

From: [Trials](#)
To: [Baker, W. Todd](#); [Trials](#)
Cc: [#Nike-SherryWear](#); [Micah Drayton](#); [Jameson Pasek](#); [Tanner Murphy](#)
Subject: RE: IPR2024-01122, IPR2024-01123, IPR2024-01124, IPR2024-01125, IPR2024-01126, and IPR2024-01127
Date: Tuesday, December 17, 2024 10:22:09 AM

Counsel:

Petitioner's request is granted. In each proceeding, Petitioner is authorized to file a 7-page reply to the Patent Owner's response, limited to addressing arguments concerning § 325(d), no later than December 27, 2024. In each proceeding, Patent Owner is authorized to file a 7-page sur-reply, no later than January 8, 2025. Petitioner's reply should reference this authorization.

Best regards,
Eric W. Hawthorne
Supervisory Paralegal Specialist
Patent Trial and Appeal Board

From: Baker, W. Todd <todd.baker@kirkland.com>
Sent: Monday, December 16, 2024 2:24 PM
To: Trials <Trials@USPTO.GOV>
Cc: #Nike-SherryWear <Nike-SherryWear@kirkland.com>; Micah Drayton <mdayton@caldwelllaw.com>; Jameson Pasek <jameson@caldwelllaw.com>; Tanner Murphy <tanner@caldwelllaw.com>
Subject: IPR2024-01122, IPR2024-01123, IPR2024-01124, IPR2024-01125, IPR2024-01126, and IPR2024-01127

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Dear Board,

Petitioner in the above-referenced IPRs requests leave to file limited replies of no more than 7 pages to each of the Patent Owner's Preliminary Responses in IPR2024-01122, IPR2024-01123, IPR2024-01124, IPR2024-01125, IPR2024-01126, and IPR2024-01127. Petitioner believes that good cause exists for additional briefing. In each of the six listed IPRs, Patent Owner argues the Board should deny institution on § 325(d) grounds. Petitioner's replies would address Patent Owner's arguments that the Asserted Art does not materially differ from the art disclosed during prosecution, that the Asserted Art is cumulative of the art considered during prosecution, and that the Petitioner failed to show material error by the examiner during prosecution. Patent Owner's arguments were unforeseeable, as they are inconsistent with Patent Owner's own positions during prosecution of the patents at issue and misstate Petitioner's positions regarding the material errors made by the examiner during prosecution.

IPR2024-01122, 01123, 01124

The parties have met and conferred. Patent Owner does not oppose the request for leave to file replies so long as it is afforded an opportunity to file sur-replies. Petitioner does not oppose Patent Owner's request to file sur-replies.

Should the Board wish to have a telephone conference to discuss this request, the parties are available Wednesday between 1:00 and 2:30 and after 3:00, or any time after 3:00 on Thursday.

Thank you,

Todd Baker
Counsel for Petitioner

KIRKLAND & ELLIS LLP

1301 Pennsylvania Ave., N.W., Washington, D.C. 20004

T +1 202 389 3135 **M** +1 443 622 8802

F +1 202 389 5200

todd.baker@kirkland.com

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