

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EDWARDS LIFESCIENCES CORPORATION

Petitioner

v.

MEDTRONIC, INC.

Patent Owner

Case IPR2014-00362

Patent 6,306,141

Before SALLY C. MEDLEY, STEPHEN C. SIU, and JOSIAH C. COCKS,
Administrative Patent Judges.

MEDLEY, *Administrative Patent Judge.*

ORDER

Conduct of the Proceeding

37 C.F.R. § 42.5

On May 9, 2014, a conference call was held between counsel for the respective parties and Judges Medley, Siu, and Cocks. The purpose of the call was for Petitioner to seek authorization to file belatedly a corrected petition. The request was unopposed. For the reasons provided below, the request is granted.

On January 29, 2014, the Board sent a notice of the filing date accorded to the petition. Paper 3. The notice indicated that there was an improper usage of claim charts, because the claim charts contained attorney argument. Petitioner was provided five days to correct the noted defect. Petitioner did not file a corrected petition, and Patent Owner indicated this in its preliminary response. Paper 9 at 25.

During the conference call, counsel for Petitioner explained that due to numerous events, Petitioner was not made aware of a need to correct its petition until it received Patent Owner's preliminary response, which pointed out that no corrected petition had been filed. Counsel for Petitioner further explained that Petitioner contacted Patent Owner to explain what had happened and to ascertain whether Patent Owner would oppose the belated filing of a corrected petition. Petitioner further provided a redlined version of its proposed corrected petition to Patent Owner so that Patent Owner could make an informed decision as to whether it would oppose the filing of a corrected petition. Counsel for Patent Owner indicated, during the call, that Patent Owner did not oppose the filing of a corrected petition for the sole purpose of removing attorney arguments from the claim charts.

Based on the facts presented, Petitioner has shown good cause to file belatedly a corrected petition. The request is granted. The parties are commended for working together to resolve the matter in a highly professional manner.

It is

ORDERED that Petitioner's request to file a corrected petition for the sole purpose of removing attorney arguments from claim charts is *granted*;

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FURTHER ORDERED that the “Corrected Petition” is due no later than May 14, 2014.

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