

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMCAST CABLE COMMUNICATIONS, LLC,
Petitioner,

v.

ENTROPIC COMMUNICATIONS, LLC,
Patent Owner.

Case IPR2025-00180
Patent No. 11,785,275

**PETITIONER'S RESPONSE TO PATENT OWNER'S
REQUEST FOR DIRECTOR REVIEW**

Petitioner's three parallel petitions against U.S. Pat. No. 11,785,275 (the "'275 Patent") are proper: they originated from Patent Owner's assertion of 20 patents against Petitioner, provided separate meritorious invalidity arguments, and were ranked. The Board confirmed they "complied with our guidance" and instituted. Paper 8 at 10-11. The Board has never found any of Petitioner's petitions frivolous, and indeed Petitioner almost always wins its IPRs on the merits. The Board's established procedure for parallel IPR petitions is thus working as intended.

Patent Owner seeks to avoid IPR without ever addressing the merits (*See* Paper 7) using regurgitated POPR arguments filed in almost every case about Petitioner's alleged "excessive parallel filings" against *other* patent owners. (*See* Request at 1, 5-8). But this would (1) overrule the Board's institution decision, (2) contradict other cases where the Board approved of Petitioner's parallel petitions, (3) nullify the Board's parallel petition filing procedures, and (4) contravene public policy interests in the Board's consideration of legitimate validity challenges.

I. THE BOARD PERMITS PARALLEL PETITIONS

The Consolidated Trial Practice Guide ("CTPG"), noting that "there may be circumstances in which more than one petition may be necessary," directs petitioners to rank the petitions and provide a "succinct explanation of the differences" between them to indicate "why the Board should exercise its discretion to institute additional petitions." CTPG at 59-61. Nothing indicates that parallel petitions are themselves

improper. Had the Board intended to prohibit parallel petitions, it would have done so. The Board is also in the best position to know whether it has the bandwidth and interest to institute one versus multiple petitions. And, despite Patent Owner's insistence (Request at 15), the new Interim Procedures say nothing about parallel filings, and no cases "signal" that parallel petitions are improper. (Request at 12).

II. PETITIONER'S INSTANT PARALLEL PETITIONS ARE BOARD-APPROVED AND PROPER

In this IPR, the Board has already found that "Petitioner has complied with our guidance by filing a statement ranking the petitions," rejecting Patent Owner's arguments about allegedly voluminous parallel petitions. Paper 8 at 10-11. The patent is invalid on multiple grounds, and thus each of those petitions reflected different art combinations and perspectives on the claims using art cited (or not cited) differently during prosecution. *See* Paper 3. There are strategic reasons for parallel petitions including claim construction issues and considerations of prior art in the record. These three petitions are *de minimis* compared to the parties' dispute: Patent Owner has asserted 20 patents against Petitioner (and seeks to add more). *See Entropic Commc'ns, LLC v. Cox Commc'ns, Inc.*, 2:23-cv-01049, Doc. Nos. 114, 143 (C.D. Cal.). Seven of these patents (*e.g.*, U.S. Pat. No. 8,085,802) have already been partially/wholly invalidated under section 101. Petitioner has only filed petitions against 12 patents (6 with parallel petitions, 6 without), which is far from a "volume-driven approach." (Request at 7).

The egregious circumstances of this IPR warrant Board review. Patent Owner learned of a primary reference (Zhang) through Petitioner's previous invalidity arguments against a '275 Patent family member, "cited" it to the Office by burying it in 2,000 pages of non-patent literature, and quickly asserted the issued '275 Patent against Petitioner. Paper 2 at 17-18. Patent Owner thus tried to "inoculate" a live continuation against active invalidity assertions so that it could later assert that continuation against Petitioner. Such gamesmanship cannot be rewarded.

