

From: [Trials](#)
To: [David Conrad](#)
Cc: [Casey Kraning](#); [Lance Wyatt](#); [Abby Parsons](#); [Brent Ray](#); [Trials](#)
Subject: RE: IPR2023-00695 - Request for Reply to POPR
Date: Thursday, July 13, 2023 1:49:10 PM

Counsel,

From the Board –

The parties are authorized to submit the following supplemental briefs, limited to addressing factor two of the *Advanced Bionics* framework for determining discretionary denial under 35 U.S.C. § 325(d):

Petitioner's Reply, five pages or less, due by July 24, 2023.

Patent Owner's Sur-reply, five pages or less, due by August 2, 2023.

Regards,

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

From: David Conrad <Conrad@fr.com>
Sent: Thursday, July 13, 2023 10:54 AM
To: Trials <Trials@USPTO.GOV>
Cc: Casey Kraning <Kraning@fr.com>; Lance Wyatt <wyatt@fr.com>; Abby Parsons <AParsons@KSLAW.com>; Brent Ray <bray@kslaw.com>
Subject: IPR2023-00695 - Request for Reply to POPR

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Dear Board:

Pursuant to 37 C.F.R. § 42.108(c), Petitioners seek leave to file a five-page reply to Patent Owner's Preliminary Response in the above-captioned proceeding, limited to providing additional context in response to statements made by Patent Owner regarding the challenged patent's prosecution history in its request for discretionary denial under 35 U.S.C. § 325(d). Good cause exists for the requested reply because the § 325(d) issue is relevant to institution, and Petitioners respectfully submit that the Board would benefit from hearing a more fulsome discussion of the prosecution history from both parties, including points rebutting Patent Owner's arguments about the prosecution history raised for the first time in its Preliminary Response.

Petitioners' counsel conferred with Patent Owner's counsel and Patent Owner does not oppose Petitioners' request. Petitioners understand that Patent Owner simultaneously requests a five-page sur-reply to Petitioners' reply, should the Board grant Petitioners' request. Petitioners do not oppose such a sur-reply.

The parties are happy to arrange a conference call with the Board if desired.

Respectfully,
David Conrad
Reg. No. 60,788
Counsel for Petitioners

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