

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NIPRO CORPORATION,
Petitioner,

v.

NXSTAGE MEDICAL, INC.,
Patent Owner.

Case IPR2016-00744
Patent 8,092,414 B2

Before SALLY C. MEDLEY, LYNNE E. PETTIGREW, and
AMANDA F. WIEKER, *Administrative Patent Judges*.

WIEKER, *Administrative Patent Judge*.

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

On July 13, 2016, Petitioner sent an electronic message to the Board requesting a conference call with the Board to seek permission to file a Reply to Patent Owner's Preliminary Response "to address three mischaracterizations of the prior art made by Patent Owner NxStage in its Preliminary Response, the first of which involves a misquotation of a reference."

Also on July 13, 2016, counsel for Patent Owner sent an electronic message to the Board, stating that "NxStage does not agree that its [Preliminary Response] includes any 'mischaracterizations,' and NxStage has notified [Petitioner] Nipro of the correction to the typographical error of a single reference numeral in a quote from a patent. NxStage opposes Nipro's request for authorization to file a reply."

A conference call is not necessary. Based on the facts of this case, we are not persuaded that Petitioner has shown good cause to authorize it to file a Reply paper. *See* 37 C.F.R. § 42.108. The Board anticipates that its decision on the Petition will not rely on Patent Owner's characterization of the asserted prior art references, but will rely on the asserted prior art references themselves.

It is:

ORDERED that Petitioner's request for a conference call is *denied*;
and

ORDERED that no Reply to Patent Owner's Preliminary Response is authorized at this time.

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PETITIONER:

Stephen B. Maebius
Michael D. Kaminski
Chase J. Brill
FOLEY & LARDNER LLP
smaebius@foley.com
mkaminski@foley.com
cbrill@foley.com

PATENT OWNER:

Michael Fleming
Benjamin Haber
IRELL & MANELLA LLP
NiproIPR@irell.com