

From: [Director Discretionary Decision](#)
To: [Kan, Cindy](#); [Director Discretionary Decision](#)
Cc: [Morrell, Andrew E.](#); [Kayal, Ajay](#); [Kuhn, Leah R.](#); [AzurityIPRs](#); [Whelan, Emily](#); [WH Exelixis IPR](#)
Subject: RE: Case No. IPR2025-00427
Date: Thursday, June 12, 2025 11:33:44 AM

Patent Owner is authorized to file a 5-page reply in IPR2025-00427 due no later than Monday, June 16, 2025, limited to addressing (1) Petitioner's *Sotera* stipulation, (2) The Board's Decision Denying Institution of related IPR2025-00210, and (3) Petitioner's representations regarding prior and co-pending district court litigation relating to USPN 11,298,349 and USPN 12,128,039.

Petitioner is authorized to file a 5-page sur-reply in IPR2025-00275, due no later than Thursday, June 19, 2025, limited to addressing arguments made in Patent Owner's reply briefs.

From: Kan, Cindy <Cindy.Kan@wilmerhale.com>
Sent: Wednesday, June 11, 2025 3:03 PM
To: Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>
Cc: Morrell, Andrew E. <amorrell@windelsmarx.com>; Kayal, Ajay <akayal@windelsmarx.com>; Kuhn, Leah R. <lkuhn@windelsmarx.com>; AzurityIPRs <AzurityIPRs@windelsmarx.com>; Whelan, Emily <Emily.Whelan@wilmerhale.com>; Kan, Cindy <Cindy.Kan@wilmerhale.com>; WH_Exelixis_IPR <WH_Exelixis_IPR@wilmerhale.com>
Subject: Case No. IPR2025-00427

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Dear Honorable Board,

Patent Owner respectfully requests authorization to file a 5-page reply to Petitioner's Response to Patent Owner's Discretionary Denial Brief (Paper 9) in the above-referenced IPR. Specifically, Patent Owner seeks authorization to file a reply to address the following points:

- Petitioner's *Sotera* stipulation filed after submission of Patent Owner's Discretionary Denial Brief
- The Board's Decision Denying Institution of related IPR2025-00210 challenging USPN 11,298,349, which issued after submission of Patent Owner's Discretionary Denial Brief

Certain of Petitioner's representations regarding prior and co-pending district court litigation relating to USPN 11,298,349 and USPN 12,128,039

Patent Owner believes that there is good cause to support its request, including because (1) the *Sotera* stipulation and IPR2025-00210 Decision Denying Institution are new developments and (2) Petitioner's certain representations were not foreseeable and could not have been addressed in Patent Owner's Discretionary Denial Brief.

The parties have met and conferred. Petitioner opposes Patent Owner's request. Petitioner's position is:

"Patent Owner has not demonstrated good cause for a reply for at least the following reasons:

- Petitioner's *Sotera* stipulation concerns a *Fintiv* factor that Patent Owner elected not to previously address.
- Patent Owner has addressed the institution decision of IPR2025-00210 in its Patent Owner Preliminary Response. The institution decision also concerns a *Fintiv* factor which is only considered after factors that Patent Owner elected not to previously address.
- Patent Owner has not indicated which representations were unforeseeable and could not have been addressed.

If the Board grants Patent Owner's request, Petitioner seeks equal treatment to respond with the same number of pages and to address the same issues."

Patent Owner requests that any sur-reply be limited to responding to points in Patent Owner's reply.

Should the Board wish to have a conference call Patent Owner is available this week and next week. Petitioner has stated its first availability for a call would be June 17-19.

Respectfully submitted,

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