Docket No. 2025-2026

In the

United States Court of Appeals

For the

Federal Circuit

APPLICATIONS IN INTERNET TIME, LLC,

Plaintiff-Appellant,

v.

SALESFORCE, INC.,

Defendant-Appellee.

Appeal from the United States District Court for the District of Nevada
Case No. 3:13-CV-00628-MMD-CLB · Honorable Miranda M. Du

APPELLEE SALESFORCE, INC.'S RESPONSE TO PETITION FOR REHEARING *EN BANC*

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CERTIFICATE OF INTEREST

Case Number 2025-2026

Short Case Caption Applications In Internet Time, LLC v. Salesforce, Inc.

Filing Party/Entity Salesforce, Inc.

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

Date: May 27, 2026 Signature: /s/ *Kevin P.B. Johnson*

Name: Kevin P.B. Johnson

1. Represented Entities. Fed. Cir. R. 47.4(a)(1).	**2. Real Party in Interest.** Fed. Cir. R. 47.4(a)(2).	**3. Parent Corporations and Stockholders.** Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	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. ☒ None/Not Applicable	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. ☒ None/Not Applicable
Salesforce, Inc.		

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

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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).

Pursuant to Federal Circuit Rule 47.5, the following case is related to this appeal: *Applications In Internet Time, LLC v. Salesforce, Inc.*, No. 3:25-cv-00476-MMD-CLB (D. Nev.)

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

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

Cases

Statutes

Other Authorities

PRELIMINARY STATEMENT

This petition comes from a plaintiff that has plainly lacked any legal interest in the patents in suit since the day that it sued. It urges this Court to revisit a panel decision for the sake of affording an unprecedented opportunity to cure its threshold, constitutional standing defect many years after the fact. There are many reasons why this plaintiff's effort should fail, but the panel's decision rightly rests on the most fundamental problem: the limits of Article III. In trying to circumvent that at the rehearing stage, the plaintiff relies on legal arguments it never made below and fallacious factual premises.

As to the facts that preclude standing, it bears emphasizing that AIT long possessed the all-important transactional documents but withheld them. Specifically, AIT's principals—the same two individuals who owned and controlled both AIT and the entity that purported to assign the Asserted Patents to AIT—executed the agreements that plainly severed the chain of title. Yet they and their entity withheld from Salesforce the telltale documents evidencing the resulting defect for years after Salesforce's initial discovery called for all such documents. When Salesforce finally obtained those documents, AIT then devoted its energies to denying there was any standing defect, without seeking the equitable relief it now claims was appropriate. Having been so derelict itself, AIT lacks any persuasive

reason to fault a well-reasoned panel decision as though it specially warrants rehearing.

AIT's petition presents two questions, neither of which meets the rehearing standard. The first is whether the panel correctly characterized AIT's standing defect as constitutional rather than statutory. But the absence of constitutional standing should be beyond question at this point. AIT held no rights whatsoever—legal, equitable, or otherwise—in the Asserted Patents when it filed suit in 2013. This is not a case involving an ancillary, technical defect in an otherwise valid chain of title, or a dispute about whether a plaintiff holding some cognizable interest in patents also falls within the specific class that Congress statutorily authorized to sue under § 281. Because AIT has *no* legally protected interest that might be invaded, it necessarily lacked the irreducible constitutional minimum that any plaintiff must have before properly summoning a federal court's powers. Neither a statute nor an equitable remedy can change the constitutional equation by retroactively injecting Article III standing that was nonexistent from inception.

AIT's contrary argument is that a plaintiff that comes into court as a *complete stranger* to the patents it sues under *nonetheless* satisfies Article III. That astonishing argument defies Article III together with a long, consistent line of cases—including the latest instruction from the U.S. Supreme Court. Notably, none of AIT's cited cases goes so far as suggesting, let alone holding, that a plaintiff

lacking any interest in the patents in suit is nonetheless constitutionally empowered to sue on those patents.

