

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

CM HK LIMITED,
Patent Owner.

IPR2025-01023 (Patent 10,852,846 B2)
IPR2025-01071 (Patent 11,698,687 B2)¹

Before BENJAMIN D. M. WOOD, MICHAEL J. STRAUSS, and
ARTHUR M. PESLAK, *Administrative Patent Judges*.

WOOD, *Administrative Patent Judge*.

ORDER
Authorizing Additional Briefing
37 C.F.R. §§ 42.5, 42.104(b)(3)

¹ We exercise our discretion to issue one Order that applies to both listed cases. The parties are not authorized to use this type of caption.

Patent Owner CM HK Ltd. asks that we deny institution of the above-captioned proceedings in part because Petitioner Samsung Electronics Co., Ltd. has taken inconsistent positions on the construction of the term “predicted axial accelerations,” which is present in all of the challenged claims. Prelim. Resp. 21–24.² According to Patent Owner, in previous district-court litigation concerning different but related patents, Petitioner asserted that this term is indefinite, whereas in the present case, Petitioner construes “predicted axial acceleration” to have its “plain and ordinary meaning.” *Id.* at 21–22.

The Director has recently clarified the Office’s approach to addressing a petitioner’s different claim construction positions in two forums. “Although the Board’s trial rules ‘do not necessarily prohibit petitioners from taking inconsistent claim construction positions before the Board and a district court,’ when a petitioner takes alternative positions before the Board and a district court, the petitioner should, at a minimum, explain why alternative positions are warranted.” *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 20 at 3–4 (Director Nov. 3, 2025) (precedential); *see Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00340, Paper 18 at 3–4 (Director Nov. 5, 2025) (informative) (denying institution where petitioner asserted a claim term to be indefinite in district-

² We cite to the Preliminary Response in IPR2025-01023. The relevant portions of the IPR2025-01071 Preliminary Response are substantially the same.

court litigation but argued before the Board that the term should be given its plain and ordinary meaning).³

In *Revvo*, the Director remanded the case to the Board to give the Board the opportunity to authorize additional briefing on whether Petitioner's alternative positions were warranted. *Revvo*, Paper 20 at 5. Because the Director's clarification of how a petitioner should approach different claim-construction positions set forth in *Revvo* and *Tesla* issued after the Petitions in the above IPRs were filed, we determine that good cause exists for additional briefing in this case. Accordingly, Petitioner may file in each of the above captioned cases, within five business days of the date this Order is entered, a brief of no more than five pages explaining why it has taken different positions on the meaning of "predicted axial accelerations." Patent Owner may file a response of no more than five pages within five business days of the entry of Petitioner's brief. No further briefing is authorized.

Accordingly, it is

ORDERED that Petitioner is authorized to file a brief, not to exceed five pages and due no later than five business days from the mailing date of this Order, explaining why it has taken different positions regarding the construction of "predicted axial accelerations," as discussed above; and

³ In *Revvo* and *Tesla*, the Director provided examples of explanations that may be deemed sufficient to satisfy Rule 42.104(b)(3). See *Revvo*, Paper 20 at 5; *Tesla*, Paper 18 at 3–4.

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FURTHER ORDERED that Patent Owner is authorized to file a response, not to exceed five pages and due no later than five business days after the filing date of Petitioner's brief.

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PETITIONER:

Naveen Modi

Chetan Bansal

Robert Laurenzi

PAUL HASTINGS LLP

naveenmodi@paulhastings.com

chetanbansal@paulhastings.com

robertlaurenzi@paulhastings.com

PATENT OWNER:

Ginger Turner

GINGINEER CONSULTING LLC

ginger@gingineerllc.com

Christopher Evans

OFFOR EVANS PLLC

cevans@coleschotz.com