

From: [Wolfe, Michael](#)
To: [Trials](#)
Cc: [MLB-Lam-IPR-Team](#); [PH-Lam-Inpria-IPR](#)
Subject: IPR2024-00033 - Re: Board's Order (Paper 51)
Date: Tuesday, January 7, 2025 10:06:27 PM
Attachments: [image001.png](#)

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Your Honors,

Patent Owner Inpria notes an error in the Board's recent order (Paper 51) regarding the submission of the Supplemental Stewart Declaration, EX2013, and seeks correction.

Specifically, Lam introduced the Supplemental Declaration into the proceeding via email to the Board on November 14, 2024. Because the next paper due was Inpria's Sur-reply, Inpria requested Board authorization to file this declaration that was emailed by Lam. In an email dated November 15, 2024, the Board stated "the Board grants Patent Owner's unopposed request to file 'the new supplemental declaration from Ms. Stewart' and supporting documents, as identified below by Patent Owner's counsel, as exhibits to Patent Owner's sur-reply." EX3007. However, in the Board's order (Paper 51), the Board states that "Patent Owner's improper filing of Exhibit 2013 in support of its Sur-reply ... violates our rules," and refers to this as an "unauthorized submission." Paper 51 at 6-7. This appears to be an inadvertent error. As such, Patent Owner seeks correction as the Board deems appropriate.

Patent Owner conferred with Petitioner. Patent Owner provides Petitioner's position below. Patent Owner notes that Petitioner identifies two separate issues in its portion. Regarding Lam's discussion of "separate publications," Patent Owner believes this is a substantive argument by Lam that is inappropriate for email. Regarding the remaining briefs, Lam is correct that Lam's Sur-Reply on the Motion to Amend is due on January 16, 2025.

Petitioner (Lam) Section:

Petitioner agrees that certain clarifications to Paper 51 are appropriate and offers the following points:

- **No Opposition to Supplemental Declaration Filing:** Petitioner does not oppose Patent Owner having filed the Supplemental Declaration (EX2013) and agrees it was authorized by the Board.
- **Clarification of Stowers 2008 References:** The Order appears to conflate two separate publications of the Stowers 2008 dissertation:
 1. The version published by Oregon State University (OSU), which is the publication relied upon in Ground 1, as indicated on OSU's website as being available on October 21, 2008. EX1006 at ¶¶ 46-50, Attachment 1A, 1B.
 2. The version published by ProQuest, which was intended to corroborate the OSU publication, and which is the subject of the Motion discussed in Paper 51.These are distinct publications, and the Motion only relates to (2) the ProQuest publication.
- **Brief Filings:** On Page 4 of the Order, the Board states that "all trial-phase briefs have been filed." This statement is technically inaccurate, as Petitioner's Sur-Reply on the Motion to Amend is due on January 16, 2025. The Stowers 2008 reference is directly relevant to this forthcoming brief.

If the Board desires, the parties are available for a call at the Board's convenience.

Respectfully,
Michael Wolfe

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HASTINGS**

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