

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QORVO, INC.
Petitioner,

v.

CORNELL RESEARCH FOUNDATION, INC.,
Patent Owner.

IPR2024-00758
Patent 7,250,360 B2

Before KIMBERLY MCGRAW, JULIA HEANEY, AND
MICHAEL G. McMANUS, *Administrative Patent Judges*.

McGRAW, *Administrative Patent Judge*.

ORDER

Granting Petitioner's Request to File a
Reply to Patent Owner's Preliminary Response
37 C.F.R. §§ 42.5, 42.108(c)

Petitioner, Qorvo, Inc., requests leave under 37 C.F.R. § 42.108(c) to file a five-page reply and an associated exhibit to the Patent Owner Preliminary Response to address three issues. *See* Ex. 3001. In particular, Petitioner requests leave (1) to respond to Patent Owner’s *Fintiv* arguments and to provide a copy of an order from the related district court proceeding; (2) to address Patent Owner’s implicit claim construction of claim 1, steps b) and c) of the challenged patent, which Petitioner asserts is contrary to the plain and ordinary meaning of these steps; and (3) to address Patent Owner’s argument that the challenged claims are entitled to an earlier filing date. *See id.* A conference call was held on August 8, 2024 to discuss Petitioner’s request.

Patent Owner does not oppose Petitioner’s requests to file a reply to address the *Fintiv* issue or the district court order, but does oppose further briefing on the other two issues. Ex. 3001. Patent Owner asserts that Petitioner was aware of these issues at time the Petition was filed. *Id.* Patent Owner further asserts that to the extent Petitioner is authorized to file a reply, Patent Owner should be authorized to file a sur-reply of the same number of pages as the reply. *Id.*

Our rules provide that “[a] petitioner may seek leave to file a reply to the preliminary response” but that “[a]ny such request must make a showing of good cause.” 37 C.F.R. § 42.108(c). As noted during the conference call, we find Petitioner has shown good cause, and therefore, grant Petitioner’s unopposed request to file a reply to address the *Fintiv* arguments set forth in the Patent Owner Preliminary Response and to file the identified district court order. We also grant Petitioner’s request to file a reply to address Patent Owner’s construction of claim 1, steps b) and c), as we determine that

additional briefing on the identified claim construction issue prior to institution may be helpful to the panel.

We do not, however, authorize Petitioner to address in its reply brief, Patent Owner's argument that the challenged claims are entitled to an earlier date of invention. Given the fact-intensive nature of Patent Owner's arguments, additional briefing is unlikely to be useful at this stage of the proceeding.

Petitioner's reply is due within one week of entry of this Order and is limited to seven pages. Patent Owner is authorized to file a sur-reply of no more than seven pages within one week thereafter.

ORDER

It is ORDERED that Petitioner's request for leave to file a reply is *granted*;

FURTHER ORDERED that Patent Owner's request to file a sur-reply is *granted*;

FURTHER ORDERED that the reply and sur-reply shall be limited to claim construction and *Fintiv* issues, concerning discretionary denial under 35 U.S.C. § 314(a);

FURTHER ORDERED that the reply shall be filed within one week of this Order, the sur-reply shall be filed within one week thereafter, and neither the reply nor the sur-reply shall exceed seven (7) pages.

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