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**From:** Kellar, Kyle W. <KKellar@lrrc.com>

**Sent:** Tuesday, September 29, 2020 10:59 AM

**To:** Trials <Trials@USPTO.GOV>

**Cc:** Martone, Jason C. <jmartone@lrrc.com>; Schilly, Sami I. <SSchilly@lrrc.com>; CaravanCanopy-WalmartLit <CaravanCanopy-WalmartLit@kilpatricktownsend.com>; McAllister, Tyler <TMcAllister@kilpatricktownsend.com>; Reed, David <DReed@kilpatricktownsend.com>

**Subject:** RE: Case IPR2020-01026 - Authorization to file Reply to Preliminary Response

Dear Honorable Board,

Patent Owner objects to Petitioner having included substantive argument in its email to Board. See <https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/trials/patent-trial-and-appeal-board-end> ("Unless otherwise authorized, ... do not use the [Trials@uspto.gov](mailto:Trials@uspto.gov) email address for substantive communications to the Board.").

Patent Owner respectfully requests either a conference call be conducted so it may provide its position or express authorization from the Board to provide its position on Petitioner's request via email.

Also, if the Board grants Petitioner's request, Patent Owner respectfully requests a sur-reply to respond to Petitioner's reply.

Best Regards,

Kyle Kellar

Counsel for Patent Owner

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**From:** Reed, David <DReed@kilpatricktownsend.com>

**Sent:** Tuesday, September 29, 2020 5:34 AM

**To:** Trials <Trials@USPTO.GOV>

**Cc:** Kellar, Kyle W. <KKellar@lrrc.com>; Martone, Jason C. <jmartone@lrrc.com>; Schilly, Sami I. <SSchilly@lrrc.com>; CaravanCanopy-WalmartLit <CaravanCanopy-WalmartLit@kilpatricktownsend.com>; McAllister, Tyler <TMcAllister@kilpatricktownsend.com>

**Subject:** Case IPR2020-01026 - Authorization to file Reply to Preliminary Response

[EXTERNAL]

Walmart Inc. v. Caravan Canopy Int'l, Inc.  
Case IPR2020-01026  
Patent No. 5,944,040

Dear Trials,

Petitioner hereby requests authorization to file a Reply to Patent Owner's Preliminary Response to respond to Patent Owner's argument that the Board should exercise its statutory discretion and deny institution under 35 U.S.C. § 314(a). POPR, at 3-15.

Petitioner believes good cause exists under 37 C.F.R. § 42.108(c) because Petitioner could not have reasonably foreseen the scope and extent of Patent Owner's arguments on § 314(a), including Patent Owner's arguments regarding the relevance of other litigations to which Petitioner is not a party and the effect of the district court's stay of the underlying litigation on the *Fintiv* analysis.

The parties have conferred, and Patent Owner opposes this request. If a conference call is necessary, the parties are jointly available at the following times:

September 29: 3:30 – 5:00 pm ET

October 1: 1:00 – 5:00 pm ET

October 2: 11:30 am – 5:00 pm ET

Best regards,

David Reed  
Counsel for Petitioner



**David A. Reed**

**Kilpatrick Townsend & Stockton LLP**

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