From:	Robert Wolter
To:	Trials; Thomas Eschweiler
Cc:	Nathan Smith; Amber Davis; Barbie Mahan
Subject:	RE: DBR Finance, Inc. v. Rugged Cross Hunting Blinds, LLC - Case No: IPR2024-00291
Date:	Friday, June 14, 2024 12:52:51 PM
Attachments:	image002.png

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Dear Board,

In reference to the Board's below email dated May 28, 2024, Patent Owner is renewing its request to supplement the record by filing the below referenced interim arbitration ruling, the license agreement and the assignment letter. Patent Owner had previously made this request, and the Board, while not allowing filing the documents at that time, provided that: "If the Board decides to grant institution, Patent Owner will be permitted to renew its request to submit the arbitration decision, license agreement and assignment letter."

Given the Board's Decision (Paper No. 13) granting institution, the Patent Owner is hereby renewing its request. As mentioned in previous emails, these documents bear on the issue of whether FeraDyne is a real party in interest and the *Fintiv* factors 4-7, which are also referred on pages 25-27 of the Decision. (See also, footnote 19, pg. 26). To that end, it bears on the tactical advantage that DBR may gain by institution of the trial, and on some inefficiencies that will result if Patent Owner is successful in defending the '535 Patent in the IPR and then defend its patent in federal court against prior art that could have been raised in the IPR.

Accordingly, Patent Owner respectfully renews its request to at least supplement the record and/or its preliminary response.

Best regards,

Robert L. Wolter
Partner | Registered Patent Attorney
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WOLTER VAN DYKE DAVIS
INTELLECTUAL PROPERTY LAW

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From: Trials <Trials@USPTO.GOV>
Sent: Tuesday, May 28, 2024 11:07 AM
To: Thomas Eschweiler <teschweiler@epiplaw.com>; Robert Wolter <rwolter@Savvyiplaw.com>; Trials <Trials@USPTO.GOV>
Cc: Nathan Smith <njsmith@epiplaw.com>; Amber Davis <adavis@Savvyiplaw.com>; Trials <Trials@USPTO.GOV>; Barbie Mahan <bmahan@Savvyiplaw.com>
Subject: RE: DBR Finance, Inc. v. Rugged Cross Hunting Blinds, LLC - Case No: IPR2024-00291

Counsel,

From the Board –

Given that the Decision on Institution is due very soon (June 8), no additional briefing or supplementation of the record will be allowed. If the Board decides to grant institution, Patent Owner will be permitted to renew its request to submit the arbitration decision, license agreement, and assignment letter.

Regards,

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

From: Thomas Eschweiler <teschweiler@epiplaw.com>
Sent: Saturday, May 25, 2024 2:52 PM
To: Robert Wolter <rwolter@Savvyiplaw.com>; Trials <Trials@USPTO.GOV>
Cc: Nathan Smith <njsmith@epiplaw.com>; Amber Davis <adavis@Savvyiplaw.com>; Trials <Trials@USPTO.GOV>; Barbie Mahan <bmahan@Savvyiplaw.com>
Subject: RE: DBR Finance, Inc. v. Rugged Cross Hunting Blinds, LLC - Case No: IPR2024-00291

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Dear Board,

Petitioner only objects to the filing of the license agreement and the assignment letter. While not objecting to the filing of the interim arbitration ruling, Petitioner simply states that it is cumulative with respect to facts already of record.

What Petitioner objects to is further briefing. The Board is fully capable of considering whether various parties are RPIs to DBR and how that may affect a Fintiv factor without briefing. Permitting briefing by the Patent Owner (especially 7 pages), followed by a responsive briefing by the Petitioner, with an Institution Decision deadline of June 8, 2024 creates an undue burden on the Board which is unnecessary,

Best regards,

Thomas G. Eschweiler

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From: Robert Wolter <rwolter@Savvyiplaw.com>
Sent: Friday, May 24, 2024 4:45 PM
To: Thomas Eschweiler <teschweiler@epiplaw.com>; Trials <Trials@USPTO.GOV>
Cc: Nathan Smith <njsmith@epiplaw.com>; Amber Davis <adavis@Savvyiplaw.com>; Trials <Trials@USPTO.GOV>; Barbie Mahan <bmahan@Savvyiplaw.com>
Subject: RE: DBR Finance, Inc. v. Rugged Cross Hunting Blinds, LLC - Case No: IPR2024-00291

Dear Board,

Patent Owner does not intend to prolong or belabor this process, but does feel the need to respond to the below objection raised by Petitioner. The Court in Wisconsin has granted

Patent Owner permission to file the three documents. Patent Owner did not receive the arbitration ruling until May 1, 2024. To understand the significance and relevance of the arbitration ruling the Board should have the benefit of reviewing the license agreement and the assignment letter. At least beginning on pages 7-8 of the ruling (made by the arbitrator) there are specific findings and statements as to the relationship of DBR, Tru-View and FeraDyne that are directly relevant to the *Fintiv* factors that the Board should consider. To that end the ruling provides a much more complete picture that was not available until now.

DBR filed a response to the Wisconsin order an hour and a half after the deadline of noon central time. In its response, Petitioner (DBR) did not object to the relief granted by the Court, i.e. granting permission to submit the three documents in the IPR. (Dkt. 75, pg. 3). However, Petitioner is now objecting to Patent Owner's request. Patent Owner respectfully requests permission submit the documents for which the Wisconsin court has granted permission to file, and requests minimal briefing.

