

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.
Petitioner

v.

THALES VISIONIX, INC.
Patent Owner

U.S. PATENT NO. 7,725,253

IPR2022-01308

**PATENT OWNER'S SURREPLY TO PETITIONER'S REPLY
TO PATENT OWNER'S PRELIMINARY RESPONSE**

February 13, 2023

TABLE OF EXHIBITS

Exhibit	Title
1001	U.S. Patent No. 6,922,632
1002	File History of U.S. Patent No. 6,922,632
1003	U.S. Patent No. 7,725,253
1004	File History of U.S. Patent No. 7,725,253
1005	Declaration of Dr. Ulrich Neumann in Support of <i>Inter Partes</i> Review of U.S. Patent No. 6,922,632
1006	<i>Curriculum Vitae</i> of Dr. Ulrich Neumann
1007	Welch, G. et al., “High-Performance Wide-Area Optical Tracking” (2001)
1008	Welch, G. et al., “SCAAT: Incremental Tracking with Incomplete Information” (1997)
1009	Welch G. “SCAAT: Incremental Tracking with Incomplete Information” PhD Thesis, University of North Carolina (1996)
1010	U.S. Patent No. 5,615,132
1011	U.S. Patent No. 5,307,289
1012	Gentex’s Amended Preliminary Infringement Contentions and corresponding Exhibits 4 and 5 (’632 and ’253 infringement charts)
1013	Azuma, R. “Predictive Tracking for Augmented Reality” PhD Thesis, University of North Carolina (1995)
1014	You, S. and Neumann, U. “Orientation Tracking for Outdoor Augmented Reality Registration.” (1999)
1015	Carlson, Neal A. and Berarducci, Michael P. “Federated Kalman Filter Simulation Results.” <i>Navigation</i> . Vol. 41, Issue 3 at 297-322. (Fall 1994)
1016	Reitmayr, Gerhard and Schmalstieg. “An Open Software Architecture for Virtual Reality Interaction” VRST ’01 (November 2001)

Exhibit	Title
1017	Barfield, W. “Fundamentals of Wearable Computers and Augmented Reality” (2001)
1018	Declaration of Rachel J. Watters regarding Welch, G. et al., “High- Performance Wide-Area Optical Tracking” (2001)
1019	Declaration of Scott Delman regarding Welch, G. et al., “SCAAT: Incremental Tracking with Incomplete Information” (1997)
1020	Declaration of Dr. James L. Mullins regarding Welch G. “SCAAT: Incremental Tracking with Incomplete Information” PhD Thesis, University of North Carolina (1996)
1021	Declaration of Scott Delman regarding Reitmayr, Gerhard and Schmalstieg. “An Open Software Architecture for Virtual Reality Interaction” VRST '01 (November 2001)
1022	U.S. Patent No. 5,807,284
1023	U.S. Patent No. 5,991,085
1024	Chen, Steven C. and Lee, Kang. “A mixed-mode smart transducer interface for sensors and actuators”, Sound & Vibration, 32(4), 24-27 (April 1998)
1025	Hoff, William and Vincent, Tyrone. “Analysis of Head Pose Accuracy in Augmented Reality”, IEEE Transactions on Visualization and Computer Graphics, Vol. 6, Issue 4, October – December 2000.
1026	Zetu, Dan et al., “Extended-Range Hybrid Tracker and Applications to Motion and Camera Tracking in Manufacturing Systems,” IEEE Transactions on Robotics and Automation, Vol. 16, Issue 3, June 2000
1027	Declaration of Rachel J. Watters regarding Chen, Steven C. and Lee, Kang. “A mixed-mode smart transducer interface for sensors and actuators.” Sound & Vibration, 32(4), 24-27 (April 1998)
1028	Declaration of Gordon MacPherson regarding Hoff, William and Vincent, Tyrone. “Analysis of Head Pose Accuracy in Augmented Reality”, IEEE Transactions on Visualization

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	and Computer Graphics, Vol. 6, Issue 4, October – December 2000.
1029	Declaration of Gordon MacPherson regarding Zetu, Dan et al., “Extended-Range Hybrid Tracker and Applications to Motion and Camera Tracking in Manufacturing Systems,” IEEE Transactions on Robotics and Automation, Vol. 16, Issue 3, June 2000
1030	U.S. Patent No. 5,592,401
2001	Complaint, <i>Gentex Corp. v. Meta Platforms, Inc.</i> , No. 6:21-cv-00755-ADA (W.D. Tex. July 22, 2021), ECF No. 1.
2002	Joint Order Regarding Claim Construction and Discovery, <i>Gentex Corp. v. Meta Platforms, Inc.</i> , No. 5:22-cv-03892-YGR (N.D. Cal. Nov. 9, 2022), ECF No. 118.
2003	<i>Gentex Corp. v. Meta Platforms, Inc.</i> , No. 5:22-cv-03892-YGR (N.D. Cal.), Letter from Laura Ashley Harris to Andrew Borrasso (Feb. 3, 2023)
2004	<i>Gentex Corp. v. Meta Platforms, Inc.</i> , No. 5:22-cv-03892-YGR (N.D. Cal.), Excerpts of Invalidation Contentions of Meta Platforms, Inc. (Dec. 5, 2022)

Parallel district court litigation has been ongoing for the past eighteen months between the same parties involved in Petitioner’s eight IPRs against Patent Owner’s patents (Nos. IPR2022-01294, -01298, -01301, -01302, -01303, -01304, -01305, and -01308). Under the Board’s precedent in *Apple Inc. v. Fintiv, Inc.*, Petitioner’s delay in bringing its IPRs and the progress made in the parallel district court litigation warrants denial of institution in accordance with the Board’s discretion under 35 U.S.C. § 314(a). 2020 WL 2486683 (P.T.A.B. May 13, 2020). Petitioner’s reply only underscores this. Its calculated trial date defies credulity by equating the date of the case’s *transfer* (June 30, 2022) to the date of the case’s *filing* nearly a year prior (July 22, 2021). Petitioner’s approach is contrary to precedent and common sense, and lacks any support in the Director’s *Interim Procedure for Discretionary Denials* (“Vidal Memo”). And the carefully worded stipulation Petitioner offers—“that it will not pursue any invalidity challenges *that were actually raised in the Petition* if an IPR trial is instituted,” Paper No. 8 (“Reply”) at 1—fails to prevent duplication of effort in the district court litigation, as it applies only to actually raised grounds rather than grounds that reasonably could have been raised among the countless combinations Petitioner has asserted in the parallel litigation. Accordingly, the *Fintiv* factors favor denial of institution.

I. The Board Should Deny Institution Under *Fintiv*

Under *Fintiv*, the Board considers the following factors: 1) whether the

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