

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SMA SOLAR TECHNOLOGY AMERICA, LLC,
Petitioner,

v.

TIGO ENERGY, INC.,
Patent Owner.

IPR2023-00879
Patent 9,584,021 B2

Before KRISTINA M. KALAN, ELIZABETH M. ROESEL, and
JULIA HEANEY, *Administrative Patent Judges*.

ROESEL, *Administrative Patent Judge*.

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

Patent Owner contacted the Board via email to request authorization to file a motion to strike portions of Petitioner's Reply (Paper 19) and the reply declaration of Petitioner's witness, Dr. Douglas Holberg (Ex. 1023).¹ Ex. 3002. Patent Owner asserts that Petitioner's reply submissions rely on new theories not presented in the Petition, including new obviousness theories with respect to the "microcontroller" limitations. *Id.* Petitioner opposes Patent Owner's request. *Id.*

We determine that a motion strike is not warranted. Insofar as Patent Owner would like to make of record those portions of Petitioner's reply submissions it contends are improper, Patent Owner is authorized to file a paper calling the Board's attention to specific portions of those submissions. The paper will be in the form of a numbered, itemized list, providing the paper or exhibit number and the page and line number of each portion of Petitioner's reply submissions Patent Owner believes is improper. Patent Owner may also provide a brief explanation, for each identified portion, as to why Patent Owner believes the argument or evidence is improper.

We also authorize Petitioner to file a responsive paper. If filed, Petitioner's responsive paper shall follow the same numbering and itemization as Patent Owner's paper. For each portion of Petitioner's reply submissions identified by Patent Owner, Petitioner may identify, by paper or exhibit number and page and line number, (1) the portions of the Patent Owner Response or other paper or exhibit earlier-filed by Patent Owner that represents material to which the identified portion responds; and (2) the portions of the Petition or other earlier-filed paper or exhibit where

¹ We refer to Paper 19 and Exhibit 1023 collectively as "Petitioner's reply submissions."

Petitioner first raised the theory of unpatentability presented in the identified portion of Petitioner's reply submissions. For each portion of Petitioner's reply submissions identified by Patent Owner, Petitioner may also provide a brief explanation as to why Petitioner believes the argument or evidence is proper.

Each party's paper is limited to three (3) pages. Patent Owner's paper may be filed no later than one week from the date of this order, and Petitioner's responsive paper may be filed no later than one week from the date Patent Owner's paper is filed. Neither party is authorized to file new evidence or submit substantive arguments regarding patentability.

The Board will consider the information submitted by each party in making the Final Written Decision to determine what weight, if any, is to be given to all of the presented evidence and arguments in accordance with the rules of the Board. No conference call is necessary at this time.

ORDER

Accordingly, it is

ORDERED that Patent Owner's request for authorization to file a motion to strike is *denied*; and

FURTHER ORDERED that the parties are authorized to file the papers identified and described in this order.

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