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Paper No. 9
Entered: April 11, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY ELECTRONICS INC. and LG ELECTRONICS INC.,
Petitioner,

v.

JAWBONE INNOVATIONS, LLC,
Patent Owner.

IPR2024-00349 (Patent 10,779,080)
IPR2024-00350 (Patent 8,503,691) [1]

Before GEORGIANNA W. BRADEN, SHEILA F. McSHANE, and JASON M. REPKO, *Administrative Patent Judges.*

BRADEN, *Administrative Patent Judge*.

ORDER
Granting Petitioner's Request to file a Reply to Patent Owner's Preliminary Response*37 C.F.R. § 42.5*

[1] This Order addresses issues that are the same in each of the identified proceedings. We issue one Order to be entered in each proceeding. The parties are not authorized to use this style caption unless later permitted.

On April 10, 2024, Petitioner requested authorization from the Board via email to file a 5-page reply to Patent Owner's Preliminary Response (Paper 8)[2] in each of the above proceedings. *See* Ex. 3001. In its request, Petitioner specifically notes its reply would be limited to addressing the Patent Owner's arguments regarding the Board's intervening institution and rehearing decisions in IPR2023-01130.

Patent Owner opposes Petitioner's request but states that "[i]f the Requested Relief is granted, Patent Owner requests an equal-length sur-reply which Petitioner would not oppose."

Our rules permit a petitioner to request authorization to file a reply to a preliminary response; however, the request must make a showing of good cause. *See* 37 C.F.R. § 42.108(c) (2019). According to Petitioner, "[t]here is good cause because the[] intervening decisions [in IPR2023-01130] were decided after Petitioner filed its petitions in the above proceedings, and Petitioner could not have foreseen Patent Owner's characterization of those decisions."

We agree with Petitioner that good cause exists in this particular case for filing a reply to Patent Owner's Preliminary Response. Accordingly, we authorize Petitioner to file a reply to Patent Owner's Preliminary Response. Petitioner's reply must be (1) no more than five pages, (2) limited to addressing Patent Owner's arguments regarding the Board's intervening institution and rehearing decisions in IPR2023-01130, and (3) submitted by Friday, April 23.

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[2] For expediency, we cite to the paper in IPR2024-00349. A similar paper was filed in IPR2024-00350.

Additionally, we authorize Patent Owner to file a sur-reply to Petitioner's reply. Patent Owner's sur-reply must be (1) no more than five pages, (2) limited to addressing Petitioner's arguments in its reply, and (3) submitted no later than Friday, April 30.

ORDER

It is

ORDERED that Petitioner may file a reply to Patent Owner's Preliminary Response;

FURTHER ORDERED that Petitioner's reply is limited to five pages, may only address Patent Owner's arguments regarding the Board's intervening institution and rehearing decisions in IPR2023-01130, and must be submitted by Friday, April 23;

FURTHER ORDERED that Patent Owner may file a sur-reply to Petitioner's reply; and

FURTHER ORDERED that Patent Owner's sur-reply is limited to five pages, may only address Petitioner's arguments in its reply, and must be submitted by Friday, April 30.

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