937394](#)

Comcast Cable Communications, LLC

Veveo, Inc.
 Rovi Guides, Inc.

[#64, 2021-10-29, Order Denying Request for Director Review](#)[IPR2019-00281](#)[9621956](#)

Comcast Cable Communications, LLC

Rovi Guides, Inc.

[#43, 2021-10-29, Order Denying Request for Director Review](#)

<u>IPR2019-00292</u>	<u>7937394</u>	Comcast Cable Communications, LLC ComCam International, Inc.	Veveo, Inc. Rovi Guides, Inc.
<u>#57, 2021-10-29, Order Denying Request for Director Review</u>			
<u>IPR2019-00231</u>	<u>9369741</u>	Comcast Cable Communications, LLC	Rovi Guides, Inc.
<u>#47, 2021-10-29, Order Denying Request for Director Review</u>			
<u>IPR2019-00299</u>	<u>9294799</u>	Comcast Cable Communications, LLC	Rovi Guides, Inc.
<u>#48, 2021-10-29, Order Denying Request for Director Review</u>			
<u>IPR2019-00237</u>	<u>7779011</u>	Comcast Cable Communications, LLC	Veveo, Inc. Comcast Cable Communications, LLC
<u>#64, 2021-10-29, Order Denying Request for Director Review</u>			
<u>IPR2019-00224</u>	<u>7827585</u>	Comcast Cable Communications, LLC	Rovi Guides, Inc.
<u>#49, 2021-10-29, Order Denying Request for Director Review</u>			
<u>IPR2019-00207</u>	<u>9517219</u>	Amneal Pharmaceuticals LLC Amneal Pharmaceuticals of New York, LLC Mylan Pharmaceuticals, Inc.	Almirall, LLC ALMIRALL, LLC
<u>#68, 2021-09-28, Order Denying Request for Director Review</u>			
<u>IPR2019-00131</u>	<u>9258698</u>	Panasonic Corporation of North America et al. GoPro, Inc. Garmin International, Inc. Garmin USA, Inc. Panasonic Corporation Panasonic Corporation of North America	Cellspin Soft, Inc.
<u>#71, 2021-11-22, Order Denying Request for Director Review</u>			
<u>IPR2019-00127</u>	<u>9258698</u>	Canon USA, Inc. GoPro, Inc. Garmin International, Inc. Garmin USA, Inc.	Cellspin Soft, Inc.
<u>#61, 2021-11-22, Order Denying Request for Director Review</u>			
<u>IPR2019-00030</u>	<u>9857568</u>	Apple, Inc	Corephotonics Ltd. Corephotonics, Ltd.
<u>#35, 2021-09-28, Order Denying Request for Director Review</u>			
<u>IPR2018-01480</u>	<u>9575934</u>	33 Across Inc.	LeftsnRights, Inc. D/B/A LIQWID
<u>#60, 2021-10-29, Order Denying Request for Director Review</u>			

IPR2018-01166	7256486	Nichia Corporation Cree, Inc.	Document Security Systems, Inc.
#27, 2021-10-15, Rehearing:Decision on Request for Rehearing			
IPR2018-01140	9402032	Apple, Inc	Corephotonics Ltd. Corephotonics, Ltd.
#41, 2021-09-28, Order Denying Request for Director Review			
IPR2018-01133	9538152	Apple, Inc	Corephotonics Ltd. Corephotonics, Ltd.
#37, 2021-10-15, Order Denying Request for Director Review			
CBM2018-00035	8423402	American Express Company American Express Travel Related Services Company, Inc.	Signature Systems, LLC SIGNATURE SYSTEMS, LLC
#45, 2021-12-06, Order Denying Request for Director Review			
IPR2018-00529	9022852	Aristocrat Technologies, Inc.	High 5 Games, LLC
#34, 2021-12-06, Order Denying Request for Director Review			
IPR2018-00043	9454748	Unified Patents, LLC	Fall Line Patents, LLC FALL LINE PATENTS, LLC
#49, 2021-12-06, Order Denying Request for Director Review			
		Rust-Oleum Corporation	Alan Stuart, Trustee for the Cecil G. Stuart and Donna M. Stuart Revocable Living Trust Agreement
IPR2017-02158	6669991	RPM International, Inc.	CDS Development LLC ALAN STUART, TRUSTEE FOR THE CECIL G. STUART DONNA M. STUART REVOCABLE LIVING TRUST AGREEMENT CDS DEVELOPMENT LLC
#42, 2021-12-06, Order Denying Request for Director Review			
IPR2017-01050	8578413	Comcast Cable Communications, LLC	Rovi Guides, Inc.
#43, 2021-11-22, Order Denying Request for Director Review			
IPR2017-00952	8006263	Comcast Cable Communications, LLC	Rovi Guides, Inc.
#48, 2021-11-22, Order Denying Request for Director Review			
IPR2017-01048	8578413	Comcast Cable Communications, LLC	Rovi Guides, Inc. Rovi Technologies Corp.
#43, 2021-11-22, Order Denying Request for Director Review			
IPR2017-01049	8578413	Comcast Cable Communications, LLC	Rovi Guides, Inc. Rovi Technologies Corp.

