

Clements, Matthew

From: Trials
Sent: Tuesday, October 03, 2017 4:37 AM
To: Homere, Jean; Medley, Sally; Clements, Matthew
Cc: Trials
Subject: FW: IPR2016-01621/01622/01623

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Thanks
Andrew

From: Kenneth Weatherwax [mailto:weatherwax@lowensteinweatherwax.com]
Sent: Tuesday, October 03, 2017 4:35 AM
To: Trials <Trials@USPTO.GOV>
Cc: hoffman@fr.com; Kenneth Hoover <hoover@fr.com>; Nathan Lowenstein <lowenstein@lowensteinweatherwax.com>
Subject: IPR2016-01621/01622/01623

To the Honorable Board:

In the above cases, Patent Owner respectfully requests an opportunity to discuss Board authorization for Patent Owner and Petitioner to each submit up to five pages of briefing on the constitutionality of canceling claims in *inter partes* review, if the Board desires that the parties address that question in light of the grant of certiorari in *Oil States Energy Services, LLC v. Greene's Energy Group, LLC*, No. 16-712 (U.S. June 12, 2017). Petitioner states it opposes such briefing.

The parties' briefs on the challenged claims preceded the certiorari grant and did not address the question. Patent Owner does not intend the present request to raise the issue of whether such arguments have been preserved as of right, but only whether in the circumstances the Board desires the parties to address the constitutionality question.

The parties have already indicated their availability for a call in -01622. It is suggested that the discussion requested here could be held as part of that call.

Respectfully submitted,

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