

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TELADOC HEALTH, INC.,
Petitioner,

v.

DATA HEALTH PARTNERS, INC.,
Patent Owner.

IPR2024-00616 (Patent 11,144,554 B2)
IPR2024-00617 (Patent 11,151,142 B2)
IPR2024-00618 (Patent 10,061,812 B2)¹

Before ROBERT J. WEINSCHENK, SHARON FENICK, and
ANDREAS BALTATZIS, *Administrative Patent Judges*.

BALTATZIS, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
Denying Petitioner's Request for Additional Briefing
37 C.F.R. § 42.5

¹ The Board is entering the same Order in all captioned proceedings. The parties are not authorized to use this combined caption.

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I. INTRODUCTION

On July 3, 2024, Teladoc Health, Inc. (“Petitioner”) contacted the Board via email to request authorization to file a 10-page reply to Patent Owner’s Preliminary Response in IPR2024-00616. Ex. 3001. Data Health Partners, Inc. (“Patent Owner”) opposed the request. *Id.* On July 11, 2024, Petitioner made similar requests for authorization to file 10-page replies to Patent Owner’s Preliminary Responses in IPR2024-00617 and IPR2024-00618, which Patent Owner opposed. *Id.* On July 16, 2024, we held a conference call with counsel for the parties to discuss Petitioner’s requests and Patent Owner’s responses thereto.

For the reasons set forth below, we *deny* Petitioner’s requests in each of the above-cited proceedings.

II. DISCUSSION

In the requests and conference call, Petitioner asserts that “[g]ood cause exists to grant the requested preliminary replies,” because Patent Owner raises “unforeseeable” claim constructions in its Preliminary Responses. Ex. 3001. Petitioner further asserts that Patent Owner mischaracterizes Petitioner’s arguments. *Id.*

Patent Owner responds that “[n]o good cause exists because the arguments were not unforeseeable and were legally required to have been made in the Petition.” *Id.* As to Petitioner’s arguments on claim construction, Patent Owner responds that plain and ordinary meaning applies. *See id.*

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We agree with Patent Owner that Petitioner has not shown good cause to authorize a reply to the Preliminary Response in each of the above-cited proceedings.

As to Patent Owner's alleged mischaracterizations, it is generally the case that Petitioner disagrees with how Patent Owner characterizes the facts and law presented in the Petition. After review of the pleadings in these proceedings, we determine that the disagreement described is not good cause for a Reply.

As to the parties' claim construction arguments, both parties argue for no claim construction in their briefs. *See e.g.*, IPR2024-00616, Petition (Paper 1) 8, Prelim. Resp. (Paper 6) 9; IPR2024-00617, Petition (Paper 1) 7, Prelim. Resp. (Paper 6) 10; IPR2024-00618, Petition (Paper 1) 7, Prelim. Resp. (Paper 6) 11. Accordingly, the dispute appears to be whether the teachings and disclosures of the cited art meet the claimed limitations according to their plain and ordinary meaning. In these proceedings, the Board does not need further briefing to assess Petitioner's arguments and evidence.

III. ORDER

It is ORDERED that Petitioner's request for authorization to file a preliminary reply in each of the above-cited proceedings is *denied*.

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