

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HELENA LABORATORIES CORPORATION,
Petitioner,

v.

SEBIA,
Patent Owner.

IPR2024-00801
Patent 7,887,686 B2

Before JO-ANNE M. KOKOSKI, AVELYN M. ROSS, and
JANE E. INGLESE, *Administrative Patent Judges*.

ROSS, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

I. INTRODUCTION

On August 1, 2024 Helena Laboratories Corporation (“Petitioner”), requested a conference call with the Board seeking authorization to file a reply brief to the Patent Owner Preliminary Response filed by Sebia (“Patent Owner”). *See* Ex. 3001. Petitioner indicated that Patent Owner opposed Petitioner’s request. *Id.*

II. DISCUSSION

On August 9, 2024, a conference call was held with the parties and Judges Kokoski and Ross. During the call, Petitioner argued that a reply brief was warranted to allow Petitioner to address the discretionary denial issues raised by Patent Owner in its Patent Owner Preliminary Response. Petitioner indicated it wished to address the three issues identified in its email to the Board. Patent Owner opposed Petitioner’s request, in part, because according to Patent Owner, issues of discretionary denial were foreseeable in view of the prosecution history, and should have been addressed in the Petition. Patent Owner requested a surreply of equal length should we grant Petitioner’s request for a reply.

After considering the parties’ arguments, we granted Petitioner’s requested relief and authorized a reply of ten (10) pages limited to addressing the three issues identified by Petitioner in its email to the Board. *See* Ex. 3001. We further authorized a surreply by Patent Owner of equal length, i.e., ten (10) pages, limited to responding to the issues raised by Petitioner in its reply.

III. CONCLUSION

Accordingly, we authorize Petitioner to file a reply brief of no more than 10-pages due no later than August 16, 2024. We authorize Patent

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Owner to file a 10-page surreply to Petitioner's Reply to be filed no later than August 23, 2024.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, Petitioner is authorized to file a Reply not to exceed 10 pages and due no later than August 16, 2024; and

FURTHER ORDERED that Patent Owner is authorized to file a Surreply to Petitioner's Reply, not to exceed 10 pages and due no later than August 23, 2024.

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