

Filed on behalf of: IPR LICENSING, INC.

Paper No. 17

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZTE CORPORATION AND ZTE (USA) INC.
Petitioner

V.

IPR LICENSING, INC.
Patent Owner

Case IPR2014-00525
Patent 8,380,244

Filed: August 8, 2014

Before Althea Wilburn, *Trial Paralegal*

PATENT OWNER'S OPPOSITION TO MOTION TO CORRECT
CLERICAL ERRORS AND RESUBMIT EXHIBITS IN THE PETITION
FOR *INTER PARTES* REVIEW

Pursuant to 37 C.F.R. § 42.23, Patent Owner IPR Licensing Inc. respectfully submits its opposition to Motion to Correct Clerical Errors and Resubmit Exhibits in the Petition for *Inter Partes* Review (the “Motion”) filed on August 6, 2014, by Petitioners ZTE Corp. and ZTE (USA) Inc. (collectively, “ZTE”). The Patent Owner opposes this motion for the reasons set forth below. In the alternative, the Patent Owner requests that it be granted leave to file an amended Preliminary Response to address the new information ZTE seeks to add to the record.

I. ZTE’S MOTION SHOULD BE DENIED AS PREJUDICIAL.

After being alerted to errors by the Patent Trial and Appeal Board (the “Board”), ZTE filed a second motion requesting permission from the Board to correct its Petition for *Inter Partes* Review of U.S. Patent No. 8,380,244. ZTE should not be given another opportunity to correct its petition.

Further, ZTE’s request does in fact prejudice InterDigital. On July 2, 2014, the Patent Owner filed its Preliminary Response. Paper No. 12. This Preliminary Response was based on ZTE’s then currently pending petition and exhibits, which included an incomplete copy of Exhibit 1011 (previously filed as Exhibit 1010).¹

¹ That the Patent Owner had received these documents previously does not matter. The entirety of these documents were not part of the record in the instant petition. The Patent Owner is not obligated to address evidence it is aware of but that is not

Moreover, the Preliminary Response specifically noted ZTE's failure to submit evidence in support of certain positions, in footnote 3. Contrary to ZTE's motion, by adding portions of a document that had not previously been part of the record, it is in fact adding new evidence. To permit ZTE to add new evidence and change the record at this late date (and after two previous opportunities to file all exhibits correctly) does in fact prejudice InterDigital in this proceeding.

II. IF ZTE'S MOTION IS GRANTED, THE PATENT OWNER SHOULD BE ALLOWED TO SUBMIT AN AMENDED PRELIMINARY RESPONSE.

The Patent Owner's Preliminary Response was based on petition, exhibits and record as of July 2, 2014. This record did not include portions of Exhibit 1011. The Preliminary Response noted this failure to provide evidence in support of its position, in footnote 3. The Preliminary Response did not address evidence that was not of record as of July 2, 2014.

If the PTAB grants ZTE's Motion, the Patent Owner requests leave to file an Amended Preliminary Response to address this new evidence submitted by ZTE. InterDigital should not be prejudiced by ZTE's failure to submit this evidence when it filed its first corrected petition and exhibits.

Dated: August 8, 2014

part of the record before the Board. ZTE does not cite, and the Patent Owner is not aware of, any authority that imposes any such obligation.

Respectfully submitted,

/Jonathan D. Link/

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of August, 2014, true and correct copies of the foregoing PATENT OWNER'S OPPOSITION TO MOTION TO CORRECT CLERICAL ERRORS AND RESUBMIT EXHIBITS IN THE PETITION FOR *INTER PARTES* REVIEW and supporting exhibits were served by electronic mail, upon the following counsel of record for Petitioners ZTE Corporation and ZTE (USA) Inc.:

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