

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NAUTILUS, INC.,
Petitioner,

v.

ICON HEALTH & FITNESS INC.,
Patent Owner.

Case IPR2017-01363 (Patent 9,403,047 B2);
Case IPR2017-01407 (Patent 9,616,276 B2);
Case IPR2017-01408 (Patent 9,616,276 B2)¹

Before GEORGE R. HOSKINS, TIMOTHY J. GOODSON, and
JAMES A. WORTH, *Administrative Patent Judges*.

GOODSON, *Administrative Patent Judge*.

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

¹ This Order applies to all three proceedings. These proceedings have not been consolidated. The parties may use a consolidated caption only if a paper contains a footnote indicating that the identical paper has been filed in each proceeding.

IPR2017-01363 (Patent 9,403,047 B2)
IPR2017-01407 (Patent 9,616,276 B2)
IPR2017-01408 (Patent 9,616,276 B2)

In an email to the Board dated May 4, 2018, counsel for Petitioner stated that pursuant to the Board's Order of April 27, 2018, "[t]he parties have conferred and agree that no modifications will be necessary in light of the Supreme Court's decision in *SAS* and the Board's broader institution order."

Petitioner's email further requests a conference call to discuss two proposed modifications to the briefing in Cases IPR2017-01407 and IPR2017-01408. Specifically, Petitioner seeks (1) authorization to expand the page limits for its oppositions to Patent Owner's motions to amend by an additional ten pages, and (2) authorization to file sur-replies regarding Patent Owner's motions to amend. According to the email, the parties have agreed to the expansion of the page limits for the oppositions but disagree as to whether sur-replies are warranted. The panel does not believe a conference call is needed at this time. Petitioner's unopposed request to expand the page limits for its oppositions to the motions to amend is granted. Considering the current state of the briefing on Patent Owner's motion to amend, Petitioner's request for authorization to file sur-replies appears to be premature. If Petitioner continues to believe sur-replies are warranted after Patent Owner files its reply briefs concerning the motions to amend, Petitioner should renew its request for authorization at that time.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the page limit for Petitioner's oppositions to Patent Owner's Motions to Amend in Cases IPR2017-01407 and IPR2017-01408 is extended by ten pages for each opposition; and

IPR2017-01363 (Patent 9,403,047 B2)
IPR2017-01407 (Patent 9,616,276 B2)
IPR2017-01408 (Patent 9,616,276 B2)

FURTHER ORDERED that Petitioner's request for authorization to file sur-replies concerning Patent Owner's Motions to Amend in Cases IPR2017-01407 and IPR2017-01408 is denied without prejudice.

PETITIONER:

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