

No. 2023-2298

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

VLSI TECHNOLOGY LLC,

Appellant,

v.

PATENT QUALITY ASSURANCE LLC, INTEL CORPORATION,

Appellees,

JOHN A. SQUIRES, Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office,

Intervenor.

Appeals from the United States Patent and Trademark Office,
Patent Trial and Appeal Board in Nos. IPR2021-01229 and IPR2022-00479

**APPELLEE INTEL CORPORATION'S NON-CONFIDENTIAL RESPONSE
TO VLSI TECHNOLOGY LLC'S CONFIDENTIAL MOTION TO UNSEAL**

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May 27, 2026

FEDERAL CIRCUIT RULE 25.1(E)(1)(B) STATEMENT

The material omitted on pages 3, 13, 16, and 17 of the non-confidential version of this response concerns, and in context could reveal information about, an anonymous document that the Director ordered to be kept under seal.

INTRODUCTION

Appellant VLSI Technology LLC’s motion seeks to unseal all references to the anonymous document—which VLSI refers to as the “whistleblower” report—in the parties’ briefs and the joint appendix. Although VLSI did not appeal the USPTO Director’s decision to seal the anonymous document, this is the third time VLSI has argued to this Court that it could unseal material related to the anonymous document. In connection with VLSI’s opening brief, VLSI argued that none of the material related to the anonymous document should be sealed. ECF 73 at 5-11. Intel took the position that the material should remain sealed, explaining that the anonymous document “contains unsubstantiated, false, and malicious allegations against Intel that could cause harm to Intel’s reputation if made public.” ECF 71 at 2. The USPTO also supported keeping the material from the anonymous document sealed, including because “[p]ublication or consideration of the anonymous communication in this case would encourage others to submit similar such communications ... with the goal of influencing IPRs” in contravention of USPTO procedures. ECF 70 at 3-4; see No. 2023-2158, Oral Argument at 1:13-2:08. In September 2024, the Court

decided to keep the material from the anonymous document under seal without prejudice to the merits panel ordering further disclosure. ECF 74. At oral argument, VLSI again took the position that the Court could un-redact material related to the anonymous document. No. 2023-2158, Oral Argument at 0:50-1:10. The panel decided to keep that material sealed and ordered the parties to “file corrected briefs eliminating the confidentiality markings other than the whistleblower event.” No. 2023-2158, Oral Argument at 3:05-3:14.

The only change since oral argument is that VLSI has revealed that it received a partially unredacted copy of the anonymous document from the USPTO pursuant to a request that VLSI made under the Freedom of Information Act (“FOIA”). VLSI apparently received the FOIA version of the document *before* oral argument, but asserts that its counsel presenting oral argument learned of the FOIA production only after oral argument. Thus, despite the Court ordering the parties to “be prepared to address the propriety of the parties’ confidentiality markings in the briefs at oral argument,” ECF 152 at 3, VLSI did not inform the parties or the Court of the existence of this FOIA version at oral argument.

Nevertheless, in view of the FOIA version of the anonymous document, Intel has agreed to remove redactions from the briefing and appendix in this case so the disclosure is commensurate with the disclosure of material in the partially unredacted FOIA copy. But Intel opposes VLSI’s request to further un-redact this

improper, anonymous communication that contains false and malicious conspiracy theories. For all the same reasons that the Director and this Court have previously decided to keep material from the anonymous document sealed, the portions that are redacted in the FOIA version and the references to those portions in the briefing should remain sealed. Keeping that information under seal will prevent this Court’s docket from being used to air unsubstantiated, anonymous assertions against parties, and furthers the public interest in discouraging such improper communications with the USPTO that seek to influence an IPR proceeding in contravention of the USPTO’s rules.

