UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EPIC GAMES, INC.,
Petitioner,

v.

INGENIOSHARE, LLC,
Patent Owner.

Case No. IPR2022-00295
Patent No. 10,492,038

PATENT OWNER'S PRELIMINARY RESPONSE UNDER 37 C.F.R. § 42.107

Mail Stop PATENT BOARD, PTAB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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PATENT OWNER'S EXHIBIT LIST

Exhibit 2001	Complaint
Exhibit 2002	Epic Games Inc.'s Preliminary Invalidity Contentions
Exhibit 2003	Order Setting Markman Hearing
Exhibit 2004	Epic Games Inc.'s Opening Claim Construction Brief

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.107, the Patent Owner, IngenioShare, LLC hereby submits the following Preliminary Response to the Petition for *inter partes* review of U.S. Patent No. 10,492,038, Case No. IPR2022-00295. For the reasons explained herein, the Petition should be denied.

II. SUMMARY OF WHY THE PETITION SHOULD BE DENIED

A. The Board Should Deny Institution Based On The *Fintiv* Factors

The Petition should be denied because Petitioner has raised the same invalidity arguments (and substantially more) in a parallel district court proceeding and the district court's trial date precedes the Board's deadline for a final written decision. Moreover, Petitioner is taking inconsistent positions before the district court and the Board that the district court is better suited to address and resolve. As a result, efficiency, fairness, and merits dictate the Board's discretionary denial of institution in view of the district court's earlier comprehensive trial date.

B. The Board Should Deny Institution Based On The Merits

All proposed grounds of unpatentability rest on a fundamental flaw. Each challenged claim requires a "network-based portal." Each ground of unpatentability presented in the Petition relies on the assertion that this limitation is satisfied in the cited art by client-side functionality. This is contrary to the use of the term "network-based portal" in the specification, which universally indicates that the network-based portal is at the server-side. Nothing in the '038 Patent

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