

IN THE  
**Supreme Court of the United States**

---

GESTURE TECHNOLOGY PARTNERS, LLC,  
*Petitioner,*

v.

UNIFIED PATENTS, LLC, APPLE INC.,  
LG ELECTRONICS INC., LG ELECTRONICS USA, INC.,  
AND GOOGLE LLC,  
*Respondents.*

---

**On Petition for a Writ of Certiorari  
to the United States Court of Appeals  
for the Federal Circuit**

---

**PETITION FOR A WRIT OF CERTIORARI**

---

FRED I. WILLIAMS  
WILLIAMS SIMONS &  
LANDIS PC  
The Littlefield Building  
106 East Sixth Street  
Suite 900-168  
Austin, TX 78701  
(512) 543-1354

DAVID C. FREDERICK  
*Counsel of Record*  
BRENNAN L. DARLING  
DENNIS D. HOWE  
KELLOGG, HANSEN, TODD,  
FIGEL & FREDERICK, P.L.L.C.  
1615 M Street, N.W., Suite 400  
Washington, D.C. 20036  
(202) 326-7900  
(dfrederick@kellogghansen.com)

June 11, 2025

*(Additional Counsel Listed On Inside Cover)*

---

---

JOHN WITTENZELLNER  
WILLIAMS SIMONS &  
LANDIS PC  
1735 Market Street  
Suite 125 #453  
Philadelphia, PA 19103  
(512) 543-1373

## QUESTION PRESENTED

This Court long has recognized that a patent is the private property of its owner, who has the constitutional right to pursue an injunction to stop infringers of the patent and to seek infringement damages before a jury in a court of law. In *Oil States Energy Services, LLC v. Greene's Energy Group, LLC*, 584 U.S. 325 (2018), the Court held that Congress constitutionally could authorize the U.S. Patent and Trademark Office (“PTO”) to take “a second look at an earlier administrative grant of a patent” and reconsider the patentability of its claims during the life of the patent monopoly. *Id.* at 336. Administrative re-adjudication of the validity of existing patents is justified under Article III of the Constitution insofar as it allows the government to vindicate the public’s “interest in seeing that patent monopolies are kept within their legitimate scope.” *Id.* at 336-37. But claims by a holder of an expired patent for past damages from infringements do not raise the same public-interest concern because the government is not being used to stop potential innovations in the marketplace. The question presented is:

Whether the PTO has the authority to conduct administrative adjudications regarding the validity of expired patents, and thereby extinguish private property rights through a non-Article III forum without a jury, even though the patent owner no longer possesses the right to exclude the public from its invention.

## **PARTIES TO THE PROCEEDINGS**

Petitioner Gesture Technology Partners, LLC was the patent owner in the proceedings before the Patent Trial and Appeal Board, the appellant in No. 2023-1444 in the proceedings in the Federal Circuit, and the cross-appellant in Nos. 2023-1475 and 2023-1533 in the proceedings in the Federal Circuit.

Respondent Unified Patents, LLC was a petitioner in the proceedings before the Patent Trial and Appeal Board and the appellee in No. 2023-1444 in the proceedings in the Federal Circuit.

Respondent Apple Inc. was a petitioner in the proceedings before the Patent Trial and Appeal Board and the appellant in Nos. 2023-1475 and 2023-1533 in the proceedings in the Federal Circuit.

Respondents LG Electronics Inc., LG Electronics USA, Inc., and Google LLC were petitioners in the proceedings before the Patent Trial and Appeal Board and appellees in Nos. 2023-1475 and 2023-1533 in the proceedings in the Federal Circuit.

**RULE 29.6 STATEMENT**

Petitioner Gesture Technology Partners, LLC is a private limited liability company that has no parent company; no publicly held company holds 10% or more of its stock.