AIT's second question is whether equitable relief was available to cure its constitutional standing defect. But that, too, is a non-starter. The Supreme Court in *Lexmark* differentiated Article III's injury-in-fact requirement—grounded in constitutional bedrock—from the inquiry into standing under § 281 for statutory purposes. *Lexmark Int'l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 126-28 (2014). This Court adhered to that distinction in *Intellectual Tech* and confirmed that, whereas § 281 defects are statutory and curable, Article III standing is a "jurisdictional requirement, which is incurable if absent at the initiation of suit." *Intellectual Tech LLC v. Zebra Techs. Corp.*, 101 F.4th 807, 814 (Fed. Cir. 2024). As such, AIT's bid for equitable relief is foreclosed at the threshold.

Neither of the cases AIT invokes—*Schwendimann* and *Lans*—enables a plaintiff to summon the powers of an Article III court *after* the court has *dismissed* all claims upon concluding it lacks Article III jurisdiction. That is the posture AIT was in when it first sought equitable relief, and no case affords AIT even a colorable argument in that posture, let alone an argument for why the persisting dismissal reflected some abuse of discretion by the district court. To make matters worse, the relief AIT now seeks in its petition involves contractual reformation *different* from what AIT requested below—meaning it has been waived.

Finally, AIT omits to disclose that it has already filed a new complaint asserting the same patents against Salesforce, No. 3:25-cv-00476-MMD-CLB (D. Nev.), consistent with the dismissal below being *without* prejudice. There is no good reason for AIT to seek extraordinary relief from this Court for claims that are proceeding in parallel and occupying the attention of a district court. The petition should be denied.

BACKGROUND

AIT's petition arises from a patent infringement action filed by AIT against Salesforce in November 2013. AIT was formed in February 2005 by Beverly Nelson ("Nelson") and Douglas Sturgeon ("Sturgeon"), who are also co-founders and owners of Alternative Systems, Inc. ("ASI"). The Asserted Patents claim priority to a patent application filed on December 18, 1998, by ASI. APPX2.

The fatal defect in chain of title arises from agreements to which AIT's own principals were parties. On April 24, 2002, ASI and various other joint venture participants entered into an agreement ("2002 Agreement") contemplating a future transfer of "ASI Assets," including the Asserted Patents—a transfer the parties never completed, leaving patent rights with ASI. APPX3596-3611; APPX5; APPX2; APPX4571, ¶ 13.

On November 9, 2006, Nelson and the parties to the 2002 Agreement entered into a new agreement ("2006 Agreement"), stating that the 2002 Agreement was

"hereby sold to Nelson" and that "all right, title, interest, and liability … set forth in the … 2002 Agreement shall transfer in whole to Nelson." APPX3591. The district court correctly concluded, and this Court affirmed, that the 2006 Agreement transferred legal title to the Asserted Patents from ASI to Nelson. APPX1-9. AIT's petition does not dispute that conclusion.

On September 13, 2012, ASI purported to assign all right, title, and interest in the Asserted Patents to AIT ("2012 Assignment"). APPX4563-66. Nelson neither signed nor was named in the 2012 Assignment; only Sturgeon executed it, attesting on behalf of ASI to ASI's ownership. APPX4563, APPX4565. Nelson provided no contemporaneous written consent or authorization—the only evidence AIT points to for such purported authorization are declarations submitted years into litigation, including one by Nelson filed nearly a month after dismissal. APPX4568-73; APPX4621-26.

AIT's principals then concealed the defect from Salesforce for years. On March 18, 2014, Salesforce served discovery requests seeking the complete ownership history of the Asserted Patents—plainly calling for the 2002 and 2006 Agreements. APPX207-10, APPX5226-27. Yet AIT withheld both documents for eight years, producing them on April 7, 2022, only after Salesforce independently learned of certain ownership defects through a third-party subpoena. APPX447; APPX5235; APPX5242-60.

On October 1, 2022, Salesforce filed its Motion to Dismiss. APPX116. AIT opposed solely on the merits, and at no point in opposing the motion did AIT (even in the alternative) seek contract reformation, invoke Rule 17(a)(3), submit a declaration from Nelson, or execute any instrument to cure the asserted title defect. Following a grant of summary judgment that was vacated by this Court, Salesforce renewed its motion to dismiss, and AIT again did not seek alternative relief. APPX132.

