

**From:** [Trials](#)  
**To:** [Christopher C. Smith](#); [Trials](#)  
**Cc:** [FPGP0136IPR@brookskushman.com](mailto:FPGP0136IPR@brookskushman.com); [Barbara Westphal](#); [Michael Shanahan](#); [Michael J. Farnan \(mfarnan@farnanlaw.com\)](mailto:Michael.J.Farnan@farnanlaw.com); [Scott Kaliko](#)  
**Subject:** RE: IPR2021-01341 - Petitioner's Request to file Reply to Patent Owner's Preliminary Response  
**Date:** Friday, December 3, 2021 9:47:58 AM  
**Attachments:** [image001.png](#)

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Counsel: Regarding Petitioner's counsel's emails of December 2, 2021, directed to IPR2021-01341 and IPR2021-01353, a conference call is not required. Petitioner is authorized to file a respective 5-page Preliminary Reply (should be so-titled) in each proceeding to respond to Patent Owner's arguments regarding the Board's discretion to deny institution under Section 314(a) and the related *Fintiv* factors. The Preliminary Reply in each proceeding is due December 17 2021. We also *sua sponte* authorize Patent Owner to file a respective 5-page Preliminary Sur-Reply (should be so-titled) in response to each Preliminary Reply, due December 31, 2021. Additional evidence may be filed with these Preliminary Replies and Sur-Replies only to the extent assertions made therein cannot be supported by the existing record.

Thank you,

*Maria King*  
Deputy Chief Clerk for Trials  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
703-756-1288

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**From:** Christopher C. Smith <csmith@brookskushman.com>  
**Sent:** Thursday, December 2, 2021 4:17 PM  
**To:** Trials <Trials@USPTO.GOV>  
**Cc:** FPGP0136IPR@brookskushman.com; Barbara Westphal <prgl311@rocketmail.com>; Michael Shanahan <pattman2@gmail.com>; Michael J. Farnan (mfarnan@farnanlaw.com) <mfarnan@farnanlaw.com>; Scott Kaliko <skaliko@yklaw.us>  
**Subject:** IPR2021-01341 - Petitioner's Request to file Reply to Patent Owner's Preliminary Response

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Dear Board,

Petitioner seeks leave from the Board to file a five page Reply to the § 314(a) *Fintiv* arguments raised in Patent Owner's Preliminary Response. Patent Owner opposes Petitioner's requested briefing. The proposed Reply would be due within two weeks of the Board's approval.

If a conference call is required, the parties are available on Tuesday, December 7 between 1-5 pm EST, Wednesday, December 8 between 12-3:30 pm EST, and Thursday, December 9 between 1:30-5 pm EST.

Thank you.

Christopher C. Smith  
Shareholder



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