

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Panasonic Corporation and Panasonic Corporation of North America  
Petitioners,

v.

Cellspin Soft, Inc.  
Patent Owner.

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CASE: IPR2019-00131<sup>1</sup>  
Patent No. 9,258,698

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**PATENT OWNER CELLSPIN'S RESPONSE TO PANASONIC'S  
MOTION TO STRIKE**

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<sup>1</sup> GoPro, Inc., Garmin International, Inc. and Garmin USA, Inc. were joined as parties to this proceeding. Paper 27.

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37 C.F.R. §42.23(b)..... Passim

5 U.S.C. §§ 554(b)-(c), 556(d), 557(c) ..... Passim

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## **I. Introduction.**

Pending are motions to strike filed by Panasonic and Cellspin. Papers 44, 45. Per Cellspin's Motion, the Board should strike the improper new theories, directions, approaches, arguments and evidence in Panasonic's Reply and exhibits, which are not proper rebuttal and which could have presented in its prima facie case (the "Improper New Matters)" including as noted herein and in Paper 45. As also noted in the Cellspin's Motion, the Reply constitutes an unfairly prejudicial violation of 37 C.F.R. §42.23(b), the Administrative Procedure Act ("APA") and due process, including because everything, or at minimum substantially everything, is Improper New Matters. Panasonic's complaints about prejudice ring hollow. Cellspin's Sur-Reply and evidence were a necessary and proper response, pursuant to Cellspin's due process and APA rights, to have fair notice and opportunity to be heard (hereinafter a "Necessary and Proper" response), attempting, in a Sur-Reply, to rebut Improper New Matters. Panasonic's Motion should be denied, including because it would be an unfair violation of Cellspin's above rights to improperly strike Cellspin's rebuttal matters in and cited by its Sur-Reply, including without striking the Improper New Matters to which Cellspin Necessarily and Properly responded.

## **II. Argument.**

### **A. The evidence submitted with Cellspin's Sur-Reply, and the Sur-Reply, Were a Necessary and Proper Response to the Improper New Matters.**

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