## RELATED CASES

### Decisions Under Review

*Gesture Tech. Partners, LLC v. Unified Pats., LLC*, 2025 WL 687040 (Fed. Cir. Mar. 4, 2025) (No. 2023-1444) (affirming inter partes review of final written decision of the Patent Trial and Appeals Board)

*Unified Pats., LLC v. Gesture Tech. Partners, LLC*, 2022 WL 17096296 (Patent Tr. & App. Bd. Nov. 21, 2022) (No. IPR2021-00917)

*Apple Inc. v. Gesture Tech. Partners, LLC*, 129 F.4th 1367 (Fed. Cir. Mar. 4, 2025) (Nos. 2023-1475, 2023-1533) (affirming inter partes review of final written decision of the Patent Trial and Appeals Board)

*Apple Inc. v. Gesture Tech. Partners, LLC*, 2022 WL 17364390 (Patent Tr. & App. Bd. Nov. 30, 2022) (Nos. IPR2021-00920, IPR2022-00091, IPR2022-00359)

### Related Decisions Not Under Review

*Apple Inc. v. Gesture Tech. Partners, LLC*, 2025 WL 1584286 (Fed. Cir. June 5, 2025) (No. 2023-1494) (affirming inter partes review of final written decision of the Patent Trial and Appeals Board)

*Apple Inc. v. Gesture Tech. Partners, LLC*, 127 F.4th 364 (Fed. Cir. Jan. 27, 2025) (Nos. 2023-1501, 2023-1554) (affirming and reversing in part inter partes review of final written decision of the Patent Trial and Appeals Board)

*In re Gesture Tech. Partners, LLC*, 2025 WL 303650 (Fed. Cir. Jan. 27, 2025) (No. 2024-1037) (affirming *ex parte* reexamination of final written decision of the Patent Trial and Appeals Board)

*In re Gesture Tech. Partners, LLC*, 2025 WL 303446 (Fed. Cir. Jan. 27, 2025) (No. 2024-1038) (affirming *ex parte* reexamination of final written decision of the Patent Trial and Appeals Board)

*Gesture Tech. Partners, LLC v. Apple Inc.*, 2025 WL 303653 (Fed. Cir. Jan. 27, 2025) (No. 2023-1463) (affirming inter partes review of final written decision of the Patent Trial and Appeals Board)

*Ex parte Gesture Tech. Partners, LLC*, 2023 Pat. App. LEXIS 2535 (Patent Tr. & App. Bd. Aug. 8, 2023) (Appeal 2023-001713)

*Ex parte Gesture Tech. Partners, LLC*, 2023 Pat. App. LEXIS 2536 (Patent Tr. & App. Bd. Aug. 8, 2023) (Appeal 2023-001857)

*Apple Inc. v. Gesture Tech. Partners, LLC*, 2022 WL 17254070 (Patent Tr. & App. Bd. Nov. 28, 2022) (Nos. IPR2021-00922, IPR2022-00090, IPR2022-00360)

*Apple Inc. v. Gesture Tech. Partners, LLC*, 2022 WL 17418636 (Patent Tr. & App. Bd. Dec. 5, 2022) (Nos. IPR2021-00921, IPR2022-00092, IPR2022-00362)

## TABLE OF CONTENTS

	Page
QUESTION PRESENTED .....	i
PARTIES TO THE PROCEEDINGS .....	ii
RULE 29.6 STATEMENT .....	iii
RELATED CASES .....	iv
TABLE OF AUTHORITIES .....	viii
OPINIONS BELOW .....	1
JURISDICTION.....	1
CONSTITUTIONAL AND STATUTORY PRO- VISIONS INVOLVED .....	1
INTRODUCTION .....	1
STATEMENT.....	5
A. Legal Background .....	5
B. Factual And Procedural Background.....	6
REASONS FOR GRANTING THE PETITION.....	10
CONCLUSION.....	10
APPENDIX:	
Opinion of the United States Court of Appeals for the Federal Circuit, <i>Apple Inc. v. Gesture Tech. Partners, LLC</i> , Nos. 2023-1475, 2023- 1533 (Mar. 4, 2025) .....	1a
Opinion of the United States Court of Appeals for the Federal Circuit, <i>Gesture Tech. Partners, LLC v. Unified Pats., LLC</i> , No. 2023-1444 (Mar. 4, 2025) .....	25a
Final Written Decision of the Patent Trial and Appeal Board, <i>Apple Inc. v. Gesture Tech. Partners, LLC</i> , Nos. IPR2021-00920, IPR2022- 00091, IPR2022-00359 (Nov. 30, 2022).....	31a



