

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOTOROLA MOBILITY LLC,
Petitioner,

v.

UNILOC 2017 LLC,
Patent Owner.

Case IPR2020-00038
Patent 6,868,079 B1

Before SALLY C. MEDLEY and GARTH D. BAER,
Administrative Patent Judges.

MEDLEY, *Administrative Patent Judge.*

ORDER

Denying Petitioner's Request to file a Reply to
Patent Owner's Preliminary Response
37 C.F.R. §§ 42.5, 42.108(c)

On February 7, 2020, a conference call was held involving counsel for the respective parties and Judges Medley and Baer. The purpose of the conference call was for Petitioner to seek authorization to file a reply to Patent Owner's Preliminary Response (Paper 6, "POPR"). Patent Owner opposes the filing of a reply.

During the conference call, Petitioner argued we should authorize a reply so that Petitioner may address certain arguments made at POPR pages 8 to 9. In particular, Petitioner contended that there is good cause for considering a reply, because Petitioner could not have anticipated arguments made by Patent Owner regarding (1) misstatements made; (2) an incorrect expansion of one of the factors set forth in *Becton, Dickinson & Co. v. B. Braun Melsungen AG*, IPR2017-01586, Paper 8 (PTAB Dec. 15, 2017) (precedential as to Section III.C.5, first paragraph); and (3) the cumulative nature of art before the examiner and the art presented in the Petition.

Our rules do not automatically authorize a petitioner to file a reply to a preliminary response. Rather, a petitioner seeking leave to file a reply must make a showing of good cause. 37 C.F.R. § 42.108(c); *see also* Patent Trial and Appeal Board Consolidated Trial Practice Guide 51–52 (Nov. 2019)¹ (consolidating prior Trial Practice Guide and updates) (“[T]he Board does not expect that such a [request to file a] reply will be granted in many cases due to the short time period the Board has to reach a decision on institution”). Based on the facts of this case and the arguments presented during the call, we disagree that further briefing would be helpful or is warranted under the good cause standard. For the foregoing reasons,

¹ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

IPR2020-00038
Patent 6,868,079 B1

Petitioner's request to file a reply to Patent Owner's Preliminary Response is *denied*.

Order

It is

ORDERED that Patent Owner's request to file a reply to Patent Owner's Preliminary Response is *denied*.

IPR2020-00038
Patent 6,868,079 B1

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