

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

GOOGLE LLC,  
Petitioner,

v.

ECOFACOR INC.,  
Patent Owner.

---

IPR2020-00946 Patent 8,131,497 B2  
IPR2020-00947 Patent 8,131,497 B2  
IPR2020-00968 Patent 8,423,322 B2<sup>1</sup>

---

Before WESLEY B. DERRICK, JEFFREY W. ABRAHAM, and  
SCOTT B. HOWARD, *Administrative Patent Judges*.

ABRAHAM, *Administrative Patent Judge*.

ORDER  
Authorizing Petitioner Reply to Preliminary Response  
and Patent Owner Sur-reply  
*37 C.F.R. § 42.20*

---

<sup>1</sup> This Order addresses similar issues in three cases. We exercise our discretion to issue a single Order, to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

IPR2020-00946 Patent 8,131,497 B2  
IPR2020-00947 Patent 8,131,497 B2  
IPR2020-00968 Patent 8,423,322 B2

In an email of August 25, 2020, Petitioner requested leave to file a reply to Patent Owner's Preliminary Response in IPR2020-00946 and IPR2020-00947. On August 31, 2020, we held a call with the parties to consider Petitioner's request. During the call, counsel for Petitioner indicated it was seeking an opportunity to respond to Patent Owner's arguments regarding the Board exercising its discretion to deny institution of *inter partes* review under 35 U.S.C. § 314(a). Counsel for Petitioner also confirmed that it intended to request leave to file a reply to Patent Owner's Preliminary Response in IPR2020-00968, and counsel for both parties agreed to address all three requests during the call given the overlapping issues.

Based on the arguments and information presented by the parties during the call, we determine that permitting the parties to submit additional briefing would be in the interests of justice and would also be helpful to the panel. *See* 37 C.F.R. § 42.20(d). No new evidence is authorized to be filed in connection with this additional briefing.

Accordingly, it is hereby:

ORDERED that Petitioner is authorized to file, within five business days of the date of this order, a Reply Brief of no more than seven pages, limited to addressing Patent Owner's arguments under 35 U.S.C. § 314(a); and

FURTHER ORDERED that Patent Owner is authorized to file, within five business days of the date Petitioner files its Reply Brief, a Sur-reply Brief of no more than seven pages, limited to arguments raised in Petitioner's Reply Brief.

IPR2020-00946 Patent 8,131,497 B2  
IPR2020-00947 Patent 8,131,497 B2  
IPR2020-00968 Patent 8,423,322 B2

FOR PETITIONER:

MATTHEW SMITH  
smith@smithbaluch.com

Elizabeth Laughton  
laughton@smithbaluch.com

FOR PATENT OWNER:

Philip Wang  
pwang@raklaw.com

C. Jay Chung  
jchung@raklaw.com

Kent Shum  
kshum@raklaw.com