

From: [Trials](#)
To: [Kevin Laurence](#); [Trials](#)
Cc: [Byer, Ben](#); [Hunt, Sam](#); [Rosenthal, Greg](#); [Seth Black](#); [Matthew Phillips](#); [Derek Meeker](#)
Subject: RE: IPR2024-00183, -00185, -00186 - Reply to POPR
Date: Monday, November 25, 2024 3:26:10 PM

Counsel,

From the Board –

Petitioner is authorized to file the *Sotera* stipulation in each of the affected cases.
Briefing is not authorized on any of the issues raised in the November 25 email.

Regards,

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

From: Kevin Laurence <klaurence@lpiplaw.com>
Sent: Monday, November 25, 2024 12:13 PM
To: Trials <Trials@USPTO.GOV>
Cc: Byer, Ben <BenByer@dwt.com>; Hunt, Sam <SamHunt@dwt.com>; Rosenthal, Greg <GregRosenthal@dwt.com>; Seth Black <seth@blkip.com>; Matthew Phillips <mphilips@lpiplaw.com>; Derek Meeker <dmeeker@lpiplaw.com>
Subject: IPR2024-00183, -00185, -00186 - Reply to POPR

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Dear Board:

Petitioner National Beef requests leave to file a limited reply to the Preliminary Response of Patent Owner IEH to address several issues in each of the above-listed IPRs. The issues for the reply, which are summarized below, were not reasonably foreseeable, so there is good cause under 37 C.F.R. § 42.108(c).

1. On November 18, 2024, National Beef emailed to IEH a *Sotera* stipulation (attached). Given the USPTO Director's June 21, 2022 Memorandum, the Board should decline to deny institution under the *Fintiv* analysis. Good cause for a reply exists to allow National Beef the opportunity to enter its *Sotera* stipulation as an exhibit to the reply.

In the event the Board does not consider National Beef's stipulation to be dispositive of the *Fintiv* analysis, National Beef will request an opportunity to provide further briefing on *Fintiv*.

2. IEH's proposed new claim constructions of "validate" and "for release into commerce" deviate from claim construction positions IEH put forth and agreed to in prior proceedings.

Further, IEH's analysis of ICMSF-7 depends on the application of these new claim construction positions. National Beef could not have anticipated this. Thus, good cause exists for National Beef to reply to these issues.

3. National Beef could not have anticipated IEH's argument about the number of grounds for the independent claims based on IEH's assertion the petitions use the construct "and/or" when a simple text search of the petitions shows that is not the case. Accordingly, good cause for a reply exists.
4. National Beef could not have anticipated that IEH would mischaracterize the petitions as improperly incorporating by reference content from National Beef's expert declaration when the arguments of the petitions stand on their own. Good cause thus exists for a reply.

These issues can be addressed in a 5-page reply in each of the three related IPRs. Each reply would have essentially the same content. Upon receiving authorization from the Board, National Beef is prepared to file its reply in each case on that same day. National Beef would not oppose an equal length sur-reply from IEH on the same issues.

The parties have met and conferred on these issues since November 13 but have not reached an agreement. If the Board would like to schedule a conference call, counsel for National Beef is available at any time.

Best regards, Kevin

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