

From: [Director Discretionary Decision](#)
To: [Kellogg, Andrew](#); [O'Dell, David M.](#); [Richard M. Bemben](#)
Cc: [Hong Shi IPR](#); [Michael Specht](#); [Jason Fitzsimmons](#); [Calmann Clements IPR](#); [slim@feinday.com](#); [David ODell IPR](#); [dalberti@krameralberti.com](#); [PTAB Account](#); [PTAB Account](#)
Subject: RE: Procedural Question for IPR2025-00515, -00516 and -00517 - Petitioner's Opposition to DD - SanDisk Technologies, Inc. v. Polaris PowerLED Technologies, LLC
Date: Friday, May 23, 2025 4:05:27 PM
Attachments: [image002.png](#)

Counsel –

Petitioner's opposition to Patent Owner's Request for Discretionary Denial is due no later than one month after the due date of Patent Owner's discretionary denial brief. See FAQ 3. The information presented in the [FAQs](#) control the interim processes. Based on the information provided below, Patent Owner's due date for filing a request for discretionary denial was extended to May 24, 2025 and Petitioner's opposition is due no later than June 24, 2025.

No call is needed at this time. Thank you.

From: O'Dell, David M. <David.Odell@haynesboone.com>
Sent: Thursday, May 22, 2025 6:10 PM
To: Richard M. Bemben <RBEMBEN@sternekessler.com>; Kellogg, Andrew <Andrew.Kellogg@USPTO.GOV>; Trials <Trials@USPTO.GOV>
Cc: Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>; Michael Specht <MSPECHT@sternekessler.com>; Jason Fitzsimmons <JFITZSIMMONS@sternekessler.com>; Calmann Clements IPR <Calmann.Clements.ipr@haynesboone.com>; slim@feinday.com; David ODell IPR <david.odell.ipr@haynesboone.com>; dalberti@krameralberti.com; PTAB Account <PTAB@sternekessler.com>; PTAB Account <PTAB@sternekessler.com>
Subject: RE: Procedural Question for IPR2025-00515, -00516 and -00517 - Petitioner's Opposition to DD - SanDisk Technologies, Inc. v. Polaris PowerLED Technologies, LLC

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Petitioner does not believe a call is necessary. We simply asked for and received a clarification of the PTAB procedure; we did not request any extension. To the extent the Patent Owner is seeking to change the procedure, the undersigned is available to talk tomorrow up to 3pm Eastern.

HAYNES BOONE

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From: Richard M. Bemben <RBEMBEN@sternekessler.com>

Sent: Thursday, May 22, 2025 3:39 PM

To: Kellogg, Andrew <Andrew.Kellogg@USPTO.GOV>; O'Dell, David M. <David.Odell@haynesboone.com>; Trials <Trials@USPTO.GOV>

Cc: Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>; Michael Specht <MSPECHT@sternekessler.com>; Jason Fitzsimmons <JFITZSIMMONS@sternekessler.com>; Calmann Clements IPR <Calmann.Clements.ipr@haynesboone.com>; slim@feinday.com; David ODell IPR <david.odell.ipr@haynesboone.com>; dalberti@krameralberti.com; PTAB Account <PTAB@sternekessler.com>; PTAB Account <PTAB@sternekessler.com>

Subject: RE: Procedural Question for IPR2025-00515, -00516 and -00517 - Petitioner's Opposition to DD - SanDisk Technologies, Inc. v. Polaris PowerLED Technologies, LLC

EXTERNAL: Sent from outside Haynes and Boone, LLP
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Mr. Kellogg,

Patent Owner respectfully requests a Board call to discuss the issue. Patent Owner recognizes the issuance of the FAQs, but disagrees that the FAQ-in-question should apply to these proceedings for a few reasons. First, the PTAB issued Notices in each of these proceedings on April 24th that established the timing for the parties' respective discretionary denial briefing. We believe a Notice specifically entered into a proceeding should control over the general FAQs posted online. Second, the FAQ-in-question indicates that the petitioner's opposition briefing is due (1) 1 month after the due date for the patent owner discretionary denial brief but also (2) on the due date for the patent owner preliminary response (POPR). Both cannot be true in this case, and thus the FAQ-in-question should not apply.

