

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LG ELECTRONICS, INC., TOSHIBA CORP., VIZIO, INC., and
HULU, LLC,
Petitioner,

v.

STRAIGHT PATH IP GROUP, INC.,
Patent Owner.

Case IPR2015-00198
Patent 6,009,469

Before KALYAN K. DESHPANDE, TRENTON A. WARD, and
BART A. GERSTENBLITH, *Administrative Patent Judges*.

GERSTENBLITH, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

On November 26, 2014, we authorized Petitioner to file a motion to correct a clerical error pursuant to 37 C.F.R. § 42.104(c). Paper 6. On December 5, 2014, Petitioner filed a Motion to Correct Clerical Error. Paper 11 (“Mot.”). Our Order authorizing Petitioner’s Motion permitted

IPR2015-00198

US 6,009,469

Patent Owner to file a response, if any, by December 12, 2014. Paper 6, 2. Patent Owner did not file a response.

Petitioner explains that, due to a clerical error, a document was mistakenly filed as “Exhibit 1002” in the above-referenced case instead of the document Petitioner intended to file. Mot. 3. Specifically, on October 31, 2014, Petitioner filed three petitions, including the one at issue in this proceeding; each petition was intended to be accompanied by a declaration from Dr. Bruce M. Maggs. Dr. Maggs’s Declaration was given the same exhibit number—Exhibit 1002—in each of the three cases. Mot. 4. Rather than upload each of the three declarations into a separate electronic directory, one for each respective case, Petitioner’s counsels’ legal assistant mistakenly uploaded the same Dr. Maggs’s Declaration in two of electronic directors, thus leaving out the third declaration. *Id.* at 4–5. As a result, when the documents were filed in the above-referenced case, the declaration submitted was intended to accompany the petition in IPR2014-00196, rather than the petition in the instant case. *Id.* at 5.

Petitioner’s counsel discovered the error on November 4, 2014, and emailed Patent Owner’s litigation counsel the correct declaration—the declaration addressing U.S. Patent No. 6,009,469, which is challenged in this proceeding—the following day. *Id.* Petitioner’s counsel also sent the correct declaration to Patent Owner’s litigation counsel and counsel of record before the U.S. Patent and Trademark Office via Federal Express on November 5, 2014. *Id.*

37 C.F.R. § 104(c) provides: “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.” Under the

IPR2015-00198

US 6,009,469

circumstances presented here, the actions described above constitute a clerical mistake. Additionally, we find no prejudice to the Patent Owner requiring an extension of time to file a Preliminary Response because Patent Owner received the correct version of Exhibit 1002 a mere three business days after the filing of the petition. Thus, we grant the Motion and the corrected exhibit will be entered as a replacement for original Exhibit 1002.

Accordingly, it is hereby:

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

FURTHER ORDERED that Petitioner's Exhibit 1002 is expunged from the record; and

FURTHER ORDERED that Petitioner's corrected Exhibit 1002, submitted as an attachment to Petitioner's Motion, be entered into the record as Corrected Exhibit 1002.

IPR2015-00198

US 6,009,469

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