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To: [Morlock, Michael](#); [Trials](#)
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Subject: RE: Hisense USA Corp. v. Brightplus Ventures LLC, No. IPR2023-01385 (U.S. 7,690,812)
Date: Thursday, January 25, 2024 4:45:47 PM

Counsel,

The Panel has received Petitioner's request for authorization to file a preliminary reply. Petitioner requests a preliminary reply "based on Patent Owner's submission of new testimonial evidence (Ex. 2001)."

Patent Owner opposes Petitioner's request and submits that the purported "new testimonial evidence" is Patent Owner's expert declaration. Patent Owner submits that good cause is lacking and that any response to the statements in Patent Owner's expert declaration would amount to a belated presentation of evidence and/or an unwarranted response to Patent Owner's arguments.

The Panel notes that the Board's procedures allow patent owners to submit expert testimony with its preliminary response. See Consolidated Trial Practice Guide, 34 ("Expert testimony may be submitted with the petition, preliminary response, and at other appropriate stages in a proceeding as ordered or allowed by the panel overseeing the trial."). Given the circumstances here, the Panel does not find that Petitioner has established good cause. Accordingly, Petitioner's request for authorization to file a preliminary reply is denied.

Regards,

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

From: Morlock, Michael <MMorlock@ktslaw.com>
Sent: Tuesday, January 9, 2024 11:34 AM
To: Trials <Trials@USPTO.GOV>
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Subject: Hisense USA Corp. v. Brightplus Ventures LLC, No. IPR2023-01385 (U.S. 7,690,812)

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Hisense USA Corp. v. Brightplus Ventures LLC, No. IPR2023-01385 (U.S. 7,690,812)

Dear Honorable Board,

Petitioner requests authorization to file a preliminary reply to the Patent Owner's preliminary

response in the above-referenced proceeding. Good cause exists in accordance with 37 C.F.R. § 42.108(c) at least based on Patent Owner's submission of new testimonial evidence (Ex. 2001). The Board has noted that submission of patent owner testimonial evidence at the preliminary stage may warrant granting the petitioner a reply to such evidence. Consolidated TPG, at 51-52. Petitioner's reply will be limited to addressing statements in Patent Owner's expert declaration and will not present new evidence.

Petitioner requests a 5-page reply due 7 days from the order granting our request. Petitioner would not oppose a sur-reply of equal length for Patent Owner due 7 days after Petitioner's reply.

Petitioner reached out to Patent Owner for its position, and Patent Owner indicated that it is opposed to Petitioner's request. It is Patent Owner's position that good cause for a reply is lacking and that any response to the statements in Patent Owner's "new testimonial evidence" would amount to belated presentation of evidence and/or an unwarranted response to characterizations in Patent Owner's arguments. In support of its position, Patent Owner notes that the purported "new testimonial evidence" is Patent Owner's expert declaration. In further support Patent Owner notes that an identical request made by Petitioner was correctly denied by the Board in *Hisense USA Corp. v. Brightplus Ventures LLC*, No. IPR2023-01168.

Should the panel wish to convene a telephone conference, the parties will confer to identify mutually acceptable days and times for the telephone conference.

Regards,

Michael Morlock (backup counsel for Petitioner)



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