

**From:** Timothy Cremen <[TCremen@sheppardmullin.com](mailto:TCremen@sheppardmullin.com)>

**Sent:** Tuesday, August 6, 2024 5:35 PM

**To:** Trials <[Trials@USPTO.GOV](mailto:Trials@USPTO.GOV)>

**Cc:** Akoustis\_Qorvo <[Akoustis\\_Qorvo@mckoolsmith.com](mailto:Akoustis_Qorvo@mckoolsmith.com)>; LegalTM-EDTX-Qorvo-Akoustis <[LegalTM-EDTX-Qorvo-Akoustis@sheppardmullin.com](mailto:LegalTM-EDTX-Qorvo-Akoustis@sheppardmullin.com)>; James Quigley <[jquigley@McKoolSmith.com](mailto:jquigley@McKoolSmith.com)>; John B. Campbell <[jcampbell@McKoolSmith.com](mailto:jcampbell@McKoolSmith.com)>; George T. Fishback, Jr. <[gfishback@McKoolSmith.com](mailto:gfishback@McKoolSmith.com)>; Robert Masters <[RMasters@sheppardmullin.com](mailto:RMasters@sheppardmullin.com)>; Roy Jung <[rjung@sheppardmullin.com](mailto:rjung@sheppardmullin.com)>

**Subject:** PR2024-00758; Qorvo, Inc. v. Cornell Research Foundation Inc. - Qorvo Request for Reply Brief

**CAUTION:** This email has originated from a source outside of USPTO. **PLEASE CONSIDER THE SOURCE** before responding, clicking on links, or opening attachments.

Dear Honorable Board,

Pursuant to 37 C.F.R. § 42.108(c), Petitioner Qorvo seeks leave to file a short reply of no more than five pages to the Patent Owner Preliminary Response ("POPR") filed by Patent Owner Cornell on July 24, 2024 in the above-referenced IPR. Qorvo also requests leave to file one new exhibit: the District Court's July 24, 2024 Order regarding Akoustis' Motion for Leave. Cornell opposes, other than as set forth below, Qorvo's requests. To the extent the Board grants Qorvo's requests, and pursuant to 37 C.F.R. § 42.20(d), Qorvo does not oppose Cornell filing a sur-reply brief of equal length to Qorvo's reply brief.

Qorvo's Reply would be limited to the following issues:

- (1) Qorvo would respond to Cornell's *Fintiv* arguments (see POPR at 20-28) and provide the Board the District Court's July 24, 2024 Order indicating that a case schedule adjustment is warranted, which was not included with Cornell's POPR. This scheduling information was not available at the time Qorvo's Petition was filed and Qorvo could not have anticipated Cornell's particular *Fintiv* arguments.
- (2) Qorvo would address Cornell's argument that *Urashima* fails to teach or suggest independent claim 1 because: (i) step b) of claim 1 allegedly requires pretreatment of the entire surface of a substrate (see POPR at 34-36); and (ii) step c) of claim 1 "requires that at least one group II/III material is kept on after (b) pretreatment when the group V/VI material is introduced for the growth of the (c)/(d) nucleation and buffer layers" (see POPR at 28-34) by showing that both of these interpretations of the claim language are contrary to the plain meaning of steps b) and c) of claim 1 and were not advanced as affirmative constructions in the district court litigation. Qorvo could not have addressed these arguments in its Petition because they are contrary to the term's plain meaning and because Akoustis did not advanced the underlying claim constructions in the district court action.
- (3) Qorvo would address Cornell's argument (see POPR at 39-56) that the challenged claims are entitled to a date of invention earlier than the filing date of the '360 patent by pointing out that this earlier date of invention has not been asserted in the district court action and by showing the evidentiary deficiencies of the analysis in Cornell's POPR. Qorvo could not have addressed this argument in its Petition because Akoustis has not advanced any argument in the district court action that the challenged claims are entitled to a date of invention before the '360 patent's filing date.

Because each topic above would address potentially dispositive issues, good cause exists for the filing of a short reply.

IPR2024-00758

Ex. 3001, 1

Patent Owner's Statement in Opposition: Patent Owner disagrees with Petitioner's email to the extent it includes attorney argument and Petitioner's characterization of the issues, including as to claim construction and Petitioner's suggestion that it was unaware of an earlier conception date when it filed its Petition. However, Patent Owner does not oppose a five-page reply limited solely to non-merits discretionary denial issues (*Fintiv* Factors 1-5 but not Factor 6). To the extent the Board grants leave for a reply, Patent Owner respectfully requests leave to file a sur reply of the same number of pages as Petitioner's reply

If necessary, the parties are generally available for a Board conference call on August 7-9, 2024.

Respectfully submitted,  
Timothy Cremen (50,855)  
Counsel for Petitioner Qorvo

**Timothy P. Cremen**  
+1 202-747-1854 | direct  
[TCremen@sheppardmullin.com](mailto:TCremen@sheppardmullin.com) | [Bio](#)

**SheppardMullin**  
2099 Pennsylvania Avenue, NW, Suite 100  
Washington, DC 20006-6801  
+1 202-747-1900 | main  
[www.sheppardmullin.com](http://www.sheppardmullin.com) | [LinkedIn](#)

Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.