Final Written Decision of the Patent Trial and Appeal Board, <i>Unified Pats., LLC v. Gesture Tech. Partners, LLC</i> , No. IPR2021-00917 (Nov. 21, 2022) .....	70a
Constitutional and Statutory Provisions Involved..	117a
U.S. Const.:	
Art. III, §§ 1-2.....	117a
Amend. VII .....	118a
Leahy-Smith America Invents Act, Pub. L. No. 112-29, § 6(a), 125 Stat. 284, 299-304 (2011) (codified as amended at 35 U.S.C. §§ 311-319):	
35 U.S.C. § 311 .....	118a
35 U.S.C. § 312 .....	119a
35 U.S.C. § 313.....	120a
35 U.S.C. § 314 .....	120a
35 U.S.C. § 315 .....	121a
35 U.S.C. § 316.....	124a
35 U.S.C. § 317 .....	127a
35 U.S.C. § 318.....	128a
35 U.S.C. § 319 .....	129a

## TABLE OF AUTHORITIES

	Page
CASES	
<i>Apple Inc. v. Gesture Tech. Partners, LLC</i> , 127 F.4th 364 (Fed. Cir. 2025) .....	2, 3, 4, 5, 7, 8, 9, 10
<i>Cascades Projection LLC v. Epson Am., Inc.</i> , 2017 WL 1946963 (Fed. Cir. May 11, 2017) .....	2
<i>Gesture Tech. Partners, LLC v. Apple Inc.</i> , 2025 WL 303653 (Fed. Cir. Jan. 27, 2025) ....	3, 8, 9
<i>Gesture Tech. Partners, LLC, In re</i> : 2025 WL 303446 (Fed. Cir. Jan. 27, 2025) .....	3, 8
2025 WL 303650 (Fed. Cir. Jan. 27, 2025) .....	3, 8
<i>Lawrence ex rel. Lawrence v. Chater</i> , 516 U.S. 163 (1996) .....	10
<i>Oil States Energy Servs., LLC v. Greene’s Energy Grp., LLC</i> , 584 U.S. 325 (2018) .....	3, 6, 8
CONSTITUTION AND STATUTES	
U.S. Const.:	
Art. I, § 8, cl. 8 .....	5
Art. III .....	1, 2, 4, 6, 9, 10
Amend. VII .....	1
Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011) .....	1
Patent Act (35 U.S.C.):	
§ 2(a)(1) .....	5
§ 6 .....	5

§§ 301-307 .....	5
§§ 311-319 .....	5
§ 316(a).....	5
§ 316(a)(11) .....	6
§ 316(c) .....	5
§ 316(e).....	6
§ 318(a)-(b) .....	6
28 U.S.C. § 1254(1) .....	1

## LEGISLATIVE MATERIALS

H.R. Rep. No. 112-98, pt. 1 (2011).....	5
-----------------------------------------	---

## OTHER MATERIALS

Greg Stohr & Susan Decker, <i>'Death Squad'</i> <i>That Tossed 2,000 Patents Challenged at</i> <i>High Court</i> , Bloomberg (Feb. 27, 2021), <i>available at</i> <a href="https://www.bloomberg.com/news/articles/2021-02-27/-death-squad-that-tossed-2-000-patents-challenged-at-high-court">https://www.bloomberg.com/</a> <a href="https://www.bloomberg.com/news/articles/2021-02-27/-death-squad-that-tossed-2-000-patents-challenged-at-high-court">news/articles/2021-02-27/-death-squad-that-</a> <a href="https://www.bloomberg.com/news/articles/2021-02-27/-death-squad-that-tossed-2-000-patents-challenged-at-high-court">tossed-2-000-patents-challenged-at-high-</a> <a href="https://www.bloomberg.com/news/articles/2021-02-27/-death-squad-that-tossed-2-000-patents-challenged-at-high-court">court</a> .....	6
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---

Petitioner Gesture Technology Partners, LLC petitions for a writ of certiorari to review the judgments of the Federal Circuit in this case.

### **OPINIONS BELOW**

The court of appeals’ opinion in Nos. 2023-1475 and 2023-1533 (App. 1a-24a) is reported at 129 F.4th 1367. The court of appeals’ opinion in No. 2023-1444 (App. 25a-30a) is not reported (but is available at 2025 WL 687040).

The decisions of the Patent Trial and Appeal Board (App. 31a-69a, 70a-116a) are not reported (but are available at 2022 WL 17364390 and 2022 WL 17096296, respectively).