BACKGROUND

The anonymous document at issue is an “unsolicited anonymous and improper ex parte communication regarding th[is IPR] proceeding,” sent to Congress and forwarded to the USPTO in January 2023. Appx130-131; *see* Appx11077. The document presents false and malicious conspiracy theories that wrongly accuse Intel of seeking to **Allegation** the **Allegation** through “potentially **Allegation**” means. Appx11078; *see* Appx11079-11119. The 37-page document inaccurately speculates that “**Allegation** of **Allegation** used **Allegation** as a **Allegation**” to file this IPR and “**Allegation** a **Allegation**” from VLSI (Appx11082)—though, in fact, Intel had never heard of PQA before the IPR, Intel had no involvement in PQA’s decision to file its petition, Intel has no financial interest in PQA, Intel has never

provided PQA with any funding, and Intel never communicated with PQA until after PQA's IPR was instituted. Appx1557-1559; Appx1665; Appx1670-1672; Appx4824-4825(¶¶ 5-11). Intel does not know who authored the document, or whether VLSI or its stakeholders were involved in creating the document or sending it to Congress. *See* Appx11120; Appx11129-11130.

In February 2023, the USPTO placed the anonymous document on the record under seal and stated that the Director and Board would not consider it. Appx131. Although VLSI requested that the submission be made part of the public record, the Director denied VLSI's request, explaining that this approach was intended "to balance the Office's interest in transparency with its interest in not further disseminating such communications." Appx135-136.

A week later, VLSI sought discovery in view of the anonymous document. Appx11127-11130. The Director promptly authorized VLSI to move for further discovery, as long as its request "d[id] not rely on information from the ex parte submission." Appx140-141. VLSI also publicly filed a request for reconsideration of the decision that the Director and the Board would not consider the anonymous document. Appx2567-2570. The Director denied VLSI's request for reconsideration "because the submission was made ex parte and anonymously, and was not authorized." Appx142. The Director further sealed VLSI's filing and ordered "VLSI to show cause why it should not be sanctioned for publicly filing a

paper containing” sealed information where “VLSI was aware that the [anonymous] submission” was sealed, “VLSI previously requested that that the submission be designated public,” and the Director “previously denied that request.” *Id.* The Director noted that this was “not the first time VLSI has filed information publicly that should have been filed” under seal. *Id.*

VLSI never filed a motion for further discovery, and VLSI did not appeal the Director’s decision to keep the anonymous document under seal. Although the Director decided not to sanction VLSI for publicly filing material from the anonymous document, the Director noted that “[i]t was improper for VLSI to include [such] information in its publicly available Rehearing Request.” IPR2021-01229, Paper 124 at 6. The Director found that “it would be reasonable ... to infer that VLSI” filed this material “with the intent of improperly influencing an outcome here based on information” the Director has “expressly stated that neither [she] nor the Board will consider.” *Id.*

On July 10, 2024, VLSI filed a motion with this Court to redact more than 15 words from its opening brief, but asserted that, in its view, none of the proposed redacted material was confidential. ECF 62; ECF 73. The Director, PQA, and Intel took the position that the content related to the anonymous document should remain sealed. ECF 68, 70, and 71. A motions panel of this Court “deem[ed] it the better course at this stage of the proceedings to grant leave to redact the 52 words agreed

to by PQA, the Director, and Intel,” without prejudice to the merits panel “ordering further disclosure if deemed appropriate.” ECF 74 at 2.

On April 21, 2026, the Court issued an order regarding oral argument instructing the parties to “be prepared to address the propriety of the parties’ confidentiality markings in the briefs at oral argument.” ECF 152 at 3. At the argument on May 8, 2026, the Court sought the parties’ positions on the confidential markings in the briefs. VLSI, Intel, and the USPTO agreed that confidential markings *not* related to the anonymous document could be removed. While VLSI reiterated its position that the confidential markings related to the anonymous document should also be removed, Intel and the USPTO opposed. The USPTO explained that it had a “policy interest in not rewarding ... or encouraging unsolicited ex parte communication.” No. 23-2158 Oral Argument at 1:15-1:34. Following that colloquy, the Court instructed the parties to “file corrected briefs eliminating the confidentiality markings other than the whistleblower event.” *Id.* at 3:05-3:14. And on May 11, 2026, the Court followed up with an order “direct[ing]” the parties “to file revised briefs and appendices to address confidential markings in accordance with the panel’s instruction at oral argument” by May 18, 2026. ECF 159 at 4.

