No. 25-1011

In the Supreme Court of the United States

DOLBY LABORATORIES LICENSING CORPORATION,
Petitioner,

v.

UNIFIED PATENTS, LLC,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

REPLY IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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REPLY

Neither Respondent contests Dolby's reading of the text of 35 U.S.C. §312(a)(2), and both acknowledge that the Federal Circuit is the only court that administers that statute. Indeed, the Director *agrees* with Dolby that §312(a)(2) "requires the Board to identify all real parties in interest, *whether or not that issue affects the institution decision*." Director-BIO 16 (emphasis added). Congress drafted §312(a)(2) as an enforceable limitation on the Director, not a discretionary consideration. Dolby must have standing to enforce its rights under that provision. And the Director's ever-changing reading of §312(a)(2) is a reason to grant certiorari, not deny it.

Nor do Respondents address the actual standard for injury in fact articulated in *TransUnion LLC v. Ramirez*—whether the information deprivation hinders Dolby's downstream conduct. 594 U.S. 413, 441-42 (2021). Dolby demonstrated it is significantly hindered in enforcing its estoppel rights, among other considerations. That constitutes injury in fact under *TransUnion*, and Respondents do not argue otherwise. The Federal Circuit's heightened standard for informational standing conflicts with this Court's precedents.

The Director's agreement (at 16) that §312(a)(2) requires the Board to identify all real parties in interest, "whether or not that issue affects the institution decision," completely undermines Respondents' assertions that this appeal is barred by §314(d), since that provision only applies to appeals challenging the *institution* of inter partes review or maintaining of the

proceeding. Dolby is not seeking to set aside the inter partes review proceeding, in which it prevailed. Quite the opposite: Dolby wants (and is entitled) to obtain full value for its victory by establishing the identities of the real parties in interest that are now estopped from challenging Dolby's patent.

Certiorari is warranted.

I. Section 312(a)(2) requires disclosure of "all real parties in interest," and the Director's agreement with Dolby's reading does not diminish the need for review.

The text of §312(a)(2) could not be clearer: "A petition filed under section 311 may be considered only if—(2) the petition identifies *all* real parties in interest" (emphasis added). The Director concedes (at 16) that Dolby's reading of the statutory text is correct. Unified Patents, for its part, does not even attempt to offer an alternative reading of the statutory language. It simply asserts, *ipse dixit*, that it "was the sole real party in interest to its petition" and made the necessary "good-faith identification" of itself as such. Unified-BIO 6. But Unified does not contest its admission below that its IPR petition was intended to vindicate not its own interests but those of its member-customers. *See* Pet.7. In fact, Unified concedes (at 6) that inter partes reviews like this one are among the "services Unified has long provided its members."

Without any basis to contest §312(a)(2)'s plain meaning, Respondents downplay the importance of the question presented because the Director has altered the approach that the Board applied to Dolby

below. *See* Director-BIO 16-17; Unified-BIO 11. But as the Director acknowledges (at 4-5), his reading of the statute has turned 180 degrees *twice* in the last five years. That the Director has asserted flexibility in his reading of the statute's straightforward text *increases* the need for this Court's review. *See SAS Inst. Inc. v. Iancu*, 584 U.S. 357, 362 (2018) (granting certiorari to decide whether the Director has discretion over which claims of patentability to decide under §318(a)). Without this Court's review, there is no reason to believe the Director won't change his mind again and deprive patent owners of the information and estoppel rights guaranteed to them by statute. Nor can the Director appeal to any discretion or deference owed to his reading or application of the statutes at issue. *Compare Cuozzo Speed Techs., LLC v. Lee*, 579 U.S. 261, 276-77 (2016) (applying *Chevron* deference to the USPTO's policy of using the "broadest reasonable construction" of claims when considering whether to institute inter partes review), *with Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024) ("*Chevron* is overruled."). Congress drafted §312(a)(2) as a mandatory requirement, not a matter of the Director's discretion; it is Dolby's right and the Court's province to enforce the statute.

Notably, neither Respondent argues that the Director's most recent change of heart somehow moots Dolby's case. The Director's newfound rule applied only prospectively and so did not grant Dolby any relief. Dolby preserved all of its arguments below, and if this Court were to grant the petition and rule in Dolby's favor, Dolby could obtain the relief it seeks—*i.e.*, identification of Unified's members that were

behind the IPR petition who thus are estopped from bringing future challenges. This case presents a live and important issue for resolution by this Court.[1]

II. The deprivation of information guaranteed by §312(a)(2) constitutes injury in fact for standing under this Court's precedents.