Moreover, setting Petitioner's due date for discretionary denial opposition briefing to June 25th would be extremely prejudicial to Patent Owner. Patent Owner's preliminary responses are currently due May 27th. This would give Petitioner about one month to review and respond (with a fully 14,000 word brief) to Patent Owner's merits arguments. Giving Petitioner this second bite at the merits arguments is plainly inconsistent with the cited FAQ, which provides for a petitioner's opposition briefing to be due on the due date for the POPR.

Given the unique circumstances, Patent Owner believes a Board call is warranted. Counsel for Patent Owner is generally available tomorrow, Friday (5/23).

Thank you,
Richard Bemben

Richard M. Bemben

Director, Co-Chair of PTAB Practice

Direct: 202.772.8549

Administrative Assistant: Maya Bennett

Main: 202.371.2600 **Direct:** 202.772.8843

From: Kellogg, Andrew <Andrew.Kellogg@USPTO.GOV>
Sent: Thursday, May 22, 2025 1:12 PM
To: O'Dell, David M. <David.Odell@haynesboone.com>; Trials <Trials@USPTO.GOV>
Cc: Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>; Michael Specht <MSPECHT@sternekessler.com>; Jason Fitzsimmons <JFITZSIMMONS@sternekessler.com>; Calmann Clements IPR <Calmann.Clements.ipr@haynesboone.com>; slim@feinday.com; David ODell IPR <david.odell.ipr@haynesboone.com>; dalberti@krameralberti.com; PTAB Account <PTAB@sternekessler.com>; PTAB Account <PTAB@sternekessler.com>; Richard M. Bemben <RBEMBEN@sternekessler.com>
Subject: RE: Procedural Question for IPR2025-00515, -00516 and -00517 - Petitioner's Opposition to DD - SanDisk Technologies, Inc. v. Polaris PowerLED Technologies, LLC

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Counsel,

For cases where the Director has entered a one month extension, the due date for Petitioner to respond to Patent Owner's request for Discretionary Denial is one month from the end of that extension, not from the date the request actually filed.

Regards,

Andrew Kellogg,
Deputy Chief Clerk, Trials
Patent Trial and Appeal Board
USPTO
andrew.kellogg@uspto.gov
(571) 272-5366

From: O'Dell, David M. <David.Odell@haynesboone.com>
Sent: Thursday, May 22, 2025 12:59 PM
To: Trials <Trials@USPTO.GOV>; Kellogg, Andrew <Andrew.Kellogg@USPTO.GOV>
Cc: Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>; Michael Specht <MSPECHT@sternekessler.com>; Jason Fitzsimmons <JFITZSIMMONS@sternekessler.com>; Calmann Clements IPR <Calmann.Clements.ipr@haynesboone.com>; slim@feinday.com; David ODell IPR <david.odell.ipr@haynesboone.com>; dalberti@krameralberti.com; PTAB Account <PTAB@sternekessler.com>; PTAB Account <PTAB@sternekessler.com>; Richard M. Bemben <RBEMBEN@sternekessler.com>
Subject: RE: Procedural Question for IPR2025-00515, -00516 and -00517 - Petitioner's Opposition to DD - SanDisk Technologies, Inc. v. Polaris PowerLED Technologies, LLC

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Mr. Kellogg, thank you for your reply. However, according to the Patent Owner's email below, there is some ambiguity in your reply. Specifically, since the Patent Owner's due date for their brief was extended by one month:

1. "no later than 1 month **after the due date** of the patent owner discretionary denial brief" is **June 25, 2025**
2. "i.e., on the due date for the patent owner preliminary response (POPR)" is **May 25, 2025** (actually May 27 due to the Memorial Day holiday)

Can you please clarify?

