

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

REACTIVE SURFACES LTD., LLP,
Petitioner,

v.

TOYOTA MOTOR CORPORATION,
Patent Owner.

Case IPR2018-01194
Patent 9,193,873 B2

Before SUSAN L. C. MITCHELL, CHRISTOPHER M. KAISER, and
MICHELLE N. ANKENBRAND, *Administrative Patent Judges*.

MITCHELL, *Administrative Patent Judge*.

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

Reactive Surfaces Ltd., LLP (“Petitioner”) requested authorization to file a reply to respond to statements made by Toyota Motor Corporation (“Patent Owner”) in its Preliminary Response concerning the exercise of our discretion under 35 U.S.C. § 325(d) to deny the Petition. Specifically, Petitioner states that it “objects to the accuracy of certain evidentiary assertions made by Patent Owner in support of the § 325(d) argument. Petitioner is of the position that, prior to the § 325(d) argument being considered by the Patent Trial and Appeal Board (“Board”) in rendering its decision on institution, Petitioner should have an opportunity to rebut the § 325(d) argument in light of the evidentiary assertions made in support thereof.”

Patent Owner opposes Petitioner’s request and “indicate[s] that, if the requested relief is granted, Patent Owner intends to seek authorization to file a sur-reply.”

We have reviewed Patent Owner’s arguments raised under 35 U.S.C. § 325(d), and will authorize further briefing from both parties on this issue.

ORDER

It is

ORDERED that the Petitioner’s request to file a reply brief addressing Patent Owner’s arguments in its Preliminary Response concerning 35 U.S.C. § 325(d) is *granted*;

FURTHER ORDERED that Petitioner shall file such reply brief no later than October 5, 2018;

FURTHER ORDERED that Petitioner’s reply brief shall be no more than five pages in length;

FURTHER ORDERED that Patent Owner's request for a sur-reply brief to address arguments made in Petitioner's reply brief is *granted*;

FURTHER ORDERED that the Patent Owner shall file such sur-reply brief no later than October 19, 2018;

FURTHER ORDERED that Patent Owner's sur-reply brief shall be no more than five pages in length.

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