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**From:** KLittman@foley.com  
**Sent:** Tuesday, May 14, 2019 4:57 PM  
**To:** Trials  
**Cc:** Lee, Roger; Walters, Todd; Markowski, Mythili; Luttrell, Amy; ExocadIPR@foley.com  
**Subject:** IPR2018-00788

RE: IPR2018-00788

Petitioner requests authorization from the Board to file a motion to strike two portions of Patent Owner's Sur-Reply (Paper 31):

(1) Patent Owner's claim construction argument at pages 3-4 (starting at the first full paragraph on page 3, beginning with words "Where both ...") addressing the part of the Board's construction in the Institution Decision in which the Board stated that its construction "does not preclude subsequent merging or fusing together of the separate data representations after alignment, provided the 2D image and the 3D model remain separate at least momentarily after having been 'aligned'" (Paper 7 at 8-9); and

(2) Section II(C).

Petitioner believes that such portions of Patent Owner's Sur-Reply contain new arguments that were not presented in the Response (Paper 23), and thus are improperly raised for the first time in Patent Owner's Sur-Reply.

Petitioner has met and conferred with Patent Owner. Patent Owner has indicated that it opposes the filing of the motion to strike. The parties are available for a conference call on Thursday (5/16) or Friday (5/17) from 1:00-4:00 PM ET.

Respectfully submitted,  
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Counsel for Petitioner

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