Dolby has standing to pursue this appeal. Although it prevailed on the merits of Unified's challenge to its patent, the Board declined to grant it the relief requested under §312(a)(2). This directly harmed Dolby by denying it identification of the real parties in interest to whom Dolby's estoppel rights attach. Pet.17-19; *see* 35 U.S.C. §315(e). Dolby was thus injured by the Board's decision not to require identification of the real parties in interest.

Respondents wrongly contend that this Court's decision in *TransUnion* prevents Dolby from asserting a concrete injury here. *See* Director-BIO 11-12; Unified-BIO 14-17. As Dolby noted in its petition (at 17-19), *TransUnion* holds that standing is satisfied when the denial of information "hinder[s]" a party in some material way. 594 U.S. at 442. The denial of information key to establishing the full scope of Dolby's estoppel rights easily qualifies as a hindrance that

[1] The previously denied petitions the Director cites (at 9) as "raising similar questions" are inapposite. One challenged the institution of inter partes review. *See ESIP Series 2, LLC v. Puzhen Life USA, LLC*, No. 20-228. Dolby does not. The other did not present this question under §312(a)(2) and involved appellate standing for a party in Unified's position—an unsuccessful challenger to a patent that faced no threat of its own from the patent at issue. *See RPX Corp. v. ChanBond LLC*, No. 17-1686.

constitutes a concrete injury. And—contrary to the Director's argument (at 11)—this Court was clear that the decisions in *FEC v. Akins*, 524 U.S. 11 (1998), and *Public Citizen v. United States Department of Justice*, 491 U.S. 440 (1989), "d[id] not control" in *TransUnion* because "[t]he plaintiffs did not allege that they failed to receive any required information. They argued only that they received it *in the wrong format*." *TransUnion*, 594 U.S. at 441. That is not Dolby's claim here. Dolby was, in fact, denied information required under §312(a)(2)—the identity of the real parties in interest.

Respondents contend that §312(a)(2) is different from the public disclosure statutes at issue in *Akins* and *Public Citizen*. Director-BIO 11; Unified-BIO 14-15. To begin, the statute requires the real parties in interest to be publicly identified on the docket. *See* 35 U.S.C. §312(b). Even if this were not the case, Dolby can still assert injury to its own rights under the America Invests Act. It turns traditional standing analysis on its head to suggest Dolby's standing is weakened because the information right is not shared broadly by all members of the public. Typically, "a grievance that amounts to nothing more than an abstract and generalized harm to a citizen's interest in the proper application of the law does not count as an 'injury in fact.'" *Carney v. Adams*, 592 U.S. 53, 58 (2020); *accord Lujan v. Defenders of Wildlife*, 504 U.S. 555, 573-74 (1992). But that concern was insufficient to carry the day in *Akins* and *Public Citizen*, and it certainly cannot carry the day here, where the AIA grants patent owners a more direct right to disclosure

of the real parties in interest to an IPR petition.[2] Dolby's injury from the denial of this right and the resulting impairment of its estoppel rights is far more particularized than the asserted injuries that failed to carry the day in *TransUnion*.

Dolby's claims of injury are not speculative. The Board's refusal to enforce Dolby's right to disclosure denies Dolby the ability to enforce its estoppel rights and obtain quiet title—core aspects of the AIA's goals to promote efficient adjudication and protect patent owners from harassment through repeated challenges. *See* Pet.13-14. Having spent considerable resources litigating and prevailing in the IPR proceeding, Dolby is entitled to know who is bound by that decision. That information is critical to Dolby not only in defending against future challenges but also in negotiating licenses and in investigating and prosecuting infringement. Pet.18. Those "'downstream consequences' from failing to receive the required information" give Dolby standing. *TransUnion*, 594 U.S. at 442.

