

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FACEBOOK, INC., INSTAGRAM, LLC and WHATSAPP INC.,
Petitioner,

v.

BLACKBERRY LIMITED,
Patent Owner.

Case IPR2019-00924 (Patent 8,209,634 B2)
Case IPR2019-00925 (Patent 8,209,634 B2)

Before, MIRIAM L. QUINN, GREGG I. ANDERSON, and
ROBERT L. KINDER, *Administrative Patent Judges*.

QUINN, *Administrative Patent Judge*.

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

IPR2019-00924 (Patent 8,209,634 B2)

IPR2019-00925 (Patent 8,209,634 B2)

Petitioner requested via email authorization to file a Reply to Patent Owner's Preliminary Response to address Patent Owner's arguments regarding discretionary denial under 35 U.S.C. §§ 314(a), 325(d). Patent Owner opposes the request. On another matter concerning the same parties (IPR2019-00787), the Board received the same email request, and authorized further briefing after holding a conference call with the parties.

This panel is aware that Petitioner filed the Petitions on the captioned proceedings on April 4, 2019, which was before *NHK Spring v. Intri-Plex Technologies*¹ was made precedential on May 7, 2019. The panel in this case is of the view that the discretionary denial issues that Petitioner would brief are narrow, and most of the facts have been laid out in Patent Owner's Preliminary Response.

ORDERED that Petitioner is authorized to file a Reply in each proceeding of no more than three pages, due three business days from the date of the issuance of this Order. The Reply is limited to the Board's exercise of discretion to deny institution under 35 U.S.C. § 314(a) and/or § 325(d).

FURTHER ORDERED that Patent Owner is authorized to file in each proceeding a Sur-reply of no more than three pages, due three business days from the filing of Petitioner's Reply. The Sur-reply is limited to issues raised in the Reply.

¹ Case IPR2018-00752 (PTAB Sept. 12, 2018) (Paper 8) (precedential).

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IPR2019-00925 (Patent 8,209,634 B2)

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