

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,
Petitioner,

v.

EGERA, INC., LLC,
Patent Owner.

Case IPR2017-01341
Patent 7,231,430 B2

Before CHARLES J. BOUDREAU, WILLIAM M. FINK, and
MELISSA A. HAAPALA, *Administrative Patent Judges*.

HAAPALA, *Administrative Patent Judge*.

ORDER
Granting Authorization to File a Reply
37 C.F.R. § 42.108(c)

In an email message to the Board, which we have entered as Exhibit 3001, Petitioner requests authorization, under 37 C.F.R. § 42.108(c), to file a reply to Patent Owner's Preliminary Response. Ex. 3001. Petitioner asserts that Patent Owner opposes this request. *Id.* In a subsequent email message to the Board, entered as Exhibit 3002, Patent Owner indicates it disagrees with Petitioner's characterization of the issue and evidence and requests a hearing to address Petitioner's request for authorization. Ex. 3002.

Petitioner specifically requests leave to file a reply to address Patent Owner's assertions that the named inventors conceived of the claimed subject matter before the priority date of Petitioner's cited art. Ex. 3001. Petitioner argues that "good cause" exists for filing the reply because Patent Owner's evidence on this issue was not available to Petitioner when this proceeding was filed. *Id.*

Our rules allow a petitioner to seek leave to file a reply to a patent owner's preliminary response, but require that "[a]ny such request must make a showing of good cause." 37 C.F.R. 42.108(c). We accept Petitioner's representation that the evidence on the issue was not available to it at the time the proceeding was filed. Accordingly, we determine Petitioner demonstrates sufficient good cause and grant the request. Because we determine that there is good cause, we deny Patent Owner's request for a hearing.

Accordingly, it is:

ORDERED that Petitioner's request for authorization to file a reply to Patent Owner's Preliminary Response (Paper 7) is *granted*;

FURTHER ORDERED that the reply is limited to five pages and is due within 10 days of entry of this Order;

FURTHER ORDERED that the reply is limited to addressing Patent Owner's argument and supporting evidence cited in the Preliminary Response that the named inventors conceived of the claimed subject matter before the priority date of Petitioner's cited art; and

FURTHER ORDERED that Patent Owner's request for a hearing to address Petitioner's request for authorization is *denied*.

PETITIONER:

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