

From: [Trials](#)
To: [Ferraro, Vincent M.](#); [Lestin Kenton](#); [Zinna, Michael](#); [Bapna, Abhi](#); [Lestin Kenton](#); [Jason Eisenberg](#); [Tyler Dutton](#); [Jean Selep](#); [PTAB Account](#); [Kristina Caggiano Kelly](#)
Cc: [Trials](#)
Subject: RE: IPR2026-00108: Request to File Corrected Opposition; Request to File Sur-Reply to POPR
Date: Wednesday, March 11, 2026 4:08:53 PM
Attachments: [image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)

Counsel,

Petitioner is authorized to file a 3-page preliminary reply in IPR2026-00108, due no later than March 16, 2026, limited to addressing the public accessibility issue referenced below and whether Petitioner should be authorized to file the missing appendix and supporting materials. Patent Owner is authorized to file a 3-page preliminary sur-reply in IPR2026-00108 due no later than March 19, 2026, limited to addressing the same issue.

Petitioner is not authorized to file the missing appendix and supporting materials at this time.

The parties should file their briefs as papers in P-TACTS.

Regards,

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



From: Ferraro, Vincent M. <VFerraro@KelleyDrye.com>
Sent: Monday, March 9, 2026 4:24 PM
To: Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>; Director_DI <Director_DI@uspto.gov>; Trials <Trials@USPTO.GOV>
Cc: Zinna, Michael <MZinna@KelleyDrye.com>; Bapna, Abhi <ABapna@KelleyDrye.com>; Lestin Kenton <LKENTON@sternekessler.com>; Jason Eisenberg <jasone@sternekessler.com>; Tyler

IPR2026-00108
Ex. 3103

Dutton <TDUTTON@sternekessler.com>; Jean Selep <JSelep@sternekessler.com>; PTAB Account <ptab@sternekessler.com>; Kristina Caggiano Kelly <kckelly@sternekessler.com>; Lestin Kenton <lkenton@sternekessler.com>; Ferraro, Vincent M. <VFerraro@KelleyDrye.com>

Subject: RE: IPR2026-00108: Request to File Corrected Opposition; Request to File Sur-Reply to POPR

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Dear Board,

Patent Owner respectfully submits this email in response to Petitioner's below requests.

Petitioner's Request to File a Corrected Opposition Brief

To confirm, Patent Owner does not oppose Petitioner's request to file a corrected version of its Opposition to Patent Owner's Request for Discretionary Denial.

Petitioner's Request to File a Reply and Supplemental Information

Patent Owner objects to Petitioner's request to file a Reply and Supplemental Information, which should be denied for several reasons.

First, no reference named "Choe" exists in this proceeding. Consequently, there is no public-accessibility issue regarding such a reference, and Petitioner has no basis to seek leave to file a reply addressing a reference that is not part of the record.

Second, Petitioner has failed to demonstrate the required good cause here. Any issue of public accessibility regarding a cited reference should have been addressed in the Petition. The Board has previously denied a request to file a reply under materially similar circumstances. *See, e.g., Xactware Solutions, Inc. v. Pictometry Int'l Corp.*, IPR2016-00593, Paper 11, at 3 (P.T.A.B. July 1, 2016).

Third, Petitioner's attempt to characterize its error as an inadvertent "clerical uploading error" does not satisfy the good cause requirement either. The Board has squarely rejected that position before. *See, e.g., Nuna Baby Essentials, Inc. v. Britax Child Safety, Inc.*, IPR2018-01683, Paper 11, at 5-6 (P.T.A.B. Dec. 18, 2018) (petitioner failed to show "good cause" to excuse a "clerical error" where exhibits were not filed with the petition).

Fourth, Petitioner is not permitted to submit "supplemental information" at this stage. There is no rule, regulation, or PTAB precedent that permits a petitioner to submit supplemental information pre-institution, and Petitioner has not cited to one. The only rule governing "supplemental information" – 37 C.F.R. § 42.123 – expressly limits such submissions to post-institution proceedings. Because this proceeding has not been instituted, Petitioner has no procedural basis to seek or obtain authorization to file supplemental information.

Fifth, Petitioner's proposed first topic for its reply – purporting to "demonstrate that the

existing record, including the librarian's sworn declaration describing the library's acquisition, cataloguing, and circulation practices with respect to Choe, is sufficient to support institution" – does not establish any valid basis for a reply. This argument simply reiterates Petitioner's original position and does not justify additional briefing. *See, e.g., Xactware Solutions*, IPR2016-00593, Paper 11, at 3 ("Additionally, identifying and evaluating statements or misstatements of the facts and law are well within the purview of the Panel of Judges assigned to these proceedings. It may always be the case that a Petitioner is unhappy with how Patent Owner characterizes the facts and law presented in the Petition. Our rules, however, provide for a Petitioner Reply only when good cause exists. Petitioner has not established good cause and as such, we do not authorize the filing of any Replies.")

Sixth, Petitioner's assertion that Patent Owner would suffer no prejudice is incorrect.

