

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CANON INC., CANON U.S.A., INC.,  
and AXIS COMMUNICATIONS AB,

Petitioner,

v.

AVIGILON FORTRESS CORPORATION,

Patent Owner.

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Case IPR2019-00311 (Patent 7,932,923 B2)  
Case IPR2019-00314 (Patent 7,932,923 B2)<sup>1</sup>

Before KIMBERLY McGRAW and JESSICA C. KAISER, *Administrative Patent Judges*.

McGRAW, *Administrative Patent Judge*.

ORDER  
*Conduct of the Proceedings*  
37 C.F.R. § 42.5

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<sup>1</sup> This Order pertains to both of these cases. Therefore, we exercise our discretion to issue a single Order to be filed in each case. The parties are not authorized to use this heading style for any subsequent papers

IPR2019-00311 (Patent 7,932,923 B2)

IPR2019-00314 (Patent 7,932,923 B2)

On April 15, 2019, Petitioner submitted an email (Ex. 3001) to the Board requesting authorization to file a reply brief, of no more than five pages, to Patent Owner's Preliminary Response in each of the above referenced proceedings. Specifically, Petitioner requests a reply in IPR2019-00311 to address Patent Owner's assertion that certain references (i.e., Kellogg and Brill) are not printed publications and a reply in IPR2019-00314 to address Patent Owner's assertion that certain references (i.e., Brill and Dimitrova) are not printed publications. Petitioner asserts that good cause exists because each of the references were found to be printed publications in IPR2018-00138 and IPR2018-00140 involving a related patent. Petitioner also states Patent Owner disagrees good cause exists but does not oppose Petitioner's requests if Patent Owner is permitted to file a sur-reply of equal length in each proceeding.

Having considered Petitioner's and Patent Owner's contentions, we determine good cause exists supporting Petitioner's request for a reply in each proceeding to address Patent Owner's assertions that the asserted references are not printed publications. Given that whether a reference qualifies as a printed publication is a threshold issue, allowing the parties to brief this issue early promotes efficiencies for the parties and the Board.

#### ORDER

Accordingly, it is:

ORDERED that Petitioner's request for leave to file a reply of no more than five pages to Patent Owner's Preliminary Response in each proceeding is granted;

IPR2019-00311 (Patent 7,932,923 B2)

IPR2019-00314 (Patent 7,932,923 B2)

FURTHER ORDERED that Patent Owner's request to file a sur-reply of no more than five pages in each proceeding is granted;

FURTHER ORDERED that each reply shall be filed by April 23, 2019 and each sur-reply shall be filed by April 30, 2019.

PETITIONER:

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