

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

OXYLABS, UAB,
Petitioner,

v.

BRIGHT DATA LTD.,
Patent Owner.

IPR2023-01425
Patent 11,206,317 B2

Before KRISTEN L. DROESCH, SHEILA F. McSHANE, and
RUSSELL E. CASS, *Administrative Patent Judges*.

McSHANE, *Administrative Patent Judge*.

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

On January 17, 2024, an email communication was received from Petitioner seeking leave to file a reply brief to Patent Owner's Preliminary Response and to submit additional evidence. A call was held with the parties on January 24, 2024 to discuss the request.

Petitioner alleges that Patent Owner's statements in the Preliminary Response assert that the Goodell reference is similar to the Blossom system. According to Petitioner, these statements, to which Petitioner disagrees, undercut the value of Petitioner's proposed stipulation and Patent Owner's arguments were not foreseeable. The evidence that Petitioner seeks leave to file relates to the Blossom system, including its source code. Patent Owner opposes, stating that the Blossom system is the prototype of the Goodell reference and that its arguments were foreseeable.

We have considered the parties' positions on additional briefing. Petitioner is authorized to file a three-page reply to Patent Owner's Preliminary Response, limited to addressing whether the Blossom system is substantially similar to the Goodell reference. Patent Owner is granted leave to file a three-page sur-reply limited to addressing issues raised in Petitioner's reply. Petitioner is not granted leave to file additional evidence, which includes any expert testimonial evidence. Accordingly, it is

ORDERED that Petitioner is authorized to file a reply to Patent Owner's Preliminary Response, not to exceed three pages in length, by February 2, 2024; and

FURTHER ORDERED that Patent Owner is authorized to file a sur-reply, not to exceed three pages in length, by February 14, 2024.

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