

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DISNEY MEDIA & ENTERTAINMENT DISTRIBUTION LLC,
Petitioner,

v.

DIGITAL MEDIA TECHNOLOGY HOLDINGS, LLC,
Patent Owner.

IPR2024-00736
Patent 7,574,725 B2

Before JAMESON LEE, JOHN R. KENNY, and LISA A. MURRAY,
Administrative Patent Judges.

MURRAY, *Administrative Patent Judge.*

ORDER

Granting Petitioner's Request for Leave to File
a Preliminary Reply to Patent Owner's Response to the Petition
37 C.F.R. § 42.108(c)

On August 6, 2024, Petitioner emailed the Board seeking leave to file a Preliminary Reply to respond to certain arguments presented in Patent Owner's July 25, 2024 Preliminary Response. Ex. 3001. Specifically, Petitioner seeks leave to respond to "Patent Owner's arguments and characterizations regarding cumulativeness of new references under

35 U.S.C. § 325(d),” and to “Patent Owner’s new proposed claim constructions, including as they relate to claim construction positions Patent Owner took in the parallel district court litigation after the Petition was filed.” *Id.* Petitioner indicates that it would not oppose Patent Owner being granted a preliminary sur-reply of equal length. *Id.* Patent Owner was copied on the communication, which states that Patent Owner opposes Petitioner’s request. *Id.*

Preliminary replies occasionally are permitted upon a showing of good cause. *See* 37 C.F.R. § 42.108; PTAB Consolidated Trial Practice Guide (Nov. 2019) at 51–52.¹ Here, having reviewed the record in full, we conclude that good cause exists to permit additional briefing from each of the parties, limited to the issues raised by Petitioner in its August 6, 2024 communication to the Board. Accordingly, Petitioner’s request is granted.

Petitioner is authorized to file a Preliminary Reply of up to seven pages, due on or before August 19, 2024. Patent Owner is authorized to file a Preliminary Sur-Reply of up to seven pages on or before August 29, 2024, limited to the issues discussed in Petitioner’s Preliminary Reply.

ORDER

Good cause having been shown, it is:

ORDERED that Petitioner’s request for leave to file a Preliminary Reply to Patent Owner’s Preliminary Response is *granted*.

¹ *Available at* <https://www.uspto.gov/about-us/news-updates/consolidated-trial-practice-guide-november-2019>.

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