From: Trials <Trials@USPTO.GOV>
Sent: Friday, December 22, 2023 11:07 AM
To: Amy Luttrell; Trials
Cc: ryan.singer@srz.com; Gerson, Chris; Patent; Patrick Keane; Roger Lee; Matthew L. Fedowitz; Andrew R. Cheslock; Mythili Markowski; Ralph G. Fischer; Samuel Harrod
Subject: RE: IPR2023-01209, -01210, -01211, -01212, -01213, -01214 - Petitioner's Request for Authorization to file Replies to Patent Owner's Preliminary Responses

Counsel,

The Board grants leave for Petitioner to file a Reply, not to exceed five pages, addressing the impact of the District Court's Order and Patent Owner's appeal to the Federal Circuit on discretionary denial under Section 314(a) by no later than January 5, 2024. Patent Owner may file a Sur-Reply, not to exceed five pages, by no later than January 12, 2024.

Petitioner should add this authorizing e-mail as an Exhibit to the record and reference this e-mail in its Reply.

Regards,

Andrew Kellogg,
Supervisory Paralegal
Patent Trial and Appeal Board
USPTO
andrew.kellogg@uspto.gov
(571)272-7822

From: Amy Luttrell <amy.luttrell@bipc.com>
Sent: Thursday, December 21, 2023 4:13 PM
To: Trials <Trials@USPTO.GOV>
Cc: ryan.singer@srz.com; Gerson, Chris <chris.gerson@srz.com>; Patent <Patent@srz.com>; Patrick Keane <patrick.keane@bipc.com>; Roger Lee <roger.lee@bipc.com>; Matthew L. Fedowitz <matthew.fedowitz@bipc.com>; Andrew R. Cheslock <andrew.cheslock@bipc.com>; Mythili Markowski <mythili.markowski@bipc.com>; Ralph G. Fischer <ralph.fischer@bipc.com>; Samuel Harrod <samuel.harrod@bipc.com>
Subject: IPR2023-01209, -01210, -01211, -01212, -01213, -01214 - Petitioner's Request for Authorization to file Replies to Patent Owner's Preliminary Responses

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Dear Board,

Petitioner Google LLC requests leave to file a reply to the Patent Owner's preliminary responses (POPRs) filed in each of the above IPR proceedings.

All of the POPRs discuss the District Court's Order and Patent Owner's appeal to the Federal Circuit as basis for discretionary denial. Patent Owner has submitted the District Court's Order and Patent Owner's Appeal Brief as exhibits (Exhibits 2003, 2012). Petitioner seeks leave to address Patent Owner's arguments which rely on these intervening events. Good cause exists because the District Court's Order and Patent Owner's appeal were events that occurred after

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the filing of the petitions. *See, e.g., Vector Flow*, IPR2023-00353, Paper 11; *Valtrus*, IPR2022-01197, Paper 12. Good cause also exists given that the specific manner in which Patent Owner relies on such intervening events in support of discretionary denial was not reasonably foreseeable.

The Reply will be limited to addressing discretionary denial under Section 314(a) and the impact of the District Court's Order and Patent Owner's appeal to the Federal Circuit on discretionary denial. Petitioner requests five pages. Petitioner agrees to a Patent Owner sur-reply with like-page limits and timings given to Petitioner.

Petitioner met and conferred with Patent Owner. Patent Owner has indicated that it opposes Petitioner's request. See attached email dated December 20, 2023 from Patent Owner's counsel.

Petitioner can be available for a conference call should the Board desire one.

Thank you.

Amy Luttrell (*sent on behalf of Patrick C. Keane, lead counsel for Petitioner*)
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