

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOOGLE, LLC,  
Petitioner,

v.

AGIS SOFTWARE DEVELOPMENT, LLC,  
Patent Owner.

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IPR2018-01083  
IPR2018-01084<sup>1</sup>  
Patent 9,445,251

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Before TREVOR M. JEFFERSON, CHRISTA P. ZADO, and  
FREDERICK C. LANEY, *Administrative Patent Judges*.

LANEY, *Administrative Patent Judge*.

ORDER  
Conduct of the Proceeding  
*37 C.F.R. § 42.5*  
*37 C.F.R. § 42.108(c)*

On October 18, 2018, Google, LLC (“Petitioner”) sent an e-mail to  
the Board requesting permission to file a reply to AGIS Software

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<sup>1</sup> Unless expressly authorized to do so, the parties may not use this style of  
caption.

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Development, LLC's ("Patent Owner") Preliminary Response in each proceeding in the above caption to address an assertion of "lack of candor." Patent Owner opposes.

In the Preliminary Response for IPR2018-01083, Patent Owner asserts Petitioner has not satisfied its duty of candor under 37 C.F.R. § 42.11 and § 11.18(b)(2) on grounds that Petitioner and its real parties in interest knowingly advanced contradictory claim construction positions here and in related district court proceedings. *See, e.g.*, IPR2018-01083, Paper 7, 13–15. Patent Owner argues the Board should therefore deny the Petition "in its entirety." *Id.* at 15. Patent Owner, however, does not make a similar allegation in the Preliminary Response for IPR2018-01084. *See generally* IPR2018-01084, Paper 7.

We determine that under the circumstances presented here, good cause exists with regard to IPR2018-01083 and we, therefore, authorize Petitioner to file a reply in this proceedings. *See* 37 C.F.R. § 42.108(c).

As to IPR2018-01084, because Patent Owner does not allege "lack of candor," good cause has not been shown to exist. Therefore, we do not authorize Petitioner to file a reply in this proceeding.

Accordingly, it is

ORDERED that Petitioner's request to file a reply under 37 C.F.R. § 42.108(c) to Patent Owner's Preliminary Response in IPR2018-01083 is *granted*;

ORDERED that Petitioner's request to file a reply under 37 C.F.R. § 42.108(c) to Patent Owner's Preliminary Response in IPR2018-01084 is *denied*;

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FURTHER ORDERED that the reply is not to exceed three (3) pages, and must be filed no later than November 1, 2018; and

FURTHER ORDERED that the reply is limited to addressing assertions and arguments in the Preliminary Response relating to the requirements of 37 C.F.R. § 42.11 and § 11.18(b)(2) and Petitioner's duty of candor.

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