

From: [Engel, Jason A.](#)
To: [Stavinoha, Clarke](#); [Trials](#)
Cc: [Williams, Eliot D.](#); [Burke, Katharine](#); [Knierim, Michael](#); [Thompson, Matthew](#); [Jason Engel PTAB](#); [Kantarek, Kyle M.](#); [Hubbard, Nolan R.](#); [Majewski, Dennis A.](#); [Legaard, Brenna K.](#); [Frederick, Clare](#)
Subject: RE: IPR2023-01294: Request for Authorization to File Motion to Strike or Sur-Sur-Reply
Date: Monday, November 18, 2024 1:51:45 PM

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Honorable Board,

Consistent with the scheduling order for this proceeding, Patent Owner informed Petitioner that Patent Owner objected to the inclusion of argument in this email to the Board. Patent owner will provide its argument if requested by the Board.

Best regards,

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From: Stavinoha, Clarke <clarke.stavinoha@BakerBotts.com>
Sent: Monday, November 18, 2024 11:19 AM
To: Trials <Trials@USPTO.GOV>
Cc: Williams, Eliot D. <Eliot.Williams@BakerBotts.com>; Burke, Katharine <Katharine.Burke@BakerBotts.com>; Knierim, Michael <michael.knierim@bakerbotts.com>; Thompson, Matthew <matthew.thompson@bakerbotts.com>; Jason Engel PTAB <Jason.Engel.PTAB@klgates.com>; Kantarek, Kyle M. <Kyle.Kantarek@klgates.com>; Hubbard, Nolan R. <nolan.hubbard@klgates.com>; Majewski, Dennis A. <Dennis.Majewski@klgates.com>; Legaard, Brenna K. <Brenna.Legaard@klgates.com>; Frederick, Clare <Clare.Frederick@klgates.com>
Subject: IPR2023-01294: Request for Authorization to File Motion to Strike or Sur-Sur-Reply

Your Honors,

Petitioner in the above-referenced proceeding respectfully requests authorization to file a motion to strike new arguments presented for the first time in Patent Owner's sur-reply (Paper 30) or, in the alternative, leave to file a sur-sur-reply to address Patent Owner's new arguments. *See, e.g.*, PTAB Consolidated Trial Practice Guide November 2019, at 80 (permitting a party to request authorization to file a motion to strike or, alternatively, further merits briefing). Petitioner's requested motion/sur-sur-reply seeks leave to address two arguments raised in Patent Owner's sur-reply.

Ex. 3001
IPR2023-01294

The first is Patent Owner's argument that EDACS (relied upon in combination with Downs in the Petition's Ground 1) does not disclose "monitoring media streams associated with channels in a communication environment." See Paper 30 at 7-10. In the Patent Owner Response (Paper 19), Patent Owner's arguments for Ground 1 addressed the claim elements involving "receiving an alert in one of the media streams," "elevating a priority associated with the media stream receiving the alert," and "an adjustment is made to how the media stream is provisioned to an endpoint." See Paper 19 at 25-38. Petitioner's Reply pointed out that Patent Owner did not dispute that "*Downs-EDACS* discloses 'monitoring media streams associated with channels in a communication environment[.]'" Paper 26 at 2. Patent Owner's sur-reply, however, argues that EDACS does not disclose monitoring media streams associated with channels in a communication environment. Paper 30 at 7-10.

The second is Patent Owner's argument for Ground 7 that Kim does not render Claim 1 obvious based on claim differentiation between independent Claim 1 and Claims 11 and 16. See Paper 30 at 15-20. Patent Owner's arguments for Ground 7 in the Patent Owner Response did not raise the issue of claim differentiation. See Paper 19 at 47-57.

Consistent with the Trial Practice Guide, Petitioner respectfully requests authorization to file a motion to strike the above-referenced arguments or, in the alternative, leave to file a 7-page sur-sur-reply to address Patent Owner's newly raised arguments. This request is timely, as it is being raised within one week of the filing date of Patent Owner's sur-reply (November 11, 2024).

Counsel for Petitioner has met and conferred with counsel for Patent Owner, who indicated that Patent Owner opposes this request.

If the Board would like to have a conference call regarding this request, the parties are available at the following times:

1. November 20 from 10:00 AM – 5:00 PM Eastern; and
2. November 21 from 10:00 AM – 4:00 PM Eastern.

Respectfully,
Clarke Stavinoha (Reg. No. 71,152)
Counsel for Petitioner

Clarke Stavinoha
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