

From: [Trials](#)
To: [Kenneth Darby](#); [Trials](#)
Cc: [John Petrsoric](#); [Speir Counsel](#); [bcooper@bc-lawgroup.com](#); [Karl Renner](#); [John-Paul Fryckman](#); [David Holt](#); [IPR50095-0111IP1](#); [Robert Auchter](#)
Subject: RE: IPR2023-00151--Request for Preliminary Reply and Sur-Reply Briefing
Date: Tuesday, March 28, 2023 11:23:37 AM

Counsel,

From the Board –

Further to Petitioner’s request, Petitioner is granted leave to file a 5-page Reply, limited to addressing *Fintiv* issues, due no later than 10 business days from this grant of leave. Patent Owner is granted leave to file a 5-page Sur-reply, limited to addressing *Fintiv* issues, due no later than 10 business days from the filing of Petitioner’s Reply. No additional evidence shall be filed.

Regards,

Esther Goldschlager
Supervisory Paralegal Specialist
Patent Trial & Appeal Board
U.S. Patent & Trademark Office

From: Kenneth Darby <kdarby@fr.com>
Sent: Monday, March 27, 2023 6:26 PM
To: Trials <Trials@USPTO.GOV>
Cc: Kenneth Darby <kdarby@fr.com>; John Petrsoric <jpetsoric@bc-lawgroup.com>; Speir Counsel <Speir_Counsel@b-clg.com>; bcooper@bc-lawgroup.com; Karl Renner <renner@fr.com>; John-Paul Fryckman <Fryckman@fr.com>; David Holt <DTH@fr.com>; [IPR50095-0111IP1](#) <IPR50095-0111IP1@fr.com>; Robert Auchter <robert@auchterlaw.com>
Subject: IPR2023-00151--Request for Preliminary Reply and Sur-Reply Briefing

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Your Honors,

Petitioner respectfully requests authorization for briefing in the form of a 5-page Reply to Patent Owner’s Preliminary Response in IPR2023-00151. Cognizant of the Board’s guidance to omit substantive arguments from emails, the parties endeavor only to identify their positions with sufficient clarity to allow the Board to consider the appropriateness of the requested briefing.

If Petitioner’s request is granted, Petitioner does not oppose Patent Owner’s submission of an equivalent Sur-Reply. The Reply and Sur-Reply would address Section II of the Preliminary Response, which argues that institution should be denied based on the *Fintiv* factors, without addressing the substantive merits of the Petition. Petitioner submits that no new evidence should accompany either the Reply or Sur-Reply.

Petitioner and Patent Owner met and conferred. Patent Owner’s position is: “As long as Petitioner agrees that Patent Owner is entitled to sur-replies of equal length to the requested replies, Patent Owner does not oppose Petitioner’s request.”

Petitioner proposes the briefing schedule outlined below:

IPR Proceeding	Preliminary Response Filed	Institution Deadline	Petitioner’s Reply Deadline	Patent Owner’s Sur Reply Deadline
IPR2023-00151	March 22, 2023	June 22, 2023	Within 10 business days of the Board’s authorization	Within 10 business days of Petitioner’s Reply

Respectfully,

Kenneth Darby :: Principal :: Fish & Richardson P.C.
512 226 8126

Counsel for Petitioner

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