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Subject: Amazon v. Nokia, IPR2024-00691 - Request for Authorization for Preliminary Reply
Date: Wednesday, July 10, 2024 11:28:50 AM

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Dear Honorable Board,

Petitioner respectfully requests authorization to file a preliminary reply in IPR2024-00691 limited to the following issues: (1) Patent Owner's mischaracterization of the prior art's teachings (MPEG-1 and Kim) and application of those teachings to element 8[a] (whether MPEG-1's closed_GOP flag or temporal reference in exemplary embodiments teach "an indication" of the first image frame recited in element 8[a] and whether Kim's IAD similarly teaches such an indication) (POPR 23-29, 31-34), (2) Patent Owner's mischaracterization of claim 8's scope as limited to a particular order of operations (POPR 34-35). Good cause exists for a preliminary reply because, for example, Petitioner could not have anticipated Patent Owner would make arguments mischaracterizing the prior art's disclosure or applying implicit claim constructions that exclude embodiments of the challenged patent or add limitations not supported by the intrinsic evidence.

To avoid including unnecessary argument in this email to the Board, Petitioner does not detail here the specific unanticipated arguments or the merits of them, but Petitioner can discuss these arguments further on a conference call if the Board deems additional detail necessary to determine whether to authorize a preliminary reply.

Petitioner requests a 10-page preliminary reply and to file it within two weeks of receiving authorization. Petitioner does not oppose Patent Owner being authorized to file a preliminary sur-reply of equal length to be filed within two weeks of the preliminary reply being filed and limited to the issues raised in the preliminary reply.

Petitioner has conferred with Patent Owner, and Patent Owner opposes this request for the following reasons. First, the email itself is argumentative, suggesting, for example, that Nokia has "mischaracterized" the prior art and patent claims, which is improper. Second, the issues that Amazon seeks to address in the Reply should have been addressed in the Petition, and Amazon is seeking another chance to argue the merits of its Petition in the requested Reply, which is likewise improper. Third, good cause does not exist because each of the issues addressed by Amazon were foreseeable; Amazon simply disagrees with Nokia's arguments (which is not a basis for a showing of good cause), and the Board is capable of analyzing Nokia's arguments and determining whether any alleged mischaracterizations exist (there are none). Finally, Amazon's Request for 10 pages in which to address these issues is excessive and will substantially add to the word count already used by Amazon in its Petition (13,821 words; Paper 1, 79), which creates an incentive to end-run the Rules outlined in the Trial Practice Guide.

If the Board wishes to have a conference call, the parties can confer and propose times of mutual availability.

Best regards,

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