Nothing in this Court's precedents required Dolby to show that the alleged real parties in interest are subject to licensing agreements with Dolby, are

[2] Respondents do not dispute that §312(a)(2) grants rights to patent owners. Nowhere do Respondents recognize Congress's intent in the AIA to provide patent owners quiet title and to prevent harassment through repeated challenges. *See* H.R. Rep. No. 112-98, pt. 1, at 40, 48 (2011); Pet.13-14. Nor do Respondents dispute that a key purpose of §312(a)(2) is to provide patent owners quiet title and estoppel rights after an inter partes review has been instituted and litigated to conclusion. *See* Pet.15-16.

breaching such agreements, or are engaging in infringing activity. *Contra* App.7a-8a; Director-BIO 12; Unified-BIO 16-17. In *Public Citizen*, the advocacy organizations claimed the withheld information would enable them generally to "participate more effectively in the judicial section process." 491 U.S. at 449. And in *Akins*, the voters claimed the information would help them generally "to evaluate candidates for public office" and "to evaluate the role that [certain] financial assistance might play in a specific election." 524 U.S. at 21. If those claimed injuries were sufficiently concrete, then so too is the hinderance to Dolby's hard-earned estoppel rights.

Respondents' attempts to downplay the harm to Dolby miss the mark. It is no answer for Unified to argue (at 12) that estoppel rights are "typically addressed in a *subsequent* case, where the allegedly estopped party is present." A necessary precursor for any estoppel defense is the identity of the parties in the first proceeding—the very information Dolby seeks and §312(a)(2) requires. The Director's suggestion (at 13) that interrogatories or other discovery mechanisms could suffice in future proceedings ignores the limited discovery tools at the pre-institution stage in inter partes review proceedings, the increased costs to Dolby, and the increased risk that an inter partes review is instituted. Pet.18-19. It also overlooks Dolby's significantly hindered ability, and practical inability, to assert estoppel rights at the outset of any proceeding, whether in a preliminary response before the Board or in a pleading or motion to dismiss in district court. *See* 37 C.F.R. §42.107; Fed. R. Civ. P. 8(c)(1); *accord Blonder-Tongue Lab'ys, Inc.*

v. Univ. of Ill. Found., 402 U.S. 313, 350 (1971). The Board's decision unquestionably "impact[s] Dolby's ability to raise estoppel in future cases." *Contra* Unified-BIO 12-13.

Nor is Dolby's outside counsel's knowledge of the names of the nine alleged real parties in interest an adequate substitute for Dolby's information rights under §312(a)(2). *Contra* Director-BIO 13. The protective order requires that all sealed information be destroyed at the conclusion of this case, leaving outside counsel only with his memory. ECF 37, Reply-Br.12-13. And even if outside counsel knows the names of the alleged real parties in interest, outside counsel may not be available to Dolby in the future. More fundamentally, counsel's knowledge of the names is not a determination that those entities are in fact real parties in interest. So Dolby would still need to undertake extensive discovery efforts and otherwise unnecessary work to establish its estoppel rights in future proceedings, contrary to Congress's intent in the AIA.

III. Section 314(d) does not bar this appeal.

Respondents, like the Federal Circuit below, misinterpret the scope of §314(d). By its terms, §314(d)'s bar is limited to "[t]he determination by the Director *whether to institute* an inter partes review" (emphasis added). But Dolby has not sought to revisit the decision to institute inter partes proceedings. Dolby does not argue that the Director erred in initiating review and does not seek to set aside the decision of the Board in its favor. Rather, Dolby seeks—following its success before the Board—what the statute requires:

identification of the real parties in interest, who are now estopped from challenging the validity of Dolby's patent.

The facts here are on all fours with those underlying this Court's decision in *SAS*, where §314(d) did not apply. *See* Pet.20-21. As in *SAS*, Dolby "does not seek to challenge the Director's conclusion" that there was a sufficient basis "to warrant instituting an inter partes review." 584 U.S. at 371 (cleaned up). As in *SAS*, Dolby "remains very pleased with the Director's judgment on that score." *Id.* And as in *SAS*, Dolby "contends that the Director exceeded his statutory authority" and thus failed "to ensure that an inter partes review proceeds in accordance with the law's demands." *Id.* The Court thus rejected application of §314(d) in *SAS*; the same result necessarily follows here.