On March 28, 2025, the district court granted Salesforce's motion and ordered dismissal, finding that "ASI no longer had exclusionary rights to the Patents in 2006 because of the sale of the 2002 Letter Agreement to Nelson, meaning its assignment of those rights to AIT in 2012 was null and void." APPX4-5; APPX9. Only *after* that dismissal did AIT seek equitable relief, filing a motion for reconsideration requesting reformation of the 2006 Agreement or ratification by Nelson, and submitting for the first time a declaration from Nelson and a Quitclaim Assignment from Nelson to AIT. APPX4621-26, APPX4655-56. The district court denied that motion on July 21, 2025, including on the basis that AIT was improperly "rais[ing] arguments that could have been raised in opposition to the motion." APPX10-11.

On appeal, this Court affirmed both the finding that AIT lacked constitutional standing and the denial of equitable relief. AIT's petition does not challenge the

contract interpretation underlying the standing determination, instead basing its rehearing petition on the claimed propriety of equitable relief.

ARGUMENT

I. AIT DOES NOT DISPUTE IT NEVER RECEIVED TITLE TO THE ASSERTED PATENTS FROM ASI

The district court and this Court both held that the 2006 Agreement unambiguously transferred all patent rights to Nelson before the 2012 Assignment was executed, leaving ASI without any persisting rights it could transfer in 2012. As a matter of law, therefore, AIT was a complete stranger to the patents on which it sued. To hold that AIT nonetheless has standing under Article III would be to hold that anyone in the world does, subject to transacting (or obtaining judicial relief effectuating a transaction) to acquire the relevant patent rights at some point during litigation. No case so holds, and the cases AIT cites addressing technical limitations in an otherwise valid chain of title differ categorically.

To escape that straightforward conclusion, AIT relies heavily on Nelson's consent to and awareness of the 2012 Assignment, casting it as evidence that AIT effectively held all patent rights at the time of filing. Petition at 11-12. But an individual's *post hoc* testimony about intent has no bearing on a legal agreement's legal effect. *Lans v. Digital Equip. Corp.*, 252 F.3d 1320, 1325-26 (Fed. Cir. 2001) (rejecting *post hoc* "Clarification-Contract" purporting to express the assignor's belief and intent as to who would "own the patent[.]").

Moreover, the argument AIT now ventures has been waived. AIT's petition contends the 2012 Assignment was intended to transfer *Nelson's* patent rights to AIT. AIT never made *that* argument, however, before the district court or even on appeal. Rather, AIT invoked Nelson's consent only to support its interpretation of the 2006 Agreement, which AIT no longer contests, and to argue that Nelson "discarded her contractual rights to the Patents-in-Suit by ***allowing ASI to assign such rights*** to AIT." AIT Appeal Br. at 39 (emphasis added). The latter affirmatively contradicts AIT's new argument that the 2012 Assignment was intended as a ***direct*** transfer by Nelson of ***her own persisting*** patent rights. It is far too late, at the rehearing stage, for AIT to be rethinking its theory of why it supposedly had threshold standing.

Even absent a waiver, AIT's argument that Nelson assigned the Asserted Patents to AIT in the 2012 Assignment without being a party to the agreement does not withstand scrutiny. AIT characterizes the 2012 Assignment as a mutual mistake—that Sturgeon signed on ASI's behalf when he should have signed on Nelson's behalf. Petition at 10-11. But that, too, is contradicted by AIT's own submissions. According to Nelson's declaration, she did not know she owned the patents at the time of the 2012 Assignment, because she believed ASI owned them. APPX4623, ¶¶ 12-13; APPX4625, ¶ 19. Accordingly, Sturgeon executed the assignment on behalf of ASI precisely as the parties intended. APPX4624, ¶¶ 14-

15. There was no mistake as to the name; the parties signed precisely the name they meant to sign. Any mistake was more fundamental: the parties overlooked that ASI did not hold the rights it was purporting to convey.

