

From: [Trials](#)
To: [Cutie, Lindsay](#); [Trials](#)
Cc: [Matthew Shapiro](#); [Nancy Attalla](#); [CT-TopGlory-ColeHaan](#); [James Davis](#); [DL Top Glory v Cole Haan IPRS](#)
Subject: RE: IPR2025-01395 - Patent Owner's Request for Authorization to File Motion to Strike
Date: Tuesday, August 25, 2026 3:15:53 PM
Attachments: [image001.png](#)

Counsel,

In response to Patent Owner's August 24, 2026, email requesting authorization to file a motion to strike portions of pages 30–37 of Petitioner's Reply (Paper 25) and portions of paragraphs 74, 75, 80, 81, 87, and 88 of Mr. Delgatty's supplemental (second) declaration (Ex. 1033), and for an extension of time for such a request, Patent Owner is authorized to file such a motion as follows.

Patent Owner has stated that it can file its motion within a week of authorization, therefore Patent Owner may file a motion to strike addressing the identified parts of the Reply and declaration by September 3, 2026. The motion shall be limited to 5 pages to focus it on the identification of allegedly new arguments in Petitioner's Reply (and the related declaration) and a very brief explanation as to why they are improperly "new." Petitioner is authorized to file a 5-page opposition to said motion by September 17, 2026, addressing where in the Petition the basis for the allegedly new arguments can be found or why said arguments directly respond to arguments in Patent Owners Response.

No extension of time or conference call is deemed necessary at this time. If either party has questions, a conference call can be arranged, and they should contact the board with such a request (after meeting/conferring on the schedule). No other relief is granted at this time.

Regards,

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



From: Cutie, Lindsay <lindsay.cutie@bakerbotts.com>

Sent: Monday, August 24, 2026 3:19 PM

To: Trials <Trials@USPTO.GOV>

Cc: Matthew Shapiro <mshapiro@sheppard.com>; Nancy Attalla <nattalla@sheppard.com>; CT-TopGlory-ColeHaan <CT-TopGlory-ColeHaan@sheppard.com>; James Davis <jdavis@sheppard.com>; DL Top Glory v Cole Haan IPRS <dltopgloryvcolehaaniprs@BakerBotts.com>

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Dear Honorable Board,

Pursuant to 37 C.F.R. §§ 42.5(a), 42.7(a), and 42.20(a), Patent Owner Cole Haan LLC respectfully requests authorization to file a motion to strike portions of pages 30-37 of Petitioners' Reply and corresponding portions of ¶¶ 74, 75, 80, 81, 87, and 88 of Mr. Delgatty's supplemental declaration. Petitioners' Reply improperly advances new obviousness theories for Grounds 2, 4, and 6-9. See *Wasica Fin. GmbH v. Cont'l Auto. Systems*, 853 F.3d 1272, 1285–87 (Fed. Cir. 2017) ("Rather than explaining how its original petition was correct, [petitioner's] subsequent arguments amount to an entirely new theory of *prima facie* obviousness absent from the petition. Shifting arguments in this fashion is foreclosed by statute, our precedent, and Board guidelines."). Patent Owner proposes that, if authorized, its motion to strike would be filed within one week of authorization. Patent Owner also requests a brief extension of time in making this request beyond the general 1-week guideline provided in the Consolidated Trial Practice Guide (p. 81). Patent Owner respectfully submits that good cause for this brief extension exists as additional time was necessary to review the voluminous record to confirm these theories were newly added, particularly in view of Patent Owner's counsel's pre-scheduled business travel and other trial preparation activities during the one-week window following Petitioners' filing.

Patent Owner has met and conferred with Petitioners. Petitioners state that: Petitioners oppose Patent Owner's request for extraordinary relief here. The Reply obviousness arguments identified by Patent Owner are preserved in the Petition, responsive to the Patent Owner Response, and/or responsive to new claim constructions in the Patent Owner Response.

Counsel for Patent Owner and Petitioners are available for a conference call with the Board at the following times:

1. Friday, August 28, 12 pm – 4 pm Eastern
2. Monday, August 31, 12 pm – 4 pm Eastern

Regards,
Lindsay

Lindsay Volpenhein Cutié

Partner

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