

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Panasonic Corporation of North America *et al.*

Petitioners

v.

Cellspin Soft, Inc.

Patent Owner

CASE: IPR2019-00131

Patent No. 9,258,698

**PETITIONERS PANASONIC CORPORATION AND PANASONIC
CORPORATION OF NORTH AMERICA'S MOTION TO STRIKE
PURSUANT TO THE DECEMBER 12, 2019 ORDER**

TABLE OF CONTENTS

	Page
I. Introduction.....	1
II. Argument	2
A. The Untimely Evidence Violates the PTAB’s Consolidated Trial Practice Guide’s Prohibition Against Including New Evidence with a Sur-Reply.....	2
B. If Not Stricken, the Untimely Evidence Would Prejudice Panasonic and Violate Panasonic’s Due Process Rights	4
C. Cellspin Cannot Justify the Belated Submission of the Untimely Evidence	8
D. Cellspin’s Sur-Reply Attempts to Circumvent the Word Count Limit with Improper Spacing Throughout the Brief.....	10
E. Granting this Motion is the Proper Remedy for Cellspin’s Violations	12
III. Conclusion	13

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Abbott Labs. v. Cordis Corp.</i> , 710 F.3d 1318 (Fed. Cir. 2013)	7
<i>Dell Inc. v. Acceleron, LLC</i> , 818 F.3d 1293 (Fed. Cir. 2016)	8
<i>Genzyme Therapeutic Prods. Ltd. P’Ship v. Biomarin Pharm. Inc.</i> , 825 F.3d 1360 (Fed. Cir. 2016)	7
<i>Mallinckrodt Pharm. Ir. Ltd. v. Biovie, Inc.</i> , IPR2018-00974, Paper 34 (PTAB Nov. 13, 2019).....	3, 12
<i>N. Am. Coal Co. v. Miller</i> , 870 F.2d 948 (3d Cir. 1989)	8
<i>Navistar, Inc. v. Fatigue Fracture Tech., LLC</i> , IPR2018-00853, 2019 WL 4126205 (PTAB Aug. 29, 2019).....	4, 12
<i>Pi-Net Int’l, Inc. v. JPMorgan Chase & Co.</i> , 600 F. App’x 774 (Fed. Cir. 2015)	11
<i>Snap-On Inc. v. Milwaukee Elec. Tool Corp.</i> , IPR2015-01242, 2016 WL 8944781 (PTAB Aug. 19, 2016).....	11
<i>Trane U.S. Inc. v. SEMCO, LLC</i> , IPR2018-00514, 2019 WL 1757866 (PTAB Apr. 17, 2019)	4
<i>Yeda Res. v. Mylan Pharm. Inc.</i> , 906 F.3d 1031 (Fed. Cir. 2018)	7
Statutes	
5 U.S.C. §§ 554(b)-(c),	7
5 U.S.C. §§ 556(d)	7
5 U.S.C. §§ 557(c)	7

Administrative Procedure Act.....1, 7, 12

Other Authorities

37 C.F.R. § 42.6(a)(2)(ii)11

37 C.F.R. § 42.24(c).....10

Case No. IPR2019-00131

Patent No. 9,258,698

I. Introduction

Petitioners Panasonic Corporation and Panasonic Corporation of North America (“Panasonic”) move to strike Exhibits 2026-2029 and 2031-2033 (the “Untimely Evidence”), which Patent Owner Cellspin Soft, Inc. (“Cellspin”) belatedly submitted with its sur-reply. Panasonic further moves to strike Cellspin’s sur-reply (Paper 30), or alternatively, for the Board to accord no weight to the arguments in the sur-reply based on the Untimely Evidence.

This case is exceptional. Cellspin violated the Board’s Trial Practice Guide by submitting extensive new testimonial and documentary evidence with its sur-reply. Cellspin’s actions were neither authorized ahead of time nor can they be justified *post hoc*. If left in the record, the Untimely Evidence would unfairly prejudice Panasonic and violate the Administrative Procedure Act and its guarantees of due process. Left unchecked, Cellspin’s actions also would set a bad precedent, emboldening patent owners to submit unauthorized sur-reply evidence in other proceedings.

Cellspin also tried to game the word count limit by deleting spaces in citations in a way that cannot be justified. This is another basis for striking the sur-reply, particularly given Cellspin’s other failures to follow applicable rules.

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