Against that backdrop, AIT's argument falls apart. Any consent by Nelson to an assignment she understood to be transferring ASI's patents—not her own—could not constitute a voluntary relinquishment of rights she did not know she held. APPX4625, ¶ 19. Nor can her consent conjure a legally effective conveyance that never occurred. Nelson did not intend to transfer her own patent rights to AIT, because she did not know they were hers to transfer. The 2012 Assignment conveyed nothing, and AIT received no rights—legal or equitable, exclusionary or otherwise—before instituting this case in 2013. The absence of AIT's standing relative to these patents is therefore complete and clear-cut.

II. THE PANEL WAS CORRECT THAT A PARTY WITH NO PATENT RIGHTS HAS NO ARTICLE III STANDING

AIT faults the panel for supposedly eschewing the injury-in-fact analysis required by *Lexmark* and its progeny. Petition at 10. But the panel in fact conducted the same analysis that *Lexmark*, *Intellectual Tech*, and *Lone Star* require—even if AIT decries the result.

As this Court made clear in *Intellectual Tech*, the injury-in-fact inquiry in patent infringement cases asks one fundamental question: whether the plaintiff holds an exclusionary right. *Intellectual Tech*, 101 F.4th at 813-14. If not, then a

plaintiff has not suffered an invasion of a legally protected interest and cannot satisfy Article III. *Lone Star Silicon Innovations, LLC v. Nanya Tech. Corp.*, 925 F.3d 1225, 1234-35 (Fed. Cir. 2019). Accordingly, the panel asked whether AIT held an exclusionary right at the time it filed suit, and correctly concluded it did not have an exclusionary right, or indeed any rights of any kind, in the patents.

AIT's argument conflates the injury-in-fact analysis (which is consistent across all the cited cases) with the outcome of that inquiry (which may differ in cases where the plaintiff held at least some cognizable interest). In both *Intellectual Tech* and *Lone Star*, the plaintiffs held at least some rights in the patents; the disputes concerned only whether those rights extended far enough to confer Article III standing or statutory standing under § 281. Here, by contrast, AIT held no rights whatsoever—the 2006 Agreement had transferred all patent rights to Nelson, leaving ASI without anything it could convey to AIT. It follows inexorably that AIT lacked not merely statutory standing, but the threshold constitutional prerequisite: any exclusionary right capable of being infringed. Where there is no legally protected interest, there is no injury-in-fact. No amount of recasting the inquiry as statutory rather than constitutional changes that outcome. Otherwise, *anyone* could claim Article III standing to sue on *any* patent on Day One, subject only to proceeding to make requisite arrangements with the patent holder and Patent Office over the course

of the ensuing litigation. All of that, according to AIT's instant theory, would be purely statutory and left to a district court's discretion.

AIT's approach would flout Article III and the Supreme Court's rigorous enforcement of it. In *Lexmark*, the Court delineated the line between Article III injury-in-fact and statutory cause-of-action requirements. *Lexmark*, 572 U.S. at 127-28. This Court faithfully accounted for that line in *Intellectual Tech* and *Lone Star*, recognizing that *Lexmark* shifted the "patentee" inquiry of § 281 to the statutory side, without altering the foundational Article III requirement. *Intellectual Tech*, 101 F.4th at 813-14; *Lone Star*, 925 F.3d at 1234-35. AIT's proposed rule—that a plaintiff holding zero patent rights nonetheless satisfies Article III—is alien to *Lexmark* and would place this Court in direct conflict with Supreme Court precedent. As such, only rehearing, not the panel decision, would pose any actual risk of spawning inconsistent precedent.

III. THE PANEL WAS CORRECT THAT NO *POST HOC* EQUITABLE RELIEF CAN CURE THE ABSENCE OF ARTICLE III JURISDICTION

AIT's arguments for equitable relief fail at the threshold. Where a plaintiff holds no exclusionary rights at the time of filing, no equitable remedy can supply a band-aid fix for the fatal Article III shortfall. This Court made clear in *Intellectual Tech* that the constitutional minimum in patent cases is the possession of an exclusionary right—not an intent to possess one, not a belief that one possesses one,

