

**From:** [Trials](#)  
**To:** [Gary J Speier](#); [Trials](#)  
**Cc:** [dsterling-ptab@sternekessler.com](#); [dholman-ptab@sternekessler.com](#); [tliu-ptab@sternekessler.com](#); [Peter M Kohlhepp](#); [Nate D Louwagie](#)  
**Subject:** RE: IPR2024-00834 (U.S. Patent No. 11,590,088)  
**Date:** Tuesday, September 24, 2024 11:03:28 AM

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Counsel,

From the Board –

We previously authorized Petitioner to file, by September 19, 2024, a Reply to Patent Owner's Preliminary Response. Petitioner timely filed its Reply on that date. Because we understand the Reply was not properly served on Patent Owner until September 20, 2024, however, we authorize, *sua sponte*, a one-day extension for Patent Owner to file its Sur-Reply.

Regards,

Esther Goldschlager  
Supervisory Paralegal Specialist  
Patent Trial & Appeal Board  
U.S. Patent & Trademark Office

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**From:** Gary J Speier <GSpeier@carlsoncaspers.com>  
**Sent:** Friday, September 20, 2024 4:18 PM  
**To:** Trials <Trials@USPTO.GOV>  
**Cc:** dsterling-ptab@sternekessler.com; dholman-ptab@sternekessler.com; tliu-ptab@sternekessler.com; Peter M Kohlhepp <PKohlhepp@carlsoncaspers.com>; Nate D Louwagie <NLouwagie@carlsoncaspers.com>  
**Subject:** IPR2024-00834 (U.S. Patent No. 11,590,088)

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Dear PTAB:

Petitioner writes to notify the Board that due to a miscommunication, a copy of Petitioner's preliminary reply brief was not emailed to Patent Owner's counsel after it was filed yesterday, and therefore the certificate of service attached to the reply brief (Paper 7) is not correct. Upon being notified of this by Patent Owner's counsel today, Petitioner promptly served a copy of the reply brief. In view of this, Petitioner would not oppose a one-day extension of Patent Owner's time to file its preliminary sur-reply.

Regards,  
Gary Speier

Gary J Speier

Carlson Caspers  
225 S. Sixth St., Suite 4200  
Minneapolis, MN 55402  
Direct: [612.436.9643](tel:612.436.9643)  
Cell: [651.592.8488](tel:651.592.8488)  
[GSpeier@carlsoncaspers.com](mailto:GSpeier@carlsoncaspers.com)  
[carlsoncaspers.com](http://carlsoncaspers.com)  
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**From:** Gary J Speier <[GSpeier@carlsoncaspers.com](mailto:GSpeier@carlsoncaspers.com)>

**Sent:** Thursday, September 5, 2024 3:06 PM

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

**Cc:** [dsterling-ptab@sternekessler.com](mailto:dsterling-ptab@sternekessler.com); [dholman-ptab@sternekessler.com](mailto:dholman-ptab@sternekessler.com); [tliu-ptab@sternekessler.com](mailto:tliu-ptab@sternekessler.com); Peter M Kohlhepp <[PKohlhepp@carlsoncaspers.com](mailto:PKohlhepp@carlsoncaspers.com)>; Nate D Louwagie <[NLouwagie@carlsoncaspers.com](mailto:NLouwagie@carlsoncaspers.com)>

**Subject:** IPR2024-00834 (U.S. Patent No. 11,590,088)

Dear Board,

Petitioner respectfully requests leave to file an eight-page reply to Patent Owner's Preliminary Response in the above-referenced proceeding, to address Patent Owner's arguments regarding Section 325(d), the Board's discretion under Section 314, and the Sonti reference's anticipatory disclosures. In particular, Petitioner seeks to address Patent Owner's arguments that the Board should deny institution because the Sonti and Bissonnette references were cited on the face of the patent (though not discussed) and because Petitioner purportedly did not identify evidence that the Chen references disclosed administering tapinarof, as well as Patent Owner's characterization of the Examiner's reasons for allowance; the Patent Owner's arguments that the identification of the challenges, the Petition's word count, and citations to expert testimony allegedly did not comply with Patent Office rules; and the Patent Owner's argument Sonti purportedly does not disclose a limited number of options for treatment. Good cause exists to file this reply to address certain omissions and mischaracterizations of the record and misapplication of Board cases, as well as because Patent Owner is arguing that Section 325(d) and Section 314 should be dispositive.

Petitioner emailed counsel for Patent Owner regarding these requests on August 30, 2024, and the parties met and conferred again on September 4, 2024. On September 5, 2024, Patent Owner informed Petitioner that it opposes these requests. Patent Owner also stated that if the Board grants Petitioner's request in whole or in part, Patent Owner will request authorization for a sur-reply of equal length. If Petitioner is authorized to file a preliminary reply, Petitioner does not oppose a Patent Owner preliminary sur-reply of equal length.

Should the Board believe a call is necessary to discuss Petitioner's requests, the parties are available on Monday (9/16) between 9am-1pm ET and 4pm-5pm ET, and Tuesday (9/17) between 2pm-5pm ET. These are the earliest dates of availability for the parties, as counsel for Patent Owner is not available the week of 9/9-9/13 due to planned international business travel, and counsel for Petitioner is not available on 9/6 due to planned international business travel.

Best regards,

Gary Speier

Gary J Speier  
Carlson Caspers  
225 S. Sixth St., Suite 4200  
Minneapolis, MN 55402  
Direct: [612.436.9643](tel:612.436.9643)  
Cell: [651.592.8488](tel:651.592.8488)  
[GSpeier@carlsoncaspers.com](mailto:GSpeier@carlsoncaspers.com)  
[carlsoncaspers.com](http://carlsoncaspers.com)  
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