

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MEDIT CORPORATION,
Petitioner,

v.

3SHAPE A/S,
Patent Owner.

IPR2023-01315
Patent 10,695,151 B2

Before HUBERT C. LORIN, MICHELLEN. WORMMEESTER, and
JAMES J. MAYBERRY, *Administrative Patent Judges*.

MAYBERRY, *Administrative Patent Judge*.

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

On October 24, 2024, Patent Owner timely filed its Sur-reply in this proceeding. Paper 16. On October 30, 2024, Petitioner emailed the Board requesting authorization to file a Motion to Strike portions of the Sur-reply, which Petitioner alleges includes new arguments. Ex. 3001.¹

We authorize the Motion to Strike, for at least the reasons that the panel would benefit from briefing on this issue, and that Petitioner does not have a further opportunity to reply to the alleged new arguments in the Sur-reply. In addition to arguments in support of the Motion to Strike, Petitioner shall identify with particularity those portions of the Sur-reply that Petitioner alleges includes new arguments.

Accordingly, it is:

ORDERED that Petitioner is authorized to file a Motion to Strike portions of the Sur-reply (Paper 16), limited to 5 pages and due on November 12, 2024;

FURTHER ORDERED that Patent Owner is authorized to file an Opposition to the Motion to Strike, limited to 5 pages and due on November 19, 2024; and

FURTHER ORDERED that no reply to the Opposition is authorized at this time, and no new evidence may be included with the Motion to Strike or Opposition without prior Board authorization.

¹ In response to the email provided as Exhibit 3001, Patent Owner stated that it “would like to discuss filing its own motion to strike to address the new arguments presented in Petitioner’s Reply.” Because there is no indication that Patent Owner fulfilled its obligations to meet and confer with Petitioner prior to this request, we do not consider this request at this time. *See* Paper 7, 2.

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