From: Trials
To: Lindsay, Jonathan; Trials
Cc: xNike-v-Skechers-FW; #SkechersNikeIPRs
Subject: RE: IPR2025-00141, -00142, -00143, -00144, -00150, and -00151 - Petitioner"s Request for Leave to File Replies to POPRs
Date: Friday, March 28, 2025 1:23:28 PM

External E-mail

Counsel,

Counsel, Petitioner's request is granted with respect to issues (1) and (2) but not (3). The page limits are approved as requested in Petitioner's email, after adjusting for the lack of authorization to further brief issue (3). Petitioner's replies are due April 4, 2025. Patent Owner may file responsive briefs of the same corresponding page limits no later than April 11, 2025.

Regards,

Andrew Kellogg,
Deputy Chief Clerk, Trials
Patent Trial and Appeal Board
USPTO
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(571) 272-5366

From: Lindsay, Jonathan <jlindsay@irell.com>
Sent: Wednesday, March 26, 2025 1:15 AM
To: Trials <Trials@USPTO.GOV>
Cc: xNIKE-v-Skechers-FW@arnoldporter.com; #SkechersNikeIPRs <SkechersNikeIPRs@irell.com>
Subject: IPR2025-00141, -00142, -00143, -00144, -00150, and -00151 - Petitioner's Request for Leave to File Replies to POPRs

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Dear Honorable Board,

Skechers seeks leave to file a reply to each of the Preliminary Patent Owner Responses (POPRs) recently filed by Patent Owner in IPR2025-00141 (749 patent), IPR2025-00142 (484 patent), IPR2025-00143 (781 patent), IPR2025-00144 (511 patent), IPR2025-00150 (562 patent), and IPR2025-00151 (636 patent):

- IPR2025-00141 (749) – leave to file a reply with a total of ten (10) pages to address the POPR's arguments relating to *Fintiv*, §314(a) (*General Plastics*), and §325(d)
- IPR2025-00142 (484) – leave to file a reply with a total of seven (7) pages to address

the POPR's arguments relating to *Fintiv* and §314(a) (*General Plastics*)

- IPR2025-00143 (781), IPR2025-00144 (511), IPR2025-00150 (562) and IPR2025-00151 (636) – leave to file replies, each with a total of eight (8) pages, to address the POPR's arguments relating to *Fintiv* and §325(d)

Good cause exists for additional briefing:

1. New developments since the filing of the petition that affects the *Fintiv* analysis (5 pages, all IPRs)
    i. A stay was granted in the parallel district court litigation **after** the petitions were filed. Petitioner would like to explain in the Reply how the stay materially impacts the *Fintiv* analysis for all IPRs.

    ii. Petitioner also seeks to address the impact of the recent rescission of the Memorandum on the USPTO's "Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation" ("Guidance Memorandum") including why, even after the rescission of the Guidance Memorandum, a "compelling merits" petition still weighs against discretionary denial.

2. Unforeseeable arguments regarding *General Plastics* in IPR2025-00141 (749 patent) and IPR2025-00142 (484 patent) (2 pages).
    i. Petitioner seeks to provide important information about the lack of a relationship between it and lululemon (the previous petitioner) and why that weighs strongly against discretionary denial. Petitioner also notes that the POPRs do not address the lack of a "significant relationship" between Skechers and lululemon in its *General Plastics* analysis. The "significant relationship" analysis is required under the precedential decision in *Valve Corp. v. Elec. Scripting Prods., Inc.*, Case IPR2019-00062, -00063, -00084, Paper 11 at 9 (April 2, 2019) (precedential) ("[W]hen different petitioners challenge the same patent, we consider any relationship between those petitioners when weighing the *General Plastic* factors.").

3. Unforeseeable mischaracterization of the prior art under §325(d) in IPR2025-00141 (749), IPR2025-00143 (781), IPR2025-00144 (511), IPR2025-00150 (562), and IPR2025-00151 (636) (3 pages)
    i. Petitioner seeks to address what is taught by the prior art, the degree to which the prior art was considered or if it was considered at all, and/or evidence of material error made by the examiner.

Petitioner believes the requested number of pages in each case is narrowly tailored to balance the need to address the discretionary issues in a way which will benefit the Board, but without creating undue burden.

Counsel for Nike has indicated that Nike will oppose the request.

If a conference call is requested, the parties are available at the following time:

- Thursday, March 27 at 2:30-5:00pm ET
- Friday, March 28 at 2:00-5:00pm ET
- Monday, March 31 at 3:30-5:00pm ET
- Tuesday, April 1 at noon-5:00pm ET

Respectfully,

Jonathan Lindsay
Counsel for Petitioner Skechers

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