Etters, Brittany Nicole

From: Trials <Trials@USPTO.GOV>
Sent: Monday, July 10, 2023 9:38 AM
To: McCraw, Clayton
Cc: Bonner, Amanda Streff; mchu@mwe.com; dcarsten@mwe.com; ibrooks@mwe.com; aburrowbridge@mwe.com; Pleune, Ben; Trials
Subject: RE: Nespresso USA, Inc. v. K-fee System GmbH, IPR2023-00485, IPR2023-00502

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Counsel:

From the Board –

Petitioner is authorized to file a five-page reply in each proceeding no later than July 17, 2023. Patent Owner is authorized to file a five-page sur-reply in each proceeding no later than July 24, 2023. Petitioner shall limit its reply to those arguments and evidence that it contends are both new and could not have been foreseen, and Petitioner shall include in any reply a clear statement detailing specific reasons why any allegedly "new argument not in the record at the time of filing the Petitions" could not have been foreseen and addressed in the Petition. Petitioner also shall enter a copy of this email authorization as an exhibit to each reply. No other new evidence may accompany any brief authorized by this email. No conference call is necessary at this time.

Regards,

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

From: McCraw, Clayton <CMcCraw@mayerbrown.com>
Sent: Thursday, July 6, 2023 5:18 PM
To: Trials <Trials@USPTO.GOV>
Cc: Bonner, Amanda Streff <ASBonner@mayerbrown.com>; mchu@mwe.com; dcarsten@mwe.com; ibrooks@mwe.com; aburrowbridge@mwe.com; Pleune, Ben <Ben.Pleune@alston.com>
Subject: Nespresso USA, Inc. v. K-fee System GmbH, IPR2023-00485, IPR2023-00502

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Dear Board:

Petitioner Nespresso USA, Inc. writes requesting leave under 37 C.F.R. §42.108(c) to file a reply to Patent Owner's Preliminary Response (Paper 6) in each of the above-referenced IPRs. Petitioner specifically seeks leave to reply to:

1. Patent Owner's arguments concerning claim construction and related district court litigation, which Petitioner contends includes new argument not in the record at the time of filing the Petitions;

2. Patent Owner's arguments under §325(d), which Petitioner contends includes new argument not in the record at the time of filing the Petitions; and

3. Patent Owner's argument regarding priority, and declarations used to support priority, which Petitioner contends includes new argument not in the record at the time of filing the Petitions.

Petitioner believes there is good cause for this request.

The parties have conferred, and counsel for Patent Owner has indicated it opposes Petitioner's requested reply briefs. If needed, counsel for both parties are available for a teleconference with the Board on Monday, July 10 between 2-4PM ET and Tuesday, July 11 between 11AM-12PM ET.

Sincerely,

B. Clayton McCraw
Partner
Mayer Brown LLP
1221 Avenue of the Americas
New York, NY 10020-1001 United States of America
T +1 212 506 2649
mayerbrown.com

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