

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ZTE CORPORATION AND ZTE (USA) INC.  
Petitioner

v.

INTERDIGITAL TECHNOLOGY CORPORATION  
Patent Owner

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Case IPR2014-00525  
Patent 8,380,244 B2

Before SALLY C. MEDLEY, MIRIAM L. QUINN, and  
BEVERLY M. BUNTING, *Administrative Patent Judges*.

QUINN, *Administrative Patent Judge*.

DECISION

Petitioner's Motion to Correct Clerical Errors in the Petition

*37 C.F.R. § 42.104(c)*

The Board issued a Notice of Filing Date Accorded to Petition where defects in the Petition were identified, giving five days to Petitioner to correct said defects. Paper 4 (“Notice”). Petitioner was authorized to file a Motion to Correct the Petition and an accompanying declaration averring the facts surrounding the failure to correct the noticed defects within the five-day time period. On May 19, 2014, Petitioner filed a motion under 37 C.F.R. § 104 to correct clerical errors of improper spacing in the Petition and unlabeled Exhibits. Paper 7 (“Motion”). Concurrent with the Motion, Petitioner filed a Corrected Petition (Paper 9), corrected Exhibits, and a declaration of Mr. Charles McMahon (Paper 8)<sup>1</sup> in support of the Motion. Patent Owner has neither opposed nor agreed to Petitioner’s motion.

Section 42.104(c) provides that:

A motion may be filed that seeks to correct a clerical or typographical mistake in the petition. The grant of such a motion does not change the filing date of the petition.

When determining whether to grant a motion to correct a petition, the Board will consider any substantive effect, including any effect on the patent owner’s ability to file a preliminary response. We have reviewed the Motion, the Corrected Petition and Exhibits, and the Declaration of Mr. McMahon. The Board concludes that the facts averred by Mr. McMahon show that the delay in correcting the defects identified in the Notice was unintentional, and that the effort to correct the defects was undertaken as promptly and diligently upon discovering the lapse. We are also persuaded that the corrections are not prejudicial to Patent Owner as they do not affect

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<sup>1</sup> Declarations and supporting evidence shall be filed only as Exhibits going forward.

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Patent Owner's ability to file a preliminary response.

Therefore, we conclude that granting Petitioner's motion does not change the filing date of the petition.

### ORDER

In light of the foregoing, it is, therefore,

ORDERED that Petitioner's Motion to Correct Clerical Error is GRANTED.

FURTHER ORDERED that this Decision constitutes Notice Accepting the Corrected Petition and Corrected Exhibits 1001 to 1024.

FURTHER ORDERED that the unlabeled Exhibits 1001 to 1024 are expunged.

FURTHER ORDERED that the statutory deadline for filing Patent Owner's Preliminary Response is not altered by this Decision.

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