

From: [Trials](#)
To: [Neil Rubin](#); [Trials](#)
Cc: [Garr, David](#); [Johnson, Grant](#); [Chen, Peter \(External\)](#); [Samsung-Solas](#); rak_solas@raklaw.com
Subject: RE: IPR2020-00320 - request for supplemental brief to address Apple v. Fintiv precedential opinion
Date: Thursday, May 14, 2020 3:46:08 PM

Counsel:

A call is not necessary at this time. Patent Owner's request for supplemental briefing to address *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (March 20, 2020) (precedential) is denied. Although that order was recently designated as precedential, it applies the Board's discretion under 35 U.S.C. § 314(a) and *NHK Spring Co. v. Intri-Plex Techs., Inc.*, IPR2018-00752, Paper 8 (Sept. 12, 2018), which was designated as precedential a year ago. Patent Owner's preliminary response in this case does not ask the Board to exercise its discretion under § 314(a) or apply *NHK Spring*. Under these circumstances, we determine there is not good cause to allow the requested supplemental briefing.

Regards,

Andrew Kellogg,
Supervisory Paralegal
Patent Trial and Appeal Board
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From: Neil Rubin <nrubin@raklaw.com>
Sent: Tuesday, May 12, 2020 12:47 PM
To: Trials <Trials@USPTO.GOV>
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Subject: IPR2020-00320 - request for supplemental brief to address Apple v. Fintiv precedential opinion

Dear Honorable Board,

In IPR2020-00320, Patent Owner requests authorization to file a 5-page supplemental brief to address discretionary denial under the factors set forth in *Apple v. Fintiv*, IPR2020-00019, Paper 11 ("Fintiv Order"). The Fintiv Order was designated precedential and became binding authority on May 5, 2020.

Patent Owner does not oppose Petitioner being allowed a 5-page supplemental brief on the same issue.

Patent Owner notified Petitioner of this request on May 8, and Petitioner opposes this request.

Patent Owner is generally available for call with the Board, including on May 12-14.
Ppetitioner is available on May 12-14.

Best regards,

Neil A. Rubin

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