

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

MITCHELL R. SWARTZ,
Plaintiff-Appellant

v.

**UNITED STATES PATENT AND TRADEMARK
OFFICE, ANDREI IANCU, UNDER SECRETARY OF
COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE,**
Defendants-Appellees

2018-1122

Appeal from the United States District Court for the
Eastern District of Virginia in No. 1:17-cv-00482-LMB-
TCB, Judge Leonie M. Brinkema.

ON MOTION

PER CURIAM.

ORDER

Plaintiff-Appellant Mitchell R. Swartz, pro se, moves for an Enlargement of Time and/or For Leave to Enter Memorandum on July 9, 2018, asking that “the Hearing scheduled for July 13, 2018” be rescheduled for August 17, 2018 or August 24, 2018 for a conflict with a medical appointment, and because of additional factual developments, including Plaintiff-Appellant’s receipt of the Preparata Medal and Award and the funding in Japan of research following the issuance of a patent to Nissan directed to what Appellant alleges is his invention, has resulted in funding in Japan. Appellant also separately moves to Correct Errors in Previous Order, seeking to correct statements made when this court accepted Appellants reply brief out of time and over the type-volume limitations for a Reply brief.

First, this case has not been scheduled for oral argument. Appellant’s appeal will be decided without oral argument on consideration of the briefs. Therefore, Appellant’s presence on July 13 is not necessary for the resolution of the case.

Second, as a court of appeals, our review is generally limited by the record before the district court. *See* Fed. R. App. P. 10(a). This Court generally does not accept new evidence for consideration in the first instance. Moreover, Appellant has not shown that this new evidence is material to the issue at hand.

Finally, this Court accepted Appellant’s reply brief despite its non-conformity with the Rules. None of the requested corrections are material to the outcome of this case. Appellant’s Motion to Correct is moot. In response to Appellant’s request for information regarding the court’s type-volume Rules, we direct Appellant to Fed. R. App. P. 32(a)(7)(B)(ii) and Fed. Cir. R. 32(a), which set out a 7000 word count limit for a reply brief.

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Upon consideration thereof,

IT IS ORDERED THAT:

- 1) The Motion for an Enlargement of Time and/or For Leave to Enter Memorandum is denied.
- 2) The Motion to Correct Errors in Previous Order is dismissed as moot.

FOR THE COURT

July 10, 2018
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court