[#43, 2021-11-22, Order Denying Request for Director Review](#)

[IPR2017-00951](#) [8006263](#) Comcast Cable Communications, LLC Rovi Guides, Inc.
[#50, 2021-11-22, Order Denying Request for Director Review](#)

[IPR2017-00950](#) [8006263](#) Comcast Cable Communications, LLC Rovi Guides, Inc.
[#49, 2021-11-22, Order Denying Request for Director Review](#)

[IPR2017-00275](#) [9179907](#) Smith & Nephew, Inc. & Arthrocare Corporation
 Synthron B.V. Arthrex, Inc.
 Smith & Nephew, Inc.
 Arthrocare Corporation
[#40, 2021-10-15, Order Denying Request for Director Review](#)

[IPR2017-00067](#) [7910833](#) Superior Communications Inc. Volstar Technologies Inc.
 VoltStar Technologies Inc
 Volstar Techonologies, INC
[#51, 2021-11-22, Order Denying Request for Director Review](#)

[IPR2016-01542](#) [8952138](#) Apotex Inc. Amgen, Inc.
 Amgen Manufacturing Limited
[#77, 2021-11-22, Order Denying Request for Director Review](#)

[IPR2016-00908](#) [5796183](#) Samsung UUSI, LLC d/b/a Nartron Corporation
 Samsung Electronics Co., Ltd UUSI, LLC
 UUSI, LLC d/b/a NATRON
[#54, 2021-10-15, Order Denying Request for Director Review](#)

[IPR2020-00349](#) [9819057](#) Ascend Performance Materials Operations LLC Samsung
 Samsung SDI Co., Ltd.,
 Samsung SDI Co., Ltd
[#57, 2021-11-01, Order Granting Request for Director Review](#)

[IPR2018-00733](#) [9440785](#) Proppant Express Investments, LLC Oren Technologies, LLC
 Proppant Express Solutions, LLC
[#95, 2021-11-18, Order Granting Request for Director Review](#)

Exhibit F

Decisions on Director Review

Trials@uspto.gov
571.272.7822

Paper 39
Entered: August 2, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

GOOGLE LLC,
Petitioner,

v.

HAMMOND DEVELOPMENT INTERNATIONAL, INC.,
Patent Owner.

IPR2020-00081
Patent 10,270,816 B1

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

The Office has received a request for Director review of the Final Written Decision in this case. *See* Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under

IPR2020-00081

Patent 10,270,816 B1

Secretary of Commerce for Intellectual Property and Director of the United States
Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final
Written Decision in this case is the final decision of the agency.

IPR2020-00081
Patent 10,270,816 B1

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Paper 38
Entered: August 2, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

SAMSUNG DISPLAY CO., LTD.,
Petitioner,

v.

SOLAS OLED LTD.,
Patent Owner.

IPR2020-00320
Patent 7,446,338 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

The Office has received a request for Director review of the Final Written Decision in this case. *See* Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under

IPR2020-00320

Patent 7,446,338 B2

Secretary of Commerce for Intellectual Property and Director of the United States
Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final
Written Decision in this case is the final decision of the agency.

IPR2020-00320
Patent 7,446,338 B2

For PETITIONER:

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Paper 131
Entered: August 27, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

MEDTRONIC, INC. and MEDTRONIC VASCULAR, INC.,
Petitioner,

v.

TELEFLEX INNOVATIONS S.À.R.L.,
Patent Owner.

IPR2020-00126 (Patent 8,043,032 B2)
IPR2020-00128 (Patent RE45,380 E)
IPR2020-00132 (Patent RE45,760 E)
IPR2020-00134 (Patent RE45,760 E)
IPR2020-00135 (Patent RE45,776 E)
IPR2020-00137 (Patent RE47,379 E)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00126 (Patent 8,043,032 B2)
IPR2020-00128 (Patent RE45,380 E)
IPR2020-00132 (Patent RE45,760 E)
IPR2020-00134 (Patent RE45,760 E)
IPR2020-00135 (Patent RE45,776 E)
IPR2020-00137 (Patent RE47,379 E)

The Office has received a request for Director review of the Final Written Decision in each of these cases. *See, e.g.*, IPR2020-00126, Ex. 3100. Each request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied;
and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2020-00126 (Patent 8,043,032 B2)
IPR2020-00128 (Patent RE45,380 E)
IPR2020-00132 (Patent RE45,760 E)
IPR2020-00134 (Patent RE45,760 E)
IPR2020-00135 (Patent RE45,776 E)
IPR2020-00137 (Patent RE47,379 E)

For PETITIONER:

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Paper 108
Entered: August 27, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

MEDTRONIC, INC. and MEDTRONIC VASCULAR, INC.,
Petitioner,

v.

TELEFLEX INNOVATIONS S.À.R.L.,
Patent Owner.

IPR2020-00127 (Patent 8,043,032 B2)
IPR2020-00130 (Patent RE45,380 E)
IPR2020-00136 (Patent RE45,776 E)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00127 (Patent 8,043,032 B2)

IPR2020-00130 (Patent RE45,380 E)

IPR2020-00136 (Patent RE45,776 E)

The Office has received a request for Director review of the Final Written Decision in each of these cases. *See, e.g.*, IPR2020-00127, Ex. 3100. Each request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied;
and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2020-00127 (Patent 8,043,032 B2)

IPR2020-00130 (Patent RE45,380 E)

IPR2020-00136 (Patent RE45,776 E)

FOR PETITIONER:

Cyrus Morton

Sharon Roberg-Perez

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Paper 130
Entered: August 27, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

MEDTRONIC, INC. and MEDTRONIC VASCULAR, INC.,
Petitioner,

v.

TELEFLEX INNOVATIONS S.À.R.L.,
Patent Owner.

