

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HP INC., MICROSOFT CORPORATION, DELL INC.,
DELL PRODUCTS LP, LENOVO (UNITED STATES) INC.,
and MOTOROLA MOBILITY LLC,
Petitioner,

v.

NEODRON LTD.,
Patent Owner.

IPR2020-00459
Patent 8,946,574 B2

Before MIRIAM L. QUINN, PATRICK M. BOUCHER, and
SCOTT B. HOWARD, *Administrative Patent Judges*.

HOWARD, *Administrative Patent Judge*.

ORDER
Authorizing Reply and Sur-reply
37 C.F.R. § 42.5

HP Inc., Microsoft Corporation, Dell Inc., Dell Products LP, Lenovo (United States) Inc., and Motorola Mobility LLC. (collectively, “Petitioner”), filed a Petition for *inter partes* review of U.S. Patent No. Patent 8,946,574 B2. Neodron Ltd. (“Patent Owner”) filed a Preliminary Response arguing that “[u]nder the PTAB’s precedential orders in *NHK*

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Spring and *Fintiv*, the Board should exercise its discretion to deny institution under § 314(a).” Paper 10, 1.

On May 5, 2020, the Board made precedential an order in *Apple v. Fintiv Inc.*, IPR2020-00019, Paper 11 (March 20, 2020), which identifies the factors to be considered when a patent owner raises an argument for discretionary denial of petition based on an earlier trial date in a parallel proceeding in another forum, under *NHK Spring Co. v. Intri-Plex Techs., Inc.*, IPR2018-00752, Paper 8 (PTAB Sept. 12, 2018) (precedential). The *Fintiv* order was made precedential after the filing of the Petition here. It is appropriate to provide Petitioner an opportunity to address *Fintiv*, and we provide such an opportunity in a Reply, as set forth below.

The parties are further instructed to notify the Board of any decision by the district court that significantly impacts the litigation schedule. The parties shall file such notice within two business days of the issuance of the decision.

The parties should, to the extent possible, provide factual, non-speculative information in their submissions. A decision regarding a discretionary denial should not rest on incomplete, inconsistent, or speculative information.

Accordingly, it is

ORDERED that Petitioner may file a reply brief of no more than 7 pages by June 25, 2020, addressing the *Fintiv* factors;

FURTHER ORDERED that Patent Owner may file a sur-reply of no more than 7 pages by July 2, 2020, addressing only the issues raised in Petitioner’s reply and the *Fintiv* factors; and

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FURTHER ORDERED that, as specified above, the parties shall notify the Board of any decision by the district court that significantly affects the litigation schedule.

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