

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MULTI-COLOR COPORATION,
Petitioner,

v.

BROOK & WHITTLE LTD.,
Patent Owner.

Cases PGR2025-00025
Patent 11,961,422 B2

Before JOHN G. NEW, KIMBERLY McGRAW, and SHELDON M.
McGEE, *Administrative Patent Judges*.

McGRAW, *Administrative Patent Judge*.

ORDER
Conduct of the Proceedings
37 C.F.R. § 42.5

On July 23, 2025, Petitioner requested authorization to file a reply brief to Patent Owner's Preliminary Response to address Patent Owner's proposed claim construction of the term "recyclable" and Patent Owner's alleged mischaracterization of Petitioner's comparison of the prior art to the claim language. Ex. 3001. Petitioner asserts that good cause exists for further briefing, as Patent Owner's construction was not reasonably foreseeable and improperly proposes a circular construction of "recyclable" that is defined in terms of "capable of being recyclable." *Id.* Petitioner also asserts that additional briefing would clarify the record and assist the Board in addressing potentially dispositive issues for institution.

Petitioner states that Patent Owner does not oppose additional briefing limited to the claim construction of the term "recyclable." *Id.* Petitioner also states that it does not oppose a sur-reply.

Under the particular circumstances of these proceedings, we are persuaded that additional briefing as to the proper construction of the term "recyclable" will be helpful to the panel in rendering its Decision on Institution. Additional briefing to address Patent Owner's alleged mischaracterization of Petitioner's arguments is not required as the panel can make this determination without additional argument from the parties.

We therefore authorize Petitioner to file a reply to address only the construction of the term "recyclable." Patent Owner is authorized to file a sur-reply thereto. No new evidence should accompany either the reply or sur-reply and neither paper should include arguments directed to any other issue.

ORDER

Accordingly, it is:

ORDERED that Petitioner is authorized to file a reply limited to addressing construction of the term “recyclable”;

FURTHER ORDERED that Patent Owner is authorized to file a sur-reply thereto;

FURTHER ORDERED that the reply shall be filed by July 31, 2025 and Patent Owner’s sur-reply is due by August 7, 2025.

FURTHER ORDERED that neither the reply nor the sur-reply shall exceed five (5) pages or include new evidence.

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