On May 13, 2026, Intel responded to the Court’s order by explaining that the confidential markings in Intel’s brief “in this case relate solely to the anonymous

document” and “Intel therefore has no revised brief to submit.” ECF 160 at 1. Later that day, VLSI informed Intel for the first time that it had received a redacted version of the anonymous document in response to a FOIA request. VLSI apparently received this version of the anonymous document almost a week earlier—the day *before* oral argument in the case—but did not bring it to the Court’s attention when confidentiality markings were being discussed. ECF 169 (“Mot.”) at 11.

Intel and the USPTO agreed to remove redactions to material commensurate with what is public in the FOIA version of the anonymous document. PQA took the position that all of the confidentiality markings in this appeal should remain because the order to submit revised briefs related only to the *OpenSky* appeals. *See* ECF 166. Rather than seek the Court’s guidance on that limited issue, VLSI filed a twenty-four page brief seeking to relitigate whether the entire document should be unsealed. *See* Mot. at 1-24.

Finally, after filing its motion with this Court, VLSI emailed the USPTO Director directly—without copying all counsel of record in this appeal—to urge him to “proactively unseal this document.” Ex. 1 at 3. Citing Federal Circuit Rule 25.1(c), VLSI asserted that “[t]he Office need not wait for the Federal Circuit to rectify this situation.” *Id.* at 4. Intel objected that this was not a proper invocation of Rule 25.1(c) because there had been no agreement of the parties. *Id.* at 2. VLSI doubled down and insisted to the Director that “*the agency maintains authority to*

revisit or rescind any of its determinations in this matter, or reopen the case” and it *“need not wait for the Federal Circuit to rectify any aspect of this case.”* *Id.* at 1 (emphases added).

ARGUMENT

Given VLSI’s representations about the FOIA version of the anonymous document, Intel agrees to unseal references in the briefs and the appendices to material that is public in the FOIA version, including all of the material currently marked confidential in Intel’s brief. However, Intel maintains that (1) the public version of the anonymous report in the appendix should not disclose more than what is public in the FOIA version, and (2) the following markings in VLSI’s opening brief—which refer to pages of the anonymous report that are heavily or completely redacted in the FOIA version—should remain under seal:

- All markings in the second full paragraph of page 14 of VLSI’s opening brief;
- All markings in footnote 1 of page 15 of VLSI’s opening brief, except the word “whistleblower”; and
- All markings in the 13th and 18th lines of page 31 of VLSI’s opening brief.

See Mot., Ex. B at 14, 15, 31 (yellow highlighted words).

For all the reasons that the Director and this Court have already considered, the material redacted in the FOIA version of the anonymous document should remain sealed. VLSI's arguments to the contrary misstate the record and highlight exactly why this document should not be amplified further.

I. THERE IS A STRONG PUBLIC INTEREST IN DISCOURAGING ANONYMOUS EX PARTE COMMUNICATIONS.

While “[t]he Supreme Court has recognized ‘a general right to inspect and copy public records and documents, including judicial records and documents,’” that “right of access is not absolute.” *DePuy Synthes Prods., Inc. v. Veterinary Orthopedic Implants, Inc.*, 990 F.3d 1364, 1369-1370 (Fed. Cir. 2021) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 (1978)). In particular, “access has been denied where court files might have become a vehicle for improper purposes,” and “courts have refused to permit their files to serve as reservoirs of libelous statements for press consumption, ... or as sources of business information that might harm a litigant’s competitive standing[.]” *Nixon*, 435 U.S. at 598-599.

That is exactly the situation here. This anonymous document VLSI seeks to publish is littered with false, malicious statements that might unjustifiably harm Intel’s reputation were they to be made public. And unsealing the document in full, as VLSI requests, would turn this Court’s docket into a platform for anonymous, scurrilous conspiracy theories. *See Alegre v. United States*, 2021 WL 5750859, at *2 (S.D. Cal. Dec. 2, 2021) (denying motion to seal as moot and striking letter from

non-party filed “in the interests of transparency” where the letter “used the Court system to further harass, defame, slander, and libel” a party’s attorney (quotations omitted)).

