

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DISH NETWORK, L.L.C.,
Petitioner,

v.

TQ DELTA, LLC,
Patent Owner.

Cases IPR2016-01470
Patent 8,611,404 B2

Before SALLY C. MEDLEY, TREVOR M. JEFFERSON, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

CLEMENTS, *Administrative Patent Judge*.

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

On October 20, 2017, counsel for Patent Owner requested a call to raise instances of improper new arguments or new evidence contained in Petitioner's Reply (Paper 29), filed September 6, 2017. Patent Owner seeks authorization to file a motion to strike and/or a sur-reply.

Patent Owner previously made a similar request in related proceedings involving the same parties. *See, e.g., Cisco Systems, Inc., et al. v. TQ Delta, LLC*, Case IPR2016-01006, Paper 21 (PTAB June 22, 2017). In those cases, we denied Patent Owner authorization to file a motion to strike or a sur-reply, but we authorized Patent Owner to file an itemized listing of the arguments and evidence alleged by Patent Owner to be beyond the proper scope of a reply. *Id.* at 2. We do the same again here.

Patent Owner's request for authorization to file a motion to strike and/or a sur-reply is denied. Patent Owner is authorized, however, to file a paper, limited to two pages, which provides an itemized listing, by page and line number, of what statements and evidence in the Petitioner's Reply are deemed by Patent Owner to be beyond the proper scope of a reply. No argument is to be included in the contents of the submission.

Petitioner is authorized to file a responsive paper, limited to two pages, which provides an item-by-item response to the items listed in Patent Owner's submission. Each item in Petitioner's responsive paper should identify the part of Patent Owner's Response, by page and line number, to which the corresponding item enumerated by Patent Owner is provided as a response, if indeed that is the case. No argument is to be listed in the contents of the submission.

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ORDER

Accordingly, it is

ORDERED that Patent Owner is authorized to submit a listing, as described above, no later than one week from entry of this Order; and

FURTHER ORDERED that Petitioner is authorized to submit a responsive paper, as described above, no later than one week after the filing by Patent Owner.

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