UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,
Petitioner,

v.

PARUS HOLDINGS, INC.,
Patent Owner.

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Case No. IPR2020-00686
U.S. Patent No. 7,076,431

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**PATENT OWNER'S SUR-REPLY
ADDRESSING PETITIONER'S REPLY ON THE *FINTIV* FACTORS**

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TABLE OF AUTHORITIES

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Cases

TABLE OF EXHIBITS

Exhibit	Description
2001	Order Denying Motion to Stay Pending *Inter Partes* Review, C.A. No. 6:18-cv-00207-ADA
2002	Exhibit A3 Ladd Claim Chart 7076431
2003	Exhibit C Obviousness Claim Chart 7076431 (Corrected)
2004	Reserved
2005	Reserved
2006	Standing Order Regarding Scheduled Hearings in Civil Cases, 6:19-cv-00432-ADA
2007	Claim Construction Order, 1:20-cv-00351-ADA
2008	Claim Construction Order, 6:19-cv-00532-ADA
2009	Claim Construction Order, 6:18-cv-00308-ADA
2010	U.S. Patent No. 6,157,705 (Perrone)
2011	"instruction set" excerpt from 1997 Novell's Dictionary of Networking
2012	Defendants' Opening Claim Construction Brief, 6:19-cv-00432-ADA
2013	Excerpt of Case Docket Sheet, 6-19-cv-00278-ADA
2014	Excerpt of Case Docket Sheet, 6-19-cv-00514-ADA
2015	Excerpt of Case Docket Sheet, 6-19-cv-00515-ADA
2016	Excerpt of Case Docket Sheet, 7-18-cv-00147-ADA

Fintiv Factor 1: "Whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted"

Apple's conclusory assertion that there is an "absence of specific evidence" on this factor is wrong and ignores all of the previously identified specific evidence showing that the Court in the Parallel Proceedings does **not** stay trials in these circumstances. The Board need not speculate on the two questions posed by this factor. First, has the Court "granted a stay"? No, it has not, and Apple does not argue or present evidence otherwise. Second, does "evidence exist[] that one may be granted if [the IPR] proceeding is instituted"? No, there does not, and Apple, even after additional briefing on this issue, does not even try to identify any.

Apple cites PTAB's _Sand_ decision, but attempts neither to explain why that decision somehow applies here nor to support its conclusory assertion of "lack of evidence." Apple cannot because, unlike the Patent Owner in _Sand_, Parus's POPR identifies specific evidence showing the Court does not grant stays in these circumstances. _Sand Revolution II, LLC v. Continental Intermodal Group-Trucking LLC_, IPR2019-01393, Paper 20, 2-6. Patent Owner identified Judge Albright's three-factor test, analyzed and applied the evidence to each factor, and showed that all three factors establish that the Court will not stay the Parallel Proceedings even if the requested IPR is instituted. (POPR, 8-9). Indeed, to date, Judge Albright has denied **every** opposed motion to stay pending proceedings in his court pending

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