and not a post-filing transfer of one. *Intellectual Tech*, 101 F.4th at 813-14. *Intellectual Tech* further confirms that the threshold Article III bar must be cleared at a lawsuit's inception, without affording a mid-stream, judicially assisted do-over. *Id.* at 814. And in *Abraxis*, this Court refused to give retroactive effect to a post-filing assignment, notwithstanding the parties' express representation that they had always intended the plaintiff to hold title; that precedential holding should foreclose any argument that post-filing equitable maneuvering can cure an at-inception standing defect. *Abraxis Bioscience, Inc. v. Navinta LLC*, 625 F.3d 1359, 1364-65 (Fed. Cir. 2010). Because AIT held no exclusionary rights when it filed suit, no equitable remedy can cure that threshold, jurisdictional defect. Indeed, an Article III court that has no Article III jurisdiction lacks power to do anything other than dismiss.

The Supreme Court has made this point pellucidly, for well over a century: "Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause." *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998) (citing and quoting *Ex parte McCardle*, 74 U.S. (7 Wall.) 506, 514 (1869)). It is thoroughly misconceived, and constitutionally foreclosed, for AIT to seek equitable relief from a federal court that lacks jurisdiction to grant it.

AIT relies on *Schwendimann* and *Lans* to argue the opposite, claiming that equitable relief could have supplied the missing Article III standing. But neither case stands for that proposition. *Schwendimann* cannot be taken as authorizing equitable relief to cure a constitutional standing defect, for the majority concluded there was no constitutional defect. Lest there be any doubt, the majority observed there was "no 'standing' issue to be decided" in the appeal, before approving the availability of contract reformation, which the district court had ordered at its discretion. *Schwendimann v. Arkwright Advanced Coating, Inc.*, 959 F.3d 1065, 1071, 1073-74 (Fed. Cir. 2020). Even as to that reformation, it bears noting that it merely corrected a contract "to properly reflect a valid, pre-existing transfer agreement" that had "granted legal title" to the plaintiff. *Id.* Here, there was no pre-existing, valid transfer to restore. Reformation would not correct an agreement—it would effectuate a new transfer that had never occurred.

Nor does *Lans* endorse equitable relief in these circumstances. Although AIT neglects to so note, the Court's Rule 17 analysis in *Lans* was offered as an alternative holding: "even if Mr. Lans has constitutional standing, he lacks prudential standing and the district court correctly granted the Computer Companies' summary judgment motion." *Lans*, 252 F.3d at 1328. That alternative holding cannot be read as endorsing equitable relief to cure constitutional standing defects. There, it sufficed to note that the plaintiff was necessarily doomed on multiple grounds. *See*

also id. at 1329. To the extent *Lans* has any application here, it further confirms that Rule 17 is unavailable to cure a fundamental misconception of the sort AIT exhibits.

AIT's remaining citations are non-precedential district court decisions that were never appealed. AIT calls these "irreconcilable results" warranting en banc review. But this Court does not sit en banc to correct unappealed district court rulings, which a panel could correct whenever an appeal arises. Fed. R. App. P. 40(b)(2); *Dow Chem. Co. v. Nova Chems. Corp.*, 809 F.3d 1223, 1227-28 (Fed. Cir. 2015) (denying rehearing en banc).

Nor do AIT's district court cases evidence any substantial deviation from the Supreme Court's authoritative guidance in *Lexmark*. *Middleton* goes squarely against AIT by denying Rule 17 relief on three grounds, only one of which addressed Article III; it also doubted its post-dismissal jurisdiction and faulted the plaintiff for waiting too long to seek the requested relief. *Middleton, Inc. v. Minn. Mining & Mfg. Co.*, 2012 WL 12860706, at *1-3 (S.D. Iowa Mar. 6, 2012). Another case, *Park B. Smith*, predates *Lexmark*; its use of the "constitutional standing" label reflects the pre-*Lexmark* conflation *Lexmark* itself addressed. *Park B. Smith, Inc. v. CHF Indus., Inc.*, 811 F. Supp. 2d 766, 773-75 (S.D.N.Y. 2011). Similarly, *CPI Card Grp.* predates this Court's explanation in *Lone Star* and *Intellectual Tech* that constitutional standing requires an exclusionary right. *CPI Card Grp., Inc. v. Multi Packaging Sols., Inc.*, 2018 WL 3429197, at *6-8 (D. Colo. July 16, 2018).

