

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TIDE INTERNATIONAL (USA), INC.,
Petitioner,

v.

UPL NA INC.,
Patent Owner.

Case No. IPR2020-01113
Patent No. 7,473,685 B2

Before: SUSAN L. C. MITCHELL, ZHENYU YANG, and
MICHAEL A. VALEK, *Administrative Patent Judges*.

VALEK, *Administrative Patent Judge*.

Conduct of the Proceeding
37 C.F.R. § 42.5

Tide International (USA), Inc. (“Petitioner”) requests leave to file a short reply to Patent Owner’s Preliminary Response (“POPR”) regarding:

Patent Owner’s statements regarding the status of the related district court proceeding (in particular, Patent Owner’s statement on p. 2 of its POPR that “there is no indication that the court would grant any request for a stay if this proceeding is instituted”), and Patent Owner’s allegations regarding overlapping references.

Ex. 3001. UPL NA (“Patent Owner”) opposes. *Id.*

Upon consideration, we find Petitioner’s request reasonable, particularly as it appears the status of the related district court proceeding has changed since the filing of the Petition (*see* Ex. 2001 (order dated September 1, 2020, revising case schedule upon consideration of Parties’ Joint Status Report)); and Petitioner has not yet had an opportunity to brief its position regarding this change as it relates to 35 U.S.C. § 314(a). Accordingly, Petitioner’s request is granted. We will likewise allow Patent Owner to file a sur-reply to Petitioner’s reply brief, if it so chooses.

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner may file a reply brief of no more than five pages in length addressing the status of the related district court proceeding and Patent Owner’s allegations regarding overlapping references.

Petitioner’s reply brief is due by November 13, 2020.

FURTHER ORDERED that Patent Owner may file a sur-reply brief of no more than five pages in length limited to the issues in Petitioner’s reply brief. Patent Owner’s sur-reply brief is due by November 20, 2020.

IPR2020-01113
Patent No. 7,473,685 B2

PETITIONER:

Dorothy Whelan
whelan@fr.com

Thad Kodish
tkodish@fr.com

Jacqeline Tio
tio@fr.com

PATENT OWNER:

Maximilienne Giannelli
Maximilienne.giannelli@finnegan.com

Anand Sharma
Anand.sharma@finnegan.com

Rajeev Gupta
Raj.gupta@finnegan.com

Joshua Goldberg
Joshua.goldberg@finnegan.com