IPR2020-00129 (Patent RE45,380 E)
IPR2020-00138 (Patent RE47,379 E)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00129 (Patent RE45,380 E)

IPR2020-00138 (Patent RE47,379 E)

The Office has received a request for Director review of the Final Written Decision in each of these cases. *See, e.g.*, IPR2020-00129, Ex. 3100. Each request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2020-00129 (Patent RE45,380 E)

IPR2020-00138 (Patent RE47,379 E)

FOR PETITIONER:

Cyrus Morton

Sharon Roberg-Perez

Christopher Pinahs

William E. Manske

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FOR PATENT OWNER:

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Paper 35
Entered: August 27, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

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

v.

CELLECT, LLC,
Patent Owner.

IPR2020-00476 (Patent 9,198,565 B2)
IPR2020-00477 (Patent 9,667,896 B2)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00476 (Patent 9,198,565 B2)

IPR2020-00477 (Patent 9,667,896 B2)

The Office has received a request for Director review of the Final Written Decision in each of these cases. *See, e.g.*, IPR2020-00476, Ex. 3100. Each request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2020-00476 (Patent 9,198,565 B2)

IPR2020-00477 (Patent 9,667,896 B2)

FOR PETITIONER:

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Paper 72

Entered: September 17, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

GALDERMA S.A.; GALDERMA LABORATORIES, INC.; GALDERMA
LABORATORIES LP; GALDERMA RESEARCH & DEVELOPMENT SNC;
NESTLÉ SKIN HEALTH, INC.; NESTLÉ SKIN HEALTH S.A.; and
NESTLÉ S.A.,
Petitioner,

v.

MEDY-TOX, INC.,
Patent Owner.

PGR2019-00062
Patent 10,143,728 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

PGR2019-00062

Patent 10,143,728 B2

The Office has received a request for Director review of the Final Written Decision in this case. *See* Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in this case is the final decision of the agency.

PGR2019-00062
Patent 10,143,728 B2

For PETITIONER:

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Paper 41

Entered: September 28, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLE INC.,
Petitioner,

v.

COREPHOTONICS LTD.,
Patent Owner.

IPR2018-01140
Patent 9,402,032 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2018-01140

Patent 9,402,032 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

IPR2018-01140
Patent 9,402,032 B2

For PETITIONER:

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLE INC.,
Petitioner,

v.

COREPHOTONICS LTD.,
Patent Owner.

IPR2019-00030
Patent 9,857,568 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2019-00030

Patent 9,857,568 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

IPR2019-00030
Patent 9,857,568 B2

For PETITIONER:

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Paper 68

Entered: September 28, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

AMNEAL PHARMACEUTICALS LLC, AMNEAL PHARMACEUTICALS
OF NEW YORK, LLC, and MYLAN PHARMACEUTICALS INC.,
Petitioners,

v.

ALMIRALL, LLC,
Patent Owner.

IPR2019-00207¹
Patent 9,517,219 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

¹ Mylan Pharmaceuticals Inc., the petitioner in IPR2019-01095, has been joined in this proceeding.

IPR2019-00207

Patent 9,517,219 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

IPR2019-00207
Patent 9,517,219 B2

For PETITIONER:

Representing Amneal Pharmaceuticals LLC and Amneal Pharmaceuticals of
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Paper 54

Entered: October 15, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

UUSI, LLC d/b/a NATRON,
Patent Owner.

IPR2016-00908
Patent 5,796,183

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2016-00908
Patent 5,796,183

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

IPR2016-00908
Patent 5,796,183

For PETITIONER:

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Paper 40

Entered: October 15, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

SMITH & NEPHEW, INC. and
ARTHROCARE CORP.,
Petitioner,

v.

ARTHREX, INC.,
Patent Owner.

IPR2017-00275
Patent 9,179,907 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2017-00275

Patent 9,179,907 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

IPR2017-00275
Patent 9,179,907 B2

For PETITIONER:

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Paper 37

Entered: October 15, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLE INC.,
Petitioner,

v.

COREPHOTONICS, LTD.,
Patent Owner.

IPR2018-01133
Patent 9,538,152 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2018-01133

Patent 9,538,152 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

IPR2018-01133
Patent 9,538,152 B2

For PETITIONER:

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For PATENT OWNER:

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Paper 27

Entered: October 15, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

NICHIA CORPORATION and CREE, INC.,
Petitioner,

v.

DOCUMENT SECURITY SYSTEMS, INC.,
Patent Owner.

IPR2018-01166¹
Patent 7,256,486 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

¹ Cree, Inc., who filed a Petition in IPR2019-00506, has been joined as a petitioner to this proceeding.

IPR2018-01166

Patent 7,256,486 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

IPR2018-01166
Patent 7,256,486 B2

For PETITIONER:

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Paper 40

Entered: October 15, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

UNIFIED PATENTS LLC,
Petitioner,

v.

MOBILEPAY LLC,
Patent Owner.

IPR2019-00466
Patent 9,800,706 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2019-00466

Patent 9,800,706 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

IPR2019-00466
Patent 9,800,706 B2

For PETITIONER:

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Paper 38

Entered: October 15, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

EMERSON ELECTRIC CO.,
Petitioner,

v.

SIPCO, LLC,
Patent Owner.

IPR2019-00545
IPR2019-00547
Patent 8,964,708 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2019-00545

IPR2019-00547

Patent 8,964,708 B2

The Office has received a request for Director review of the Final Written Decision in each of these cases. *See, e.g.*, IPR2019-00545, Ex. 3100. Each request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied;
and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2019-00545
IPR2019-00547
Patent 8,964,708 B2

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Paper 126

Entered: October 15, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

ASSOCIATED BRITISH FOODS PLC, AB VISTA, INC.,
PGP INTERNATIONAL, INC., ABITEC CORPORATION,
AB ENZYMES, INC., and AB ENZYMES GMBH,
Petitioner,

v.

