From: Trials
To: Michael Kiklis; Matt Holohan
Cc: Trials; Rob Brunelli; DDC-Service_Google-IPRs
Subject: RE: IPR2023-00709 and 00711
Date: Monday, August 28, 2023 3:17:43 PM

Counsel,

From the Board –

The arguments in Patent Owner's Preliminary Responses in the 709 and 711 IPRs regarding RPI and privity appear to be a subset of the arguments presented by Patent Owner in the preliminary responses in the 707 and 708 IPRs. Accordingly, the Board will authorize Petitioner to file a preliminary reply that includes the portions of its replies from the 707 and 708 IPRs that are relevant to the 709 and 711 IPRs, respectively. Likewise, the Board will authorize Patent Owner to file a preliminary sur-reply that includes the relevant portions of its sur-replies from the 707 and 708 IPRs.

If Petitioner seeks to include new or different arguments in its preliminary replies in the 709 or 711 IPRs, then Petitioner should be prepared to explain the reasons for those new arguments during a conference call with the Board. If Petitioner seeks to do so, the Board is available on the afternoon of Friday, September 1 between 2p-5p ET. The parties should confer and jointly request a time that afternoon when they are available.

If Petitioner requests a call with the Board regarding these matters, then the Board will determine the deadlines for filing the preliminary reply and the preliminary sur-reply during the call. Otherwise, Petitioner's preliminary reply shall be due on Friday, September 1, and Patent Owner's preliminary sur-reply shall be due on Friday, September 8.

Finally, the Board expects the parties to meaningfully meet and confer prior to contacting the Board to ensure that each party understands the other's position before those positions are presented to the Board. To ensure this requirement is met, going forward, the parties must meet and confer *by telephone* or *in person* prior to emailing the Board in any of these matters (IPR2023-00707, -00708, -00709, -00710, and -00711). In an email to the Board, counsel shall certify that this requirement has been satisfied by providing the date of the telephone conference(s) and the names of counsel representing each party during that conference.

Regards,

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

From: Michael Kiklis <michael@kiklisclark.com>
Sent: Friday, August 25, 2023 2:33 PM
To: Matt Holohan <mholohan@sheridanross.com>

Cc: Trials <Trials@USPTO.GOV>; Rob Brunelli <rbrunelli@sheridanross.com>; DDC-Service_Google-IPRs <DDC-service_Google-IPRs@sheridanross.com>
Subject: Re: IPR2023-00709 and 00711

CAUTION: This email has originated from a source outside of USPTO. **PLEASE CONSIDER THE SOURCE** before responding, clicking on links, or opening attachments.

Dear PTAB,

Petitioner opposes any restrictions on the contents of its replies.

Respectfully submitted,

Mike Kiklis
Lead counsel for Petitioner Google
Reg. No. 38,939

Michael L. Kiklis
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On Fri, Aug 25, 2023 at 2:24 PM Matt Holohan <mholohan@sheridanross.com> wrote:

> Dear PTAB,
>
> To clarify DDC's position, DDC's position on these issues is the same as its position for the 707 and 708 IPRs.
> In view of that, DDC believes the most efficient path forward is for the arguments raised in Google's replies in the 707 and 708 IPRs (as well as DDC's forthcoming arguments in its sur-replies in those IPRs) be applied to the 709 and 711 IPRs. In other words, DDC does not consent to Google drafting new reply briefs for the 709 and 711 IPRs, but would consent to Google filing the relevant substance of its 707 and 708 replies as reply briefs in the 709 and 711 IPRs. DDC would likewise limit its sur-replies in the 709 and 711 IPRs to the relevant substance in its forthcoming 707 and 708 IPRs.
> Respectfully submitted,
> Matt Holohan
> Counsel for Patent Owner
>
> ---
>
> **From:** Michael Kiklis <michael@kiklisclark.com>

Sent: Friday, August 25, 2023 12:20:15 PM
To: Trials <trials@uspto.gov>
Cc: Matt Holohan <mholohan@sheridanross.com>; Rob Brunelli <rbrunelli@sheridanross.com>; DDC-Service_Google-IPRs <DDC-service_Google-IPRs@sheridanross.com>
Subject: IPR2023-00709 and 00711

CAUTION: EXTERNAL EMAIL

Dear PTAB,

Petitioner brings the same issue to the Board that it did in two related cases, IPR2023-00707 and 00708, and seeks the same relief. Petitioner attaches the relevant email herein for the Board's convenience.

Petitioner seeks authorization for a 10-page reply to address the approximately 21 pages of RPI/privity arguments in the patent owner preliminary responses (POPRs). Also, the POPRs disclose confidential and FRE 408-protected information from the mediation that the parties attended in violation of the mediation agreement. In the reply, Petitioner would additionally like to address this violation and seek appropriate relief.

The parties have conferred via email. Patent owner opposes a reply. Patent owner refuses to expunge this confidential/FRE 408 information, and patent owner opposes a motion to strike.

Respectfully submitted,

Mike Kiklis

Lead counsel for Petitioner Google

Reg. No. 38,939

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