Moreover, as the USPTO has explained, allowing this anonymous communication to become part of the public record (or form the basis of discovery requests¹) would only encourage harassment and abuse. *See* ECF 70 at 3-4; No. 23-2158, Oral Argument at 1:15-1:34. Anyone who wished to harass or defame a party to an IPR could simply send an anonymous letter to the Patent Ombuds Office alleging imaginary shady connections and have their poison pen placed on the docket, whereupon the party’s opponent would no doubt ensure it made its way to the press. Keeping the allegations here under seal thus serves an important policy interest of discouraging this kind of anonymous attempt to improperly influence the proceeding and harass parties. *See In re General Motors LLC*, 2015 WL 9480477, at *1 n.1 (S.D.N.Y. Dec. 29, 2015) (sealing “anonymous letters” that played a “limited role” in ruling and “contain[ed] unsubstantiated and anonymous accusations with respect to third parties”).

¹ Intel already briefed its response to VLSI’s argument that the Director should have considered this document. ECF 75 at 61-64. Intel objects to VLSI’s motion as improper and untimely to the extent it seeks to further brief that issue, which VLSI did not even raise at oral argument.

Indeed, VLSI’s hyperbole about the supposed “damning,” “bombshell” allegations in this document—and its insistence on filing a 24-page brief in an apparent effort to have this picked up by the press, which it was²—only highlight the mischief these unsubstantiated allegations can cause. Making this anonymous document public would encourage submission of similar anonymous, unsubstantiated allegations in an attempt to improperly influence USPTO proceedings, and would turn this Court’s docket into a platform for publication of false and malicious statements.

While VLSI seizes on the characterization of this document as a “whistleblower report,” it never addresses the anonymous nature of this document: There is no evidence that it was written by an insider at Intel or PQA—for all Intel knows, it could have been drafted by VLSI, its stakeholders, or its supporters. If anonymous documents like this are allowed to be publicly docketed, it would provide unscrupulous parties with an avenue to collaterally attack their opponents.

Finally, making this document public would encourage circumvention of the USPTO’s evidentiary rules. As the Director has explained, “[a]llowing parties or anonymous entities to circumvent the procedures governing the manner in which

² See, e.g., Dani Kass, *VLSI Tells Fed. Circ. To Allow Whistleblower Report After FOIA*, Law360 (May 19, 2026, 10:57pm EDT), <https://www.law360.com/articles/2479660/vlsi-tells-fed-circ-to-allow-whistleblower-report-after-foia>.

evidence is introduced would be inconsistent with USPTO regulations and highly disruptive, particularly considering the abbreviated timeline in which IPRs are conducted.” ECF 70 at 4.

Taken together, those considerations firmly outweigh the presumption in favor of public access, especially with regard to the limited portions of the briefing that would remain under seal under Intel’s proposal. The fact that this document exists and the high-level substance of its allegations would be public, which is more than sufficient to satisfy the public’s interest in transparency. There is no public interest in allowing litigation to be a platform to air anonymous and unsubstantiated allegations.

II. VLSI’S ARGUMENTS IN FAVOR OF UNSEALING ARE MERITLESS.

VLSI’s arguments in favor of unsealing the anonymous report should be rejected.

First, VLSI contends that the anonymous document is “not truly confidential” because it “circulated through non-confidential means to members of Congress and their staffs, and was then provided to the Patents Ombuds Office, all without confidentiality markings.” Mot. at 15. VLSI’s point seems to be that, because certain people might have seen this document without violating the protective order, it cannot be confidential. But VLSI does not dispute that the document is currently

not publicly available except in redacted form, and the copy it received through its FOIA request was redacted.

