

**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

**CAUTION:** This email has originated from a source outside of USPTO. **PLEASE CONSIDER THE SOURCE** before responding, clicking on links, or opening attachments.

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](mailto:todd.baker@kirkland.com)

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of the multi-national law firm Kirkland & Ellis LLP and/or its affiliated entities. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return email or by email to [postmaster@kirkland.com](mailto:postmaster@kirkland.com), and destroy this communication and all copies thereof, including all attachments.