

Ney, Angela

From: Trials <Trials@USPTO.GOV>
Sent: Thursday, December 7, 2023 7:50 AM
To: Heard, Preston; Trials
Cc: Morrow, John; Dority, James; carl@masseyip.com; ckelly@mcciplaw.com; Warren Thomas; shri.abhyankar@alston.com
Subject: RE: IPR2023-01340, IPR2023-01341 - Request for Leave to File Replies to Preliminary Responses

External (trials@uspto.gov)

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Counsel,

The panel has considered Petitioner's request. A conference call is not necessary. The Board authorizes Petitioner to file a five page Reply to Patent Owner's Response limited to addressing items (2) and (3) as outlined in the request due within 5 business days of receipt of this response. Patent Owner is authorized to file a 5 page Sur-reply, also limited to these issues, due within 5 business days of filing of Petitioner's Reply. Petitioner should file a copy of this email as an exhibit in this proceeding with its Reply.

Regards,

Esther Goldschlager
Supervisory Paralegal Specialist
Patent Trial & Appeal Board
U.S. Patent & Trademark Office

From: Heard, Preston <Preston.Heard@wbd-us.com>
Sent: Wednesday, December 6, 2023 1:11 PM
To: Trials <Trials@USPTO.GOV>
Cc: Morrow, John <John.Morrow@wbd-us.com>; Dority, James <James.Dority@wbd-us.com>; carl@masseyip.com; ckelly@mcciplaw.com; Warren Thomas <wthomas@mcciplaw.com>; shri.abhyankar@alston.com
Subject: IPR2023-01340, IPR2023-01341 - Request for Leave to File Replies to Preliminary Responses

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Dear PTAB:

Pursuant to 37 C.F.R. § 42.108(c), Petitioner in the above-referenced proceedings requests leave from the Board to file Replies to Patent Owner's Preliminary Responses. In each Reply, Petitioner requests leave to respond to three limited issues raised by Patent Owner, specifically: (1) particularity under 35 U.S.C. § 312 (IPR2023-01340, Paper 9 at 8-13; IPR2023-01341, Paper 9 at 4-9); (2) claim construction (IPR2023-01340, Paper 9 at 13-24; IPR2023-01341, Paper 9 at 9-15); and (3) hearsay regarding Ex. 1013 (IPR2023-01340, Paper 9 at 42-46; IPR2023-01341, Paper 9 at 29-33). Petitioner requests a 7-page Reply in each proceeding, to be filed within one week of the grant of authorization.

The parties have conferred, and Patent Owner objects to this request. In the event the Board would like to discuss this request, the parties are available for a conference call at the following times (all Eastern Time):

Dec. 8: 1:30pm to 3pm

Dec. 11: 11am to 12pm; 2pm to 4pm

Dec. 12: 10am to 12pm; 3pm to 5pm

Best regards,
Preston Heard
Lead Counsel for Petitioner Safe Haven

Preston Heard

Partner

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