Second, VLSI's concern that public access is "crucial to public understanding of this litigation" because the document is "central to one of the issues in this appeal," Mot. at 14, is overblown. The redactions here do not impede public understanding of the litigation. As an initial matter, the anonymous document relates only to a narrow discovery issue and is otherwise irrelevant to the appeal. And even as to that narrow issue, under Intel's proposal, all of VLSI's legal arguments, and the high-level characterization of the facts that support them, would become part of the public record. Intel's position is that a total of 24 unique words should remain confidential in VLSI's brief, appearing in four paragraphs, with no complete sentences redacted. There is more than enough for the public to understand VLSI's arguments regarding the anonymous allegations in this appeal.

Third, VLSI contends that Intel and PQA "have never been required to show" that the allegations in the document are false, and it accuses the Director of being "incurio[u]s[]" and "suppress[ing]" the document, as if this document's publicity is required to get to the truth. Mot. at 8-9, 15. But that is belied by the record: The anonymous document speculates that "[Allegation] of [Allegation] used [Allegation] as a [Allegation]" to file this IPR. Appx11082. The Director ordered discovery on precisely that subject matter, and the record, including Intel's and PQA's interrogatory responses, reflects

that (1) Intel was unaware of PQA before PQA filed its IPR petition; (2) Intel had no involvement in PQA's decision to file its petition; (3) Intel has no financial interest in PQA and has never provided PQA with any funding; (4) Intel never communicated with PQA until after PQA's IPR was instituted; and (5) no PQA member works for or is affiliated with Intel. Appx1557-1559; Appx1665; Appx1670-1672; Appx4824-4825(¶¶ 5-11). Thus, the actual evidence in this case shows the unsworn allegations in the anonymous document are false. And the Director was able to investigate that issue to her satisfaction without relying on the anonymous document.

Fourth, VLSI contends that the USPTO's interest in not encouraging unsolicited, ex parte communications seeking to influence an IPR "makes no sense" because the anonymous document came through Congress. But that interest is the same no matter what path the document takes to make its way to the Director: It is still an anonymous, unverified submission interfering with the USPTO's procedures and circumventing its rules. VLSI's argument that it is "risible" for the USPTO to want to "deter[] reporting of alleged misconduct to *Congress*," Mot. at 16, assumes that the reporting is legitimate. There are legitimate avenues for reporting actual misconduct, including true whistleblower protections that allow individuals to come forward without fear of retaliation and have their allegations investigated. That is not the situation here.

Finally, VLSI takes issue with the characterization of this document as “ex parte” because the communication went to the Patents Ombuds Office, not a “Board member” and went to the parties at the same time. Mot. at 16-17. But there is no question that it went to the Director, who is a member of Board, and that Intel had no “opportunity to be involved in the communication” before the Board received it. 37 C.F.R. § 42.5(d). That employees of the USPTO forwarded this external communication to their boss does not erase its ex parte nature. In any event, the submission was unauthorized and anonymous, regardless of whether VLSI quibbles with characterizing it as “ex parte.” *See supra* pp. 9-12.

III. VLSI IS WRONG THAT THE MATERIAL INTEL SEEKS TO MAINTAIN AS CONFIDENTIAL HAS BEEN EFFECTIVELY DISCLOSED IN THE FOIA VERSION.

Intel has agreed to unseal material reasonably commensurate with what is disclosed in the FOIA version of the anonymous document. But Intel maintains that material referring to redacted portions of the FOIA version should remain sealed. Mot., Ex. B at 14, 15, 31 (yellow highlighted words). VLSI’s contention that everything in its brief is “in substance” disclosed by the FOIA version of the anonymous document is incorrect.

VLSI does not contend that the parts of VLSI’s brief Intel seeks to redact are actually disclosed in the FOIA version of the anonymous document, nor could it: The appendix pages that VLSI cited in its brief to support those propositions are

heavily redacted and, in most cases, entirely redacted in the FOIA version. *See, e.g.*, Mot., Ex. A at '733-'734 (Appx11085-11086 (heavily redacted)); '741-'744 (Appx11093-11096 (fully redacted)); '746-'747 (Appx11098-11099 (fully redacted)); '739-'755 (Appx11091-11107 (fully redacted)); '753 (Appx11105 (fully redacted)). Instead, VLSI cites other portions of the FOIA version that, in its view, “convey” or “fairly imply” the material it wants to disclose, and argues that there is no legitimate interest in maintaining the delta under seal. Mot. at 19-21. That is wrong.

