

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DEERE & COMPANY,
Petitioner,

v.

DAVID'S DOZER V-LOC SYSTEM, INC.,
Patent Owner.

IPR2024-01442
Patent 10,533,300 B1

Before JAMES A. TARTAL, RICHARD H. MARSCHALL, and
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

SILVERMAN, *Administrative Patent Judge*.

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

On January 2, 2025 (by electronic mail) Petitioner indicated that the parties had conferred and requested: (1) authorization for Petitioner to file a Reply to Patent Owner's Preliminary Response; and (2) authorization for Patent Owner to file a Sur-reply, stating:

If granted, Petitioner's Reply would address arguments in the POPR:

[1] asserting and relying on various explicit/implicit claim constructions that introduce extraneous narrowing limitations (*e.g.*, POPR at 12–17, 25–27, 43–45, 51–52); and

[2] asserting that discretionary denial under § 325(d) is appropriate based on the examiner's consideration of allegedly cumulative prior art (POPR at 58–61).

Petitioner respectfully submits that good cause for further briefing on these issues exists, at least because briefing would clarify the record and aid the Board in deliberations on issues that are potentially dispositive to institution. More, Petitioner could not have reasonably anticipated that Patent Owner would seek to introduce narrowing constructions that inject new limitations into the Challenged Claims. Nor could Petitioner have foreseen Patent Owner's request for discretionary denial under § 325(d) where, as here, the asserted prior art combinations were not considered by the examiner and the Challenged Claims issued without receiving a prior art rejection. If requested by the Board, Petitioner will provide further explanation of good cause, but Petitioner limits the present narrative out of respect for the Board's consistent request for emails to be limited to defining issues without argumentative content.

Ex. 3001.

In view of Petitioner's representations, we determine that permitting such a Reply (from Petitioner) and a Sur-reply (from Patent Owner) would be of assistance to the Board.

In view of the foregoing, the Board authorizes Petitioner to file a Reply and for Patent Owner to file a Sur-reply, in response thereto, wherein both the Reply and the Sur-reply would be limited to the issues identified in Petitioner's request.

Accordingly, it is:

ORDERED that Petitioner may file a Reply of no more than ten (10) pages, limited to the issues identified herein. Such Reply shall be filed on or before January 23, 2025; and

FURTHER ORDERED that Patent Owner may file a Sur-reply of no more than ten (10) pages, limited to the issues identified herein. Such Sur-reply shall be filed on or before February 6, 2025.

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