

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE  
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

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MAPLEBEAR INC. d/b/a INSTACART,  
Petitioner,

v.

FALL LINE PATENTS, LLC,  
Patent Owner.

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IPR2025-00958  
Patent 9,454,748 B2

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Before COKE MORGAN STEWART,<sup>1</sup> *Deputy Under Secretary of  
Commerce for Intellectual Property and Deputy Director of the United  
States Patent and Trademark Office.*

DECISION  
Denying Institution of *Inter Partes* Review

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<sup>1</sup> The Director has delegated his discretionary authority to the Deputy Director for this decision. See <https://www.uspto.gov/sites/default/files/documents/dsco-delegation.pdf>.

Fall Line Patents, LLC (“Patent Owner”) filed a request for discretionary denial (Paper 6, “DD Req.”) in the above-captioned case, and Maplebear Inc. d/b/a Instacart (“Petitioner”) filed an opposition (Paper 7, “DD Opp.”).

After considering the parties’ arguments and the record, and in view of all relevant considerations, discretionary denial of institution is appropriate in this proceeding. This determination is based on the totality of the evidence and arguments the parties have presented.

The projected final written decision due date in the Board proceeding is December 12, 2026. Patent Owner has not asserted the challenged patent against Petitioner in district court, but Patent Owner has asserted the challenged patent against Petitioner’s customers.<sup>2</sup> DD Req. 5–6; DD Opp. 2–3. For the district court proceeding involving Patent Owner and Petitioner’s customers, the scheduled trial date is July 27, 2026, and time-to-trial statistics suggest trial would begin by October 2026. DD Req. 5. As such, it is unlikely that a final written decision in this proceeding will issue before the district court trial occurs, resulting in significant duplication of effort, additional expense, and a risk of inconsistent decisions.

Additionally, the challenged patent has been in force for approximately nine years, creating settled expectations for Patent Owner, and Petitioner does not provide persuasive reasoning why an *inter partes* review is an appropriate use of Board resources. *Dabico Airport Sols. Inc. v. AXA Power ApS*, IPR2025-00408, Paper 21 at 2–3 (Director June 18, 2025).

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<sup>2</sup> Petitioner has filed a declaratory judgment action of non-infringement against Patent Owner. DD Opp. 3. No trial date has been set in that proceeding, and there is no indication that the validity of the challenged patent is at issue in that proceeding. *Id.*

Further, the challenged patent has been the subject of multiple proceedings before the Board, and this is the second petition challenging claim 7. DD Req. 2; DD Opp. 1–2, 9. In the prior proceeding involving claim 7, the Board entered a final written decision finding that the petitioner did not prove, by a preponderance of the evidence, that claim 7 of the challenged patent would have been obvious over Barbosa<sup>3</sup> and Falls.<sup>4</sup> DD Req. 3; *Starbucks Corp. v. Fall Line Patents, LLC*, IPR2019-00610, Paper 42 at 34 (PTAB May 17, 2022) (final decision on remand). In this proceeding, Petitioner relies on Barbosa and Falls, and states that its “challenges here address the precise elements that prevented invalidation of Claim 7 in earlier proceedings.” DD Opp. 9; *see also id.* at 3 (arguing that “the Petition squarely addresses the deficiency identified by the Board in the prior IPR challenging claim 7”). Petitioner’s admission raises concerns of road mapping and weighs in favor of discretionary denial. *See Amazon Web Servs., Inc. v. Croga Innovations, Ltd.*, IPR2025-00884, Paper 9 at 2 (Director Sept. 3, 2025).

Although certain arguments are highlighted above, the determination to exercise discretion to deny institution is based on a holistic assessment of all of the evidence and arguments presented. Accordingly, the Petition is denied under 35 U.S.C. § 314(a).

In consideration of the foregoing, it is:

ORDERED that Patent Owner’s request for discretionary denial is *granted*; and

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<sup>3</sup> U.S. Patent No. 6,961,586 B2, issued Nov. 1, 2005 (Ex. 1005).

<sup>4</sup> U.S. Patent No. 5,991,771, issued Nov. 23, 1999 (Ex. 1006).

FURTHER ORDERED that the Petition is *denied*, and no trial is instituted.

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FOR PETITIONER:

John Hutchins  
Chunhsi Mu  
Camille Sauer  
Jonathan Peloquin  
Paul Qualey  
BANNER & WITCOFF, LTD  
jhutchins@bannerwitcoff.com  
amu@bannerwitcoff.com  
csauer@bannerwitcoff.com  
jpeloquin@bannerwitcoff.com  
pqualey@bannerwitcoff.com

FOR PATENT OWNER:

Matthew Antonelli  
Larry Thompson  
Zachariah Harrington  
Rehan Safiullah  
Hannah Price  
ANTONELLI, HARRINGTON & THOMPSON LLP  
matt@ahtlawfirm.com  
larry@ahtlawfirm.com  
zac@ahtlawfirm.com  
rehan@ahtlawfirm.com  
hannah@ahtlawfirm.com  
  
Terry Watt  
FELLERS SNIDER  
tlwatt@fellerssnider.com