
From: Trials
Sent: Thursday, July 9, 2020 12:49 PM
To: Sean Li; Trials
Cc: Appleby, Robert A.; Arovas, Greg; Carter, Jon R.; Brown, Brandon H.; Frederick Lorig; Mark Tung; Nima Hefazi; 'Bendix, Kevin'
Subject: RE: Request for Reply to POPR: IPR2020-00532, IPR2020-00537, IPR2020-00539, IPR2020-00540, IPR2020-00541, IPR2020-00542

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Trial

Counsel,

The panel has determined that there is no need for a call. Petitioner is authorized to file the requested six page Reply to Patent Owner's Preliminary Response to address the Section 315 and discretionary denial arguments. Petitioner also is authorized to file, in its Reply in IPR2020-00532, the requested five additional pages to address the claim construction issue. Petitioner's papers are due no later than two weeks from the date of this email and are limited to the topics identified in Petitioner's request. Patent Owner is authorized to file in each subject case a Sur-Reply to Petitioner's Reply, with Patent Owner's papers due no later than two weeks after the filing of Petitioner's Reply and limited to the same number of pages as authorized for Petitioner's papers (eleven pages in IPR2020-00532 and six pages in the other subject cases).

Regards,

Andrew Kellogg,
Supervisory Paralegal
Patent Trial and Appeal Board
USPTO
andrew.kellogg@uspto.gov
(571)272-7822

From: Sean Li <seanli@quinnemanuel.com>
Sent: Wednesday, July 8, 2020 10:54 AM
To: Trials <Trials@USPTO.GOV>
Cc: Appleby, Robert A. <rappleby@kirkland.com>; Arovas, Greg <garovas@kirkland.com>; Carter, Jon R. <carterj@kirkland.com>; Brown, Brandon H. <bhbrown@kirkland.com>; Frederick Lorig <fredlorig@quinnemanuel.com>; Mark Tung <marktung@quinnemanuel.com>; Nima Hefazi <nimahefazi@quinnemanuel.com>; 'Bendix, Kevin' <kevin.bendix@kirkland.com>
Subject: RE: Request for Reply to POPR: IPR2020-00532, IPR2020-00537, IPR2020-00539, IPR2020-00540, IPR2020-00541, IPR2020-00542

Your Honors,

Patent Owner respectfully objects to Petitioner's email below. The email improperly contains substantive arguments regarding Petitioner's request to file a reply in IPR2020-00532 to advance new claim construction arguments, and is "tantamount to filing an unauthorized motion." See e.g., IPR2014-01503 Paper 11 at 2-3 ("Petitioner's email, . . .containing substantive arguments concerning its request, is tantamount to filing an unauthorized motion.");

IPR2015-01545, Paper 9 at 6 (“Patent Owner’s email to the Board presented Patent Owner’s position on the discovery issue rather than just requesting a conference. Such communications are contrary to the Board’s rules.”).

Patent Owner respectfully requests that should your Honors consider Petitioner’s arguments, that Patent Owner be given the opportunity to present its position. And while Patent Owner disagrees with Petitioner’s arguments, it will abide by the PTAB’s rules of practice and refrain from engaging in a discussion on the merits unless and until requested by the Board.

Best Regards,
Ziyong (Sean) Li
Associate,
Quinn Emanuel Urquhart & Sullivan, LLP

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From: Bendix, Kevin [<mailto:kevin.bendix@kirkland.com>]

Sent: Tuesday, July 7, 2020 7:42 PM

To: Trials@uspto.gov

Cc: Appleby, Robert A. <rappleby@kirkland.com>; Arovas, Greg <garovas@kirkland.com>; Carter, Jon R. <carterj@kirkland.com>; Brown, Brandon H. <bhbrown@kirkland.com>; Sean Li <seanli@quinnemanuel.com>; Frederick Lorig <fredlorig@quinnemanuel.com>; Mark Tung <marktung@quinnemanuel.com>; Nima Hefazi <nimahefazi@quinnemanuel.com>

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[EXTERNAL EMAIL]

Trials,

Petitioner requests a call with the Board to seek authorization to file a single, short 6-page reply to Patent Owner’s Preliminary Responses in IPR2020-00532, IPR2020-00537, IPR2020-00539, IPR2020-00540, IPR2020-00541, and IPR2020-00542. In each of these Responses, Patent Owner raises substantially identical arguments that (1) the Petition was not properly served prior to the one-year bar date of 35 U.S.C. §315(b); (2) the Board should exercise its discretion to deny the Petition in view of a pending district court case between the parties; and (3) the Petition is barred by 35 U.S.C. §315(a). Petitioner seeks leave to reply to each of these three arguments, and does not object to Patent Owner filing a six-page sur-reply on these issues, as was ordered in related proceedings IPR2020-00518, IPR2020-00525, IPR2020-00528, IPR2020-00531, IPR2020-00533, and IPR2020-00535. Patent Owner does not object.

For Petitioner’s reply in IPR2020-00532, Petitioner also requests permission to file no more than five additional pages to address Patent Owner’s construction of two terms that are not disputed in the district court proceeding—“a first structure dedicated for data transfer in a first direction” / “a second structure dedicated for data transfer in a second direction” (Claims 1 and 16). Petitioner has met and conferred with Patent Owner via email and Patent Owner indicated that it will oppose this request.

Both Petitioner and Patent Owner are generally available on Friday, July 10 to discuss Petitioner's reply request.

Best regards,
Kevin

Kevin Bendix

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