From:	Director_Discretionary_Decision
To:	Richard M. Bemben; O"Dell, David M.; Director_Discretionary_Decision
Cc:	David ODell IPR; Calmann Clements IPR; Hong Shi IPR; dalberti@krameralberti.com; slim@krameralberti.com; Jason Fitzsimmons; Michael Specht; lmcdonough@krameralberti.com; ahamill@krameralberti.com; PTAB Account; Tyler Dutton
Subject:	RE: Request for Sur-Reply to Patent Owner"s Reply Brief | IPR2025-00515, -00516, & -00517
Date:	Wednesday, July 2, 2025 8:19:25 AM
Attachments:	image001.png image003.png

Petitioner is authorized to file a 3-page sur-reply in IPR2025-00515, IPR2025-00516, and IPR2025-00517, due no later than tomorrow, July 3, 2025.

From: Richard M. Bemben <RBEMBEN@sternekessler.com>
Sent: Wednesday, July 2, 2025 6:54 AM
To: O'Dell, David M. <David.Odell@haynesboone.com>; Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Calmann Clements IPR <Calmann.Clements.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>; dalberti@krameralberti.com; slim@krameralberti.com; Jason Fitzsimmons <JFITZSIMMONS@sternekessler.com>; Michael Specht <MSPECHT@sternekessler.com>; lmcdonough@krameralberti.com; ahamill@krameralberti.com; PTAB Account <PTAB@sternekessler.com>; Tyler Dutton <TDUTTON@sternekessler.com>
Subject: RE: Request for Sur-Reply to Patent Owner's Reply Brief | IPR2025-00515, -00516, & -00517

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Acting Director Stewart and Honorable Board,

Patent Owner opposes. Petitioners have not established good cause and did not meet and confer in good faith. When Patent Owner asked Petitioners to identify the factual statements they believe are either incomplete or incorrect in order to evaluate Petitioners' request, Petitioners' counsel responded: "I'm not going to disclose the contents beforehand, I just asked if you oppose. We will proceed with notifying the Board of our request without your consent." The Consolidated Trial Practice Guide at 9-10 advises the parties to meet and confer and try to resolve disputes before approaching the Board. Petitioners failed to do so, and should not be granted the relief they request.

Respectfully,
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: O'Dell, David M. <David.Odell@haynesboone.com>
Sent: Tuesday, July 1, 2025 6:40 PM
To: Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>; Richard M. Bemben <RBEMBEN@sternekessler.com>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Calmann Clements IPR <Calmann.Clements.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>; dalberti@krameralberti.com; slim@krameralberti.com; Jason Fitzsimmons <JFITZSIMMONS@sternekessler.com>; Michael Specht <MSPECHT@sternekessler.com>; lmcdonough@krameralberti.com; ahamill@krameralberti.com; PTAB Account <PTAB@sternekessler.com>; Tyler Dutton <TDUTTON@sternekessler.com>
Subject: Request for Sur-Reply to Patent Owner's Reply Brief | IPR2025-00515, -00516, & -00517

EXTERNAL EMAIL: Use caution before clicking links or attachments.

Acting Director Stewart and Honorable Board,

Petitioner requests authorization to file a 3-page sur-reply to Patent Owner's recent reply briefs (filed yesterday, June 30, 2025) on discretionary denial in each of the above-noted IPRs (see emails below). Good cause exists because the new arguments presented in the Patent Owner's recent reply briefs recite factual statements that are either incomplete or incorrect. Petitioner's briefs will be limited to the new arguments presented in Patent Owner's recent reply briefs. Upon approval, Petitioners can submit these 3-page sur-replies by the next business day.

The parties have communicated by both emails and phone. Patent Owner has not indicated consent.

Thank you,

HAYNES BOONE

David O'Dell | Partner
david.odell@haynesboone.com | (t) +1 972.739.8635 (m) +1 972.365.2228

From: Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>
Sent: Thursday, June 26, 2025 9:40 AM
To: Richard M. Bemben <RBEMBEN@sternekessler.com>; Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Calmann Clements IPR <Calmann.Clements.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>; dalberti@krameralberti.com; slim@krameralberti.com; Jason Fitzsimmons <JFITZSIMMONS@sternekessler.com>; Michael Specht <MSPECHT@sternekessler.com>; lmcdonough@krameralberti.com; ahamill@krameralberti.com; PTAB Account <PTAB@sternekessler.com>; Tyler Dutton <TDUTTON@sternekessler.com>
Subject: RE: Request for Reply to Petitioners' Opposition | IPR2025-00515, -00516, & -00517

Patent Owner is authorized to file a 5-page reply in IPR2025-00515, -516, and -517, due no later than Monday, June 30th, limited to addressing the issues identified in its email below.

From: Richard M. Bemben <RBEMBEN@sternekessler.com>
Sent: Thursday, June 26, 2025 8:38 AM
To: Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>
Cc: David ODell IPR <david.odell.ipr@haynesboone.com>; Calmann Clements IPR <Calmann.Clements.ipr@haynesboone.com>; Hong Shi IPR <Hong.Shi.ipr@haynesboone.com>; dalberti@krameralberti.com; slim@krameralberti.com; Jason Fitzsimmons <JFITZSIMMONS@sternekessler.com>; Michael Specht <MSPECHT@sternekessler.com>; lmcdonough@krameralberti.com; ahamill@krameralberti.com; PTAB Account <PTAB@sternekessler.com>; Tyler Dutton <TDUTTON@sternekessler.com>
Subject: Request for Reply to Petitioners' Opposition | IPR2025-00515, -00516, & -00517

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RE: IPR2025-00515; IPR2025-00516; IPR2025-00517

Acting Director Stewart and Honorable Board,

Patent Owner requests authorization to file a 5-page reply to Petitioners' discretionary denial opposition briefs in each of the above-noted proceedings. Patent Owner filed a discretionary denial brief in each proceeding on April 25, 2025. Petitioners filed opposition briefs on June 24, 2025.

Good cause exists at least for the following reasons. First, the circumstances regarding the underlying district court litigation have changed since Patent Owner filed its discretionary denial briefs. For example, the district court granted a motion to stay on Monday, June 23rd. Petitioners discussed the stay extensively in their oppositions, and Patent Owner should have an opportunity to respond.

Second, the Acting Director has issued decisions clarifying the new discretionary denial factors since Patent Owner filed its discretionary denial briefs. For example, decisions such as *iRhythm Technologies, Inc. v. Welch Allyn, Inc.*, IPR2025-00363, and *Dabico Airport Solutions Inc. v. AXA Power ApS*, IPR2025-00408, provide guidance on the "settled expectations" factor, which is applicable to these proceedings because the challenged patents issued between 9-11 years ago.

The parties have conferred. Petitioners indicated they oppose on the following basis: "Petitioner opposes such a request – this process is already delayed a month more than normal, no need for more delay."

Respectfully,
Richard Bemben

Counsel for Patent Owner

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

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