CORNELL RESEARCH FOUNDATION, INC.,
Patent Owner.

IPR2019-00577 (Patent 8,993,300 B2)
IPR2019-00578 (Patent 8,455,232 B2)
IPR2019-00579 (Patent 7,829,318 B2)
IPR2019-00580 (Patent 7,312,063 B2)
IPR2019-00581 (Patent 7,026,150 B2)
IPR2019-00582 (Patent 6,451,572 B2)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2019-00577 (Patent 8,993,300 B2)
IPR2019-00578 (Patent 8,455,232 B2)
IPR2019-00579 (Patent 7,829,318 B2)
IPR2019-00580 (Patent 7,312,063 B2)
IPR2019-00581 (Patent 7,026,150 B2)
IPR2019-00582 (Patent 6,451,572 B2)

The Office has received a request for Director review of the Final Written Decision in each of these cases. *See, e.g.*, IPR2019-00577, Ex. 3100. Each request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied;
and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2019-00577 (Patent 8,993,300 B2)
IPR2019-00578 (Patent 8,455,232 B2)
IPR2019-00579 (Patent 7,829,318 B2)
IPR2019-00580 (Patent 7,312,063 B2)
IPR2019-00581 (Patent 7,026,150 B2)
IPR2019-00582 (Patent 6,451,572 B2)

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Paper 39

Entered: October 15, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

CREE, INC.,
Petitioner,

v.

DOCUMENT SECURITY SYSTEMS, INC.,
Patent Owner.

IPR2020-00557
Patent 6,784,460 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00557

Patent 6,784,460 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

IPR2020-00557

Patent 6,784,460 B2

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Paper 60

Entered: October 29, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

33ACROSS, INC.,
Petitioner,

v.

LEFTSNRIGHTS, INC. d/b/a LIQWID,
Patent Owner.

IPR2018-01480
Patent 9,575,934 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2018-01480

Patent 9,575,934 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

IPR2018-01480
Patent 9,575,934 B2

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Paper 40

Entered: October 29, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

COMCAST CABLE COMMUNICATIONS, LLC,
Petitioner,

v.

ROVI GUIDES, INC.,
Patent Owner.

IPR2019-00224 (Patent 7,827,585 B2)
IPR2019-00231 (Patent 9,369,741 B2)
IPR2019-00281 (Patent 9,621,956 B2)
IPR2019-00299 (Patent 9,294,799 B2)
IPR2019-00555 (Patent 9,668,014 B2)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2019-00224 (Patent 7,827,585 B2)
IPR2019-00231 (Patent 9,369,741 B2)
IPR2019-00281 (Patent 9,621,956 B2)
IPR2019-00299 (Patent 9,294,799 B2)
IPR2019-00555 (Patent 9,668,014 B2)

The Office has received a request for Director review of the Final Written Decision in each of the above-captioned cases. *See, e.g.*, IPR2019-00224, Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2019-00224 (Patent 7,827,585 B2)
IPR2019-00231 (Patent 9,369,741 B2)
IPR2019-00281 (Patent 9,621,956 B2)
IPR2019-00299 (Patent 9,294,799 B2)
IPR2019-00555 (Patent 9,668,014 B2)

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Paper 55

Entered: October 29, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

COMCAST CABLE COMMUNICATIONS, LLC,
Petitioner,

v.

VEVEO, INC.,
Patent Owner.

IPR2019-00237 (Patent 7,779,011 B2)
IPR2019-00239 (Patent 7,779,011 B2)
IPR2019-00290 (Patent 7,937,394 B2)
IPR2019-00292 (Patent 7,937,394 B2)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2019-00237 (Patent 7,779,011 B2)
IPR2019-00239 (Patent 7,779,011 B2)
IPR2019-00290 (Patent 7,937,394 B2)
IPR2019-00292 (Patent 7,937,394 B2)

The Office has received a request for Director review of the Final Written Decision in each of the above-captioned cases. *See, e.g.*, IPR2019-00237, Ex. 3100. The requests were referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied;
and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2019-00237 (Patent 7,779,011 B2)

IPR2019-00239 (Patent 7,779,011 B2)

IPR2019-00290 (Patent 7,937,394 B2)

IPR2019-00292 (Patent 7,937,394 B2)

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Paper 77

Entered: November 22, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

APOTEX INC. and APOTEX CORP.,
Petitioner,

v.

AMGEN INC. and AMGEN MANUFACTURING LIMITED,
Patent Owner.

IPR2016-01542
Patent 8,952,138 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2016-01542

Patent 8,952,138 B2

The Office has received a request for Director review of the Final Written Decision in the above-captioned case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

IPR2016-01542

Patent 8,952,138 B2

For PETITIONER:

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Paper 51

Entered: November 22, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

SUPERIOR COMMUNICATIONS, INC.,
Petitioner,

v.

VOLTSTAR TECHNOLOGIES, INC.,
Patent Owner.

IPR2017-00067
Patent 7,910,833 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2017-00067

Patent 7,910,833 B2

The Office has received a request for Director review of the Final Written Decision in the above-captioned case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in this case is the final decision of the agency.

