

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DR. SQUATCH, LLC,
Petitioner,

v.

THE PROCTER & GAMBLE COMPANY,
Patent Owner.

IPR2024-01498
Patent 11,844,752 B2

Before JOHN G. NEW, SHERIDAN K. SNEDDEN, and
SUSAN L. C. MITCHELL, *Administrative Patent Judges*.

SNEDDEN, *Administrative Patent Judge*.

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

In an email to the Board dated October 7, 2025, counsel for Patent Owner requested authorization to file a motion to strike. The relevant portion of the email reads as follows:

Patent Owner respectfully requests a conference call to obtain authorization to file a motion to strike new evidence and argument presented in Petitioner's Reply in Case No. IPR2024-01498, filed on September 29, 2025. Specifically, Patent Owner seeks to strike Exs. 1078 and 1079 in their entirety as improper reply evidence that should have been presented earlier (Consolidated Trial Practice Guide, 73-75). Exs. 1078 and 1079 present new hardness testing, data, and methodologies that Petitioner could have included in the Petitions but did not. Patent Owner also seeks to strike the portions of Petitioner's Reply Expert Declaration (Ex. 1086 at paras. 2-5) and the portions of Petitioner's Reply that refer to and rely on the new testing. While Petitioner contends that its testing is offered as "rebuttal," in fact, Petitioner's prima facie argument regarding the hardness limitation of the claims, for all relevant grounds, depends on the purported disclosure of the claimed hardness range in the prior art. It was thus Petitioner's prima facie burden to address the use of different hardness testing methodologies as described in its key prior art reference as compared to that described in the subject patent. That Patent Owner pointed out this deficiency of the prima facie case does not convert Petitioner's argument into "rebuttal" of a new or unanticipated argument. In the alternative, Patent Owner requests authorization to file a 5-page paper identifying Petitioner's improper new arguments and evidence, consistent with the approach the Board authorized in the related IPRs (Case Nos. IPR2024-01104, -01105, -01173, -01174).

Petitioner opposes Patent Owner's request. Petitioner's position is as follows: The POR argued that the ASTM hardness test named in the claims should be understood to be a modification of that test and, therefore, the prior art's disclosed ASTM hardness range would not overlap with the claimed hardness range. The testing evidence properly rebuts that latter position. Further, the PTAB can readily discern whether improper new

arguments/evidence exist, rendering separate briefing on the subject unnecessary. Should the Board grant Patent Owner's alternative request for file a 5-page paper on the issue, Petitioner requests a 5-page reply, consistent with the Board's approach in the related IPRs (Case Nos. IPR2024-01104, -01105, -01173, -01174).

Having considered the parties' requests, the panel grants Patent Owner's alternative request for authorization to file a paper identifying Petitioner's alleged improper new arguments and evidence.

ORDER

Accordingly, it is

ORDERED that Patent Owner may file a paper identifying the alleged improper arguments and evidence, limited to 5 pages and due October 23, 2025.

FURTHER ORDERED that Petitioner may file a paper in response, also limited to 5 pages and due October 30, 2025.

FURTHER ORDERED that the submission of new evidence by either party is not authorized.

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For PETITIONER:

Justin Oliver
Sarah Brooks
VENABLE LLP
joliver@venable.com
ssbrooks@venable.com

For PATENT OWNER:

David Maiorana
Marlee Hartenstein
Jesse Wynn
JONES DAY
dmaiorana@jonesday.com
mhartenstein@jonesday.com
jessetwynn@gmail.com