

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE TORO COMPANY
Petitioner,

v.

MTD PRODUCTS INC.,
Patent Owner.

Cases

IPR2016-00194 (Patent 8,011,458)

IPR2016-00219 (Patent 8,136,613)

Before WILLIAM V. SAINDON, RICHARD E. RICE, and
TIMOTHY J. GOODSON, *Administrative Patent Judges*.

SAINDON, *Administrative Patent Judge*.

ORDER

Authorizing Sur-Reply and Sur-Sur-Reply

37 C.F.R. § 42.5

IPR2016-00194 (Patent 8,011,458)

IPR2016-00219 (Patent 8,136,613)

On December 12, 2016, a conference call was held at the request of Patent Owner. Patent Owner requested the call to seek a sur-reply to Petitioner's Reply in each case, because it believed that the Replies introduced new theories on patentability and/or claim construction. After discussion with both parties, the panel authorized Patent Owner to file a Sur-Reply in each proceeding no later than December 19, 2016, of no more than 5 pages. Petitioner was authorized to file a Sur-Sur-Reply in each proceeding no later than December 26, 2016, of no more than 3 pages. Neither paper may introduce new evidence.

Patent Owner also objected to Petitioner's Reply on a theory that it improperly incorporated by reference material from a declaration. We will reserve our ruling on the objection.

It is so ORDERED.

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IPR2016-00219 (Patent 8,136,613)

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