

From: [Trials](#)
To: [Grace Kim](#); [Trials](#)
Cc: [IPR55766-0003IP1@fr.com](#); [Philip Y. Braginsky](#); [Chandler Sturm](#); [Nels T. Lippert](#); [Rachel J. Lin](#)
Subject: RE: IPR2024-00611: Petitioner's Request for Authorization to File Reply to POPR
Date: Tuesday, July 9, 2024 1:15:43 PM

Counsel,

From the Board –

Petitioner's request, via electronic mail dated July 8, 2024, to file a Reply to the Patent Owner's Preliminary Response is denied. The Board is capable of evaluating assertions of fact on the present record.

Regards,

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

From: Grace Kim <gkim@fr.com>
Sent: Monday, July 8, 2024 3:50 PM
To: Trials <Trials@USPTO.GOV>
Cc: IPR55766-0003IP1@fr.com; Philip Y. Braginsky <pbraginsky@tarterkrinsky.com>; Chandler Sturm <csturm@tarterkrinsky.com>; Nels T. Lippert <nlippert@tarterkrinsky.com>; Rachel J. Lin <rlin@tarterkrinsky.com>
Subject: IPR2024-00611: Petitioner's Request for Authorization to File Reply to POPR

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Dear Honorable Board:

On June 14, 2024, Patent Owner filed and served its Preliminary Response (Paper 11) in IPR 2024-00611.

Petitioner respectfully requests an eight-page (8) reply to address what it believes are significant misstatements of fact in the Preliminary Response.

Good cause exists to clarify the record in a reply. It was not foreseeable that Patent Owner would attempt to confuse the issues by distorting facts in the record, and because Patent Owner's misstatements of fact were unforeseeable, Petitioner should have the opportunity to briefly address the following issues raised in the Preliminary Response:

1. Patent Owner's arguments that conflate systems optimized for energy-use with systems optimized for investment and maintenance costs. *See e.g.*, Paper 11 at 23-25.
1. Patent Owner's mischaracterizations regarding membranes' costs (Paper 11 at 9-11), relationship to recycle rates (Paper 11 at 14) and capacity ratios (Paper 11 at 15-17).

The parties have conferred by email and Patent Owner takes no position on the merits of the request, but does not oppose this request.

Petitioner respectfully submits that good cause for additional briefing on these issues further exists because briefing will aid the Board in deliberations on issues that are potentially dispositive to institution of the Petition.

Furthermore, in the interest of fairness and ensuring the Board is fully briefed, should it decide to allow a reply, Petitioner will not oppose a sur-reply by Patent Owner of the same length.

If a reply is allowed, Petitioner further proposes that the due date for its reply be five (5) business days after the Board notifies the parties, and that the due date for Patent Owner's sur-reply be offered the same time duration following the Petitioner's reply deadline.

Should the Board desire a call to discuss this request, the parties are available on Tuesday 7/9 from 10am-1 pm, 2-3:30pm, or 4-5pm ET; Wednesday 7/10 at 11am-12 pm, 4-5pm ET; or later dates and times at the Board's convenience.

Respectfully,
Grace

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