IPR2017-00067

Patent 7,910,833 B2

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Paper 43

Entered: November 22, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

COMCAST CABLE COMMUNICATIONS, LLC,
Petitioner,

v.

ROVI GUIDES, INC.,
Patent Owner.

IPR2017-00950 (Patent 8,006,263 B2)
IPR2017-00951 (Patent 8,006,263 B2)
IPR2017-00952 (Patent 8,006,263 B2)
IPR2017-01048 (Patent 8,578,413 B2)
IPR2017-01049 (Patent 8,578,413 B2)
IPR2017-01050 (Patent 8,578,413 B2)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2017-00950 (Patent 8,006,263 B2)
IPR2017-00951 (Patent 8,006,263 B2)
IPR2017-00952 (Patent 8,006,263 B2)
IPR2017-01048 (Patent 8,578,413 B2)
IPR2017-01049 (Patent 8,578,413 B2)
IPR2017-01050 (Patent 8,578,413 B2)

The Office has received a request for Director review of the Final Written Decision in each of the above-captioned cases. *See, e.g.*, IPR2017-00950, Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2017-00950 (Patent 8,006,263 B2)
IPR2017-00951 (Patent 8,006,263 B2)
IPR2017-00952 (Patent 8,006,263 B2)
IPR2017-01048 (Patent 8,578,413 B2)
IPR2017-01049 (Patent 8,578,413 B2)
IPR2017-01050 (Patent 8,578,413 B2)

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Paper 61

Entered: November 22, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

CANON U.S.A., INC., GOPRO, INC.,
GARMIN INTERNATIONAL, INC., and GARMIN USA, INC.,
Petitioner,

v.

CELLSPIN SOFT, INC.,
Patent Owner.

IPR2019-00127¹
Patent 9,258,698 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

¹ GoPro, Inc., Garmin International, Inc., and Garmin USA, Inc. were joined to this proceeding.

IPR2019-00127

Patent 9,258,698 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in this case is the final decision of the agency.

IPR2019-00127
Patent 9,258,698 B2

For PETITIONER:

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Paper 71

Entered: November 22, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

PANASONIC COPORATION and
PANASONIC CORPORATION OF NORTH AMERICA,
Petitioner,

v.

CELLSPIN SOFT, INC.,
Patent Owner.

IPR2019-00131¹
Patent 9,258,698 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

¹ GoPro, Inc., Garmin International, Inc., and Garmin USA, Inc. were joined to this proceeding.

IPR2019-00131

Patent 9,258,698 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in this case is the final decision of the agency.

IPR2019-00131
Patent 9,258,698 B2

For PETITIONER:

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Paper 93

Entered: November 22, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

CLUB CHAMPION LLC,
Petitioner,

v.

TRUE SPEC GOLF LLC,
Patent Owner.

IPR2019-01148
Patent 8,046,899 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2019-01148

Patent 8,046,899 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

IPR2019-01148
Patent 8,046,899 B2

For PETITIONER:

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Paper 75

Entered: November 22, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

PALETTE LIFE SCIENCES, INC.,
Petitioner,

v.

INCEPT LLC,
Patent Owner.

IPR2020-00002 (Patent 8,257,723 B2)
IPR2020-00004 (Patent 7,744,913 B2)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00002 (Patent 8,257,723 B2)

IPR2020-00004 (Patent 7,744,913 B2)

The Office has received a request for Director review of the Final Written Decision in each of the above-captioned cases. *See, e.g.*, IPR2020-00002, Ex. 3100. The requests were referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2020-00002 (Patent 8,257,723 B2)

IPR2020-00004 (Patent 7,744,913 B2)

For PETITIONER:

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Lorelei Westin

Kristin Havranek

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Paper 50

Entered: November 22, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

JUNIPER NETWORKS, INC. and PALO ALTO NETWORKS, INC.,
Petitioner,

v.

PACKET INTELLIGENCE LLC,
Patent Owner.

IPR2020-00336 (Patent 6,665,725 B1)
IPR2020-00337 (Patent 6,771,646 B1)
IPR2020-00338 (Patent 6,839,751 B1)
IPR2020-00339 (Patent 6,954,789 B2)
IPR2020-00486 (Patent 6,954,789 B2)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00336 (Patent 6,665,725 B1)
IPR2020-00337 (Patent 6,771,646 B1)
IPR2020-00338 (Patent 6,839,751 B1)
IPR2020-00339 (Patent 6,954,789 B2)
IPR2020-00486 (Patent 6,954,789 B2)

The Office has received a request for Director review of the Final Written Decision in each of the above-captioned cases. *See, e.g.*, IPR2020-00336, Ex. 3100. The requests were referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied;
and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decisions of the agency.

IPR2020-00336 (Patent 6,665,725 B1)
IPR2020-00337 (Patent 6,771,646 B1)
IPR2020-00338 (Patent 6,839,751 B1)
IPR2020-00339 (Patent 6,954,789 B2)
IPR2020-00486 (Patent 6,954,789 B2)

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Paper 33

Entered: November 22, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

FAVORED TECH CORPORATION,
Petitioner,

v.

P2I LTD,
Patent Owner.

IPR2020-00478
Patent 8,389,070 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00478

Patent 8,389,070 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

IPR2020-00478
Patent 8,389,070 B2

For PETITIONER:

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Paper 41

Entered: November 22, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

NEENAH, INC. and AVERY PRODUCTS CORPORATION,
Petitioner,

v.

JODI A. SCHWENDIMANN,
Patent Owner.