### **JURISDICTION**

The Federal Circuit entered its judgments on March 4, 2025. On May 29, 2025, Chief Justice Roberts extended the time for filing a petition for a writ of certiorari to and including June 11, 2025. This Court’s jurisdiction is invoked under 28 U.S.C. § 1254(1).

### **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

Relevant provisions of Article III and the Seventh Amendment to the United States Constitution and the Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011), are set forth at App. 117a-129a.

### **INTRODUCTION**

These cases involve an extraordinary arrogation of administrative power over patents that the Federal Circuit upheld. The Patent Trial and Appeal Board (“PTAB”), an adjudicatory body within the U.S. Patent and Trademark Office (“PTO”), asserted the power to invalidate *expired* patents – patents whose period of exclusivity has ended but that still could be

the subject of monetary infringement claims if the infringement occurred during the patent’s period of exclusivity. Several centuries of patent practice, however, ensure patent holders the right to a jury trial and full judicial process over infringement claims concerning expired patents. The PTAB decisions, as upheld by the Federal Circuit, mean that constitutional jury trial and judicial process rights for those patent holders now may be replaced by the discretion of an administrative agency at the behest of infringement defendants.

In holding that disputes involving expired patents fall under the public-rights exception to Article III, the Federal Circuit sanctioned the extinguishment of private rights by politically appointed administrative panels. It weighed in on the ongoing debate over the dividing line between public and private rights – limiting rights-holders’ access to Article III fora and putting millions of dollars of property rights at stake. These decisions thus “raise[] exceptionally important questions of constitutional law and separation of powers principles” that warrant this Court’s review. *See Cascades Projection LLC v. Epson Am., Inc.*, 2017 WL 1946963, at \*4 (Fed. Cir. May 11, 2017) (O’Malley, J., dissenting from denial of hearing en banc).

This petition asks the Court to hold its decision on a writ of certiorari for a separate petition by Gesture Technology Partners, LLC (“Gesture”) from a set of Federal Circuit decisions upholding the constitutionality of the PTO’s administrative re-adjudications of the validity of Gesture’s expired patent claims. Gesture has petitioned for certiorari from the Federal Circuit’s decision in *Apple Inc. v. Gesture Technology Partners, LLC*, 127 F.4th 364 (Fed. Cir. 2025) (Nos. 2023-1501 & 2023-1554) (“*Gesture I*”). In its *Gesture I*

decision, the Federal Circuit considered and rejected Gesture’s argument that the PTO lacks jurisdiction to adjudicate the validity of an expired patent because “the public franchise [has] cease[d] to exist and the patent owner no longer has the right to exclude others.” *Id.* at 368. The court held instead that expired patents are subject to administrative re-adjudication under *Oil States Energy Services, LLC v. Greene’s Energy Group, LLC*, 584 U.S. 325 (2018), and that “it is irrelevant whether the patent has expired, since the patent itself continues to confer a limited set of rights to the patentee.” *Gesture I*, 127 F.4th at 369.

The *Gesture I* petition encompasses three additional Federal Circuit cases decided on the same day, in each of which Gesture raised an identical constitutional challenge to the PTO’s administrative re-adjudication of its expired patent claims. In each of those decisions, the Federal Circuit rejected Gesture’s constitutional challenge with reference to its reasoning in *Gesture I* and without further analysis. *See In re Gesture Tech. Partners, LLC*, 2025 WL 303446, at \*3 (Fed. Cir. Jan. 27, 2025) (No. 2024-1038) (“Gesture argues that the [PTAB] lacked jurisdiction over this reexamination proceeding because the ’949 patent has expired. That issue has been resolved, and rejected, in the separate opinion of [*Gesture I*].”); *Gesture Tech. Partners, LLC v. Apple Inc.*, 2025 WL 303653, at \*1 (Fed. Cir. Jan. 27, 2025) (No. 2023-1463); *In re Gesture Tech. Partners, LLC*, 2025 WL 303650, at \*2 (Fed. Cir. Jan. 27, 2025) (No. 2024-1037).