Petitioner's proposed solution – allowing Patent Owner to address any reply or supplemental information in its Patent Owner Response – ignores that such briefing occurs after institution, while Patent Owner is attempting to prevent institution altogether now. Permitting Petitioner to expand its case at this stage would materially disadvantage Patent Owner, and Patent Owner would be prevented from responding to that submission before institution, which would be highly prejudicial to Patent Owner. At a minimum, if the Board permits Petitioner to file a reply or supplemental information, Patent Owner should be afforded an opportunity to file a sur-reply addressing any such material before the Institution Decision.

Respectfully submitted,

/Vincent M. Ferraro/

Vincent M. Ferraro

Reg. No. 79,197

Lead Counsel for Patent Owner Motive Technologies, Inc.

VINCENT FERRARO

Kelley Drye & Warren LLP

Tel: (973) 503-5927

From: Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>

Sent: Monday, March 9, 2026 4:11 PM

To: Lestin Kenton <LKENTON@sternekessler.com>; Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>; Director_DI <Director_DI@uspto.gov>

Cc: Zinna, Michael <MZinna@KelleyDrye.com>; Bapna, Abhi <ABapna@KelleyDrye.com>; Ferraro, Vincent M. <VFerraro@KelleyDrye.com>; Lestin Kenton <LKENTON@sternekessler.com>; Jason Eisenberg <jasone@sternekessler.com>; Tyler Dutton <TDUTTON@sternekessler.com>; Jean Selep <JSelep@sternekessler.com>; PTAB Account <ptab@sternekessler.com>; Kristina Caggiano Kelly <kckelly@sternekessler.com>

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director_discretionary_decision@uspto.gov

Petitioner may file the corrected opposition. Paper 10 has been expunged.

The request for additional briefing will be addressed in due course.

From: Lestin Kenton <LKENTON@sternekessler.com>

Sent: Monday, March 9, 2026 1:00 PM

To: Director_PTABDecision_Review <Director_PTABDecision_Review@uspto.gov>; Trials <Trials@USPTO.GOV>

Cc: Zinna, Michael <MZinna@KelleyDrye.com>; Bapna, Abhi <ABapna@KelleyDrye.com>; Ferraro, Vincent M. <VFerraro@KelleyDrye.com>; Lestin Kenton <LKENTON@sternekessler.com>; Jason Eisenberg <jasone@sternekessler.com>; Tyler Dutton <TDUTTON@sternekessler.com>; Jean Selep <JSelep@sternekessler.com>; PTAB Account <PTAB@sternekessler.com>; Kristina Caggiano Kelly <kckelly@sternekessler.com>

Subject: IPR2026-00108: Request to File Corrected Opposition; Request to File Sur-Reply to POPR

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Dear Board,

Petitioner writes to address two matters.

First, Petitioner respectfully requests authorization to file a corrected version of its Opposition to Patent Owner's Request for Discretionary Denial. The filed Opposition incorrectly identifies the '580 patent as the parent of the '243 patent and incorrectly states that the '243 patent is related to the '276 and '580 patents. The correction removes these references only and does not affect the substance of the Opposition in any other respect. Petitioner is prepared to file the corrected brief immediately upon authorization. Patent Owner does not oppose this first request.

Second, Petitioner respectfully requests authorization to file a sur-reply of no more than 2-3 pages to address Patent Owner's challenge to the public availability of Ex. 1005 (Choe) raised in its Patent Owner Preliminary Response ("POPR").

Good cause exists for the sur-reply. Patent Owner's POPR raises a targeted challenge to the public availability of Choe based in part on the absence from the record of the appendix and supporting materials referenced in the librarian's declaration (Ex. [1041]). Those materials were inadvertently omitted from the filing due to a clerical uploading error. Petitioner seeks leave to address this issue directly and to ensure the Board has a full picture of the evidentiary record before it rules on institution.

The sur-reply would address two points. First, Petitioner would demonstrate that the existing record, including the librarian's sworn declaration describing the library's acquisition, cataloguing, and circulation practices with respect to Choe, is sufficient on its own to support institution under the reasonable likelihood standard applicable at this stage. See *Hulu, LLC v. Sound View Innovations, LLC*, IPR2018-01039, Paper 29 (P.T.A.B. Dec. 20, 2019).

(precedential). Second, Petitioner would request authorization to file the missing appendix and supporting materials, either as a correction of a clerical filing error under 37 C.F.R. § 42.104(c), or in the alternative as supplemental information under 37 C.F.R. § 42.123 — now if the Board is amenable, or within one month of institution if the Board prefers to defer the question.

Patent Owner will not be prejudiced. The sur-reply would be limited to the public availability issue Patent Owner itself raised and would not expand the grounds or arguments set forth in the Petition. Patent Owner will have a full opportunity to address both the sur-reply and any supplemental materials in its Patent Owner Response.

Petitioner is prepared to file the sur-reply promptly upon authorization.

Regarding the second matter, Motive opposes both of Samsara's requests.

Should the Board like to discuss, both parties are available as follows:

- Tuesday, March 10: 1:30pm -2 PM ET and 4:30-6 PM ET;
- Wednesday, March 11: 10 AM – 1 PM ET and 4:30-6 PM ET; and
- Thursday, March 12: 10:30 AM – 2PM ET

Best Regards,
Lestin



Lestin Kenton

Director, CLP

Sterne, Kessler, Goldstein & Fox P.L.L.C.

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