

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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IMPERATIVE CARE, INC.,  
Petitioner,

v.

INARI MEDICAL, INC.,  
Patent Owner.

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IPR2025-01021 (Patent 11,969,333 B2)  
IPR2025-01025 (Patent 11,974,910 B2)<sup>1</sup>

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Before ERIC C. JESCHKE and TIMOTHY G. MAJORS, *Administrative Patent Judges*.

MAJORS, *Administrative Patent Judge*.

ORDER

Granting Petitioner's Request for Additional Pre-Institution Briefing  
*37 C.F.R. §§ 42.5, 42.108(c)*

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<sup>1</sup> This Order addresses similar issues in two related cases. We exercise our discretion to issue one Order to be entered in each case. The parties are not authorized to use this style heading in their papers.

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## I. BACKGROUND

On October 2, 2025, Petitioner requested leave, under 37 C.F.R. § 42.108(c), to file a 10-page reply brief to Patent Owner’s Preliminary Response (“POPR”). *See* Ex. 3001 (email to Board dated Oct. 1, 2025).<sup>2</sup> Petitioner’s request seeks briefing on four topics including, *inter alia*, whether the valve disclosed in the asserted Garrison reference creates a vacuum in portions of the aspiration system, and the impact of a recent order from the district court in related proceedings on Patent Owner’s motion for a preliminary injunction. *Id.* Patent Owner opposes Petitioner’s request. *Id.*

On October 10, 2025, the Deputy Director denied Patent Owner’s request for discretionary denial of the Petition and referred to case to the Board for a determination whether to institute *inter partes* review. Paper 11.

## II. ANALYSIS

Under 37 C.F.R. § 42.108(c), a petitioner may seek leave to file a reply to the preliminary response and petitioner must show good cause for its request. In this case, Petitioner avers that it could not have foreseen some of Patent Owner’s arguments about the operation of the prior art in the POPR insofar as those arguments differ from arguments made by Patent Owner during the relevant prosecution of the challenged patent. Ex. 3001. Moreover, Petitioner notes that the district court’s order on the motion for preliminary injunction only recently issued on September 29, 2025, such that Petitioner did not have an opportunity to address that order previously. *Id.*

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<sup>2</sup> Petitioner made similar requests in both IPR2025-01021 and IPR2025-01025. We refer to the papers/exhibits filed in IPR2025-01021 for convenience.

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We determine that Petitioner has shown good cause for its request (subject to the page-limit modification noted below). The Board may benefit from a preliminary reply by Petitioner on the working of the asserted art responsive to Patent Owner's argument in the POPR, consistent with Petitioner's request. Moreover, the Board may benefit from argument on what impact (if any) the court's order denying the motion for preliminary injunction (Ex. 1055) should have on whether the Board should institute trial on the challenged patent. Petitioner could not have preemptively addressed that order because it issued over four months after the Petition was filed. Accordingly, we authorize Petitioner to file a preliminary reply to the POPR, which reply may address the four topics listed in Petitioner's October 2, 2025, request. Ex. 3001. The reply may not exceed seven (7) pages in substantive length.

Patent Owner is authorized to file a sur-reply to Petitioner's reply, which sur-reply is similarly limited to the topics raised in the reply and must be no longer than seven (7) substantive pages.

Neither party may file new evidence with the authorized preliminary reply or preliminary sur-reply. The Board determines that a conference call with the parties is not needed at this time.

### III. ORDER

In consideration of the foregoing, it is:

ORDERED that Petitioner's request for authorization to file a pre-institution reply is *granted*, which reply may not exceed seven (7) substantive pages and will be due no later than October 21, 2025;

FURTHER ORDERED that Patent Owner is authorized to file a pre-institution sur-reply responsive to Petitioner's reply, which sur-reply may

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not exceed seven (7) substantive pages and will be due no later than October 28, 2025; and

FURTHER ORDERED that the parties may not submit new evidence with their respective pre-institution reply and sur-reply.

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