First, Intel disagrees that the portions of the FOIA document VLSI cites alleging “activities by entities and individuals” allegedly “Allegation with Allegation,” “plainly convey” Allegation as having “Allegation” with Allegation representatives. Mot. at 19. The only thing VLSI points out in this paragraph as even referring to Allegation at all is **VLSI’s** statement that the FOIA version refers to ““numerous Allegation Allegation between Allegation and Allegation persons,” *id.*, but that is misleading: The FOIA version of the report refers to “numerous Allegation that Allegation upon the Allegation,” where the “Allegation” is entirely redacted. Mot., Ex. A at '758. The allegations of “Allegation” should remain sealed.

Second, Intel further disagrees that the alleged “Allegation”—which are **not** disclosed by the FOIA version of the anonymous document—“fairly imply”

that there allegedly were [Allegation], and certainly does not specifically “imply” that they occurred between a current [Allegation] or former [Allegation] [Allegation] (a fact for which VLSI does not even attempt to provide a cite in the FOIA version). See Mot. at 20. And one reference somewhere in the anonymous document to unspecified “activities by entities and individuals [Allegation] with [Allegation] in the [Allegation] between [Allegation] in [Allegation] and the [Allegation] of [Allegation]” (which were purportedly “detailed above” on *redacted* pages), Mot., Ex. A at ’764, does not convey that the alleged “[Allegation]” VLSI is referring to on page 14 of its brief occurred during that [Allegation] as well. VLSI has provided no justification for removing those redactions.

Finally, vague references to “[Allegation]” (with no mention of [Allegation]) in one part of the FOIA version, Mot., Ex. A at ’760, cannot be combined with allegations of unspecified “[Allegation]” by [Allegation] and [Allegation] allegedly associated with [Allegation] in another part of the FOIA version, *id.* at ’764, to reasonably disclose alleged “[Allegation]” between [Allegation] and “[Allegation]” related to [Allegation] or its [Allegation]. See Mot. at 20-21. Nor is it apparent from the FOIA version that the anonymous document even has “[Allegation] and [Allegation]” contained in it for any alleged “[Allegation].” VLSI’s contention that the fact of there being “[Allegation] and [Allegation]” is not confidential in light of the disclosed “[Allegation] [Allegation]” assumes that those “[Allegation]” are disclosed as VLSI

characterizes them in the first place, which they are not. All of these references should remain under seal as well.

In sum, VLSI has plucked sentences and phrases from the FOIA version of the anonymous document that—with the benefit of knowing what is in the sealed portions—it characterizes as disclosing what is in its brief. But without knowing what is in the sealed portions, the excerpts VLSI cites do *not* “in substance” disclose the yellow-highlighted material in Mot., Ex. B at 14, 15, 31. That material should remain sealed.

IV. CONCLUSION

For the foregoing reasons, Intel respectfully requests that the Court deny VLSI’s motion to the extent it seeks to make public anything more than what is unredacted in the FOIA version of the anonymous document.

Respectfully submitted,

/s/ Mark C. Fleming

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May 27, 2026

CERTIFICATE OF INTEREST

Counsel for Appellee Intel Corporation certifies the following:

1. Represented Entities. Fed. Cir. R. 47.4(a)(1). Provide the full names of all entities represented by undersigned counsel in this case.

Intel Corporation

2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2). 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.

3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3). 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.

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).

WILMER CUTLER PICKERING HALE AND DORR LLP: David L. Cavanaugh,
Yvonne S. Lee (former); Dominic E. Massa

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).

Already filed.

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.

