

From: [Trials](#)
To: [Kim Leung](#); [rvazquez.sinergialaw.com](#); [M. Scott Fuller](#); [ghcellspin@ghiplaw.com](#); [IPR50048-0060IP1](#); [IPR50048-0057IP1](#); [IPR50048-0058IP1](#); [IPR50048-0054IP1](#); [IPR50048-0055IP1](#); [IPR50048-0056IP1](#); [IPR50048-0059IP1](#)
Cc: [Trials](#)
Subject: RE: IPR2024-00770, -00769, -00768, -00767, -00760, -00759, -00757
Date: Friday, May 9, 2025 4:01:52 PM

Counsel,

The requested motion to strike is authorized for each case. Petitioner's motions are due by May 19, 2025, and are limited to 10 pages in length. Petitioner's motions should be substantively similar for each case and not raise unique issues to the extent possible. Patent Owner's oppositions, if any, are due by May 29, 2025, and are also limited to 10 pages in length. As Petitioner points out, Rule 42.23(b) expressly bars the introduction of "new evidence other than deposition transcripts of the cross-examination of any reply witness" with the sur-reply. Accordingly, prior to filing these motions, the parties are encouraged to again meet and confer in good faith to attempt to resolve this issue by withdrawing any new exhibits that may run contrary to this rule.

Regards,

Franchesca I. Alicea Villanueva
Supervisory Paralegal
Patent Trial & Appeal Board
U.S. Patent & Trademark Office

From: Kim Leung
Sent: Friday, May 9, 2025 2:40 PM
To: Trials
Cc: [rvazquez.sinergialaw.com](#) ; [M. Scott Fuller](#) ; [ghcellspin@ghiplaw.com](#); [IPR50048-0060IP1](#) ; [IPR50048-0057IP1](#) ; [IPR50048-0058IP1](#) ; [IPR50048-0054IP1](#) ; [IPR50048-0055IP1](#) ; [IPR50048-0056IP1](#) ; [IPR50048-0059IP1](#)
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Your Honors,

Petitioner requests authorization to file a motion to strike new exhibits filed with (and argument referencing such exhibits from) Patent Owner's sur-reply. The basis for the request is 37 C.F.R. § 42.23(b), which specifies, in relevant part, that "[a] Sur-reply may only respond to arguments raised in the corresponding reply and may not be accompanied by new evidence other than deposition transcripts of the cross-examination of any reply witness." 37 C.F.R. § 42.23(b). We understand that this is "a blanket prohibition on a patentee filing exhibits with a Sur-reply, as Patent Owner has done here." See IPR2020-00558, Paper 50 at 32-36.

We have twice asked Patent Owner to voluntarily withdraw/expunge the improper exhibits, and Patent Owner has twice refused, thus requiring Board intervention.

If the Board wishes to hold a conference call on the matter, Petitioner and Patent Owner are

generally available Wednesday, May 14 – Friday, May 16.

Kim Leung :: Of Counsel :: Fish & Richardson P.C.

858 678 4713 direct :: leung@fr.com

[fr.com](#) :: [Bio](#) :: [LinkedIn](#) :: [Twitter](#)

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