

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTELLIGENT BIO-SYSTEMS, INC.
Petitioner

v.

ILLUMINA CAMBRIDGE LIMITED
Patent Owner

Cases IPR2013-00517
Patent 7,566,537 B2

Before LORA M. GREEN, FRANCISCO C. PRATS, and
SCOTT E. KAMHOLZ, *Administrative Patent Judges*.

GREEN, *Administrative Patent Judge*.

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

A conference call was held on Tuesday, July 22, 2014, among Marc Seagal and Robert Barron, representing Petitioner, Intelligent Bio-Systems, Inc. (“IBS”); Robert Lawler and Brenton Babcock, representing Patent Owner, Illumina Cambridge Limited (“Illumina”); and Judges Green, Prats, and Kamholz. Petitioner requested the call seeking authorization to increase the page limit for Petitioner’s Reply, which was due on Monday, July 28, 2014.

IBS noted that as previously brought to our attention, Illumina accompanied its Patent Owner Response with approximately 110 exhibits. IBS was concerned that by doing so, Illumina had effectively circumvented the rule limiting the number of pages for the response. *See* 37 C.F.R. § 42.24. Illumina responded that many of the exhibits were filed in response to objections made by IBS, and the Response was not so far out of the ordinary that IBS should be able to expand its reply by the addition of additional pages beyond those authorized by rule. *See id.*

The panel agreed that IBS had not presented a sufficient reason to support its request for extra pages for its reply. To the extent that Illumina included arguments or evidence in the 110 exhibits that are not also supported by its Patent Owner Response, those arguments and evidence will not be considered when we prepare our final decision. *See, e.g.* 37 C.F.R. § 42.6(a)(3) (“Arguments must not be incorporated by reference from one document into another document.”). Thus, we conclude that Illumina’s purported circumvention of our rules is not a sufficient reason to authorize IBS to file additional pages with its reply. Whether a patent owner response contains evidence or argument outside the scope of that permitted by the rules is left to the determination of the Board, and we can decline to consider those arguments and evidence in preparing the final decision.

Accordingly, it is

ORDERED, that IBS’s request for authorization to file additional pages with its reply is denied.

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Patent 7,566,537

For PETITIONER:

Scott Marty
martys@ballardspahr.com

Marc Segal
segalm@ballardspahr.com

Robert R. Baron
baron@ballardsahr.com

Daniel A. Nadel
nadeld@ballardspahr.com

For PATENT OWNER:

Robert Lawler
rlawler@renhartlaw.com

Brenton Babcock
2BRB@knobbe.com

William R. Zimmerman
Bill.zimmerman@knobbe.com

Jonathan Bachand
2jeb@knobbe.com

Sheila Swaroop
sheila.swaroop@knobbe.com

Derek C. Walter
Derek.walter@weil.com