

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORPORATION,
Petitioner,

v.

R2 SEMICONDUCTOR, INC.,
Patent Owner.

Case IPR2017-00705; Case IPR2017-00706
Case IPR2017-00707; Case IPR2017-00708
Case IPR2017-01123; Case IPR2017-01124
Patent 8,233,250 B2

Before JAMESON LEE, JEAN R. HOMERE, and JENNIFER S. BISK,
Administrative Patent Judges.

BISK, *Administrative Patent Judge.*

ORDER
Denying Authorization to File Observations
37 C.F.R. § 42.5

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On April 19, 2017, counsel for the parties and the panel participated in a conference call.¹ The subject of the call was Patent Owner's request to file a motion for observation of portions of an April 8, 2018 cross-examination deposition of Patent Owner's own expert, Dr. Massoud Pedram. Dr. Pedram was being cross-examined with respect to his Declaration submitted in support of Patent Owner's Reply to Petitioner's Opposition to Patent Owner's Motion to Amend Claims. Although Petitioner has not referred, in its Surreply to Patent Owner's Motion to Amend Claims, to any of the testimony from the cross-examination, Patent Owner requested to file a Motion for Observations on Cross Examination, allegedly to clarify statements made by Dr. Pedram in a different Declaration that was submitted in support of Patent Owner's Response. Counsel for Patent Owner did not identify any testimony in the previous Declaration of Dr. Pedram that it wants to discredit or undermine by pointing to inconsistent testimony in the subject cross-examination. Rather, he sought to add to that previous Declaration, on an alleged basis of "clarification." Thus is not an appropriate use of a Motion for Observations on Cross Examination. We denied Patent Owner's request because a motion for observation is an inappropriate vehicle for introducing what amounts to supplemental briefing, particularly with respect to a matter that was not the subject of cross-examination.

Shortly after the call, Patent Owner emailed the Board requesting authorization to file "a short, 3-page supplemental brief identifying the

¹ All citations in this Order are to IPR2017-00705.

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portions of Dr. Pedram’s testimony identified in our April 17th email to the Board [Ex. 3002], with brief explanation of its relevance.” Ex. 3003. Patent Owner added that “Petitioner opposes this request.” *Id.* Patent Owner did not request a call to provide further explanation, but added potential dates in the event “the Board require[s] an additional hearing.” *Id.*

Even taking into consideration the lengthy discussion at our conference call, the lack of clarity in the subsequent email leaves the panel with no understanding of the nature of the supplemental briefing being requested. For example, Patent Owner has not indicated if this supplemental briefing would be a Surreply to Petitioner’s Reply to the Petition. Patent Owner has not indicated any particular rule on which it relies. Patent Owner has not indicated the subject or purpose of the supplemental briefing. Patent Owner also has not indicated how this extra briefing would affect the schedule given that oral hearing in this case is scheduled for May 1, 2018. Most importantly, Patent Owner has not indicated why such additional briefing should be authorized. Nor has Patent Owner addressed any potential prejudice to Petitioner.

Accordingly, it is

ORDERED that Patent Owner’s request for authorization to file supplemental briefing is *denied*.

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