

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KINGSTON TECHNOLOGY COMPANY, INC.,
Petitioner,

v.

POLARIS INNOVATIONS LTD.,
Patent Owner.

Case IPR2017-00114 (Patent 7,206,978 B2)¹
Case IPR2017-00116 (Patent 7,334,150 B2)

Before SALLY C. MEDLEY, BARBARA A. PARVIS, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

PARVIS, *Administrative Patent Judge*.

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

¹ This order addresses issues that are the same in all identified cases. We exercise our discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style heading in subsequent papers.

IPR2017-00114 (Patent 7,206,978 B2)

IPR2017-00116 (Patent 7,334,150 B2)

On November 16, 2017, counsel for Polaris Innovations Ltd. (“Patent Owner”) requested a conference call to seek the panel’s guidance on how to address portions of each Reply filed by Kingston Technology Company Inc. (“Petitioner”) that, in its view, are outside the proper scope of a reply.

We will determine whether the allegedly new arguments and evidence are outside the proper scope of a reply in the final written decision. To preserve the issue in the words of the parties, we authorize Patent Owner to file, in each proceeding, a brief paper, limited to two pages, that only identifies the new and improper arguments and evidence introduced in Petitioner’s Reply, generally by exhibit, page, and/or line number(s) only, and does not present any arguments. Petitioner is authorized to file, in each proceeding, a brief response, limited to two pages, that identifies the portions of the Patent Owner Response to which the new arguments and evidence identified by Patent Owner are a proper response or that identifies where this argument or evidence is presented in the Petition, also generally by exhibit, page, and/or line number(s) only. The deadlines for the respective papers are set forth below.

Either party may bring up the subject at the time of oral hearing. However, our guidance at oral hearings will be the same—if we determine Petitioner’s arguments or evidence are outside the proper scope of a reply, we will not consider those arguments or evidence, and if we determine that Petitioner’s arguments and evidence is responsive to the Patent Owner Response, we will consider Petitioner’s arguments and evidence.

IPR2017-00114 (Patent 7,206,978 B2)

IPR2017-00116 (Patent 7,334,150 B2)

ORDER

Accordingly, it is

ORDERED that Patent Owner is authorized to file, in each proceeding, on or before November 27, 2017, a paper not exceeding two pages to identify the new arguments and evidence relied upon in Petitioner's Reply that it believes to be beyond the proper scope of a reply; and

FURTHER ORDERED that Petitioner is authorized to file, in each proceeding, on or before December 4, 2017, a paper not exceeding two pages to identify either the portions of the Patent Owner Response to which the new arguments and evidence identified by Patent Owner is a proper response, or the portions of the Petition where the arguments and evidence were made initially.

PETITIONER:

David Hoffman
FISH & RICHARDSON P.C.
IPR37307-0008IP1@fr.com

Martha Hopkins
LAW OFFICES OF S.J. CHRISTINE YANG
IPR@sjclawpc.com

PATENT OWNER:

Kenneth Weatherwax
Nathan Lowenstein
LOWENSTEIN & WEATHERWAX LLP
weatherwax@lowensteinweatherwax.com
lowenstein@lowensteinweatherwax.com