III. PETITIONER'S PARALLEL PETITIONS WIN

Petitioner's parallel filings reflect the strength of the merits of Petitioner's assertions, not gamesmanship. Petitioner's win rate is high because it only files meritorious petitions, not because it files parallel petitions. When Petitioner has previously filed parallel petitions, the Board has typically granted *at least* one, and the decisions in those IPRs almost always rule all challenged claims unpatentable. *See, e.g.*, IPR2019-00237 to -00239 (2 petitions instituted against patent, all claims unpatentable), IPR2019-00290 to -00292 (same). It is often not possible to cover every possible claim construction or argument that the patent owner may later raise across all claims in just one petition given word count limitations. In fact, when Petitioner files parallel petitions, Petitioner's records indicate that an IPR is instituted and it wins on the merits in the vast majority of cases. The Board has never complained about Petitioner's parallel filing process, and routinely finds that

just one petition is strong enough to render all claims unpatentable. After all, the patents were (as here) invalid on multiple, equally-meritorious grounds. Even Patent Owner does not dare suggest the parallel petitions are non-meritorious. The volume of its petitions merely reflects that Petitioner, the 33rd largest U.S. company, is a technology company in hotly-contested markets (*e.g.*, telecommunications) full of suspect patents that are invalid on many grounds.

IV. POLICY REASONS SUPPORT PARALLEL PETITIONS

IPR rules require petitions to be filed perfectly: petitioners must make all arguments against all challenged claims up-front, proactively arguing claim construction, without knowing patent owners' arguments, and with no chance of rebuttal before an institution decision. Furthermore, the word limit on a petition makes it effectively impossible to properly make all meritorious invalidity arguments in a single petition. Petitioners thus routinely pay substantial sums to file multiple petitions with different equally meritorious grounds, using their "one shot" to account for different strengths/weaknesses in, *e.g.*, prior art and claim construction. Such parallel petitions are also filed to preserve petitioners' rights. Petitioners thereby disclose the full scope of meritorious invalidity challenges for efficient resolution. This is similar to the Office's own requirement to "clearly articulate any rejection early." MPEP § 706 and the Office's use of parallel rejections.

Invalidity disputes like this one are well-suited for IPR. Here, a non-practicing entity has asserted 20 (and, soon, more) patents against multiple successful companies in litigation. Patent Owner continues to use the Office to acquire suspect patents that it can use for settlement pressure, and now argues that the Office should stay out of its way when it asserts those patents. The Board must step in, “weed out bad patents,” and act as an “effective alternative[] to litigation.” H.R. Rep. No. 112–98, pt. 1, at 40 (2011). Petitioners should be permitted to assert all of their grounds of invalidity, just as they would in litigation. Petitioner’s arguments deserve to be heard, and the PTAB is the best venue given its technical background and speed.

V. DIRECTOR REVIEW IS NOT WARRANTED HERE

The Board did not agree with Patent Owner’s volume-based arguments before, and they do not merit Director review now. The Director should support petitioners who seek to use the IPR system to weed out bad patents, particularly when those petitioners can show invalidity on multiple petitions/grounds. The Board has a consistent process for determining whether to institute one or more parallel petitions, Petitioner has complied with this approach, and the Director should preserve that process. *See Videndum Production Solutions, Inc. v. Rotolight Ltd.*, IPR2023-01218, Paper 12 at 5-6 (P.T.A.B. Apr. 19, 2024).

Dated: May 20, 2025

By: /Frederic M. Meeker/

Frederic M. Meeker
Reg. No. 35,282

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.105, I hereby certify that I caused a true and correct copy of this **PETITIONER'S RESPONSE TO PATENT OWNER'S REQUEST FOR DIRECTOR REVIEW** in connection with IPR2025-00180 to be served via e-mail on May 20, 2025, in its entirety on the following counsel of record for Patent Owner:

HENDIFAR@LOWENSTEINWEATHERWAX.COM
ENTROPIC_IPRS@LOWENSTEINWEATHERWAX.COM
WEATHERWAX@LOWENSTEINWEATHERWAX.COM
LOWENSTEIN@LOWENSTEINWEATHERWAX.COM
WOO@LOWENSTEINWEATHERWAX.COM
JASON.ENGEL.PTAB@KLGATES.COM
ERIK.HALVERSON@KLGATES.COM
KYLE.KANTAREK@KLGATES.COM
NOLAN.HUBBARD@KLGATES.COM
MATTHEW.BLAIR@KLGATES.COM

Dated: May 20, 2025

By: /Carlos Goldie/

Carlos Goldie