

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

WILDSEED MOBILE, LLC,
Patent Owner.

IPR2023-00247
Patent 10,869,169 B2

Before KARL D. EASTHOM and MICHAEL T. CYGAN, *Administrative
Patent Judges*.

CYGAN, *Administrative Patent Judge*.

ORDER
Conduct of the Proceedings
37 C.F.R. § 42.5

DISCUSSION

On March 23, 2026, the Court of Appeals for the Federal Circuit issued a mandate on its February 13, 2026 judgment vacating the Board’s obviousness determination as to claim 15 and remanding for further proceedings consistent with the opinion. Paper 35, 1; Paper 36, 6–7. On April 3, 2026, the parties Google LLC and Wildseed Mobile, LLC jointly requested a telephone conference with the Board to discuss the nature of further proceedings consistent with the Federal Circuit’s opinion. *See* Consolidated Trial Practice Guide § II.O.¹ Such a conference was held on April 9, 2026, with Calmann Clements and Andrew Ehmke representing Petitioner Google LLC and Steven Pappas representing Patent Owner Wildseed Mobile, LLC. After hearing the parties’ positions, we determined that limited further briefing was appropriate. Paper 37. Petitioner filed a Remand Brief and Patent Owner filed a Responsive Brief. Papers 38 (“Remand Br.”), 41 (“Resp. Br.”).

Following this briefing, the parties contacted the Board with a further request by Petitioner for additional briefing. Ex. 3003. Petitioner pointed to statements in the Responsive Brief concerning the application of *In re Stepan* to a combination of embodiments, asserting that such reliance on *Stepan* was neither in the original IPR record nor the Federal Circuit briefing.² Ex. 3003, 1 (citing Resp. Br. 4). Petitioner requests a two-page reply “limited to the *In re Stepan* issue.” *Id.*

¹ Available at <https://www.uspto.gov/patents/ptab/trial-practice-guide>.

² *In re Stepan Co.*, 868 F.3d 1342, 1346 n.1 (Fed. Cir. 2017) (“Whether a rejection is based on combining disclosures from multiple references,

Patent Owner contends that these statements are responsive to the content of the Remand Brief, which “differentiates between various communication embodiments in Rothschild.” *Id.* (citing Remand Br. 4–5). Patent Owner further contends that the Board is capable of evaluating the Petition in view of *Stepan* without the need for additional briefing. *Id.* Patent Owner further requests a Sur-reply brief of the same length if any Reply brief is authorized. *Id.*

We determine that additional briefing is warranted. Patent Owner’s Responsive Brief did not specifically cite to any portion of the Remand Brief as triggering its *Stepan* arguments. Resp. Br. 4. Although Patent Owner points to the general content of the Remand Brief and the “undisputed[] reli[ance] exclusively on Rothschild’s email embodiment,” the Remand Brief focuses on Rothschild’s alleged teaching of a general application of HTML to advertisement, and the availability of numerous alternative communication mechanisms (email, IM) for that HTML. Resp. Br. 2 (citing Pet. 32–34); Remand Br. 2–3. We also note that the Responsive Brief points to an alleged lack of discussion in the Petition as to combining email and IM embodiments, further indicating that this issue has not been squarely addressed in the current record. Consequently, we determine that additional briefing, limited to the facts of the current record, is warranted.

Petitioner may file a single brief within 5 (five) business days of the date this Order is entered, limited to the *In re Stepan* issue. Patent Owner

combining multiple embodiments from a single reference, or selecting from large lists of elements in a single reference, there must be a motivation to make the combination and a reasonable expectation that such a combination would be successful.”)

may file a single responsive brief within five (five) business days of the date that Petitioner's brief is filed with the USPTO. Each brief is limited to no more than 2 (two) pages, and must remain within the scope of the remand as set forth by the Federal Circuit in this proceeding. Following such briefing, either party may request authorization to file further briefing consistent with the considerations detailed above. No further evidence may be submitted, nor will further oral argument occur.

ORDER

Based on the foregoing, it is:

ORDERED that Petitioner may file a single brief, not to exceed 2 (two) pages and limited to the scope of the Federal Circuit's remand, within 5 (five) business days of the date this Order is entered; and

FURTHER ORDERED that Patent Owner may file a single responsive brief, not to exceed 2 (two) pages and limited to the scope of the Federal Circuit's remand, within 5 (five) business days of the date that Petitioner's brief is filed with the USPTO; and

FURTHER ORDERED that no new evidence may be filed.

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