

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON WEB SERVICES, INC., AMAZON.COM, INC., and
VADATA, INC.,
Petitioner,

v.

SAINT REGIS MOHAWK TRIBE,
Patent Owner.

Case IPR2019-00103
Patent 7,149,867 B2

Before KALYAN K. DESHPANDE, JUSTIN T. ARBES, and
CHRISTAP. ZADO, *Administrative Patent Judges*.

ZADO, *Administrative Patent Judge*.

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

On March 13, 2019, Judges Deshpande, Arbes, and Zado held a conference call with Amazon Web Services, Inc., Amazon.com, Inc., and VADATA, Inc. (collectively, “Petitioner”) and Saint Regis Mohawk Tribe (“Patent Owner”). Petitioner requested the conference call to seek authorization to file a reply to Patent Owner’s Preliminary Response to address Patent Owner’s construction of the claim term “data prefetch unit.” Patent Owner objects to Petitioner’s request.

Petitioner does not propose a construction for “data prefetch unit” in the Petition. *See, e.g.*, Paper 1, 6–8 (“Petition” or “Pet.”). However, Petitioner provides the parties’ proposed constructions in a district court proceeding. *Id.* In that proceeding, Petitioner stated the term “data prefetch unit” does not need construction, and that it is part of a larger phrase that is governed by 35 U.S.C. § 112, 6th paragraph, and also is indefinite. *Id.* at 6–7. Patent Owner proposed the term should be construed as “a functional unit that retrieves computational data needed to complete the algorithm instantiated on the reconfigurable processor during processing.” *Id.* at 6. In Patent Owner’s Preliminary Response, Patent Owner proposes a construction that differs from the construction it proposed in district court. Paper 20 (“Preliminary Response” or “Prelim. Resp.”). Patent Owner proposes to construe the term to mean “a functional unit that moves data between members of a memory hierarchy. The movement may be as simple as a copy, or as complex as an indirect indexed strided copy into a unit stride memory.” *Id.* at 16.

“A petitioner may seek leave to file a reply to the preliminary response in accordance with [37 C.F.R.] §§42.23 and 42.24(c). Any such

request must make a showing of good cause.” 37 C.F.R. § 42.108(c). After considering the parties’ arguments during the call, we are not persuaded that Petitioner has shown good cause to file a reply. Petitioner has not shown that it could not have foreseen Patent Owner’s proposed construction, which is taken directly from the specification of the challenged patent, U.S. Patent No. 7,149,867 B2. *See* Ex. 1001, 5:18, 5:40–43 (“1. Definitions: . . . Data prefetch Unit—is a functional unit that moves data between members of a memory hierarchy. The movement may be as simple as a copy, or as complex as an indirect indexed strided copy into a unit stride memory.”). Accordingly, Petitioner’s request for authorization to file a reply is denied.

In consideration of the foregoing, it is

ORDERED that Petitioner’s request for authorization to file a reply to Patent Owner’s Preliminary Response is *denied*.

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