

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORPORATION,

Petitioner,

v.

VLSI TECHNOLOGY LLC,

Patent Owner.

Case IPR2018-01038

Patent 8,566,836 B2

Before BART A. GERSTENBLITH, MINN CHUNG, and
KIMBERLY McGRAW, *Administrative Patent Judges*.

McGRAW, *Administrative Patent Judge*.

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

I. INTRODUCTION

During a conference call on September 26, 2018, we authorized Petitioner to file a Reply to Patent Owner's Preliminary Response¹ to respond to assertions that the Petition contains statements about the Finkelstein reference (Ex. 1004) that are allegedly inconsistent with statements Petitioner made about Finkelstein during prosecution of U.S. Patent Application No. 13/830,157 ("the '157 application"). See Paper 13. Petitioner filed its Reply ("Reply Brief") on October 3, 2018. Paper 14.

On October 4, 2018, Patent Owner requested authorization to file a sur-reply to Petitioner's Reply Brief. A conference call was held on October 5, 2018 between Judges McGraw, Gerstenblith, Chung, and counsel for the parties.

Having reviewed the record and considered the parties' positions, we are persuaded that Patent Owner has shown good cause justifying the filing of a sur-reply. See 37 C.F.R. § 42.108(c). Accordingly, we *grant* Patent Owner's request for authorization to file a sur-reply. The sur-reply is limited three pages and may only respond to Petitioner's Reply Brief. No new evidence may be submitted.²

¹ Both parties agree that Paper 10, which is titled "Corrected Patent Owner VLSI Technology LLC's Preliminary Response to Petition for *Inter Partes* Review of United States Patent No. 8,566,836," should be considered as Patent Owner's Preliminary Response.

² Counsel for Patent Owner explained during the conference call that Patent Owner did not seek to file new evidence with its requested sur-reply.

II. ORDER

In consideration of the foregoing, it is hereby

ORDERED that Patent Owner's request for authorization to file a sur-reply to Petitioner's Reply to Patent Owner's Preliminary Response is *granted*;

FURTHER ORDERED that the sur-reply is limited to three pages and shall be filed by October 12, 2018; and

FURTHER ORDERED that no additional evidence may be submitted in connection with the sur-reply.

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