

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

THORNE RESEARCH, INC.,  
Petitioner,

v.

TRUSTEES OF DARTMOUTH COLLEGE,  
Patent Owner.

---

Case No. IPR2021-00268  
Patent 8.383,086 B2

---

Before SUSAN L.C. MITCHELL, ROBERT J. POLLOCK, and  
JOHN E. SCHNEIDER, *Administrative Patent Judges*.

SCHNEIDER, *Administrative Patent Judge*.

ORDER  
Conduct of the Proceeding  
*37 C.F.R. §§ 42.5 and 42.121(a)*

On January 18, 2022, Patent Owner filed an authorized Motion to Submit Supplemental Information. (Paper 37). The Supplemental Information consists of declarations of Drs. Brenner and Bieganowski that address statements Dr. Brenner made in a podcast cited in Petitioner's Reply. At our direction, Patent Owner provided copies of declarations for *in camera* review. *See* Ex. 3001.

Petitioner submitted a Reply to Patent Owner's motion (Paper 40) on January 26, 2022, and Patent Owner filed a reply on January 28, 2022. (Paper 42).

On January 25, 2022, at the request of Patent Owner, a conference call was held between the panel and counsel for the parties. Among the items addressed in the conference call was Petitioner's request to submit a declaration from its expert to address issues raised in the declarations of Drs. Brenner and Bieganowski. In an email to the parties, we denied Petitioner's request to file a rebuttal declaration with the Opposition but stated that Petitioner may file a Motion to file Supplemental Information to address the Declarations of Dr. Brenner and Bieganowski if and when the Panel grants Patent Owner's Motion to Submit Supplemental information. Ex. 3002.

We have considered the arguments presented by the parties and find that in the interests of fairness, we should grant Patent Owner's motion. Patent Owner is hereby authorized to submit the declarations of Drs. Brenner and Bieganowski as supplemental information. The declarations are to be filed no later than 5 days from the date of this order.

Petitioner is authorized to file a Motion to Submit Supplemental Information. The supplemental information shall be limited to a declaration by its expert addressing the new declarations submitted by Drs. Brenner and Bieganowski. The motion shall be filed within five days of Patent Owner's

filing of the declarations of Drs. Brenner and Bieganowski and shall be no more than 10 pages. Patent Owner is authorized to file an Opposition, limited to 10 pages, within 5 days of Petitioner filing its motion. Petitioner is authorized to file a reply within 5 days of Patent Owner filing its opposition. The reply shall be limited to 5 pages.

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner's Motion to Submit Supplemental information is granted;

FURTHER ORDERED that Patent Owner shall submit the supplemental information within 5 days of this order: and

FURTHER ORDERED that Petitioner is authorized to file a Motion to Submit Supplemental Information of no more than 10 pages within 5 days of Patent Owner submitting its supplemental information; and

FURTHER ORDERED that Patent Owner is authorized to file an opposition of no more than 10 pages within 5 days of Petitioner filing its motion; and

FURTHER ORDERED that Petitioner is authorized to file a reply of no more than 5 pages within 5 days of Patent Owner filing its opposition.

IPR2021-00268  
Patent 8,383,086 B2

For PETITIONER:

Michael T. Rosato

Lora M. Green

Tasha M. Thomas

WILSON SONSINI GOODRICH & ROSATI

mrosato@wsgr.com

lgreen@wsgr.com

tthomas@wsgr.com

For PATENT OWNER:

John L. Abramic

Jamie L. Lucia

Benjamin R. Holt

STEPTOE & JOHNSON LLP

jabramic@steptoe.com

jlucia@steptoe.com

bholt@steptoe.com