

From: [Director Discretionary Decision](#)
To: [May, Timothy](#); [Director Discretionary Decision](#)
Cc: [McLaughlin, Michael](#); [Goldberg, Joshua](#); [Esper, William](#); hansen@tnw.com; kurt.hendricks@tnw.com; tnw_litigation@tnw.com
Subject: RE: FLSmidth Inc. v. Metso Finland Oy – IPR2025-00985 – Request for Reply Brief to Petitioner's Opposition to PO's Request for Discretionary Denial
Date: Thursday, September 25, 2025 9:45:53 AM

Patent Owner is authorized to file a 5-page reply in IPR2025-00985 due no later than Monday, September 29, 2025, limited to addressing the arguments raised below.

From: May, Timothy <timothy.may@finnegan.com>
Sent: Wednesday, September 24, 2025 4:58 PM
To: Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>
Cc: McLaughlin, Michael <Michael.McLaughlin@finnegan.com>; Goldberg, Joshua <Joshua.Goldberg@finnegan.com>; Esper, William <William.Esper@finnegan.com>; hansen@tnw.com; kurt.hendricks@tnw.com; tnw_litigation@tnw.com
Subject: FLSmidth Inc. v. Metso Finland Oy – IPR2025-00985 – Request for Reply Brief to Petitioner's Opposition to PO's Request for Discretionary Denial

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Dear Director:

Patent Owner respectfully seeks authorization to file a short Reply Brief of 3-5 pages in support of its Request for Discretionary Denial in IPR2025-00985. Good cause exists because Petitioner's 57-page Opposition (Paper 9) presents new arguments that were neither reasonably foreseeable from the Petition (Paper 1) nor responsive to the arguments raised in Patent Owner's Request (Paper 6).

For example, the Petition included only a limited material error allegation focused on GB384 and independent claims 1 and 11. Pet. at 80-82. The Opposition, by contrast, advances new, detailed limitation-by-limitation theories for every independent claim—including claim 21, which the Petition never addressed. Opp. at 40-57. Although the Opposition faults Patent Owner for “not address[ing] claim 21,” *id.* at 53, the Petition itself expressly excluded claim 21 from its prior assessment of alleged error. Pet. at 80 (“The Examiner’s failure to substantively rely on GB384 with respect to claims 1-20 was a material error”).

The Opposition also introduces new material (e.g., more prior art) to support its expanded error theories, including foreign prosecution history. See Opp. at 40-57. For example, Petitioner asserts that “[e]ven a cursory review of the cited prior art and related WIPO and EPO proceedings” shows the Office misapprehended the claims. Opp. at 4. Yet, none of this material was cited or relied upon in the Petition.

Patent Owner therefore has had no prior opportunity to respond. Accordingly, Patent Owner respectfully requests authorization to file a short Reply Brief to address these new arguments and evidence.

Best Regards,

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