

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PELTON INTERACTIVE, INC.,
Petitioner,

v.

NEC CORPORATION,
Patent Owner.

IPR2023-01240
IPR2023-01241¹
Patent 9,769,427 B2

Before MICHAEL J. STRAUSS, CHARLES J. BOUDREAU, and
CHRISTOPHER L. OGDEN, *Administrative Patent Judges*.

OGDEN, *Administrative Patent Judge*.

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

¹ This order addresses an issue common to the above cases. The parties may use this style caption for the briefing authorized in this Order.

IPR2023-01240
IPR2023-01241
Patent 9,769,427 B2

On November 29, 2023, counsel for Petitioner sent an email to the Board seeking authorization to file a five-page Preliminary Reply in each of the above-captioned cases limited to addressing 35 U.S.C. § 325(d) issues raised in Patent Owner's Preliminary Responses. Patent Owner opposes Petitioner's request.

We determine that additional briefing on the § 325(d) issues would be beneficial to the Board in determining whether to institute trial in the above cases, and that there is good cause for the requested briefing. We also authorize Patent Owner to submit a Preliminary Sur-reply limited to 5 pages responding to Petitioner's submission. Each side will have a deadline of 5 business days for their submission.

Accordingly, it is

ORDERED that Petitioner is authorized, within 5 business days of this order, to submit a single Preliminary Reply, limited to 5 pages, addressing the § 325(d) issues raised in Patent Owner's Preliminary Responses in IPR2023-01240 and IPR2023-01241;

FURTHER ORDERED that Patent Owner is authorized, within 5 business days of Petitioner's Preliminary Reply, to submit a Preliminary Sur-reply, limited to 5 pages and without raising new issues; and

FURTHER ORDERED that the briefing authorized above must be submitted in both IPR2023-01240 and IPR2023-01241.

IPR2023-01240
IPR2023-01241
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For PETITIONER:

Scott Weidenfeller
Daniel Yannuzzi
Mark Catanese
Darren Franklin
Anupam Sharma
sweidenfeller@cov.com
dyannuzzi@sheppardmullin.com
mcatanese@sheppardmullin.com
dfranklin@sheppardmullin.com
asharma@cov.com

For PATENT OWNER:

Eliot Williams
Robert Maier
Jennifer Tempesta
Michael Knierim
Nicholas Palmieri
eliot.williams@bakerbotts.com
robert.maier@bakerbotts.com
jennifer.tempesta@bakerbotts.com
michael.knierim@bakerbotts.com
nick.palmieri@bakerbotts.com