

From: [Trials](#)
To: [Jason Fitzsimmons](#); [Trials](#)
Cc: [Ehmke, Andrew S.](#); [PTAB Account](#); kramerday-wildseedmobile@kramerday.com; [Michael Specht](#); [Richard M. Bemben](#); [Raghav Bajaj IPR](#); [Calmann Clements IPR](#); [Andy Ehmke IPR](#); slim@kramerday.com; dalberti@kramerday.com
Subject: RE: IPR2023-00244, -00245, -00246, -00247, -00248: Petitioner's request for authorization
Date: Friday, March 31, 2023 3:05:06 PM
Attachments: [image001.png](#)

Counsel,

From the Board –

Patent Owner's request to file its sur-reply on April 20, 2023 is granted.

Regards,

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

From: Jason Fitzsimmons <JFITZSIMMONS@sternekessler.com>
Sent: Friday, March 31, 2023 1:46 PM
To: Trials <Trials@USPTO.GOV>
Cc: Ehmke, Andrew S. <Andy.Ehmke@haynesboone.com>; PTAB Account <PTAB@sternekessler.com>; kramerday-wildseedmobile@kramerday.com; Michael Specht <MSPECHT@sternekessler.com>; Richard M. Bemben <RBEMBEN@sternekessler.com>; Raghav Bajaj IPR <Raghav.Bajaj.ipr@haynesboone.com>; Calmann Clements IPR <Calmann.Clements.ipr@haynesboone.com>; Andy Ehmke IPR <andy.ehmke.ipr@haynesboone.com>; slim@kramerday.com; dalberti@kramerday.com
Subject: RE: IPR2023-00244, -00245, -00246, -00247, -00248: Petitioner's request for authorization

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Dear Board,

Patent Owner respectfully notes that Petitioner's request was to allow 10 business days for each party's paper. This reflected the parties' agreement through meet-and-confer. The Board's authorization provides 10 calendar days for Petitioner's Reply, and only 8 calendar days for Patent Owner's Sur-reply.

Patent Owner respectfully requests that each party be allotted 10 business days for its paper, which would make the papers due on April 14 and April 28, respectively. Alternatively, Patent Owner requests that it receive an equal amount of time as Petitioner (10 calendar days) for its Sur-reply, i.e., until April 20.

Regards,
Jason Fitzsimmons
Counsel for Patent Owner

Jason A. Fitzsimmons

Director

Sterne, Kessler, Goldstein & Fox P.L.L.C.

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Admin Assistant: Sasho Dodevski

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From: Trials <Trials@USPTO.GOV>

Sent: Friday, March 31, 2023 12:45 PM

To: Ehmke, Andrew S. <Andy.Ehmke@haynesboone.com>; Trials <Trials@USPTO.GOV>

Cc: PTAB Account <PTAB@sternekessler.com>; kramerday-wildseedmobile@kramerday.com;
Michael Specht <MSPECHT@sternekessler.com>; Richard M. Bemben
<RBEMBEN@sternekessler.com>; Raghav Bajaj IPR <Raghav.Bajaj.ipr@haynesboone.com>; Calmann
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Fitzsimmons <JFITZSIMMONS@sternekessler.com>; PTAB Account <PTAB@sternekessler.com>;
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Subject: RE: IPR2023-00244, -00245, -00246, -00247, -00248: Petitioner's request for authorization

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Counsel,

The Board grants Petitioner's unopposed request for the parties' briefing in the subject cases to address *Fintiv* issues based on developments in the district court litigation. Petitioner's reply is due April 10, 2023, and Patent Owner's sur-reply is due on April 18, 2023.

Regards,

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

From: Ehmke, Andrew S. <Andy.Ehmke@haynesboone.com>

Sent: Friday, March 31, 2023 10:29 AM

To: Trials <Trials@USPTO.GOV>

Cc: PTAB Account <PTAB@sternekessler.com>; kramerday-wildseedmobile@kramerday.com;
Michael Specht <MSPECHT@sternekessler.com>; Richard M. Bemben

<RBEMBEN@sternekessler.com>; Raghav Bajaj IPR <Raghav.Bajaj.ipr@haynesboone.com>; Calmann Clements IPR <Calmann.Clements.ipr@haynesboone.com>; Andy Ehmke IPR <andy.ehmke.ipr@haynesboone.com>; slim@kramerdlay.com; dalberti@kramerdlay.com; Jason Fitzsimmons <JFITZSIMMONS@sternekessler.com>

Subject: IPR2023-00244, -00245, -00246, -00247, -00248: Petitioner's request for authorization

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IPR2023-00244

IPR2023-00245

IPR2023-00246

IPR2023-00247

IPR2023-00248

Dear Honorable Board,

Petitioner respectfully requests authorization to file a reply to Patent Owner's Preliminary Responses (POPR) (Paper 6 in each proceeding) in each of the above proceedings to address Patent Owner's arguments for discretionary denial under *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (March 20, 2020) (precedential).

Good cause exists under 37 C.F.R. 42.108(c) to grant a reply, because Patent Owner relies on developments in the district court proceeding that had not happened at the time the Petition was filed, e.g., infringement contentions served in January 2023 and invalidity contentions served in March 2023. Additionally, Director Vidal recently designated as precedential *Commscope Technologies, LLC v. Dali Wireless, Inc.*, IPR2022-01242, Paper 23 (Feb. 27, 2023) (precedential), which bears on the Board's *Fintiv* analysis.

Petitioner respectfully requests a five-page reply to address Patent Owner's *Fintiv*-based discretionary institution arguments. Patent Owner would be granted a sur-reply of equal length.

Petitioner suggests that Petitioner's reply be due ten business days after the Board grants authorization, and Patent Owner's sur-reply be due ten business days after Petitioner's reply.

On March 28, Petitioner informed Patent Owner's counsel of its intention to request authorization from the Board for a pre-institution reply. Patent Owner did not oppose.

HAYNES BOONE

Andrew S. Ehmke

He/Him/His

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