

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KOHLER CO.,
Petitioner,

v.

DELTA FAUCET CO.,
Patent Owner.

IPR2024-00700
Patent 10,393,363 B2

Before GRACE KARAFFA OBERMANN, JANE E. INGLESE, and
BRIAN P. MURPHY, *Administrative Patent Judges*.

INGLESE, *Administrative Patent Judge*.

ORDER

Authorizing Additional Briefing
37 C.F.R. § 42.5(a)

The Board issued a Final Written Decision (“Decision,” Paper 32) in this *inter partes* review of claims 1–24 of U.S. Patent No. 10,393,363 B2 (Ex. 1001, “the ’363 patent”). In the Decision, we determined that Petitioner established that claims 1, 2, 9 were unpatentable, but did not establish that claims 3–8 and 10–24 were unpatentable. Petitioner filed a request for director review of the Decision (Paper 33) and Patent Owner filed an authorized response (Paper 34).

The Director issued an Order granting director review, vacating in part the Board’s Decision, and remanding to the Board for further proceedings (“Order,” Paper 35).

Patent Owner’s counsel submitted an email requesting authorization to file a brief “outlining why the Board should maintain its prior conclusion, including that Petitioner failed to meet the preponderance of evidence standard even under the Director’s Review Decision.” Ex. 3002. Patent Owner indicates that Petitioner opposes Patent Owner’s request. *Id.*

We have determined that additional briefing will be helpful for the Board to address the issues raised in the Director’s Order.

Accordingly, it is

ORDERED that we grant Patent Owner’s request for authorization to file a brief addressing the Director’s Order;

FURTHER ORDERED that we grant Petitioner authorization to file a brief addressing the Director’s Order;

FURTHER ORDERED that each party’s brief must be filed no later than 5 business days from issuance of this Order and may be up to 10 pages in length;

FURTHER ORDERED that any such briefs must be limited to responding to the Director’s Order, and must be limited to addressing claims

10, 19, and any claims depending therefrom directly implicated by the instructions set forth in the Director's Order;

FURTHER ORDERED that no new evidence shall accompany the briefs; and

FURTHER ORDERED that no other briefing or relief is authorized at this time.

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FOR PETITIONER:

K. Patrick Herman
Alyssa Caridis
ORRICK, HERRINGTON & SUTCLIFFE LLP
p52ptabdocket@orrick.com
a8cptabdocket@orrick.com

FOR PATENT OWNER:

David L. Cavanaugh
R. Gregory Israelsen
Jungyeon Kim
Anna Mizzi
WILMER CUTLER PICKERING HALE AND DORR, LLP
david.cavanaugh@wilmerhale.com
greg.israelsen@wilmerhal.com
john.kim@wilmerhale.com
Anna.Mizzi@wilmerhale.com