This petition asks the Court to hold its decision on certiorari for two additional related Federal Circuit appeals, in each of which Gesture raised the same constitutional challenge and the Federal Circuit likewise rejected it based on *Gesture I*. *See App.* 24a

(Nos. 2023-1475 & 2023-1533) (“We rejected this same argument in [*Gesture I*] and confirmed that ‘the [PTAB] has jurisdiction over [inter partes review] concerning expired patents.’”) (quoting *Gesture I*, 127 F.4th at 368); App. 26a (No. 2023-1444) (same). As the Federal Circuit recognized, no relevant feature of these cases distinguishes them from *Gesture I* with respect to Gesture’s Article III argument.

The *Gesture I* petition for a writ of certiorari, filed contemporaneously with this petition, explains why certiorari is warranted here. These cases present an exceedingly important question of constitutional law, sounding in both separation of powers and individual due process rights, that implicates patent holders in many of the nation’s most important industries. Given the Federal Circuit’s exclusive jurisdiction over appeals from these types of administrative adjudications, no other court of appeals can or will weigh in, and thus further percolation would serve no purpose. And the Federal Circuit’s approach departs from this Court’s decisions and fundamental constitutional principles protecting vested private property rights.

The Court should therefore hold this petition pending the outcome of *Gesture I*. As the Federal Circuit’s analysis made clear, its reasoning in *Gesture I* was the sole basis for its rejection of Gesture’s Article III argument in the instant decisions below. Those decisions should therefore be held for resolution of *Gesture I* so that they may receive appropriate treatment thereafter.

## STATEMENT

### A. Legal Background

The *Gesture I* petition for a writ of certiorari describes the relevant legal background in detail, but for ease of reference, a summary is provided here.

The Constitution empowers Congress “[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” Art. I, § 8, cl. 8. Under this authority, Congress created the PTO, which is “responsible for the granting and issuing of patents.” 35 U.S.C. § 2(a)(1).

In the last half century, Congress has created certain administrative processes that allow the PTO to review and cancel patents that were wrongly issued. First, in 1980, Congress established “ex parte reexamination,” which permits any person to request that the PTO reconsider the patentability of an existing patent, using the same procedures as the initial examination. *See* 35 U.S.C. §§ 301-307. In 2011, Congress created “inter partes review” to provide “a more efficient system for challenging patents that should not have issued.” H.R. Rep. No. 112-98, pt. 1, at 39-40 (2011); *see* 35 U.S.C. §§ 311-319. Like ex parte reexamination, inter partes review allows the PTO to reconsider and cancel issued patents at the request of third parties. Unlike ex parte reexamination, inter partes review permits the requester and patentees limited participation in the proceedings. *See* 35 U.S.C. § 316(a) (providing for limited discovery and an oral hearing).

Inter partes review proceedings are adjudicated in the first instance by the PTAB, an executive body within the PTO. *See id.* §§ 6, 316(c). If the PTAB finds that the challenged patent claims are unpatentable



by a preponderance of the evidence, the PTAB issues a written decision canceling the claims. *See id.* §§ 316(a)(11), (e), 318(a)-(b).

In *Oil States*, petitioner Oil States Energy Services, LLC sought to enforce its existing patent monopoly against respondent Greene’s Energy Group, LLC, and Greene’s responded by challenging the validity of the patent in an inter partes review proceeding before the PTAB. *See* 584 U.S. at 332-33. On appeal, this Court held that such a proceeding did not violate Article III of the Constitution because the government retains the right to police the bounds of existing patent monopolies. The Court “emphasize[d] the narrowness of [its] holding,” which it expressly limited to “the precise constitutional challenges” presented in Oil States’ petition. *Id.* at 344.

In recent years, the PTAB has invalidated thousands of challenged patents through inter partes review, earning the nickname the patent “death squad” from former Federal Circuit Chief Judge Randall Rader. *See* Greg Stohr & Susan Decker, ‘*Death Squad*’ That Tossed 2,000 Patents Challenged at High Court, Bloomberg (Feb. 27, 2021), available at <https://www.bloomberg.com/news/articles/2021-02-27/-death-squad-that-tossed-2-000-patents-challenged-at-high-court>.

## **B. Factual And Procedural Background**

Petitioner Gesture Technology Partners, LLC (“Gesture”) was founded in 2013 by Dr. Timothy Pryor. Dr. Pryor is a named inventor on more than 200 patents and patent applications, primarily involving laser sensing technology, motion sensing technology, machine vision technology, and camera-based interactive technology. Dr. Pryor began developing these technologies in the mid- to late-1990s.

