

2025-152

United States Court of Appeals
for the Federal Circuit

In re: SANDISK TECHNOLOGIES, INC., WESTERN DIGITAL
TECHNOLOGIES, INC.,

Petitioners.

*On Petition for a Writ of Mandamus to the United States Patent and Trademark
Office, Patent Trial and Appeal Board in Nos. IPR2025- 00515, IPR2025-00516 &
IPR2025-00517*

CORRECTED BRIEF FOR *AMICUS CURIAE*
BAR ASSOCIATION FOR THE DISTRICT OF COLUMBIA
IN SUPPORT OF PETITIONERS

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SEPTEMBER 29, 2025

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF INTEREST

Case Number 25-152

Short Case Caption In re Sandisk Technologies, Inc.

Filing Party/Entity Bar Association of the District of Columbia

Instructions:

1. Complete each section of the form and select none or N/A if appropriate.
2. Please enter only one item per box; attach additional pages as needed, and check the box to indicate such pages are attached.
3. In answering Sections 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance.
4. Please do not duplicate entries within Section 5.
5. Counsel must file an amended Certificate of Interest within seven days after any information on this form changes. Fed. Cir. R. 47.4(c).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 09/29/2025

Signature: /s/ Clifton E. McCann

Name: Clifton E. McCann

<p>1. Represented Entities. Fed. Cir. R. 47.4(a)(1).</p>	<p>2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2).</p>	<p>3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3).</p>
<p>Provide the full names of all entities represented by undersigned counsel in this case.</p>	<p>Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities.</p> <p><input checked="" type="checkbox"/> None/Not Applicable</p>	<p>Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities.</p> <p><input checked="" type="checkbox"/> None/Not Applicable</p>
<p>The Bar Association of the District of Columbia</p>		

Additional pages attached

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

None/Not Applicable Additional pages attached

5. Related Cases. Other than the originating case(s) for this case, are there related or prior cases that meet the criteria under Fed. Cir. R. 47.5(a)?

Yes (file separate notice; see below) No N/A (amicus/movant)

If yes, concurrently file a separate Notice of Related Case Information that complies with Fed. Cir. R. 47.5(b). **Please do not duplicate information.** This separate Notice must only be filed with the first Certificate of Interest or, subsequently, if information changes during the pendency of the appeal. Fed. Cir. R. 47.5(b).

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

None/Not Applicable Additional pages attached

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**STATEMENT OF INTEREST OF *AMICUS CURIAE* AND
SOURCE OF ITS AUTHORITY TO FILE**

The Bar Association of the District of Columbia is a non-profit professional organization that has an IP Section (“BADC”) which monitors developments in intellectual property law and practice. This section includes members who specialize in various aspects of intellectual property law. Members frequently represent clients in intellectual property matters before the United States Patent and Trademark Office (“USPTO”) and the Federal Circuit and are committed to ensuring that both institutions uphold practices that are fair, equitable, and fully compliant with statutory mandates.

We believe the petition raises important and unresolved issues concerning the availability of *inter partes* review, and that the perspective of a bar association dedicated to intellectual property law will aid the Court’s consideration. Amicus has no client or economic interest in this case, but a professional interest in maintaining the integrity and predictability of the patent system.

This brief is submitted with leave of Court pursuant to Federal Rule of Appellate Procedure 29(a)(2).

ARGUMENT

Amicus fully endorses and incorporates by reference the arguments set forth in the *Amicus* Brief of Professor Mark A. Lemley, filed in support of Petitioners. Dkt. 9.

As that brief explains, mandamus is warranted because the interim Director of the USPTO has engaged in a systemic practice of rejecting meritorious IPR petitions on the basis of a newly created “settled expectations” doctrine. This extra-statutory policy is inconsistent with the America Invents Act, undermines the very purpose of *inter partes* review, and threatens to insulate from review precisely the types of patents Congress intended to subject to scrutiny.

The interim Director’s categorical hostility to IPRs reflects not a legitimate exercise of discretion, but a departure from statutory limits and congressional design. For the reasons articulated in Professor Lemley’s *amicus* brief, this Court should grant mandamus to correct the USPTO’s unlawful policy.

CONCLUSION

The Court should grant the writ of mandamus.

Respectfully submitted,

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**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS

Case Number: 25-152

Short Case Caption: In re Sandisk Technologies, Inc.

Instructions: When computing a word, line, or page count, you may exclude any items listed as exempted under Fed. R. App. P. 5(c), Fed. R. App. P. 21(d), Fed. R. App. P. 27(d)(2), Fed. R. App. P. 32(f), or Fed. Cir. R. 32(b)(2).

The foregoing filing complies with the relevant type-volume limitation of the Federal Rules of Appellate Procedure and Federal Circuit Rules because it meets one of the following:

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Date: 09/29/2025

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