

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

10X GENOMICS, INC.,
Petitioner,

v.

PRESIDENT AND FELLOWS OF HARVARD COLLEGE,
Patent Owner.

IPR2023-01299
Patent 11,098,303 B2

Before GEORGIANNA W. BRADEN and TINA E. HULSE,
Administrative Patent Judges.

HULSE, *Administrative Patent Judge.*

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

A conference call was held on January 19, 2024, among counsel for Petitioner, counsel for Patent Owner, and Judges Braden and Hulse.¹

On January 16, 2024, Petitioner sent an email correspondence to the Board requesting authorization to file a Reply to Patent Owner's Preliminary Response (Paper 11) to respond to certain arguments in the Preliminary Response. Ex. 3001. Petitioner states that it contacted Patent Owner on January 10, 2024, but did not meet and confer until January 16, 2024, when Patent Owner was available. *Id.*

During the call, Petitioner asserted that the Preliminary Response mischaracterizes the Petition's arguments regarding Fan and regarding its claim construction. Accordingly, Petitioner asserts good cause exists because it could not have anticipated the Preliminary Response's arguments and because the issues are potentially dispositive of the case. When asked why Petitioner did not contact Patent Owner until January 10 regarding its request, Petitioner stated the intervening holidays and scheduling difficulties caused the delay.

In response, Patent Owner denies that it has mischaracterized any issues in the Preliminary Response and stated that, regardless, these issues do not constitute the type of situation that is good cause for further briefing. According to Patent Owner, the Board is equipped to assess any alleged mischaracterizations.

Having considered the parties' respective arguments, we find Petitioner has failed to show good cause exists to grant Petitioner's request.

¹ Petitioner retained a court reporter for the call and indicated it would file the transcript as an exhibit once it becomes available.

We agree with Patent Owner that the issues Petitioner seeks to address in its proposed Reply are issues that the Board is capable of evaluating on our own without the need for further briefing. Moreover, if we were to grant Petitioner's request for authorization to file a Reply (and a Sur-reply by Patent Owner), the time for the Board to prepare its decision on whether to institute would be further compressed.

Accordingly, it is

ORDERED that Petitioner's request for authorization to file a Reply to Patent Owner's Preliminary Response is *denied*.

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FOR PETITIONER:

David Holman
Pratibha Khanduri
Robert Sterne
Gaby Longworth
STERNE, KESSLER, GOLDSTEIN & FOX PLLC
dholman-ptab@sternekessler.com
pkhanduri-ptab@sternekessler.com
rsterne-ptab@sternekessler.com
glongs-ptab@sternekessler.com

FOR PATENT OWNER:

Dov Grossman
David Krinsky
WILLIAMS & CONNOLLY LLP
dgrossman@wc.com
dkrinsky@wc.com