

From: [Trials](#)
To: [Doody, Patrick A.](#); [Michael Neustel](#); Scott.McKeown@WolfGreenfield.com; [Monte Bond](#); darien@imperiumpw.com; Lester@imperiumpw.com
Cc: [Trials](#)
Subject: RE: IPR2023-01372 - Patent Owner's Proposed Protective Order - Papers 42-43 and Exs. 2030-2031
Date: Monday, November 18, 2024 11:45:55 AM

Counsel,

As provided in the Scheduling Order for this proceeding, the Board encourages parties to resolve disputes relating to discovery on their own. Paper 9 at 3. To the extent that a dispute arises between the parties relating to discovery, the parties must meet and confer to resolve such a dispute before contacting the Board. The parties shall send an email to the Board indicating a resolution of this issue has been reached. If attempts to resolve the dispute fail, a party may request a conference call with the Board. Such a request should identify multiple times the parties are available. The Board will not act on the current proposed protective order until a resolution is reached.

In addition, this email provides information relevant to Patent Owner's Sur-reply, which is due on November 19, 2024. Paper 32. The Board will resolve Patent Owner's motions to strike portions of Petitioner's Reply only as necessary to any final written decision. Papers 33, 34. The Board will deny Patent Owner's motion to file new evidence with its Sur-reply in an order that will issue in due course. Paper 35. The Board will enter a copy of this email correspondence as Exhibit 3004.

Regards,

Tina Lee
Supervisory Paralegal Specialist
Patent Trial and Appeal Board
U.S. Patent & Trademark Office

From: Doody, Patrick A. <patrick.doody@pillsburylaw.com>
Sent: Friday, November 15, 2024 11:07 AM
To: Michael Neustel <michael@neustel.com>; Trials <Trials@USPTO.GOV>
Cc: Scott.McKeown@WolfGreenfield.com; Monte Bond <monte@neustel.com>; darien@imperiumpw.com; Lester@imperiumpw.com
Subject: RE: IPR2023-01372 - Patent Owner's Proposed Protective Order - Papers 42-43 and Exs. 2030-2031

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Dear Honorable Board:

I am lead counsel for Patent Owner, Buergofol GmbH in the above-referenced proceeding. It is unfortunate that Petitioner improperly contacted you without any attempt to meet and confer with Patent Owner.

Ex. 3004

Petitioner and Patent Owner previously agreed to a slightly modified Protective Order (PO) on July 30, 2023. When Patent Owner sought Petitioner's approval to submit that modified PO on November 12, 2024, as requested by the Board's email earlier that day. Petitioner informed Patent Owner on the morning of Nov. 14, 2024, that it no longer agreed to the slightly modified PO.

Patent Owner reasonably believed that Petitioner would at least agree to the default PO because Petitioner previously requested the parties stipulate to that PO (email of July 22, 2023). Thus, a few hours after Petitioner informed Patent Owner it no longer agreed to the slightly modified PO, Patent Owner forwarded a joint stipulation to enter the default protective order to Petitioner for its approval. Petitioner did not respond. Patent Owner sent a follow-up reminder at 8:09, and when it appeared Petitioner was not responding, Patent Owner sent the final email at 10:36.

Petitioner's email this morning to the Board is the first time Patent Owner has learned that Petitioner does not agree to enter into the Board's default protective order. Patent Owner therefore is reaching out to Petitioner's counsel to determine what modifications Petitioner now proposes to the default protective order, and believes the matter can, and should be resolved without involvement of the Board.

Best regards,

Patrick Doody

Patrick A. Doody | Senior Counsel

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From: Michael Neustel <michael@neustel.com>

Sent: Friday, November 15, 2024 7:32 AM

To: Trials <trials@uspto.gov>

Cc: Scott.McKeown@WolfGreenfield.com; Monte Bond <monte@neustel.com>; Doody, Patrick A. <patrick.doody@pillsburylaw.com>; darien@imperiumpw.com; Lester@imperiumpw.com

Subject: IPR2023-01372 - Patent Owner's Proposed Protective Order - Papers 42-43 and Exs. 2030-2031

Dear Honorable Board,

I am lead counsel for Petitioner Omega Liner Company, Inc. in the above-referenced proceeding (IPR2023-01372). On November 14, 2024, Patent Owner filed a so-called "Jointly Proposed Protective Order," claiming that "Patent Owner and Petitioner

respectfully request that the Board grant the Revised Request to Enter Protective Order” and further asserting that the parties “jointly submit as Exhibit EX2030 the default protective order.” (Papers 42-43; Exhibits 2030-2031.) These claims are incorrect.

On November 14, 2024 at 10:33 AM ET, Petitioner notified Patent Owner that there was no agreement. Later that evening, at 10:36 PM ET, Patent Owner emailed Petitioner stating that if it didn’t hear otherwise by 11:00 PM ET it would represent to the Board that the parties had an agreement. Petitioner did not provide a response or consent by the 11 PM ET deadline or at any time thereafter.

The parties will make themselves available as necessary for further guidance or questions from the Board.

Best regards,

Michael Neustel
Reg. No. 41,221

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