

From: [Director Discretionary Decision](#)
To: [Chris Liro](#); [Director Discretionary Decision](#)
Cc: ["Everding, William"](#); ["Levitt, Steven"](#); ["Hof, Phil"](#); [Andrus Litigation](#); [Michael Laing](#); [Aaron Olejniczak](#); ["Schroeder, John R."](#)
Subject: RE: Duke Manufacturing Co. v. Marmon Foodservice Technologies, Inc., IPR2026-00406, Request for Reply
Date: Tuesday, October 13, 2026 9:18:54 AM

Patent Owner is authorized to file a 5-page reply in IPR2026-00406, due no later than Thursday, October 15, 2026, limited to addressing the matters raised below. Petitioner is authorized to file a 5-page sur-reply, due no later than Tuesday, October 20, 2026.

From: Chris Liro <chris.liro@andruslaw.com>
Sent: Friday, October 9, 2026 3:55 PM
To: Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>
Cc: 'Everding, William' <william.everding@stinson.com>; 'Levitt, Steven' <steven.levitt@stinson.com>; 'Hof, Phil' <phil.hof@stinson.com>; Andrus Litigation <litigation@andruslaw.com>; Michael Laing <mlaing@andruslaw.com>; Aaron Olejniczak <aarono@andruslaw.com>; 'Schroeder, John R.' <john.schroeder@stinson.com>
Subject: Duke Manufacturing Co. v. Marmon Foodservice Technologies, Inc., IPR2026-00406, Request for Reply

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To whom it may concern:

In IPR2026-00406, Patent Owner Marmon Foodservice Technologies, Inc. respectfully requests authorization to file a short Reply (up to 5 pages) to Petitioner's Opposition to Patent Owner's Motion for Discretionary Denial (Paper 12).

Counsel for Patent Owner conferred with counsel for Petitioner on October 9, 2026. Petitioner opposes this request, as set forth in the email attached hereto.

Good cause exists to authorize a brief reply because Petitioner's Opposition relies on substantial procedural events that occurred after Patent Owner filed its initial motion, introduces new factual allegations, and raises new arguments:

1. Newly Arising Procedural Events: Petitioner's *Fintiv* arguments rely on events that occurred after Patent Owner filed its motion, including a newly filed alleged *Sotera*

stipulation (Ex. 1063), the filing of six subsequent IPR petitions, and a district court stay motion. Patent Owner requests the opportunity to briefly address how these facts impact the discretionary denial analysis.

2. **New Evidence and Factual Allegations:** Petitioner relies on newly submitted extrinsic evidence—specifically, a new declaration (Ex. 1058) and photographs taken in May 2016 (after the April 20, 2016 priority date)—to allege that Patent Owner's inventors concealed prior art from the Examiner. Patent Owner requests the opportunity to place the correct chronological facts on the record.
3. **Section 325(d) Examiner Error Arguments:** Petitioner dedicates six pages to arguing "Examiner error" under 35 U.S.C. § 325(d), conceding that key concepts in its Petition were already disclosed in Prince Castle materials previously before the Office. Patent Owner requests the opportunity to briefly respond to this new § 325(d) argument.

If authorized, Patent Owner can file its 5-page Reply within 5 business days, ensuring no delay to the Board's statutory timeline for the institution decision.

Respectfully,

Chris Liro
Counsel for Patent Owner

Christopher R. Liro

Attorney

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