Dated: May 27, 2026

/s/ Mark C. Fleming
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EXHIBIT 1

From: [Kenneth Weatherwax](#)
To: [Director_PTABDecision_Review](#)
Cc: [bredjaian@irell.com](#); [VLSIII](#); [Fernandez, Ben](#); [Cavanaugh, David](#); [Massa, Dominic](#); [Bruce Slayden](#); [Truman Fenton](#); [Horn, Steven J](#); [Tecuan Flores](#); [Brian Banner](#); [Trials](#); [lwalker@mololamken.com](#); [Mayron, Austin](#); [Sawert, Peter](#); [McManus, Robert](#); [Lee, William](#); [Fleming, Mark](#); [Fletcher, Lauren](#); [Fox, Gary M.](#); [Laupheimer, Madeleine C](#); [ilamken@mololamken.com](#); [Schubert, Thomas](#); [Veniero, Caroline](#); [Hashem, Rayiner](#); [Alan Heinrich](#); [Clarke, Elizabeth](#); [Nathan Lowenstein](#)
Subject: RE: Patent Quality Assurance LLC et al. v. VLSI Tech. LLC, IPR2021-01229 - VLSI Tech. LLC Letter to Director - includes sealed material
Date: Thursday, May 21, 2026 4:51:11 PM

EXTERNAL SENDER

Honorable Director Squires,

Intel's objection is baseless. You may unseal the whistleblower report regardless of whether the parties are in "agreement" and regardless of the rules governing proceedings before the Federal Circuit.

As an Executive Branch agency (as opposed to a district court), the USPTO has authority to revise or rescind its sealing order even after judicial review begins, where Congress has enacted no legislation limiting when or how it can do so. *McClatchy Broadcasting Co. v. FCC*, 239 F.2d 19, 23 (D. C. Cir. 1956); *see also Doctors Nursing & Rehab. Ctr. v. Sebelius*, 613 F.3d 672, 677 (7th Cir. 2010). No such limiting legislation applies in this context, nor has Intel or any other party alleged that it does.

Indeed, the agency maintains authority to revisit or rescind any of its determinations in this matter, or reopen the case. *Anchor Line Ltd. v. Federal Maritime Com.*, 299 F.2d 124, 125 (D.C. Cir. 1962); *McClatchy*, 239 F.3d at 23. All the issues arose in the administrative proceeding before the Office. The Office need not wait for the Federal Circuit to rectify any aspect of this case.

Respectfully,
Counsel for Patent Owner

From: Horn, Steven J <Steven.Horn@wilmerhale.com>
Sent: Wednesday, May 20, 2026 9:55 AM
To: Kenneth Weatherwax <weatherwax@lowensteinweatherwax.com>;
Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>
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Subject: RE: Patent Quality Assurance LLC et al. v. VLSI Tech. LLC, IPR2021-01229 - VLSI Tech. LLC
Letter to Director - includes sealed material

Dear Honorable Director Squires:

Intel objects to VLSI's improper request to unseal the anonymous document that VLSI refers to as a "whistleblower" submission. This IPR is pending on appeal before the Federal Circuit, where briefing and argument have been completed. We are adding counsel of record from the Federal Circuit appeal in No. 23-2298 to this email chain. VLSI cites Federal Circuit Rule 25.1(c), but that rule provides that parties "must seek an agreement with the other parties" and that "[a]ny agreement that is reached must be promptly presented to the trial court or agency, which may issue an appropriate order." No such agreement has been reached here, and Intel, the PTO, and PQA have all indicated that they are opposing VLSI's motion to unseal in the Federal Circuit. *See VLSI Tech. LLC v. Patent Quality Assurance LLC*, No. 23-2298, ECF No. 168 at 5 (Fed. Cir.). Intel will respond to VLSI's motion in the Federal Circuit.

Respectfully,
Steven Horn
Counsel for Petitioner Intel Corporation

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From: Kenneth Weatherwax <weatherwax@lowensteinweatherwax.com>
Sent: Tuesday, May 19, 2026 5:13 PM
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Subject: Patent Quality Assurance LLC et al. v. VLSI Tech. LLC, IPR2021-01229 - VLSI Tech. LLC Letter
to Director - includes sealed material

EXTERNAL SENDER

Honorable Director Squires:

Please see the attached letter, with attachment. For your convenience, the text of the letter
itself is reproduced below.

