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Subject: RE: IPR2023-00451: Petitioner's Request for Leave to File a Reply Brief [IWOV-FirmLive.FID1858780]
Date: Wednesday, June 21, 2023 6:00:49 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Counsel,

The panel has considered Petitioner's request and determined that good cause for additional briefing has not been shown. Therefore, the request is denied.

Regards,

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

From: Andriy Lytvyn <Andriy.Lytvyn@hwhlaw.com>
Sent: Tuesday, June 20, 2023 4:52 PM
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Subject: IPR2023-00451: Petitioner's Request for Leave to File a Reply Brief [IWOV-FirmLive.FID1858780]

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Dear Board,

Petitioner respectfully requests leave to file a reply brief to Patent Owner's Response to Petitioner's Ranking of Parallel Petitions. Petitioner believes that the guidance provided by the USPTO Director Katherine Vidal in *CommScope Techs. LLC v. Dali Wireless, Inc.*, which governs discretionary denials under 35 U.S.C. 314(a) in cases involving parallel proceedings, applies not only to parallel district court litigation but also to parallel IPR petitions. See IPR2022-01242, Paper 23 at 4 (PTAB Feb. 27, 2023). This guidance from Director Vidal issued after Petitioner filed its Explanation of Parallel Petitions (Paper 3) and, therefore, Petitioner could not have addressed the legal principles set forth therein at the time of filing its IPR petitions. Thus, Petitioner believes that there is good cause for the Board's to authorize Petitioner to submit a succinct reply brief explaining why, under the Director's guidance set forth in *CommScope*, the Board should apply the compelling merits test to the parallel petition filed in IPR2023-00477 and should not discretionally deny that petition merely because institution thereof would result in an additional IPR trial.

Thank you,

Andriy Lytvyn

Senior Counsel

Registered Patent Attorney

Board Certified Intellectual Property Law

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