IPR2020-00629 (Patent 7,754,042 B2)
IPR2020-00634 (Patent 7,749,581 B2)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00629 (Patent 7,754,042 B2)

IPR2020-00634 (Patent 7,749,581 B2)

The Office has received a request for Director review of the Final Written Decision in each of the above-captioned cases. *See e.g.*, IPR2020-00629, Ex. 3100. The requests were referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decisions of the agency.

IPR2020-00629 (Patent 7,754,042 B2)

IPR2020-00634 (Patent 7,749,581 B2)

For PETITIONER:

Joseph J. Richetti (Reg. No. 47,024)

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Paper 41

Entered: November 22, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

NEENAH, INC. and AVERY PRODUCTS CORPORATION,
Petitioner,

v.

JODI A. SCHWENDIMANN,
Patent Owner.

IPR2020-00629 (Patent 7,754,042 B2)
IPR2020-00634 (Patent 7,749,581 B2)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00629 (Patent 7,754,042 B2)

IPR2020-00634 (Patent 7,749,581 B2)

The Office has received a request for Director review of the Final Written Decision in each of the above-captioned cases. *See e.g.*, IPR2020-00629, Ex. 3100. The requests were referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decisions of the agency.

IPR2020-00629 (Patent 7,754,042 B2)

IPR2020-00634 (Patent 7,749,581 B2)

For PETITIONER:

Joseph J. Richetti (Reg. No. 47,024)

Ethan R. Fitzpatrick (Reg. No. 71,404)

Abigail M. Cotton (Reg. No. 52,772)

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Paper 37

Entered: November 22, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

STAHL'S INC.,
Petitioner,

v.

JODI A. SCHWENDIMANN, f/k/a JODI A. DALVEY,
and NUCOAT, INC.
Patent Owner.

IPR2020-00635 (Patent 7,754,042 B2)
IPR2020-00644 (Patent 7,749,581 B2)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00635 (Patent 7,754,042 B2)

IPR2020-00644 (Patent 7,749,581 B2)

The Office has received a request for Director review of the Final Written Decision in each of the above-captioned cases. *See, e.g.*, IPR2020-00635, Ex. 3100. The requests were referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2020-00635 (Patent 7,754,042 B2)

IPR2020-00644 (Patent 7,749,581 B2)

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Paper 45

Entered: December 6, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

AMERICAN EXPRESS COMPANY AND AMERICAN EXPRESS
TRAVEL RELATED SERVICES COMPANY, INC.,
Petitioner,

v.

SIGNATURE SYSTEMS, LLC,
Patent Owner.

CBM2018-00035
Patent 8,423,402 C1

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

CBM2018-00035

Patent 8,423,402 C1

The Office has received a request for Director review of the Final Written Decision in the above-captioned case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in this case is the final decision of the agency.

CBM2018-00035
Patent 8,423,402 C1

For PETITIONER:

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Paper 42

Entered: December 6, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

RUST-OLEUM CORPORATION and
RPM INTERNATIONAL, INC.,
Petitioner,

v.

ALAN STUART, TRUSTEE FOR THE CECIL G. STUART AND
DONNA M. STUART REVOCABLE LIVING TRUST AGREEMENT and
CDS DEVELOPMENT LLC,
Patent Owner.

IPR2017-02158
Patent 6,669,991 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2017-02158

Patent 6,669,991 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in this case is the final decision of the agency.

IPR2017-02158

Patent 6,669,991 B2

For PETITIONER:

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Paper 49

Entered: December 6, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

UNIFIED PATENTS INC.,
Petitioner,

v.

FALL LINE PATENTS, LLC,
Patent Owner.

IPR2018-00043
Patent 9,454,748 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2018-00043

Patent 9,454,748 B2

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in this case is the final decision of the agency.

IPR2018-00043
Patent 9,454,748 B2

For PETITIONER:

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Paper 34

Entered: December 6, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

ARISTOCRAT TECHNOLOGIES, INC.,
Petitioner,

v.

HIGH 5 GAMES, LLC,
Patent Owner.

IPR2018-00529
Patent 9,022,852 B1

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2018-00529

Patent 9,022,852 B1

The Office has received a request for Director review of the Final Written Decision in this case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in this case is the final decision of the agency.

IPR2018-00529

Patent 9,022,852 B1

For PETITIONER:

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Paper 57

Entered: December 6, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

INGENICO INC.,
Petitioner,

v.

IOENGINE, LLC,
Patent Owner.

IPR2019-00416 (Patent 8,539,047 B2)
IPR2019-00879 (Patent 9,059,969 B2)
IPR2019-00929 (Patent 9,774,703 B2)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2019-00416 (Patent 8,539,047 B2)

IPR2019-00879 (Patent 9,059,969 B2)

IPR2019-00929 (Patent 9,774,703 B2)

The Office has received a request for Director review of the Final Written Decision in each of the above-captioned cases. Ex. 3100. The requests were referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2019-00416 (Patent 8,539,047 B2)

IPR2019-00879 (Patent 9,059,969 B2)

IPR2019-00929 (Patent 9,774,703 B2)

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Paper 41

Entered: December 6, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

UNIFIED PATENTS, INC.,
Petitioner,

v.

CARUCEL INVESTMENTS, L.P.,
Patent Owner.

IPR2019-01079
Patent 7,979,023 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2019-01079

Patent 7,979,023 B2

The Office has received a request for Director review of the Final Written Decision in the above-captioned case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision is the final decision of the agency.

