

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WESTERN DIGITAL CORPORATION,
Petitioner,

v.

SPEX TECHNOLOGIES, INC.,
Patent Owner.

Patent No. 6,088,802
Filing Date: June 4, 1997
Issue Date: July 11, 2000
Title: PERIPHERAL DEVICE WITH INTEGRATED SECURITY
FUNCTIONALITY

**PATENT OWNER'S OPPOSITION TO PETITIONER'S MOTION FOR
LEAVE TO FILE A REPLY UNDER 37 C.F.R. § 42.5**

Case No. IPR2018-00082

LIST OF EXHIBITS

Exhibit No.	Description
2001	Defendants' Joint Invalidity Contentions, dated March 30, 2017, in <i>SPEX Techs., Inc. v. Kingston Tech. Corp.</i> , No. 8:16-cv-01790-JVS-AGR (C.D. Cal.), <i>SPEX Techs., Inc. v. Western Dig. Corp.</i> , No. 8:16-cv-01799-JVS-AGR (C.D. Cal.), <i>SPEX Techs., Inc. v. Toshiba Am. Electronics Components, Inc.</i> , No. 8:16-cv-01800-JVS-AGR (C.D. Cal.), and <i>SPEX Techs., Inc. v. Apricorn</i> , No. 8:16-cv-07349-JVS-AGR (C.D. Cal.).
2002	Interim Status Report, dated April 3, 2017, in <i>SPEX Techs., Inc. v. Kingston Tech. Corp.</i> , No. 8:16-cv-01790-JVS-AGR (C.D. Cal.), <i>SPEX Techs., Inc. v. Western Dig. Corp.</i> , No. 8:16-cv-01799-JVS-AGR (C.D. Cal.), <i>SPEX Techs., Inc. v. Toshiba Am. Electronics Components, Inc.</i> , No. 8:16-cv-01800-JVS-AGR (C.D. Cal.), <i>SPEX Techs., Inc. v. Apricorn</i> , No. 8:16-cv-07349-JVS-AGR (C.D. Cal.), and <i>SPEX Techs., Inc. v. Integral Memory PLC</i> , No. 8:16-cv-01805-JVS-AGR (C.D. Cal.).
2003	Order Regarding Claim Construction, dated October 18, 2017, in <i>SPEX Techs., Inc. v. Kingston Tech. Corp.</i> , No. 8:16-cv-01790-JVS-AGR (C.D. Cal.), <i>SPEX Techs., Inc. v. Western Dig. Corp.</i> , No. 8:16-cv-01799-JVS-AGR (C.D. Cal.), <i>SPEX Techs., Inc. v. Toshiba Am. Electronics Components, Inc.</i> , No. 8:16-cv-01800-JVS-AGR (C.D. Cal.), and <i>SPEX Techs., Inc. v. Apricorn</i> , No. 8:16-cv-07349-JVS-AGR (C.D. Cal.).
2004	Plaintiff SPEX Technologies, Inc. Disclosure of Asserted Claims and Infringement Contentions, dated February 13, 2017, in <i>SPEX Techs., Inc. v. Kingston Tech. Corp.</i> , No. 8:16-cv-01790-JVS-AGR (C.D. Cal.), <i>SPEX Techs., Inc. v. Western Dig. Corp.</i> , No. 8:16-cv-01799-JVS-AGR (C.D. Cal.), <i>SPEX Techs., Inc. v. Toshiba Am. Electronics Components, Inc.</i> , No. 8:16-cv-01800-JVS-AGR (C.D. Cal.), <i>SPEX Techs., Inc. v. Apricorn</i> , No. 8:16-cv-07349-JVS-AGR (C.D. Cal.), and <i>SPEX Techs., Inc. v. Integral Memory PLC</i> , No. 8:16-cv-01805-JVS-AGR (C.D. Cal.).

Exhibit No.	Description
2005	Joint Claim Construction Chart, dated May 30, 2017, in <i>SPEX Techs., Inc. v. Kingston Tech. Corp.</i> , No. 8:16-cv-01790-JVS-AGR (C.D. Cal.), <i>SPEX Techs., Inc. v. Western Dig. Corp.</i> , No. 8:16-cv-01799-JVS-AGR (C.D. Cal.), <i>SPEX Techs., Inc. v. Toshiba Am. Electronics Components, Inc.</i> , No. 8:16-cv-01800-JVS-AGR (C.D. Cal.), and <i>SPEX Techs., Inc. v. Apricorn</i> , No. 8:16-cv-07349-JVS-AGR (C.D. Cal.).
2006	Transcript of May 9, 2018 Conference Call with the PTAB
2007	Transcript of August 2, 2018 Conference Call with the PTAB
2008	Transcript of the Deposition of Martin E. Kaliski, Ph.D., July 18, 2018

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The Board should deny Petitioner’s motion for leave to submit a reply brief and evidence in support of a new argument for unpatentability which Petitioner could have presented in the Petition. The Board has recently confirmed that “Petitioner may not submit new evidence or argument in reply that it could have presented earlier, e.g. to make out a prima facie case of unpatentability.” 2018 Revised Trial Practice Guide, § I. Petitioner cannot show good cause to submit a reply brief and new evidence that are expressly prohibited by the Board’s rules.

I. PETITIONER SHOULD NOT BE PERMITTED TO SUBMIT THE PROPOSED REPLY BRIEF AND SUPPORTING EVIDENCE BECAUSE THEY RAISE A NEW INVALIDITY ARGUMENT NOT PRESENTED IN THE PETITION

Petitioner contends that its proposed reply brief and evidence support the invalidity argument that Harari discloses structures that are at least equivalent to the interface control device 910 in Figure 9B of the ‘802 Patent, which is the corresponding structure for the claimed “means for mediating” as construed by the Board. Paper 24 at 1. However, *the Petition does not argue that Harari (or any reference) discloses the structure of interface control device 910 or an equivalent*. In the Decision on Institution, the Board found that Petitioner had not compared the structure of the interface control device 910 to the structures in Harari that Petitioner contended perform the function of the means for mediating, which were the comprehensive controller 41 or the functional module 42:

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