Respectfully,
Kenneth Weatherwax
Counsel for Patent Owner VLSI Technology LLC

Kenneth Weatherwax | Lowenstein & Weatherwax LLP
1016 Pico Boulevard
Santa Monica, California 90405
Mobile: 310.936.3088

VIA EMAIL - ATTACHES SEALED MATERIAL

John A. Squires
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314

Honorable Director,

I attach a motion filed by VLSI in the Federal Circuit seeking to unseal a whistleblower
submission in the record of this case that was improperly sealed by the prior
administration. VLSI respectfully asks that you proactively unseal this document,

particularly in view of your Office recently releasing portions of this document publicly under the Freedom of Information Act shortly before agency counsel represented to the Court that it should remain sealed.

This case was instituted and maintained in the prior administration despite serious petitioner misconduct, including flouting discovery orders designed to reveal who backed and funded Petitioner PQA and whether they had ties to otherwise time-barred Intel. To this day, no one knows. Moreover, after the administration changed midway through briefing the appeal, the Office then admitted in its briefing that it would not have decided the issues the same way.

Allegation

It bears no confidentiality markings, was forwarded to the Office by congressional staff, and was discussed in the press. Inexplicably, former Director Vidal sealed it, conducted no investigation, and barred seeking any discovery related to its contents.

Perhaps in view of this backdrop, the Federal Circuit ordered the parties to address the extensive sealing in this matter. At oral argument, on May 8, 2026, USPTO counsel urged the Court to keep all information regarding the whistleblower report under seal.

However, the Office had publicly produced the report with limited redactions *just hours earlier* in belated response to a VLSI FOIA request and subsequent litigation dating back to 2023.

VLSI subsequently sought agreement with the other parties to unseal the entire report. PQA opposes any unsealing. The other parties agreed to unseal the report only to the extent of the FOIA disclosures, as well as corresponding material in the briefs. Today, VLSI filed the attached confidential motion to unseal, asking the Court to unseal the report in its entirety.

The Office need not wait for the Federal Circuit to rectify this situation. As the agency in this case, it may modify its sealing orders during the pendency of appeal. *Cf.* Fed. Cir. R. 25.1(c). Accordingly, VLSI respectfully asks the Director to unseal the whistleblower report, which contains allegations cutting to the heart of whether this proceeding should have been permitted to continue (instead of terminated during sanctions proceedings), or maintained on appeal. Unsealing would comport with current Office policies, including the *Greenthread* cases (which involved real party-in-interest allegations concerning Intel) and the *Corning Optical* precedent of requiring identification, including discovery if needed, of all parties in interest.

The whistleblower allegations of misconduct that were suppressed by the sealing orders of the prior administration deserve to be known and investigated at last.

Respectfully,

 / Kenneth J. Weatherwax /
Kenneth J. Weatherwax (Reg. No. 54,5128)
Lowenstein & Weatherwax LLP
Counsel for Patent Owner VLSI Technology LLC

cc

Patent Trial & Appeal Board
Petitioner Patent Quality Assurance LLC
Petitioner Intel Corp.

Attachments

VLSI Tech. LLC v. Patent Quality Assurance LLC et al., No. 23-2298 (Fed. Cir.), ECF #169

CERTIFICATE OF SERVICE

I hereby certify that, on this 27th day of May, 2026, I filed Appellee Intel Corporation's Non-Confidential Response to VLSI Technology LLC's Confidential Motion to Unseal with the Clerk of the United States Court of Appeals for the Federal Circuit via the CM/ECF system, which will send notice of such filing to all registered CM/ECF users.

/s/ Mark C. Fleming

MARK C. FLEMING
WILMER CUTLER PICKERING

HALE AND DORR LLP
60 State Street
Boston, MA 02109
(617) 526-6000

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME
LIMITATIONS**

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

1. The filing has been prepared using a proportionally-spaced typeface and includes 4,031 words.

2. The filing has been prepared using Microsoft Word for Office 365 in 14-point Times New Roman font. As permitted by Fed. R. App. P. 32(g), the undersigned has relied upon the word count feature of this word processing system in preparing this certificate.

/s/ Mark C. Fleming

MARK C. FLEMING

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May 27, 2026