Best regards,

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From: Thomas Eschweiler <teschweiler@epiplaw.com>
Sent: Friday, May 24, 2024 3:53 PM

To: Robert Wolter <rwolter@Savvyiplaw.com>; Trials <Trials@USPTO.GOV>
Cc: Nathan Smith <njsmith@epiplaw.com>; Amber Davis <adavis@Savvyiplaw.com>; Trials <Trials@USPTO.GOV>; Barbie Mahan <bmahan@Savvyiplaw.com>
Subject: RE: DBR Finance, Inc. v. Rugged Cross Hunting Blinds, LLC - Case No: IPR2024-00291

Dear Board,

For the benefit of the Board, support for the statement below that Petitioner already disclosed the Tru-View indemnity obligation can be found at: Paper No. 1 at 5, and Paper No. 11 at 4. Regardless of whether or not Tru-View or FeraDyne are deemed RPIs of DBR, the Petition was filed within the one-year statutory deadline of any of their litigations, and thus such issue is moot.

Regards, Tom

Petitioner objects to the filing of the Tru-View license agreement (Dkt. 70-2), and the assignment letter (Dkt. 70-3) in this proceeding. Patent Owner has had both documents in its possession since prior to the filing of the POPR and to the filing of Patent Owner's supplemental brief on the Fintiv factors. Patent Owner offers no justification for the untimely submission of these documents.

Petitioner acknowledges that the arbitration ruling was issued after completion of pre-institution briefing; however, it is not new evidence because it is simply cumulative to facts already before the Board. That is, the arbitration award merely confirmed Tru-View's indemnity obligations to DBR, as already disclosed by Petitioner and discussed more fully below. Confirmation of an obligation already disclosed to the Board is not "new evidence" and has no new bearing on the issues already before the Board.

Petitioner also objects to the request for further briefing on this issue, again, because it is our contention that these documents are cumulative with respect to facts already before the Board. The original Petition made clear that DBR had a license agreement with Tru-View and was exercising its indemnification provisions. The interim arbitration ruling does nothing more than confirm the rights DBR was asserting and had brought to the attention of the Board. Further, the due date for the Institution Decision is June 8, 2024. Patent Owner should not be granted another bite at the apple at the eleventh hour.

Lastly, as the description of events provided by the Patent Owner below misrepresent the actions between the parties, Petitioner attaches hereto the reply (which does not object to modification of the protective order) that DBR provided the Wisconsin District Court this afternoon.

Best regards,

Thomas G. Eschweiler

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From: Robert Wolter <rwolter@Savvyiplaw.com>
Sent: Friday, May 24, 2024 1:46 PM
To: Trials <Trials@USPTO.GOV>
Cc: Thomas Eschweiler <teschweiler@epiplaw.com>; Nathan Smith <njsmith@epiplaw.com>; Amber Davis <adavis@Savvyiplaw.com>; Trials <Trials@USPTO.GOV>; Barbie Mahan <bmahan@Savvyiplaw.com>
Subject: DBR Finance, Inc. v. Rugged Cross Hunting Blinds, LLC - Case No: IPR2024-00291

Dear Board,

As a follow up to the undersigned's email dated May 7, 2024, Patent Owner, Rugged Cross Hunting Blinds, is now in possession of documents related to the arbitration between Tru-View and DBR. Tru-View produced these documents on May 1, 2024, responsive to a subpoena dated January 16, 2024. Although DBR agreed to produce the arbitration document responsive to subpoenas dated February 12, 2024, and April 10, 2024, DBR still has not produced any such documents.

The documents, including the interim arbitration ruling dated March 20, 2024, reflect the arbitration proceedings mentioned on page 23 of the Patent Owner's Preliminary Response, page 4 of Petitioner's Reply, and page 1 of Patent Owner's sur-reply. These documents include new evidence that sheds light on the relationship between Petitioner and other parties which Patent Owner contends are real parties in interest in this proceeding, mentioned on pages 5-6 of the Petition.

After reviewing, Patent Owner believes this new information, particularly the interim ruling from the arbitrator, directly supports Patent Owner's arguments as to the timing of Petitioner's filing of its Petition, as well as supplement its arguments under *Fintiv* factors 5 and 6.

The Petitioner objected to Patent Owner's request to supplement based on an existing protective order in the related, parallel Wisconsin patent infringement litigation. Patent Owner, via an emergency motion (Dkt. 70) filed May 9, 2024, has obtained written permission via the attached order (Dkt. 74) dated May 21, 2024, to file these documents in the IPR. Patent's Owner's emergency motion and related documents were filed under seal. The

Defendant, FeraDyne did not file an opposition to Patent Owner's emergency motion. In addition, the Court stayed the ruling of the order until 12 p.m. central time today, May 24, 2024, to allow the "third parties," DBR and Tru-View, to be heard. DBR and Tru-View did not respond to the order.

Accordingly, and pursuant to 37 C.F.R. § 42.20(b), Patent Owner requests authorization to supplement to its preliminary response or a motion to supplement the same to submit/file the interim arbitration ruling (Dkt. 70-), the Tru-View license agreement (Dkt. 70-2), and an assignment letter (Dkt. 70-3) and discuss their relevant portions. Patent Owner anticipates needing no more no more than 7 pages if its request is granted. Due to the confidential nature of the arbitration documents, Patent Owner intends on filing the supplemental response and supporting documents under seal.

Best regards,

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