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Subject: IPR2024-00474 / Request for a Prehearing Conference
Date: Monday, January 6, 2025 2:46:59 PM

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Your Honors:

We represent Petitioner Casper Sleep Inc. in the above referenced proceeding and write to request a pre-hearing conference on the following matters.

I. Patent Owner's Motion to Exclude

On January 3, 2025, Petitioner and Patent Owner Werner Media Partners, LLC, each filed a Motion to Exclude. Excluding the material listed in 37 C.F.R. § 42.24(a)(1), Patent Owner's Motion to Exclude ("POMTE") was 20 pages long. But unless a waiver is granted in advance (which Patent Owner did not seek), Motions to Exclude may not exceed 15 pages. See 37 C.F.R. § 42.24(a)(1)(v), (a)(2).

Responses to the motions to exclude are presently due this Friday, January 10. Replies are presently due on Friday, January 17. Oral argument is set for Friday, January 24.

The parties differ on the next steps.

Petitioner's Position. Pursuant to 37 C.F.R. § 42.20(b), Petitioner respectfully requests authorization from the Board to file a Second Motion to Strike the POMTE. (Petitioner's first Motion to Strike certain portions of Patent Owner's Sur-Reply was authorized by the Board on December 10, 2024, and has been fully briefed; a decision on this motion is pending.) Further, Petitioner opposes any attempt by Patent Owner to untimely file a revised POMTE after the deadline of January 3, 2025.

Patent Owner's Position. Patent Owner filed a motion to exclude on January 3, 2025. Patent Owner seeks Board approval to file a substitute motion to exclude (by today, January 6, 2025) removing content to comply with the 15 page limit requirement for the motion to exclude. No new content or argument will be added. Petitioner has not agreed to this request.

II. Decision on Petitioner's First Motion to Strike and Possible Second Motion to Strike. As noted above, Petitioner's first Motion to Strike is pending, and Petitioner is seeking permission to file a Second Motion to Strike. Petitioner seeks guidance as to whether the Board intends to rule on Petitioner's first Motion to Strike and (if permission to file is granted) Petitioner's Second Motion to Strike before the oral argument on January 24. Such guidance will allow Petitioner to properly prepare its presentation for the oral argument.

III. Conference Call with the Board

Ex. 3002
IPR2024-00474

Counsel for the parties are available to discuss the foregoing at the following times (all times EST):

- Tuesday, January 7, 2025, from 9 am to 5 pm; and
- Wednesday, January 8, 2025, from 10 am to 5 pm.

Petitioner will arrange for a court reporter to attend and transcribe the call.

Respectfully submitted,
Mark I. Koffsky
Gary Serbin
Counsel for Petitioner

cc: All counsel for Patent Owner

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