The proceedings underlying this petition involve three expired patents held by Gesture, all of which describe technology that allows cellphone users to interact with their phone using gestures detected by the phone’s camera, for example, by using a gesture to unlock their phone or take a picture.<sup>1</sup> In the years after these patents were issued, several large technology companies recognized the immense commercial value of Dr. Pryor’s inventions and began implementing the patented technologies in their products without authorization.

In early 2021, Gesture filed a series of infringement suits against some of the largest technology companies in the world. Several of these companies and their membership organization, Unified Patents, LLC, then sought to undercut Gesture’s pending infringement lawsuits against them by filing petitions for administrative review of Gesture’s patents.

In each proceeding, Gesture argued that the PTO lacked jurisdiction to review and cancel expired patents. The Federal Circuit first considered and upheld the PTAB’s jurisdiction to conduct administrative adjudications of expired patents in *Gesture I*. 127 F.4th at 368-69. The court rejected Gesture’s argument that disputes over expired patents do not implicate public rights because when a patent expires “the

---

<sup>1</sup> In 2011, petitioner obtained U.S. Patent No. 7,933,431 (the “’431 Patent”), titled “Camera Based Sensing in Handheld Mobile, Gaming, or Other Devices.” The ’431 Patent expired in July 2020.

In 2013, petitioner obtained U.S. Patent No. 8,553,079 (the “’079 Patent”), titled “More Useful Man Machine Interfaces and Applications.” The ’079 Patent expired in November 2019.

In 2014, petitioner obtained U.S. Patent No. 8,878,949 (the “’949 Patent”), titled “Camera Based Interaction and Instruction.” The ’949 Patent expired in May 2020.

public franchise ceases to exist and the patent owner no longer has the right to exclude others.” *Id.* at 368. Relying on *Oil States*, the court held that “it is irrelevant whether the patent has expired, since the patent itself continues to confer a limited set of rights to the patentee.” *Id.* at 369.

On the same day the Federal Circuit decided *Gesture I*, it disposed of three consolidated appeals by Gesture, rejecting Gesture’s jurisdictional arguments in each case and explaining that the “issue has been resolved, and rejected, in the separate opinion of [*Gesture I*].” *Gesture*, 2025 WL 303446, at \*3; *Gesture*, 2025 WL 303653, at \*1 (same); *Gesture*, 2025 WL 303650, at \*2 (same).<sup>2</sup>

---

<sup>2</sup> A brief summary of the three additional Federal Circuit decisions encompassed by the *Gesture I* petition is as follows:

- *In re Gesture Tech. Partners, LLC*, 2025 WL 303446 (Fed. Cir. Jan. 27, 2025) (No. 2024-1038): Samsung filed a request for ex parte reexamination of the ’949 Patent, and the PTO canceled claims 8-18. *Id.* at \*1. On appeal, the Federal Circuit rejected Gesture’s jurisdictional argument, explaining that the “issue has been resolved, and rejected, in the separate opinion of [*Gesture I*].” *Id.* at \*3.
- *In re Gesture Tech. Partners, LLC*, 2025 WL 303650 (Fed. Cir. Jan. 27, 2025) (No. 2024-1037): The PTO granted a third party’s petition for ex parte reexamination of the ’079 Patent and found claims 1, 4-9, 11-12, and 17-20 unpatentable. *Id.* at \*1. The Federal Circuit rejected Gesture’s jurisdictional argument on appeal, again explaining that the “issue has been resolved, and rejected, in the separate opinion of [*Gesture I*].” *Id.* at \*2.
- *Gesture Tech. Partners, LLC v. Apple Inc.*, 2025 WL 303653 (Fed. Cir. Jan. 27, 2025) (No. 2023-1463): In a companion opinion to No. 2024-1037, the Federal Circuit reviewed the PTAB’s decision canceling claims 1-9, 11-12, and 14-30 of the ’079 Patent through inter partes review at the request of

On March 4, 2025, the Federal Circuit decided the two appeals at issue in this petition. Once again, the court incorporated by reference the reasoning from its *Gesture I* decision and rejected Gesture’s Article III argument without further analysis. See App. 24a (explaining that the court had “rejected this same argument in [*Gesture I*] and confirmed that ‘the [PTAB] has jurisdiction over [inter partes review] concerning expired patents’”) (quoting *Gesture I*, 127 F.4th at 368); App. 26a (same).<sup>3</sup>

---

Apple, LG Electronics, and Google. The court rejected Gesture’s jurisdictional argument on the same grounds. *Id.* at \*1 (“That issue has been resolved, and rejected, in the separate opinion of [*Gesture I*].”).

