

From: [Prati Khanduri](#)
To: [Trials](#)
Cc: [Grossman, Dov](#); [Krinsky, David](#); [David H. Holman](#); [Rob Sterne](#); [Gaby Longsworth](#)
Subject: 10x Genomics v. President and Fellows of Harvard College, IPR2023-01299
Date: Tuesday, January 16, 2024 6:02:21 PM
Attachments: [image001.png](#)
[image002.png](#)

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Dear Honorable Board:

Petitioner (10x Genomics) respectfully requests authorization to file a Reply to Patent Owner's Preliminary Response in IPR2023-01299 to address two specific issues in Patent Owner's arguments pertaining to all Grounds of the Petition:

- (i) Patent Owner's characterization of Petitioner's claim construction position and of the law regarding requirements under 37 CFR § 42.104(b)(3);
- (ii) Patent Owner's characterization of Petitioner's position on the removing limitation and the Fan reference.

Petitioner believes there is good cause for a pre-institution reply as Patent Owner's Preliminary Response raises factual and legal errors that are potentially dispositive to the Board's decision on institution, nor could these issues have been anticipated by Petitioner. Petitioner accordingly seeks authorization to file a 5-page pre-institution reply to address these issues. Petitioner is amenable to Patent Owner receiving authorization to file a sur-reply of equal length. Petitioner proposes filing the pre-institution reply 5 business days from the Board's date of authorization, and filing Patent Owner's sur-reply 5 business days after the filing of Petitioner's pre-institution reply.

Counsel for Petitioner reached out to counsel for Patent Owner regarding this request on January 10, but counsel for Patent Owner was unable to meet and confer until today, January 16.

Patent Owner provides the following statement: "Patent Owner opposes Petitioner's request for a Reply. Patent Owner disagrees that there are any errors in its characterizations of Petitioner's arguments, but that is something the Board is equipped to assess. Also, Patent Owner's alleged mischaracterizations do not constitute unanticipated new evidence or arguments on new issues that could constitute good cause for a Reply. Patent Owner requests that, if Petitioner is granted a Reply, Patent Owner should be allowed a Sur-Reply of equal length due 8 business days after the due date for the Reply in order to address Petitioner's new arguments."

Should the Board believe a conference call is necessary, the parties can be available at the following times:

- Wednesday 1/17, between 1pm – 3pm ET;
- Thursday 1/18, 1:30pm – 3pm ET;
- Friday 1/19, 10:30am – 2pm ET;

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- Monday 1/22, 10am – 2pm ET.

Respectfully,
Pratibha Khanduri
Counsel for Petitioner



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