

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

REFLEX USA LLC,
Petitioner,

v.

LONGYEAR TM, INC. and GLOBALTECH CORPORATION PTY LTD.,
Patent Owner.

IPR2023-00642
Patent 10,830,013 B2

Before BENJAMIN D. M. WOOD, JEREMY M. PLENZLER, and
CYNTHIAL L. MURPHY, *Administrative Patent Judges*.

WOOD, *Administrative Patent Judge*.

ORDER

Authorizing Petitioner to Reply to Patent Owner's Preliminary Response,
and Patent Owner to Sur-Reply to Petitioner's Reply
37 C.F.R. §§ 42.5, 42.108(c)

By email dated July 14, 2023, Petitioner requested the opportunity to file a ten-page reply to Patent Owner's Preliminary Response to address what Petitioner alleges to be inaccurate characterizations of the prosecution of the '013 patent family and Petitioner's obviousness arguments involving the Wiese reference. Ex. 3001, 1. Patent Owner opposed Petitioner's request, because, among other things, the "[a]dditional briefing on a black-and-white issue . . . does not move the ball and is an inefficient use of resources." *Id.* In a subsequent July 19, 2023, call with Petitioner's counsel, Scott Weidenfeller, Patent Owner's counsel, Scott Jarratt, and the panel, Judges Wood, Plenzler, and Murphy, Petitioner renewed its request and Patent Owner Patent Owner remained opposed to it. Patent Owner additionally requested that any briefing be limited to five pages per side to reduce the financial burden to Patent Owner. Petitioner stated that five pages would be sufficient.

Petitioner's request is granted in part. Petitioner may file a Preliminary Reply, not to exceed five pages, limited solely to addressing that part of the Preliminary Response discussing discretionary denial of institution under 35 U.S.C. § 325(d). The Preliminary Reply must be filed no later than one week from the entry date of this order. Patent Owner may file a Preliminary Sur-Reply, not to exceed five pages, limited to addressing the Preliminary Reply, no later than one week from the entry date of the Preliminary Reply.

I. ORDER

Accordingly, it is:

ORDERED that Petitioner's request to file a Preliminary Reply to Patent Owner's Preliminary Response is *granted in part*;

FURTHER ORDERED that Petitioner's Preliminary Reply may only address that portion of the Preliminary Response discussing discretionary denial of institution under 35 U.S.C. § 325(d), must not exceed five pages in length, and must be filed with the Board no later than one week from the entry date of this Order; and

FURTHER ORDERED that Patent Owner may file a Preliminary Sur-Reply responding to the Preliminary Reply, not to exceed five pages, no later than one week from the entry date of Petitioner's Preliminary Reply.

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Patent 10,830,013 B2

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