HAYNES BOONE

David O'Dell | Partner

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From: Richard M. Bemben <RBEMBEN@sternekessler.com>

Sent: Thursday, May 22, 2025 11:19 AM

To: O'Dell, David M. <David.Odell@haynesboone.com>

Cc: Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>; Michael Specht

<MSPECHT@sternekessler.com>; Jason Fitzsimmons <JFITZSIMMONS@sternekessler.com>;

Calmann Clements IPR <Calmann.Clements.ipr@haynesboone.com>; slim@feinday.com; David ODell

IPR <david.odell.ipr@haynesboone.com>; dalberti@krameralberti.com; PTAB Account

<PTAB@sternekessler.com>; PTAB Account <PTAB@sternekessler.com>

Subject: RE: Procedural Question for IPR2025-00515, -00516 and -00517 - Petitioner's Opposition to DD - SanDisk Technologies, Inc. v. Polaris PowerLED Technologies, LLC

EXTERNAL: Sent from outside Haynes and Boone, LLP
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David,

Despite the bold emphasis in the email below, we read this FAQ as indicating that a petitioner's opposition brief is due "on the due date for the patent owner preliminary response (POPR)." In these proceedings, the POPRs are currently due May 27th (due to the Memorial Day holiday). Accordingly, our position is that Petitioner's opposition briefs are due May 27th. Consistent with our email to the Board last night, we continue to oppose any extension of the due date for Petitioner's opposition briefs. Please let us know if you would like to confer on this issue.

Thank you,

Rick

Richard M. Bemben

Director, Co-Chair of PTAB Practice

Direct: 202.772.8549

Administrative Assistant: Maya Bennett

Main: 202.371.2600 **Direct:** 202.772.8843

From: Trials <Trials@USPTO.GOV>

Sent: Thursday, May 22, 2025 8:52 AM

To: O'Dell, David M. <David.Odell@haynesboone.com>; Trials <Trials@USPTO.GOV>

Cc: Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>; Michael Specht <MSPECHT@sternekessler.com>; Richard M. Bemben <RBEMBEN@sternekessler.com>; Jason Fitzsimmons <JFITZSIMMONS@sternekessler.com>; Calmann Clements IPR <Calmann.Clements.ipr@haynesboone.com>; slim@feinday.com; David ODell IPR <david.odell.ipr@haynesboone.com>; [dalberti@krameralberti.com](mailto:dalberty@krameralberti.com); PTAB Account <PTAB@sternekessler.com>; PTAB Account <PTAB@sternekessler.com>

Subject: RE: Procedural Question for IPR2025-00515, -00516 and -00517 - Petitioner's Opposition to DD - SanDisk Technologies, Inc. v. Polaris PowerLED Technologies, LLC

EXTERNAL EMAIL: Use caution before clicking links or attachments.

Counsel,

“A patent owner may file a brief explaining any applicable bases for discretionary denial of institution within two months of the date on which the PTAB enters a Notice of Filing Date Accorded to a petition. The petitioner may file an opposition brief no later than 1 month after the due date for the patent owner discretionary denial brief (i.e., on the due date for the patent owner preliminary response (POPR)). Leave to file further briefing may be permitted by the Director for good cause.”

[FAQs for Interim Processes for PTAB Workload Management | USPTO](#)

Regards,

Andrew Kellogg,
Deputy Chief Clerk, Trials
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From: O'Dell, David M. <David.Odell@haynesboone.com>

Sent: Wednesday, May 21, 2025 5:32 PM

To: Trials <Trials@USPTO.GOV>

Cc: Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>; mspecht-ptab@sternekessler.com; rbemben-ptab@sternekessler.com; jfitzsimmons-ptab@sternekessler.com; Calmann Clements IPR <Calmann.Clements.ipr@haynesboone.com>; slim@feinday.com; David ODell IPR <david.odell.ipr@haynesboone.com>; [dalberti@krameralberti.com](mailto:dalberty@krameralberti.com)

Subject: Procedural Question for IPR2025-00515, -00516 and -00517 - Petitioner's Opposition to DD - SanDisk Technologies, Inc. v. Polaris PowerLED Technologies, LLC

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Dear PTAB

The “[FAQs for Interim Processes for PTAB Workload Management](#)” issued by the Office on April 25, 2025 states that the petitioner may file an opposition to the discretionary denial brief no later than 1 month after the due date for the patent owner discretionary denial brief. See FAQs 3 and 7. The Patent Owner’s due date for filing a brief requesting discretionary denial was May 24, 2025. However, Patent Owner filed its brief one month earlier, namely April 24, 2025. Petitioner seeks the Director’s confirmation that Petitioner’s opposition is due by June 24, 2025 (one month from Patent Owner’s due date of May 24, 2025) and not by May 24, 2025 (one month from Patent Owner’s actual filing date).

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