Dolby thus stands in an entirely different position than the respondent in *Thryv, Inc. v. Click-To-Call Technologies, LP,* who on appeal "challeng[ed] only the Board's determination that §315(b) did not preclude inter partes review." 590 U.S. 45, 50 (2020). The same was true in *Cuozzo,* where the unsuccessful party "argued that the Patent Office improperly instituted inter partes review." 579 U.S. at 270. In those cases, the party on appeal was seeking to set aside the

determination by the Director to institute review—which is exactly what §314(d) bars.[3]

Respondents read far too much into *Thryv*, contending that any issues that *could* have been resolved by the Director at the point of institution necessarily fall within §314(d)'s gambit. *See* Director-BIO 13-15; Unified-BIO 22-24. But that was true in *SAS*, where, the Director made the decision at the outset to institute review on only *some* of the claims challenged by *SAS*. Yet this did not mean *SAS* was barred from appealing the Board's failure to resolve all the claims at the end of the proceeding. *Thryv* itself endorses this distinction, affirming *SAS*'s holding that §314(d) applies when an "appeal challenges not the manner in which the agency's review 'proceeds' once instituted, but whether the agency should have instituted review at all." 590 U.S. at 58.

Nor are Respondents correct to suggest that §312(a)(2)'s only effect is at the point of institution. Parties can and do raise arguments about the naming of real parties in interest after institution, and the Board can and does consider such claims as inter partes review progresses. *See, e.g.*, *Verify Smart Corp.*

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[3] Unified invokes (at 24) arguments Dolby made before institution, but those arguments have no bearing here. Section 314(d) does not bar a party from urging the Director at the outset of a case not to initiate review. The relevant consideration is what Dolby sought *post*-institution, and Dolby has made clear throughout its subsequent appeal that it is not challenging or seeking to set aside the Director's institution decision. *Cf. 3G Licensing, S.A. v. Honeywell Int'l Inc.*, 2024 WL 5054806, at *4 (Fed. Cir. Dec. 10) (holding a party's pre-institution arguments may be waived if not asserted in post-institution proceedings).

v. Askeladden, L.L.C., 824 F. App'x 1015, 1018 (Fed Cir. 2020); *Curium US LLC v. Universität Heidelberg*, IPR2025-01582, Paper 11 (Feb. 25, 2026); *Aylo Freesites Ltd. v. Dish Techs. L.L.C.*, IPR2024-00940, Paper 75 (Feb. 3, 2026); *Yangtze Memory Techs. Co. v. Micron Tech., Inc.*, IPR2025-00098, Paper 38 (Jan. 15, 2026).

Indeed, the Director gives away the game (at 15) when he compares Dolby's arguments about §312(a)(2) to "challenges based on Sections 312(a)(3) and 315(b)," which he contends necessarily amount to "a contention that the agency should have refused to institute an inter partes review." That's not true. The Federal Circuit frequently decides appeals from Board decisions that are alleged to depart from §312(a)(3)'s requirements.[4] That section requires a party seeking inter partes review to identify "in writing and with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim." §312(a)(3). But although this is a requirement for the institution of IPR proceedings, it is

[4] *See, e.g.*, *VLSI Tech. LLC v. Intel Corp.*, 53 F.4th 646, 653-54 (Fed. Cir. 2022) (affirming prior decisions reviewing challenges based on §312(a)(3) on appeal); *Koninklijke Philips N.V. v. Google LLC*, 948 F.3d 1330, 1335 (Fed. Cir. 2020) (holding the Board's final written decision violated patent owner's rights under §312(a)(3)); *Sirona Dental Sys. GmbH v. Institut Straumann AG*, 892 F.3d 1349, 1356 (Fed. Cir. 2018) (analyzing whether the Board's final written decision "deviate[d] from the grounds alleged in the petition"); *Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016) (noting enforcement of §312(a)(3)'s disclosure requirement is "of the utmost importance").

also a requirement *post*-institution, precluding reliance on new arguments and evidence not disclosed in the petition. Thus, the Federal Circuit "routinely examine[s] whether the Board's final written decision departed from the petition." *IBM Corp. v. Zillow Grp., Inc.*, 160 F.4th 1360, 1366 (Fed. Cir. 2025) (collecting cases). Why? Because such appeals "d[o] not seek to 'undo' institution—rather, [they] simply as[k] to ensure the Board's final written decision stayed within the confines of [the] petition." *Id.*

The same is true for §312(a)(2). Dolby is not asking to "undo" the Director's institution decision; it is asking for the Board's final decision on the merits to adhere to the requirements of §312(a)(2). This appeal is not barred by §314(d), in the same way that appeals arguing the Board departed from the requirements of §312(a)(3) are "routinely examine[d]" by the Federal Circuit. *IBM*, 160 F.4th at 1366.

CONCLUSION

The Court should grant the petition.

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