

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GUANGDONG LAITU IMAGING TECHNOLOGY CO., LTD.,
Petitioner,

v.

REALLY RIGHT STUFF, LLC,
Patent Owner.

IPR2023-00853
Patent 8,398,037 B2

Before LYNNE H. BROWNE and SEAN P. O'HANLON, *Administrative Patent Judges*.

O'HANLON, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

I. INTRODUCTION

A conference call in this proceeding was held on August 8, 2023, among Howard H. Sheerin (counsel for Petitioner Guangdong Laitu Imaging Technology Co., Ltd.), Susan D. Pitchford (counsel for Patent Owner Really Right Stuff, LLC), and Judges Browne and O’Hanlon. The purpose of the conference call was to address Petitioner’s request to file a reply to Patent Owner’s Preliminary Response. During the conference call, we *denied* Petitioner’s request.

II. DISCUSSION

Our rules permit a petitioner to request to file a reply to a preliminary response; however, the request must make a showing of good cause. 37 C.F.R. § 42.108(c). During the conference call, Petitioner argued good cause exists to file a reply to Patent Owner’s Preliminary Response for two reasons. First, Petitioner argued good cause exists to address what Petitioner described as Patent Owner’s “false characterization” of claim 5. Specifically, referring to page 11 of the Preliminary Response, Petitioner argued that Patent Owner mischaracterizes pivoting of the apex. Petitioner argued that we may be deceived by such characterization.

Patent Owner responded that the language noted by Petitioner is not a quotation from claim 5 and is supported by the challenged patent as cited in the Preliminary Response.

As we explained during the conference call, we determine that good cause does not exist for filing a reply to the Preliminary Response to address Patent Owner’s description of the apex and claim 5. Determining the proper meaning of disputed claim terms and determining whether a party’s

arguments are supported by the intrinsic record are routine functions of the Board for which we do not need additional briefing.

Second, Petitioner sought approval to add reference to section VII.A.2, which addresses claim 2, to Petitioner's arguments regarding limitation 16 [B] at page 52 of the Petition. The Petition references only section VII.A.3, which addresses claim 5, when addressing limitation 16 [B]. Petitioner argued that, because Patent Owner disclaimed claims 2 and 5, we may overlook Petitioner's arguments regarding claim 2.

Patent Owner noted that section VII.A.3 of the Petition reproduces the language of claim 5, including its dependence from claim 2, and argued that the Board is capable of considering all of the Petition.

As we explained during the conference call, we determine that good cause does not exist for filing a reply to the Preliminary Response due to Patent Owner's disclaimer. We explained that our rules regarding correction of a Petition (*see* 37 C.F.R. § 42.104(c)) are inapplicable here, as Petitioner acknowledged that the reference to section VII.A.3 is not a mistake. We also explained that considering all of a party's arguments is a routine function of the Board for which we do not need additional briefing.

III. ORDER

Accordingly, it is:

ORDERED that Petitioner's request to file a reply to Patent Owner's Preliminary Response is *denied*.

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