

**Subject:** RE: IPR2024-00131 - Request for Authorization for a Reply  
**Date:** Friday, March 8, 2024 at 6:05:17 PM Eastern Standard Time  
**From:** Trials  
**To:** Oliver, Justin J., Trials  
**CC:** Robert Auchter, Ollnova\_Counsel@b-clg.com, bcooper@bc-lawgroup.com, ecobee-IPRs

Counsel,

The Board will find it useful for Petitioner to explain why it abandoned its invalidity arguments in the district court litigation between the parties after the trial had already commenced. Petitioner shall file a five-page Reply to the Motion for Joinder by March 15, 2024. The Reply shall be limited solely to the discretionary denial issues raised by Patent Owner in its opposition to the motion for joinder. Paper 7. Patent Owner may file a five-page Sur-reply by March 22, 2024. No further briefing is authorized.

Regards,

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

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**From:** Oliver, Justin J. <[JOliver@Venable.com](mailto:JOliver@Venable.com)>  
**Sent:** Thursday, March 7, 2024 5:01 PM  
**To:** Trials <[Trials@USPTO.GOV](mailto:Trials@USPTO.GOV)>  
**Cc:** Robert Auchter <[robert@auchterlaw.com](mailto:robert@auchterlaw.com)>; Ollnova\_Counsel@b-clg.com; bcooper@bc-lawgroup.com; ecobee-IPRs <[ecobee-IPRs@Venable.com](mailto:ecobee-IPRs@Venable.com)>  
**Subject:** IPR2024-00131 - Request for Authorization for a Reply

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To the Board,

Petitioner ecobee respectfully seeks authorization to file a (single) reply in IPR2024-00131 to Patent Owner's POPR and Opposition to Petitioner's Motion for Joinder. The reply would be limited to 7 pages addressing (i) the *Finitv* arguments, (ii) the *General Plastic* arguments, and (iii) the fact that the POPR copies the arguments already presented in the POR in the joinder target, namely, IPR2023-00626 (this would involve addressing the legal rationale for reserving consideration of those arguments for the FWD in the joinder target and would not address the substance of the arguments).

ecobee would not oppose a sur-reply of equal length by Patent Owner. Counsel for Petitioner has conferred with counsel for Patent Owner and Patent Owner contends that Petitioner has not shown good cause as required by 37 CFR Section 42.108(c) and, should the Board decide otherwise, that the reply and sur-reply should be limited to 5 pages.

Should a call with the Board be necessary to discuss, e.g., good cause, the parties will provide availability for the same.

Regards,  
Justin Oliver  
Counsel for Petitioner

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