

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

v.

MULLEN INDUSTRIES LLC,  
Patent Owner.

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IPR2024-01472 (Patent 11,190,633 B2)  
IPR2025-00018 (Patent 11,122,418 B2)  
IPR2025-00019 (Patent 9,204,283 B2)  
IPR2025-00021 (Patent 11,096,039 B2)  
IPR2025-00124 (Patent 8,374,575 B2)<sup>1</sup>

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Before MICHELLE N. ANKENBRAND,<sup>2</sup> *Senior Lead Administrative  
Patent Judge, performing the duties of Director Review Executive.*

ORDER

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

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<sup>1</sup> This order applies to each of the above-listed proceedings.

<sup>2</sup> Coke Morgan Stewart, Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office, is recused and took no part in this decision. The Acting Director delegated her authority as set forth in the Notice of Delegation entered in this case. *See* IPR2024-01472, Paper 13.

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Mullen Industries LLC (“Patent Owner”) filed a request for Director Review of the Decision granting institution (Paper 9) and Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Google LLC (collectively, “Petitioner”) filed an authorized response.<sup>3</sup> *See* Paper 11 (“DR Request”), Paper 12.<sup>4</sup> In its request, Patent Owner argues that the Board erred in its fact-findings as to *Fintiv*<sup>5</sup> factors 1–4 and 6. *See* DR Request 1–15. In relevant part, Patent Owner argues that the Board improperly found *Fintiv* factor 2, the proximity of the district court’s trial date to the Board’s statutory deadline, to be neutral even though a jury trial is scheduled five months before the expected date of a Final Written Decision. *Id.* at 6–7. Patent Owner further argues that the Board failed to properly consider that the parties have completed a substantial amount of fact discovery in the parallel proceeding, including conducting numerous depositions and source code reviews. *Id.* at 7–8.

Petitioner responds that the Board properly granted institution given that the district court has nine trials set for the same date as the one in the parallel proceeding, the parties have not yet begun expert discovery in the

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<sup>3</sup> Google LLC is not a party in IPR2024-01472 but is a petitioner in each of the other proceedings.

<sup>4</sup> Citations are to the record in IPR2024-01472. Similar papers were filed in each of the other proceedings.

<sup>5</sup> *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 5–6 (PTAB Mar. 20, 2020) (precedential).

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parallel proceeding, Petitioner offered a *Sotera*<sup>6</sup> stipulation, and Petitioner has presented a strong case on the merits. *See* Paper 12, 1–5.

The Board erred in its analysis of factors 2 and 3, and overall weighing of the *Fintiv* factors. The trial date in the parallel proceeding is set for approximately five months before the statutory due date for the Board’s final written decision, and the median time-to-trial statistics suggest a trial beginning in September 2025. Paper 7, 22. There also has been significant investment in the parallel proceeding. *Id.* at 23; DR Request 6–8. Under *Fintiv*’s holistic assessment, the merits of the Petition and Petitioner’s *Sotera* stipulation do not outweigh *Fintiv* factors 2 and 3. As such, the facts and circumstances indicate that the efficiency and integrity of the system are best served by denying institution.

Accordingly, it is:

ORDERED that Director Review is granted;

FURTHER ORDERED that the Board’s Decision granting institution of *inter partes* review (Paper 9) is vacated; and

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

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<sup>6</sup> *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 at 19 (PTAB Dec. 1, 2020) (precedential).

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