IPR2019-01079
Patent 7,979,023 B2

For PETITIONER:

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Paper 32

Entered: December 6, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

VOLKSWAGEN GROUP OF AMERICA, INC.,
Petitioner,

v.

CARUCEL INVESTMENTS, L.P.,
Patent Owner.

IPR2019-01101 (Patent 7,221,904 B1)
IPR2019-01102 (Patent 7,848,701 B2)
IPR2019-01103 (Patent 7,979,023 B2)
IPR2019-01105 (Patent 8,718,543 B2)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2019-01101 (Patent 7,221,904 B1)
IPR2019-01102 (Patent 7,848,701 B2)
IPR2019-01103 (Patent 7,979,023 B2)
IPR2019-01105 (Patent 8,718,543 B2)

The Office has received a request for Director review of the Final Written Decision in each of the above-captioned cases. Ex. 3100. The requests were referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied;
and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2019-01101 (Patent 7,221,904 B1)
IPR2019-01102 (Patent 7,848,701 B2)
IPR2019-01103 (Patent 7,979,023 B2)
IPR2019-01105 (Patent 8,718,543 B2)

For PETITIONER:

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Michael D. Specht
Lauren C. Schleh
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Paper 31

Entered: December 6, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

NEENAH, INC. and AVERY PRODUCTS CORPORATION,
Petitioner,

v.

JODI A. SCHWENDIMANN, f/k/a JODI A. DALVEY, and
NUCOAT, INC.,
Patent Owner.

IPR2020-00628
Patent RE41,623 E

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00628

Patent RE41,623 E

The Office has received a request for Director review of the Final Written Decision in the above-captioned case. Ex. 3100. The request was referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review is denied; and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in this case is the final decision of the agency.

IPR2020-00628
Patent RE41,623 E

For PETITIONER:

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Paper 42

Entered: December 6, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

STAHL'S INC.,
Petitioner,

v.

JODI A. SCHWENDIMANN, f/k/a JODI A. DALVEY, and
NUCOAT, INC.,
Patent Owner.

IPR2020-00633
IPR2020-00641
Patent RE41,623 E

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00633
IPR2020-00641
Patent RE41,623 E

The Office has received a request for Director review of the Final Written Decision in each of the above-captioned cases. *See, e.g.*, IPR2020-00633, Ex. 3100. The requests were referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied;
and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2020-00633
IPR2020-00641
Patent RE41,623 E

For PETITIONER:

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Paper 73

Entered: December 6, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

AXONICS, INC.,
Petitioner,

v.

MEDTRONIC, INC.,
Patent Owner.

IPR2020-00679 (Patent 8,626,314 B2)
IPR2020-00715 (Patent 8,036,756 B2)

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00679 (Patent 8,626,314 B2)

IPR2020-00715 (Patent 8,036,756 B2)

The Office has received a request for Director review of the Final Written Decision in each of the above-captioned cases. Ex. 3100. The requests were referred to Mr. Hirshfeld, Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

It is ORDERED that the request for Director review in each case is denied;
and

FURTHER ORDERED that the Patent Trial and Appeal Board's Final Written Decision in each case is the final decision of the agency.

IPR2020-00679 (Patent 8,626,314 B2)

IPR2020-00715 (Patent 8,036,756 B2)

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Paper No. 57
Filed: November 1, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

ASCEND PERFORMANCE MATERIALS OPERATIONS LLC,
Petitioner,

v.

SAMSUNG SDI CO., LTD.,
Patent Owner.

IPR2020-00349
Patent 9,819,057 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2020-00349
Patent 9,819,057 B2

Samsung SDI Co., Ltd. (“Patent Owner”) requests Director review of the Patent Trial and Appeal Board (“Board”) Final Written Decision determining all challenged claims of U.S. Patent No. 9,819,057 B2 (“the ’057 patent”) unpatentable (Paper 53, “Decision” or “Dec.”). Paper 54; Ex. 3100. In the Final Written Decision, the Board found claims 1–5 and 13–17 unpatentable as anticipated by the Shimura¹ reference and as having been obvious over the Fujii² and Yamada³ references. *See* Dec. 37 (summary table setting forth the Board’s unpatentability conclusions). Patent Owner argues that Director review is appropriate because: (1) the Board “erred in failing to separately consider species claims 5 and 17” of the ’057 patent, which are entitled to the provisional priority date and which antedate the Shimura reference; (2) the Board’s obviousness ground of unpatentability over the Fujii and Yamada references “materially differed” from the ground asserted in the Petition; (3) the Board “improperly ignored the [specification of] the ’057 patent” and the prosecution history in reaching its conclusion of obviousness over Fujii and Yamada; and (4) the Board overlooked Patent Owner’s arguments against Yamada when considering the obviousness ground of unpatentability. Paper 54, 5, 8, 12, 14–15.

I have considered Patent Owner’s request. I determine that Director review should be granted as to Patent Owner’s first argument because “[p]atent claims are awarded priority on a claim-by-claim basis based on the disclosure in the priority applications,” *Lucent Techs., Inc. v. Gateway, Inc.*, 543 F.3d 710, 718 (Fed. Cir. 2008), and the Board’s Decision did not specifically address claims 5 and 17. Dec. 19–20. The case is thus remanded to the Board to address whether claims 5

¹ WO 2012-029388, published March 8, 2012 (Ex. 1004; Ex. 1005 (English translation)).

² EP 2 120 279 A1, published November 18, 2009 (Ex. 1006).

³ US 2011/0311864 A1, published December 22, 2011 (Ex. 1026).

