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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92068068
Party	Plaintiff Pure Storage, Inc.
Correspondence Address	SALLY M ABEL FENWICK & WEST LLP SILICON VALLEY CENTER , 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041 UNITED STATES trademarks@fenwick.com, eball@fenwick.com, ilopez@fenwick.com, nsre-jovic@fenwick.com, DocketCalendarRequests@fenwick.com no phone number provided
Submission	Motion to Strike
Filer's Name	/Eric J. Ball/
Filer's email	eball@fenwick.com, ilopez@fenwick.com, dskarloken@fenwick.com, trademarks@fenwick.com
Signature	/Eric J. Ball/
Date	07/15/2019
Attachments	2019 07 15 Pure Storage Motion to Strike Powerley Reply Brief.pdf(103916 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration

Reg. No.: 5,156,080
Registered: March 7, 2017
By: Insight Energy Ventures LLC d/b/a Powerley
For the Trademark: P (Stylized/Design)

Pure Storage, Inc.

Petitioner,

v.

Insight Energy Ventures LLC d/b/a Powerley,

Registrant.

Cancellation No. 92068068

**PETITIONER PURE STORAGE, INC.'S MOTION TO STRIKE REGISTRANT'S
REPLY IN SUPPORT OF MOTION TO EXCLUDE DECLARATION OF ERIC J. BALL**

Pursuant to TBMP § 517, Petitioner Pure Storage, Inc. moves to strike Registrant, Insight Energy Ventures LLC d/b/a Powerley's ("Powerley") Reply in support of its Motion to Exclude Declaration of Eric J. Ball in Support of Petitioner Pure Storage's Motion for Partial Summary Judgment because it violates TBMP § 502.02(b) in two respects.

First, Powerley filed its reply brief three days late on July 12, 2019. *See* 22 TTABVue 1-12. Under TBMP § 502.02(b), "[a] reply brief, if filed, including a reply brief for a summary judgment motion, shall be filed within 20 days from the date of service of the brief in response to the motion." Here, the date of service of Pure Storage's brief in response to Powerley's motion to exclude the declaration of Eric J. Ball was June 19, 2019. Thus, Powerley's deadline to file

the reply brief was July 9, 2019. Accordingly, the Board should strike Powerley's reply brief because it was untimely filed.

Second, Powerley's reply brief exceeds the ten-page limitation under TBMP § 502.02(b). Powerley's reply brief consists of twelve pages. *See* 22 TTABVUE 1-12. Accordingly, the Board should strike Powerley's reply brief and not consider it because it exceeds the page limit. *See Mattel Inc. v. Brainy Baby Co.*, 101 USPQ2d 1140, 1141 (TTAB 2011) (reply brief not considered because it exceeded the page limit).

For these reasons, as well as those identified in Pure Storage's opposition to the motion to exclude (21 TTABVUE 1-11), the Board should strike the reply brief and give it no consideration.

Respectfully submitted,

Dated: July 15, 2019

/Eric J. Ball/
Sally M. Abel
Email: sabel@fenwick.com
Eric J. Ball
Email: eball@fenwick.com
Attorneys for Petitioner
FENWICK & WEST LLP
801 California Street
Mountain View, CA 94041
Telephone: 650-988-8500
Facsimile: 650-938-5200

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **PETITIONER PURE STORAGE, INC.’S MOTION TO STRIKE REGISTRANT’S REPLY IN SUPPORT OF MOTION TO EXCLUDE DECLARATION OF ERIC J. BALL** was served this 15th day of July 2019 on counsel for the Registrant at ipdocket@h2law.com as required by the Trademark Trial and Appeal Board.

/Irene Lopez/
Irene Lopez