Finally, it bears noting that each plaintiff in the cases identified by AIT moved promptly for equitable relief—*Spectrum* within hours of the motion to dismiss, *Park B. Smith* the next day, and *CPI Card Grp.* at the court's invitation. *Spectrum Dynamics Med. Ltd. v. Gen. Elec. Co.*, 2023 WL 7135236, at *6 (S.D.N.Y. Oct. 30, 2023); *Park B. Smith,* 811 F. Supp. 2d at 773; *CPI Card Grp.,* 2018 WL 3429197, at *6-8. AIT, by contrast, did not seek equitable relief until four weeks after dismissal and two and a half years after Salesforce raised the standing defect. APPX4621-26; APPX4655-56; APPX4950-66. That delay independently forecloses relief, making this a poor vehicle for the doctrinal questions AIT presses. Under Ninth Circuit law, Rule 17(a)(3) exists "to prevent forfeiture of a claim when an honest mistake was made," *Goodman v. United States*, 298 F.3d 1048, 1054 (9th Cir. 2002), not to rescue plaintiffs who "were aware that [another entity] was the real party in interest," *U.S. for Use & Benefit of Wulff v. CMA, Inc.*, 890 F.2d 1070, 1074-75 (9th Cir. 1989).

AIT's belated, post-dismissal request for equitable relief as part of a reconsideration bid further dooms its arguments. No plausible argument exists that the district court abused its discretion in standing by its dismissal, given the substantive problems *supra* and the daunting procedural standard for reconsideration.

IV. AIT'S REQUEST FOR REFORMATION OF THE 2012 ASSIGNMENT IS WAIVED

AIT's reformation argument is even more misplaced considering that it has shifted from requesting reformation of the **2006 Agreement** below, APPX4958, to seeking reformation of the **2012 Assignment** in its petition. Petition at 14-15. That pivot amounts to a waiver.

Before the district court, and on appeal, AIT sought reformation of the 2006 Agreement—specifically, the addition of a single sentence clarifying that "ASI shall retain ownership of the ASI Assets[.]" APPX4958; AIT Appeal Br. at 48-52. The theory went that, if reformed, the 2006 Agreement would have left ASI with title, and the subsequent 2012 Assignment would have been valid.

AIT's petition abandons that theory entirely, now characterizing the defect as one in the 2012 Assignment itself—arguing that, "due to mutual mistake, the 2012 Assignment to AIT was executed by the wrong entity[.]" Petition at 15. That differs from the relief AIT sought below, and cannot be raised for the first time in a petition for rehearing. *See* Fed. Cir. R. 40(b). Presumably, AIT's pivot is an attempt to make this case appear closer to the facts of *Schwendimann*, where, unlike here, the plaintiff held title through a valid pre-existing transfer agreement. The pivot is itself improper; no authority permits a party seeking rehearing to fault a panel on a theory not advanced before it.

Regardless, AIT lacks any viable basis for seeking reformation of the 2012 Assignment. As noted above, the defect in the 2012 Assignment was not that the

wrong name was signed—it was that the parties never intended to transfer rights from Nelson to AIT, because Nelson did not know she owned them. Correcting the 2012 Assignment to name Nelson as assignor would not reform a document to reflect the parties' actual intent—it would conjure from whole-cloth a retroactive transfer of title through a new transaction involving a different party entirely. Such transformative relief is precisely what *Abraxis* and *Paradise Creations* foreclose. *Abraxis*, 625 F.3d at 1364-65; *Paradise Creations, Inc. v. UV Sales, Inc.*, 315 F.3d 1304, 1309-10 (Fed. Cir. 2003).

CONCLUSION

For the foregoing reasons, the petition should be denied.

DATED: May 27, 2026

Respectfully submitted,

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Counsel for Defendant-Appellee certifies that the brief contained herein has a proportionally spaced 14-point typeface, and contains 3879 words, based on the "Word Count" feature of Word for Microsoft 365, including footnotes and endnotes, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7) and Fed. Cir. R. 32(b).

Dated: May 27, 2026

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