<sup>3</sup> A brief summary of the two Federal Circuit decisions at issue in the instant petition is as follows:

- *Apple Inc. v. Gesture Tech. Partners, LLC*, 129 F.4th 1367 (Fed. Cir. 2025) (Nos. 2023-1475 & 2023-1533) (App. 1a-24a): Apple, LG Electronics, and Google requested inter partes review of the ’431 Patent, and the PTAB held claims 1-10, 12, and 14-31 unpatentable and claims 11 and 13 not unpatentable. App. 1a. Apple appealed the PTAB’s decision on claims 11 and 13, and Gesture cross-appealed, arguing again that the PTO lacked jurisdiction because the ’431 Patent had expired. App. 2a, 5a. The Federal Circuit affirmed in full. App. 2a. With respect to jurisdiction, the court explained that it “rejected this same argument in [*Gesture I*] and confirmed that ‘the [PTAB] has jurisdiction over [inter partes review proceedings] concerning expired patents.’” App. 24a (quoting *Gesture I*, 127 F.4th at 368).
- *Gesture Tech. Partners, LLC v. Unified Pats., LLC*, 2025 WL 687040 (Fed. Cir. Mar. 4, 2025) (No. 2023-1444) (App. 25a-30a): Unified Patents filed a petition for inter partes review of claims 7-13 of the ’431 Patent, and the PTAB held that claims 7-9 and 12 were unpatentable and that claims 10-11 and 13 were not shown unpatentable. App. 25a-26a. Gesture appealed, and the court affirmed, explaining that,

## REASONS FOR GRANTING THE PETITION

This petition presents the same question as the petition in *Gesture I*: Whether the PTO has the authority to conduct administrative adjudications regarding the validity of expired patents, and thereby extinguish private property rights through a non-Article III forum without a jury, even though the patent owner no longer possesses the right to exclude the public from its invention. Therefore, this Court should hold this petition pending its decision on the petition for a writ of certiorari in *Gesture I*.

In each of the proceedings below, *Gesture* raised the same argument that the PTO lacked authority to administratively adjudicate the validity of its expired patent, and the Federal Circuit rejected *Gesture*'s argument by incorporating by reference the reasoning from its opinion in *Gesture I*, 127 F.4th at 368-69. *See supra* pp. 3-4, 9 & n.3.

Accordingly, the Court should hold this petition pending its decision in *Gesture I*, so that it may then use its standard practice of granting certiorari, vacating the judgment below, and remanding the case for reconsideration in light of its decision. *See Lawrence ex rel. Lawrence v. Chater*, 516 U.S. 163, 166-67 (1996) (per curiam).

## CONCLUSION

The petition for a writ of certiorari should be held pending this Court's decision in *Gesture I* and disposed of as appropriate given that decision.

---

“in [*Gesture I*], we ‘confirm[ed] . . . that the [PTAB] has jurisdiction over [inter partes review proceedings] concerning expired patents.’” App. 26a (quoting *Gesture I*, 127 F.4th at 368) (ellipsis and second set of brackets by Federal Circuit).

Respectfully submitted,

FRED I. WILLIAMS  
WILLIAMS SIMONS &  
LANDIS PC  
The Littlefield Building  
106 East Sixth Street  
Suite 900-168  
Austin, TX 78701  
(512) 543-1354

JOHN WITTENZELLNER  
WILLIAMS SIMONS &  
LANDIS PC  
1735 Market Street  
Suite 125 #453  
Philadelphia, PA 19103  
(512) 543-1373

June 11, 2025

DAVID C. FREDERICK  
*Counsel of Record*  
BRENNAL. DARLING  
DENNIS D. HOWE  
KELLOGG, HANSEN, TODD,  
FIGEL & FREDERICK, P.L.L.C.  
1615 M Street, N.W., Suite 400  
Washington, D.C. 20036  
(202) 326-7900  
(dfrederick@kellogghansen.com)