

From: [Trials](#)
To: [Riolo, Mary](#); [Peter Tong](#); [Stevens, Scott](#); [Wroblewski, Karlee](#); [rak_nextgen](#)
Cc: [Trials](#)
Subject: RE: IPR2023-00960 Evidence Submission - Nokia v. NextGen
Date: Tuesday, November 12, 2024 9:45:38 AM

Counsel,

The Panel has considered Patent Owner's request for leave to submit two items of new evidence with its sur-reply, which Petitioner opposes. 37 C.F.R. 42.23 states "[a] sur-reply may only respond to arguments raised in the corresponding reply and may not be accompanied by new evidence other than deposition transcripts of the cross-examination of any reply witness." Pursuant to 37 C.F.R. 42.23, Patent Owner's request for leave to submit new evidence with its sur-reply is denied.

Regards,

Franchesca I. Alicea Villanueva
Supervisory Paralegal
Patent Trial & Appeal Board
U.S. Patent & Trademark Office

From: Riolo, Mary <Mary.Riolo@alston.com>
Sent: Thursday, November 7, 2024 1:57 PM
To: Peter Tong <ptong@raklaw.com>; Trials <Trials@USPTO.GOV>
Cc: Stevens, Scott <Scott.Stevens@alston.com>; Wroblewski, Karlee <Karlee.Wroblewski@alston.com>; rak_nextgen <rak_nextgen@raklaw.com>
Subject: RE: IPR2023-00960 Evidence Submission - Nokia v. NextGen

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Dear Honorable Board,

Petitioner opposes Patent Owners' introduction of new evidence into this proceeding. The submission is plainly untimely. 37 C.F.R. § 42.23(b) is clear that a sur-reply "may not be accompanied by new evidence other than deposition transcripts of the cross-examination of any reply witness." Should the Board request a hearing, Petitioner is available Friday 11/8 before 11am and after 12pm, and Monday 11/11 or Tuesday 11/12 any time.

Respectfully,

Ex. 3009
IPR2023-00960

Mary I. Riolo

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From: Peter Tong <ptong@raklaw.com>

Sent: Wednesday, November 6, 2024 22:45

To: Trials <Trials@USPTO.GOV>

Cc: Riolo, Mary <Mary.Riolo@alston.com>; Stevens, Scott <Scott.Stevens@alston.com>; Wroblewski, Karlee <Karlee.Wroblewski@alston.com>; rak_nextgen <rak_nextgen@raklaw.com>

Subject: IPR2023-00960 Evidence Submission - Nokia v. NextGen

EXTERNAL SENDER – Proceed with caution

To the Honorable Board,

Patent Owner requests leave to submit two items of new evidence with its sur-reply. Petitioner opposes. Patent Owner requests a prompt resolution in view of an upcoming November 12 filing deadline.

Patent Owner submits that the new evidence is in direct rebuttal to disprove the asserted size of new pictures of a new device that Petitioner presented for the first time in the Petitioner's Reply (Ex. 1041 at 16–17). Petitioner submits that Patent Owner's request for leave to submit new evidence is not permitted under 37 C.F.R. § 42.23.

If the Board requests a hearing, Patent Owner is available anytime. Patent Owner reached out to Petitioner's counsel for hearing availability on November 5, but Patent Owner has yet to hear back.

Peter Tong

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