IPR2020-00349

Patent 9,819,057 B2

and 17 of the '057 patent are entitled to the September 7, 2012, priority date of the provisional application and to address the patentability of claims 5 and 17 in view of the appropriate filing date, in light of the existing record. Director review is denied as to Patent Owner's second through fourth arguments.

Accordingly, based on the foregoing, it is:

ORDERED that the Board's Final Written Decision (Paper 53) is vacated;
and

FURTHER ORDERED that the Board shall issue a new final written decision that also addresses whether claims 5 and 17 of the '057 patent are entitled to the September 7, 2012, priority date of the provisional application and the patentability of claims 5 and 17 in view of the appropriate filing date.

IPR2020-00349
Patent 9,819,057 B2

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Paper No. 95

Filed: November 18, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDERSECRETARY AND DIRECTOR OF
THE UNITED STATES PATENT AND TRADEMARK OFFICE

PROPPANT EXPRESS INVESTMENTS, LLC,
PROPPANT EXPRESS SOLUTIONS, LLC,
Petitioner,

v.

OREN TECHNOLOGIES, LLC,
Patent Owner.

IPR2018-00733
Patent 9,440,785 B2

Before ANDREW HIRSHFELD, *Commissioner for Patents, Performing the
Functions and Duties of the Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent and Trademark Office.*

ORDER

IPR2018-00733
Patent 9,440,785 B2

Oren Technologies, LLC (“Patent Owner”) requests Director review of the Patent Trial and Appeal Board (“Board”) Final Written Decision determining all challenged claims of U.S. Patent No. 9,440,785 B2 (“the ’785 patent”) unpatentable (Paper 80, “Decision” or “Dec.”). Paper 94; Ex. 3100. In the Final Written Decision, the Board found claims 1, 3, 6, 9, 10, 13, and 15 unpatentable as having been obvious over the Sheesley,¹ Hurst,² Harris ’554³ or Harris ’809,⁴ and Luharuka⁵ references. *See* Dec. 63. The Board found claims 7, 8, 11, 14, 16–19, and 21–23 unpatentable as having been obvious over the Sheesley, Hurst, Harris ’554 or Harris ’809, Wietgreffe,⁶ and Luharuka references. *See id.* The Board declined to give weight to Patent Owner’s objective evidence of nonobviousness because the Board determined that Petitioner rebutted Patent Owner’s presumption of nexus by showing that Patent Owner’s commercial success and industry praise were the result of additional, unclaimed features of the Sandbox Product. *Id.* at 58–62.

Patent Owner argues that Director review is appropriate because the Board erred by failing to give appropriate weight to Patent Owner’s objective evidence of nonobviousness. Paper 94, 1–2, 7–9. Patent Owner argues that the Board applied a similar analysis in its final written decision in *Proppant Express Investments, LLC v. Oren Technologies, LLC*, IPR2017-01918, Paper 83 (PTAB Feb. 14, 2019), which the U.S. Court of Appeals for the Federal Circuit vacated and remanded for further analysis of objective evidence of nonobviousness. *See* Paper 94, 9–12

¹ US 2013/0206415 A1, published August 15, 2013 (Ex. 1003).

² US 5,413,154, issued May 9, 1995 (Ex. 1004).

³ US 2014/0083554 A1, published March 27, 2014 (Ex. 1007).

⁴ US 2016/0332809 A1, published November 17, 2016 (Ex. 1008).

⁵ US 9,624,036 B2, issued April 18, 2017 (Ex. 1006).

⁶ US 8,387,824 B2, issued March 5, 2013 (Ex. 1005).

IPR2018-00733
Patent 9,440,785 B2

(citing *Oren Techs., LLC v. Proppant Express Invs. LLC*, No. 2019-1778, 2021 WL 3120819, at *7–8 (Fed. Cir. July 21, 2021) (unpublished) (finding that “failure to address the Sandbox container-specific evidence [of nonobviousness] was legal error by the Board”) (“*Oren Techs.*”).

I have considered Patent Owner’s request. The Board’s analysis of Patent Owner’s objective evidence of nonobviousness in this case is substantially similar to the Board’s analysis at issue in the Federal Circuit case noted above. As such, I grant Director review for the Board to address Patent Owner’s objective evidence of nonobviousness in light of the Federal Circuit’s decision in *Oren Techs.* Accordingly, this case is remanded to the Board to weigh any evidence of record showing that the patented invention itself, in addition to any unclaimed elements, contributes to the commercial success and praise of the Sandbox Product. *See Oren Techs.*, 2021 WL 3120819, at *7.

Accordingly, based on the foregoing, it is:

ORDERED that the Board’s Final Written Decision (Paper 80) is vacated;
and

FURTHER ORDERED that the Board shall issue a new final written decision that addresses Patent Owner’s objective evidence of nonobviousness as to the patented invention’s contributions to the commercial success and praise of the Sandbox Product.

IPR2018-00733
Patent 9,440,785 B2

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FORM 19. Certificate of Compliance with Type-Volume Limitations

Form 19
July 2020

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS

Case Number: 20-1399

Short Case Caption: New Vision Gaming & Development v. SG Gaming, Inc.

Instructions: When computing a word, line, or page count, you may exclude any items listed as exempted under Fed. R. App. P. 5(c), Fed. R. App. P. 21(d), Fed. R. App. P. 27(d)(2), Fed. R. App. P. 32(f), or Fed. Cir. R. 32(b)(2).

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Date: 12/17/2021

Signature: /s/ Matthew J. Dowd

Name: Matthew J. Dowd